

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

and

British Columbia Hydro and Power Authority 2004/05 and
2005/06 Revenue Requirements Application

and

An Application by British Columbia Transmission
Corporation for Approval of an Application for Deferral
Accounts

Vancouver, B.C.
August 31, 2004

ORAL ARGUMENT

BEFORE:

R. Hobbs,	Chairman
L. Boychuk,	Commissioner
M. Birch,	Commissioner

VOLUME 23

APPEARANCES

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C.W. SANDERSON. I. WEBB. J. CHRISTIAN, J. KLEEFELD	B.C. HYDRO AND POWER AUTHORITY
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VANCOUVER, B.C.

August 31, 2004

(PROCEEDINGS COMMENCED AT 8:31 A.M.)

THE CHAIRPERSON: I have three matters for the agenda this morning, and I'm thinking that unless someone expresses a preference other than this that we'll deal with them in this order.

The first one arises from the first session, first oral session, related to clarification with respect to research capacity on page 59 of your decision -- or your argument, Mr. Sanderson.

The next one relates to the authorities that you circulated in a cover letter August the 27th.

And the last one -- your comments, to begin with, your comments with respect to the IEP and REAP.

Am I missing anything, or is there anyone who wishes to deal with those matters in a different order than I'm suggesting?

Let's then turn to --

MR. SANDERSON: Mr. Chairman, maybe I should cover this just before we start. I'm quite content with the order and the matters. There was one other item that arose very late in the last oral argument hearing, and that was your exchange with Mr. Wallace with respect to the Accenture report. You'd asked Mr. Wallace to clarify a couple of comments in his argument, and that

1 sort of was the end of the day once you'd done that.
2 It was going to be my submission, and is, that Mr.
3 Wallace in response to you made a proposition that
4 went beyond what he'd said in argument. And I have
5 about three or four sentences I would say in response
6 to that. And I would -- my intention had been to just
7 roll that in to what I had to say on other matters
8 this morning. But I thought I'd give notice now I
9 intended to do that.

10 THE CHAIRPERSON: Any objections, Mr. Wallace?

11 MR. WALLACE: Not having heard it, no. I mean, that's
12 fine.

13 THE CHAIRPERSON: Okay. Thank you. You may proceed on
14 that basis then, Mr. Sanderson.

15 So I think the first matter is found on
16 page 59 of the B.C. Hydro argument. You were going to
17 clarify for us your reference to research capacity,
18 the third line from the bottom of the page.

19 MR. SANDERSON: Yes, Mr. Chairman. You were quite right,
20 the word "research" should -- is incorrect, it's a
21 typographical or a drafting error, that word should be
22 "reserved". And "reserved capacity" is a defined term
23 in the Wholesale Transmission Service Tariff. It
24 refers to the maximum firm transmission nomination on
25 the system by point-to-point transmission customers.
26 And right in that context, I think the argument then

1 becomes self-explanatory in that section.

2 THE CHAIRPERSON: Right. Since the first day, I had a
3 look at the WTS decision and I'm not surprised by your
4 comment.

5 MR. SANDERSON: Thank you.

6 THE CHAIRPERSON: Then turning to the authorities that
7 you circulated under your cover of letter August the
8 27th, 2004, I would like to return to page 4123 of
9 Volume 22, which is the transcript from the first day
10 of the oral phase. And I want to get to the issue
11 involving what it is that we can assume was known by
12 the legislature when they enacted Special Direction
13 #2, and you make the comment on page 4123 that they
14 didn't -- you know, they were in ignorance of the
15 changes to GAAP as to make a presumption which I'm
16 saying is incompatible with the authorities. We also
17 had a discussion, Mr. Sanderson, with respect to the
18 inferences that might be drawn from the discussion
19 between Mr. Elton and the government, and particularly
20 inferences that might be drawn with respect to the
21 timing of that discussion. It occurs to me after
22 reading the authorities that you've provided that in
23 fact, at least as it relates to GAAP, it may not be
24 necessary for us to draw any inferences with respect
25 to the timing of the discussion between the government
26 and Mr. Elton.

1 And I'm wondering if there are other
2 reasons why you wish us to draw an inference with
3 respect to the timing of that discussion.
4 MR. SANDERSON: Mr. Chairman, I don't think there are. I
5 think the argument that I provided you with was, I
6 hope, and certainly if it wasn't then I would like now
7 to make clear in the alternative. That is, I think I
8 said to Commissioner Boychuk -- and if I didn't, I
9 should have -- that in the exchange with her, that
10 really whatever went on between Mr. Elton and the
11 Ministry and when is unnecessary to determine. That
12 is, the presumption, if you want, as Driedger puts it,
13 that -- and perhaps he's getting our attention with
14 this heading -- but the presumed knowledge of
15 everything which Driedger talks about at page 154 in
16 the excerpt that I provided you, and which is
17 explained and elaborated particularly in the Quebec
18 case that I also circulated, suggests in answer to
19 Commissioner Boychuk that it isn't just the law that
20 the legislature is presumed to know, they're presumed
21 to be all-knowing in a contextual sense. That is,
22 they are presumed to know the plain meaning of the
23 language, the technical meaning of the language
24 they're using, the social and political circumstances
25 in which it's being done, et cetera. And it's not for
26 the interpreters of the law, in this case with great

1 respect the Commission, to assume gaps in their
2 knowledge.

3 **Proceeding Time 8:38 a.m. T2**

4 And I think that's the burden of what
5 Driedger has to say and the burden of the cases he
6 relies on. If you accept all that, as in my
7 respectful submission you should, then it really
8 doesn't matter what went on actually between Hydro and
9 Ministry officials. The pure of Mr. Elton's testimony
10 and the discussion around it was, you know, if you're
11 not with us on the first point, well, in fact there is
12 evidence that there was objective knowledge as well.
13 But I say really, as a matter of objective
14 presumption, it doesn't matter whether there was
15 subjective knowledge or not. That's just icing on the
16 cake, so to speak.

17 THE CHAIRPERSON: Thank you. That brings me to a
18 question to you, Mr. Wallace. Mr. -- and perhaps I
19 should turn to the transcript on this. Volume 6, page
20 697. At lines 24 to 26 -- and this isn't -- he's
21 referring to a discussion that he had with you
22 earlier, but this is a reasonable point, I think, for
23 us to raise in the context of what's said here, and
24 that is, Mr. Elton says that the government didn't
25 direct the consideration of the FRSR -- at least that
26 I think he has said, and I'll give Mr. Sanderson an

1 opportunity to comment. And I'm thinking of this is
2 the context of Mr. Sanderson's last comments about
3 what it is that we can presume the government knew
4 when they enacted the Special Direction. Does this
5 comment go beyond, in your view, what we might presume
6 pursuant to the authorities as to what the government
7 knew.

8 MR. WALLACE: Well, I'm not quite sure I understand the
9 question, so let me try and respond but if I'm not
10 responsive please come back to me. What I take this
11 and what this referred to, the previous one, was, as I
12 recall it, I asked Mr. Elton, did the government ask
13 you to apply for this specific treatment? And clearly
14 they were aware of the possibility. And he said, "No,
15 we were not directed to apply for it." And what I
16 take that, along with the presumption that if they're
17 all-knowing, then the government in its all-knowing
18 form knew that you could make a decision on this
19 matter, and appropriate GAAP treatment, and that
20 treatment would be accepted by the accounting
21 profession. And the government could have given
22 specific directions to B.C. Hydro, and the record is
23 clear they did not. They could have given specific
24 directions to you, and it is clear that they did not,
25 through special directions or otherwise.

26 And therefore, in my submission, what you

1 do with that presumption is you assume that they knew
2 you were able to make this decision, and they left it
3 to you, which is perfectly consistent with the Energy
4 Plan and the re-regulation of B.C. Hydro by the
5 Commission.

6 **Proceeding Time 8:40 a.m. T3**

7 THE CHAIRPERSON: Right. And all of that you said in the
8 first day of the oral stage.

9 MR. WALLACE: That's correct.

10 THE CHAIRPERSON: And I'm going to take Mr. Sanderson
11 through because I want to determine whether or not
12 there's a point of departure between the two of you
13 with respect to this issue. What you just said is on
14 page 4124 of the transcript.

15 I'm raising this issue with respect to the
16 lack of direction, because I want to know what
17 significance you attribute to that. So I appreciate
18 the arguments that you made on the first day with
19 respect to what we can presume they knew. But does
20 somehow this issue with respect to the direction link
21 to what we might presume the government knew, or is it
22 outside of the scope of that?

23 MR. WALLACE: I'm not sure it's outside of the scope of
24 that. I wouldn't take this much further than what I'm
25 suggesting to you, that the government said, "Okay,
26 we'll let the Commission decide this." They did not

1 have any announced agenda on this. They left it, I
2 think, to the Commission to decide on the merits, and
3 I think that's appropriate, it's in accordance with
4 the Act, it's in accordance with the Energy Plan, and
5 it is not in violation of any law or principle that
6 Mr. Sanderson suggested to you.

7 THE CHAIRPERSON: Am I putting too fine a point on it if
8 I was to then assume from what you have just said,
9 that you're not relying on the fact that the
10 government said this in response to the question Mr.
11 Elton put to them, i.e. that we're not going to give
12 you a direction? Are you using that in support of
13 your arguments that they must have presumed that we
14 also had the discretion that you've spoken to?

15 MR. WALLACE: I think that points to the discretion. I
16 think the fact that the Energy Plan says you're to
17 regulate B.C. Hydro, that there is a history of
18 regulating, of changing from the normal to meet the
19 proper utility circumstances, as in the tax issue that
20 was discussed earlier and which also, as I understand
21 it, as an accounting matter reflects on equity, that
22 they simply -- I think the fair presumption in the
23 lack of any -- in the absence of any other statements
24 or direction, is very clear it was left to the
25 Commission.

26 THE CHAIRPERSON: All right. Is there a point of

1 departure from Mr. Sanderson with respect to Mr.
2 Sanderson's views with regard to the presumption that
3 the legislature was aware of GAAP at the time they
4 enacted Special Direction -- I understand you to go
5 further and say, well, if you're going to assume that,
6 you necessarily then need to assume that the
7 legislature also was aware that we have discretion.
8 But what I'm really asking you is, is your argument in
9 the alternative, or is it yes, you are accepting that
10 in fact it's reasonable for us to presume that the
11 government was aware of GAAP?

12 MR. WALLACE: I have not addressed the issue of whether
13 the government is aware of GAAP, because I have taken
14 the position that it doesn't matter. If they are
15 aware of GAAP, then they are aware regulated bodies
16 can change it and you can change it. So I don't think
17 the presumption that Mr. Sanderson is putting to you
18 assists you in any way, whether it's valid or not.

19 THE CHAIRPERSON: Well, except that you want us to
20 presume that the government knew that we had the
21 discretion that you speak to.

22 MR. WALLACE: Well, either you have the discretion and it
23 works, or if you presume you knew about GAAP, then the
24 presumption is -- or if the government knew about
25 GAAP, the government also knew you could tailor GAAP
26 for regulatory entities. So I don't see that it takes

1 under existing law. And so the narrow answer to your
2 question is "yes," you should presume that.

3 I think the point of departure, as you've
4 been seeking to identify between Mr. Wallace and I, is
5 that Mr. Wallace wants you to simply take that all-
6 knowingness -- now, that he's adopted that particular
7 theory, in the hopes that it will support his argument
8 -- and apply it, if you want, without discretion, to
9 the meaning of the words of the Special Direction, and
10 he wants you to say, "that Special Direction doesn't
11 deal with this issue, it's left wide open to you."
12 And I suggest that that's a very, very strained
13 reading indeed of what the Special Direction is
14 intended to do. I mean, on its face, the Special
15 Direction is designed to resolve the knotty problem of
16 what is and isn't an inequity in the unique
17 circumstances of Hydro. That's its precise purpose.
18 And if what the legislature was trying to do was leave
19 it to the Commission to determine that, it could have
20 done that by passing those Special Directions. It
21 didn't. It passed a Special Direction which is
22 designed to help the Commission determine the split
23 between shareholder and ratepayer when it comes to
24 return on equity. And in my respectful submission, to
25 now say, "well, really they have to be presumed to
26 know that you can change the accounting rules at

1 will," and therefore that the effect of what they've
2 done is completely unknown, is a remarkably strained
3 interpretation to put on the legislative intent, with
4 respect to that Special Direction.

5 So I don't quarrel with the state of the
6 mind, if you want, of the legislature in terms of
7 their knowledge. But I do very much quarrel with the
8 interpretation that flows from that.

9 THE CHAIRPERSON: Right. And I -- let me -- let me test
10 that with you this way. The Commission has broad
11 discretionary powers with respect to rate-setting. We
12 also, pursuant to the Act, are to follow Special
13 Directions and that, if you will -- provide some
14 parameters with respect to our discretion as it
15 relates to rate-setting. And it's those parameters
16 that -- establishing -- is inherent with some
17 difficulty, and I think in terms of the -- there are
18 changes, for example, to -- maybe this is the best way
19 to illustrate this. There are changes that we might
20 make to contributions in aid of construction that
21 would be pursuant to our normal exercise -- that's not
22 a good use of the term, but our -- the purpose of
23 making changes would be pursuant to regulatory
24 principles. They would -- that would have an impact
25 with respect to the contributions in aid of
26 construction, and my sense is, is that that -- if it

1 was done for that purpose, would not be a frustration
2 of the Special Direction.

3 But I've heard you say, I think, that the
4 intervenors have pushed it beyond that, and in fact
5 Mr. Sherlock and others have testified to this, that
6 you can make some changes to contributions in aid of
7 construction that are in fact going to be a
8 frustration of the Special Direction. And it's
9 drawing the line between those two alternatives that's
10 challenging, because one of them is acceptable and the
11 other one's not acceptable, in your view. And I think
12 it's analogous, if you will, to the FRSR and retained
13 earnings. The proposal that the CECBC has with
14 respect to the creation of a deferral account and the
15 impacts it might have on retained earnings is an issue
16 that you object to, for the reasons that you've set
17 out in your argument. But it seems to me that
18 arguably the FRSR is perhaps more of the nature of
19 those changes to the -- and contributions in aid of
20 construction, that are in fact acceptable because it's
21 pursuant to the exercise of our jurisdiction according
22 to regulatory principles. And if we were going to do
23 this for another entity, we might reach a different
24 decision.

25 So I'm having some difficulty, and perhaps
26 you can be of help here, in defining what the

1 parameters are when it's acceptable and when it's not
2 to make decisions that impact on retained earnings.
3 MR. SANDERSON: I accept that there could be
4 circumstances where impact on retained earnings
5 follows from a discretion that the Commission quite
6 properly has under the Act and there's nothing in the
7 Special Direction to suggest it ought not to exercise.
8 The overriding principle that I think is applicable
9 here is that the Commission is charged with trying to
10 ascertain the true intent of the Special Direction at
11 a sort of purposive level, if you will, if you want to
12 use the language of statutory interpretation.

13 **Proceeding Time 8:52 a.m. T5**

14 And the clear purpose, I have been
15 submitting, of this Special Direction, is to strike
16 the balance between shareholder and ratepayer with
17 respect to return on the investment if you want, in a
18 broad sense, that the province has in the utility.

19 There are utility regulatory principles
20 that might cause, for reasons of rate shock, or for
21 reasons of rate design or whatever, the Commission to
22 fiddle around the edges in order to get that return
23 structured in a particular way that achieved other
24 regulatory objectives. But that's not what the
25 intervenors are asking for here. The intervenors are
26 asking you to fundamentally disturb what the

1 legislature and cabinet must have been taken to intend
2 with respect to the manner in which that split would
3 occur, that is, the return to the shareholder, in a
4 very fundamental way. I mean it is a straight shift
5 of cash out of the provincial treasury into the
6 pockets of ratepayers. Is that what was intended by
7 the Special Direction or not? And in my respectful
8 submission, you can't read that Special Direction,
9 apply the presumption that they understood what the
10 accounting rules were, and reach the conclusion that
11 it was their intention the Commission should decide
12 whether or not that money would flow to the province
13 or the ratepayer. That just does fundamental
14 violence, I think, to what any reasoned reading of
15 that Special Direction demands.

16 COMMISSIONER BIRCH: Mr. Sanderson, you used the phrase
17 earlier, "at will", in other words that the
18 legislation was put in place, not expecting the
19 Commission to, at will, change things. But would you
20 agree that the Commission is not charging with
21 changing it at will but within its mandate, in other
22 words within the execution of the Energy Plan, with
23 the execution of the legislation of our purpose? So
24 therefore, while the Special Direction was given to
25 give us guidance as to what that split was between
26 shareholder and ratepayer, it is still up to the

1 Commission to determine those cases where we must
2 depart from GAAP or any other issue. Is that true?
3 MR. SANDERSON: Well, not if the purpose with respect,
4 Commissioner Birch, is to fundamentally change that
5 split. And let me give you an extreme example. If
6 the Commission were to determine that it viewed --
7 because of the capital structure of Hydro or because
8 of the lower level of risk that it perceived that
9 Hydro had relative to say the most comparable utility
10 or something else, if it decided that it really wasn't
11 a comparable at all, then following the argument of
12 the intervenors, it might be possible for the
13 Commission to adjust equity in a way which then
14 adjusted the effective rate of return, to get them
15 back to the balance that the Commission thought
16 appropriate.

17 Now, I would submit, and I think any court
18 would determine, frankly, that that really was
19 fundamentally designed to frustrate the government's
20 stated intention in the Special Direction that B.C.
21 Hydro earns what the comparable utility does,
22 employing a definition of equity that has been
23 provided to the Commission. So the Commission can't
24 use the discretion it has with respect to adjusting
25 the accounting principles where necessary for
26 regulatory principles, to fundamentally defeat that

1 Special Direction. And I think that would be plain in
2 the case I've given you.

3 I'm submitting that that's exactly the case
4 we're in here, because no regulatory reason has been
5 given for doing this. All of the reasons have to do
6 with accomplishing an appropriate split between
7 ratepayer and shareholder, not to smooth, not to deal
8 with anomalies, not to deal with volatility, none of
9 those sorts of things. But rather, we want the money
10 shifted from this spot to this spot. And I say, if
11 you look at the intent of the Special Direction, that
12 particular purpose, which the Commission would
13 otherwise have to determine, has been resolved. The
14 government's done that and it's issued a Special
15 Direction and you're bound to respect that Special
16 Direction by trying to make a decision that applies
17 it.

18 THE CHAIRPERSON: The other issue that Mr. Wallace would
19 have us presume relates to the Energy Plan, and this
20 is a much narrower point than the point you've just
21 made. I assume that that's consistent with the
22 authorities as it relates to the presumption, that in
23 fact there's an Energy Plan. We might not draw the
24 inferences from it that Mr. Wallace is encouraging us
25 to, but nevertheless the authorities would support the
26 presumption that the government also knew or had known

1 -- knew of the Energy Plan.

2 MR. SANDERSON: Well, let me answer it this way and
3 without repeating the argument. I think the role of
4 government policy et cetera is dealt with in the
5 portion of the original argument of Hydro that deals
6 with the *Innesville* case et cetera, so I refer you
7 back to that.

8 I think with respect to the specifics of
9 the Energy Plan, yes, the legislature can be taken to
10 have known of the Energy Plan without question.
11 Indeed, Cabinet was enacting it through the Special
12 Direction. That is, the Special Direction was passed
13 pursuant to it, and if you will, that aspect of the
14 Energy Plan merges in the Special Direction, to use a
15 concept from, say, real estate. In other words,
16 that's background. The pointy end of that and the
17 result is to be found by an interpretation of the
18 legislation that resulted, and the Special Direction
19 is a part of that legislation.

20 **Proceeding Time 8:59 a.m. T06**

21 THE CHAIRPERSON: One of the areas that may be useful for
22 us, Mr. Sanderson, on this is if -- would you accept
23 that if the government wanted to give us direction
24 with respect to FRSR, they could have more clearly
25 done it by speaking explicitly to FRSR in the Special
26 Direction?

1 MR. SANDERSON: Absolutely. And indeed, you know, given
2 the context that I've tried to paint, if that's what
3 they'd wanted, I submit they would have said so. And
4 certainly there's nothing to stop them from having
5 said so.

6 COMMISSIONER BIRCH: Right. And in fact they had two
7 opportunities, one when they drafted the Special
8 Direction and one when they communicated with Mr.
9 Elton.

10 MR. SANDERSON: Quite so.

11 THE CHAIRPERSON: And then the challenge is to determine
12 whether or not the Special Direction is, as you
13 suggest, changing the broader direction or providing
14 parameters for the broader direction that we have with
15 respect to rate-setting. I'm reminded of Justice
16 McKenzie's comments that BCOAPO quoted. And it --
17 let's actually go there, if -- you may not have --

18 I have the authority itself, I don't have
19 BCOAPO's reference to it.

20 MR. SANDERSON: I have the authority as well in the
21 Internet version.

22 THE CHAIRPERSON: Okay. I'm on page 20, paragraph 23.

23 MR. SANDERSON: I only have 17 pages, so we must have a
24 different --

25 THE CHAIRPERSON: Paragraph 23, then.

26 MR. SANDERSON: Paragraph 23?

1 THE CHAIRPERSON: Yes.

2 MR. SANDERSON: Yes.

3 THE CHAIRPERSON: And this is, I suspect, beyond the
4 scope of what was intended by Justice McKenzie, but
5 maybe not, and that's where he makes the comment in
6 the sixth line through the seventh line.

7 "The mechanism of Special Directions which
8 take precedence over inconsistent provisions
9 of the Commission's governing statutes or
10 regulatory principles otherwise applicable."

11 And I wonder if it's reading too much into
12 that to assume that in fact that's the test. That if
13 we conclude that exercising our discretion under the
14 rate-setting provisions of the Act to direct a
15 variance from GAAP, whether or not that step is
16 inconsistent with the Special Direction, and is the
17 test then inconsistency? Would we have to conclude
18 that doing -- granting an Order for a variance from
19 GAAP would be inconsistent with the Special Direction
20 before we would conclude that we didn't have that
21 discretion?

22 MR. SANDERSON: With great respect, Mr. Chairman, I think
23 it's a mistake to look here for sort of absolute
24 rules, if I'm understanding your question. The
25 language that we relied on in our reply, at page 11,
26 from this decision and in this paragraph 23, I think,

1 is -- and I don't quote the language at page 11, but
2 the intent that's said at page 11 is lying on, is the
3 notion of the close policy connection between the
4 government and the Commission, with respect to the
5 issues covered by the Special Direction. So Special
6 Direction, I've been submitting throughout this, is a
7 tool which the Commission is called upon to interpret
8 to apply policy. And the honest question you're
9 supposed to ask yourself is, when it comes to the
10 policy of how much return goes to the government, what
11 did the government have in mind? And that close
12 policy connection I think you can take from the
13 decision of -- or the reasons of Mr. Justice McKenzie
14 as being a paramount consideration for you. And if
15 you can answer that in a particular way, then that
16 trumps everything else, is what this paragraph is
17 effectively saying. And it's not a question of
18 whether you find inconsistency or not, it's just that
19 if you can ascertain "this is what that Special
20 Direction would have us do, and this is the general
21 policy we are to apply," then it's your obligation to
22 apply it.

23 THE CHAIRPERSON: Right.

24 MR. SANDERSON: And I'm saying, and I will say it again,
25 that I think that Special Direction only allows for
26 one policy interpretation on this particular issue.

1 THE CHAIRPERSON: Thank you. Are there any other
2 comments?

3 **Proceeding Time 9:05 a.m. T7**

4 MR. WALLACE: Mr. Chairman, if I might, simply because
5 Mr. Sanderson did comment on a number of things that
6 the JIESC has taken as positions, which I think
7 mischaracterized them, and if I could very quickly
8 indicate.

9 First, he seemed to talk about doing
10 violence to the principal of the Special Direction,
11 and we disagree completely, that he seems to look at
12 it like the intervenors are trying to grab back money
13 that somehow belongs to the province; and I think
14 that's a complete mischaracterization.

15 And also accompanying that was a suggestion
16 that it was not a fight over regulatory principle, it
17 was simply who gets the money. And those are both
18 clearly wrong. It is a fight over regulatory
19 principle. The principle is this money was collected
20 for a specific purpose and it should be used for that
21 purpose, not to increase the returns of the province.

22 He in the same vein spoke of this as being
23 equity, and I did raise it before but I simply remind
24 you it is not equity, it is a liability on the balance
25 sheet of B.C. Hydro at the moment, or as of the last
26 annual statement, and according you are making a

1 decision of what is the treatment going forward and
2 whether it becomes equity, and if it becomes equity
3 the intervenors are agreeing the effect of the Special
4 Direction would be that there would be a return on it.

5 There's also been a number of statements
6 with respect to variance of the GAAP, and I simply
7 remind you, well, yes, it is a variance from GAAP.
8 Once the Commission approves it, it becomes GAAP. You
9 don't see accounting reservations on the statements
10 that they're inappropriate or not in accordance with
11 GAAP. And I simply remind you of that. Thank you.

12 THE CHAIRPERSON: Okay.

13 MR. WEAVER: Mr. Chairman, two points, again responding
14 to Mr. Sanderson's comments.

15 At a broad level there is a very clear
16 regulatory agenda that the customers have put forward
17 with respect to the FRSR account, and it is a
18 smoothing of rate impact. A general and significant
19 policy statement in the Energy Policy is to maintain
20 the competitive rate advantage for electricity
21 customers in this province. The regulatory step the
22 Commission can take is to use that account to smooth
23 the impact of the rate increase sought by B.C. Hydro
24 in this application.

25 The second, and I think more obvious point
26 that the Commission is aware of is that the Special

1 Directions do empower the Commission's ability to
2 establish deferral accounts, with the broad statement
3 for other purposes, and this is clearly a purpose that
4 is suitable for the Commission to establish that
5 deferral account.

6 THE CHAIRPERSON: Thank you. Unless there are further
7 comments, I think that takes us to the IEP and --

8 MR. SANDERSON: Mr. Chairman, first of all on behalf of
9 Hydro, I want to thank the Commission for the
10 opportunity to make the submissions I'm about to make.
11 I appreciate this is an iterative process that your
12 remarks at the oral argument have initiated. I think
13 that's -- and more importantly, B.C. Hydro thinks that
14 that's a constructive dialogue, if you want, that
15 you've encouraged to occur. And so it's in that
16 spirit that I've been instructed to make the remarks
17 I'm about to.

18 I want to set just a little bit of
19 background in terms of dealing with some of the, if I
20 can call it that, preamble to your scenarios or
21 options at the end, in which you commented on some
22 principles, and as well, some perceptions of your
23 responsibilities under the Act. Having said that,
24 I'll then move on to sort of the practical so what
25 fairly quickly.

26 Hydro believes that the Commission has a

1 broad discretion to determine the nature of the review
2 it should undertake with respect to resource planning.
3 That is, Section 45(6.1) is broad in the discretion
4 that it provides you, and it believes that the
5 Commission should use that approach in a way that
6 evolves to serve both B.C. Hydro and all of its
7 stakeholders' needs as they evolve over time.

8 So the challenge before you is, how do we
9 take the broad discretion we've been given, create a
10 review process, and serve both the needs of Hydro to
11 serve its customers and its stakeholders in respect to
12 that planning process? We make that point because
13 B.C. Hydro does not believe that the remarks of the
14 Minister, or statements in the Energy Plan, should be
15 overinterpreted to place restrictions on the ability
16 of the Commission to optimize the process. And so
17 that there was in your comments, references back to
18 remarks of the Minister, remarks from the Energy Plan,
19 and we stand by the submission that in the end, what
20 matters is what was done in the Act, what matters is
21 what was done in the Special Directions, and that it's
22 an idle exercise to overinterpret the words that may
23 be in some of the background policy statements or
24 statements of individuals.

25 Having said that, Hydro accepts the
26 challenge that you've provided to it to make

1 suggestions for a process that affords the opportunity
2 for the Commission to review the IEP in a public
3 forum, while still permitting Hydro the flexibility to
4 adapt to changed circumstances and retain the final
5 responsibility to meet its obligation to serve. And
6 that's the challenge as I understood you to have laid
7 it down.

8 You noted that the distinction, that
9 there's a distinction between flexibility of process
10 and flexibility of result, and in our argument we had
11 used that word without precision around whether we
12 were talking about process or result. If I understood
13 your comments, you accept the need for the latter,
14 that is, substantive flexibility. The ultimate plan
15 has got to be one that's capable of adapting to
16 circumstance. But you questioned whether the
17 statement made in Hydro's argument that it followed,
18 that a requirement for substantive flexibility demands
19 a flexible process that it wasn't possible to achieve
20 through the adversarial or formal hearing process.
21 You challenged that proposition. Was that the case?

22 **Proceeding Time 9:12 a.m. T08**

23 B.C. Hydro's submission or belief continues
24 to be that process flexibility and informality are
25 conducive and more likely to produce substantive
26 flexibility. But B.C. Hydro accepts that it may be

1 possible to design a Commission Review process that
2 obtains that substantive flexibility as well, and that
3 the introduction of greater formality in association
4 with the review of the IEP doesn't foreclose a
5 flexible result in interests of substance.

6 In considering how to do that, Hydro is
7 mindful of and accepts the Commission's recognition of
8 the importance of aligning the regulatory process with
9 the managerial process that has to go on within Hydro
10 as an equal part of this planning.

11 As elaborated in the written argument, from
12 a management perspective Hydro intends to complete its
13 budgeting process and development of its service plans
14 early in each calendar year. The process of
15 translating an IEP into a specific action plan
16 sufficient to support budgetary decisions takes four
17 to six months and, accordingly, commencing next year,
18 in 2005, Hydro proposes to complete biannual IEPs by
19 late summer, which will then support the following
20 year's action plan. Now that's -- there's no
21 difference in that between what I'm saying now and
22 what you've heard in testimony. But just to reset the
23 context, in terms of timing, from Hydro's internal
24 perspective on how it was going to manage that
25 process, that's what the evidence says and that's --
26 continues to be Hydro's view as to what's appropriate.

1 This approach was not employed this year,
2 in the 2004 IEP, because of the timing constraints
3 that were unique to this initial phase of the re-
4 regulation of Hydro's rates. However, Hydro intends
5 to prepare its 2005 IEP in time to support the
6 decision-making process in early 2006 that will be
7 reflected in the service plan budget for fiscal 2007
8 and happily, if you want, that in a regulatory sense
9 will support the next rate case. So that's the sort
10 of overall timing. And when I'm finished my remarks,
11 I'm going to circulate kind of a summary sheet which
12 just lays out this timing, so that it's just on one
13 page, in terms of what the milestone dates are.

14 If that's the backdrop, then, of Hydro's
15 management objectives and timing requirements, or that
16 does form the backdrop that we've had in considering,
17 okay, given that, what regulatory process can work
18 with that in order to satisfy the Commission's wish to
19 see it, and intervenors more involved in the planning
20 process. Having said that, the management structure
21 and needs may evolve, and it may be that therefore
22 regulatory needs may evolve. So I don't want to
23 present this as a static picture that will be this way
24 for all time, I think the notion of alignment that the
25 Commission has identified as a really fundamental one
26 and so that alignment may imply evolution at both ends

1 as time goes on. But what I'm about to say is
2 intended to describe at least the next eighteen months
3 to two years.

4 If Hydro read your concerns correctly,
5 they're most significant with respect to the resource
6 selection and initial valuation process. One of the
7 intervenors, the Sierra Club, went so far as to
8 suggest that effectively by self-selection of the
9 resource options Hydro was eliminating options that it
10 didn't choose to consider at that stage.

11 Now, Hydro emphatically rejects that
12 notion. Nothing in its proposal presented in
13 argument, that is, the REAP structure, was intended to
14 limit the ability of the Sierra Club or anyone else to
15 bring forward to the Commission any alternative
16 resource that that intervenor believes has been missed
17 by Hydro in the course of the Commission's review of
18 the REAP. But having said that, Hydro does accept
19 that there's an efficiency benefit to having any
20 dispute with respect to the adequacy of the resource
21 options being considered identified earlier in the
22 process than the REAP structure was contemplating, and
23 before the IEP is otherwise complete.

24 So, in other words, the structure that we
25 put before you in argument was, let IEP do -- let
26 Hydro do everything, including the entire IEP, off the

1 regulatory chart, if you will, and then bring the
2 result to the Commission in the form of the action
3 plan, and have that be the focus of the regulatory
4 review. The concerns expressed by yourself, Mr.
5 Chairman, with respect to the resource options then
6 brought a focus in the existing material on Table 7.2
7 in the IEP as representing the outcome of that
8 resource identification process. Now, Table 7.2 or
9 something like it will likely evolve in subsequent
10 IEPs. But B.C. Hydro accepts that the identification
11 of resource options and their related attributes, one,
12 is a milestone, it's something that happens in the
13 course of the IEP process, and two, there it
14 effectively sets the boundaries for Hydro's subsequent
15 portfolio analysis. And if the Commission wishes to
16 provide an opportunity for early review of the
17 adequacy of those resource options, it's at this stage
18 that the review should take place. That is, it's when
19 Hydro settles on those resource options after its
20 consultation process in connection with those options.

21 In the normal course of preparing an IEP,
22 the resource option identification process will be
23 complete early in the first quarter of any -- of the
24 calendar year in which it's to be finalized. So if we
25 think an IEP is going to be completed in the summer,
26 then it's early in the first quarter that the resource

1 options will be identified. At that time, Hydro would
2 be in a position to file with the Commission a report
3 explaining the development of the resource options
4 identified in a way that facilitated the Commission's
5 review of those options.

6 So the proposal is that once that's done,
7 in the first quarter of the year as IEP are being
8 done, a report will be filed with the Commission, and
9 that's not a report that currently will be planned to
10 be filed with the Commission, this is in response to
11 your concerns.

12 There is a concern that the review of that
13 report, and the report would be filed for review,
14 there's a concern that the report's review not delay
15 the preparation of the IEP. And if we think of the
16 timing we've laid out, if this is February/March of a
17 year, then Hydro is aiming to have a finalized IEP by,
18 say, August.

19 The only way to accomplish that, in Hydro's
20 submission, is if there is concurrent process. That
21 is, Hydro would propose that in a period from mid-
22 February, say, to the end of July, two processes would
23 be going on in parallel. First, the Commission would
24 be conducting a public review of B.C. Hydro's resource
25 option report

26 **Proceeding Time 9:19 a.m. T9**

1 And second, B.C. Hydro would be continuing
2 with its IEP process, including ongoing consultation
3 in connection with the development of its portfolio.
4 So having identified its resource options, Hydro's
5 normal next step is to go out and consult around the
6 development of portfolio analysis, and it would
7 propose to continue to do that using the options
8 identified in its resource option report.

9 Now, Hydro acknowledges the complexity and
10 potential for confusion that could result from
11 consultation continuing while the Commission reviews
12 the resource option report. That is, you've got a
13 resource option report that is not yet final because
14 the Commission hasn't ruled on it. However, a four
15 month delay in the IEP process, while the Commission
16 reviews the report, would not be compatible with
17 Hydro's management process, that is, its need to get
18 the IEP resolved by the end of the summer so that the
19 development of budgets and the action plan can be
20 accomplished for early the next year. Nor, in Hydro's
21 respectful submission, would it fit with any of the
22 other aspects of the regulatory review process that
23 was described in argument.

24 So the lesser of the evils, if you will, is
25 that the two processes run in parallel, but that the
26 Commission's review of the resource options be

1 completed by, say, the end of June. So the process is
2 set up to facilitate the Commission's ruling, if you
3 will, on the report by the end of June. B.C. Hydro
4 would then have 60 days in which to incorporate any
5 determinations by the Commission into its portfolio
6 analysis and final IEP. That is, it would have July
7 and August to do that. In most cases, Hydro would
8 expect that that would be sufficient time to permit
9 completion of the IEP on schedule, including
10 consultation with those parties most affected by
11 whatever changes resulted from the Commission's
12 conclusions.

13 If there were major changes required to
14 portfolios in consequence of the Commission's
15 decision, then that might drive some delay in
16 finalization of the IEP. But in general, Hydro would
17 hope that wouldn't be the case. And again, as this
18 iterative process evolves and the dialogue, if you
19 want, between Hydro and the Commission becomes better
20 and better understood, I think the expectation that 60
21 days would be enough is more likely to become accurate
22 as time goes on.

23 To make that -- I'll come back to one other
24 element that I think will help that result. But
25 first, just to complete the process, once the IEP was
26 finalized, Hydro would propose to prepare and file its

1 REAP in a manner consistent with that presented in
2 final argument. So really what we're saying is this
3 is another step in which the Commission participates,
4 and then the process would be as laid out in Hydro's
5 original proposal. Accordingly, the adequacy of the
6 portfolio analysis performed by Hydro as it relates to
7 Hydro's proposed spending plans over the next four
8 years would continue to be tested annually in a review
9 of the REAP, either in a revenue requirement if there
10 was one going on, or otherwise in a manner to be
11 determined by the Commission.

12 B.C. Hydro does have a concern that
13 resource planning issues that have been resolved, not
14 revisited year to year -- and with this sort of
15 parallel process and then the REAP, there is a concern
16 about that -- there will inevitably be some
17 controversy associated with any portfolio. And while
18 Hydro believes there should be a full, open and
19 complete debate with respect to the tradeoffs
20 associated with any portfolio, it also believes there
21 must be an end to the debate so it can proceed with
22 its plans to meet its obligation to serve. And I make
23 that submission not because I think it has a direct so
24 what, but rather as a request to the Commission
25 really, in terms of structuring the processes, that it
26 consider how to narrow the debate to debates that are

1 new or debates which haven't adequately been resolved
2 in the past.

3 And to elaborate that a little bit, Hydro
4 believes that to focus the review on the resource
5 options and those matters which haven't previously
6 been resolved, there are two tools that should be
7 available. The first is that it should initially be
8 well positioned to identify the issues as a result of
9 the consultation process so that you'd have an
10 obligation to bring forward, and will bring forward an
11 objective, if you want, commentary on what the issues
12 that have been discussed during the development of the
13 resource options was. But to test Hydro's conclusions
14 with respect to what the issues are, we submit that
15 the suggestion that the Chair made as your last
16 option, that is, terms of reference be used in this
17 respect, that is that when Hydro file its resource
18 option report, it also file a proposed terms of
19 reference for the Commission review of that report,
20 and that that focus in then on what seem to be the
21 issues from consultation. Interested parties would
22 then have an opportunity, just as they did here, to
23 elaborate those terms of reference and indicate what
24 additional issues they saw with respect to the
25 resource options, and the Commission could then
26 determine and finalize the terms of reference for that

1 particular resource option reports review.

2 And I think that that were permit both a
3 full but also expeditious examination and very focused
4 examination of the resource options that Hydro had
5 identified.

6 A couple of nuances from all of that. The
7 resource options that Hydro would identify will
8 continue to identify Power Smart or demand-side
9 management potential that Hydro has identified, so
10 that I think that deals with is there additional
11 process required with respect to Power Smart, which
12 was another question that the Chair had posed during
13 the course of argument. I think this process would be
14 broad enough and all-encompassing enough that it would
15 cover annually whatever review the Commission felt was
16 appropriate with respect to the Power Smart programs.

17 **Proceeding Time 9:26 a.m. T10**

18 And thus, Hydro does seek relief from
19 the requirements in the September 28th, 1990 letter
20 that is currently extant.

21 THE CHAIRPERSON: Can you repeat what you just said,
22 please?

23 MR. SANDERSON: Yes. In consequence, Hydro believes that
24 if this program that it's described were implemented,
25 then it seeks relief from the September 28th, 1990
26 letter that lays out a sort of separate filing

1 requirements for PowerSmart.

2 Although for 2005 this would be a
3 challenging schedule to meet, and sort of -- it layers
4 yet another hearing process into next spring, B.C.
5 Hydro does believe that it's possible, in the context
6 of finalizing the 2005 IEP for August of next year.
7 It follows, or at least it's probably implied from
8 that, that B.C. Hydro does not believe it's possible
9 or even fruitful to accommodate that process in
10 connection with the review of the 2004 IEP.

11 B.C. Hydro doesn't believe that that ought
12 to be a significant issue. It sought approval of the
13 expenditures it plans for fiscal 2005 and six based on
14 the REAP that was filed here. That in turn is based
15 on the 2004 IEP, but that IEP doesn't conform to the
16 process identified here, doesn't pretend to. The
17 expenditures that Hydro proposes to make in fiscal '05
18 and '06 have been fully examined here.

19 Notwithstanding the difficulty we all had with the
20 timing of things, the fact is there has been a full
21 exchange with respect to what's going to happen in the
22 next two years, and B.C. Hydro submits that the
23 Commission is well-placed to make a decision with
24 respect to the appropriateness of the expenditures in
25 that period, now, as it's ever going to get. Hydro
26 can see no advantage to delaying a decision with

1 respect to those expenditures, including the capital
2 ones in the next two years, while a review of the 2004
3 IEP is undertaken. Bearing in mind that not only
4 Hydro but really, most of the intervenors accept that
5 the form of the 2004 IEP doesn't render it suitable
6 for that kind of a review, that's -- it doesn't settle
7 on a particular course of action, it identifies
8 portfolios, et cetera. So it's just simply not
9 appropriate to that kind of review.

10 In Hydro's submission, its own efforts and
11 those of its shareholders -- sorry, of its
12 stakeholders -- are much better applied to preparing a
13 2005 IEP in accordance with the process that we've
14 just identified, rather than try and make the 2004 IEP
15 into something that it manifestly is not.

16 Now --

17 COMMISSIONER BIRCH: Mr. Sanderson, are you proposing
18 this annually or bi-annually?

19 MR. SANDERSON: The IEP would be bi-annual.

20 COMMISSIONER BIRCH: Bi-annual. Thank you.

21 MR. SANDERSON: But that, with the exception that there
22 will be a 2005 IEP. So a bi-annual process beginning
23 in 2005.

24 And what I should do, Mr. Chairman, is just
25 circulate this one-page summary of the actual steps at
26 this point.

1 THE CHAIRPERSON: Please do that. Thank you.

2 MR. FULTON: Mr. Chairman, the last exhibit number from
3 the B.C. Hydro filings that I have is B1-200, which is
4 the argument and the reply argument. To my knowledge,
5 the Lawson Lundell letter of August the 27th with the
6 authorities has not been marked, so chronologically
7 that should be B1-201. And then, the one-page
8 approximate timing of planning and regulatory filing
9 milestone sheet that has now been circulated should
10 take Exhibit B1-202.

11 THE CHAIRPERSON: Thank you.

12 (LAWSON LUNDELL LETTER OF AUGUST 27 2004 MARKED AS
13 EXHIBIT B1-201)

14 (ONE-PAGE APPROXIMATE TIMING OF PLANNING AND
15 REGULATORY FILING MILESTONE SHEET MARKED AS EXHIBIT
16 B1-202)

17 MR. SANDERSON: Mr. Chairman, just to spend a moment with
18 Exhibit B1-202. You'll see that summary, I think, of
19 what I've laid out here in terms of the milestone
20 dates. And what happens in February of 2005, and
21 partially in years thereafter, under this plan, would
22 be -- there'll be a 2005 REAP based on the 2004 IEP,
23 which is sort of extant, or separate from the process
24 that we hope to have in place going forward, according
25 to this plan. That will drive preparation of the
26 fiscal 2006 service plan and budget. And those are

1 really internalized processes now, because they're
2 within the two test years. But just to lay out
3 completely what's going on from a managerial
4 perspective. Then in March, the proposal would be,
5 there'd be completion and filing and perhaps earlier,
6 but by March, the completion and filing of the
7 resource option report. Then by June, and that would
8 be by the end of, in this model, BCUC's decision
9 relating to the resource option report. By August,
10 the 2005 IEP would be released, and then the following
11 February, February 2006, there would be a new REAP
12 based on a 2005 IEP after the review of the resource
13 option report, there would be a new service plan, a
14 new budget, and those would support a new rate
15 application for the coming fiscal year.

16 So, not having a crystal ball, that is very
17 clear, I hesitate to go any further than that, but
18 that's sort of the next 18 months, or whatever that
19 translates to, as this proposal would see it.

20 Those, I think, are the comments I was
21 instructed to make with respect to the IEP process.

22 THE CHAIRPERSON: Thank you.

23 I think what we will do, unless there are
24 objections, is we will adjourn for half an hour, and
25 then I'll take submissions from intervenors. I'm not
26 hearing any objections. We'll adjourn for half an

1 hour.

2 **(PROCEEDINGS ADJOURNED AT 9:33 A.M.)**

3 **(PROCEEDINGS RESUMED AT 10:05 A.M.)**

4 THE CHAIRPERSON: Please be seated. We will begin. Mr.
5 Austin, you're on your feet so we'll begin with you.

6 MR. AUSTIN: Mr. Chairman, the IPPBC's response to B.C.
7 Hydro's suggestion regarding the IEP and the REAP can
8 be summarized as follows: delay, delay, delay and
9 more delay.

10 The root of the problem that B.C. Hydro
11 currently has is identified in the IPPBC's argument in
12 the opening. It's drawn off of Exhibit B1-197.
13 Simply put, over the next two years, B.C. Hydro is
14 planning to spend about \$656 million on imports, and
15 that's about 10,000 Gwh of energy, and we've only had
16 one moderately dry year. It's broken and it needs
17 fixing, and the way to do it is through the IEP and
18 the REAP and to start getting on with this process.

19 What did we get from B.C. Hydro? Well,
20 during the hearing, the IEP, yeah, we made a few
21 mistakes but give us more time, we'll fix it. They
22 had ten years to get the IEP together. I had the
23 personal misfortune of going through B.C. Hydro's
24 last integrated electricity plan consultative process.
25 Was B.C. Hydro interested in consultation?
26 Absolutely. Were they interested in any views that

1 disagreed with them? Absolutely not. It was an
2 exercise in which the new term is called groupthink.

3 As a result of that, the IPPBC wrote a
4 letter at the end of it which has been filed as
5 Exhibit C4-10, which I referred to on page 46 of the
6 IPPBC argument. That basically summarizes what
7 happens then, and the IPPBC is not seeing any
8 difference now. What B.C. Hydro is saying is "Well,
9 you had your opportunity to talk about REAP and IEP
10 during this plan. You had full opportunity during
11 this hearing." That is completely and utterly false.
12 There are a lot of other issues that need examination
13 in terms of that IEP, other than what the IPPBC and
14 others raised. It's a critical document for the
15 purposes of meeting B.C. Hydro's electricity
16 requirements.

17 Let's break this down a little further.
18 B.C. Hydro is saying, "Well, you'll have an
19 opportunity to look at B.C. Hydro's resource stack for
20 the purposes of IEP." Integrated electricity planning
21 and REAP are not solely about resource stacks. It's
22 about the load forecast. It's about energy security.
23 It's about the Energy Plan. It's about output from
24 existing generation. It's about B.C. Hydro's
25 financial approach to some of its projects, whether
26 it's Site C, Revelstoke. In the previous IEP it was

1 about Stave Falls and repowering Burrard Thermal. All
2 those issues have to be fully examined. It's just not
3 about resource stack.

4 So when would be the first opportunity for
5 IPPs to finally get at B.C. Hydro's plan? Well, maybe
6 2006. Some sort of opportunity on resource stack
7 prior to that. That's not good enough. The system is
8 broken and it needs fixing now.

9 And so all we get is process. "Well, we'll
10 talk about consultation." Never mind consultation.
11 It's the results that count. Never mind process.
12 It's the results that count. And this consultation
13 process, where does it go? IPPBC's previous
14 experience with it, it goes absolutely nowhere.
15 Somebody has got to step in and grab the reins and
16 make decisions with respect to fundamental
17 disagreements with some of the stakeholders in B.C.
18 Hydro. B.C. Hydro's comments in terms of process,
19 "We'll write the terms of reference." Oh sure, well,
20 yeah, we've gone through that experience before with
21 them. It's about previous experience. It's about
22 past history. It's about problems that we're facing
23 now and the need to get on with them right now.

24 The IPPBC in its argument has said we want
25 something that's with milestones, we want it in about
26 a short period of about three months, and we just want

1 to get on with this and determine whether B.C. Hydro's
2 IEP and whether its REAP are going to meet the
3 supply/demand balance of B.C. Hydro's customers, and
4 whether the energy security requirements of the Energy
5 Plan are met.

6 **Proceeding Time 10:10 a.m. T13**

7 Right now, all we're doing is relying on a
8 thermal plant that can't produce what B.C. Hydro says
9 it can, we're importing a lot, and then you've got the
10 water planning process for Williston. All those
11 issues have to be dealt with now, not two years from
12 now, not through resource stack options, but through a
13 proper process run by the BCUC so that B.C. Hydro's
14 planners actually have to come forward and fully
15 defend what they're doing.

16 To summarize it all up, B.C. Hydro's IEP as
17 it currently exists is an exercise in group-think.
18 It's not been critically analyzed. It's not been
19 critically tested. And it does not meet the
20 requirements of the Energy Plan. Thank you very much.

21 THE CHAIRPERSON: Mr. Fulton, I do not have an order of
22 proceeding. If you don't have one, I'll take comments
23 as they come.

24 MR. FULTON: Yes, I do not, Mr. Chairman.

25 THE CHAIRPERSON: Okay.

26 MR. GATHERCOLE: Good morning, Mr. Chairman,

1 Commissioners. I can be brief in response to what Mr.
2 Sanderson said.

3 I won't repeat my argument, but the
4 concerns remain the same. The concerns remain. The
5 IEP as it exists is not a plan in my submission as
6 contemplated by the legislation. I agree with Mr.
7 Sanderson that in its present form, it's not
8 susceptible to meaningful review.

9 With respect to the REAP, it's again in our
10 submission -- covers too short a period of time.
11 There's no context. We can't look at these two plans
12 together as they presently are drafted and determine
13 whether the proposed expenditures are appropriate.
14 You know, expenditures on Site C. Does that mean that
15 Site C is a priority to B.C. Hydro? That certainly
16 was not the indication we got in the hearing. It was
17 something that they wanted to keep alive.

18 In my submission, what we really need to
19 have is a plan that has some flexibility over a
20 reasonable period of time, something along the lines
21 of the plan that BCTC filed in its process. And I
22 think one other thing that one has to keep in mind in
23 looking at B.C. Hydro's plans is, B.C. Hydro's
24 electricity plan may well, and probably will, have
25 ramifications for BCTC's transmission requirements.
26 And it's appropriate, in my submission, that the

1 planning processes of the two utilities be coordinated
2 so that, to the extent possible, they can reflect the
3 type of process we had when B.C. Hydro was a fully-
4 integrated utility.

5 In my submission, the process that Mr.
6 Sanderson suggests, while it may appear on the surface
7 to provide additional opportunity for participation by
8 stakeholders, does not necessarily mean that it would
9 be meaningful participation. I think it's unduly
10 complicated and for those reasons I would stand by the
11 submissions in our argument, which I believe provides
12 -- can provide the flexibility, particularly with a
13 consultative process, and I would, you know, suggest
14 that that type of plan provides some flexibility to
15 B.C. Hydro with an appropriate consultative process,
16 and as we develop over the years, I would suggest that
17 we'll find that the process will clearly identify
18 where there are specific differences, or specific
19 issues, and will not be a long process at all.

20 So those are my submissions, Mr. Chairman.

21 THE CHAIRPERSON: Mr. Gathercole, does it give you some
22 comfort that Mr. Sanderson has said that the process
23 will evolve? And if you were to think about Mr.
24 Sanderson's comments just in the context of the next
25 18 months, and you also assumed that the Commission's
26 jurisdiction of this area was not going to change, so

1 THE CHAIRPERSON: Your alternative as I understand it is
2 for us to give directions for B.C. Hydro to file
3 another IEP, whether we call it 2004 or 2005 IEP, but
4 another IEP. And so for the next 18-month period,
5 your preference is that they prepare another IEP more
6 consistent with the things that you said in your
7 argument, and then deal with that document. And if
8 you think about the timing of the filing of that, are
9 we not going to get to this resource option report
10 sooner than we would get to that kind of document that
11 you're speaking to?

12 MR. GATHERCOLE: Except that the document I am speaking
13 to will be a document which provides an opportunity
14 for a better, more consistent look at the plan,
15 because it is a plan rather than just a list of
16 resources. And no, I would not anticipate them
17 redoing the 2004 plan.

18 The question is, are the expenditures that
19 are in the REAP for this year really required this
20 year, or could they be not done until such time as we
21 had the 2005 plan?

22 THE CHAIRPERSON: Sure. But I'm thinking about the
23 process that you envision. If it was a refiling of --
24 I wonder, Mr. Gathercole, if you were to think of this
25 in the context of a resource option report as proposed
26 by B.C. Hydro and as suggested in my options that are

1 reviewed, to be on the schedule that's -- B.C. Hydro's
2 schedule, so that we got to a 2005 IEP by the end of
3 August next year which would include the benefit of
4 comments that came from a review of the, as Mr. Austin
5 calls it, the resource stack. If we got to that 2005
6 IEP at the end of August, I would have thought that
7 that date is very close, if you will, to what could be
8 expected of B.C. Hydro following your alternative.

9 MR. GATHERCOLE: Correct.

10 THE CHAIRPERSON: Okay.

11 MR. GATHERCOLE: But the question is -- sorry.

12 THE CHAIRPERSON: No, go ahead.

13 MR. GATHERCOLE: The question to me is what will the plan
14 look like? And I guess what we were asking the
15 Commission to do was more direct Hydro with respect to
16 the nature of the plan than with respect to the
17 timing. And it seems to me, my concern is the process
18 that Mr. Sanderson is suggesting, as I say, is a step
19 in the right direction but it very much depends -- it
20 has two concerns with me. One is I don't believe we
21 need both an IEP and REAP. I think the two can be
22 combined appropriately and I believe other intervenors
23 have suggested the same thing.

24 Secondly, to repeat myself, it very much
25 depends on the nature of the plan. Is it a plan or is
26 it just simply a list of potential options with no

1 context to determine where the utility is planning to
2 go, other than what it's proposing to spend over the
3 next couple of years?

4 THE CHAIRPERSON: If the review that was to occur in the
5 resource option report between March and the end of
6 June next year included within the terms of reference
7 for that consideration of the key elements of the IEP,
8 given that it's not going to make any difference with
9 respect to the date of filing the document that you're
10 looking for, does that not provide you with the
11 opportunity that you're looking for to get to an IEP
12 that's in the form that you're looking for?

13 MR. GATHERCOLE: It may well. It depends on what it
14 looks like.

15 **Proceeding Time 10:20 a.m. T15**

16 THE CHAIRPERSON: Well, it would be in advance of you
17 receiving it, and so you'd have an opportunity to --
18 you know, it's -- it may not very well -- it may not --
19 - the resource option report may not lend itself well
20 to establishing a foundation that you might -- or that
21 my comments might suggest that -- to you. But for
22 that, the timing is, as I understand it, is consistent
23 with what you're thinking.

24 MR. GATHERCOLE: I think the other thing that's important
25 is, as has previously been indicated by Mr. Austin, is
26 the nature of the consultative process. I think we

1 have had, in the past number of years, some very good
2 consultative processes by various utilities that have
3 engaged in them. And I think that what that has
4 enabled people to do is to really narrow the issues.
5 And so, very often, you can come to -- into the
6 process saying that you agree with the utility on a
7 number of issues, and simply disagree on, you know, on
8 a few issues.

9 Mr. Sanderson made the comment, I think, on
10 the first day that when we did it before in an
11 adversarial process it didn't work very well. We
12 didn't do it very often in an adversarial process, and
13 there wasn't the type of consultative process that has
14 been developed over the past years. So I think that -
15 - I'm not saying that there's one answer, but I think
16 it's the context in which we move forward with
17 appropriate, you know, planning for B.C. Hydro.

18 Thank you.

19 THE CHAIRPERSON: Thank you.

20 COMMISSIONER BIRCH: Mr. Gathercole, could I ask you --
21 two areas of question. One is, you talked about the
22 IEP as it exists and the input you would seek to have
23 into that IEP. I'm trying to reconcile, are you
24 suggesting that Hydro, when they come up with their
25 resource stack, that they've ignored certain options
26 that may be viable? Or, instead, are you more

1 questioning Hydro's conclusions on the mix? In other
2 words, a little bit too much of this and a little less
3 of that.

4 MR. GATHERCOLE: It's really the concern I have with the
5 IEP is, in my submission, it isn't a plan that's
6 contemplated by the Act. It's just purely a list of
7 options, and Mr. Sanderson indicated as much in his
8 final argument. So, what we are looking for is
9 something more akin to what BCTC has filed, and where
10 there's a clear indication of what choices the utility
11 has made. And then you can debate the choices. You
12 can say, yes, that choice makes sense to us, this one
13 doesn't.

14 To a certain extent, the way it's proposed
15 right now, the resource stack, yes, it would be an
16 opportunity to say, well, why are you considering
17 this, it doesn't seem to make any sense? Why are you
18 not considering this? That's one aspect. Another is,
19 what are the priorities? You know, some of the
20 priorities are clearly dictated by the Energy Plan,
21 but there may be some others that are not clearly
22 dictated by the Energy Plan, and there should be some
23 opportunity to discuss this.

24 Then the second step would be, having
25 determined, you know, what the appropriate resources
26 to -- for B.C. Hydro to review, presumably they then

1 come forward with the Energy Plan. And if the Energy
2 Plan is an appropriate plan, that's where I would see
3 intervenors such as my clients having a major
4 participation, although they will -- would have
5 participated in the consultative process and in the
6 review of the resource stack.

7 COMMISSIONER BIRCH: So you -- what you're suggesting, if
8 I read this correctly, is that B.C. Hydro should first
9 have the debate, what are some of the priorities in
10 the province? Should we have cheapest cost as the
11 highest priority, or should we have highest
12 reliability, or should we have security of supply by
13 always having enough generation within the province --
14 those kinds of questions should be debated first.
15 Then, once you have the priority stack figured out,
16 then you can look at the resource stack and say, where
17 is it coming from and how do we satisfy it. That's
18 what you have in mind?

19 MR. GATHERCOLE: Yes, well, that debate, Commissioner
20 Birch, clearly needs to be held. And, you know, in my
21 -- what we were proposing, it would be held at the
22 time of the filing of the proper and appropriate
23 electricity plan. But there is -- there's that debate
24 about the priorities. But there's also what B.C.
25 Hydro sees as priorities for resource development
26 within the overall priorities.

1 **Proceeding Time 10:25 a.m. T16**

2 And that's what the, you know, the Energy
3 Plan as presently filed clearly lacks, and I use the
4 example I used earlier of Site C. I mean, it's hard
5 to debate within this context whether Site C is an
6 appropriate option, because they're not saying it's a
7 priority other than a priority -- as I understand it,
8 and I'm sure Mr. Sanderson will correct me if I have
9 it wrong. It's merely a priority in the sense that
10 they want to keep it open. And I think we need
11 something more than a process which just leaves the
12 Commission being faced with being asked to approve a
13 series of expenditures to keep options open, without
14 there being some clear indication that the reasons for
15 pursuing these options in 2005-2006 as apart from a
16 variant of other options that are set out in the IEP.

17 COMMISSIONER BIRCH: Thank you. My second area gets to,
18 I guess, the question of how often that input is
19 given, and that is things like Site C have been around
20 for years, they'll continue to be around, they're
21 options that are there more or less forever until
22 they're exercised. They also don't change that much.
23 The energy business just doesn't move that fast. So
24 how often do you see it appropriate to have that input
25 on what that priority stack should be?

26 MR. GATHERCOLE: Well, I picked up on -- because our

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1 proposal was to basically replace the IEP and the REAP
2 with say a ten-year plan, I just picked up on the fact
3 that Hydro thought it was appropriate to review the
4 REAP annually and to do, you know, the plan annually.
5 And you know, maybe I'm an eternal optimist,
6 Commissioner Birch, but I thought Site C had been
7 consigned to the scrap heap some ten years ago. And
8 that's why a number of us were quite surprised, given
9 the fact that the nature of the energy industry, in my
10 submission, has changed significantly in the last
11 decade, and one would have thought that the era of the
12 standalone central station generating process at a
13 long distance away from the load was a thing of the
14 past. And I would have thought from reading what BCTC
15 is looking at, that that's a concern that it has.

16 But I think it is important because of the
17 fact that we've got these two utilities that are
18 entering into a planning process, you know, at the
19 same time. We have that type of substantial
20 stakeholder review, at least at the beginning. It may
21 be as things evolve, and I think we all agree things
22 can evolve. It may be somewhere down the line the
23 decision will be no, you don't need to file a plan
24 every year. Every two years or every three years
25 would be sufficient. But at this stage of the game I
26 think it's appropriate to initially start out with an

1 annual review.

2 COMMISSIONER BIRCH: So what you're suggesting is once
3 one is agreed on those priorities, they may not change
4 that often.

5 MR. GATHERCOLE: They may not change that often, no.

6 COMMISSIONER BIRCH: But you have to have that review up
7 front.

8 MR. GATHERCOLE: I mean, clearly things can change, but
9 if you've got some degree of consensus or decision by
10 the Commission that yes, it is appropriate for B.C.
11 Hydro to proceed in this direction, there may be two
12 or three options that they want to keep open because
13 things may change. And then if it becomes a
14 significant change, yes, I think we would all be open
15 to say yes, you know, what seemed to make sense five
16 years ago, things have changed.

17 I'll give you an example. About six or
18 seven years ago, the Canadian Radio and Television
19 Commission -- and Telecommunications Commission --
20 made some decisions based on certain assumptions, and
21 that was to open up cable and to open up local
22 telecommunication service to competition. The
23 assumptions were made and it's clear in the decisions,
24 that they anticipated that the cable companies would
25 compete on local telephony through wires, and the
26 telephone companies would compete with the cable

1 companies through wires. The technology didn't exist,
2 but people were working on it. That hasn't happened.
3 In fact, the telephone companies are competing with
4 cable companies through investments in DIS, and the
5 cable companies are now looking at competing with the
6 telephone companies through investments in the
7 Internet.

8 So if the regulator were looking at it now
9 and we were looking at it now and looking ahead -- and
10 this is happening, they're having to come up with a
11 whole new set of concepts to determine the extent to
12 which they can effectively regulate. So things can
13 change significantly. New technology, for example.

14 **Proceeding Time 10:30 a.m. T17**

15 MR. GATHERCOLE: One of the concerns my clients have had
16 for some period of time is not encouraging utilities
17 to invest in generation that will preclude or slow
18 down the development of distributed generation
19 technologies. And that's something we really need to
20 be looking at. Now, traditionally, the utilities
21 haven't wanted to do that, for a number of reasons,
22 quite legitimate within the concept -- within the
23 context of them making that decision. But I think
24 these are the sort of things we have to look at. And
25 these are things that I think can, over the next ten
26 years, ten years from now we'll probably be looking at

1 something quite different than we'll be looking at
2 next year in B.C. Hydro's plan.

3 THE CHAIRPERSON: Thank you.

4 MR. GATHERCOLE: Thank you.

5 MR. WALLACE: Mr. Chairman, I think that we have common
6 ground with Hydro in that the electricity plan -- and
7 I'm going to refer to that to avoid REAP or IEP, as
8 being specifically attacked except where necessary --
9 but the electricity plan must be useful to B.C. Hydro
10 in all of its processes for going forward, to the
11 Commission and to stakeholders. And it's the view of
12 the JIESC that this will be best achieved by
13 generating, discussing and approving a plan that
14 really does show how B.C. Hydro expects to meet the
15 upcoming energy needs of the province. And I think
16 that clearly was the thrust of the Energy Plan and the
17 thrust of the revisions to the *Utilities Commission*
18 *Act*.

19 I would like to also adopt Mr. Gathercole's
20 comments, though, with respect to the BCTC process --
21 must be coordinated with that. Because of projects
22 like Site C, because of distributed generation, these
23 types of things can only be achieved efficiently on a
24 coordinated basis.

25 B.C. Hydro in its argument suggested that
26 the JIESC and other intervenors, but I think

1 particularly the JIESC, wanted certainty. And Mr.
2 Chairman, I think you were correct in your view that
3 our concern is much broader than that. We are not
4 seeking certainty out of the Plan. The JIESC is
5 looking for electricity plan, or a vision of the
6 future, not a catalogue of possibilities. And again,
7 I've aligned myself with some of the concerns of Mr.
8 Gathercole there.

9 With respect, because it has been raised a
10 number of times, a resource options list, I would
11 suggest, is no more a plan or an electricity plan than
12 a list of types of auto parts is a plan to build an
13 automobile. It simply falls way short of being a
14 plan. B.C. Hydro has offered a review of the resource
15 options list, and while I don't want to appear
16 ungrateful, I think that's a very limited offer
17 they've thrown up, in that -- how hard is it to add
18 one more item to that list? If you're not talking
19 about priorities, you're not talking about the plan,
20 or what you're going to do, but just saying this item
21 should be on the list to be discussed, I suspect we
22 could have a hearing, we could come in here and
23 somebody could say, hey, they left this off, and the
24 Commission could say, Hydro, think about this one too
25 while you're doing it. It doesn't advance the
26 resource planning process in a useful and meaningful

1 manner, in my submission. It's worth checking, but
2 let's not think of it as a plan for doing something.

3 The JIESC recognizes that the electricity
4 plan can and will change. That's a given. It's a
5 ten-year plan, the corporations that comprise the
6 JIESC plan long-term, but those plans change. We
7 recognize that. And as circumstances change, I think
8 we can tell you now, we expect we'll be back arguing
9 for a changed approach to meeting those circumstances.
10 We are not seeking to lock B.C. Hydro into a plan.
11 But we are asking for a plan. And that seems to be
12 the difficulty.

13 B.C. Hydro suggested a timetable, and that
14 was in the document that Mr. Sanderson put forward
15 today. And it would look like there is no -- there's
16 the review of the resource option report, which I've
17 already commented on, in 2005. The next review would
18 be some time in 2006 and it would only be a review of
19 the REAP, not of the overall plan. And I think you
20 would meet exactly the same circumstances that are
21 frustrating people here. We don't know what's going
22 on longer-term, and we don't seem to have a forum to
23 discuss it, or to discuss some of the issues that
24 Commissioner Birch raised with Mr. Gathercole.

25 That is too long. A review -- we are not
26 arguing for a detailed review of the 2004 IEP this

1 year. It does make sense if Hydro's moving forward to
2 2005, to do something on an electricity plan in 2005.
3 But that doesn't mean that there shouldn't be some
4 guidance coming out of this decision. You have heard
5 the positions of the intervenors, and you have heard
6 the positions of Hydro. They are clearly, I think, in
7 substantial difference, and I think it would be very
8 useful for you to give Hydro guidance of what should
9 go into the electricity plan, and clearly the Act
10 contemplates that you will do that, that Hydro will
11 file in accordance with your directions. So that
12 should be done.

13 **Proceeding Time 10:37 a.m. T18**

14 The JIESC, like Mr. Gathercole submits, at
15 a minimum timeframe for a plan is ten years. And I
16 heard some concern about that, and I really want to
17 put it in context. It's not that we're trying to get
18 ten-year rates or set it, like to, but not expecting
19 that. The reason is that ten years is necessary
20 because major transmission and major generation have
21 lead times in the eight- to ten-year range. And if
22 these projects are to ever be more than a hypothetical
23 possibility, the plan, we suggest, I guess unless
24 Hydro really does adopt them and bring them in the
25 REAP, in which case they should be considered in the
26 context of a longer plan anyway, the plan must go out

1 far enough for them to be considered and included in
2 time to be there when they're required.

3 Otherwise you end up with another Vancouver
4 Island Gas Pipeline, people coming up and saying,
5 well, there is or there may be a better solution but
6 we don't have time. And that is not what the
7 Electricity Plan -- rather let me put it in a more
8 positive way. The Electricity Plan, we think is meant
9 to avoid those situations from developing, and it's
10 absolutely essential that you look at ten years.
11 Otherwise we're simply not going to get a debate about
12 the long-term choices, and that simply needs to be
13 there, not only for Site C. I think there are other
14 items that coal that have a long lead time, and I
15 think distributed generation and its impacts on
16 transmission are all long-term issues, they're not
17 short-term issues.

18 The JIESC has urged the inclusion of
19 potential rate percussions as part of the plan, not
20 because we expect guarantees, because it's very
21 important information. Rate information takes
22 abstract information in usually current dollars, and
23 puts it in a form that allows parties to see what the
24 plan means. In some cases that might confirm a plan
25 as looking pretty good, a great solution to where
26 we're going. In other situations, looking at rate

1 impacts, and again they're just projected, they're not
2 real but at least people know where they're going, it
3 may well be that stakeholders are going to come back
4 or the Commission is going to come back and say,
5 "We've got to find a better way. Let's rethink this,
6 and maybe we've exhausted all of the options but maybe
7 we haven't." Rate impact information tells you what
8 that plan is going to mean in real terms for
9 customers.

10 In our view, the long-term capital plan
11 must be reviewed by the BCUC. I would agree with Mr.
12 Gathercole that it doesn't seem sensible that we need
13 a REAP and an IEP. The Act seems to only contemplate
14 one plan, and that should be a ten-year electricity
15 plan. The REAP purposes can be covered either through
16 the revenue requirement applications of B.C. Hydro, or
17 through CPCN applications. We don't need two of them
18 but we do need a ten-year plan.

19 To conclude, B.C. Hydro seems to be seeking
20 flexibility. The JIESC supports flexibility but
21 opposes unfettered discretion. And I suggest to you
22 that that's what these plans may be creating. Clearly
23 the Energy Plan and the revised *BCUC Act* both show the
24 government has decided that the B.C. Hydro planning
25 process is going to have stakeholder input and BCUC
26 oversight. That oversight must be timely and it must

1 be meaningful. Thank you.

2 THE CHAIRPERSON: Thank you. Mr. Jones, if it's any
3 consolation, I changed my plans to be here today too.

4 MR. JONES: I very much appreciate you mentioning that.
5 I'll provide my wife and my children with a transcript
6 just --

7 THE CHAIRPERSON: But I'm not expecting it to be much of
8 a consolation.

9 MR. JONES: Probably not.

10 Mr. Chair, Chris Jones for the Sierra Club
11 of Canada, B.C. Chapter. First of all I like, Mr.
12 Sanderson, to thank you and the other Commissioners
13 for this opportunity. It's an important point. It's
14 one that I appreciate is a difficult one for the
15 Commission to be considering, as you outlined on our
16 last day, and appreciate the opportunity to make
17 comments on this.

18 In addition, I certainly appreciate that
19 B.C. Hydro has considered this in the intervening
20 couple of weeks and has tried to come up with a plan,
21 if I can put it that way, which tries to address some
22 of your concerns. But for the Sierra Club's
23 perspective, it really does not meet the requirements
24 of the Act, and from our perspective it is not the
25 most efficacious way of proceeding.

26 I share some of the comments made by both

1 Mr. Gathercole and Mr. Wallace with respect to the
2 number of processes which are now contemplated. The
3 Sierra Club strongly supports a Commission review of
4 an integrated electricity plan with long-term
5 forecast, perhaps ten years as Mr. Wallace has
6 suggested. But what B.C. Hydro has suggested as an
7 alternative to that, I think is (a) rather complex and
8 difficult to picture how it will proceed, and (b)
9 doesn't replace the long-term planning processes which
10 should be considered as part of an IEP review.

11 From the Sierra Club's perspective, this is
12 not -- should not be an overly complicated process.
13 There are many jurisdictions in North America which
14 require the production of integrated resource plans,
15 whatever their title might be, which are reviewed by
16 public utilities commissions ultimately. And that
17 isn't a process which we should be afraid of, neither
18 the Commission, stakeholders or B.C. Hydro. There is
19 a suggestion, I think, through B.C. Hydro's arguments
20 that an adversarial process to review the IEP would
21 simply be -- I don't want to put words in my friend's
22 mouth, but unworkable or just not a successful
23 process. And I believe in one of their reply or
24 initial arguments, they said it didn't work in the
25 past and unlikely in the future.

26 **Proceeding Time 10:44 a.m. T19**

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1 From the Sierra Club's perspective, if
2 IEPs were produced and filed on a regular basis, the
3 initial review of the IEP might be a process in which
4 everyone was learning how to review it appropriately.
5 It would, I would submit, become an easier process as
6 time passes. Certain issues would be resolved, the
7 Commission would, I'm sure, take control of the
8 process to the extent that issues which were
9 determined and haven't significantly changed by events
10 in the interim period, would not be once again
11 revisited. So, from our perspective, it's entirely
12 appropriate that B.C. Hydro produce an Integrated
13 Electricity Plan which is, as my friends have
14 previously stated, a real plan.

15 A second reason I think that the process
16 could be made workable is to have real stakeholder
17 involvement. You know, B.C. Hydro has itself admitted
18 with respect to the 2004 IEP that there was very
19 limited stakeholder involvement. B.C. Hydro in its
20 argument hasn't suggested, in its argument or in
21 evidence, suggested how in a detailed way stakeholder
22 involvement will be included in future Integrated
23 Electricity Plans. There are certainly other
24 jurisdictions in which that takes place. I don't mean
25 to be giving evidence here, but some possible
26 solutions for streamlining the review of the IEP would

1 be the establishment of consultative committees to
2 review the IEP as it's being developed. For example,
3 the establishment of technical advisory committees
4 with respect to DSM is not an uncommon procedure.
5 They're also called DSM collaboratives in some cases.

6 In my respectful submission, what myself
7 and the other intervenors are suggesting need not be
8 inconsistent with B.C. Hydro's management processes.
9 In fact, I think I heard my friend, Mr. Sanderson,
10 suggest that those management processes themselves may
11 change. Management's requirements may be different in
12 future years. Well, in our respectful submission, it
13 is not a stretch to suggest that B.C. Hydro's
14 management and planning processes can be adapted for
15 production of a real IEP, which will be reviewed by
16 the Commission.

17 Just to return to something I forgot, with
18 respect to the establishment of consultative or
19 technical advisory committees, that process itself
20 could involve the Commission. It could be relatively
21 -- we're talking about words which have come up a lot
22 -- flexible processes in which there is an exchange of
23 ideas, but in which the Commission is involved and
24 knowledgeable about that process, so it sees what
25 issues are being hashed out and which might have
26 reached some consensus before the actual review of the

1 IEP.

2 So, in summary, in my respectful
3 submission, while I appreciate that B.C. Hydro has
4 attempted to address some of the concerns raised by
5 yourself, Mr. Chair, at our last meeting, the proposal
6 which B.C. Hydro has advanced is overly complex, does
7 not meet the requirements of the Act, and I do not
8 think meets the interests of stakeholders or the
9 Commission.

10 Those are my submissions.

11 COMMISSIONER BIRCH: Mr. Jones, Mr. Gathercole outlined
12 that one of the deficiencies that he saw in the plan
13 was the lack of debate about priorities, as we talked
14 about security, reliability, the various priorities.
15 Do you agree with that? And, if so, are -- do you
16 agree with that and also do you have any other views
17 as to the major deficiencies of it as a plan, as
18 opposed to just a resource stack?

19 MR. JONES: You mean the current IEP?

20 COMMISSIONER BIRCH: The current IEP.

21 MR. JONES: The current -- the current IEP, and this was
22 something that actually intrigued me in what Mr.
23 Sanderson said this morning, I know he didn't exactly
24 say this but I -- he may well comment on it. The
25 current IEP, as I read it, is simply a -- it's a list
26 of all the -- of a series of potential options. There

1 isn't a plan for going forward, which is, I think,
2 what Mr. Gathercole discussed with you. What I
3 thought I heard suggested by my friend Mr. Sanderson
4 this morning was that future IEPs would be
5 substantially different than that. They would, in
6 fact, be a plan.

7 I will, though, agree with Mr. Gathercole
8 and Mr. Wallace that I don't see the need for -- in
9 fact I think it, as I said in our argument, it's
10 inappropriate to divide the IEP from the REAP. To me,
11 the one flows into the other. One is, you know, the -
12 - in fact I was going to say this morning before I
13 heard Mr. Sanderson, that in essence there would be --
14 there would have to be a review of some form of IEP in
15 any event, because as we found in the proceeding we're
16 just concluding, the IEP is an essential contextual
17 document. It's why it makes perfect sense to me that
18 the IEP be a true plan going forward.

19 THE CHAIRPERSON: From your client's perspective, why do
20 you put so much emphasis on there being a plan, as
21 opposed to a review of the resource options? I would
22 have thought, given the resource options that I
23 assume, and please comment, but I assume that your
24 client would be interested. And they are of the
25 nature that flexibility is important, but the
26 allocation is the key issue, I would have thought.

1 And so, again, why put so much emphasis on the plan if
2 in fact the resource-type summary does that allocation
3 for you?

4 **Proceeding Time 10:51 a.m. T20**

5 MR. JONES: You see, that's the difficulty I have, I
6 suppose, with understanding what's being proposed
7 going forward. The reason why I suggest it should be
8 a plan is because that's a process which I think is
9 followed in other jurisdictions, and that we really
10 have a document that we can focus on. If the resource
11 options paper or report or whatever it would be, is
12 simply a listing of potential resource options, and
13 then we were to attend before the Commission to say,
14 well, you haven't really thought about this one, and
15 that were, you know, added as we go forward to the
16 IEP, then we just simply have another process.

17 What makes most sense to me and to the
18 Sierra Club is that there be an integrated electricity
19 plan which is produced by B.C. Hydro, but which had
20 very significant input by stakeholders. And that's
21 why I was trying to emphasize that just a few minutes
22 ago, that in my respectful submission, the Commission
23 may well want to consider a process and direct B.C.
24 Hydro to have formalized stakeholder input processes
25 leading to the Integrated Electricity Plan. That's
26 really the -- I take your point, Mr. Chair. Certainly

1 my client's interest is ensuring that certain resource
2 options are included in what B.C. Hydro is proposing.

3 The reason why I've joined my friends in
4 suggesting that there ought to be an integrated
5 electricity plan is so we -- so I understand that
6 process. I mean, I was actually going to say this
7 morning, we got to -- and I suggested in our argument,
8 from my perspective as counsel for the Sierra Club and
9 for the Sierra Club itself, we got into a very
10 confusing regulatory process. We have an IEP which is
11 sort of a set of options, and then we have a REAP
12 which comes out which is part of the Revenue
13 Requirements Application, and then we're talking about
14 a different process going forward.

15 So I think that to return to your concepts
16 of flexibility, uncertainty, and I think that we'd
17 like to be able to have an understandable process
18 going forward, and that's why I emphasize that.

19 THE CHAIRPERSON: One moment please.

20 MR. JONES: Sure.

21 THE CHAIRPERSON: Do you have a copy of the transcript
22 from the oral phase?

23 MR. JONES: From -- sorry?

24 THE CHAIRPERSON: From the oral phase, Volume 22.

25 MR. JONES: I have a portion of it. If you could refer
26 me to a page number.

1 THE CHAIRPERSON: Page 4042. And it's likely useful for
2 you to have a copy of Table 7.2 as well.

3 MR. JONES: I have it, Mr. Chair.

4 THE CHAIRPERSON: Okay. I may have been too vague, if
5 you will, with respect to my reference to Table 7.2.

6 But at page 4042 at line 3, I say:

7 "My impression is that the description on
8 page 20 of the Integrated Energy Plan is
9 close to the level of identification of
10 resources as indicated on Table 7.2. I
11 would, I think, at Table 7.2 for the purpose
12 of this option and capacity... so the
13 megawatts... and then the project's in excess
14 of 50 megawatts."

15 And then I go on to say at line 9:

16 "But it may be satisfactory in terms of
17 Section 45 requirements that the Commission
18 comment on or give direction to B.C. Hydro
19 at the level of resource identification
20 shown on this table, and that to some degree
21 we need to deal with issues that are raised
22 later in the 2004 IEP in terms of portfolio,
23 identification of portfolio valuation
24 results. But it may be satisfactory from a
25 regulatory review context."

26 Let me add to those comments now.

1 MR. JONES: Please.

2 THE CHAIRPERSON: And this needs to be commented on by
3 others. But when I make reference to the level of
4 identification of resources that's set out on Table
5 7.2, I was somewhat cryptic. It wasn't -- I didn't
6 intend to confine the resource option report, as B.C.
7 Hydro has now identified it, to the purposes for which
8 this table was included in the IEP. What I was
9 thinking was is that this provided the appropriate
10 level of identification of resources. This in fact is
11 in the context of the IEP, is intended to be a fairly
12 comprehensive identification of resources. And what I
13 was thinking that might have some value was
14 identification of resources at this level, but if you
15 will, with more certainty, although we have to keep in
16 mind that flexibility and the need, absolute need for
17 planning flexibility, but more certainty with respect
18 to -- I call it allocation, Commissioner Birch calls
19 it mix, we can call it mix -- but more certainly with
20 respect to the mix than is suggested by how this table
21 is incorporated in the IEP.

22 And so I would have thought from -- that's
23 why I'm pursuing this with you. I would have thought
24 from your client's perspective, that the key issues
25 are in fact addressed if we merely get, if you will,
26 to the level of identification of resources that are

1 set out there. So we establish what the mix should
2 look like in terms of way, title, DSM, Power Smart. I
3 would have thought that that, from your client's
4 perspective, would have accomplished maybe not
5 everything that you're hoping to accomplish through
6 review of a plan as you describe it, Integrated
7 Resource Plan, but it would have largely met your
8 client's interests.

9 **Proceeding Time 10:58 a.m. T21**

10 MR. JONES: Perhaps. I mean -- maybe I'll refer you to
11 another page in the transcript, because I appreciate
12 you actually raising that section with all of us,
13 including myself, now. Because I did have some
14 trouble, to be frank, understanding that option, which
15 I believe may be option 7, or something like that,
16 which you yourself advanced.

17 When I -- Mr. Sanderson later referred you
18 to Table 7.2, and I'm now referring to page 4046 of
19 the transcript. And, you know, perhaps this exchange
20 between him and yourself may have been the genesis for
21 what B.C. Hydro is coming up with today. So at the
22 top of that page, Mr. Sanderson is, you know,
23 referring to the concerns of the Sierra Club, which
24 you're reflecting, I think, in your comments now. The
25 input into options that are potentially considered as
26 part of the solution. And then he refers to Table

1 7.2, and your suggestion in that regard. And he says
2 that

3 "... the Commission, through regulatory
4 process, ensure before further steps are
5 taken the completeness of the options
6 identified in something equivalent to Table
7 7.2, and confirm or express its views with
8 respect to the accuracy or validity of the
9 identification of the annual resource
10 available."

11 And then Mr. Sanderson asks, "Is that what
12 you're -- is that what you see happening?" and then
13 you yourself said, "Yes, I think that that's
14 essentially what I was saying." Perhaps erroneously,
15 I was reading that to say, well, in the kind of option
16 you were thinking about, was B.C. Hydro simply to
17 produce a similar list to this, and then the
18 Commission would be confirming or discussing the
19 accuracy or validity of the items on the list. It's
20 what really led me to the conclusion, similar to Mr.
21 Wallace, that isn't really the formulation of a plan
22 going forward. That's really a kind of a list.

23 And my concern, from my client, and the
24 reason I'm -- I was responding the way I was this
25 morning, that process suggested by B.C. Hydro doesn't
26 suggest to me the opportunity to discuss the broader

1 planning process he's going forward, or the
2 establishment of priorities of those resources
3 suggested there. All of this is obviously difficult
4 to say at this time, we've got a new suggestion from
5 B.C. Hydro this morning. I don't know what that
6 process exactly will look like. And the reason I
7 again made my submission from this morning is that I
8 think I have a better sense of what could lead to a
9 substantive review of an IEP. I'm not sure what we
10 would be discussing in B.C. Hydro's proposal or a
11 review of something like Table 7.2. That's where I --
12 that's the reasons for my submissions.

13 THE CHAIRPERSON: Fair enough. And I don't want to
14 belabour the point, but on 4047 I say, "there are some
15 resources ..." -- at line 10.

16 "There are some resource types identified
17 there for which there may be more certainty
18 at a certain level than others."

19 A rather cryptic comment, but so, for example, we're
20 looking in small Hydro, there may be some certainty
21 with respect to the amount of resource from that type
22 but very little certainty with respect to the
23 resources that might meet the amount of energy
24 capacity, for that matter.

25 And so I was thinking that for resource
26 types that I would have thought would have been of

1 interest to your client, that again that mix issue is
2 the key issue. In that a review -- because you don't
3 need to get into an analysis of the projects. To some
4 degree you do, but not with the same emphasis. And
5 you're not -- I would have thought -- not as
6 interested in the specific projects that are going to
7 be in the mix, as you are with respect to the
8 allocation of the mix, and the share of the mix that
9 reflects the types of resources that your clients are
10 interested in. So I would have thought that something
11 along the lines of Table 7.2 would largely meet your
12 client's needs.

13 MR. JONES: Well it -- again, I mean, it -- to some
14 extent it may depend on how that process unfolds,
15 number one. And number two, I'm not sure that my
16 client's interests would always be restricted in that
17 way. I can't say at this point. And I guess lastly,
18 I just returned to the same thing I just said a moment
19 ago, which is I think I have some comfort with
20 understanding how it -- a greater degree of comfort,
21 let's put it that way -- with understanding how a
22 review of an IEP would unfold, in combination with a
23 more extensive and formalized stakeholder consultation
24 process. So I think that's the best I can say for
25 today on that point.

26 COMMISSIONER BIRCH: I just have one last question.

1 MR. JONES: Sure.

2 COMMISSIONER BIRCH: When you make reference, as you just
3 did, to a more formal consultation process, does that
4 necessarily mean the inclusion of the Commission?

5 MR. JONES: Well, I think it -- you know, I don't think
6 it necessarily does. I think that it would be of
7 great assistance, and because I think it would be
8 useful for Commission or Commission staff, perhaps, to
9 be involved in that consultative process. Partly to
10 ensure that there is a full hearing of issues which
11 are of import to stakeholders. And I suppose, and
12 here it's, you know, an entirely practical issue, from
13 my client's perspective it is a daunting task to
14 participate meaningfully in that kind of debate about
15 resource options. I don't think there's any question
16 that, you know, B.C. Hydro has extensive resources at
17 its disposal, informational resources, to bring to
18 that table. If it were a Commission process, to be
19 completely, you know, direct with you, certainly our -
20 - my client would be, you know, seeking funding for
21 participation in that process. Otherwise, extensive
22 participation might simply not be possible for it.

23 COMMISSIONER BIRCH: Thank you.

24 MR. JONES: Thank you.

25 **Proceeding Time 11:05 a.m. T22**

26 COMMISSIONER BIRCH: One last question.

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1 MR. JONES: Sorry.

2 COMMISSIONER BIRCH: I don't mean to overly simplify
3 this, but can I ask you, if Hydro had three options as
4 to where it got its power, what you're seeking is not
5 just the ability to say, "Yes, I agree there's only
6 three, there's not a fourth." You're also looking to
7 say that "I may or may not agree with Hydro's choice
8 of the mix of the three." You're also looking to have
9 us say that one of those three may be not in your
10 client's best interest because it's either polluting
11 or it's too expensive or it's not reliable or some
12 such factor. And lastly, you're seeking to have a say
13 that you should have some input as to how one stacks
14 up those different factors in terms of which is a
15 higher priority. Reliability is over cost or
16 whatever. Is that -- I don't mean to simplify it but
17 is that really the level of planning, say, that you're
18 really seeking before Hydro puts forward their plan?

19 MR. JONES: Well, yes, it could well be, and I think that
20 -- as I put in the argument, I came to this process,
21 my client came to this process -- you know, I'll be
22 frank with you. I wasn't sure of the extent to which,
23 for example, DSM would become an issue in these
24 proceedings, and that was something that we were
25 concerned about. As the process evolved, issues arose
26 for example as to the appropriateness of the method by

1 which DSM would be evaluated. There was extensive
2 cross-examination on that.

3 Again, to take that as perhaps an example,
4 those kind of issues, the broader planning issues, the
5 priority given to DSM, the means by which DSM programs
6 will be structured and fit into the planning process,
7 that's the kind of thing that is certainly important
8 to my client, and it seemed to me to be the kind of
9 thing appropriate to debate through an IEP process.
10 And I think actually I put it in our argument and I
11 believe there were a couple of passages where that
12 arose through the evidentiary process, where, for
13 example and to choose another example, there was our
14 discussion about the extent to which, you know,
15 imports would be given priority. And I think there
16 was an exchange between the Chair and one of the B.C.
17 Hydro witnesses and I believe it was Ms. Farrell, and
18 she said, "Well, that's the kind of debate we'll have
19 through the IEP process." Well, exactly. That's
20 where we fit those kind of debates in.

21 You know, and I had considerable discomfort
22 going through the revenue requirements proceeding
23 thinking, well, is this an appropriate issue to be
24 debating now? And sort of things evolved and
25 sometimes they were appropriate. Some of them seemed
26 to be more appropriately reserved for a debate around

1 the IEP. Thank you.

2 MR. WEAVER: Mr. Chairman, the CEC also appreciates the
3 opportunity to comment on this very critical topic in
4 terms of how we go forward with respect to the IEP.
5 The challenge in terms of preparing for today and even
6 listening to the presentations that have preceded me
7 is that we cross over a bit between process and
8 substance in terms of dealing with the IEP. You
9 sought some input in terms of what the process should
10 be as to a present and ongoing review of the IEP, but
11 inevitably in doing that we get to questions like
12 Commissioner Birch's with respect to what are the
13 criteria, what should we be looking at?

14 And so in terms of giving you comment on
15 process, I'd like to give you a list of items that we
16 think are criteria that need to be considered in
17 preparation of the IEP. And by listing those eight
18 criteria, and those are all debatable, but by listing
19 them, I think you get an understanding or we hope an
20 understanding of the process to be followed, needs to
21 be fairly substantive and needs to have significant
22 stakeholder input for it to be effective. This is
23 really going to be the first review of B.C. Hydro IEP.

24 And so in listing in short order some of
25 the criteria that the CEC things needs to be
26 considered in the preparation of an IEP, and what

1 should be included in the IEP so it can be
2 appropriately reviewed, issues such as transparency,
3 that there is visibility of the evidence and the
4 inputs that went into the creation of the IEP. Mr. --
5 THE CHAIRPERSON: Just before you proceed, is there a
6 reason why you didn't do this in your argument?
7 MR. WEAVER: The question -- the IEP wasn't really in
8 effect on the -- as we understood, the IEP wasn't to
9 be reviewed as part of this proceeding, and now you're
10 looking for the process as to how it can be reviewed.
11 The purpose of setting them out, whether they're
12 accepted or not by the Commission, we think in your
13 decision you need to give an order with respect to the
14 process which might be followed with respect to the
15 IEP, and some direction with respect to substance.
16 You've made a decision which says -- or you've given
17 some indication on August 17th you're not satisfied
18 with what B.C. Hydro has provided. So we take it from
19 that, you're looking for some input as to what should
20 be filed by B.C. Hydro to meet your criteria to
21 effectively review it, so --
22 THE CHAIRPERSON: That's correct. What you've just said
23 is correct. I'm hesitating because I don't want to
24 give you an opportunity to make submissions that you
25 ought to have made at the time that you filed your
26 argument. And it sounds like your eight criteria fall

1 into that category. But I am looking for your
2 comments with respect to the options that I
3 identified, and as I said, I had number 8 for other
4 options. So, and you're also, as others have and I
5 think appropriately so, from time to time commented on
6 the criteria that I mentioned.

7 But I'm hesitating to give you an
8 opportunity to do what I think you probably had a
9 reasonable opportunity to do in your argument, and
10 that is to identify criteria for the IEP, because
11 you're quite -- I think you're quite wrong. Very
12 much, if you look at the hearing issues, was the issue
13 of the process for review of the IEP was before us.
14 You had that opportunity in argument, I think, Mr.
15 Weafer.

16 **Proceeding Time 11:12 a.m. T23**

17 MR. WEAFER: Fair enough, Mr. Chairman. And I raise it
18 really to give some support to the topic that you've
19 asked us to comment on as to what should be the
20 process. And my fear is, and counsel before me, is
21 we've had discussion about process, we've had
22 discussion about substance. I think in terms of the
23 Commission making a decision on process, you could --
24 and in support of a more robust process for review,
25 you have to accept that what's been filed today has
26 not met, at least in terms of your comments on August

1 17th, your concerns, that they certainly haven't met
2 the CEC's concerns, and we certainly said in argument
3 what's been filed isn't sufficient, and needs to be
4 improved upon, and the purpose of today is not to
5 debate these topics, nor to even say this is what you
6 need to direct in your decision, the purpose of it is
7 to say there are significant criteria that need to be
8 taken into account in the preparation of the IEP, to
9 meet your criteria to do a review. In order to do the
10 review, we need to have a process which enables a test
11 of whether these types of criteria are met.

12 So I put them forward as examples. I'm
13 sure there are others, and when we get to the process
14 there will be others. I'm not arguing that this is a
15 definitive position on the IEP. Clearly B.C. Hydro is
16 being asked to file a further document. Here we're
17 giving suggestions as to what should be included in
18 this document, and what the criteria for review should
19 take into account.

20 So I -- I could leave it, Mr. Chairman, the
21 fundamental submission is, there needs to be a more
22 substantive process than that which has been put
23 forward by B.C. Hydro in its filing today, and in
24 order to do that, I'd like to be able to give
25 suggestions as to what should be considered in the
26 preparation of that document, because it may be that

1 we go straight into the process with a filed IEP that
2 may be deficient. And I can leave it for submission
3 then, or I can give criteria now.

4 THE CHAIRPERSON: Do you have any objections, Mr.
5 Sanderson?

6 MR. SANDERSON: I think I do, Mr. Chairman. I mean, I
7 just -- it's hard for me to see, without hearing
8 what's going to be said, I guess it's hard to know
9 exactly. But I guess what I'm anticipating is, if we
10 get into specific process suggestions, and that
11 inevitably is going to require a response, and we're
12 into ping-pong. And I appreciate your efforts to --
13 on the one hand seek response to your specific
14 suggestions, but on the other hand not give everyone
15 an opportunity to re-argue. I'm hopeful that the
16 submission that we made was directly responsive to
17 what you said, I think the other parties' responses
18 have been similarly responsive to the debate that you
19 raised. I'm not sure that now getting into specific
20 itemization of criteria for the IEP is similarly going
21 to be responsive to what you read.

22 THE CHAIRPERSON: I have the same concerns, Mr. Weafer.

23 MR. WEAFER: That's fine, Mr. Chairman. In substantive
24 response, then, B.C. Hydro has filed a proposal with
25 respect to a regulatory agenda and regulatory
26 milestones which the CEC does not see as sufficient or

1 as responsive to the fundamental concern raised by the
2 Chair on August 17th, which is the filing is not
3 sufficient. We need to have a process to review the
4 filing. I take it it's acceptable that I submit what
5 that process should be. And from a general
6 standpoint, the process we are advocating is that a
7 substantive review occur, a review which does involve
8 Commission involvement -- Commission -- at a minimum,
9 staff involvement, that it would be a Commission
10 proceeding on the front end of the preparation of the
11 IEP. We don't support the concept of B.C. Hydro to
12 create a resource option plan. The parts of the car
13 does not suffice. We need the manual, we need to know
14 how B.C. Hydro came up with the options.

15 And to avoid going into the substance of
16 what should be required, but I think this would be
17 acceptable, at a minimum, the criteria that went into
18 the establishment of the resource options within the
19 plan. How did B.C. Hydro come up with their
20 assessments? So that stakeholders and the Commission
21 can properly assess that a robust process has been
22 followed by B.C. Hydro -- that the flexibility which
23 they've asked for is not so much that the rules of the
24 games can change from plan to plan such that those who
25 are participating in the processes don't know what
26 went into the creation of the option list.

1 And to that end, Mr. Chairman, not to
2 repeat counsel before me, a lot of this has been made
3 of the word "flexibility" in your comments, and
4 certainly B.C. Hydro's requests to you, in terms of
5 creating as much flexibility as possible.

6 In the 1980s this Commission was active in
7 review of B.C. Hydro's plans. And, while not around
8 at the time, a number of projects were in effect
9 stopped by the Commission through review of the plans
10 of B.C. Hydro, such as Site C, the Iskut-Stikeen, Hat
11 Creek, and others. So it is important that the
12 Commission be reviewing the plans, and it is important
13 that the criteria that goes into the proposals be
14 available for the Commission and others to review.

15 In order for that to occur, it is important
16 that there be a formal Commission process with
17 information requests and responses and a pre-hearing
18 conference and a public hearing, with respect to this,
19 the first IEP which will be open to public scrutiny,
20 2004 excluded.

21 With respect, again, on the flexibility
22 topic, as we understand the Energy Plan and the
23 direction to B.C. Hydro, it is to look at options
24 which are outside of B.C. Hydro's construction, which
25 are through the Independent Power Producers. And we
26 are empathetic to Mr. Austin's comments earlier with

1 respect to the time it is taking to get to a position
2 to achieve that. And so while we ask for a robust
3 process, we also would like to see the process be
4 moved along at a pace which allows that policy
5 objective of the Energy Plan to be pursued, that
6 decisions can be made early, the IEP can be in place
7 early, those stakeholders who wish to take on the risk
8 of some of that flexibility, the risk of taking on
9 some of the projects or options that may be pursued by
10 B.C. Hydro would be a positive development. And as
11 Mr. Wallace has said, and Mr. Gathercole said, we're
12 not looking to see B.C. Hydro study a broad number of
13 options at significant expense to the customers, or
14 some of the options, some of the risk of pursuing
15 those options can be more easily passed to the private
16 sector who wish to be involved in providing resource
17 options to B.C. Hydro.

18 **Proceeding Time 11:19 a.m. T24**

19 With respect to the 2004 REAP and the
20 filings in the revenue requirement proceeding, Mr.
21 Sanderson argued that the IEP was a contextual
22 document in those proceedings, and the REAP as filed
23 for 2004 should be acceptable to the Commission for
24 the test period. We advocated in our argument and
25 would repeat today because it is important based on
26 Mr. Sanderson's comments, there was not an opportunity

1 for a robust review of the REAP filing in the context
2 of an IEP which had been properly prepared and
3 thoroughly scrutinized, and we would ask the
4 Commission to exercise a significant degree of
5 scrutiny of the REAP expenditures in '04 and '05,
6 where those expenditures are long-term planning type
7 expenditures, which may or may not stand the test of a
8 review in '05 or '06 when we get into a proper and
9 thorough review of the IEP, for example the Site C
10 expenditures proposed in the 2005-2006 REAP, and other
11 long-range expenditures set out. We did not do a
12 detailed review of those, that capital plan in the
13 proceeding, because we rely on the general proposition
14 that the underlying study that went into it is not
15 sufficient and indeed Hydro has conceded it needs to
16 be improved upon going forward.

17 I would support the comment of Mr.
18 Gathercole and Mr. Wallace and it is an important
19 comment. In terms of the preparation of the IEP, the
20 integration of BCTC and B.C. Hydro with Generation and
21 Distribution is critical for the purpose of an
22 effective and efficient review of the Energy Plan.

23 Thank you, Mr. Chairman. Those are my
24 submissions.

25 THE CHAIRPERSON: Mr. Austin, you're surprising me but --

26 MR. AUSTIN: I just wanted to know whether this is the

1 opportunity we're supposed to have to comment on the
2 table. In your discussions with counsel for the
3 Sierra Club, you indicated that there was opportunity
4 for comment. But others, in relation to the addition
5 of resources table, I heard that distinctly. I just
6 want to know whether we do that now or later.

7 THE CHAIRPERSON: No. I raised Table 7.2 in my comments
8 on August the 17th. That was available to you to
9 comment on, and my comments were available to you to
10 comment on. But you have spoken.

11 MR. AUSTIN: Well, I understood --

12 THE CHAIRPERSON: Nothing arose from the conversation
13 that I had with Mr. Jones, that is providing an
14 opportunity for you to provide further comments.

15 MR. AUSTIN: Well, it's my misunderstanding. I thought
16 as a result of that discussion you were inviting
17 additional comment on that table.

18 THE CHAIRPERSON: No, I wasn't.

19 Is there anyone else who wishes to comment?
20 Just before you -- I am going to ask both B.C. Hydro
21 and BCTC if they can comment on the comments that have
22 been made by the intervenors on coordination. I am
23 quite willing, if it's helpful to -- and I also am
24 going to give you, Mr. Sanderson, a comment to comment
25 on -- an opportunity to comment on all of the comments
26 that have been made by the intervenors.

1 I'm quite willing to adjourn now if that
2 was going to be of some value to you. It seems that
3 it would be and is -- if you maybe just indicate how
4 long you would like.

5 MR. SANDERSON: I think only ten minutes, Mr. Chairman.
6 I think it would be efficient to just organize my
7 thoughts and make sure that I've thought about the
8 consultation point with BCTC as well. Ten minutes
9 should do it, I think.

10 THE CHAIRPERSON: Okay. Mr. Feldberg.

11 MR. FELDBERG: Depending on the level of debate you wish
12 to have, Mr. Chairman, ten minutes may or may not be
13 appropriate. But if you want initial comments or
14 reactions to what the intervenors have said, ten
15 minutes is appropriate. If you want a comprehensive
16 plan, obviously it is not.

17 THE CHAIRPERSON: No, I'm only looking for comments on
18 the comments made by the intervenors. We'll take ten
19 minutes. Thank you.

20 **(PROCEEDINGS ADJOURNED AT 11:25 A.M.)**

21 **(PROCEEDINGS RESUMED AT 11:34 A.M.)**

22 THE CHAIRPERSON: Please be seated.

23 Mr. Sanderson, you may proceed.

24 MR. SANDERSON: Thank you.

25 Mr. Chairman, I can be quite brief, I
26 think, in reply. Because I think really the point of

1 departure and the differences between the intervenors
2 and B.C. Hydro's position is not nearly as complicated
3 as it might seem from the length of this morning's
4 proceeding.

5 In essence, B.C. Hydro has this morning
6 proposed a two-step review process. Step one is a
7 review of the options, to make sure that the complete
8 spectrum of available opportunities is considered in a
9 process that the Commission has access to and makes a
10 decision with respect to, to avoid what Mr. Wallace
11 referred to as the VIGP situation. That is, the
12 situation where B.C. Hydro is coming forward with an
13 approval process that says, "you've got to take this
14 one, because it's the only option that will do it in
15 time." And the thinking is that by looking at the
16 options as they're identified, every other spring,
17 that kind of result isn't going to happen. Because
18 the Commission is going to have seen that, if somebody
19 says, "Hey, I've got a proposal out there that, you
20 know, you should be thinking about in the context of
21 your IEP, because it'll do what needs doing," then
22 that -- that's where it gets looked at by the
23 Commission, well in advance of it actually being
24 needed.

25 So, my first point in response is, I think
26 that the proposal put forward by Hydro this morning

1 does exactly address the concern that all the options
2 aren't identified at an early enough stage that they
3 can be given legitimate consideration. So that's
4 point one.

5 Point two is, having now got all those
6 options identified, Hydro, through a consultation
7 process with customers -- not sort of in a back room,
8 but rather through a public consultation process, will
9 then take that, prioritize it, as Commissioner Birch has
10 focused on, and figured out what the mix should be as
11 between the different ones, and presented that in a
12 plan.

13 If you'd heard my friends this morning, you
14 would conclude that that plan then is sort of fixed,
15 they don't get another look at it, it is what it is,
16 and the complaint is, well, some of that prioritization
17 is key, and, you know, there's room for difference of
18 view with respect to how those priorities should be
19 developed. Well, of course there is. Of course there
20 is. In all elements of that process, the process from
21 ROR to the REAP -- sorry, from the IOR -- from the IOR
22 to the IEP is really an important one. No question
23 about that. But then the next question is, how does
24 that actually make a difference to what Hydro does?
25 Well, it makes a difference to the action plan, or the
26 REAP. Based on that IEP that Hydro's come to, and

1 says "we're going to do these things," if somebody
2 believes that those things are inappropriate, because
3 the IEP priorities were inappropriate, then they will
4 come forward, no doubt, and say, at the time the REAP
5 is reviewed, "Wait a minute, the reason you're doing
6 this next year, the reason that you're starting to
7 spend significant money on this project, or you're
8 issuing this call for new energy, or you're committing
9 these funds to PowerSmart, is your wrong-headed
10 prioritization contained in your IEP. So we don't
11 accept that you should spend this money next year, and
12 we're going to try and persuade the Commission that
13 you ought not to do that." And the Commission will
14 rule on the REAP in that respect.

15 And so what I say is a missing element in
16 the response we heard this morning from the
17 intervenors is, the role the REAP can continue to play
18 in testing the appropriateness of what priorities
19 Hydro brought to its IEP. That's where, in this
20 model, at least, that approval process takes place.

21 If you accept that for just a moment, I
22 think the difference, really, between what the
23 intervenors are proposing and what Hydro's proposing,
24 is timing. Not timing of review, but timing of the --
25 of the plan that actually gets Commission review and
26 commitment. And that's where the commitment to

1 flexibility, in my submission, comes in.

2 The IEP itself is long-term. And I think
3 it has to be. You can't look at the energy context
4 without looking out a lengthy period of time, at the
5 moment it's 20 years, I don't see any likelihood that
6 that will change or materially change. That's the
7 sort of scale which an IEP needs to look at. I think
8 most of the intervenors have now accepted, not all,
9 but most, and I think the Commission was inclined
10 there, in your remarks on August 17th, Mr. Chairman, to
11 realize that 20 years is way too long to be making
12 decisions about. And so it's inappropriate to present
13 to the Commission and say, "Is our decision about what
14 we're doing in year 16 correct?" Because we don't
15 know whether it's correct. Nobody knows whether it's
16 correct, and it's idle to try

17 **Proceeding Time 11:39 a.m. T26**

18 What I heard Mr. Wallace say and others is
19 "Yeah, we accept that, but ten years is a good one."
20 So he'd have us do a ten-year IEP. Well, we say,
21 well, no, we want to do a 20-year IEP because we want
22 to look in a 20-year context. But we don't want to
23 make a decision binding us for 20 years, with which I
24 think he agrees, so, and we actually don't want to
25 make decisions binding us for ten years in most
26 contexts. In most contexts, that's too long.

1 In argument, you, Mr. Chair, noted that
2 B.C. Hydro's argument it said, you know, "Four years
3 isn't magic, maybe five years would be okay." But you
4 in your comments on the 17th said, "You know, that's
5 not really where I'm going here. I mean, I don't want
6 to force decisions before their time, at six years or
7 eight years or whatever, that that compromise between
8 four and ten, which Hydro hinted at in its argument is
9 not -- or maybe it was in reply, is not something
10 which -- you know, an avenue I want to go down," is
11 how I took your remarks. And I think that continues
12 to be what divides the intervenors from Hydro. Hydro
13 is saying, "Well, four or five, that's about it, that
14 normally speaking we think we've got certain enough
15 that we can have the Commission say yea or nay," and
16 the intervenors are saying, "No, try and get that
17 certain for ten years."

18 And that's where we say, well, wait a
19 minute. Now you've compromised the substantive
20 flexibility that we think is so important to resource
21 planning. We think if you force us to come forward
22 and say, "We have made the decision today that we're
23 going ahead now with this project, granted we don't
24 have very good information about it, granted much may
25 change between now and the time when we're financially
26 committed, but the process calls for a ten-year

1 commitment so here we are," you're going to have an
2 uninformed and incomplete record upon which to make a
3 decision, which with the benefit of a complete record
4 on hindsight, or even later sight, not even hindsight
5 but just a few years down the road, may clearly appear
6 wrong. And I don't think that is good for the
7 Commission's process, I don't think that's good for
8 the stakeholders or for Hydro.

9 And so I am suggesting that the combination
10 of a 20-year view based on resource options that the
11 Commission has ensured are all-inclusive, coupled with
12 a shorter-term actual REAP or action plan, again
13 reviewed by the Commission to make sure that it is
14 consistent with the resource options that Hydro has
15 identified and the Commission has upheld, or the
16 Commission has modified as the case may be, and
17 consistent with appropriate portfolio analysis and
18 planning criteria and tradeoffs, as evidence in the
19 IEP and then applied in the REAP, should give all
20 stakeholders full opportunity to have their input,
21 deal with all of the kinds of issues that were raised
22 today, and should give the Commission an adequate
23 oversight role to satisfy the requirements of the Act.

24 And I think, frankly, those submissions
25 deal in general with all the specific complaints and
26 concerns that were raised by my various friends, and

1 so I'm not going to go through further and deal with
2 them sort of on a line by line basis.

3 The only line by line kind of comment that
4 I did want to make is the other type of oversight that
5 I heard mooted a little bit, particularly Mr. Jones,
6 is the notion of consultative committees and the
7 Commission involved in consultative committees in some
8 way. With respect, I would like to caution against
9 that. I think this Commission has set up processes
10 which put it in a decision-making role in discrete,
11 specific ways. I think that that's the role you've
12 carved out for yourselves, and if that's to be the
13 role it's much muddied by a consultation process in
14 which you're a player. And I see the two as being
15 inconsistent. You can't on the one hand participate
16 as a stakeholder if you want, and then too as a
17 decision maker. That's going to lead both to legal
18 and just structural problems, it seems to me. So I
19 don't think that's a realistic option. I think it's
20 much better for the Commission to sit back in the
21 process and review the result in the way that we've
22 proposed here than participating directly.

23 **Proceeding Time 11:44 a.m. T27**

24 The consultative committee structure was,
25 of course, tried in the 90s. That was what led to the
26 court challenges, et cetera, because of the lack of

1 clarity about, well, who's making a decision here in a
2 consultative committee context. Is it Hydro, or is it
3 the consultative committee? And how does all that
4 work? And I think that area is fraught, and not the
5 right approach to take now without reinviting the
6 debates that were had then.

7 So what the Act has layered on that's
8 changed since those debates were had was a decision-
9 making process for the Commission to determine what it
10 gets to review, and that's what we've tried to respond
11 to, and in my respectful submission, any final
12 solution should be structured, somehow or other, with
13 the Commission having a role -- the kind of role
14 foreseen in 45(6).1 and not further.

15 I think -- I guess integral to what I said,
16 and this is responding to the last comment of Mr.
17 Weafer, is his notion that it's inappropriate to
18 separate the IEP and the REAP. And I just want to
19 make it crystal-clear, that's the heart of the
20 submissions here. The REAP follows from the IEP. It
21 is an application in the short term of the long-term
22 context set by the IEP. And so there's no dispute
23 about that.

24 The last comment I had to make was with
25 respect to the integrated planning process with BCTC.
26 I don't have a detailed and specific submission to

1 make with respect to how that process is going to
2 work, other than to make two comments. One, to an
3 extent, there exists under the current WTS regime, and
4 is proposed under BCTC's own application to exist
5 under the new regime, a process as between the two
6 companies. That is, there is a NITS application
7 process provided by tariff in the existing WTS, and
8 there is -- and that, in one form or another, is being
9 carried forward into the OATT. And you can't look at
10 the process for integrating the planning process
11 between the two without starting with that. Because
12 that very process, that is, the NITS application
13 process, is part of the terms and conditions now
14 before the Commission in the OATT, and because none of
15 that is on the record of this proceeding, that
16 particular aspect of how we should move forward, I
17 think, is not appropriate to be determined in this
18 case. We just don't have a record for it, and we know
19 that we're developing part of a record in another
20 proceeding. Whether it gets determined there or
21 somewhere else, I'm not sure, but it certainly seems
22 to me not to have been developed on this record, and
23 how that is all going to work together, I think, is an
24 issue for a different forum or another day.

25 COMMISSIONER BOYCHUK: Mr. Sanderson, if I may, I'd just
26 like to be clear, then, in terms of the -- what you've

1 proposed, where the Commission has decision-making
2 authority. And I understand from your comments about
3 the consultative process that with respect to the
4 resource option report, that the Commission clearly
5 has a decision-making role?

6 MR. SANDERSON: Quite so.

7 COMMISSIONER BOYCHUK: Okay. And then with respect to
8 the IEP, which you've used the term that would be
9 "release" of the 2005 IEP, you're not anticipating at
10 that point in time that there would be a role for the
11 Commission and --

12 MR. SANDERSON: That is also correct.

13 COMMISSIONER BOYCHUK: Okay. And you've also made
14 mention of the fact that when the Commission is
15 reviewing the -- in this case, the 2006 REAP, and I
16 think the example you gave is if the priorities --
17 things like contextual background which the IEP
18 provides, if the Commission were to determine that the
19 priorities were inappropriate, or what have you, in
20 terms of its consideration of the REAP, it could rule
21 on the REAP in that regard. Would there be any point
22 in time where the Commission would be providing
23 feedback or input or direction in terms of the IEP?

24 MR. SANDERSON: Yes, but not directly. In other words,
25 when the Commission came to review the 2006 REAP, and
26 perhaps Item 5 could have been more explicit, that is,

1 in every year, it is anticipated that the REAP will be
2 approved or not by the Commission. Because the REAP
3 will be built on the premises of the most recent IEP,
4 if the Commission says, "Look, you're going to spend
5 \$100 million dollars on PowerSmart next year, but
6 you're doing that because of a logic developed in your
7 IEP which we don't accept -- you know, you've
8 prioritized your capital plan and your four-year REAP
9 plan, and demand-side management expenditures, based
10 on the assumption that -- and we don't accept that
11 assumption. So we are going to disapprove the REAP
12 insofar as it anticipates spending that money."

13 COMMISSIONER BOYCHUK: Mm-hmm.

14 MR. SANDERSON: That's a pretty strong signal to Hydro
15 about the adequacy of its IEP process. And that's how
16 you'll make, or have your input, into the IEP.
17 Because you're the ones who get to say whether the
18 money gets spent or not.

19 COMMISSIONER BOYCHUK: Okay. So clearly our decision-
20 making role is as B.C. Hydro sees it, is in respect to
21 the decisions we might make on the resource option
22 report? And then of course with respect to the
23 rulings on the REAP.

24 MR. SANDERSON: Correct.

25 COMMISSIONER BOYCHUK: Okay. One other question, then.
26 Some of the comments of the intervenors are that this

1 is the first year that -- or the first time in many
2 years that the Commission and stakeholders are looking
3 at B.C. Hydro's plans. And I'm just wondering if you
4 consider that for this year, of this first
5 examination, the timelines that you propose between
6 March, 2005 and June, 2005 will be sufficient to deal
7 with that, an all-inclusive review for the first time.

8 MR. SANDERSON: I think I accepted when I laid the
9 schedule out this morning that it's challenging, and
10 there's no question that it is challenging for exactly
11 that reason. The hope would be, although the words
12 are chosen carefully here, that the hope would be that
13 the resource option report is capable of being filed
14 in late February -- in a late February time period.
15 That would give four months, effectively -- March,
16 April, May and June -- for a process to consider the
17 adequacy of the options, and remembering that that's
18 all that one is doing.

19 **Proceeding Time 11:51 a.m. T28**

20 And while challenging for everybody, I
21 guess my answer to you is yes, I think that is
22 adequate. It's not generous but it's adequate.

23 And then again, you've got the prioritization
24 process. I mean, that's why I think the terms of
25 reference piece of the proposal is important, because
26 if it isn't focused it won't be adequate. I mean it

1 has to be focused on those matters that have to be in
2 dispute, and it relies in part on Hydro having done a
3 good job between now and February of bringing together
4 the parties and isolating on what the differences are.
5 And you know, B.C. Hydro has reviewed carefully what
6 was said on August 17th. We'll review carefully what
7 is said today, I'm confident, and do everything it can
8 to get the consultation process that starts next
9 month, and we'll go through to February to do that, to
10 accurately identify where the differences are, and
11 hopefully the terms of reference for that proceeding
12 on the resource option report can be well cast
13 initially such that they really do target the
14 Commission on the issues that divide the parties. And
15 that, I think, makes achieving this timeline feasible
16 if that can be done.

17 COMMISSIONER BOYCHUK: Okay, and then my last question is
18 with respect to 45(6.1) and the provision in the
19 *Utilities Commission Act*, I believe your position has
20 been throughout the proceeding that we are approving
21 the REAP-- that document is intended certainly to
22 comply with 45(6.1), correct?

23 MR. SANDERSON: Yes.

24 COMMISSIONER BOYCHUK: The resource option report, is
25 that -- when we're exercising our decision-making
26 authority, are we doing that as well then under

1 45(6.1)?

2 MR. SANDERSON: I'm hesitating because the answer is yes,
3 but not in the sense that at least one of my friends
4 this morning addressed it. I'm not suggesting that
5 the resource option report is a plan. It clearly
6 isn't. That's the whole idea. It's not supposed to
7 be. I am suggesting that 45(6.1) is broad enough in
8 its characterization of the Commission's jurisdiction,
9 that you can require the filing of those reports and
10 at the time you believe necessary, in order to get to
11 the plan, which you ultimately approve or not. The
12 plan you ultimately approve or not is the REAP.
13 There's no change to that submission. That's what
14 you're ultimately getting to, but I submit that the
15 general wording of 6.1, coupled with the Commission's
16 other powers to require reports et cetera where it
17 wants them from Hydro, is sufficient to allow you to
18 also require the ROR and -- sorry, the report and
19 options -- in the way that's proposed here. But
20 you're not going to be approving it finally as an end
21 product, if you want, of 45(6.1), because that's the
22 REAP.

23 COMMISSIONER BOYCHUK: Okay, thank you.

24 THE CHAIRPERSON: I made some further comments with
25 respect to this option that includes the resource
26 option report when I spoke to Mr. Jones this morning,

1 and I wanted your comments, Mr. Sanderson, as to
2 whether or not my comments to Mr. Jones were
3 consistent with your understanding of what I said on
4 August the 17th.

5 MR. SANDERSON: It's hard to separate the comments I
6 might make with and without the benefit of hindsight
7 and your further explanations. If you'd asked me that
8 question yesterday, that is, what did I think those
9 remarks on August 17th meant, I don't think I
10 understood them to mean all that you explained to Mr.
11 Jones this morning. I took them more at face value in
12 the sense of the focus being on the resource options
13 and their identification and the adequacy of
14 identification, and less on the prioritization process,
15 which I think you opened up as maybe being included in
16 there.

17 Certainly B.C. Hydro's proposal today and
18 our meaning today is that the resource option report
19 review stopped with the identification of the options
20 and exploration of the adequacy of the field from
21 which resources will be prioritized and selected. And
22 if that process drifts into the prioritization process
23 or the portfolio building, then it loses its
24 usefulness as an interim step because it now is
25 getting into what exactly is going to go on in the
26 next few months in the developing the IEP.

1 primarily through a tariff process, or a tariff
2 process which requires certain things of customers in
3 terms of network customers, in terms of load
4 forecasts, and the like. And it would be -- my
5 primary concern would be that the Commission not
6 determine the establishment of a coordinated process
7 in the absence of a complete understanding of that
8 process, and there's no record of that currently here.

9 That's all I have to say.

10 THE CHAIRPERSON: Thank you. All right. Mr. Sanderson?

11 MR. SANDERSON: Mr. Chairman, I just -- before you spoke,
12 I just wanted to say that there is that one issue that
13 I was following up that we haven't dealt with this
14 morning, that fourth issue, following up from Mr.
15 Wallace's comment.

16 THE CHAIRPERSON: Yes.

17 MR. WALLACE: Mr. Chairman, with respect to that issue,
18 Mr. Sanderson had indicated that he was going to fold
19 that in with the other comments he was making, I
20 thought, at which point I would have had a chance to
21 respond back. I am concerned that I have that
22 opportunity and concerned that this has developed in a
23 way other than what was anticipated on the request
24 this morning.

25 THE CHAIRPERSON: Any objections, Mr. Sanderson?

26 MR. SANDERSON: No, no, I'd assume Mr. Wallace, if he had

1 anything to say in response, would say it. I wouldn't
2 have expected the short submission I have now to
3 require time, I mean, in other words I would have
4 thought Mr. Wallace would be in a position to say
5 whatever he has to say, once I've finished.

6 THE CHAIRPERSON: Okay. Proceed.

7 MR. SANDERSON: Mr. Chairman, this arises from comments
8 of Mr. Wallace at pages 4157 to 4159 of volume 22 of
9 the transcript. And at that passage, and you invited
10 him to explain the statement in his argument that Mr.
11 Maniago ought to be disbelieved on the question of
12 whether Accenture considered costs in its leading
13 practice review. And it's my submission that in
14 response, Mr. Wallace went beyond where he had been in
15 his argument and suggested that as a matter of
16 principle of some sort, evidentiary principle, the
17 Commission should take an inference from Hydro's
18 failure to call an Accenture witness and instead rely
19 on Mr. Maniago. So that he said you could take an
20 adverse inference, effectively, from that, which is
21 not something that had been said in argument, and it's
22 really that point that I wanted to comment on.

23 In my submission, and completely to the
24 contrary, the Commission must not take any adverse
25 inference. Mr. Wallace himself never put the veracity
26 of Mr. Maniago's testimony in issue. Not through the

1 whole hearing. He didn't ask any questions on this
2 point at all. It wasn't raised at all by Mr. Wallace,
3 it was raised by others, but not by Mr. Wallace. It
4 was raised most pointedly, with great respect, by
5 yourself. At transcript Volume 11, 1648 to 1653, you
6 asked a series of questions on this precise issue and
7 in them, you assumed, in my respectful submission
8 correctly, that B.C. Hydro had not asked Accenture for
9 information on the cost side. And you put, at page
10 1650, that precise proposition to Mr. Maniago. Mr.
11 Maniago then, in the next three pages, answered, "Why
12 not?" Your question was, "Well, why on earth didn't
13 you put to Accenture what the cost side of these
14 suggestions was?" He then was at pains to explain
15 that this was sort of a -- a conjectural exercise, if
16 you want, what possibilities are out there, but he
17 wasn't about to ask the consultants to figure out what
18 it would cost to implement them until he'd seen what
19 the areas were and assessed for himself whether he
20 could determine whether that was cost -- what the
21 costs of that might be, and whether those suggestions
22 had any merit to them. That was his testimony, that
23 means he is the only person who can possibly give
24 evidence -- direct evidence, not indirect evidence,
25 but direct evidence -- as to what was or wasn't sought
26 from Accenture. It was B.C. Hydro doing the seeking,

1 through Mr. Maniago, and he's told you in
2 uncontradicted testimony that -- here's what he
3 sought. If Mr. Wallace had any evidence that
4 contradicted that, then he needed to bring it. If he
5 has none, he brought none, and we have uncontradicted
6 direct evidence from the only person who could know
7 what Hydro sought, Hydro itself.

8 So, in my respectful submission, that whole
9 debate, and the whole suggestion about inference, has
10 no merit whatever.

11 MR. WALLACE: Mr. Chairman, as I heard you put the
12 question to me, it was essentially, you know, "Mr.
13 Wallace, are you saying Mr. Maniago's lying?" And my
14 question was -- my response was, "You did not have to
15 find that he was lying in order to accept it, it was
16 more a question of whether his evidence is
17 persuasive." And I remain of that position, and that
18 that Commission -- the Commission is at all times
19 trying to judge whether the evidence is persuasive.
20 It may well be that in Mr. Maniago's mind, they have
21 not addressed particular issues. What I am saying to
22 you, or suggesting to you, is if you read that report,
23 it is hard to give it that context and that it is not
24 persuasive, because the -- Accenture, who are well-
25 regarded experts, can be right or wrong, but they're
26 very well-regarded experts in doing what they do, said

1 -- and I don't have the words before me, because I
2 didn't know this was going to come up -- but words to
3 the effect of "Hydro can save \$18 to \$30 million," and
4 it did not say plus -- you know, "less costs of doing
5 it." And to me, it simply is not credible, however
6 much he may think they didn't take it into account,
7 they are -- and I agree, he's the only one who can
8 testify what's in his mind, but they made a very
9 professional and I think very strong statement, and if
10 it isn't in there, then they are the ones who can
11 testify what's in their report. They're the ones who
12 did it. And that's what I'm going to, and I'm
13 suggesting to you, you should take their report as
14 meaning what it says.

15 THE CHAIRPERSON: Thank you. Unless there are any other
16 matters, that brings us to the conclusion of the oral
17 phase. Thank you. We are adjourned.

18 **(PROCEEDINGS ADJOURNED AT 12:05 P.M.)**

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