

1 YUKON UTILITIES BOARD

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8 YEC 2021 GENERAL RATES APPLICATION

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P R O C E E D I N G S

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Volume 1

19

September 27, 2021

20

Held via videoconferencing

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Whitehorse, Yukon

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Proceedings taken at the Raven Inn, at 150 Keish St., via
videoconferencing, Whitehorse, Yukon.

Volume 1

September 27, 2021

Richard Buchan	Chair
Bonnie King	Vice-chair
Andre Fortin	Board Member
Anne Middler	Board Member
Lesley McCullough	Board Member

Alison Sabo	Board Counsel
Jaimie Graham	Board Counsel

Deana Lemke	Board Staff
Dwayne Ward	Board Staff
Abhinav Ayri	Board Staff
Lorrie Mullen	Board Staff

P. John Landry, QC	For Yukon Energy Corporation
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Christopher Cullingham	For ATCO Electric Yukon
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Keegan Rutherford	For the City of Whitehorse
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Roger Rondeau	For Utilities Consumers' Group
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Nathaniel Yee	In his own stead
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Lorelee Vespa CSR(A) RPR CRR	Official Court Reporters
Donna Gerbrandt, CSR(A)	

(PROCEEDINGS COMMENCED AT 9:38 A.M. PST)

THE CHAIR: Good morning, everyone. We
apologize for the unexpected delay. We thought we had
all of our technical issues resolved with yesterday's
setup exercise, but, anyway, unfortunately not.

1 Anyway, my name is Rick Buchan. I'm Chair of the
2 Yukon Utilities Board and I call this hearing to order.

3 I wish to begin by acknowledging that this hearing
4 is taking place on the shared traditional territories
5 of Kwanlin Dün First Nation and the
6 Ta'an Kwach'an Council. We recognize and honour the
7 stewardship of these lands by the people of these
8 First Nations and their ancestors over hundreds of
9 generations. We affirm and honour our relationship
10 with one another.

09:38

11 The Board is comprised of a total of five members,
12 each of whom is appointed for a three-year term. In
13 addition to the Chair, the other Board members are --
14 I'm not sure if we're able to identify ourselves.
15 Maybe raise a quick hand -- Vice Chair is Bonnie King,
16 to my left; and next to her is Andre Fortin. On the
17 other side of the table, Anne Middler, and next to Anne
18 is our most recent member, Lesley McCullough.

19 Another important person to introduce, though
20 she's already been on stage, is our Board's executive
21 secretary, Deana Lemke, with whom this Board could not
22 function. If you have any practical or logistical
23 questions related to the hearing that are not answered
24 after you've carefully reviewed the Board's website,
25 Deana is the person to go to with those questions.

09:39

1 Is your contact information on the website?

2 MS. LEMKE: Yes.

3 THE CHAIR: Okay. So, yes, just go through
4 the executive secretary's access information available
5 on the website.

6 Assisting the Board throughout the hearing are
7 legal counsel for the Board, Jaimie Graham and
8 Alison Sabo -- flag your -- identify yourselves -- as
9 well as our technical staff: Dwayne Ward,
10 Lorrie Mullen, and Ab Ayri.

09:40

11 The hearing schedule will be -- basically we're
12 going for the full week, subject to a break in the
13 proceedings on Thursday, September 30th to observe the
14 National Day For Truth and Reconciliation, which has
15 been established as a federal statutory holiday in the
16 spirit of reconciliation. May we all take time to
17 reflect on the purpose of the holiday as it is an
18 important step to building a renewed and more
19 respectful relationship between Indigenous and
20 non-Indigenous people.

09:41

21 To assist the parties to the proceeding, the Board
22 has circulated a protocol memorandum for this virtual
23 hearing by way of a letter dated September 21st. That
24 document can be found on the Board's website under the
25 section entitled "Proceedings Before the Board,"

1 referencing the YEC 2021 General Rate Application, and
2 it's that particular page that I'll refer to as the
3 "GRA web page" moving forward.

4 Any questions that arise with respect to the
5 hearing procedures or processes, and which are not
6 answered by the protocol memorandum, should be
7 directed, again, to the Board's executive secretary,
8 Ms. Lemke.

9 The daily schedule for the hearing, with the
10 exception of today, will start at 8:30 a.m. Yukon time
11 each day and run until approximately 4:30 in the
12 afternoon. There will be a mid-morning break for about
13 20 minutes around 10:00, a lunch break from noon to
14 2 p.m., and a 20-minute afternoon break at 3:00 each
15 day. Those are approximate times as the timing and the
16 breaks may be adjusted based on the flow of the hearing
17 and witness testimony.

09:42

18 Even though this is a virtual hearing, we do have
19 various participants gathered in collective groups in
20 each location, and we remind everyone that there are
21 ongoing COVID mitigation measurements in place, and we
22 ask that everybody respect these measures, such as
23 physical distancing, hand sanitizing, wearing face
24 masks, and so on as those circumstances require.

09:43

25 In addition, there are various hearing courtesies

1 that are customary.

2 We remind everyone to ensure that the sound
3 notifications on your cellphones and other electric
4 devices are turned off during the hearing. To reduce
5 distracting background noise, please ensure that your
6 computer microphone -- your microphone and other device
7 is switched off at all times, except if you are called
8 on to speak.

9 We also remind participants that YUB hearings
10 typically involve a lot of people, some of whose time
11 can be quite expensive and which may ultimately be
12 charged to the utility's revenue requirement.
13 Therefore, the Board expects all participants to help
14 minimize these delays by observing the following
15 courtesies:

09:44

16 Number one, be prepared, including being
17 technologically prepared. And, unfortunately, we
18 missed the ball on that one this morning, but we'll
19 move forward.

20 Secondly, be on time.

09:44

21 Next, ensure that your presentations are relevant
22 to the issues that are in play for this application and
23 the subject matter and that they are efficiently
24 presented. Also, please ensure that all submissions
25 are supported by relevant and up-to-date evidence on

1 the record.

2 Participants should be aware that the Board has
3 the authority to sanction conduct resulting in
4 unnecessary delays by means of adverse costs awards.

5 The subject matter of this proceeding is
6 Yukon Energy Corporation's 2021 General Rate
7 Application, which we'll refer to going forward as the
8 GRA.

9 In this proceeding, Yukon Energy, now YEC, is
10 requesting approval of its 2021 revenue requirement.
11 It filed its GRA application on November 20, 2020, and
12 is requesting an order approving its 2021 revenue
13 requirements in the amount of \$75.135 million before
14 offsets from other revenues.

09:45

15 I won't take time here to detail the elements of
16 the GRA as the Board assumes the participants to the
17 hearing and interested observers are already reasonably
18 familiar with the scope of the application. However,
19 if further details are required, they are available on
20 the Board's website. And the website address is
21 yukonutilitiesboard.yk.ca, all small case. Again, go
22 to the menu item "Proceedings Before the Board," and
23 that will take you to the 2021 GRA application.

09:46

24 Please be mindful that court reporters are
25 recording the proceedings and preparing transcripts of

1 the hearing. The reporting company is
2 Amicus Reporting. When the transcripts have been
3 completed, they will be posted to the public record on
4 the GRA web page.

5 And parties wishing to access the realtime feed
6 should contact the court reporters to gain that contact
7 information through the realtime entry.

8 The IT support for this hearing is being provided
9 by Upstream Events Incorporated.

10 To save time, the Board is dispensing with oral
11 opening statements. Instead, any opening statements
12 received from the parties have been or will be posted
13 on the GRA web page.

09:47

14 The Board will first hear from the witnesses for
15 YEC, following which interveners may cross-examine the
16 YEC witnesses. The order of the interveners will be
17 alphabetical, with ATCO Electric appearing first,
18 followed by the City of Whitehorse, Nathaniel Yee, and
19 the Utilities Consumers' Group. The Board's legal
20 counsel and staff and the Board members will then ask
21 their questions of the YEC witnesses. Then YEC will
22 have an opportunity to ask further questions of their
23 witnesses by way of redirect to clarify or elaborate on
24 the answers that were given during the
25 cross-examination or questions from the Board or Board

09:48

1 staff.

2 The City of Whitehorse and Mr. Yee both filed
3 intervenor evidence. A similar process will occur with
4 respect to cross-examination of their respective
5 witnesses regarding this evidence.

6 The Board's practice in these hearings is to have
7 witnesses sworn in or to give their solemn declaration,
8 and that will be administered by the court reporter.

9 As noted in the Board's protocol letter,
10 undertakings that may arise from this proceeding are
11 due to be submitted no later than Tuesday, October 5th,
12 2021.

09:49

13 A few comments about aids to cross-examination. I
14 remind parties that the appropriate use of aids to
15 cross-examination during this -- sorry. I remind
16 parties about the appropriate use of aids to
17 cross-examination.

18 The purpose of aids to cross is to assist the
19 parties questioning a witness about the evidence of
20 that witness. An aid to cross should only be used if
21 it assists in the questioning of the witness.
22 Questions that can be put to a witness directly should
23 be asked without the use of the aid.

09:50

24 The party proposing to question the witness should
25 submit a copy of the aid to cross to the counsel for

1 the witness and to Board counsel at least 24 hours
2 before the aid to cross is intended to be used. This
3 will provide an element of fairness and avoid surprise
4 and will enable the witness to better respond to the
5 question.

6 The aid to cross should not be submitted to the
7 Board at the time it sends it to the counsel for the
8 witness and the Board. Failure to abide by these
9 directions may result in the Board disallowing use of
10 the aid to cross.

09:51

11 After questioning the witnesses, a party may then
12 ask the Board to give the aid to cross-examination an
13 exhibit number. The Board will then decide whether the
14 aid will be received, and if so, it will be given a
15 number. And if that's the case, a copy of the aid is
16 also to be provided to the executive secretary in
17 electronic format at that time.

18 To facilitate efficient marking of exhibits, a
19 list of exhibits has been circulated of the list of
20 exhibits received so far to date, and this will be
21 updated daily. So that will be sent out by email as
22 it's updated.

09:52

23 Throughout the hearing the Board requests all
24 participants referring to IR responses to use the YEC
25 consolidated responses for both Rounds 1 and 2, which

1 may be found on the Board's GRA web page. It's
2 important we use these consolidated responses as it
3 will ensure that everybody is using a common point of
4 reference, which will hopefully save time and reduce
5 confusion.

6 The Board received two written presentations for
7 consideration in this hearing. One from
8 Mr. John Maissan and one from Mr. Florian Boulais.
9 Both submissions were received some time after the
10 February 12 deadline that was stipulated in Board Order
11 2021-01 issued in January. Nonetheless, the Board
12 retains the jurisdiction in Rule 25 of its practice
13 rules to receive submissions for consideration.

09:53

14 Both submissions have been treated as applications
15 to be a presenter, and the Board has accepted them as
16 such. Accordingly those written presentations have
17 been posted to the GRA web page.

18 Mr. Boulais' paper presents some creative and
19 thought-provoking ideas, but these are unfortunately
20 outside of the scope of the concerns the Board must
21 address in this particular application; and in light of
22 our busy agenda for this hearing, time can't be
23 afforded for those matters to be discussed in this
24 hearing.

09:54

25 Mr. Maissan's submission raises some issues that

1 may be pertinent in that they raise questions about the
2 scope of the Board's jurisdiction to consider matters
3 beyond purely financial or rate-oriented matters.
4 Unfortunately, however, due to the lateness of this
5 submission, could not be factored into the hearing
6 schedule, so we can't guarantee that there will be any
7 time to deal with it before the hearing ends on Friday.

8 However, if time allows, we may offer Mr. Maissan
9 an opportunity to clarify his submission and answer
10 questions. If so, the parties will be given an
11 opportunity to respond Mr. Maissan's submissions post
12 hearing in their subsequent submissions following the
13 close of the hearing.

09:55

14 As mentioned earlier, this hearing is being
15 transcribed, and we ask that you speak slowly and
16 clearly so that an accurate transcript can be prepared.
17 It's preferable that participants use a headset rather
18 than open speakers in the room as this can help reduce
19 the background sound and improve sound quality. Volume
20 settings on the microphones should be adjusted
21 appropriately. And if you're not active as a witness
22 or asking questions of witnesses, we ask that you mute
23 your microphone and turn off your camera.

09:56

24 Of course, counsel of the party being questioned
25 may have their camera on to be better able to respond

1 if necessary.

2 Also, for the benefit of the court reporter,
3 witnesses are reminded to state their name at the
4 beginning of their testimony to relieve the court
5 reporter from having to ask. That's probably good
6 practice for everyone speaking up during the
7 proceeding.

8 Participants who may wish to raise an objection or
9 respond in a particular way should turn on their video
10 and request to be acknowledged by using the "Raise
11 hand" feature, which can be found under the "Reactions"
12 button at the bottom margin of the Zoom screen. Once
13 acknowledged by the Chair, you can speak.

09:57

14 At this point, I would now ask Board counsel,
15 Ms. Graham, to proceed to register the parties to this
16 proceeding.

17 MS. GRAHAM: Thank you. I'd just start with
18 just two administrative matters. Mr. Chair, I'm having
19 a little bit of trouble hearing you. I was wondering
20 if you could speak a little bit closer to your
21 microphone.

09:58

22 And, second, I just wanted to confirm after
23 registration that there would be no break in the
24 morning, given it's 10 a.m. Yukon time, if we would
25 just be proceeding to lunch or if there would be a

1 different time for the break.

2 So moving to registration, Yukon Energy
3 Corporation.

4 MR. LANDRY: Thank you, Ms. Graham. My name is
5 John Landry. I'm appearing as counsel for
6 Yukon Energy.

7 MS. GRAHAM: ATCO Electric Yukon.

8 MR. CULLINGHAM: Hi there. My name is
9 Chris Cullingham, and I'm here on behalf of
10 ATCO Electric Yukon.

09:58

11 THE CHAIR: City of Whitehorse.

12 MR. RUTHERFORD: Good morning, Ms. Graham. My name
13 is Keegan Rutherford. I work with Brownlee LLP, and we
14 act on behalf of The City of Whitehorse in this matter.

15 MS. GRAHAM: Utilities Consumers' Group.

16 MR. RONDEAU: Good morning. My name is
17 Roger Rondeau. I'm the representative for the UCG.

18 MS. GRAHAM: Mr. Nathaniel Yee.

19 MR. YEE: Good morning. My name is
20 Nathaniel Yee. I am representing myself in this.

09:59

21 MS. GRAHAM: Thank you, Mr. Chair. Those are
22 the registered parties.

23 THE CHAIR: Thank you.

24 Now, is there any other person that wishes to
25 register as an active participant at this time?

1 Okay. Hearing no takers on that, are there any
2 other preliminary matters that any party may wish to
3 raise?

4 There being none, I will turn to you, Mr. Landry,
5 and ask you to introduce your witness panel and proceed
6 from there.

7 MR. LANDRY: Thank you, Mr. Chair. Subject to
8 your thoughts, Mr. Chair, my thinking is that we would
9 introduce the panel, I'll have Mr. Hall do that to
10 introduce you to the individuals, and we'll just have a 10:00
11 quick question on their responsibilities for each of
12 the witnesses so that the participants can understand,
13 you know, the background of each. Even though CVs have
14 been filed in Exhibit B31, I think it's good to at
15 least start on that basis, and Mr. Hall will have a few
16 introductory comments.

17 So if it pleases the Chair, maybe what I could do
18 is introduce the panel, or have them introduced, and
19 then they could be affirmed. And, by the way, for the
20 court reporter they'll all be affirmed. 10:00

21 Does that work for you, Mr. Chair?

22 THE CHAIR: Yes, that's fine, Mr. Landry.

23 Thank you.

24 MR. LANDRY: So I'll just go over to Mr. Hall.

25 And maybe, Mr. Hall, you could introduce your fellow

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP

1 panelists and yourself.

2 MR. HALL: Hi, good morning. So my name is
3 Andrew Hall. I'm the president and CEO of
4 Yukon Energy.

5 To my right is Ms. Mila Milojevic, our VP of
6 resource planning and regulatory affairs; and
7 Mr. Gary Gazankas, our VP of engineering and capital
8 projects.

9 And to my left is Mr. Ed Mollard, VP finance and
10 chief financial officer; and Mr. Jason Epp, director of
11 finance and corporate controller.

12 MR. LANDRY: Perhaps it would be a good time
13 now to affirm the witnesses, Mr. Chair.

14 THE CHAIR: Yes. The representative from
15 Amicus, are you ready to proceed?

16

17 **A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP**

18 **(For Yukon Energy Corporation), affirmed**

19 MR. LANDRY: So, Mr. Chair, if I could proceed
20 just with a couple of introductory questions.

21 THE CHAIR: Yes, absolutely. (Indiscernible.)

22 MR. LANDRY: Thank you. I'd like to go
23 through, as I mentioned Mr. Chair, each of the
24 panelists to give the participants and the Board some
25 idea of their responsibilities at Yukon Energy.

10:01

10:03

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Examined by Mr. Landry

1 **MR. LANDRY EXAMINES THE PANEL:**

2 Q. And perhaps, Mr. Hall, it would be good to start with
3 you, and we'll go to your fellow panel members. Could
4 you explain to the Board as the president and CEO what
5 your responsibilities are for the company.

6 A. MR. HALL: Certainly. I would say overall
7 setting of strategy, working with our board on that,
8 setting of corporate goals and execution against those.

9 Q. Thank you. Mr. Gazankas, could you provide the Board
10 and participants with an overview of your
11 responsibilities at Yukon Energy.

12 A. MR. GAZANKAS: Yes. So I'm responsible for the
13 engineering department, also responsible for the
14 development and execution of the annual capital
15 portfolio, as well as the development of the multiyear
16 plan.

17 Q. Thank you, sir.

18 Ms. Milojevic, could you provide the Board with
19 your title and the responsibilities with the
20 corporation.

21 A. MS. MILOJEVIC: Yes, thank you. I'm the vice
22 president of resource planning and regulatory affairs.
23 So my department looks after our long-term supply and
24 demand side planning, the wholesale load forecasting
25 and peak load forecasting, assessment and permitting

10:04

10:04

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Examined by Mr. Landry

1 for projects, our environmental program, and then
2 preconstruction feasibility studies.

3 Q. Thank you. If we could move over to Mr. Mollard.

4 Mr. Mollard, could you provide the Board and
5 participants with an overview of your position and
6 responsibilities.

7 A. MR. MOLLARD: Yeah, absolutely. VP finance,
8 CFO. So I am responsible for all areas of our general
9 accounting, payroll, accounts payable, et cetera,
10 treasury. I also have the procurement portfolio, and I
11 am the executive sponsor on these rates regulatory
12 filings.

10:05

13 Q. Thank you, sir.

14 And finally Mr. Epp, could you provide the Board
15 and participants with your title and an overview of
16 your responsibilities for the corporation.

17 A. MR. EPP: Yes. I am the director of
18 finance. I report to Mr. Mollard. My responsibilities
19 include oversight of the day-to-day accounting,
20 including payroll processing and cash treasury
21 management. With regard to regulatory, in preparation
22 for this GRA I primarily was involved in the sales and
23 revenue requirement sections.

10:05

24 Q. Thank you, sir.

25 MR. LANDRY: So with that, Mr. Chair, as you

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Examined by Mr. Landry

1 know the opening statement, which is not going to be
2 read into the record, has been filed as Exhibit B-33,
3 but Mr. Hall has a few short opening comments.

4 Q. Mr. Hall.

5 A. MR. HALL: Thank you, Mr. Landry.

6 So good morning, Mr. Chair, Board members, and
7 supporting staff and interveners. I'd first like to
8 acknowledge that YEC operates across the traditional
9 territories of several Yukon First Nations, and that
10 our hearing today is being held, be it virtually, but
11 on the traditional territories of both the
12 Ta'an Kwach'an Council and the Kwanlin Dün First
13 Nation.

10:06

14 My colleagues and I are pleased to appear before
15 the Yukon Utilities Board to answer your questions on
16 our 2021 General Rate Application. We have filed a
17 formal opening statement with the Board, but I'd just
18 like to take a few minutes to cover some of the key
19 highlights from that statement.

20 So, firstly, the filed application covers a single
21 test year, 2021, to address serious and material
22 shortfalls in revenue requirement without having a
23 significant impact on customer bills. Key to this
24 approach is the timing of both the interim and final
25 rate increases to coincide with the expiration of rate

10:07

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Examined by Mr. Landry

1 riders in 2021. Given the specific rate filing
2 approach, timely completion of this rate hearing and
3 the steps that follow is important.

4 In our opening statement we outlined four key
5 drivers that are impacting our business and our costs.

6 Firstly, we have seen significant load growth,
7 particularly in terms of growth in peak electricity
8 demand. Overall, grid load has increased by 28 percent
9 between 2018 and 2021.

10 In January 2020 we set a new record,
11 non-industrial peak of 97 megawatts during a period of
12 sustained cold weather. This peak load growth has
13 exacerbated our existing and forecast N-1 dependable
14 capacity shortfall and has driven significant
15 investments and spending on new sources of dependable
16 capacity.

17 Secondly, we are facing a challenge of aging
18 infrastructure. Many of our core generation and
19 transmission assets were built in the 1950s through the
20 1970s and are approaching end of life, requiring
21 ongoing and material investments in sustaining capital
22 to ensure reliability of service. Our capital program
23 has grown from approximately 20 million in 2017 to
24 almost 60 million in 2021. Partly as a result of these
25 sustaining capital requirements.

10:08

10:08

1 We are also completing a major update and
2 modernization of our asset management practices and
3 supporting software systems, bringing these practices
4 in line with industry best practice and ensuring that
5 we are spending money on both maintenance and
6 sustaining capital in an appropriate manner.

7 We have also found that the landscape with regard
8 to First Nations relations has become increasing
9 complex, driven by developments on the national stage,
10 such as UNDRIP; the cause to action from the Truth and
11 Reconciliation Commission; and the focus by governments
12 on reconciliation.

13 First Nations are seeking to play a more active
14 role in project planning, assessment, and regulatory
15 proceedings. With this increased complexity, planning
16 and relicensing projects are taking longer and costing
17 more.

18 Finally, our future planning must recognize key
19 policy developments at both the national and
20 territorial level to address climate change. The Yukon
21 government's Our Clean Future Energy and climate change
22 strategy includes specific targets for the renewable
23 content of our energy mix, and one of the actions from
24 that strategy is a planned *Clean Energy Act*, which will
25 require Yukon Energy to meet a renewable portfolio

10:09

10:10

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 standard of 93 percent renewable on a long-term average
2 basis.

3 As prudent planners, YEC must plan and pursue
4 renewable energy projects to meet the long-term needs
5 of Yukoners and deliver on these climate change goals.

6 That concludes my opening remarks, and we look
7 forward to fielding your questions.

8 MR. LANDRY: Thank you, Mr. Hall.

9 Mr. Chair, I have no further questions and the
10 panel is available for cross-examination.

10:11

11 THE CHAIR: Ms. Graham, do you have questions
12 to ask the panel?

13 MS. GRAHAM: So first up would be
14 ATCO Electric Yukon alphabetically as an intervener, if
15 they had any questions.

16 MR. CULLINGHAM: Thank you very much. We don't
17 have any questions at the moment.

18 MS. GRAHAM: Thank you. Next up would be City
19 of Whitehorse.

20 **MR. RUTHERFORD CROSS-EXAMINES THE PANEL:**

10:11

21 Q. Good morning, panel. I recognize that each of you will
22 be responsible for speaking to different issues on
23 behalf of YEC. And I do appreciate the introductions
24 regarding the areas of responsibility this morning.

25 I don't think I'll assume that a question may be

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 answered by a specific individual, but I'd rather put
2 it to the panel and have you decide whether or not a
3 given individual will speak to it. Certainly I
4 recognize that you won't be all able to do that.

5 So for everyone's benefit this morning, I will
6 note that I will be asking questions related to four
7 main issues. Those issues are diesel generation, sales
8 normalization, brushing costs, and herbicide use.

9 So, clearly, I'll be asking and referring to
10 evidence filed on behalf of the City of Whitehorse and
11 talking about positions that may be advanced by the
12 City of Whitehorse. I recognize that I may use the
13 full name of City of Whitehorse, but may also simply
14 refer to the city as "City." I hope you understand
15 those references will mean the City of Whitehorse
16 throughout this questioning period.

10:12

17 So I'd like to start with the issue of diesel
18 generation. What I'll do first is can I get you to
19 please turn up Mr. Bell's evidence that was filed on
20 behalf of the City of Whitehorse. That's Exhibit C3-6,
21 and turn to A8, which is shown on pdf page 7. If you
22 can just let me know when you have that.

10:13

23 **A. MR. MOLLARD: We have that.**

24 **Q.** Perfect. So you'll see here that Mr. Bell states, and
25 I quote:

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 "In a utility context, a business case
2 should demonstrate that the chosen
3 option provides safe and reliable
4 service as the least cost option over
5 the life of the assets."

6 Mr. Bell then goes on to provide further evidence
7 related to this case, including the two scenarios he
8 believes should be explored in this matter.

9 Now, would you agree with Mr. Bell's quote that a
10 business case should, and I quote again:

10:14

11 "...demonstrate that the chosen option
12 provides safe and reliable service as
13 the least cost option over the life of
14 the assets"?

15 **A. MR. HALL:** Andrew Hall, Yukon Energy. Yes, I
16 would agree with the statement, but I would qualify it
17 by stating that there are other factors that are taken
18 into consideration; namely, you know, the long-term
19 strategic plan in terms of development of resources,
20 which then look to drivers such as climate change
21 policy over the long term.

10:14

22 **Q.** Thank you, Mr. Hall.

23 And does YEC believe that a business case should
24 include detailed cost estimates of each scenario for
25 the life of the assets in the longest scenario?

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 A. MR. HALL: Andrew Hall, Yukon Energy. Yes.

2 Q. Thank you. And in YEC's view, when considering two
3 different options for a project or utility need, should
4 the utility develop the revenue requirement for each
5 option and determine the present value of the revenue
6 requirement for each of those options?

7 A. MR. HALL: Andrew Hall, Yukon Energy. The
8 metric that we have -- we use, particularly when
9 looking at new supply options that contribute
10 dependable capacity, is a metric called levelized cost 10:15
11 of capacity, LCOC, in units per dollar, dollars
12 per kilowatt year. It's a metric that the Board should
13 well be familiar with. It was -- data was presented,
14 for example, in our Part 3 application for the battery
15 system.

16 But to answer the question, the LCOC metric
17 essentially provides -- completes the financial
18 analysis that you outlined in terms of a net present
19 value of essentially revenue requirement costs.

20 Q. So it's your position that the LCOC would provide that 10:16
21 revenue requirement for each option; is that correct?

22 A. MR. HALL: It's a reasonable proxy for that,
23 yes.

24 Q. Okay. Thank you. And, finally, when considering the
25 two different options for a project or a utility need,

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 should the utility provide a detailed and robust
2 discussion of the risks and feasibility for each of
3 those options?

4 A. MR. HALL: Andrew Hall, Yukon Energy.
5 Discussion of those risks can be informative, but at
6 the end of the day, there's no easy way to quantify the
7 impact of those risks on that revenue requirement
8 metric; namely, in this case, levelized cost of
9 capacity.

10 Q. Okay. And would it be important, though, still to
11 identify the risks and feasibility for each option in
12 terms of proceeding with them?

10:17

13 A. MR. HALL: Andrew Hall, Yukon Energy. Yes,
14 and I guess what comes to mind in particular is when we
15 look at particular supply options, we need to go
16 through an engagement process as part of the regulatory
17 approval which looks at, for example, public First
18 Nation and other stakeholder support or the full lack
19 thereof for a particular supply option. And the risks
20 of, you know, of the stakeholder, First Nation support,
21 we do speak to as part of a discussion of those supply
22 options.

10:18

23 Q. Okay. So thank you. So that is I guess confirming
24 that those stakeholder and First Nation consultations
25 would be spoken about with respect to risks and

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 feasibility of the options. That's correct?

2 **A. MR. HALL:** Correct.

3 Q. Thank you. Now if I can please get you to turn to
4 YEC's rebuttal evidence. That's Exhibit B-30. I'd
5 like to draw your attention to the text shown on pdf
6 page 2. I'll go there as well. And that's under the
7 heading, and I quote: (as read)

8 "No option other than rented diesels to
9 provide this 2021 dependable capacity."

10 You'll see that the text underneath that heading goes on
11 to pdf page 3 as well. If I can just get you to confirm
12 that you are, in fact, there.

13 **A. MS. MILOJEVIC:** Yes, we are. Thank you.

14 Q. Thank you. So there, YEC takes issue with Mr. Bell's
15 evidence on the basis that he has not offered, and I
16 quote: (as read)

17 "Any realistic option other than rented
18 diesels exist to supply this required
19 capacity for the 2021 year."

20 Do you see that?

21 **A. MS. MILOJEVIC:** Yes, I do.

22 Q. Okay. And before we move on, I'd like to confirm, is
23 it YEC's position that Mr. Bell holds the onus of
24 demonstrating an alternative option is viable in this
25 matter?

10:18

10:19

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 **A. MR. HALL:** **Andrew Hall. I mean I think that**
2 **kind of evidence would help explain the direction of**
3 **his argument, certainly.**

4 **Q.** Okay. And just to confirm and go back to my question,
5 is it your position that he would hold the onus of
6 demonstrating that on the record of this proceeding?

7 **A. MR. HALL:** **Well -- Andrew Hall. I mean the**
8 **ultimate onus which we've provided rests with us in our**
9 **response.**

10 **Q.** Okay. Thank you, Mr. Hall.

10:20

11 So then I'd like to go on. YEC then goes on to
12 state that Mr. Bell mentions a possible option to
13 construct and own a larger generating station before
14 stating, and I quote: (as read)

15 "Which would imply a station larger than
16 the 20-megawatt diesel plant option that
17 YEC had identified in its 2016 resource
18 plan and rejected by October 2019 after
19 further detailed review public
20 engagement and assessment of other
21 permanent generating options."

10:20

22 Do you see that?

23 **A. MS. MILOJEVIC:** **Yes.**

24 **Q.** And to confirm, the footnote for the quote that I've
25 just read, being Footnote 2, provides reference to a

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 YEC information request response to the City of
2 Whitehorse; namely, CW-YEC-2-6(a) and (b). Correct?

3 **A. MS. MILOJEVIC: Yes, that's correct.**

4 Q. Thank you. And continuing on in this same section of
5 YEC's rebuttal evidence, I note that YEC states that it
6 has conducted, and again I quote: (as read)

7 "Several detailed assessments of more
8 permanent options since diesel rentals
9 were first installed for the 2017/18
10 winter including YEC's recent 10-year
11 renewable electricity plan completed in
12 2020 and its earlier more detailed
13 assessment of the 20-megawatt diesel
14 plant option."

10:21

15 Do you see that?

16 **A. MS. MILOJEVIC: Yes.**

17 Q. Thank you. Now, it appears that there may be a typo in
18 the following sentence. Can you confirm that where it
19 says "the 10-year renewable plant," that should, in
20 fact, read the "10-year renewable plan."

10:21

21 **A. MS. MILOJEVIC: That's correct, yes.**

22 Q. Perfect. Thank you. So that sentence notes the
23 10-year renewable plan that was completed in 2020
24 includes diesel displacement options at existing diesel
25 plants and renewable capacity alternatives such as

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 B-E-S-S, or BESS; correct?

2 **A. MS. MILOJEVIC:** Yes, it does.

3 **Q.** A footnote provided for that sentence, being
4 Footnote 3, is the same as provided for Footnote 2, and
5 then it goes on to note that, and I quote: (as read)

6 "These investigations were detailed in
7 the response with reference to

8 CW-YEC-1-36(a), Attachment 1, copy of
9 the YEC 10-year renewable electricity

10 plan completed during 2020."

10:22

11 So I'd like to first take you to the YEC 10-year
12 renewable electricity plan referred to in Footnote 3
13 that I've just referenced. That can be found in the YEC
14 consolidated Round 1 IR responses. That's Exhibit B-9.

15 **THE COURT REPORTER:** Mr. Rutherford, I'm just going to
16 ask you to slow down a little bit, please.

17 **MR. RUTHERFORD:** Absolutely. I apologize.

18 **THE COURT REPORTER:** Thank you.

19 **Q. MR. RUTHERFORD:** So that plan is provided at
20 Attachment 1 to IR 36(a), so that's starting at
21 pdf page 173. And I'm just going to go there as well.
22 If you can just confirm when you have that turned up.

10:23

23 **A. MS. MILOJEVIC:** I have it here, yes. Thank you.

24 **Q.** Perfect. Thank you. So I'd like to walk through this
25 for a minute if we can.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 Is it YEC's position that this document is a
2 business case related to YEC's rental of diesel
3 generation units?

4 THE CHAIR: Excuse me, Mr. Landry, you've got
5 your hand up.

6 MR. LANDRY: Sorry, Mr. Chair, I was -- this is
7 not a criticism of Mr. Rutherford, but I think,
8 obviously, it would be important if I get a document up
9 in front of me, and I'm just getting that document up
10 now. I haven't been able to get it on my computer just
11 yet. I can tell you when I have it.

10:24

12 MR. RUTHERFORD: And I will just ask that
13 Mr. Landry and the panel just confirm for each of the
14 exhibits. I don't want to be going ahead of anyone,
15 certainly. So when it's available.

16 MR. LANDRY: What's the pdf page?

17 MR. RUTHERFORD: Pdf page 173.

18 MR. LANDRY: Give me one second.

19 MR. RUTHERFORD: Absolutely.

20 THE CHAIR: Can you just mute us a second?

10:24

21 MR. LANDRY: I have it, Mr. Rutherford.

22 Thank you.

23 MR. RUTHERFORD: Perfect. Thank you.

24 Q. So, as I mentioned, I would like to walk through this
25 for a minute. Is it YEC's position that this document

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 is a business case related to YEC's rental of diesel
2 generation units?

3 A. MS. MILOJEVIC: Mila Milojevic for Yukon Energy.
4 So this plan represents a refresh of a long-term
5 resource plan, which looks at how to address our N-1
6 dependable capacity gap.

7 As we state in the plan, one of the realities we
8 faced when creating it was the study we had done on the
9 20-megawatt per minute diesel option, and our
10 assessment that that option was not feasible due to the 10:25
11 lack of support. So the plan puts forward the most
12 economic portfolio of renewable projects to address the
13 N-1 dependable capacity gap.

14 Since these projects, including the battery energy
15 storage system, the diesel retirement replacement, as
16 well as some of the longer term projects like Atlin and
17 Moon Lake, all take time to execute. The rental
18 diesels were seen, as outlined throughout our evidence
19 in the GRA proceeding, not specifically in this plan,
20 as the most cost-effective way to addresses the N-1 10:26
21 dependable capacity shortfall in the near time, while
22 we build the permanent projects to address the
23 shortfall.

24 Q. Perfect. Thank you. So I'd like to confirm, does YEC
25 agree that a comparison of the two options, being

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 rented diesel units and perhaps owned diesel units,
2 would be helpful and relevant to YEC in considering its
3 operations?

4 A. MR. HALL: Andrew Hall. At a certain point
5 that was a helpful and relevant comparison, but, as
6 Ms. Milojevic outlined, when we did the preliminary
7 work on the public and stakeholder engagement on the
8 20-megawatt plant option, it was determined that there
9 was not sufficient support to move forward with that.
10 And so really I wouldn't say that at this point it's a
11 valid or relevant comparison.

10:27

12 Q. Okay. And so it's my understanding that this technical
13 report is considering certainly other issues, but would
14 not be considered by YEC to be a business case to
15 determine the two different options; is that correct?

16 A. MS. MILOJEVIC: That's correct, in that I think
17 the report outlines the most cost-effective way to meet
18 the renewable shortfall, recognizing that the
19 20-megawatt plant is not, in our view, a feasible
20 option.

10:28

21 But I would also perhaps direct you to our
22 response to CW-YEC-2-6. So I'm just going to pull up
23 the exhibit here. So I believe it's in Exhibit B-32 --
24 oh, sorry, B-27 in the Round 2 IRs.

25 Q. I have that open.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 A. MS. MILOJEVIC: I'm on pdf page 13, I believe.

2 Q. Okay.

3 A. MS. MILOJEVIC: So down on line 26, we talk about
4 the diesel rental, and this is the LCOC, the levelized
5 cost of capacity, that Mr. Hall was referring to
6 earlier, that shows that when you calculate the
7 relative impact on revenue requirement for the diesel
8 rentals, it comes out at 211 per kilowatt year for a
9 20-year life or \$243 per kilowatt year for a 40-year
10 life; which wouldn't quite apply here since we wouldn't
11 plan to rent the diesels for 40 years, but it gives a
12 sense of the economic business case.

10:29

13 Compared to, on the next page, pdf page 14, at
14 line 4, when we look at an owned diesel plant, and we
15 had a comparator here of 12 1/2 megawatt size, that if
16 you include property tax in that calculation, it's at a
17 cost of \$212 per kilowatt year.

18 So really when we look at the economics of a
19 short-term solution to help us address our shortfall
20 while we build permanent solutions, the economics, when
21 you compare that 212 to the 211 or 243, are fairly
22 close.

10:29

23 So, in our view, that's the -- I wouldn't call it
24 business case, but the economic comparison of how this
25 is appropriate short-term solution while we build these

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 long-term solutions that align with policy and the
2 climate change and renewable energy initiatives coming
3 our way.

4 A. MR. HALL: Mr. Chair, if I might add,
5 the -- if I understand correctly, Mr. Bell's questions
6 were specifically related to 2021, so since that's the
7 test year in question. And if we go back in time to
8 our experience, as I outlined in my opening statement,
9 surrounding that cold weather period in January of
10 2020, we learnt a lot through that cold period. It was
11 the first time Yukoners had faced successive days below
12 minus 44 since the late 1990s. And, you know, what we
13 observed is our peak demand being a lot higher than our
14 models had suggested.

10:30

15 So we were in a situation of having to find a
16 solution for not only the upcoming winter, but also the
17 subsequent winter in really short order. And I would
18 postulate that rental diesels were the only option
19 available. You could not -- you know, even if it was
20 possible, there was no other permanent solution that
21 could have been built in less than a year.

10:31

22 So from a very practical perspective, once you
23 learn that your peak is a lot higher than you thought,
24 rentals is really the only option available to plug
25 that gap in the short term.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 Q. And that was in 2017; is that correct?

2 A. MR. HALL: No, the cold weather was
3 January 2020.

4 Q. Oh, I see what you're saying. Thank you.

5 So, Ms. Milojevic, you referred to some other
6 information that's provided on the record, and we did
7 go to that IR response. I just want to confirm, is
8 that IR response the information that would demonstrate
9 that this was the appropriate action to proceed with
10 the rented diesel units? Is it simply that IR
11 response? Is there other information on the record?

10:32

12 A. MS. MILOJEVIC: I think, as Mr. Hall just pointed
13 out, the other information would be around the timing
14 of the requirement. Particularly with the 2021 rental
15 units and 2020 actual record peak experienced and our
16 need to respond to that within several months to be
17 prepared for the winter.

18 Q. Okay. Thank you. And so earlier I took you through
19 some questions about what we thought should be in a
20 business case or what Mr. Bell had said should be in a
21 business case. I'd like to ask if YEC can point us to
22 anything on the record that would demonstrate those
23 items are in fact met with respect to the diesel
24 generation units? And I do have some specific
25 questions about those when you're able.

10:32

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 A. MS. MILOJEVIC: I think perhaps I'll just mention
2 again just from a timing perspective. So in 2016 we
3 did an updated resource plan, which had our long-term
4 resource plan with how to address our N-1 dependable
5 capacity requirements. That plan included the
6 20-megawatt diesel facility.

7 In then I believe it was 2019, we conducted the
8 analysis that determined that the 20-megawatt option
9 was not feasible, and concurrently at that same time
10 the Yukon government released its Our Clean Future
11 climate change strategy, which had a number of actions
12 dictating the future of policy for electricity
13 generation in the territory.

14 So in late 2019 and through 2020 we updated our
15 resource plan, eliminating the 20-megawatt diesel
16 option and putting out the 10-year renewable
17 electricity plan, which we had addressed several
18 questions ago there.

19 So, again, when you look at the sequence of
20 events, we have done -- a long-term resource plan does
21 look at the net present value revenue requirement and
22 how most economically, while meeting requirements, how
23 to serve the forecast load. Had a plan. The
24 circumstances changed and we eliminated the option that
25 that plan had put forward, and so we've done a new

10:34

10:34

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 plan.

2 And so through that evolution of how we plan the
3 resources that we need to meet our load, I would say
4 the rentals have offered us the near-term option to
5 ensure we can serve load as we build those longer term
6 options. So the shorter term business case you're
7 referring to hasn't really applied to the sequence of
8 events that we've encountered from 2016 to today.

9 Q. Thank you for that. So you mentioned the long-term
10 resource plan, then removing that 20-megawatt plant
11 option, and now there's a new plan. I'd like to, I
12 guess, just understand, you know, the contents of that,
13 and if some of those things that maybe would typically
14 be within a business case would be addressed in that
15 type of a plan. So I recognize there may be semantics
16 here in terms of whether it's a business plan or not,
17 but certainly specific items should be addressed by the
18 utility to show that a chosen option is the prudent
19 course.

10:35

20 So, first, does the information or the document
21 that you're referring to as the "new plan," or even the
22 long-term resource plan that may still be in effect for
23 certain portions, demonstrate the diesel rental option
24 provides a safe and reliable service?

10:35

25 A. MR. HALL: Andrew Hall, Yukon Energy. The

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 10-year renewable plan outlines the options that the
2 corporation has selected and determined to be
3 appropriate and cost effective to meet Yukoners' needs
4 going forward.

5 You know, and so the diesel rental costs are O&M
6 costs and management would determine issues related to
7 safety and reliability in terms of through the process
8 of acquiring those engines from the supplier and
9 working on the contracts under which we procure that
10 service.

10:37

11 I think the decisions on safety and reliability is
12 done in that context -- is made in that context.

13 Q. So that would be addressed is your position?

14 A. Absolutely, because we are renting, after all. So
15 issues of safety and reliability are matters between us
16 and our supplier.

17 Q. Okay. And so they would be considered by YEC in making
18 that decision?

19 A. MR. HALL: Yeah, absolutely.

20 Q. Thank you. So would the documents that we referred to,
21 would they demonstrate that the diesel rental option is
22 the least cost option over the life of the assets in
23 question?

10:37

24 A. MR. HALL: Well, Ms. Milojevic has, in
25 summarizing our response to one of the information

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 requests, provided the information on the LCOC, which I
2 think demonstrates that the costs are comparable
3 to -- to a permanent diesel facility, if that was ever
4 an option.

5 Q. Okay, I appreciate that, and I will go back to that
6 exhibit that Ms. Milojevic had referred to.

7 Before we get there, I just want to confirm, does
8 the information include, say, detailed cost estimates
9 of each scenario for the life of the assets or was that
10 not completed?

10:38

11 A. MR. HALL: In the calculation of LCOC, we
12 make certain assumptions regarding rental prices.
13 Obviously we don't know what the future rental prices
14 are, but we've made assumptions, which were outlined
15 in, for example, evidence presented in the recent
16 Part 3 hearing on the battery. So there are
17 assumptions that are made, but, you know, this was an
18 opportunity to test the reasonableness of those.

19 Q. Okay. So those are assumptions that were made, but not
20 detailed cost estimates. Is that fair to say?

10:39

21 A. MR. HALL: Well, I would point out that when
22 you come to a rental unit, there are really no other
23 costs other than your rental cost. And then whatever,
24 you know, infrastructure is required to host those
25 rental units, which are typically a one-off costs

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 incurred at the front end, but it's not a very
2 sophisticated cost analysis.

3 Q. Okay. Sorry, I saw someone else. Does anybody else
4 want to speak on that or...

5 A. MR. MOLLARD: Yeah. If I could, Mr. Chair, just
6 point out with respect to the cost analysis of the
7 diesel plant we were using sort of summary metrics. So
8 we weren't breaking down the costs of the units and the
9 costs to install them at that level. It was sort of a
10 number per megawatt of installed generation for the
11 purposes of generating what that capital cost would be.

10:39

12 Q. Okay. And so from what I'm hearing is the detailed
13 numbers, obviously, are easier to come by when we're
14 dealing with the rental units since it is that amount
15 and there's a more general number that was used to
16 determine the cost of the actual owned plant. Is that
17 fair to say?

18 A. MR. MOLLARD: Yeah. We had a contract in place
19 with the rentals so we had some relevant current market
20 information for the rentals. We did not have that for
21 the diesel plant so we were using a cost per megawatt
22 based on preliminary engineering, not detailed
23 engineering.

10:40

24 Q. Thank you, sir. And, finally, with respect to the
25 information, I think we may have touched on this

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 earlier, but does either the long-term resource plan or
2 the new plan that was referred to provide discussion on
3 the risks and feasibility of each of those options? I
4 think, Mr. Hall, you did have some comments earlier
5 about the risks and feasibility?

6 A. MR. HALL: Yeah, I would argue that, if you
7 want to talk about risks, that those are determined on
8 a case-by-case basis as the projects are developed and
9 brought into -- before this Board to be put into rates.

10 So, you know, a resource plan, you know, in the 10:41
11 order of 100 pages doesn't get into the retailed risk
12 analysis because, you know, it's a higher level
13 discussion than that. But as we develop and
14 Ms. Milojevic's department does the permitting -- the
15 assessment and permitting of each project, that allows
16 us to quantify those risks and bring them forward as
17 part of each project as it's brought into rates.

18 Q. Okay. Thank you. And so with respect to those factors
19 that we referred to that Mr. Bell put forward in
20 evidence with respect to what should be included in a 10:41
21 business case, and the information that you've provided
22 to me here with respect to where some of that
23 information can be found, and it's of a more general
24 nature in some cases, would it not be true that this
25 plan is not really a business case or considered a

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 business case for the utility?

2 A. MR. HALL: Mr. Chair, I would say that we've
3 discussed at length as part of the battery proceeding
4 the -- you know, why the concerns that we had during
5 the assessment of that permanent diesel plant option,
6 so that's been discussed, and why ultimately that was
7 deemed not to be a viable alternative. So that's been
8 discussed, I believe, at length already.

9 In terms of the rental option, I believe there's
10 sufficient information on the record in terms of its
11 economics, and the fact that it's from a very practical
12 perspective the only option we had, given the learnings
13 from that cold weather period of 2020.

14 Q. Thank you. That's sufficient for that question.

15 So now I'll note that Ms. Milojevic referred us to
16 an IR response. So that's CW-YEC Round 2, No. 6(a) and
17 (b). So we had that turned up. That's Exhibit B-27
18 starting at pdf page 12. If I can get you to turn
19 there. And I'll wait for Mr. Landry as well to
20 confirm.

21 MR. LANDRY: I'm there.

22 MR. RUTHERFORD: Thank you, Mr. Landry.

23 Q. So I note that, starting -- I guess if we turn to pdf
24 page 13, starting at line 19 of that page, YEC
25 indicates that it can provide current levelized cost of

10:43

10:43

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 capacity, or LCOC, cost comparison information with
2 respect to specific case comparison of rented diesel
3 and owned diesel. Do you see that?

4 **A. MS. MILOJEVIC: Yes, thank you.**

5 Q. Thank you. So based on the information provided in
6 this response, do you agree that the cost of owned
7 diesel plants is estimated at \$212 per kilowatt per
8 year with property tax?

9 **A. MS. MILOJEVIC: For a 12.5-megawatt sized diesel**
10 **plant, yes, that's correct.**

10:44

11 Q. Perfect. Thank you. And with respect to that same
12 size of plant, the cost of the rented diesel plants can
13 range from \$172 per kilowatt per year to \$243
14 per kilowatt per year; is that correct?

15 **A. MS. MILOJEVIC: Mr. Rutherford, could you just**
16 **point me to where you're referring to the 172, sorry,**
17 **please?**

18 Q. Absolutely. So on pdf page 14, and I apologize for not
19 taking you there earlier, starting at line 18, there's
20 a bit of a narrative with respect to the analysis and
21 there's some numbers provided there. If you can just
22 confirm what the rental diesel plants' cost would range
23 from, that would be helpful.

10:45

24 **A. MS. MILOJEVIC: Yes, thank you. The range you**
25 **stated earlier is correct.**

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 Q. Thank you for that. So then is it YEC's assertion
2 that, based on this cost analysis that we're just
3 discussing, that the YUB should approve spending of
4 3.8 million per year for rental units rather than
5 looking at YEC having to purchase them?

6 **A. MS. MILOJEVIC: Yes.**

7 Q. Thank you for that. So you will recall that the YEC
8 rebuttal evidence that we discussed earlier notes that
9 the 10-year renewable electricity plan included
10 renewable capacity alternatives such as BESS, so
11 B-E-S-S.

10:46

12 You'll also note that I did circulate reference to
13 a number of aids to questioning yesterday. One of
14 those being the YUB report regarding the battery energy
15 storage system, or BESS, project that was proposed by
16 YEC. Can you, please, bring up that BESS report and
17 turn to pdf page 30.

18 **A. MS. MILOJEVIC: Okay we're there, thank you.**

19 **MR. RUTHERFORD: Perfect. And, Mr. Landry, you're**
20 **there as well.**

10:47

21 **MR. LANDRY: Hang on one second. I'm going**
22 **through the YUB website.**

23 **MR. RUTHERFORD: Not a problem.**

24 **MR. LANDRY: Go ahead, thank you.**

25 **MR. RUTHERFORD: Thank you for that.**

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 Q. So you'll see about three quarters of the way down the
2 page the report states the following, and I quote:
3 (as read)

4 "YEC witness testimony provided
5 additional insight into the utility's
6 reasoning and some of the reasons are
7 summarized below."

8 The sentence is followed by four bullets. Do you see
9 that?

10 **A. MS. MILOJEVIC: Yes, thank you.**

10:48

11 Q. Thank you. And so with respect to those four bullets,
12 does YEC agree that rental diesel units are not as
13 reliable as the utility would like?

14 **A. MR. HALL: Our position would be that the**
15 **reliability is not as good as our own units, but we**
16 **have -- we're doing two things: One, working with the**
17 **supplier to address the reliability issues; and**
18 **secondly, we address that through renting of additional**
19 **spare units, which -- the costs of which are included**
20 **in the analysis. So we've incorporated that risk**
21 **mitigation strategy into the economic analysis that's**
22 **done for the rentals.**

10:48

23 Q. So it's YEC's position that those reliability issues
24 can be resolved by just having additional units; is
25 that correct, sir?

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 A. MR. HALL: I also stated that we were working
2 with the supplier on them actually addressing our
3 reliability concerns.

4 Q. Okay. Perfect. Thank you. That's helpful.

5 So does YEC agree that rental diesel units are not
6 perfectly configured for utility service?

7 A. MR. HALL: Overall, I'd say, yeah, we agree
8 with that. I mean, how material a point it is I'm not
9 sure. I mean, we are looking at YUB's interpretation
10 of our statements. But, no, they're not perfectly
11 configured.

10:49

12 Q. Okay. Thank you. And I'm certainly happy to have you
13 restate a different position if this is not correct,
14 but I understand that you agree with that statement
15 that's provided there.

16 A. MR. MOLLARD: I guess, Mr. Chair, if I could --
17 it's Ed Mollard -- on that, because there's a couple of
18 aspects to that. There's -- what we have to do to make
19 them work on our system, they're generally designed to
20 run on a stand-alone basis, so we have to do some
21 reconfiguration to make them work on our system. But
22 we've done that and they work.

10:50

23 The second part of that is that if we were
24 considering -- because I know this came up in the
25 battery proceeding. If we were considering purchasing

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 diesels, we would not spec those diesels because
2 they're made to run remotely; they're not made to run
3 on a grid system. So they would not suit our purpose
4 if we wanted to use that -- if we were looking for a
5 more permanent solution.

6 Q. Thank you for that. And just for my understanding,
7 that reconfiguration that you've referred to, is that
8 all included within the costs as well?

9 A. MR. MOLLARD: Yes.

10 Q. Thank you for that. Now, if you can please turn to
11 pdf page 31 of that same document, so just the next
12 page where the report states, and I'll quote -- and
13 I'll ask you to bear with me as it's a bit of a longer
14 quote. And I recognize that not all parties have this
15 document in front of them. The quote states: (as read)

16 "YEC's application and testimony support
17 that the rented diesels are not a
18 preferred alternative to the BESS
19 project. The BESS project has a higher
20 levelized cost of capacity than rented
21 diesel units. However, YEC states that
22 the BESS results in a net present value
23 benefit to ratepayers and the BESS is
24 expected to offset the use of four
25 diesel units.

10:51

10:51

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 On review of the record, YEC has
2 sufficiently demonstrated that the BESS
3 project, or B-E-S-S project, is a
4 preferred alternative to the rental
5 diesel units."

6 Now, while I recognize this quote relates to the BESS
7 project, would you not agree that it goes to the fact
8 that rental diesel units are certainly not the preferred
9 option for electricity generation.

10 A. MR. HALL: No, I wouldn't agree with that.

10:52

11 Q. Okay. And can you provide any context as to why you
12 would not agree with that statement?

13 A. MR. HALL: Because the statement relates to a
14 comparison between BESS and diesels.

15 Q. All right. So, thank you. I'd like to now move on to
16 the issue of sales normalization that's addressed in
17 Mr. Bell's evidence.

18 So on this issue, I once again take you to YEC's
19 rebuttal evidence, so that is Exhibit B-30. If you can
20 please turn to pdf page 4.

10:52

21 Now I'd like you to look at the third paragraph
22 under Section 3.2, in particular the last sentence of
23 that paragraph where YEC indicates that: (as read)

24 "Separate weather normalization analysis
25 for the separate communities, retail

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 sales by customer class, has not been
2 considered --" or, yeah, sorry, I
3 apologize -- "has not been considered a
4 worthwhile exercise."

5 Do you see that?

6 A. MR. MOLLARD: Yes.

7 Q. And just to confirm, has YEC ever completed weather
8 normalization for the separate communities?

9 A. MR. MOLLARD: No.

10 Q. So I put to you, then, if YEC has never done this
11 exercise, how does it know that it would not be
12 worthwhile?

13 A. MR. MOLLARD: Ed Mollard. I think there's a
14 couple of things to consider here. Keeping in mind
15 that for YEC distribution has been relatively smaller
16 communities, Dawson, Mayo, Faro, Johnson's Crossing, we
17 feel that we have pretty good visibility on the ground
18 with those communities. We have staff there regularly.
19 So we're in touch with what's going on in those
20 communities.

21 In our history, it's generally more factors on the
22 ground that tend to cause variability in retail sales
23 such as housing developments. You know, Dawson built a
24 hospital. That's a big load for that little community.
25 So those are the things that we focus on, what we know

10:53

10:54

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 is changing in the community.

2 If you look at our historical retail sales that we
3 sell to residential and commercial service customers,
4 the variability is generally quite low, a couple
5 of percent.

6 So while it may have been a bit of a strong
7 statement to say that it wouldn't be worthwhile, based
8 on the dollars involved, and the accuracy that we get
9 now, I don't believe that weather normalizing those
10 sales forecasts would provide us with that much better
11 accuracy.

12 Q. Okay. Thank you for that.

13 I guess you've mentioned that you have staff on
14 the ground there and are very familiar with the
15 communities that we've referred to. Do you know if
16 temperature data is available for each of those
17 communities such as a weather station?

18 A. MR. MOLLARD: I do not.

19 Q. So is this not something that YEC would have looked
20 into and considered whether or not this is a worthwhile
21 exercise, such as the availability of data?

22 A. MR. MOLLARD: No, Mr. Chair. I'd refer to my
23 previous statement. Based on the variability and those
24 customer classes and the relative percentage of sales
25 for us, we didn't think that was a worthwhile exercise.

10:55

10:55

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 Q. Would YEC be willing to confirm if there are, in fact,
2 weather stations in those communities?

3 A. MR. MOLLARD: We can undertake to check that.

4 Q. Thank you for that.

5 UNDERTAKING - TO CONFIRM IF THERE ARE
6 WEATHER STATIONS IN "THOSE" COMMUNITIES
7 (SEE TRANSCRIPT)

8 Q. MR. RUTHERFORD: Okay, and I guess subject to data
9 being available, do you agree that a simple linear
10 regression could be done by YEC by comparing monthly
11 use per customer to average monthly temperature or
12 heating degree days? Is that what this would entail?

13 A. MS. MILOJEVIC: Perhaps, Mr. Chair, I could just
14 add some context. The linear regression referred to
15 here is something that we do do for our wholesales
16 forecast, but I would just note that there are a number
17 of factors. Weather is one of them. In the
18 wholesales, it's number of accounts; for the smaller
19 communities, Mr. Epp forecasts it would -- the
20 individual customers.

21 But the linear regression analysis would have to
22 be done individually for each community given the
23 weather would be different in each community, whereas
24 for our wholesales forecast, we use the single weather
25 point of Whitehorse which -- and, of course, overall,

10:56

10:57

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 that represents about 70 percent of our sales.

2 Q. Thank you for that. That provides some context.

3 So I guess my question remains --

4 THE CHAIR: Excuse me, Mr. Rutherford. If we
5 might -- since we didn't take the scheduled morning
6 break because of the delay, nevertheless, it might be
7 useful to take a very brief break for people to attend
8 to their needs. So can we break for about five
9 minutes?

10 MR. RUTHERFORD: Yes, I'm happy to do that,
11 Mr. Chair. I have about two more questions in this
12 normalization area, so we can certainly deal with those
13 after. But I'm in your hands with that.

10:57

14 THE CHAIR: How long do you think you'll take
15 with those two questions?

16 MR. RUTHERFORD: Probably about two minutes.

17 THE CHAIR: Okay. Let's get you done with and
18 then we'll take a brief break.

19 MR. RUTHERFORD: Perfect, I appreciate that.

20 Q. So, Ms. Milojevic, you indicated that there would be a
21 separate analysis that would need to be completed for
22 weather normalization for each of those communities,
23 and I recognize that that would be based on the
24 different weather events in those communities.

10:58

25 Do you agree that it would be a simple process to

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 calculate that information if the weather data was
2 available for each of those communities?

3 A. MS. MILOJEVIC: I'm not sure that it would be
4 simple. I don't have the expertise in our
5 non-wholesales forecasting. I don't know, Mr. Epp, if
6 you have a view or Mr. Mollard.

7 A. MR. EPP: One thing that I would point out,
8 that even with a linear regression model you have to
9 make adjustments to the base cases, so there are
10 certain variables that you would have to adjust for in
11 each case. So in each of the seven communities you'd
12 have to figure out what are the adjustment factors
13 there.

14 The other thing I'd like to point out is weather
15 normalization does not give you what I'd say a more
16 reliable weather sales forecast. What it does is -- a
17 good weather normalization model will basically result
18 in a long enough period of testing. Half the time you
19 would be above forecast, half the time you would be
20 below forecast. But in any given year, if the weather
21 is extreme, you will be a long ways off your sales
22 forecast.

23 And, as we pointed out in our response to
24 YUB-YEC-1-16-D, the way we do it, for the last
25 ten years, four of the years have been one direction,

10:59

10:59

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 six of the years have been the other direction. So
2 we're pretty happy with our results the way we do it
3 currently.

4 Q. Thank you for that. You've indicated that there would
5 have to be some adjustments that would be done for each
6 of the communities. So would that regression analysis
7 be completed in Microsoft Excel, or how would that
8 typically be done by the utility, if it was done?

9 A. MR. MOLLARD: Excel.

10 Q. Perfect. Thank you. And how long do you think it
11 would take to do that simple regression analysis of the
12 matter that we've just discussed?

13 Perhaps you can give us an estimate in terms of
14 time for community if the data was readily available.

15 A. MR. MOLLARD: I wouldn't be comfortable giving
16 an estimate at this time, and nobody on this panel is a
17 modelling engineer, so we couldn't really reliably
18 estimate that right now.

19 Q. Okay. Is there any way that YEC could confirm that for
20 us in terms of how long they anticipate that would
21 take?

22 A. MR. MOLLARD: We'll check with our planning
23 group.

24 Q. Okay. And do I understand that would be an undertaking
25 if that information is available?

11:00

11:01

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 A. MR. MOLLARD: Yes.

2 Q. Perfect. Thank you.

3 UNDERTAKING - TO CHECK WITH THE YEC
4 PLANNING DEPARTMENT IF AN ESTIMATE CAN
5 BE GIVEN AS TO WHAT IT WOULD TAKE TO DO
6 THE SIMPLE REGRESSION ANALYSIS OF THE
7 MATTER DISCUSSED (SEE TRANSCRIPT)

8 MR. RUTHERFORD: Mr. Chair, those are all my
9 questions on this issue and certainly plan to pick up
10 on brushing costs and my final issue of herbicide use
11 after the break.

11:01

12 THE CHAIR: Thank you. We'll break for five
13 minutes, ten minutes.

14 MS. GRAHAM: Mr. Chair, can you confirm if
15 that's five minutes or ten minutes for the break?

16 THE CHAIR: Let's make it ten. We've got a
17 lot of people and maybe limited bathroom facilities.

18 MR. FORTIN: Or for the OCDs like me, we'll be
19 back at 11:15.

20 MS. GRAHAM: Ten minutes. Perfect. Thank you.
21 (ADJOURNMENT)

11:02

22 THE CHAIR: I think we're ready to proceed,
23 Mr. Rutherford.

24 MR. RUTHERFORD: Perfect. Thank you, sir.

25 Q. So I'd like to now move on to the issue of brushing

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 costs, which was also addressed in Mr. Bell's evidence.
2 If I can have you please flip to pdf page 5 of YEC's
3 rebuttal evidence. So that is Exhibit B-30.

4 And you'll note that the first paragraph under
5 Section 4.2 on that page, YEC suggests:

6 "There is no merit or assistance...in
7 Mr. Bell's focus on the one year
8 distribution brushing cost reduction in
9 2019."

10 Do you see that?

11:12

11 **A. MR. MOLLARD: Yes.**

12 Q. Thank you. And you'll see at the second paragraph
13 under Section 4.2 there's a reference to YEC's response
14 to an information request, namely CW-YEC-2-7.

15 So I'm going to ask you to then turn up that
16 response, which we found in the YEC consolidated
17 Round 2 IR responses, Exhibit B-27.

18 **A. MR. MOLLARD: We're there.**

19 Q. And that starts at pdf page 16. You'll see that
20 page directly after that, pdf page 17, YEC provides a
21 table of its total actual brushing costs for the years
22 2016 through 2019; correct?

11:13

23 **A. MR. MOLLARD: Sorry, can you repeat the**
24 **question, Mr. Rutherford?**

25 Q. If we're on to pdf page 17, I just want to confirm that

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 YEC provides a table there of its total actual brushing
2 costs for the years 2016 through 2019.

3 A. MR. MOLLARD: Just to be clear, that's brushing
4 costs for distribution only. It doesn't include
5 transmission.

6 Q. Perfect. Thank you. And as shown on that table,
7 distribution brushing was roughly 182,000 in 2016,
8 305,000 in 2017, and 198,000 in 2018; correct?

9 A. MR. MOLLARD: Correct.

10 Q. And based on that table, those costs dropped to roughly
11 42,000 in 2019?

11:14

12 A. MR. MOLLARD: Correct.

13 Q. And so do you agree that the year 2019 appears to be
14 different than the other years in that only 4 percent
15 of the brushing costs relate to distribution. On 2016,
16 2017, and 2018, 17 percent, 22 percent and 19 percent
17 respectively of brushing costs relate to distribution.
18 Is that a correct summary?

19 A. MR. MOLLARD: Yes. Mr. Chair, I would like to
20 qualify that yes because with the respect to
21 distribution brushing, the table in front of you in the
22 pdf, that reflects external brushing costs for
23 distribution. And the reason I point that out is
24 because we do have power linemen that are employees of
25 the company that are qualified to do brushing on

11:14

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 distribution lines. So it is -- we do on occasion use
2 our internal staff for brushing.

3 So the reason I raise that is this is not the
4 complete picture of all the brushing Yukon Energy does
5 on its distribution lines, it's only the external
6 brushing.

7 Q. Okay. Thank you for that. That's a helpful
8 clarification.

9 So with respect to these being external brushing
10 costs, do you agree that 2019 appears to be different
11 than those other years shown on the table?

11:15

12 A. MR. MOLLARD: Yes.

13 Q. So going back to the YEC rebuttal for a minute,
14 Exhibit B-30, still on pdf page 5 under Section 4.2, I
15 want to draw your attention to the mention of
16 allocating "...resources between distribution and
17 transmission projects is based on the priority in that
18 year and the availability of external brushing
19 contractors."

20 That reference is in the first paragraph there.
21 Do you see that?

11:16

22 A. MR. MOLLARD: Yes.

23 Q. Perfect. Thank you. So can YEC please confirm what
24 priorities cause the shift in brushing efforts for the
25 year 2019 that we have just discussed?

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 A. MR. MOLLARD: Yes. So that relates directly to
2 a program, a multiyear project we had to refurbish our
3 138-KV backbone transmission line that we did between
4 2017 and '19, subject to check. I don't know if I got
5 those years right. So this was a big project that
6 we've had before this Board to refurbish that line.
7 It's gotten to an age now that it needed work on a
8 priority basis. When we began the project work in that
9 year, in 2019, it became obvious that we had issues
10 with accesses to the line. So we needed to send our
11 brushing crews down on a priority basis to open up
12 those accesses to allow the contractors to get onto the
13 power line right-of-way and do the work that was
14 required for that project. So that was the priority we
15 were referring to in the rebuttal evidence.

11:17

16 Q. I appreciate that. Thank you, Mr. Mollard.

17 I do think -- just with respect to a comment that
18 was recently made with respect to these costs being
19 external brushing costs, I'm wondering if YEC would
20 provide an undertaking to get the internal brushing
21 costs. I think that would be relevant for this matter.

11:17

22 A. MR. MOLLARD: I don't dispute that. I don't
23 have that data. I can't -- I can't tell you my
24 community linemen whether they're doing brushing or
25 maintenance or customer connects. We don't track their

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 time at that level.

2 Q. So is there anything in terms of those employees'
3 responsibilities or information about, you know, what
4 portion of their time may be contributed to those types
5 of activities in a given year?

6 A. MR. MOLLARD: I can undertake to check with my
7 operations staff and see what data they might have
8 available on internal brushing completed by our crews.

9 Q. Okay. And if that information is available, sir, I
10 think it would be helpful to understand what those
11 costs may be allocated to. So if it's 10 percent of
12 employee time, what those costs may equate to. If
13 you're willing to do that, I'd like an undertaking with
14 respect to that as well.

15 A. MR. MOLLARD: I will provide it if I can.

16 MR. RUTHERFORD: I appreciate that. Thank you.

17 UNDERTAKING - TO CHECK WITH YEC

18 OPERATIONS STAFF AND SEE WHAT DATA THEY

19 MIGHT HAVE AVAILABLE ON INTERNAL

20 BRUSHING COMPLETED BY YEC CREWS AND

21 WHAT THOSE COSTS MAY BE ALLOCATED TO

22 Q. MR. RUTHERFORD: And with respect to that paragraph
23 that I read from the YEC rebuttal, there was the other
24 part that related to the availability of external
25 contractors. So can you please explain what changed to

11:18

11:18

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 limit the availability of external contractors in
2 relation to distribution brushing work?

3 A. MR. MOLLARD: So we only hire one crew per year.
4 So we'll do a tender for what we estimate our brushing
5 to be, and we will hire based on the results of that
6 tender, but it's one crew. So, as we said earlier,
7 they were initially designated to do some work in the
8 communities, but based on the change in priority with
9 the transmission line refurbishment we had to reassign
10 them to the transmission line project instead of the
11 planned distribution work.

11:19

12 And just on that point, I did talk to our
13 operations staff. So they knew when they were told
14 that they were going to lose their crew to the project
15 that they needed to send their staff in to make sure
16 that they got at any priority brushing issues in the
17 community that they were supposed to be working in that
18 year.

19 Q. So just to confirm, that one crew is contracted to do
20 all of the external brushing for YEC?

11:19

21 A. MR. MOLLARD: Sorry. Actually thanks for that
22 clarification. I should be clear. So what we do is
23 our operations team will designate transmission line
24 segments or brushing or community brushing that they
25 need to do. It is possible that different contractors

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 could win different segments. But in the year we were
2 talking about, in 2019, we only had the one crew. They
3 won all the segments that were tendered.

4 Q. Okay. And was there a specific reason why it was one
5 crew or was it just based on competitive --

6 A. Yeah, competitive bid lowest price.

7 Q. Okay. And just to confirm, that one crew, do we have,
8 I guess, an understanding of, you know, how large that
9 crew is or what capabilities they're able to do? I
10 understand that you may hire them to do certain things
11 and it could be shifted to transmission. Is there any
12 limits in terms of what they can or cannot accomplish
13 for YEC?

11:20

14 A. MR. MOLLARD: Typically, if they're qualified to
15 do transmission brushing, they can do distribution
16 brushing. Transmission brushing would be the higher
17 standard, with the more expensive mechanized equipment.
18 If they've got that, they can do distribution brushing.

19 Q. Thank you, Mr. Mollard. So when the priority shifted
20 and they were no longer going to be doing that
21 distribution brushing, why would YEC not contract an
22 additional crew to carry out that distribution work?

11:21

23 A. MR. MOLLARD: Well, it is specialized work.
24 It's not always -- and I'm not going to say
25 specifically in this case because I don't know, but

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 that is -- those are typically specialized contractors
2 that we bring in from outside. So to mobilize another
3 crew from outside to go to Dawson or wherever to do the
4 brushing would not be economically justified.

5 Particularly when we felt that we could -- we could hit
6 the priority areas with our own staff in that year.

7 Q. Okay. Thank you. And so do you know if YEC did in
8 fact consider the option of bringing in an additional
9 crew or was that a decision made just to simply not
10 look at that and deal with them internally?

11:22

11 A. MR. MOLLARD: I'm not -- I'm not aware of that.
12 The discussions I had with operations was they felt
13 that when they were advised that they were going to
14 lose their brushing crew, they assessed that they could
15 do the priority areas with internal staff.

16 Q. Okay. That's helpful. Thank you.

17 I think those are all my questions with respect to
18 brushing.

19 I'd like to now move on to the herbicide use by
20 YEC.

11:22

21 As I mentioned earlier, I did circulate reference
22 to a number of aids to questioning yesterday. You will
23 recall that some of those referred to documents related
24 to YEC 's 2017-2018 GRA. So first I'd like to ask you
25 to bring up YEC's 2017-2018 GRA application from the

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 YUB's website and turn to pdf page 75. And I'll just
2 ask you confirm once you are there.

3 **A. MR. MOLLARD: We are there.**

4 **Q.** Perfect. You'll see at pdf page 75 is the beginning of
5 Appendix 3.1 entitled "Yukon Energy Vegetation
6 Management Policy." So from there I'd ask that you
7 move forward to pdf page 77. And I would like to draw
8 your attention to the third paragraph shown under
9 Section 6.0.

10 So there, it states -- and I will quote this for
11 the benefit of anyone that's listening and doesn't have
12 it available before them. I'll quote that: (as read)

13 "If approved for use, the following
14 herbicide application methods will be
15 considered for use by YEC..."

16 And then:

17 "(Refer to Section 9.0 for further
18 commentary on herbicide use)."

19 And then there's a number of bullets. Those bullets
20 include cut surface, basal bark, backpack foliar,
21 mechanized foliar, injection techniques.

22 Do you see that?

23 **A. MR. MOLLARD: Yes.**

24 **Q.** Thank you. And I appreciate you bearing with me in
25 terms of proceeding through this. I think it's helpful

11:23

11:24

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 for anyone else that may be following along.

2 So now I'd like to move on to Section 9.0 that was
3 referred to. That section can be found at pdf page 79,
4 and I'll ask that you turn there. Actually, sorry, it
5 looks like it's pdf page 78 on my version. So
6 Section 9.0, herbicide use. And I'll just ask you to
7 confirm that you are there.

8 **A. MR. MOLLARD:** We're there.

9 **Q.** Perfect. Thank you.

10 So the following is provided thereunder, and again
11 I'll quote:

11:25

12 "Yukon Energy has not historically used
13 herbicides as a component of its
14 vegetation management plan. The ECI
15 transmission vegetation condition
16 assessment recommended that YEC consider
17 the use of herbicides for vegetation
18 management as a component of IVM to
19 maximize both cost benefits and program
20 effectiveness. As of the current
21 version of this policy, YEC is in the
22 process of studying the use of
23 herbicides for transmission vegetation
24 management in the Yukon."

11:25

25 Can YEC provide a brief update on the study that is

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 mentioned in that paragraph?

2 A. MR. MOLLARD: Yes. So we did do some test
3 plotting on, I believe, sections of the transmission
4 line here close to Whitehorse using various techniques.
5 Subject to check, I think that was probably three or
6 four years ago now.

7 Q. Okay. And what did that information, I guess, result
8 in, or what did YEC learn from that?

9 A. MR. MOLLARD: My recollection, again subject to
10 check, is that it wasn't conclusive.

11:26

11 If I could expand on that, where we got to with
12 herbicides was not related to the test plots that we
13 actually did. Local folks will remember, about the
14 time we were doing this test plotting, the White Pass
15 Company had put forward a proposal to use herbicides to
16 treat their -- the tracks that run from Whitehorse down
17 to Carcross. They got big pushback on that. They were
18 denied a permit to do that. So it became something of
19 a news item locally. And we determined very quickly
20 that a number of our stakeholders -- I can think of one
21 specific example where one of the First Nations
22 contacted us and told us "Do not ask to spray
23 herbicides on our land. We will not allow you to do
24 that." So we felt at that time that regardless of the
25 effectiveness of that approach, the cost and

11:27

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 uncertainty around being able to get permitted for
2 herbicide use made that an unwarranted or unfeasible --
3 infeasible solution.

4 Q. Thank you, Mr. Mollard. I think that helps me in terms
5 of some of my questions for you today.

6 So with respect to that, I'll ask that you bring
7 up Appendix A to Board Order 2018-10 from YEC 2017/2018
8 proceeding. That was circulated as well as an aid to
9 questioning.

10 This is the reasons for decision dated
11 December 27, 2018. And I'll just ask you to confirm
12 when you have that in front of you.

13 A. MR. MOLLARD: Sorry, Mr. Rutherford, can we get
14 that reference again?

15 Q. That is paragraph 150 at pdf page 35.

16 A. MR. MOLLARD: Okay, I have that.

17 Q. Perfect. Thank you. You'll see that the final
18 sentence of that paragraph indicates that: (as read)

19 "During the oral hearing, YEC had
20 confirmed that its 2017/2018 forecast
21 brushing costs only included mechanical
22 brushing techniques and that there was
23 not provision for any herbicide
24 application in the test years."

25 Do you see that?

11:27

11:28

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 A. MR. MOLLARD: Yes.

2 Q. Thank you for that. And now I'll ask that you move to
3 paragraph 543. So that can be found on pdf page 106.
4 I'll just ask that you confirm once you're there as
5 well.

6 A. MR. MOLLARD: Okay, we're there.

7 Q. Perfect. Thank you for that. So you'll see here that
8 the Board indicates that YEC had provided a response to
9 an IR that indicated that there were certain conditions
10 under which it would consider a herbicide application
11 program. And you can see that the letter A under that
12 paragraph provides that, and I quote: (as read)

11:29

13 "The program is considered to be safe by
14 regulators."

15 And letter D provides that, and I quote: (as read)

16 "The program has stakeholder
17 acceptance."

18 Do you see that?

19 A. MR. MOLLARD: Yes.

20 Q. Thank you. Now moving to the next paragraph which is
21 paragraph 544 -- that would be onto the next page, so
22 pdf page 107 -- you will see that the Board states the
23 following. And, again, I apologize if the quotes are
24 unnecessary, but I do want anyone who is listening to
25 be able to understand where we're going.

11:29

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 So, again, I quote from paragraph 544: (as read)
2 "Despite past studies demonstrating that
3 herbicide application could be very
4 effective and cost efficient if
5 stakeholder acceptance is not
6 achievable, YEC stated it would continue
7 with traditional mechanical methods of
8 vegetation management."

9 And just to confirm, sir, to your understanding, did the
10 Board get that right? Was it YEC's commitment to only
11 use mechanical methods of vegetation management if it
12 could not get stakeholder acceptance?

11:30

13 **A. MR. MOLLARD:** **That's correct.**

14 **Q.** Thank you for that. I appreciate that.

15 All right. And before we move on, can YEC confirm
16 whether it ended up using any herbicides during the
17 last period?

18 **A. MR. MOLLARD:** **Sorry, by period, do you mean the**
19 **last fiscal year or --**

20 **Q.** Last test period with respect to what this decision
21 relates to?

11:31

22 **A. MR. MOLLARD:** **We did not.**

23 **Q.** Thank you for that.

24 So I'll also ask that you specifically confirm,
25 and I recognize that you have for the entire test

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 period confirmed that, but I ask that you confirm
2 specifically whether any herbicides were used within
3 the City of Whitehorse boundaries during that last test
4 period?

5 **A. MR. MOLLARD:** Mr. Rutherford, just to be clear,
6 the Whitehorse is an ATCO franchise area. We don't
7 technically have assets other than our generating plant
8 here. So can you clarify your question?

9 **Q.** Yes. So to confirm, I guess, is there any transmission
10 lines that run through the City of Whitehorse? Can you
11 confirm that for me?

12 **A. MR. MOLLARD:** Yeah. So with respect to the
13 transmission line that passes through the City, I can
14 confirm we did not use herbicides on that line.

15 **Q.** Perfect. I appreciate you confirming that.
16 Now I'd ask that you confirm, or ask if you can
17 confirm if YEC plans to use herbicides in this next
18 test period with respect to what we're dealing with?

19 **A. MR. MOLLARD:** We do not.

20 **Q.** And just to confirm for the clarity of our client,
21 that's both within the City of Whitehorse or outside
22 the City of Whitehorse, there will be no herbicide use?

23 **A. MR. MOLLARD:** That is correct.

24 **Q.** Thank you for that.

25 And I ask that with respect to the Appendix A that

11:31

11:32

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rutherford

1 we were looking at, paragraph 555 -- sorry, if I could
2 ask you to turn to paragraph 551 of the Appendix A. So
3 that looks like it's on pdf page 108?

4 A. MR. MOLLARD: We're there.

5 Q. I just want to confirm, do you see that here in
6 paragraph 551, the City of Whitehorse had requested
7 that the vegetation management plan not include the use
8 of herbicides within the City of Whitehorse boundaries
9 during that last test period?

10 A. MR. MOLLARD: Yes.

11:33

11 Q. Thank you for that.

12 And I just want to confirm for my understanding
13 and for the Board's record, does YEC consider the City
14 a stakeholder?

15 A. MR. MOLLARD: Yes.

16 Q. And so I think you've already answered this question,
17 but to confirm, does YEC make the same commitment for
18 this test period, that unless the City somehow changes
19 its position on the use of herbicides, YEC will not use
20 them during this test period within its boundaries?

11:33

21 A. MR. MOLLARD: We have no intention of applying
22 or applying to use herbicides anywhere in our service
23 area.

24 Q. Thank you, Mr. Mollard. I think that's been well
25 established here, and I appreciate your indulgence on

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 the point.

2 MR. RUTHERFORD: Those are all my questions with
3 respect to this panel, and I appreciate your time and
4 consideration of my questions. Thank you.

5 THE CHAIR: Thank you, Mr. Rutherford.

6 I think next on the sequence of cross-examination
7 is Mr. Yee.

8 MR. YEE: Yes. Just getting everything
9 switched back on here so I can do that.

10 Hold on just a second. I just --

11:34

11 MS. GRAHAM: My apologies for interrupting. I
12 think it would be the Utilities Consumers' Group, just
13 going alphabetically.

14 MR. YEE: I was going to question that,
15 but...

16 THE CHAIR: That's fine. We went with the
17 list that was presented to us, and now that we've
18 got --

19 MR. RONDEAU: Roger here. It looks like Mr. Yee
20 is ready to go, so I'll await for that.

11:35

21 THE CHAIR: Yes. We've got him already on
22 deck, so proceed, please, Mr. Yee. And thank you for
23 your patience, Mr. Rondeau.

24 MR. YEE CROSS-EXAMINES THE PANEL:

25 MR. YEE: I guess just to introduce this,

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 while there were many things in the GRA that I found
2 problematic or in the responses to the IRs, I will be
3 enquiring primarily about the rental diesels which is
4 probably what I would expect since that's what I've
5 been asking about for the most part.

6 I'll start out with a few queries on YEC's
7 rebuttal to my evidence. I believe this is
8 Exhibit B-30. I just got to look at those lists now.
9 And we'll also in the beginning in -- or also will
10 include some of my Round 2 motion for disclosure
11 responses as YEC has combined those in the rebuttal of
12 evidence.

11:36

13 So, yeah, if we have that 5.2 YEC rebuttal up.
14 It's page 5 of I believe Exhibit B-30; is that correct?
15 **A. MS. MILOJEVIC:** I believe so, Mr. Yee. We have it
16 up here.

17 **Q.** Okay. I guess looking at YEC's response to my
18 evidence, it appears that YEC did contradict some of
19 the conclusions I reached in my evidence submission,
20 but they did so without actually addressing the
21 evidence itself; therefore, the evidence, for the most
22 part, itself remains uncontested.

11:37

23 In this hearing, I am asking YEC to answer
24 specific questions on the evidence provided and also
25 with reference to responses to IRs and give them

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 another chance to contest the evidence.

2 So we will start out with this Section 5.1 and
3 5.2. I'd like to start with 5.2 of YEC's rebuttal, the
4 second bullet point, the sentence which reads as
5 follows: (as read)

6 "Further, YEC did not violate YESAA, nor
7 did it disregard the regulator in
8 installing rental diesels in the Faro
9 facility."

10 This is in response to my evidence and Round 2 motion
11 for further disclosure as mentioned above in 5.1.

11:37

12 I'd like to deal first with the disregard of the
13 regulator and then we will get to the violations of
14 YESAA.

15 If we can now go to -- actually, this is going to
16 be my aid to questioning No. 2 -- I'm not sure where
17 that's found -- or we can go to NY-YEC-1-8(a) Revised.
18 My aid to questioning should be the full correspondence
19 between the YEC and the regulator concerning the
20 installation of the Faro generators.

11:38

21 I put a chronologically ordered version in my aid
22 to questioning because it was provided to me by YEC in
23 actually three different files in a pretty random order
24 which made it hard to follow.

25 Is that aid to questioning available to everyone?

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 A. MS. MILOJEVIC: We have it here, yes. I would
2 just want to confirm, Mr. Chair, that the Board has it
3 available to them or if we should be referring to the
4 attachment?

5 THE CHAIR: If you could just bear with us a
6 moment, we're just trying to ensure we've got those.

7 MR. LANDRY: And if I can, Mr. Chair, I'm just
8 in the process of trying to track them down, too.

9 So just to confirm, we're going to be referring
10 Mr. Yee, to the aids to cross-examination or the
11 revised 1-8?

12 MR. YEE: The aid to cross-examination, I
13 think, because it's far more readable just because it's
14 put in order.

15 MS. SABO: It's Ms. Sabo here on behalf of
16 Board counsel. I just sent Mr. Yee's cross-examination
17 aids to the Board again and to Mr. Landry. So
18 hopefully if you access it, it's there.

19 MR. YEE: Okay, are we ready? Does everyone
20 have that? Are we ready to proceed?

21 MR. LANDRY: I have it, sir.

22 THE CHAIR: We're just waiting for it to get
23 distributed to the Board members.

24 MR. YEE: Okay.

25 THE CHAIR: Okay. We've got it now.

11:40

11:41

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 Q. MR. YEE: Okay. I'm trying to -- I'm
2 wondering, my question is going to be where in this
3 correspondence does the regulator allow for
4 installation of more than 10.6 megawatts at the Faro
5 facility? I think it might be helpful to take a quick
6 glance at each email, they're pretty quick, as they
7 will be referenced later to see the progression of
8 YEC's approach to getting legal authority to install
9 these generators.

10 Or, I guess, if YEC has already something in these
11 documents where they will be able to show the regulator
12 gave them authority to install more than
13 10.6 megawatts, that would be helpful.

11:42

14 A. MS. MILOJEVIC: I would just like to clarify,
15 Mr. Chair, that the question is asking whether the
16 regulator approved the installation of the additional
17 generators, and when we're talking about the regulator
18 in this context, their approval would not be of
19 installation of generators. They would provide us with
20 our air emissions permit, which authorizes our ability
21 to operate based on emissions coming out of units. So
22 we would not actually look for the regulator to grant
23 us any sort of authorization to install generators.
24 Just to provide that clarification, if helpful.

11:43

25 Q. Okay. I guess we will start with the last email in the

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 chain, which I believe is page 15 of the aid to
2 cross-examination, and then we'll go through the whole
3 sequence to verify the meaning, the interpretation of
4 this last email.

5 Does everyone have that one?

6 A. MS. MILOJEVIC: We're at pdf page 15, yes.

7 Q. Yes. The email from Elizabeth Barker to Travis Ritchie
8 on October 13th, 2020. I will go ahead and read that
9 out: (as read)

10 "Good Afternoon Travis,

11:43

11 We have determined that the information
12 provided in YEC's previous Faro station
13 YESAA assessments (2008 and 2011) is
14 still valid for the proposed 2020
15 amendment of reinstalling capacity of
16 approximately 5.65 megawatts at the Faro
17 generating station. YEC has
18 authorization to reinstall previously
19 relocated/de-rated capacity of up to
20 10.6 megawatts, cumulative station
21 capacity, without proceeding through the
22 YESAA assessment process. As discussed,
23 any additional capacity increase that
24 will bring the Faro station's cumulative
25 capacity above 10.6 megawatts will need

11:44

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 to proceed through YESAA assessment
2 process before being considered."

3 Where -- I note that the regulator uses the word
4 "reinstall" and also says that the Faro station's
5 cumulative capacity cannot go above 10.6 megawatts.
6 That seems pretty clear that the authorization is to
7 reinstall that amount and there is no authorization to
8 install any more than 10.6 megawatts cumulative station
9 capacity.

10 A. MS. MILOJEVIC: Again, the air emissions permit
11 regulates how much we can output at the facility. And
12 so in the email here, the cumulative capacity above
13 10.6 megawatts is referring to our ability to operate
14 above 10.6 megawatts.

11:45

15 But, for example, at a site you could install
16 additional spare units and, in compliance with the
17 overall air emissions permit, have additional capacity
18 available beyond the permitted capacity. But the
19 authorization specifically through the air emissions
20 permit is around how much you can operate
21 simultaneously is an important distinction to make.

11:45

22 Q. So what you're trying to say is when the regulator says
23 "reinstall," the regulator actually means operate? Is
24 that what you're trying to say here?

25 A. MS. MILOJEVIC: I'm saying that the regulator

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 issues us an air emissions permit, and that air
2 emissions permit is based on the cumulative output at
3 the site, not the total installed capacity.

4 Q. So you're basically -- exactly what I'm saying. You
5 are -- where the regulator writes "reinstall," you are
6 taking that to mean operate, even though it's specified
7 here reinstall.

8 Do you have any documentation showing that you can
9 install any amount, despite the regulator saying
10 reinstall only up to 10.6?

11:46

11 A. MS. MILOJEVIC: I think it's important to
12 differentiate between an email and communications with
13 the regulator that we have on a regular basis, emails,
14 phone calls, et cetera, and the actual permits that we
15 use from the regulator to operate. We do not require a
16 permit to install spare units at a site, for example.
17 The permit, again, is our air emissions permit that we
18 comply with.

19 Q. Okay. I believe YESAA does -- you do require YESAA and
20 a permit to install, and we'll go through that one
21 later, but we'll stay with the regulator for now.

11:47

22 So we will say that you are claiming that
23 reinstall -- that the regulator said "reinstall"
24 doesn't really matter because it's really operate
25 that's meant there. I find that questionable, but

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 we'll go through the whole email sequence now, I guess,
2 since -- to see the actual intent of the regulator at
3 this point.

4 So, I guess if we can go to -- I guess we'll do
5 the whole thing. Some of them have less importance
6 than others.

7 We'll start at page 4, which is the email from
8 Travis Ritchie to Elizabeth Barker dated August 27th,
9 2020. This is the first email that I was provided in
10 my request for all documentation. This one is not
11 terribly important. It's just Travis requesting a
12 phone call sometime to discuss the project.

11:48

13 The next email is more significant, on page 5, and
14 we'll go ahead and read that one out. This is from
15 September 10th of 2020. On a side note, I'd like to
16 say that I noticed in Whitehorse's questioning that YEC
17 said something about doing assessments and all of that
18 was part of the process of evaluating a project, and
19 that doesn't seem to be done here.

20 But, anyway, to continue with this: (as read)

11:48

21 "Hello Elizabeth,

22 Further to our conversation on the phone
23 last week, please find our application
24 and supporting documentation to amend
25 Air Emissions Permit (No. 60-010) to

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 approve re-installation of previously
2 relocated generating capacity at the
3 Faro Diesel Generating Station. As I
4 mentioned on the phone, Yukon Energy is
5 also requesting your consideration to
6 connect 3 additional 1.8 megawatts
7 generators to the grid at this site for
8 short-term emergency term back-up only
9 purposes, similar to the emergency
10 back-up provisions at the Whitehorse
11 Rapids Generating Station that are
12 currently contained in the air emissions
13 permit (Part 9)."

11:49

14 So at this point, September 10th, a little late in the
15 process, in my opinion, YEC is applying for the air
16 emissions permit amendment for the rental diesels in
17 Faro while construction of them has already begun.

18 The next page, pdf page 6: (as read)

19 "Please find...supporting documentation
20 regarding the..."

11:50

21 "Pursuant to permit Part 2, Item 5, we
22 are seeking approval to reinstall site
23 capacity that was relocated to other
24 generating stations in recent years, as
25 well derated site capacity with existing

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 units. Additionally we are seeking
2 approval for temporary connection of
3 additional site capacity for emergency
4 only back-up purposes."

5 And the first page of that application is next, on
6 pdf 7. And that under products and activities is the
7 important line there. It says: (as read)

8 "Reinstall relocated/derated capacity
9 (approximately 8 -- 5.65 megawatts) and
10 add 3 times 1.8 megawatts emergency-only
11 units."

11:50

12 Okay. So at this point, yes, YEC is attempting to get
13 approval to reinstall three generators and get the air
14 permit to reflect three additional generators, for a
15 total of six that would be operable.

16 THE CHAIR: Excuse me, Mr. Yee.

17 MR. YEE: Yes.

18 THE CHAIR: In the interest of time, if you
19 could please focus on asking questions of the witness.

20 MR. YEE: Okay.

11:51

21 THE CHAIR: If you have things that you want
22 to elaborate on, save that for your opportunity when
23 making final submissions.

24 MR. YEE: Okay.

25 THE CHAIR: The practice is to put the

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 questions to the witness and save the argument or
2 submissions until later. Thank you.

3 MR. YEE: Okay.

4 Q. The first application that I was provided with to the
5 regulator for the air emissions permit, what was the
6 result of that September 10th amendment application?

7 A. MS. MILOJEVIC: Subject to check, I believe we
8 heard from the regulator that in order to install all
9 the capacity and operate all the capacity that we were
10 looking to at the Faro site, that we would need to do a 11:52
11 YESAA assessment to update the permits at capacity.
12 And I think that's talked about quite a bit in the
13 evidence, where we're looking to increase it from
14 10.6 megawatts to 15.5 megawatts. And so their advice
15 to us was to simply amend the request to the
16 10.6 megawatt operating total.

17 Q. I'd just like to point out that you just said that in
18 order to -- the regulator said that in order to install
19 and operate greater than 10.6 megawatts you would have
20 to go through a YESAA; is that correct? 11:53

21 A. MS. MILOJEVIC: In order to operate above
22 10.6 megawatts, we would need to go through YESAA, and
23 which is actually for the purpose of amending our air
24 emissions permit. So, again, from the regulator's
25 perspective, for them to issue us an air emissions

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 permit that went up above the 10.6 megawatts, they
2 determined that they would need us to conduct a YESAA
3 assessment for them to issue that amendment.

4 Q. So what you're saying here is that YESAA and the air
5 emissions permit are both based on operating capacity
6 and not production capacity? Meaning you can install
7 whatever you want without going through a YESAA, you
8 only need the YESAA if you plan to operate that?

9 A. MS. MILOJEVIC: Again, so in the terms of YESAA,
10 we refer to production capacity. It's the total
11 capacity we're authorized to operate under our air
12 emissions permit.

11:54

13 So they're a bit linked in that the YESAA
14 assessment is done and then the air emissions permit
15 and the findings of what -- the total amount of
16 megawatts you can operate at one time are based on that
17 findings of that -- the conclusion of the YESAA
18 assessment in that decision document.

19 So the air emissions permit and YESAA don't
20 differentiate between operating capacity. You have an
21 authorized total production capacity. And, as I've
22 stated earlier, you can have additional capacity on the
23 site. Our air emissions permit is not linked to
24 installing that capacity, but, again, we would be
25 limited by our permit in the total operating capacity

11:54

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 that we could have running at one time.

2 Q. Okay. I have two questions about that. So this would
3 mean -- what you're saying is, according -- your
4 interpretation of regulation says that you could
5 install an unlimited -- anyone really could install an
6 unlimited number of generators so long as you promise
7 not to use them, basically? You can install whatever
8 you want, but you need the YESAA to actually use them;
9 is that correct?

10 A. MS. MILOJEVIC: So I would like to point out as
11 we, I believe, pointed out in our rebuttal there is an
12 exception on the operating point around section, I
13 believe, in Section 49 of YESAA.

11:55

14 So to answer your question, Mr. Yee, yes, we can
15 install capacity, and we would be limited by our permit
16 around the amount we could operate. But, again,
17 Section 49 of YESAA does provide an exception under
18 emergency circumstances we could conduct an activity
19 that would typically require an assessment. So, for
20 example, operate above that capacity.

11:55

21 Q. I will deal more with the Section 49 response later.
22 Just to point out at the moment, the Section 49 says
23 "in response to an emergency," so you wouldn't have to
24 get a YESAA. That is not necessarily relevant to not
25 getting a YESAA before installing the things now.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 I want to go back to production capacity and
2 operational capacity.

3 You're saying that YESAA refers to operational
4 capacity, limiting what you can operate.

5 In regards to this, I would like to go to my Aids
6 to Questioning Item 1, which I guess is page 2 on the
7 pdf there.

8 Are you familiar with this -- this is the YESAB
9 assessment to increase capacity of the diesel
10 generators in Faro. I assume you are familiar with
11 your own YESAB proposal?

12 A. MS. MILOJEVIC: Yes, thank you.

13 Q. Okay. I'd like to point out that YESAB has issued an
14 information request to YEC. And about halfway through
15 Question 1, I will read, it says: (as read)

16 "As noted in assessable activities,
17 exceptions and executive committee
18 projects regulations under YESAA
19 relating to the project both under --
20 under both Schedule 1, Part 4,
21 Item 2..."

22 Blah, blah, blah. (As read)

23 "The assessment of an expansion of a
24 hydroelectric generating station or
25 fossil fuel-fired generating station is

11:56

11:57

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 based on the production capacity of said
2 generating station and makes no mention
3 of operational capacity."

4 So where in YESAA does -- is operational capacity or
5 operating capacity a valid measure given that YESAB has
6 indicated to you that that is, in fact, not true?

7 A. MS. MILOJEVIC: So I don't believe this is an
8 indication that that's not true. Again, I think maybe
9 it's helpful. I believe we've provided the definition
10 in the revised response to the enquiry NY-YEC-2-3. So
11 I don't -- let's see if I have the exhibit number here
12 for the revised.

11:58

13 So I believe the exhibit number is B-32, and on
14 pdf page 17 at the bottom and 18 at the top, again in
15 Exhibit B-32: (as read)

16 "For the purposes of the assessable
17 activities, exceptions and executive
18 committee project regulations or the
19 YESAA regulations, production capacity
20 is the proponent's permitted operational
21 production capacity as opposed to the
22 maximum capacity of all onsite equipment
23 including spare units maintained solely
24 for backup purposes."

11:59

25 So, again, this is that production capacity I was

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 referred to that's limited by our air emissions permit
2 and that is not separating the operational capacity;
3 it's from a production capacity.

4 Again, we list -- in our YESAA application, we list
5 the full available capacity at the site.

6 Q. This is interesting because you're saying production
7 capacity is the proponent's permitted operational
8 production capacity whereas the YESAB board says
9 operational capacity has nothing to do with it, makes
10 no mention of operational capacity.

11:59

11 So you're defining production capacity which is
12 typically in any industry defined as the maximum
13 possible potential output. You're defining that
14 instead as how you would -- how much output you would
15 choose; is that correct? You're redefining the common
16 usage of the term "production capacity"?

17 A. MS. MILOJEVIC: No, I think it's important here to
18 think about the fact that a YESAB assessment is done to
19 look at any potential environmental and socioeconomic
20 impacts. And in this case of a project like this, it
21 would be of operating emitting equipment out at a
22 certain output and what those impacts are. If a
23 decision document states that the impacts can be
24 mitigated or are not significantly adverse, then that's
25 a decision document that, then, the air emissions

12:00

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 permit which regulates how much we can output at one
2 time is issued.

3 So, again, the amount installed on site is not
4 what we're referring to when we talk about the YESAB
5 production capacity.

6 I understand there might be confusion with -- I'm
7 not sure if other folks in other jurisdictions are
8 referring to different capacity terminology here, but,
9 from our perspective, production capacity is how much
10 we're permitted to output.

12:01

11 We can -- even in our YESAA proposal, it shows
12 that we have more than that capacity installed at the
13 site when you looked at -- when we looked at, you know,
14 total nameplate capacity, for example.

15 Q. Yes, that last part is true, but I guess my question
16 is, what is your interpretation of YESAB in this case
17 saying that YESAA, in fact, makes no mention of
18 operational capacity?

19 You keep saying that production capacity is
20 production operating capacity or something. What do
21 you make of the fact that YESAB has issued you an
22 information request stating that YESAA makes no mention
23 of operational capacity?

12:01

24 A. MS. MILOJEVIC: I think as I said, we believe that
25 we are authorized via the production capacity

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 referenced in the act and that we've been consistent in
2 how we are requesting an increase to that production
3 capacity capability.

4 Q. Okay. And as I'd like to point out again, you're
5 saying the production capacity in the act is what
6 you're basing it on. You've also said you're basing it
7 on something called production -- operational
8 production capacity or something like that. Again,
9 where does operational appear in YESAA?

10 A. MS. MILOJEVIC: To my knowledge, operational does
11 not appear in YESAA. I think we've been referring to
12 production capacity.

13 Q. Okay. And you define production capacity as permitted
14 operational production capacity; correct?

15 A. MS. MILOJEVIC: The amount of capacity we are
16 permitted to operate at the site, yes.

17 Q. Okay. I guess I'll move on. There seems to be quite a
18 difference in how YEC defines production capacity as to
19 how YESAB interprets YESAA as production capacity.

20 THE CHAIR: Excuse me, Mr. Yee. If you're
21 going to go on to another line of questioning, I just
22 note that we are now at the noon hour.

23 MR. YEE: Okay.

24 THE CHAIR: So try to keep on schedule, we'll
25 adjourn for the lunch break, and resume at 2:00 Yukon

12:02

12:03

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 time.

2 MR. YEE: Sounds good.

3 THE CHAIR: Thank you.

4 MR. YEE: And, actually, I will be
5 continuing with this permission of the regulator to
6 install and then going on to YESAA. But I'm fine with
7 the lunch break for now.

8 THE CHAIR: Mr. Landry, you've got your hand
9 up.

10 MR. LANDRY: I must say this is kind of a cool
11 different thing to do, put your hand up by way of
12 electronic but.

13 Mr. Chair, I just want to make a point, because
14 Mr. Yee will go back I'm sure to look at his notes. As
15 you pointed out earlier, there's an awful lot of
16 argument that before starts every question. I mean,
17 obviously, as I'm sure you're aware, Mr. Chair, we'll
18 have -- we'll provide our position on, I guess, what
19 Mr. Yee's position is on the definition of production
20 capacity in our legal argument. But I would ask that,
21 as much as possible, and I do understand, and you know
22 what I mean by this, sir, that Mr. Yee probably has not
23 done this this often, but some of the discussion at the
24 beginning of the question really does confuse the
25 transcript.

12:04

12:04

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 So I would ask, similar to you, that Mr. Yee
2 confine his to questions as opposed to his view of
3 various items that are on the record.

4 THE CHAIR: Yes, that was the point, Mr. Yee,
5 that I was trying to make earlier. It makes things far
6 more clear and efficient if you restrict your
7 presentation -- or your questioning of the witnesses
8 zero in on what you want to ask rather than
9 embellishing with a lot of preamble and commentary.

10 Likewise, it's unnecessary for you to read at
11 length from a document that is already an exhibit. If
12 there's something that you want the witness to zero in
13 on and comment on, that's, again, it's more efficient
14 rather than reading from a longer paragraph that may
15 contain the specific point that you want to identify
16 and have commented on.

12:05

17 So if those comments might help you to prepare and
18 focus your cross-examination following the lunch break,
19 that would be to everyone's benefit.

20 Ms. Lemke, you've got a --

12:06

21 Mr. Rondeau?

22 MR. RONDEAU: I'd just like to ask Deana if we
23 stay on line on the Zoom or if we have to go off and
24 then book in again?

25 THE CHAIR: The answer is, log off and then

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 reconnect using the same Zoom link.

2 MR. RONDEAU: That's what I thought. Okay.

3 THE CHAIR: Any other questions? Okay.

4 Thank you, everyone. We will see you in two hours.

5 (PROCEEDINGS ADJOURNED AT 12:06 P.M. PST)

6

7 PROCEEDINGS ADJOURNED TO 2:00 P.M. PST

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A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 Volume 1

2 September 27, 2021

3 P.M. Session

4

5 (PROCEEDINGS RESUMED AT 2:02 P.M. PST)

6

7 **A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP**

8 **(For Yukon Energy Corporation), previously affirmed**

9 THE CHAIR: Welcome back. Is everybody ready
10 to go?

14:02

11 MR. LANDRY: We're ready to go, Mr. Chair.

12 Thank you.

13 THE CHAIR: Okay. Mr. Yee, are you ready to
14 pick up where you left off? Mr. Yee? You're on mute.

15 Deana, do you have a phone number for him?

16 Oh, okay. You're with us, Mr. Yee.

17 MR. YEE: I'm back on. Okay. I guess,
18 begin now?

19 THE CHAIR: Yes. If you're ready to go, you
20 can pick up where you left off.

14:03

21 MR. YEE: Yeah, sorry about trying to put in
22 too much context and too many things before. I am, as
23 everyone is aware, rather new to this and have tried to
24 condense things down to question.

25

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 **MR. YEE CROSS-EXAMINES THE PANEL:**

2 Q. So back to the correspondence. They're mostly yes or
3 no questions. Was YEC's first application to the
4 regulator for reinstallation of capacity and usage of
5 additional generators as emergency backups approved or
6 rejected?

7 A. MS. MILOJEVIC: ...originally submitted an
8 application I believe on September 10th, that the
9 regulator got back to us and advised that we would need
10 a YESAA assessment to approve an amended air emissions
11 permit up above the 10.6 megawatts. So we re-submitted
12 an application referencing the 10.6 megawatts, subject
13 to check here, I believe it was September 24th, 2020.

14:04

14 Q. Sorry, my connection cut out at the beginning of that
15 response so I missed all of that. I just had a blank
16 screen and silence. Sorry, can you say that again?

17 A. MS. MILOJEVIC: Sure. So the original application
18 that Mr. Ritchie submitted on September 10th, the
19 regulator responded and advised that we would need a
20 YESAA assessment to amend our air emissions permit to
21 be above 10.6 megawatts. And so I believe a little bit
22 later in September of 2020 we submitted a separate
23 application to reinstate the permit at the
24 10.6 megawatts, recognizing that we would have to
25 follow up with a YESAA assessment to amend our permit

14:04

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 to go beyond 10.6 megawatts.

2 Q. Okay. Was there any authorization or approval from the
3 regulator for the additional four generators of the
4 seven generators that were installed?

5 A. MS. MILOJEVIC: No. As I stated earlier, I
6 believe the regulator provides us with an air emissions
7 permit, which does not regulate what the total site
8 capacity, what we can install on the site. It
9 regulates how much we can output at one time.

10 Q. Okay. Do you interpret the regulator's approval to
11 reinstall up to 10.6 megawatts of total station
12 capacity as authorization to install seven generators?

13 A. MS. MILOJEVIC: Again, our understanding of the
14 regulator's authority here is through the air emissions
15 permit, which, again, they did not approve an increase
16 to our air emissions permit at the time, as we have to
17 go through YESAB, but that is a separate issue from us
18 being able to install the seven generators that we put
19 in the Faro site.

20 THE CHAIR: Mr. Yee, just to be clear, are you
21 done with this line of questioning, because I think
22 this witness has answered --

23 MR. YEE: Right. Yes, I am.

24 THE CHAIR: -- several times the same answer.

25 MR. YEE: Right.

14:05

14:06

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 THE CHAIR: Okay. Please move on to your next
2 question.

3 MR. YEE: That's what I'm doing.

4 Q. YESAA requires an assessment before undertaking a
5 project. Was there any socioeconomic assessment done
6 before undertaking the installation of the seven
7 generators?

8 A. MS. MILOJEVIC: My understanding is YESAB has a
9 list of assessable activities in the regulation, but a
10 YESAA assessment is required when an activity passes a
11 number of tests. One of those tests is that it's
12 listed, but the installation of the generators, so the
13 installation of the seven units at Faro, did not
14 require a YESAA assessment before locating the units at
15 the site.

14:06

16 Q. Okay. That wasn't exactly my question. As I say,
17 YESAA requires an assessment before undertaking a
18 project. Was this project undertaken before getting a
19 YESAA approval?

20 A. MS. MILOJEVIC: Just to be clear, though, this
21 project did not require a YESAA assessment to take
22 place before it was undertaken. The YESAA assessment
23 needs to take place before our air emissions permit can
24 be amended to allow us to operate above 10.6 megawatts
25 capacity.

14:07

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 As I mentioned earlier, there would be an
2 exception in that case, in an emergency situation, but
3 YESAA does not require you have done an assessment
4 before we undertook this project.

5 Q. Okay. Does YESAA make any specific mention of
6 operational capacity?

7 A. MS. MILOJEVIC: Not to my knowledge, no.

8 Q. Okay. For the current YESAB assessment, YESAB has
9 submitted an information request to YEC concerning the
10 difference between operational capacity and production
11 capacity. What will YEC's reply be to that information
12 request?

14:08

13 A. MS. MILOJEVIC: We haven't responded to YESAB to
14 date formally on the record, but I would believe our
15 response would be in line with the quotation I had
16 referenced this morning from our response to NY-YEC-23,
17 that the production capacity is limited by regulation
18 through our air emissions permit.

19 Q. How do you define production capacity?

20 A. MS. MILOJEVIC: Again, our production capacity is
21 what we can output by a regulation of our air emissions
22 permit.

14:08

23 Q. So that's basically operating capacity. Is this a
24 commonly accepted definition of production capacity?

25 A. MS. MILOJEVIC: I'm not sure whether or not it's

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 commonly accepted.

2 Q. Okay. Is there any reference to operating capacity in
3 any correspondence from the regulator?

4 A. MS. MILOJEVIC: There's quite a number of pages of
5 correspondence here. I wouldn't want to say whether or
6 not there's a reference to that in there. Again, I
7 just -- from a high level here our emissions permit
8 says how many megawatts we can operate. We refer to
9 that as production capacity. That's, I believe, the
10 term that's used in YESAA. Sometimes here we might
11 talk about operating or production. We know that we
12 have an installed capacity at the site greater than our
13 production capacity allowance, which we've
14 acknowledged.

14:09

15 Q. Okay. I think this may have been covered earlier.
16 Yeah. According to Schedule 1, is modification of a
17 fossil fuel electrical generation facility an
18 assessable activity under YESAA?

19 A. MS. MILOJEVIC: Sorry, can you clarify the
20 Schedule 1 you're referring to?

14:10

21 Q. It was what the regulator replied to in rejecting the
22 first application. It's printed there. Let's see
23 here.

24 Yes, Schedule 1, assessable activities exceptions
25 and executive committee projects and regulations.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 Under Part 4, energy and telecommunications. Item 2,
2 YESAA says: (as read)

3 "Construction, operation, modification,
4 decommissioning, or abandonment of or
5 other activity in relation to:"

6 And part (b) is a fossil fuel fired electrical
7 generating station.

8 So I'm asking, basically, yeah, are you aware that
9 modification of a fossil fuel electrical generation
10 facility is an assessable activity under YESAA?

14:11

11 A. MS. MILOJEVIC: Yes, we are aware that it is an
12 assessable activity under YESAA. Although I would
13 point out, as I mentioned earlier, that in order for an
14 activity to require a YESAA assessment it must pass
15 several tests. One of those tests is whether or not it
16 is in assessable activities, but there are others.

17 Q. Okay. So, you agree that the addition of seven rental
18 generators is a modification to the Faro facility?

19 A. MS. MILOJEVIC: Yes, I would agree with that.

20 Q. Okay. What are the other criteria that would make this
21 not subject to YESAA? You mentioned there are other
22 criteria besides Schedule 1.

14:11

23 A. MS. MILOJEVIC: So, subject to check on, my
24 understanding is that there are -- an activity must
25 pass three tests to require a YESAA assessment. The

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 first being whether it would have an impact in the
2 Yukon, which obviously this project would. The second
3 would be whether it's an assessable activity defined
4 under the regulations. And, again, as Mr. Yee has
5 pointed out, this is an assessable activity.

6 But the third test that must be passed for an
7 assessment to be required is that an authorization has
8 to be required for the activity to occur.

9 So, again, as I referenced earlier, the
10 authorization that we require is the amendment to the
11 air emissions permit to be able to operate the total
12 production capacity beyond the 10.6 megawatts that's
13 currently permitted.

14:12

14 The act of connecting the generators at the site
15 was not something we required an authorization for and,
16 therefore, that activity did not pass the three tests,
17 and that activity was not assessable under YESAA.

18 Q. Okay. So you're saying you can install them but not
19 operate them without YESAA. Was there a business case
20 made or any analysis of financial risk from completing
21 the infrastructure and installing the rental generators
22 before a YESAB assessment that would actually allow
23 these to be operated?

14:12

24 A. MS. MILOJEVIC: Yes. And so just to give a bit of
25 context here, Mr. Chair, on the timing of this. So as

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 Mr. Hall had mentioned earlier today, we experienced a
2 record peak in January of 2020, which caused us to have
3 to adjust our load forecast, which, really, when you
4 think about it, meant for the winter of 2020/2021 that
5 we've just passed through, we had suddenly a higher N-1
6 dependable load forecast and so, therefore, a greater
7 shortfall. So as we detailed throughout our responses,
8 in particular to Mr. Yee's enquiries, at that time we
9 recognized that we needed additional rental units and
10 therefore we needed to have another site to operate
11 rental units at.

14:13

12 So there was then some work done to understand
13 which was a preferable site to locate additional rental
14 units. And, as described in our responses, Faro was
15 selected partly because of the existing room under the
16 previously assessed amount of capacity, and the ability
17 to increase that capacity through an application to
18 amend our air emissions permit. At that time, we would
19 have started the work both on the infrastructure and
20 ordering of the generators and the construction piece
21 in mid 2020 as well as our team looking at, with the
22 regulator, what our options were and what we needed to
23 do to ensure we could operate those units. So this is
24 where there's this long log of correspondence that our
25 manager of environment assessment and licensing would

14:14

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 have reached out to the regulator to see what was
2 required for us to amend our permit.

3 We were advised a YESAA assessment was required in
4 order to operate above 10.6 megawatts, and we began
5 that process and the engagement that we needed to do to
6 perform that designated office assessment. In the
7 meantime, we did make the decision to continue with the
8 construction of the facility. And that decision was
9 made based on public health and safety in terms of if
10 we had an N-1 event in the winter of 2020/21, we wanted
11 to ensure we physically had the generation capacity
12 connected and available so in the event of an
13 emergency, when you're talking about people's heat
14 being off in the coldest day of the year, we would be
15 able to operate those units and provide that power in
16 an emergency situation.

14:14

17 That's sort of the sequence of events and the due
18 diligence that we did around ensuring we would have
19 those ready despite the permitting unfortunately
20 lagging behind the installation of the units.

14:15

21 Q. I understand that, and that has been answered in the
22 IRs, but the question was actually was there a business
23 case or any analysis of financial risk of completing
24 the infrastructure and installing the generators before
25 the YESAB assessment?

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 A. MR. HALL: Mr. Yee, when it comes to issues
2 of public safety, there's no business case required, I
3 would argue.

4 Q. Okay. So there was no business case, and there was no
5 analysis of financial risk in this project.

6 A. MR. HALL: Well, as Ms. Milojevic outlined,
7 our primary responsibility here is to make sure that
8 Yukoners are safe if we were to encounter an N-1
9 situation. So in that respect, we made this decision
10 to install the engines.

14:16

11 And I would point out that, because of the way
12 that the suppliers schedule their -- the availability
13 of these units, we had to engage with the suppliers
14 during the spring and summer of the year to make sure
15 that we could book -- you know, physically get hold of
16 physical units before they go to other customers.

17 So, you know, we weren't in charge of -- you know,
18 we had to jump early in order to secure the units for
19 Faro.

20 In terms of the general business case for rentals
21 versus other options, which I argued were not
22 available, we talked about that at length this morning
23 so I don't think we need to cover that matter again.

14:16

24 Q. Right. I understand that was talked about. As I say,
25 I guess the answer that you're trying to say is because

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 of timing, there was no financial risk analysis of the
2 YESAB actually failing?

3 A. MR. HALL: Well --

4 A. MS. MILOJEVIC: Sorry, I would like to point out,
5 Mr. Chair, in our response to NY-YEC-1-10, we do state
6 a number of factors around the risk assessment we did
7 do and deeming it prudent to advance these project
8 activities mainly based on the fact that, even though
9 the YESAA assessment hadn't been completed, that we
10 knew that we had a YESAA assessment done at the
11 Whitehorse Rapids facility up to a maximum of
12 22 megawatts of output where the nearest human receptor
13 is actually closer than it is at the Faro facility.

14:17

14 So, therefore, it was deemed likely that there
15 would be low potential for significant adverse effects
16 in line with the Whitehorse YESAA. So that was part of
17 the risk analysis that we did as we outlined in
18 response to that IR.

19 Q. Since this hearing is about finance, what is the
20 financial risk of that? You said it's low risk, but
21 what -- actually how much is at stake if the YESAB is
22 not approved?

14:18

23 A. MR. MOLLARD: Sorry, Mr. Yee, for my benefit,
24 can you explain what you mean by "financial risk." We
25 had a contract with the supplier for the value of the

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 units, so I'm not clear what you are referring to when
2 you say "financial risk."

3 Q. What I'm referring to by "financial risk" is if the
4 YESAB that's currently in process is not actually
5 approved and you do not actually have legal authority
6 to use those generators, have you looked at that, what
7 that would cost of installing these generators and not
8 being able to use them.

9 A. MR. MOLLARD: Well, again, to reiterate the
10 point that Ms. Milojevic put on the record this
11 morning, we do have authority to run those under an
12 emergency situation, Section 49. But other than that,
13 if I was told I had to remove those units, I'd send
14 them back to the supplier and I wouldn't pay for them.
15 So I would say the financial risk is relatively low in
16 that respect.

14:19

17 Q. Okay. It's just the cost of the infrastructure of the
18 financial risk is what you're saying?

19 A. MR. MOLLARD: Yes.

20 Q. Okay. Moving on. This has been somewhat reorganized
21 over lunch so I don't have all of it together. Onto
22 another topic here.

14:19

23 Are the rental generators in Whitehorse and Faro
24 used only for N-1 emergency purposes or are they used
25 for general generation? I know this is -- the Yukon

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 Utilities Board had asked about this in the second
2 round also.

3 A. MR. HALL: We do use the units for
4 generation. I think we represented the stacking order
5 of the units because we're given a certain number of
6 hours as part of the contract per month that are
7 essentially free of charge or no incremental charge.
8 We didn't do that the first year we had them, but,
9 through time, we've learned and identified that we can,
10 for example, defer maintenance on our own units by
11 using the rentals up to the number of hours that we
12 get.

14:20

13 In addition, they are more efficient than our
14 engines are and fleets. So there's an economic reason
15 why we would use them in preference to our own diesels
16 up to that allowed number of hours per month.

17 Q. Okay. So the rentals are, as you mentioned, the
18 stacking order. I believe the rentals in Whitehorse
19 and then the rentals in Faro are top of the list only
20 other than the three LNG generators are above that on
21 the list; is that correct?

14:21

22 A. MR. MOLLARD: That is correct.

23 Q. On the stacking order?

24 Okay. I'd like to now take a look at -- well,
25 actually, first question, another question, is YEC and

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 has YEC been in compliance with the air emissions
2 permit concerning the rental generators since -- yeah.

3 A. MS. MILOJEVIC: Yes, we have.

4 Q. Okay. I'd like to now look at the air emissions permit
5 itself. If we can go to that, it is part of my aids to
6 cross-examination. The next to the last page, Part 9
7 of the air emissions permit, if we can take a moment to
8 look at that.

9 How many -- under what conditions under Part 9 can
10 the rental generators be used?

14:22

11 A. MS. MILOJEVIC: So six of the emergency -- or six
12 of the Whitehorse units can be used during an N-1
13 event. I believe we noted this when we provided the
14 stacking order in the response, the revised response,
15 to NY-YEC-1-6.

16 So in Whitehorse we would normally have the
17 ability to operate up to 14 megawatts of diesel, and we
18 can operate an additional 12 megawatts in an emergency
19 situation.

20 Q. I guess this to me seems that it says the backup
21 generators diesels, six of them are operable only in
22 the event of an N-1 emergency, and you've said they've
23 been operating in preference to the other generators;
24 is that correct?

14:22

25 A. MS. MILOJEVIC: I think the differentiation here

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 is that you can operate per the emissions permit an
2 additional 12 megawatts total over the normally
3 permitted 14 megawatts. So that would be different
4 than operating all of them at once, if that makes
5 sense. They're in the stacking order but not above
6 that amount that's permitted.

7 Q. Okay. To me this reads that it's -- you know, these
8 emergency generators are only to be used in the case of
9 an N-1 emergency. Your interpretation is that these
10 can be used any time?

14:23

11 A. MS. MILOJEVIC: Our -- we believe that we can only
12 use eight at a time in non-emergency conditions. There
13 are ten available but we would only be able to use
14 eight at a time according to the current permit.

15 Q. Where does that appear in the current permit that you
16 can use eight?

17 A. MS. MILOJEVIC: That's based on the basis that we
18 can operate up to 14 megawatts in a non-emergency
19 situation. So eight 1.8-megawatt units, I believe.

20 Q. Okay. I don't see that anywhere in the air emissions
21 permit. I'd like to also look at Part 3 under
22 "Operation and Maintenance." Part 3, section 1.

14:24

23 It says: (as read)

24 "The permittee is authorized to operate
25 three liquefied natural gas generators;

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 and five generators running exclusively
2 on diesel fuel at the Whitehorse
3 Station..."

4 That's very specific, as is Part 9 of what can be run at
5 the Whitehorse station. There is no allowance, that I
6 can see, to run the generators which were brought in
7 under -- to be used for emergency N-1 situations
8 basically ever, other than an N-1 situation.

9 **A. MS. MILOJEVIC:** I believe the five generators
10 referenced in Part 1 sub 1 here are referring to what
11 would have been five permanent generators. My
12 understanding, again, is that the air emissions cap
13 through this permit is 14-megawatt site total for
14 diesel at the Whitehorse station, which would have
15 (Indiscernible) five generators.

14:25

16 However, again, within the focus being on that
17 total, as per the assessment that this air emissions
18 permit would be issued based on, that's where we get
19 the eight rentals rather than the five generators.
20 Regardless, we would say it's based on that 14-megawatt
21 air emissions cap.

14:26

22 **Q.** So where is the 14-megawatt air emissions cap mentioned
23 here?

24 **A. MS. MILOJEVIC:** It would have been in the decision
25 document that the air emissions permit is based on.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 Q. But it's not in the air emissions permit itself?

2 A. MS. MILOJEVIC: I don't believe so, no.

3 Q. And that 14 megawatts refers to -- you're saying that
4 refers to the five installed generators, diesel
5 generators; correct?

6 A. MS. MILOJEVIC: I would have to check on that.
7 I'm not sure about the history there. Again, we
8 tend -- these air emission permits are based on maximum
9 capacities based on what's been evaluated in YESAA. So
10 I'm not sure whether the five generators were a certain
11 combination of permits at the time. I'd have to go
12 back and check that.

14:27

13 Q. Okay. Yeah, I do believe that's it, and it's in the
14 10-year renewable plan that was circulated for the
15 total system capacity.

16 So where -- it appears that the six -- there are
17 six emergency backup generators that are permitted to
18 be used only in an N-1 event. Is there any other usage
19 in the air permit for this?

20 A. MS. MILOJEVIC: No. Again, my understanding is
21 it's based on the megawatt output. So there would be
22 that 14-megawatt air emissions cap in normal
23 circumstances, with an additional 12 megawatts allowed
24 for in an N-1 emergency.

14:28

25 Q. Was there a YESAB assessment for the addition of the

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 rental generators in Whitehorse?

2 A. MS. MILOJEVIC: Not to my knowledge, no.

3 Q. Okay. So the only authorization to use the rental
4 generators in Whitehorse is right here in this permit;
5 is that correct?

6 A. MS. MILOJEVIC: Yes. And also the Section 49 that
7 we reference in our rebuttal, I believe.

8 Q. Okay. So in view of Part 9 and Part 3 of the air
9 emissions permit, how has -- why has YEC been using the
10 rental generators in Whitehorse, given that they are
11 not -- they were not approved by YESAA and they do not
12 appear in the emissions -- air emissions permit?

14:29

13 A. MS. MILOJEVIC: Again, we're complying with our
14 air emissions permit by operating a total cumulative
15 capacity of no more than 14 megawatts, which is what's
16 permitted at one time in a non-emergency circumstance.
17 And so that's the capacity in which we've been
18 operating the rental units at Whitehorse.

19 Q. According to Part 3, you can operate a maximum of five
20 diesel rental generators if that is not in -- if there
21 is no N-1 emergency; is that correct?

14:29

22 A. MS. MILOJEVIC: As I stated earlier, I believe the
23 five generators is referring to the permanent. But,
24 again, we go by the total cumulative capacity allowed
25 and assessed, which in this case, we've looked at, I

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 think I had mentioned eight rental units that could be
2 run at one time instead of permitted, if that were the
3 order.

4 Q. Okay. What is the maximum cumulative capacity of
5 Whitehorse -- Whitehorse generating station under a
6 normal basis?

7 A. MS. MILOJEVIC: Under our air emissions permit I
8 believe we have a 14-megawatt cap on our normal
9 operation.

10 Q. Okay.

14:30

11 A. MS. MILOJEVIC: From diesel I should say, sorry.

12 Q. Let's see. Okay. And you don't believe that the
13 emergency backup generators referenced in Part 9
14 really -- that you're not limited to run those only
15 under N-1 events?

16 A. MS. MILOJEVIC: Again, we believe that that
17 additional 12 megawatts that can be added over and
18 above the 14 megawatts normally permitted would only be
19 allowed to be operated during an N-1 event.

20 Q. However, it specifies six emergency backup generators.
21 These were added to the air emissions permit in 2017 --
22 or 2018, actually. It's very specific that these are
23 emergency backup generators.

14:31

24 A. MS. MILOJEVIC: Yes, it states that. But, again,
25 as I stated earlier, we would go off the maximum

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 capacity and, again, only during a situation where we
2 needed emergency backup would we operate to a total of
3 26 megawatts.

4 Q. Okay. I'll move on shortly. I just wanted to confirm
5 that you don't believe that that -- that the six
6 emergency generators can only be operated in an N-1
7 event, despite Part 9?

8 A. MS. MILOJEVIC: Subject to check, I would say that
9 I would interpret Part 9 as the six emergency backup
10 generators in addition to the 14 megawatts permitted
11 under normal circumstances.

14:32

12 Q. Right. Okay, but this is -- okay. I guess I still
13 don't -- I disagree with that because it says these six
14 can only be operated.

15 You have ten generators installed in Whitehorse.
16 Is there anything allowing that?

17 A. MS. MILOJEVIC: Sorry, could you clarify the
18 question for me, please?

19 Q. This mentions six emergency backup generators. You
20 have ten installed. Is there anything in the pollution
21 permit or anywhere referring to ten generators
22 installed at the Whitehorse station?

14:32

23 A. MS. MILOJEVIC: Again, those ten generators you're
24 referring to, which I believe nine of which are counted
25 on for N-1 dependable capacity and one is a spare,

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 those would be operated within the context of this air
2 emissions permit, which is normally 14 megawatts and a
3 total of 26 megawatts of diesel during an N-1
4 emergency.

5 Q. Okay. Let me see. I think... Given that the
6 Whitehorse rentals have a specific authorization for
7 N-1 usage in the air permit, does Faro have any similar
8 authorization for N-1 usage?

9 A. MS. MILOJEVIC: No. At this time, we are in the
10 process of completing the YESAB review, which will
11 result in our application to amend the air emissions
12 permit to increase to a maximum of 15.5 megawatts
13 output at the site. There's no provision, to my
14 knowledge, at this time around specific emergency
15 backup generators at Faro in our air emissions permit.

14:33

16 Q. Okay. I'd like to go to N-1, N-1 requirements at this
17 point. Let's see here. In the GRA, 23.5 megawatts of
18 YEC diesel is used to -- in the N-1 calculation; is
19 that correct?

20 A. MS. MILOJEVIC: Yes. I believe, as referenced on
21 page 214 of our application, 23.5 megawatts of Yukon
22 Energy diesel.

14:34

23 Q. Okay. How much of that 23.5 megawatts is attributable
24 to the Faro facility?

25 A. MS. MILOJEVIC: Sorry, if you'll just give me a

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 moment to find my reference here, please.

2 So of the number you've referenced, I believe
3 5.8 megawatts attributed to Faro, with the exception,
4 as I believe has been pointed out, there has been an
5 update to the dependable capacity of FD1, reducing it
6 from 3 megawatts to 2.8 megawatts. So there's a bit of
7 revision going on that I won't try to catch up on here
8 live. But in terms of what we've referenced in the
9 application, it would have been 5.8 megawatts at Faro.

10 Q. Okay. And how much to meet N-1 requirements is from
11 the rentals in Faro? How many megawatts?

14:36

12 A. MS. MILOJEVIC: It would be 27 megawatts that's
13 included in the application.

14 Q. And how many of that is attributable to Whitehorse and
15 how many is attributable to Faro? How many generators,
16 how many megawatts, either way?

17 A. MS. MILOJEVIC: It would be nine 1.8 megawatt
18 units in Whitehorse and six 1.8 megawatts in Faro. So
19 for Faro specifically I believe -- so checking my
20 mental math here would be 10.8 megawatts.

14:37

21 Q. Okay. So that's -- so attributable in the N-1 to Faro,
22 I actually had only five generators in Faro used for
23 N-1, I think is in the GRA, but you're now saying six
24 generators in Faro are attributable -- are used as part
25 of the N-1.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 I can use either number.

2 A. MS. MILOJEVIC: I believe it is -- I believe it is
3 six units at Faro as there are seven units total, one
4 is a spare. So six --

5 Q. Okay.

6 A. MS. MILOJEVIC: -- 1.8 megawatt units.

7 Q. Okay. So that's 10.8 megawatts there, and
8 5.8 megawatts from the installed generators in Faro; is
9 that correct?

10 A. MS. MILOJEVIC: That's correct, yes.

14:38

11 Q. So this would be 16.6 megawatts is attributable to the
12 Faro facility as used in the N-1 calculations in the
13 GRA?

14 A. MS. MILOJEVIC: I believe that's correct, yes.

15 Q. So 10.6 -- what is the -- and what, again, is the legal
16 permitted output of the Faro generation facility?

17 A. MS. MILOJEVIC: Currently in a non-emergency
18 situation it would be 10.6 megawatts. We're in the
19 midst, as you know, of doing a YESAB assessment for an
20 increase to 15.5 megawatts. And, as Mr. Hall pointed
21 out earlier, in an emergency, such as occurred last
22 winter, we would have operated the units beyond our
23 permit for public health and safety.

14:38

24 Q. Okay. So from these numbers there is, in the N-1
25 calculations and meeting the N-1 requirement, YEC is

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 including 6 megawatts that is not currently licensed to
2 be operable; is that correct?

3 A. MS. MILOJEVIC: That's correct. We're in the
4 process of pursuing an increase in our permit so we can
5 operate what we need.

6 Q. Okay. So counting only legally installed and operable
7 generators, has YEC met N-1 requirements?

8 A. MS. MILOJEVIC: Again, as we've pointed out in our
9 rebuttal, Section 49 of YESAA allows us to operate the
10 units that would not have yet been assessed. So we
11 would have been able -- so, yes, we could meet our N-1.

14:39

12 So I know the question addressed permitted
13 capacity, but, again, in an N-1 emergency, there would
14 be an exception for that and we would operate above
15 that 10.6 currently permitted capacity. In the
16 meantime we are pursuing an increase in our permit
17 accordingly.

18 Q. Yes. The question was has YEC met N-1 requirements
19 using only legally authorized generators? And it's
20 kind of a yes or no question.

14:40

21 MR. LANDRY: Well, may I -- I'm sorry. I could
22 have put my hand up before that. I apologize. Now
23 we're getting into legal argument, Mr. Chairman. It's
24 pretty clear what they can and cannot do, and I think
25 Ms. Milojevic has been clear on a number of occasions.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 If Mr. Yee wants to make a legal argument in his final
2 submission, he can, but he's using the word "legal"
3 now, what they're legally permitted. And there's
4 obviously a very fundamental disconnect between Mr. Yee
5 and the legal position of Yukon Energy, so...

6 If he wants to ask other questions, that's fine,
7 but once he gets into the legal side of things, we'll
8 deal with that in argument.

9 Q. MR. YEE: So we can drop the word "legal."
10 Using authorized generators has -- counting only
11 authorized generators --

14:41

12 THE CHAIR: Excuse me, Mr. Yee.

13 UNIDENTIFIED SPEAKER: I don't think you're on.

14 THE CHAIR: Yeah. No, my microphone was
15 switched off.

16 UNIDENTIFIED SPEAKER: That's fine.

17 THE CHAIR: Mr. Yee, Mr. Landry has a good
18 point. You've been pursuing this line of questioning,
19 and, frankly, belabouring it somewhat. We've been
20 hoping you would get to some point, but if really what
21 you're trying to do is insert argument at this point,
22 it's just best left -- at this stage of the proceeding,
23 what we are trying to get on the record is evidence,
24 and that is achieved by asking questions and getting
25 answers, but as soon as we start getting into

14:41

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 editorializing or making legal submissions or whatever,
2 it's time to call it quits and move on to the next
3 thing.

4 Similarly, you've got the answers to your
5 questions and trying to argue further is not getting us
6 further along where we need to be.

7 So please constrain your questions to asking for
8 evidence and try to avoid being repetitive of questions
9 that result in the same answers.

10 So if you're ready to move on, that would be
11 great.

12 MR. YEE: Unfortunately, my connection cut
13 out in that, but I got the idea, and that's okay. As I
14 say...

15 MS. SABO: Sorry, Mr. Yee, we can't hear you.
16 I think you've got a lag maybe. Maybe just take a
17 pause and start again.

18 THE CHAIR: We can hear you.

19 MR. YEE: Okay. I missed a lot of what went
20 on before, but as I say, I do understand that.

21 Q. Using section 49 of YESAA, where is that used? And is
22 it mentioned in the GRA?

23 A. MS. MILOJEVIC: We refer to it in our rebuttal
24 evidence, so I believe that is Exhibit B-30. It
25 discusses the use of Section 49 on page 7 of our

14:43

14:44

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Yee

1 rebuttal evidence which states that: (as read)

2 "No assessment is required in response
3 to an emergency when it is in the
4 interest of public welfare, health or
5 safety or protecting property or the
6 environment, that the activity be
7 undertaken immediately."

8 Q. Okay. So dealing with Section 49 generator, that...
9 (lost audio connection).

10 THE COURT REPORTER: Sorry, Mr. Yee -- Mr. Yee,
11 Mr. Yee --

14:45

12 Q. MR. YEE: -- in the event of a declared
13 emergency.

14 THE COURT REPORTER: Mr. Yee, you'll have to repeat
15 that question, please.

16 Q. MR. YEE: Okay. So the use of Section 49 is
17 that the generators that are currently not covered
18 under any permits can be used in the event of an
19 N1 (verbatim); is that correct?

20 A. MS. MILOJEVIC: So just clarify that those
21 generators that have been installed can be used under
22 the current permit; it's just the combination of their
23 total can't exceed the maximum in compliance with the
24 permit.

14:46

25 As you've stated, my understanding is with

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 Section 49, we could operate above what has been
2 assessed above our permitted level in the event of an
3 emergency N-1 event.

4 Q. Was Section 49 mentioned previous in the GRA or in any
5 documents previous to my questions?

6 A. MS. MILOJEVIC: No, I don't believe it was.

7 Q. Okay. I guess that's it for now.

8 THE CHAIR: You're all done, Mr. Yee?

9 MR. YEE: Yes, I am. Thank you.

10 THE CHAIR: Okay. Thank you.

14:47

11 Mr. Rondeau, I believe you're next in line. Are
12 you ready to proceed?

13 MR. RONDEAU: Can you hear me?

14 THE CHAIR: Yes, we can hear you.

15 MR. RONDEAU: Okay.

16 MR. RONDEAU CROSS-EXAMINES THE PANEL:

17 Q. Okay. First of all, I'd like to congratulate the Panel
18 for being, the first time ever, all Yukoners. I'm very
19 pleased to see that.

20 Secondly, I'd like to say to Mr. Yee, don't worry,
21 I've been reprimanded several times by Mr. Landry and
22 the Chair for going above the preamble that one should.
23 We always like to ask a question until we get the
24 answer that we want to hear.

14:47

25 First of all, I'd like to ask a few things from

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 the cross of this morning from the City and from
2 Mr. Yee as well.

3 The first is on the City. We went through -- the
4 City was asking you if you had a business plan for the
5 N-1 for the rental diesels.

6 My question here is, did the YEC by any chance use
7 as a comparison LCOC all the permanent diesels that we
8 have and are useable and refurbished as well as any of
9 the diesels that needed replacement that would have
10 been replaced as they were needed? In other words,
11 what we used to use in case of N-1 before the rentals?

14:49

12 A. MS. MILOJEVIC: So just to be clear, Mr. Chair,
13 the N-1, when we talk about it, is the combined
14 shortfall which includes the addition of all of our
15 existing available generation.

16 I believe Mr. Rondeau referred to the permanent
17 diesels that are useable today. Those are included
18 as -- in part of our N-1 provision of dependable
19 capacity. But when you add up everything we have
20 including existing diesels and other generation,
21 there's still a shortfall. The rentals are the
22 temporary measure to close that shortfall until the
23 other resources, the more permanent ones, can be
24 constructed.

14:49

25 The diesels that need replacement that were

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 referenced are part of our plan, and as we retire those
2 units, we plan to replace them, so a total of
3 12.5 megawatts of capacity, again, in combination.

4 So it's that whole picture of all of the available
5 dependable capacity, including existing and planned
6 replacements, that the rentals then top up to the
7 expected total load.

8 Q. Now, would all the diesels that ATCO have be included
9 in your figures?

10 A. MS. MILOJEVIC: Those that are connected on the
11 grid, yes, they would be.

12 Q. And the diesels that are in the three mines, have they
13 been asked to perhaps join in on an N-1 situation?

14 A. MS. MILOJEVIC: The mine -- the diesels located at
15 the mines are not included and the reason for that is
16 that the mines themselves are not included in our
17 calculation of how much load we would need to serve in
18 an N-1.

19 So in an N-1 scenario, we assume that we would
20 disconnect the mines, we would only be serving firm
21 loads, so, you know, people's heats and lights
22 essentially. The mines at that point would be
23 disconnected from the grid and they would be relying on
24 that diesel for their own operations. So they're kind
25 of both excluded in terms of the mining load is not in

14:50

14:51

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 our N-1 that we planned for, but neither are their
2 generators as we assume they would have to use them in
3 the event of N-1 since they would be disconnected.

4 Q. I understand that the mines aren't included, but if we
5 had a predicament in the Yukon where we needed extra
6 diesels, why would the mines not help us out? I mean
7 they are getting -- they are getting a sweet deal from
8 Yukoners. Why would they not be a good corporate
9 citizen and simply use their diesels?

10 A. MR. MOLLARD: Well, we can't -- Mr. Chair, we
11 can't have it both ways. We can't tell me them that we
12 won't be there for them in an N-1 scenario and take
13 their generation from them. They need that to keep
14 themselves from freezing up.

15 Q. They need that to keep all their equipment running, you
16 mean?

17 A. MR. MOLLARD: Yeah. As we understand it, they
18 don't have enough generation to be in full production
19 but they have enough generation on site to keep their
20 key processes and heat there for public safety and
21 equipment safety purposes.

22 Q. Okay. Another thing coming out of the City cross, I'd
23 like to know is the BESS project moving forward?

24 A. MR. MOLLARD: Yes.

25 Q. And can you give us a brief update on what's happening

14:52

14:52

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 there?

2 A. MR. HALL: Well, it's still engaged in the
3 procurement phase. So we've issued an RFP and are
4 waiting for bid responses back, and we'll have a board
5 decision gate based on the pricing and the delivery
6 terms and other technical details that we receive from
7 that RFP.

8 Q. Good, thanks.

9 Brushing. The City also asked some questions on
10 that, and you said there were some internal brushing
11 done as well as hiring of contracting out.

14:53

12 My question is, are the internal costs for
13 brushing added to the brushing work, or are they simply
14 paid for by employee wages and machinery costs?

15 A. MR. MOLLARD: Mr. Chair, it would be the latter.
16 They're paid for as internal staff time and equipment
17 costs.

18 Q. Good to hear. From Mr. Yee's cross, I'm looking at
19 NY-YEC-2-1, page 2 of 3. Are you waiting for me?

20 A. MS. MILOJEVIC: Could you repeat the reference,
21 please?

14:55

22 Q. Okay. It's NY-YEC-2-1. Page 2 of 3. Actually, 2 and
23 3, or 1 and 2, I'm going to refer to.

24 A. MS. MILOJEVIC: Okay. Yes, we're there.
25 Thank you.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 Q. The first part of the question, I guess, is how much
2 capacity is in Faro without the rentals?

3 A. MS. MILOJEVIC: As noted earlier, I believe it's a
4 total of 5.8 megawatts of permanent generation which,
5 subsequent to our application, has been derated to
6 5.6 megawatts, I believe, subject to check.

7 Q. Now, the limit in air is 10.6 megawatts; is that
8 correct?

9 A. MS. MILOJEVIC: That is our current permit limit,
10 yes.

14:56

11 Q. Yes. That's the cap on your current air quality
12 permit.

13 Now, I realize you have the opportunity to use an
14 emergency amount.

15 The first page of that, there's a statement at the
16 start "Yukon Energy is requesting," and it -- I don't
17 know if you wish me to read it out. (As read)

18 "Yukon Energy is requesting a
19 recommendation by the designated office
20 to allow permit amendment to proceed on
21 the basis that the project, i.e., the
22 continuing operation of Yukon Energy's
23 Faro diesel facility with an addition of
24 4.9 of additional diesel generating
25 capacity totalling 15.5 megawatts of

14:57

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 generating capacity in accordance with
2 the terms and conditions of the amended
3 permit and applicable provisions of the
4 *Environment Act* and air emissions."

5 So this just means the new one that you're applying for?
6 Is that what this quote is covering? Because I'm a
7 little bit confused on...

8 A. MS. MILOJEVIC: Sorry, Mr. Rondeau, we're having
9 trouble finding the reference you were reading from
10 there. Were you still referring to NY-YEC-2-1?

14:58

11 Q. Oh, no, sorry. It's 2-4. 2-4. It's a quote at the
12 start, what YEC replied to Mr. Yee in one of his IRs.

13 A. MS. MILOJEVIC: Okay, we're there. Thank you.
14 Could you repeat the question, please?

15 Q. Okay. What I'm wondering if this quote is basically
16 telling us what you will be applying for or is this on
17 the old permit? Because if it is, it's a bit
18 confusing.

19 A. MS. MILOJEVIC: Yes. So this is what we currently
20 have an application in to YESAB to assess. We have a
21 project proposal in currently to assess this, and this
22 would be what we would be applying for, an amended air
23 emissions permit for following the conclusion of the
24 YESAB process.

14:59

25 Q. Okay. I think that's all of the questions I have on

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 the other interveners' cross. So I can start with our
2 own here.

3 I'd like to start with return on equity. And can
4 one of the panel give us a brief explanation on what
5 the difference is between return on equity and rate of
6 return?

7 **A. MR. MOLLARD:** I'm not sure I can answer that,
8 Mr. Chair.

9 Roger, can you give me some context around where
10 you see rate of return just so I make sure I'm accurate
11 in my answer.

12 **Q.** I'm not sure where I've seen it. I know it's been used
13 for many years. But from what you understand, then,
14 there is no real difference. It's just ROE what
15 we use?

16 **A. MR. MOLLARD:** Okay. I'll go out there a little
17 bit just in the interest of helping out the parties.
18 So return on equity is exactly as it's defined. It's
19 the amount of income we are awarded by the Board based
20 on market conditions and our own risk profile. So it's
21 one component of our return.

22 What we will often talk about is, well, is return
23 on rate base. So return on rate base or in a private
24 industry it might be called weighted average cost of
25 capital. It would include that amount that covers both

15:00

15:00

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 the debt and equity component of an investment.

2 Return on equity is just the equity component.

3 Return on rate base is both debt and equity, if that
4 helps.

5 Q. That's good, yes. Can you give us a bit of a summary
6 on the risk profile you have in acquiring your ROE?

7 A. MR. MOLLARD: Sure. So a bit of history.

8 Return on equity is reviewed by the board at every
9 General Rate Application, and in part of that review of
10 our return on equity is a risk profile. So I'm going
11 to say since our 2005 proceeding, with some exception,
12 we've relied on cost-of-capital metrics developed
13 elsewhere, primarily in British Columbia. So they do
14 a -- so they do a very fulsome review of what they
15 consider to be standard utilities. And I think they
16 separate them between large utilities and small
17 utilities.

15:01

18 And so as opposed to having our own very expensive
19 proceeding here on rate of return, we rely on the work
20 they've done. What we've done is we've tried to find a
21 utility that they've looked at that is similar to us,
22 and then we look at their risk profile and see where we
23 differ. And then the board awards either an adder or a
24 negative to that baseline return.

15:02

25 So I think in our case we're baselined against one

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 of the Fortis utilities in BC. And then I think we are
2 given a slight adder to their baseline equity return
3 because of our -- we're an isolated utility, we're a
4 smaller utility, we're in the north.

5 So does that help?

6 Q. That helps. But are there any other risks besides the
7 board not giving you this adder?

8 A. MR. MOLLARD: Sorry, any other risks than size,
9 company size?

10 Q. Than the comparison with Fortis.

15:03

11 A. MR. MOLLARD: I'm not sure what you're looking
12 for, Mr. Rondeau. What other comparisons would there
13 be? That's the process that we've used the last four
14 proceedings.

15 Q. So there's no risk within the operations of the utility
16 that would affect the ROE?

17 A. MR. MOLLARD: Certainly, yeah. Fair enough. We
18 are considered -- I believe one of the factors that
19 we're considered as a higher risk different from the
20 Fortis utility, because I believe the Fortis utility is
21 a distribution utility and we are awarded a higher risk
22 profile because we are also a generator. And,
23 generally speaking, the more vertically integrated a
24 company is the higher the risk profile.

15:04

25 Q. Okay. That gives us a little bit of info on that. Can

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 we look at YUB-1-3.

2 A. MR. MOLLARD: Okay. We're there.

3 Q. Okay. It gives us the historical ROE approved and
4 actuals?

5 A. MR. MOLLARD: Yes.

6 Q. Okay.

7 MR. RONDEAU: Is the Board there as well? Can I
8 move forward?

9 THE CHAIR: Hang on. We're just digging it
10 up.

11 MR. RONDEAU: Okay. YEC-YUB-1-3, Table 1.

12 MS. MIDDLEL: Is that on page 1361? What's the
13 exhibit number? Page 1361.

14 THE COURT REPORTER: Who's speaking, please? Who's
15 speaking?

16 MS. SABO: Madam court reporter, that was
17 Anne Middler.

18 THE COURT REPORTER: Thank you.

19 MS. GRAHAM: I just note, Mr. Chair, that
20 there's supposed to be a break at 3:00. Maybe this
21 would be a good time and we could find the exhibit.

22 MR. RONDEAU: That's fine with me.

23 THE CHAIR: Yes, we'll take a -- we're
24 scheduled for a 20-minute break?

25 MS. GRAHAM: That's correct.

15:05

15:06

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 THE CHAIR: Yes, I think we can afford a
2 20-minute break. Well, according to my watch, it would
3 be -- my watch is maybe different.

4 MR. FORTIN: 1506 on the Internet.

5 THE CHAIR: All right. According to the
6 Internet, we'll be back at 1526, yes.

7 MR. RONDEAU: Do we log off again?

8 MS. LEMKE: No.

9 THE CHAIR: Yeah, just go mute. Turn off your
10 video and audio, and then that will save the
11 difficulties logging in again.

12 MR. RONDEAU: Okay. Thank you.

13 (ADJOURNMENT)

14 THE CHAIR: Okay. Welcome back. Now,
15 Mr. Rondeau, before we get going, I want to just go
16 back to Mr. Yee, because what we -- or I failed to
17 address at the end of your testimony was, in terms of
18 the aids to cross that you submitted, you only referred
19 to a small portion of those, and really for context
20 purposes for the most part.

21 So if we could ask you to specifically identify
22 those portions of your aids, you know, the page numbers
23 or whatever that you referred to in your questioning of
24 the YEC panel, then we will add those to the record
25 solely for the purpose of context, but not as evidence

15:07

15:27

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 per se, because a proper foundation for evidence has
2 not been laid for those documents, and instead the
3 testimony of the witnesses will be the actual testimony
4 for the record.

5 And I'll just -- before we pass judgment on that
6 proposition, Mr. Landry, do you have any comments in
7 that regard?

8 MR. LANDRY: I don't, sir. I think that's a
9 reasonable approach. If Mr. Yee requires some even
10 help with me, I'm more than happy to get that, if we
11 can get it back to the Board in time.

15:28

12 THE CHAIR: Great. Okay. If possible, if
13 that could be clarified perhaps after we adjourn today,
14 if you can collaborate, and then the condensed document
15 would be noted on the exhibit list as C-4-8, just for
16 reference purposes.

17 MS. SABO: Mr. Chairman, I saw Mr. Yee had
18 his hand up at one point --

19 THE CHAIR: Sorry.

20 MS. SABO: -- so I just want to make sure he
21 has an opportunity to ask a question.

15:29

22 THE CHAIR: Yes. Mr. Yee?

23 MR. YEE: Yes, I do understand that. Most
24 of the pages in there actually already exist. All of
25 the correspondence came from responses to IRs. I

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 simply reordered them in chronological order so they
2 would be reasonably readable, which they weren't, in
3 the original format. So I believe they should all be
4 in there or are in fact all already in there.

5 THE CHAIR: Okay. Well, that's fine. If they
6 are already part of the evidence elsewhere under
7 separate headings, that's fine. We just wanted to
8 be -- zero in on what you referred to in your
9 cross-examination, and anything else would be surplus.
10 The point being, we want to try to avoid cluttering up 15:30
11 the record with documents that are not necessary.

12 MR. YEE: Understood, yes.

13 THE CHAIR: Okay. So we'll just entitle these
14 "Nathaniel Yee aids to cross excerpts," and then you
15 can perhaps work that out with Mr. Landry, if you need.

16 Okay. So that bit of housekeeping being dealt
17 with, Mr. Rondeau, can we carry on.

18 MR. RONDEAU: Hello, can you hear me?

19 THE CHAIR: Yes, we can hear you.

20 MR. RONDEAU: Okay. To the Board -- or back to 15:31
21 the panel. When we left off we were speaking about
22 risks of operations, and I asked everyone to turn to
23 the Table 1, historical ROE approved and actual
24 forecasts since 2012, since the GRA in 2012 to '13.
25 Everyone has this now?

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 THE CHAIR: Just for ease of reference, that
2 was on page 1363 of the consolidated IRs dated March 5,
3 2021.

4 MR. RONDEAU: Again, my apologies for not having
5 this on the consolidated pdf.

6 Q. Going forward. Now, Mr. Hall, since the last GRA, it's
7 obvious that these risks of operations started a tumble
8 on the ROE and got progressively worse into 2019 and
9 2020.

10 I realize this was a difficult situation. What I
11 would like to ask, as CEO, what did you do to stop this
12 bleeding?

13 A. MR. HALL: Well, Mr. Rondeau, I believe that
14 you're referring to the decline in ROE --

15 Q. That's correct.

16 A. MR. HALL: -- over those years, which, you
17 know, are -- have a number of drivers, which are well
18 documented in the application. Right?

19 I mean, they relate to growth in load, which we
20 discussed this morning, and the consequences of those.
21 Specifically the need to, for example, incur O&M costs
22 for the diesel rentals, as an example. They relate to
23 an ongoing and robust capital program, which, again, I
24 spoke to you about this morning in terms of a need for
25 sustaining capital. And indeed planning -- well, new

15:32

15:33

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 supply projects. For example, the third engine and the
2 Whitehorse 2 uprate, which are both being brought into
3 rates in this proceeding.

4 So just to situate the conversation, I mean, there
5 are a number of, you know, very good explanations, you
6 know, documenting in detail why ROE declined.

7 In terms of what we're doing about it, you know,
8 there are certain things that are within our control
9 and some are not. You know, I think I would argue that
10 any impact from growth and load, there's not much we
11 can do about load. It's a function of growth of the
12 Yukon, growth of the economy, et cetera. So, you know,
13 not much that can be done about that.

15:34

14 In terms of, you know, what the levers are that
15 are at our disposal, those would tend to be within O&M
16 and we take a very close look at our operating budgets
17 annually, but again, you know, we're faced with this
18 tension of, you know, needing additional head count,
19 for example, to deliver on a capital program that's
20 grown threefold since 2017.

15:34

21 So, you know, there are a limited number of levers
22 at our disposal, and, you know, we're grappling with
23 the growth and some factors that, you know, there
24 aren't a whole lot of things that can be done
25 proactively.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 Q. As the load increases, does not the revenues increase?

2 A. MR. MOLLARD: Yes.

3 A. MR. HALL: Yes, yeah.

4 Q. Mr. Hall, I looked at your job description, and I
5 guess, basically, you're where the bottom line falls.
6 Am I correct?

7 A. MR. HALL: Yeah, Board of -- sorry, I don't
8 know if the mic was on. Yes, myself, and then again,
9 our Board of Directors is responsible for certain
10 decisions we make as well.

15:35

11 Q. Okay. UCG requested an IR to give some concrete
12 examples of how you cut costs to become more efficient
13 and improve your performance during the down years. We
14 did not receive anything in the first goal, so we filed
15 a revised one, and we got UCG-1-26, which I'd like you
16 to turn to.

17 MR. LANDRY: For clarification, Mr. Rondeau is
18 that a revised one or the actual 1-26?

19 MR. RONDEAU: It's the revised 1-26.

20 MR. LANDRY: Thank you.

15:36

21 A. MR. HALL: Mr. Rondeau, UCG-126 appears to
22 relate to labour positions.

23 MR. RONDEAU: It should be UCG-1-5 revised,
24 sorry.

25 A. MR. MOLLARD: Okay, we're there.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 Q. Now the last bullet on page 3, you give us some
2 examples. O&M costs were reduced, according to this,
3 239 K. Now, I would think that would be lots of spark
4 plugs and oil changes to make up that amount. There
5 must be a better qualification of what was done.

6 A. MR. MOLLARD: Actually, Mr. Chair, there's not.
7 But for context, I do know a single spark plug for an
8 LNG engine is \$1500, and there's two per cylinder and
9 24 cylinders per engine. So that is legitimately the
10 cost of consumables for thermal engines.

15:39

11 Q. And how many times would you have to service these
12 particular engines? I know it depends on usage, but
13 about how many times in the 2019/2020?

14 A. MR. MOLLARD: I couldn't say, Mr. Chair, off the
15 top of my head, but, as Mr. Rondeau points out, it's
16 all based on hours of run time. I would have to go
17 back and check to see how many actual -- how many times
18 we turned over on that maintenance schedule.

19 Q. Please look at UCG-104. And this is not the revised.
20 This is UCG-YEC-1-1004 (verbatim). And, again, sorry
21 that the Board has to look up the pdf consolidated.

15:40

22 A. MR. MOLLARD: It's pdf 1355.

23 Q. Are we ready?

24 A. MR. HALL: Yes, we have it.

25 MR. RONDEAU: The Board?

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 THE CHAIR: Yes, we've got it.

2 Q. MR. RONDEAU: Okay. What it does is it explains
3 the amount of contracting work done by one specific
4 consultant group to -- to Yukon Energy, and it doesn't
5 divide the years, but I am certain most of this is in
6 2019 and 2020 years, and it is almost \$1.5 million.

7 Now turn to UCG-144. The questions will be
8 concerning all of these. This is cost of the Aishihik
9 relicensing. Page 2. The answer of (a) and (b). Are
10 we there?

15:43

11 A. MR. MOLLARD: Yes.

12 Q. Okay. Again, if one goes down Table 1, one sees the
13 same consultant group in 2019/2020 with \$180,000 worth
14 of consulting work.

15 183. Page 3, page 4 and 5. Page 3, 4, and 5.

16 Again, looking at -- can I move on?

17 A. MR. MOLLARD: Yes.

18 Q. Looking at these three pages, if we look at InterGroup
19 Consultants again, there's 113,000, 129,000 on
20 page 5 -- 340,517 on page 4, and 129,320 on page 5
21 adding on to the consultant costs.

15:45

22 Now, another part that disturbs me is internal
23 labour costs.

24 If we look at Table 2, there's \$142,000 of labour,
25 internal costs, and 269,000 on page 5.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 A. MR. MOLLARD: Mr. Rondeau, that's incorrect.

2 Table 2 is \$4,000 in internal labour, not 142,000.

3 Q. Okay. I'm taking AFUDC as well in there, which I'm
4 going to get an explanation later on.

5 So it's actually 7. There's other internal costs.
6 7,000. And on page 5, it is almost 90,000.

7 Now, these are internal costs, and, you know, the
8 corporation was going through difficult times, yet they
9 laid out well over \$2 million to an independent
10 consultant as well as spending money in-house.

15:46

11 As CEO, Mr. Hall, could not have you have halted
12 these consultant contracts and in place -- and place
13 your staff to do the housework? You could have put
14 this \$200 million into the coffers of your
15 shareholders. Why was this not done?

16 A. MR. HALL: Mr. Rondeau, firstly I don't know
17 what you're referring to at \$200 million.

18 Q. 2 million.

19 A. MR. HALL: In terms of your question --

20 Q. \$2 million?

15:47

21 A. MR. HALL: -- you've mixed up a number of
22 different projects there in your analysis and I think
23 they have to be considered separately.

24 So in terms of the Aishihik relicensing project
25 which is what you've referred to towards the end of

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 your review, that project was an extremely complex
2 project and high stakes for the company. We simply
3 couldn't let our water licence lapse, and we needed
4 specialized support.

5 And if you look at the total expenditure on that
6 project and compare it to what we spent last time in
7 2002, the costs are in line.

8 So these relicensings are big projects, they're
9 complicated, and our expenditures, overall, are not out
10 of line with what was spent last time.

15:48

11 Now as to the question could we have brought that
12 in-house, I would argue we run a very tight ship here.
13 We do not have spare people available to take on this
14 kind of work. Our staff are running at full capacity,
15 and when you bring a project such as a relicensing
16 project forward, we don't have the staff internally to
17 take that on completely. We have a project manager in
18 Ms. Milojevic's group, one person, at max one and a
19 half, assigned to that project. And if you look at the
20 complexity, there's no way you could get that done with
21 one to one and a half people.

15:49

22 So the business model of relying on consultants, I
23 believe, is efficient because once the relicensing is
24 done, you know, there's no need to incur those costs
25 anymore.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 Q. Understood about the water licence. What about the
2 other descriptions on UCG-104 where it gives a
3 breakdown of various projects, including the water
4 licence?

5 A. MR. MOLLARD: Yeah, Mr. Chair, I guess I can
6 comment on the General Rate Application. Again,
7 that's -- they vary in their timing, so we don't do
8 them every year. They're an extremely tight deadline,
9 and it's an extremely high volume of work. And as we
10 sit today, the company has Jason and I to do these
11 things.

15:50

12 So I'm not sure how anybody could expect that the
13 two of us could produce 3300 pages of evidence I think
14 was the Round 1 IR responses in about two months. It's
15 just not realistic. But that being said, I don't need
16 to have a regulatory consultant underfoot all the time,
17 so using consultants allows me to use them when I need
18 them and send them home when I'm not working actively
19 on a GRA.

20 Q. But were not these tough times where you should have
21 been cutting costs, maybe not all of these, but some of
22 these regardless?

15:51

23 A. MR. HALL: Well, Mr. Rondeau, I guess I'd
24 pose the question and say "would the interveners make a
25 decision to submit fewer questions during those tough

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 times? I mean the workload doesn't change because it's
2 tough times. In fact, you know, they probably have
3 increased.

4 Q. Well, my work is pro bono, so you don't have to discuss
5 that with me.

6 Did Yukon Energy hire a new position in August of
7 2020 with a title of regulatory manager, planning and
8 regulatory affairs?

9 A. MR. HALL: Mr. Rondeau, is there a section of
10 the application where you can refer us to?

15:52

11 Q. Well, all I have is an ad in the paper where you are
12 asking for one. August 2020.

13 A. MR. MOLLARD: Mr. Chair, we don't have that
14 document so we can't really say what -- we're not aware
15 of what that position is he's talking about.

16 Q. I've given you the name. Regulatory manager, planning
17 and regulatory affairs. Project manager, sorry.

18 A. MS. MILOJEVIC: Yes, that's the title, I believe,
19 reserve planning project manager, that we hired in,
20 subject to check, I think October of 2020, which is
21 reflected in the application as one of the FTE
22 increases in the resource planning team.

15:52

23 Q. In YUB-YEC-1-43 revised, the YUB ask a similar question
24 as UCG except it was regarding management cuts. So
25 could you please look at that, YUB-143.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 A. MR. MOLLARD: Sorry, there's, like, six parts to
2 it. Which one are you referring to?

3 Q. Hang on. I'll get there myself. Okay. The revised
4 response starting paragraph -- it would be 3, I guess.
5 "Below is a list of some of the cuts."

6 A. MR. MOLLARD: Yes, we're there.

7 Q. So we've got 13 and 32 and 50, 25, and then I'm not
8 sure what you mean by the Aishihik licence cuts. It
9 seems like it wasn't really cut. So that is less than
10 \$200,000 of management cuts in a year -- or two years
11 that there should have been austerity.

12 Again, why did the Energy Corp. not tighten their
13 belt, especially in the management end?

14 A. MR. HALL: Mr. Rondeau, I guess I would
15 challenge this idea that, you know, the company was in
16 tough times. I mean, for me tough times often
17 signifies that the company faces declining revenues. I
18 think I was quite clear, we faced the opposite.
19 Significant growth, 28 percent increase in load.
20 Sitting at an all time peak, a capital program that for
21 both sustaining capital and new supply purposes, it
22 tripled over the prior three years.

23 So it's not -- tough times needs to be carefully
24 thought about and whether that's an accurate
25 characterization of what was going on.

15:55

15:56

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 And (b), if you were running a business and you
2 faced that kind of situation, growth, the idea of
3 making cuts is tough because, if anything, you're
4 forced -- your business wants to go the other way to
5 add head count, to add expenditures to accommodate that
6 growth.

7 So we did what we could and we've outlined the
8 expenditure reductions in the admin side. But to cut
9 back a growing company, not that easy.

10 A. MR. MOLLARD: And appreciate, Mr. Chair, if I
11 could add on to that. Just the nature of our business
12 is highly capital intensive. So to Mr. Hall's earlier
13 point, we don't have a lot of levers. The assets that
14 I've built I've built and so I have to pay the
15 depreciation on that every year.

15:57

16 Labour complement for our specialized work force
17 is largely fixed in nature. So if you go down our
18 income statement, you get to a very short list of items
19 that you have a lot of leverage on, one of them being
20 the O&M accounts here that Mr. Rondeau has highlighted.

15:57

21 So, yes, we did do cuts. We did a very thorough
22 quarterly review with every budget manager has to
23 report out to the management team on what they're doing
24 and what's going on. We do a thorough review with our
25 board and our board asks us why we're not making

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 8.7 percent as we're allowed and we have to explain
2 that. And my position would be that this is a
3 reflection of how tightly we are budgeted. We don't
4 have room to cut. If we start cutting much more than
5 this, we're not able to meet our mandate.

6 Q. That would have been my next question. Did not your
7 board send up red flags saying, "Hey, what's happening
8 with our return here and what was done about it"?

9 A. MR. MOLLARD: Absolutely. And we cut where we
10 could, but that was as far as we could go without
11 compromising service delivery.

15:58

12 Q. Okay. Please look at YUB-1-38 (e) and (f). It must be
13 on the first IR sent out by the Board. YUB-YEC-1-38.

14 A. MR. MOLLARD: Pdf 1452.

15 Q. Okay. Can I move forward?

16 A. MR. HALL: We're ready.

17 Q. All right. On Table 5, you see overtime costs. These
18 were in these tough years. Whether you call it that or
19 not, it was tough for your -- the board that you
20 administer to. Why did you not cut overtime costs?

16:00

21 A. MR. MOLLARD: Well, I think it's important to
22 understand the nature of some of our overtime costs.
23 We will frequently incur overtime when we are in a
24 thermal run scenario. So engines have to run when they
25 need to run. So we typically are running them at peak

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 times in the early mornings and afternoons. We have to
2 pay people to be on staff to look after those units.

3 So if there's thermal runs, you're going to have
4 overtime. That's pretty much unavoidable. And we
5 can't cut that. That's keeping the lights on.

6 So I offer that as one example where we don't
7 necessarily have discretion to cut overtime,
8 particularly when service delivery is at risk.

9 Q. You can't organize your employees to cover
10 these -- these times in their regular hours of work?

16:01

11 A. MR. MOLLARD: Our maintenance staff are fully
12 booked. So anything extra on top of that is going to
13 be at our cost and it's going to cost overtime. We're
14 not going to be -- we can't pay -- we either pay staff
15 to sit around most of the time doing nothing so that
16 they can work regular hours when the engines are
17 running or you run overtime for those peak periods.
18 And, to be clear, you can't forecast a peak with any
19 kind of certainty. It gets cold when it gets cold and
20 you have to react.

16:01

21 A. MR. EPP: And, Mr. Chair, if I could on that
22 same IR just refer you to Table 3 rather than Table 5.
23 So you also have to look at, when you're looking at
24 overtime, your employee complement. And this Table 3
25 is talking about vacancy rate. And as you can see in

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 these three years it's increasing. So what that means
2 is we have more open positions, unfilled positions.

3 So considering the work still needs to get done by
4 less positions, people actually working, they're going
5 to have to work overtime. And in the end the overtime
6 costs basically offset the vacancy rate cost savings.

7 Q. Look at Table 6 below. Administration costs for
8 outside consultants and contractors. Could not these
9 costs have been cut in 2019 and 2020?

10 A. MR. MOLLARD: Yeah, I'll let Mr. Epp wade in
11 here. I guess, Mr. Chair, it's a bit difficult without
12 more specificity about, you know, what could be
13 expected to be cut here.

14 If you're looking at capital, you know, we've
15 talked about the projects that we're doing, that we're
16 working on that we need to do in order to meet our
17 mandate: provide power at an affordable level.

18 Again, within O&M, those are largely costs that
19 are required to keep the lights on. So those are the
20 specialty company that does the maintenance on our LNG
21 units. There's costs that support the rental diesels.
22 The thermal run time in the last several years is also
23 in those O&M costs.

24 So I'm not -- again, I'm not clear on how --

25 Q. Sorry, I was not questioning the O&M and the capital.

16:03

16:04

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 I was questioning the administration end of it, where
2 there's 1.3 million and 1.5 million spent in -- in '19
3 and '20.

4 A. MR. MOLLARD: Again, I could offer -- I mean,
5 again, it's difficult to respond without a specific
6 reference, but, you know, again by way of example, if
7 you look at our environmental portfolio, we have to
8 hire specialty consultants to do certain monitoring
9 activities at our hydro facilities. That's not an
10 optional. That's a legal requirement of our licence.
11 So there's no option to cut that.

16:05

12 Other things in there, you know, in that 2018 to
13 '21 period, you're going to have consulting costs in
14 relation to the negotiation of our collective
15 bargaining agreement. I would be horrified to try and
16 do that without proper legal support in a collective
17 bargaining arrangement. That just wouldn't be prudent.

18 So, again, I appreciate, you know, that
19 Mr. Rondeau wants us to be as efficient as possible,
20 but again I don't -- without a specific reference I
21 don't see a lot of levers in there that we could have
22 pulled.

16:05

23 Q. Can we have an undertaking to see if we can find the
24 real reasons for these costs? This is your evidence,
25 so...

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 A. MR. MOLLARD: Sorry, just to be clear,
2 Mr. Chair, I'm being asked to provide a list of
3 consultants?

4 Q. No. The breakdown of the costs, the administration
5 costs. I'm mainly concerned about 2019 and 2020.

6 A. MR. MOLLARD: A breakdown of administration
7 consultant costs for 2019 and '20?

8 Q. Yeah, where you say you needed this. So I want to see
9 exactly what you needed.

10 A. MR. MOLLARD: Understood.

16:06

11 UNDERTAKING - TO PROVIDE A BREAKDOWN OF
12 ADMINISTRATION CONSULTANT COSTS FOR
13 2019 AND '20

14 Q. MR. RONDEAU: Okay. Just a little bit of
15 follow-up on this and then I will move on to another
16 area.

17 Mr. Hall, how many departments does Yukon Energy
18 have?

19 A. MR. HALL: I believe there are four.

20 Q. Could you name them, please.

16:07

21 A. MR. HALL: All right. Let's have a look.

22 Q. I think you have more than that.

23 A. MR. HALL: Yeah, but those are not
24 departments in the way that I was thinking of. The
25 main departments are operations, engineering, resource

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 planning, and finance. And then there are smaller
2 departments that cover First Nation relations, human
3 resources, communications, et cetera, health and
4 safety. But organizationally they don't, you know,
5 each have a senior -- each of those, what are there,
6 nine departments, they don't each have a vice
7 president, for example.

8 Q. So there would be nine departments, the big and the
9 large, combined?

10 A. MR. HALL: Nine, yes.

16:08

11 Q. Now, when you were undergoing these times of low
12 return, did you direct your directors of each of these
13 apartments -- departments, sorry, to cut a certain
14 percentage of their costs, find ways to cut costs in
15 each department?

16 A. MR. HALL: It wasn't across the board. We
17 asked specific departments to target expenditure
18 reductions where they could. As Mr. Mollard has
19 outlined, for some departments it's very hard to do
20 that without impeding your ability to operate or
21 properly maintain your equipment.

16:09

22 Q. Okay. We'll move on of this for now and move on to the
23 10.8 percent interim Rider J and Rider F. Now, we may
24 have to refer to the Rider F quarterly report of
25 June 30th, but let's start from the beginning.

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 Mr. Hall, when was the interim rider of
2 10.8 percent implemented on billings of your customers?

3 A. MR. MOLLARD: July 1st, 2021.

4 Q. And was Rider F taken off at the same time?

5 A. MR. MOLLARD: It was.

6 Q. Okay. When was the last Rider F report filed?

7 A. MR. MOLLARD: We file it quarterly. I don't
8 know today where we're at with our filings so I'm
9 assuming -- I believe I signed off Q2, subject to
10 check, June 30th, 2021.

16:10

11 Q. I believe that's the one that I would like to refer to.
12 I thought that was the last one.

13 Can you tell us outstanding amounts on this rider,
14 either plus or minus?

15 A. MR. MOLLARD: Mr. Chair, I don't have those
16 numbers in my memory.

17 Q. I realize that. Can we either get that quarterly
18 report now or -- or have an undertaking?

19 A. MR. MOLLARD: I can take an undertaking to
20 provide it.

16:11

21 UNDERTAKING - TO PROVIDE THE Q2 2021

22 RIDER F REPORT

23 Q. MR. RONDEAU: Now, as suggested in your
24 application, and it was sanctioned by the board in
25 order to give you an interim rate, has this no increase

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 in billing charges been achieved?

2 **A. MR. MOLLARD: Yes.**

3 **Q. You have consulted with some stakeholders to make**
4 **certain that this is happening?**

5 **A. MR. MOLLARD: We did not. That evaluation was**
6 **based on our calculation of what we felt was a**
7 **representative bill, being 1,000 kilowatt hours for a**
8 **residential customer.**

9 **Q. What about the ATCO portion of Rider F? What's**
10 **happening there? Is it in limbo or...**

16:12

11 **A. MR. MOLLARD: It's a combined filing, so their**
12 **results are included in that Q2 report.**

13 **Q. And Yukon Electric has agreed not to charge Rider F?**

14 **A. MR. MOLLARD: Yes.**

15 **Q. Is Rider J1, or the true-up rider as I call it, is it**
16 **still scheduled to come off the bills as of**
17 **December 1st, 2021?**

18 **A. MR. MOLLARD: Yes.**

19 **Q. Now, let's move on forward a little bit here. Will the**
20 **outcome of this hearing reconcile the cost of diesel**
21 **and LNG for 2021?**

16:13

22 **A. MR. MOLLARD: I'm sorry, Mr. Chair, I don't know**
23 **what Mr. Rondeau means when he says "reconcile."**

24 **Q. The Board will give a final decision on what you can**
25 **charge per kilowatt hour -- or, pardon me, what you can**

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 charge for cost per kilowatt hour for diesel and LNG.

2 **A. MR. MOLLARD:** That is included in Tab 2 of the
3 application, I believe, yes.

4 **Q.** So it will be determined and set at those rates.

5 **A. MR. MOLLARD:** Subject to the Board's agreement,
6 yes.

7 **Q.** For the remainder of 2021.

8 Now, and what will happen if these diesel and LNG
9 costs increase, which is apparently from my research on
10 this, is going to go up? Regardless, if these costs
11 change, either up or down, in early 2022, will YEC --
12 will Yukon Energy not restart Rider F when the
13 thresholds are met?

14 **A. MR. MOLLARD:** Mr. Chair, absolutely. The OIC
15 9590 is very clear that we have the authority to charge
16 for the market price of fuel through Rider F by law.

17 So, yes, if required, based on the increasing
18 market price, yes, we would reinstitute Rider F.

19 **Q.** Do you have or can you get us the thresholds for
20 collecting and returning money to ratepayers? Can you
21 get us these thresholds of Rider F?

22 **A. MR. MOLLARD:** Threshold is plus/minus \$200,000.

23 **Q.** Plus /minus 200,000? Okay. Thank you.

24 Now, with the idea that the costs of diesel and
25 LNG spiral in 2022, will not your conceived plan of

16:14

16:15

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 little or no increase quickly vanish?

2 A. MR. MOLLARD: Our rate strategy did not address
3 2022. We did our rate strategy assuming that this rate
4 application was done in 2021, so the rate strategy
5 would still hold. As of December 2021, there would be
6 a less than 1 percent increase on a residential
7 consumer's bill consuming 1,000 kilowatt hours.

8 Q. So short-term pain for long-term gain for you, or
9 long-term pain for the ratepayer. Excuse the comment.

10 Interest rates. Now the Bank of Canada is holding
11 their effective lower bound of one quarter percent with
12 a bank rate of one half and a deposit rate of one
13 quarter.

16:16

14 Why is Yukon Energy charging a higher rate than
15 bank interest?

16 A. MR. MOLLARD: Our rate forecasting in our
17 application is in accordance with the formula that the
18 Board directed us to use. I don't have the specific
19 reference, my Chair -- Mr. Chair, sorry, but that has
20 been directed by the Board a couple of times in the
21 last couple of proceedings that we have an established
22 approach. The reference is the Bank of Canada plus an
23 adder of 120 basis points. That's what we've been told
24 to use.

16:17

25 A. MR. EPP: That's for the new debt. We

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 already have existing debt of -- I don't know offhand,
2 70, \$80 million that is already debt in place at prior
3 agreed rates, which can adjust.

4 Q. That's my next question is -- before I move on to that,
5 speaking of the formula being used, now, does not the
6 Board have the option of changing this formula in this
7 particular hearing if they so wish?

8 A. MR. MOLLARD: That's my understanding, yes.

9 Q. Why does Yukon Energy -- you talked about loans from
10 way back, most of them to the mother corporation, Yukon
11 Development Corporation. Why can't you lower all of
12 these interest rates for these past loans to your
13 present rate that you are charging or you are going to
14 charge going forward?

15 A. MR. MOLLARD: Mr. Chair, if I could, I mean this
16 is a strategy that we have done in the past where we've
17 had higher cost debt and have been able to renegotiate
18 down to a lower rate.

19 I would suggest that for the majority of the debt
20 that we hold right now, that interest rate is
21 representative of market. There's really not much more
22 savings to be had there. One exception would be the
23 Mayo B promissory note, but that was a specific
24 instrument with a specific mechanism to protect
25 ratepayers for lower interest if certain generation

16:18

16:19

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 targets are not met in Mayo. And, in fact, the
2 affected interest rate on that is much below 3 percent.

3 So we've done that in the past. I don't believe
4 there's much more we can do there as far as reducing
5 those. We still have a market that we need to respect
6 and that's about where it is.

7 Q. A market that you need to respect. Does not most of
8 your money come from an easy market, development
9 corporation?

10 A. MR. MOLLARD: Regardless of the source, we are
11 still entitled to a market rate of return.

12 Q. But you could negotiate with your Board to lower these,
13 at least for the ones that they have in their profile?

14 A. MR. MOLLARD: My Board of Directors doesn't
15 control the interest rates on those debt instruments.
16 I'm not sure what you're referring to.

17 Q. I'm talking about the Yukon Development Board which I'm
18 sure you have some sway or contact with.

19 A. MR. MOLLARD: I do not. I infrequently report
20 them on financial results but I have no input to their
21 decision-making, and I don't think anybody at this
22 table does, as far as I know.

23 Q. How about your Board, then?

24 A. MR. MOLLARD: They're separate entities,
25 Mr. Rondeau. The Boards don't meet together.

16:20

16:21

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 Q. Moving on. I know this is a sour point, but I'm going
2 to go through it again. And, again, I'm pleased that
3 Yukon Energy has a panel in front of us that are
4 Yukon-based and are responsible to us because we meet
5 and greet these people and they are part of our
6 community. So it's good to see we have local people
7 doing the job.

8 When Yukon Energy sole sources out work to a
9 consultant firm or a contractor, do you have a prior
10 written contract agreement outlining the work to be
11 done and at what cost each service to be rendered will
12 be?

13 A. MR. MOLLARD: Mr. Rondeau, are you asking if we
14 have a scope of work for the contractor?

15 Q. Basically a scope of work with an estimated cost?

16 A. MR. MOLLARD: Yes.

17 Q. Each time you do a -- a contract agreement, either sole
18 sourced or not?

19 A. MR. MOLLARD: Well, I'm not going to say that
20 that's a hundred percent of the time. We will
21 occasionally have sole source contracts for a
22 relatively modest amount, something less than 25 grand,
23 that are intended for as and when needed.

24 So, for instance, I might need helicopters, but I
25 don't know when I need them. I know that I need them

16:22

16:23

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 at some point during the year. I may assign somebody a
2 sole source for \$25,000 without actually knowing what
3 flights or where they might fly. So it can depend a
4 little bit on the nature of the contract.

5 Q. Do you have a threshold?

6 A. MR. MOLLARD: No.

7 Q. Of amounts?

8 A. MR. MOLLARD: I would say 25,000 is probably a
9 representative number. It's not a hard and fast rule,
10 but it's typically in that neighbourhood.

16:24

11 Q. Does Yukon Energy have a committee that handles sole
12 sourcing agreements or is it one individual?

13 A. MR. MOLLARD: The directors can -- or, sorry,
14 VPs can sign off up to \$25,000 for sole sources within
15 their department. Anything over that goes to the
16 president.

17 Q. There is no committee that discusses this or...

18 A. MR. MOLLARD: No.

19 Q. So it's basically from director to president?

20 A. MR. MOLLARD: Yes.

16:25

21 A. MR. HALL: That is correct.

22 Q. Okay. Now, I see in one of the IRs that YEC,
23 Yukon Energy, provided a procurement policy. Is this
24 always followed?

25 A. MR. MOLLARD: Sorry, which policy are you

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 referring to, Mr. Rondeau?

2 Q. Procurement policy?

3 A. MR. MOLLARD: With which -- there was a couple
4 of procurement policies filed. I don't know which one
5 you're referring to.

6 Q. The latest one. I don't have it in front of me either.

7 A. MR. MOLLARD: Sorry, sir, I don't want to
8 respond if I don't know which document you're referring
9 to.

10 Q. Okay. So you do not have a procurement committee
11 per se?

16:26

12 A. MR. MOLLARD: No.

13 A. MR. HALL: I mean, there are committees that
14 are involved in the selection, the bid selection
15 process with scoring and evaluation, but there's no
16 procurement committee that relates just to sole
17 sources, as you've asked in previous questions.

18 A. MR. MOLLARD: And with respect to large
19 projects, the project team will develop a procurement
20 strategy that will form part of the charter that the
21 management team and the board of directors reviews,
22 but, again, not a specific procurement committee.

16:26

23 Q. Okay. That's more after what I'm looking for.

24 Is there any oversight from your board on these?

25 A. MR. HALL: As Mr. Mollard outlined, in

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 particular there's oversight by our board at the
2 project level. So when we bring a construction or
3 planning project forward for stage gate review, there
4 will be a description of the procurement strategy for
5 the ensuing stage gate or scope of work, where we'll
6 outline how different elements of that will be
7 procured, whether it's competitive tender or in some
8 cases sole sourcing is justified and proposed.

9 So, yes, they get visibility on that. And of
10 course they sign off on -- the board has signoff
11 authority on contracts above \$1 million, and we will
12 describe in detail the procurement process that was
13 followed when -- as part of the supporting
14 documentation when they are asked to sign off on those
15 contracts.

16 Q. Are there any specific rules that are followed in a
17 procurement procedure?

18 A. MR. MOLLARD: Sure. Generally we have -- we
19 operate under a framework similar to the government.
20 We're bound by certain legal agreements that the
21 government has signed: the Canadian free trade
22 agreement and the European trade agreement. At the
23 highest level we will have thresholds for what is
24 required for a procurement. Employees have the
25 authority to buy under their own signature up to 5,000.

16:27

16:28

A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS, J. EPP
Cross-examined by Mr. Rondeau

1 We do invitational tenders up to 100,000 and generally
2 over 100,000 we're doing full public tenders.

3 Q. Okay. You've already answered basically the next one I
4 have. There is a committee that makes decisions on
5 invitations to tender or request for proposals?

6 A. MR. MOLLARD: Yes.

7 Q. Am I correct? Yes.

8 Mr. Mollard, can you tell us if there's a
9 transparent recording of all Yukon Energy financial
10 transactions?

16:29

11 A. MR. MOLLARD: You're going to have help me out,
12 Mr. Rondeau. I don't know what you mean by
13 "transparent." We are audited by the Auditor General
14 of Canada, we provide our financial statements to our
15 parent as required, and those are tabled after they're
16 consolidated with YDC, they're tabled with the
17 legislative assembly. That's the legal requirements I
18 have.

19 Q. Does Yukon Energy by any chance have an independent
20 external auditor to assess your performances on
21 contracting transactions?

16:30

22 A. MR. MOLLARD: We have an external editor. We
23 are audited by the Auditor General of Canada. That's
24 again a legal requirement under the OIC. It's an
25 attest audit that's performed in accordance with

1 **Canadian auditing standards.**

2 Q. It's a very broad audit, though, am I correct?

3 A. **MR. MOLLARD: It's auditing the corporate**
4 **financial results for the year.**

5 THE CHAIR: Mr. Rondeau, I see we've reached
6 our 4:30 --

7 MR. RONDEAU: Threshold?

8 THE CHAIR: -- threshold or shutdown time for
9 today's hearing. So unless you've got some very
10 focused questions on that particular theme, perhaps we
11 can adjourn and pick it up again tomorrow at 8:30 a.m.

12 MR. RONDEAU: I'm approximately halfway through
13 on this particular theme, so why don't we meet in the
14 morning.

15 THE CHAIR: Yeah, I think that would be a good
16 idea. Okay. Well, thank you, everyone, for being
17 patient, getting through a long day, complete with
18 technological issues. And fortunately those of you who
19 are not in the Yukon, you can enjoy a better day than
20 we are at the moment.

21 So, anyway, thank you, and we'll see you again
22 tomorrow morning.

23 (PROCEEDINGS ADJOURNED AT 4:30 P.M. PST)

24

25 PROCEEDINGS ADJOURNED TO 8:30 A.M. PST, SEPTEMBER 28, 2021

16:30

16:31

1 Certificate of Transcript

2

3 We, the undersigned, hereby certify that the foregoing
4 pages 1 to 166 are a complete and accurate transcript of
5 the proceedings taken down by us in shorthand and
6 transcribed from our shorthand notes to the best of our
7 skill and ability.

8 Dated at the City of Calgary, Province of Alberta, on
9 September 27, 2021.

10

11

12

"Lorelee Vespa"

13

Lorelee Vespa, CSR(A) RPR CRR

14

Official Court Reporter

15

16

"Donna Gerbrandt"

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Donna Gerbrandt, CSR(A)

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Official Court Reporter

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- I N D E X -

VOLUME 1

<u>A. HALL, E. MOLLARD, M. MILOJEVIC, G. GAZANKAS,</u>	16
<u>J. EPP</u> (For Yukon Energy Corporation)	
MR. LANDRY EXAMINES THE PANEL	17
MR. RUTHERFORD CROSS-EXAMINES THE PANEL	22
MR. YEE CROSS-EXAMINES THE PANEL	73
MR. RONDEAU CROSS-EXAMINES THE PANEL	123

EXHIBITS

(No exhibits were marked)

UNDERTAKINGS GIVEN

UNDERTAKING - TO CONFIRM IF THERE ARE WEATHER	52
STATIONS IN "THOSE" COMMUNITIES (SEE TRANSCRIPT)	
UNDERTAKING - TO CHECK WITH THE YEC PLANNING	56
DEPARTMENT IF AN ESTIMATE CAN BE GIVEN AS TO WHAT	
IT WOULD TAKE TO DO THE SIMPLE REGRESSION ANALYSIS	
OF THE MATTER DISCUSSED (SEE TRANSCRIPT)	

1	UNDERTAKING - TO CHECK WITH YEC OPERATIONS STAFF	61
2	AND SEE WHAT DATA THEY MIGHT HAVE AVAILABLE ON	
3	INTERNAL BRUSHING COMPLETED BY YEC CREWS AND WHAT	
4	THOSE COSTS MAY BE ALLOCATED TO	
5		
6	UNDERTAKING - TO PROVIDE A BREAKDOWN OF	152
7	ADMINISTRATION CONSULTANT COSTS FOR 2019 AND '20	
8		
9	UNDERTAKING - TO PROVIDE THE Q2 2021 RIDER F	154
10	REPORT	

YEC 2021 GRA, Volume 1, September 27, 2021

\$	44:9 120 [1] - 157:23 129,000 [1] - 141:19 129,320 [1] - 141:20 12:06 [1] - 94:5 13 [3] - 34:1; 43:24; 146:7 1355 [1] - 140:22 1361 [2] - 133:12 1363 [1] - 137:2 138-KV [1] - 60:3 13th [1] - 78:8 14 [10] - 34:13; 44:18; 109:17; 110:3; 18; 112:3; 113:15; 114:18; 115:10; 116:2 14-megawatt [5] - 111:13, 20, 22; 112:22; 114:8 142,000 [1] - 142:2 1452 [1] - 148:14 15 [2] - 78:1, 6 15.5 [4] - 84:14; 116:12; 118:20; 128:25 150 [2] - 2:1; 68:15 1506 [1] - 134:4 1526 [1] - 134:6 16 [1] - 57:19 16.6 [1] - 118:11 17 [4] - 57:20, 25; 58:16; 88:14 172 [1] - 44:16 173 [2] - 30:21; 31:17 18 [2] - 44:19; 88:14 182,000 [1] - 58:7 183 [1] - 141:15 19 [2] - 43:24; 58:16 1950s [1] - 20:19 1970s [1] - 20:20 198,000 [1] - 58:8 1990s [1] - 35:12 1st [2] - 154:3; 155:17	2017/18 [1] - 29:9 2017/2018 [2] - 68:7, 20 2018 [6] - 20:9; 58:8, 16; 68:11; 114:22; 151:12 2018-10 [1] - 68:7 2019 [18] - 28:18; 37:7, 14; 57:9, 22; 58:2, 11, 13; 59:10; 25; 60:9; 63:2; 137:8; 141:6; 150:9; 152:5, 7, 13 2019/2020 [2] - 140:13; 141:13 2020 [25] - 7:11; 20:10; 29:12, 23; 30:10; 35:10; 36:3, 15; 37:14; 43:13; 78:8, 14; 81:9, 15; 96:13, 22; 103:2, 21; 137:9; 141:6; 145:7, 12, 20; 150:9; 152:5 2020/2021 [1] - 103:4 2020/21 [1] - 104:10 2021 [27] - 2:5; 5:1; 7:6, 10, 12, 23; 9:12; 19:16, 21; 20:1, 9, 24; 27:9, 19; 35:6; 36:14; 95:2; 137:3; 154:3, 10, 21; 155:17, 21; 156:7; 157:4; 165:25 2021-01 [1] - 11:11 2022 [3] - 156:11, 25; 157:3 211 [2] - 34:8, 21 212 [1] - 34:21 214 [1] - 116:21 21st [1] - 4:23 22 [2] - 58:16; 106:12 23.5 [3] - 116:17, 21, 23 239 [1] - 140:3 24 [2] - 10:1; 140:9 243 [1] - 34:21 24th [1] - 96:13 25 [3] - 11:12; 146:7; 160:22 25,000 [1] - 161:8 26 [3] - 34:3; 115:3; 116:3 269,000 [1] - 141:25 27 [4] - 2:5; 68:11; 95:2; 117:12 27th [1] - 81:8 28 [3] - 20:8; 146:19; 165:25 2:00 [2] - 91:25; 94:7 2:02 [1] - 95:5	35 [1] - 68:15 36(a) [1] - 30:20 3:00 [2] - 5:14; 133:20	4	93 [1] - 22:1 9590 [1] - 156:15 97 [1] - 20:11 9:38 [1] - 2:21		
'	'13 [1] - 136:24 '19 [2] - 60:4; 151:2 '20 [3] - 151:3; 152:7, 13 '21 [1] - 151:13		4 [9] - 34:14; 49:20; 58:14; 81:7; 87:20; 101:1; 141:15, 20 4.2 [3] - 57:5, 13; 59:14 4.9 [1] - 128:24 40 [1] - 34:11 40-year [1] - 34:9 42,000 [1] - 58:11 44 [1] - 35:12 49 [13] - 86:13, 17, 21-22; 107:12; 113:6; 119:9; 121:21, 25; 122:8, 16; 123:1, 4 4:30 [3] - 5:11; 165:6, 23	A			
/			5				
/minus [1] - 156:23			5 [14] - 57:2; 59:14; 74:14; 81:13; 82:21; 137:2; 141:15, 20, 25; 142:6; 148:17; 149:22 5,000 [1] - 163:25 5.1 [2] - 75:2, 11 5.2 [3] - 74:13; 75:3 5.6 [1] - 128:6 5.65 [2] - 78:16; 83:9 5.8 [4] - 117:3, 9; 118:8; 128:4 50 [1] - 146:7 543 [1] - 69:3 544 [2] - 69:21; 70:1 551 [2] - 72:2, 6 555 [1] - 72:1 5th [1] - 9:11				
1	1 [23] - 2:4; 10:25; 30:8, 14, 20; 87:6, 15, 20; 95:1; 100:16, 20, 24; 101:22; 110:22; 111:10; 127:23; 133:11; 136:23; 141:12; 144:14; 157:6; 163:11 1,000 [2] - 155:7; 157:7 1-26 [2] - 139:18 1-8 [1] - 76:11 1.3 [1] - 151:2 1.5 [2] - 141:6; 151:2 1.8 [5] - 82:6; 83:10; 117:17; 118:6 1.8-megawatt [1] - 110:19 1/2 [1] - 34:15 10 [2] - 13:24; 61:11 10-year [10] - 29:10, 19-20, 23; 30:9, 11; 37:16; 39:1; 45:9; 112:14 10.6 [27] - 77:4, 13; 78:20, 25; 79:5, 8, 13-14; 80:10; 84:14, 16, 19, 22; 85:1; 96:11, 21, 24; 97:1, 11; 98:24; 102:12; 104:4; 118:15, 18; 119:15; 128:7 10.8 [4] - 117:20; 118:7; 153:23; 154:2 100 [1] - 42:11 100,000 [2] - 164:1 106 [1] - 69:3 107 [1] - 69:22 108 [1] - 72:3 10:00 [1] - 5:13 10th [5] - 81:15; 82:14; 84:6; 96:8, 18 113,000 [1] - 141:19 11:15 [1] - 56:19 12 [7] - 11:10; 34:15; 43:18; 109:18; 110:2; 112:23; 114:17 12.5 [1] - 125:3 12.5-megawatt [1] -	2	2 [26] - 5:14; 10:25; 27:6; 28:25; 30:4; 33:24; 43:16; 57:17; 74:10; 75:10, 16; 82:21; 87:6; 101:1; 127:19, 22-23; 138:2; 141:9, 24; 142:2, 9, 18, 20; 156:2 2-4 [2] - 129:11 2.. [1] - 87:21 2.8 [1] - 117:6 20 [3] - 5:13; 7:11; 20:23 20-megawatt [9] - 28:16; 29:13; 32:9; 33:8, 19; 37:6, 8, 15; 38:10 20-minute [3] - 5:14; 133:24; 134:2 20-year [1] - 34:9 200,000 [1] - 156:23 2002 [1] - 143:7 2005 [1] - 131:11 2008 [1] - 78:13 2011 [1] - 78:13 2012 [2] - 136:24 2016 [7] - 28:17; 37:2; 38:8; 57:22; 58:2, 7, 15 2017 [7] - 20:23; 36:1; 58:8, 16; 60:4; 114:21; 138:20 2017-2018 [2] - 64:24	3	3 [22] - 25:14; 27:11; 30:4, 12; 40:16; 82:6; 83:10; 110:21; 113:8, 19; 117:6; 127:19, 22-23; 140:1; 141:15; 146:4; 149:22, 24; 159:2 3.1 [1] - 65:5 3.2 [1] - 49:22 3.8 [1] - 45:4 30 [1] - 45:17 305,000 [1] - 58:8 30th [3] - 4:13; 153:25; 154:10 31 [1] - 48:11 32 [1] - 146:7 3300 [1] - 144:13 340,517 [1] - 141:20	6	6 [3] - 82:18; 119:1; 150:7 6(a) [1] - 43:16 6.0 [1] - 65:9 60 [1] - 20:24 60-010 [1] - 81:25
			7				
			7 [4] - 23:21; 83:6; 121:25; 142:5 7,000 [1] - 142:6 70 [2] - 53:1; 158:2 75 [2] - 65:1, 4 77 [1] - 65:7 78 [1] - 66:5 79 [1] - 66:3				
			8				
			8 [1] - 83:9 8.7 [1] - 148:1 8:30 [3] - 5:10; 165:11, 25				
			9				
			9 [7] - 109:6, 9; 111:4; 113:8; 114:13; 115:7, 9 9) [1] - 82:13 9.0 [3] - 65:17; 66:2, 6 90,000 [1] - 142:6				

activities [9] - 61:5; 83:6; 87:16; 88:17; 98:9; 100:24; 101:16; 106:8; 151:9 activity [14] - 86:18; 98:10; 100:18; 101:5; 10, 12, 14, 24; 102:3; 5, 8, 16-17; 122:6 actual [10] - 36:15; 41:16; 57:21; 58:1; 80:14; 81:2; 135:3; 136:23; 139:18; 140:17 actuals [1] - 133:4 ad [1] - 145:11 add [8] - 35:4; 52:14; 83:10; 124:19; 134:24; 147:5, 11 added [3] - 114:17, 21; 127:13 adder [4] - 131:23; 132:2, 7; 157:23 adding [1] - 141:21 addition [8] - 3:13; 5:25; 101:17; 108:13; 112:25; 115:10; 124:14; 128:23 additional [23] - 46:5, 18, 24; 63:22; 64:8; 77:16; 78:23; 79:16; 82:6; 83:3, 14; 85:22; 96:5; 97:3; 103:9, 13; 109:18; 110:2; 112:23; 114:17; 128:24; 138:18 additionally [1] - 83:1 address [13] - 7:20; 11:21; 19:21; 21:20; 32:5, 12, 22; 34:19; 37:4; 46:17; 134:17; 157:2 addressed [7] - 37:17; 38:14, 17; 39:13; 49:16; 57:1; 119:12 addresses [1] - 32:20 addressing [2] - 47:2; 74:20 adjourn [3] - 91:25; 135:13; 165:11 ADJOURNED [4] - 94:5, 7; 165:23, 25 ADJOURNMENT [2] - 56:21; 134:13 adjust [3] - 54:10; 103:3; 158:3 adjusted [2] - 5:16; 12:20 adjustment [1] - 54:12 adjustments [2] - 54:9; 55:5 admin [1] - 147:8 administer [1] - 148:20 administered [1] - 9:8 ADMINISTRATION [1] - 152:12 administration [4] - 150:7; 151:1; 152:4, 6 administrative [1] - 13:18 advance [1] - 106:7 advanced [1] - 23:11 adverse [3] - 7:4; 89:24; 106:15	advice [1] - 84:14 advised [4] - 64:13; 96:9, 19; 104:3 affairs [4] - 16:6; 17:22; 145:8, 17 affect [1] - 132:16 affected [1] - 159:2 affirm [2] - 3:9; 16:13 affirmed [4] - 15:19; 16:18; 95:8 afford [1] - 134:1 affordable [1] - 150:17 afforded [1] - 11:23 afternoon [2] - 5:12, 14 Afternoon [1] - 78:10 afternoons [1] - 149:1 AFUDC [1] - 142:3 age [1] - 60:7 agenda [1] - 11:22 aging [1] - 20:17 ago [2] - 37:18; 67:6 agree [17] - 24:9, 16; 32:25; 44:6; 46:12; 47:5, 7, 14; 49:7, 10, 12; 52:9; 53:25; 58:13; 59:10; 101:17, 19 agreed [2] - 155:13; 158:3 agreement [6] - 151:15; 156:5; 160:10, 17; 163:22 agreements [2] - 161:12; 163:20 ahead [4] - 31:14; 45:24; 78:8; 81:14 aid [16] - 9:20, 23, 25; 10:2, 6, 10, 12, 14-15; 68:8; 75:16, 18, 21, 25; 76:12; 78:1 Aids [1] - 87:5 aids [12] - 9:13, 16, 18; 45:13; 64:22; 76:10, 17; 109:5; 134:18, 22; 136:14 Air [1] - 81:25 air [56] - 77:20; 79:10, 17, 19; 80:1, 17; 82:12, 15; 83:13; 84:5, 23, 25; 85:4, 11, 14, 19, 23; 89:1, 25; 96:10, 20; 97:6, 14, 16; 98:23; 99:18, 21; 102:11; 103:18; 109:1, 4, 7; 110:20; 111:12, 17, 21-22, 25; 112:1, 8, 19, 22; 113:8, 12, 14; 114:7, 21; 116:1, 7, 11, 15; 128:7, 11; 129:4, 22 Aishihik [3] - 141:8; 142:24; 146:8 align [1] - 35:1 Alison [2] - 2:9; 4:8 allocated [1] - 61:11 ALLOCATED [1] - 61:21 allocating [1] - 59:16 allow [6] - 60:12; 67:23; 77:3; 98:24; 102:22; 128:20 allowance [2] - 100:13; 111:5 allowed [5] - 108:16; 112:23; 113:24; 114:19; 148:1	allowing [1] - 115:16 allows [4] - 12:8; 42:15; 119:9; 144:17 almost [3] - 20:24; 141:6; 142:6 alone [1] - 47:20 alphabetical [1] - 8:17 alphabetically [2] - 22:14; 73:13 alternative [4] - 27:24; 43:7; 48:18; 49:4 alternatives [2] - 29:25; 45:10 amend [7] - 81:24; 84:15; 96:20, 25; 103:18; 104:2; 116:11 amended [4] - 96:10; 98:24; 129:2, 22 amending [1] - 84:23 amendment [6] - 78:15; 82:16; 84:6; 85:3; 102:10; 128:20 Amicus [2] - 8:2; 16:15 amount [16] - 7:13; 41:14; 79:7; 80:9; 85:15; 86:16; 90:3; 91:15; 103:16; 110:6; 128:14; 130:19, 25; 140:4; 141:3; 160:22 amounts [2] - 154:13; 161:7 AN [1] - 56:4 analysis [20] - 25:18; 37:8; 41:2, 6; 42:12; 44:20; 45:2; 46:20; 49:24; 52:21; 53:21; 55:6, 11; 102:20; 104:23; 105:5; 106:1, 17; 142:22 ANALYSIS [1] - 56:6 ancestors [1] - 3:8 AND [3] - 61:18, 20; 152:13 Andre [2] - 2:7; 3:16 Andrew [10] - 16:3; 24:15; 25:1, 7; 26:4, 13; 28:1, 7; 33:4; 38:25 Anne [4] - 2:8; 3:17; 133:17 annual [1] - 17:14 annually [1] - 138:17 answer [12] - 12:9; 19:15; 25:16; 74:23; 86:14; 93:25; 97:24; 105:25; 123:24; 130:7, 11; 141:9 answered [7] - 3:23; 5:6; 23:1; 72:16; 97:22; 104:21; 164:3 answers [4] - 8:24; 120:25; 121:4, 9 anticipate [1] - 55:20 anyway [4] - 2:25; 3:1; 81:20; 165:21 apartments [1] - 153:13 apologies [2] - 73:11; 137:4 apologize [6] - 2:23; 30:17; 44:18; 50:3; 69:23; 119:22 appear [5] - 19:14; 91:9, 11; 110:15; 113:12 appearing [2] - 8:17; 14:5	Appendix [4] - 65:5; 68:7; 71:25; 72:2 applicable [1] - 129:3 Application [5] - 5:1; 7:7; 19:16; 131:9; 144:6 application [38] - 6:22; 7:11, 18, 23; 11:21; 19:20; 25:14; 48:16; 64:25; 65:14; 68:24; 69:10; 70:3; 81:23; 83:5; 84:4, 6; 89:4; 96:3, 8, 12, 17, 23; 100:22; 103:17; 116:11, 21; 117:9, 13; 128:5; 129:20; 137:18; 145:10, 21; 154:24; 156:3; 157:4, 17 applications [1] - 11:14 applied [1] - 38:7 apply [1] - 34:10 applying [6] - 72:21; 82:15; 129:5, 16, 22 appointed [1] - 3:12 appreciate [12] - 22:23; 40:5; 53:19; 60:16; 61:16; 65:24; 70:14; 71:15; 72:25; 73:3; 147:10; 151:18 approach [6] - 19:24; 20:2; 67:25; 77:8; 135:9; 157:22 approaching [1] - 20:20 appropriate [6] - 9:14, 16; 21:6; 34:25; 36:9; 39:3 appropriately [1] - 12:21 approval [9] - 7:10; 26:17; 77:18; 82:22; 83:2, 13; 97:2, 10; 98:19 approve [4] - 45:3; 82:1; 96:10; 97:15 approved [8] - 65:13; 77:16; 96:5; 106:22; 107:5; 113:11; 133:3; 136:23 approving [1] - 7:12 approximate [1] - 5:15 ARE [1] - 52:5 area [4] - 53:12; 71:6; 72:23; 152:16 areas [4] - 18:8; 22:24; 64:6, 15 argue [5] - 42:6; 105:3; 121:5; 138:9; 143:12 argued [1] - 105:21 argument [8] - 28:3; 84:1; 92:16, 20; 119:23; 120:1, 8, 21 arise [2] - 5:4; 9:10 arrangement [1] - 151:17 AS [1] - 56:5 aspects [1] - 47:18 assembly [1] - 164:17 assertion [1] - 45:1 assess [3] - 129:20; 164:20 assessable [11] - 87:16; 88:16; 98:9; 100:18, 24; 101:10, 12, 16; 102:3, 5, 17 assessed [5] - 64:14; 103:16; 113:25; 119:10; 123:2 assessment [45] - 17:25; 21:14; 28:20; 29:13; 32:10; 42:15; 43:5; 66:16; 78:22; 79:1; 84:11; 85:3, 14, 18; 86:19; 87:9, 23; 89:18; 96:10, 20, 25; 98:4, 10, 14, 17, 21-22; 99:3, 8; 101:14, 25; 102:7, 22; 103:25; 104:3, 6, 25; 106:6, 9-10; 111:17; 112:25; 118:19; 122:2 assessments [3] - 29:7; 78:13; 81:17 asset [1] - 21:2 assets [8] - 20:19; 24:5, 14, 25; 39:22; 40:9; 71:7; 147:13 assign [1] - 161:1 assigned [1] - 143:19 assist [2] - 4:21; 9:18 assistance...in [1] - 57:6 assisting [1] - 4:6 assists [1] - 9:21 assume [4] - 22:25; 87:10; 125:19; 126:2 assumes [1] - 7:16 assuming [2] - 154:9; 157:3 assumptions [4] - 40:12, 14, 17, 19 AT [4] - 2:21; 94:5; 95:5; 165:23 ATCO [8] - 2:14; 8:17; 14:7, 10; 22:14; 71:6; 125:8; 155:9 Atlin [1] - 32:16 attachment [1] - 76:4 Attachment [2] - 30:8, 20 attempting [1] - 83:12 attend [1] - 53:7 attention [3] - 27:5; 59:15; 65:8 attest [1] - 164:25 attributable [6] - 116:23; 117:14, 21, 24; 118:11 attributed [1] - 117:3 audio [2] - 122:9; 134:10 audit [2] - 164:25; 165:2 audited [2] - 164:13, 23 auditing [2] - 165:1, 3 Auditor [2] - 164:13, 23 auditor [1] - 164:20 August [3] - 81:8; 145:6, 12 austerity [1] - 146:11 authority [9] - 7:3; 77:8, 12; 97:14; 107:5, 11; 156:15; 163:11, 25 authorization [13] - 77:23; 78:18; 79:6, 19; 97:2, 12; 102:7, 10, 15; 113:3; 116:6, 8
--	--	--	---

authorized [7] - 85:11, 21; 90:25; 110:24; 119:19; 120:10 authorizes [1] - 77:20 availability [5] - 51:21; 59:18; 61:24; 62:1; 105:12 AVAILABLE [1] - 61:19 available [24] - 4:4; 7:19; 22:10; 31:15; 35:19, 24; 51:16; 52:9; 54:2; 55:14, 25; 61:8; 65:12; 75:25; 76:3; 79:18; 89:5; 104:12; 105:22; 110:13; 124:15; 125:4; 143:13 average [3] - 22:1; 52:11; 130:24 avoid [3] - 10:3; 121:8; 136:10 await [1] - 73:20 awards [2] - 130:19; 132:21 awards [2] - 7:4; 131:23 aware [7] - 7:2; 64:11; 92:17; 95:23; 101:8, 11; 145:14 awful [1] - 92:15 Ayri [2] - 2:12; 4:10	21; 127:5; 130:19; 140:16; 155:6; 156:17; 160:4 baseline [2] - 131:24; 132:2 baselined [1] - 131:25 basing [2] - 91:6 basis [12] - 15:15; 22:2; 27:15; 42:8; 47:20; 60:8, 11; 80:13; 110:17; 114:6; 128:21; 157:23 bathroom [1] - 56:17 battery [6] - 25:14; 32:14; 40:16; 43:3; 45:14; 47:25 BC [1] - 132:1 BE [2] - 56:5; 61:21 bear [2] - 48:13; 76:5 bearing [1] - 65:24 became [2] - 60:9; 67:18 become [2] - 21:8; 139:12 awarded [2] - 104:4 begin [2] - 3:3; 95:18 beginning [6] - 13:4; 65:4; 74:9; 92:24; 96:14; 153:25 begun [1] - 82:17 behalf [6] - 14:9, 14; 22:23; 23:10, 20; 76:15 behind [1] - 104:20 belabouring [1] - 120:19 believes [1] - 24:8 Bell [5] - 23:24; 27:23; 28:12; 36:20; 42:19 bell [1] - 24:6 bell's [1] - 23:19 Bell's [6] - 24:9; 27:14; 35:5; 49:17; 57:1, 7 below [6] - 35:11; 46:7; 54:20; 146:5; 150:7; 159:2 belt [1] - 146:13 benefit [6] - 13:2; 23:5; 48:23; 65:11; 93:19; 106:23 benefits [1] - 66:19 BESS [14] - 30:1; 45:10, 15-16; 48:18; 22-23; 49:2, 6, 14; 126:23 best [2] - 21:4; 120:22 better [5] - 10:4; 12:25; 51:10; 140:5; 165:19 between [13] - 4:19; 20:9; 39:15; 49:14; 59:16; 60:3; 75:19; 80:12; 85:20; 99:10; 120:4; 130:5; 131:16 beyond [5] - 12:3; 79:18; 97:1; 102:12; 118:22 bid [3] - 63:6; 127:4; 162:14 big [5] - 50:24; 60:5; 67:17; 143:8; 153:8 bill [2] - 155:7; 157:7 billings [1] - 154:2 bills [2] - 19:23;	155:16 bit [22] - 13:19; 30:16; 44:20; 48:13; 51:6; 84:12; 85:13; 96:21; 102:24; 117:6; 129:7, 17; 130:17; 131:5, 7; 132:25; 136:16; 150:11; 152:14; 155:19; 161:4 blah [3] - 87:22 blank [1] - 96:15 bleeding [1] - 137:12 Board [77] - 2:7-12; 3:2, 11, 13, 21; 4:6; 21, 25; 6:13; 7:2, 16, 22; 8:10, 14, 20, 25; 10:1, 7-9, 12-13, 23; 11:6, 10-11, 15, 20; 13:14; 16:24; 17:4, 9, 18; 18:4, 14; 19:6, 15, 17; 25:12; 42:9; 60:6; 68:7; 69:8, 22; 70:10; 76:2, 16-17, 23; 108:1; 130:19; 133:7; 135:11; 136:20; 139:7, 9; 140:21, 25; 148:13; 155:24; 157:18, 20; 158:6; 159:12, 14, 17, 23 board [16] - 17:7; 89:8; 127:4; 131:8, 23; 132:7; 147:25; 148:7, 19; 153:16; 154:24; 162:21, 24; 163:1, 10 Board's [12] - 3:20, 24; 4:24; 5:7; 7:20; 8:19; 9:6, 9; 11:1; 12:2; 72:13; 156:5 Boards [1] - 159:25 Bonnie [2] - 2:7; 3:15 bono [1] - 145:4 book [2] - 93:24; 105:15 booked [1] - 149:12 bottom [3] - 13:12; 88:14; 139:5 Boulais [1] - 11:8 Boulais' [1] - 11:18 bound [2] - 157:11; 163:20 boundaries [3] - 71:3; 72:8, 20 break [19] - 4:12; 5:12-14; 13:23; 14:1; 53:6-8, 18; 56:11, 15; 91:25; 92:7; 93:18; 133:20, 24; 134:2 breakdown [3] - 144:3; 152:4, 6 BREAKDOWN [1] - 152:11 breaking [1] - 41:8 breaks [1] - 5:16 brief [5] - 53:7, 18; 66:25; 126:25; 130:4 bring [8] - 42:16; 45:16; 64:2, 25; 68:6; 78:24; 143:15; 163:2 bringing [2] - 21:3; 64:8 British [1] - 131:13 broad [1] - 165:2 brought [5] - 42:9; 17; 111:6; 138:2; 143:11 Brownlee [1] - 14:13 BRUSHING [1] - 61:20 brushing [44] - 23:8;	56:10, 25; 57:8, 21; 58:1, 3, 7, 15, 17, 21-22, 25; 59:2, 4, 6, 9, 18, 24; 60:11; 19-20, 24; 61:8; 62:2, 4, 16, 20, 24; 63:15, 18, 21; 64:4, 14, 18; 68:21; 127:9, 13 Buchan [2] - 2:6; 3:1 budget [1] - 147:22 budgeted [1] - 148:3 budgets [1] - 138:16 build [4] - 32:22; 34:20, 25; 38:5 building [1] - 4:18 built [5] - 20:19; 35:21; 50:23; 147:14 bullet [2] - 75:4; 140:1 bullets [4] - 46:8, 11; 65:19 business [27] - 20:5; 24:1, 10, 23; 31:2; 32:1; 33:14; 34:12, 24; 36:20; 38:6, 14, 16; 42:21, 25; 43:1; 102:19; 104:22; 105:2, 4, 20; 124:4; 143:22; 147:1, 4, 11 busy [1] - 11:22 but.. [1] - 73:15 button [1] - 13:12 buy [1] - 163:25 BY [1] - 61:20	97:8, 12; 98:25; 99:6, 10-11, 17, 19-20, 23-24; 100:2, 9, 12-13; 102:12; 103:16; 104:11; 112:15; 113:15, 17, 24; 114:4; 115:1, 25; 117:5; 119:13, 15; 124:19; 125:3, 5; 128:2, 25; 129:1; 143:14 capital [17] - 16:7; 17:14; 20:21, 25; 21:6; 41:11; 130:25; 131:12; 137:23, 25; 138:19; 146:20; 147:12; 150:14, 25 Carcross [1] - 67:17 carefully [2] - 3:24; 146:23 carry [2] - 63:22; 136:17 case [36] - 7:21; 10:15; 24:1, 7, 10, 23; 26:8; 31:2; 32:1; 33:14; 34:12, 24; 36:20; 38:6, 14; 42:8, 21, 25; 43:1; 44:2; 54:11; 63:25; 89:20; 90:16; 99:2; 102:19; 104:23; 105:2, 4, 20; 110:8; 113:25; 124:11; 131:25 case-by-case [1] - 42:8 cases [3] - 42:24; 54:9; 163:8 cash [1] - 18:20 catch [1] - 117:7 caused [1] - 103:2 cellphones [1] - 6:3 CEO [4] - 16:3; 17:4; 137:11; 142:11 certain [17] - 33:4; 38:23; 40:12; 54:10; 63:10; 69:9; 89:22; 108:5; 112:10; 138:8; 139:9; 141:5; 151:8; 153:13; 155:4; 158:25; 163:20 certainly [11] - 17:6; 23:3; 28:3; 31:15; 33:13; 38:17; 47:12; 49:8; 53:12; 56:9; 132:17 certainty [1] - 149:19 cetera [4] - 18:9; 80:14; 138:12; 153:3 CFO [1] - 18:8 chain [1] - 78:1 CHAIR [63] - 2:22; 4:3; 14:11, 23; 15:22; 16:14, 21; 22:11; 31:4, 20; 53:4, 14, 17; 56:12, 16, 22; 73:5; 16, 21; 76:5, 22, 25; 83:16, 18, 21, 25; 91:20, 24; 92:3, 8; 93:4, 25; 94:3; 95:9, 13, 19; 97:20, 24; 98:1; 120:12, 14, 17; 121:18; 123:8, 10, 14; 133:9, 23; 134:1, 5, 9, 14; 135:12, 19, 22; 136:5, 13, 19; 137:1; 141:1; 165:5, 8, 15 Chair [56] - 2:6; 3:1, 13, 15; 13:13, 18; 14:21; 15:7, 17, 21; 16:13, 19, 23; 18:25;
--	--	---	--	--

19:6; 22:9; 31:6; 35:4; 41:5; 43:2; 47:16; 51:22; 52:13; 53:11; 56:8, 14; 58:19; 76:2, 7; 77:15; 92:13, 17; 95:11; 102:25; 106:5; 123:22; 124:12; 126:10; 127:15; 130:8; 133:19; 140:6, 14; 144:5; 145:13; 147:10; 149:21; 150:11; 152:2; 154:15; 155:22; 156:14; 157:19; 158:15 chair [1] - 2:7 Chairman [2] - 119:23; 135:17 challenge [2] - 20:17; 146:15 chance [3] - 75:1; 124:6; 164:19 change [9] - 21:20; 22:5; 24:20; 35:2; 37:11; 62:8; 145:1; 156:11 changed [2] - 37:24; 61:25 changes [2] - 72:18; 140:4 changing [2] - 51:1; 158:6 characterization [1] - 146:25 charge [8] - 105:17; 108:7; 155:13, 25; 156:1, 15; 158:14 charged [1] - 6:12 charges [1] - 155:1 charging [2] - 157:14; 158:13 charter [1] - 162:20 CHECK [2] - 56:3; 61:17 check [16] - 52:3; 55:22; 60:4; 61:6; 67:5, 10; 84:7; 96:13; 101:23; 112:6, 12; 115:8; 128:6; 140:17; 145:20; 154:10 checking [1] - 117:19 chief [1] - 16:10 choose [1] - 89:15 chosen [3] - 24:2, 11; 38:18 Chris [1] - 14:9 Christopher [1] - 2:14 chronological [1] - 136:1 chronologically [1] - 75:21 circulate [2] - 45:12; 64:21 circulated [4] - 4:22; 10:19; 68:8; 112:14 circumstance [1] - 113:16 circumstances [5] - 5:24; 37:24; 86:18; 112:23; 115:11 citizen [1] - 126:9 City [27] - 2:15; 8:18; 9:2; 14:11, 14; 22:18; 23:10, 12-15, 20; 29:1; 71:3, 10, 13, 21-22; 72:6, 8, 13, 18; 124:1, 3-4; 126:22; 127:9	city [1] - 23:14 claiming [1] - 80:22 clarification [4] - 59:8; 62:22; 77:24; 139:17 clarified [1] - 135:13 clarify [7] - 8:23; 12:9; 71:8; 77:14; 100:19; 115:17; 122:20 clarity [1] - 71:20 class [1] - 50:1 classes [1] - 51:24 Clean [3] - 21:21, 24; 37:10 clear [16] - 58:3; 62:22; 71:5; 79:6; 93:6; 97:20; 98:20; 107:1; 119:24; 124:12; 146:18; 149:18; 150:24; 152:1; 156:15 clearly [2] - 12:16; 23:9 client [1] - 71:20 climate [6] - 21:20; 22:5; 24:20; 35:2; 37:11 close [5] - 12:13; 34:22; 67:4; 124:22; 138:16 closer [2] - 13:20; 106:13 cluttering [1] - 136:10 coffers [1] - 142:14 coincide [1] - 19:25 cold [7] - 20:12; 35:9; 36:2; 43:13; 149:19 coldest [1] - 104:14 collaborate [1] - 135:14 colleagues [1] - 19:14 collecting [1] - 156:20 collective [3] - 5:19; 151:14, 16 Columbia [1] - 131:13 combination [3] - 112:11; 122:22; 125:3 combined [4] - 74:11; 124:13; 153:9; 155:11 comfortable [1] - 55:15 coming [3] - 35:2; 77:21; 126:22 COMMENCED [1] - 2:21 comment [4] - 60:17; 93:13; 144:6; 157:9 commentary [2] - 65:18; 93:9 commented [1] - 93:16 comments [6] - 9:13; 15:16; 19:3; 42:4; 93:17; 135:6 commercial [1] - 51:3 Commission [1] - 21:11 commitment [2] - 70:10; 72:17 committee [9] - 87:17; 88:18; 100:25; 161:11, 17; 162:10,	16, 22; 164:4 committees [1] - 162:13 common [2] - 11:3; 89:15 commonly [2] - 99:24; 100:1 communications [2] - 80:12; 153:3 COMMUNITIES [1] - 52:6 communities [15] - 49:25; 50:8, 16, 18, 20; 51:15, 17; 52:2, 19; 53:22, 24; 54:2, 11; 55:6; 62:8 community [9] - 50:24; 51:1; 52:22; 55:14; 60:24; 62:17, 24; 160:6 Company [1] - 67:15 company [11] - 8:1; 17:5; 58:25; 132:9, 24; 143:2; 144:10; 146:15, 17; 147:9; 150:20 comparable [1] - 40:2 comparator [1] - 34:15 compare [2] - 34:21; 143:6 compared [1] - 34:13 comparing [1] - 52:10 comparison [9] - 32:25; 33:5, 11; 34:24; 44:1; 49:14; 124:7; 132:10 comparisons [1] - 132:12 competitive [3] - 63:5; 163:7 complement [2] - 147:16; 149:24 complete [2] - 59:4; 165:17 completed [10] - 8:3; 29:11, 23; 30:10; 40:10; 50:7; 53:21; 55:7; 61:8; 106:9 COMPLETED [1] - 61:20 completely [1] - 143:17 completes [1] - 25:17 completing [4] - 21:1; 102:20; 104:23; 116:10 completion [1] - 20:2 complex [2] - 21:9; 143:1 complexity [2] - 21:15; 143:20 compliance [3] - 79:16; 109:1; 122:23 complicated [1] - 143:9 comply [1] - 80:18 complying [1] - 113:13 component [5] - 66:13, 18; 130:21; 131:1 comprised [1] - 3:11 compromising [1] - 148:11 computer [2] - 6:6; 31:10	conceived [1] - 156:25 concerned [1] - 152:5 concerning [4] - 75:19; 99:9; 109:2; 141:8 concerns [3] - 11:20; 43:4; 47:3 concludes [1] - 22:6 conclusion [2] - 85:17; 129:23 conclusions [1] - 74:19 conclusive [1] - 67:10 concrete [1] - 139:11 concurrently [1] - 37:9 condense [1] - 95:24 condensed [1] - 135:14 condition [1] - 66:15 conditions [5] - 69:9; 109:9; 110:12; 129:2; 130:20 conduct [3] - 7:3; 85:2; 86:18 conducted [2] - 29:6; 37:7 configured [2] - 47:6, 11 confine [1] - 93:2 CONFIRM [1] - 52:5 confirm [41] - 13:22; 27:11, 22; 28:4, 24; 29:18; 30:22; 31:13; 32:24; 36:7; 40:7; 43:20; 44:22; 50:7; 52:1; 55:19; 56:14; 57:25; 59:23; 62:19; 63:7; 65:2; 66:7; 68:11; 69:4; 70:9, 15, 24; 71:1, 9, 11, 14, 16-17, 20; 72:5, 12, 17; 76:2, 9; 115:4 confirmed [2] - 68:20; 71:1 confirming [2] - 26:23; 71:15 confuse [1] - 92:24 confused [1] - 129:7 confusing [1] - 129:18 confusion [2] - 11:5; 90:6 congratulate [1] - 123:17 connect [1] - 82:6 connected [2] - 104:12; 125:10 connecting [1] - 102:14 connection [3] - 83:2; 96:14; 121:12 connection [1] - 122:9 connects [1] - 60:25 consequences [1] - 137:20 consider [7] - 12:2; 50:14; 64:8; 66:16; 69:10; 72:13; 131:15 consideration [5] - 11:7, 13; 24:18; 73:4; 82:5 considered [12] - 33:14; 39:17; 42:25; 50:2; 51:20; 65:15; 69:13; 79:2; 132:18;	142:23 considering [7] - 25:2, 24; 33:2, 13; 47:24; 150:3 consistent [1] - 91:1 consolidated [8] - 10:25; 11:2; 30:14; 57:16; 137:2, 5; 140:21; 164:16 constrain [1] - 121:7 construct [1] - 28:13 constructed [1] - 124:24 construction [5] - 82:17; 101:3; 103:20; 104:8; 163:2 consultant [8] - 141:4, 13, 21; 142:10, 12; 144:16; 152:7; 160:9 CONSULTANT [1] - 152:12 consultants [5] - 143:22; 144:17; 150:8; 151:8; 152:3 Consultants [1] - 141:19 consultations [1] - 26:24 consulted [1] - 155:3 consulting [2] - 141:14; 151:13 consumables [1] - 140:10 consumer's [1] - 157:7 Consumers' [4] - 2:16; 8:19; 14:15; 73:12 consuming [1] - 157:7 contact [4] - 4:1; 8:6; 159:18 contacted [1] - 67:22 contain [1] - 93:15 contained [1] - 82:12 content [1] - 21:23 contents [1] - 38:12 contest [1] - 75:1 context [14] - 24:1; 39:12; 49:11; 52:14; 53:2; 77:18; 95:22; 102:25; 116:1; 130:9; 134:19, 25; 140:7 continue [3] - 70:6; 81:20; 104:7 continuing [3] - 29:4; 92:5; 128:22 contract [7] - 41:18; 63:21; 106:25; 108:6; 160:10, 17; 161:4 contracted [1] - 62:19 contracting [3] - 127:11; 141:3; 164:21 contractor [2] - 160:9, 14 contractors [7] - 59:19; 60:12; 61:25; 62:1, 25; 64:1; 150:8 contracts [5] - 39:9; 142:12; 160:21; 163:11, 15 contradict [1] - 74:18 contribute [1] - 25:9 contributed [1] - 61:4 control [2] - 138:8; 159:15
--	--	--	---	---

controller [1] - 16:11 conversation [2] - 81:22; 138:4 cool [1] - 92:10 copy [3] - 9:25; 10:15; 30:8 core [1] - 20:18 Corp [1] - 146:12 corporate [4] - 16:11; 17:8; 126:8; 165:3 corporation [6] - 17:20; 18:16; 39:2; 142:8; 158:10; 159:9 Corporation [5] - 2:13; 14:3; 16:18; 95:8; 158:11 Corporation's [1] - 7:6 correct [47] - 25:21; 27:1; 29:2; 21; 30:1; 33:15; 36:1; 44:10; 14; 25; 46:25; 47:13; 57:22; 58:8; 12; 18; 70:13; 71:23; 74:14; 84:20; 86:9; 89:15; 91:14; 108:21; 109:24; 112:5; 113:5; 21; 116:19; 118:9; 14; 119:2; 122:19; 128:8; 133:25; 137:15; 139:6; 161:21; 164:7; 165:2 correctly [1] - 35:5 correspondence [7] - 75:18; 77:3; 96:2; 100:3; 5; 103:24; 135:25 cost [44] - 24:4; 13; 24; 25:10; 26:8; 32:20; 33:17; 34:5; 17; 39:3; 22; 40:8; 20; 23; 41:2; 6; 11; 16; 21; 43:25; 44:1; 6; 12; 22; 45:2; 48:20; 57:8; 66:19; 67:25; 70:4; 107:7; 17; 130:24; 131:12; 140:10; 141:8; 149:13; 150:6; 155:20; 156:1; 158:17; 160:11; 15 cost-effective [2] - 32:20; 33:17 cost-of-capital [1] - 131:12 costing [1] - 21:16 COSTS [2] - 61:21; 152:12 costs [62] - 7:4; 20:5; 23:8; 25:19; 39:5; 40:2; 23; 25; 41:8; 46:19; 48:8; 56:10; 57:1; 21; 58:2; 4; 10; 15; 17; 22; 59:10; 60:18; 21; 61:11; 68:21; 127:12; 14; 17; 137:21; 139:12; 140:2; 141:21; 23; 25; 142:5; 7; 143:7; 24; 144:21; 148:17; 20; 22; 150:6; 9; 18; 21; 23; 151:13; 24; 152:4; 7; 153:14; 156:9; 24 Council [2] - 3:6; 19:12 counsel [9] - 4:7; 8:20; 9:25; 10:1; 7; 12:24; 13:14; 14:5; 76:16 Counsel [2] - 2:9	count [2] - 138:18; 147:5 counted [1] - 115:24 counting [2] - 119:6; 120:10 couple [7] - 16:20; 47:17; 50:14; 51:4; 157:20; 162:3 course [4] - 12:24; 38:19; 52:25; 163:10 COURT [6] - 30:15; 18; 122:10; 14; 133:14; 18 court [7] - 7:24; 8:6; 9:8; 13:2; 4; 15:20; 133:16 Court [1] - 2:19 courtesies [2] - 5:25; 6:15 cover [4] - 19:18; 105:23; 149:9; 153:2 covered [2] - 100:15; 122:17 covering [1] - 129:6 covers [2] - 19:20; 130:25 COVID [1] - 5:21 creating [1] - 32:8 creative [1] - 11:18 crew [12] - 62:3; 6; 14; 19; 63:2; 5; 7; 9; 22; 64:3; 9; 14 crews [2] - 60:11; 61:8 CREWS [1] - 61:20 criteria [2] - 101:20; 22 criticism [1] - 31:7 CROSS [4] - 22:20; 73:24; 96:1; 123:16 cross [28] - 8:15; 25; 9:4; 13; 15; 17-18; 20; 25; 10:2; 6; 10; 12; 22:10; 73:6; 76:10; 12; 16; 78:2; 93:18; 109:6; 124:1; 126:22; 127:18; 130:1; 134:18; 136:9; 14 cross-examination [15] - 8:25; 9:4; 13; 15; 17; 10:12; 22:10; 73:6; 76:10; 12; 16; 78:2; 93:18; 109:6; 136:9 cross-examine [1] - 8:15 CROSS-EXAMINES [4] - 22:20; 73:24; 96:1; 123:16 Crossing [1] - 50:16 CRR [1] - 2:19 CSR(A) [2] - 2:19 Cullingham [2] - 2:14; 14:9 CULLINGHAM [2] - 14:8; 22:16 cumulative [9] - 78:20; 24; 79:5; 8; 12; 80:2; 113:14; 24; 114:4 current [9] - 41:19; 43:25; 66:20; 99:8; 110:14; 122:22; 128:9; 11 customary [1] - 6:1 customer [6] - 19:23; 50:1; 51:24; 52:11; 60:25; 155:8 customers [4] - 51:3; 52:20; 105:16; 154:2	cut [16] - 65:20; 96:14; 121:12; 139:12; 146:9; 147:8; 148:4; 9; 20; 149:5; 7; 150:9; 13; 151:11; 153:13 cuts [6] - 145:24; 146:5; 8; 10; 147:3; 21 cutting [2] - 144:21; 148:4 CVs [1] - 15:13 CW [1] - 43:16 CW-YEC [1] - 43:16 CW-YEC-1-36(a) [1] - 30:8 CW-YEC-2-6 [1] - 33:22 CW-YEC-2-6(a) [1] - 29:2 CW-YEC-2-7 [1] - 57:14 cylinder [1] - 140:8 cylinders [1] - 140:9	deeming [1] - 106:7 defer [1] - 108:10 define [2] - 91:13; 99:19 defined [3] - 89:12; 102:3; 130:18 defines [1] - 91:18 defining [2] - 89:11; 13 definition [3] - 88:9; 92:19; 99:24 degree [1] - 52:12 delay [2] - 2:23; 53:6 delays [2] - 6:14; 7:4 deliver [2] - 22:5; 138:19 delivery [3] - 127:5; 148:11; 149:8 demand [3] - 17:24; 20:8; 35:13 demonstrate [6] - 24:2; 11; 36:8; 22; 38:23; 39:21 demonstrated [1] - 49:2 demonstrates [1] - 40:2 demonstrating [3] - 27:24; 28:6; 70:2 denied [1] - 67:18 DEPARTMENT [1] - 56:4 department [5] - 17:13; 23; 42:14; 153:15; 161:15 departments [9] - 152:17; 24-25; 153:2; 6; 8; 13; 17; 19 dependable [13] - 20:13; 15; 25:10; 27:9; 32:6; 13; 21; 37:4; 103:6; 115:25; 117:5; 124:18; 125:5 deposit [1] - 157:12 depreciation [1] - 147:15 derated [2] - 82:25; 128:5 describe [1] - 163:12 described [1] - 103:14 description [2] - 139:4; 163:4 descriptions [1] - 144:2 designate [1] - 62:23 designated [3] - 62:7; 104:6; 128:19 designed [1] - 47:19 despite [4] - 70:2; 80:9; 104:19; 115:7 detail [3] - 7:15; 138:6; 163:12 detailed [11] - 24:24; 26:1; 28:19; 29:7; 12; 30:6; 40:8; 20; 41:12; 22; 103:7 details [2] - 7:19; 127:6 determine [4] - 25:5; 33:15; 39:6; 41:16 determined [8] - 33:8; 37:8; 39:2; 42:7; 67:19; 78:11; 85:2; 156:4 develop [3] - 25:4; 42:13; 162:19 developed [2] - 42:8; 131:12 development [4] -	17:14; 24:19; 159:8 Development [2] - 158:11; 159:17 developments [3] - 21:9; 19; 50:23 device [1] - 6:6 devices [1] - 6:4 dictating [1] - 37:12 diesel [57] - 23:7; 17; 28:16; 29:8; 13; 24; 31:2; 32:1; 9; 15; 33:1; 34:4; 7; 14; 36:10; 23; 37:6; 15; 38:23; 39:5; 21; 40:3; 41:7; 21; 43:5; 44:2; 7; 9; 12; 22; 46:12; 47:5; 48:21; 25; 49:5; 8; 87:9; 109:17; 111:2; 14; 112:4; 113:20; 114:11; 116:3; 18; 22; 125:24; 128:23; 137:22; 155:20; 156:1; 8; 24 Diesel [1] - 82:3 diesels [26] - 27:8; 18; 32:18; 34:11; 35:18; 48:1; 17; 49:14; 74:3; 75:8; 82:16; 108:15; 109:21; 124:5; 7; 9; 17; 20; 25; 125:8; 12; 14; 126:6; 9; 150:21 differ [1] - 131:23 difference [4] - 91:18; 99:10; 130:5; 14 different [20] - 14:1; 22:22; 25:3; 25; 33:15; 47:13; 52:23; 53:24; 58:14; 59:10; 62:25; 63:1; 75:23; 90:8; 92:11; 110:3; 132:19; 134:3; 142:22; 163:6 differentiate [2] - 80:12; 85:20 differentiation [1] - 109:25 difficult [4] - 137:10; 142:8; 150:11; 151:5 difficulties [1] - 134:11 digging [1] - 133:9 diligence [1] - 104:18 direct [2] - 33:21; 153:12 directed [3] - 5:7; 157:18; 20 direction [3] - 28:2; 54:25; 55:1 directions [1] - 10:9 directly [3] - 9:22; 57:20; 60:1 director [3] - 16:10; 18:17; 161:19 Directors [2] - 139:9; 159:14 directors [3] - 153:12; 161:13; 162:21 disagree [1] - 115:13 disallowing [1] - 10:9 disclosure [2] - 74:10; 75:11 disconnect [2] - 120:4; 125:20 disconnected [2] - 125:23; 126:3
--	--	---	---	---

discretion [1] - 149:7 discuss [2] - 81:12; 145:4 discussed [9] - 11:23; 43:3, 6, 8; 45:8; 55:12; 59:25; 78:22; 137:20 DISCUSSED [1] - 56:7 discusses [2] - 121:25; 161:17 discussing [1] - 45:3 discussion [6] - 26:2, 5, 21; 42:2, 13; 92:23 discussions [1] - 64:12 dispensing [1] - 8:10 displacement [1] - 29:24 disposal [2] - 138:15, 22 dispute [1] - 60:22 disregard [2] - 75:7, 12 distancing [1] - 5:23 distinction [1] - 79:21 distracting [1] - 6:5 distributed [1] - 76:23 distribution [18] - 50:15; 57:8; 58:4, 7, 15, 17, 21, 23; 59:1, 5, 16; 62:2, 11; 63:15, 18, 21-22; 132:21 disturbs [1] - 141:22 divide [1] - 141:5 DO [1] - 56:5 document [16] - 4:24; 31:1, 8-9, 25; 38:20; 48:11, 15; 85:18; 89:23, 25; 93:11; 111:25; 135:14; 145:14; 162:8 documentation [5] - 80:8; 81:10, 24; 82:19; 163:14 documented [1] - 137:18 documenting [1] - 138:6 documents [6] - 39:20; 64:23; 77:11; 123:5; 135:2; 136:11 dollar [1] - 25:11 dollars [2] - 25:11; 51:8 done [39] - 32:8; 37:20, 25; 39:12; 46:22; 47:22; 50:10; 52:10, 22; 53:17; 55:5, 8; 81:19; 85:14; 89:18; 92:23; 97:21; 98:5; 99:3; 103:12; 106:10; 123:8; 127:11; 131:20; 138:13, 24; 140:5; 141:3; 142:15; 143:20, 24; 148:8; 150:3; 157:4; 158:16; 159:3; 160:11 Donna [1] - 2:19 down [13] - 30:16; 34:3; 41:8; 46:1; 60:11; 67:16; 76:8; 95:24; 139:13; 141:12; 147:17; 156:11; 158:18 draw [3] - 27:5;	59:15; 65:7 driven [2] - 20:14; 21:9 drivers [3] - 20:5; 24:20; 137:17 drop [1] - 120:9 dropped [1] - 58:10 due [4] - 9:11; 12:4; 32:10; 104:17 during [20] - 6:4; 8:24; 9:15; 13:6; 20:11; 30:10; 43:4; 68:19; 70:16; 71:3; 72:9, 20; 105:14; 109:12; 114:19; 115:1; 116:3; 139:13; 144:25; 161:1 Dwayne [2] - 2:11; 4:9 Dün [2] - 3:5; 19:12	163:6 eliminated [1] - 37:24 eliminating [1] - 37:15 Elizabeth [3] - 78:7; 81:8, 21 elsewhere [2] - 131:13; 136:6 email [11] - 10:21; 77:6, 25; 78:4, 7; 79:12; 80:12; 81:1, 7, 9, 13 emails [1] - 80:13 embellishing [1] - 93:9 emergency [40] - 82:8; 83:3, 10; 86:18, 23; 96:5; 99:2; 104:13, 16; 107:12, 24; 109:11, 18, 22; 110:8, 12, 18; 111:7; 112:17, 24; 113:16, 21; 114:13, 20, 23; 115:2, 6, 9, 19; 116:4, 14; 118:17, 21; 119:13; 122:3, 13; 123:3; 128:14 emergency-only [1] - 83:10 emission [1] - 112:8 emissions [54] - 77:20; 79:10, 17, 19; 80:1, 17; 82:12, 16; 84:5, 24-25; 85:5, 12, 14, 19, 23; 89:1, 25; 96:10, 20; 97:6, 14, 16; 98:23; 99:18, 21; 100:7; 102:11; 103:18; 109:1, 4, 7; 110:1, 20; 111:12, 17, 21-22, 25; 112:1, 22; 113:9, 12, 14; 114:7, 21; 116:2, 11, 15; 129:4, 23 Emissions [1] - 81:25 emitting [1] - 89:21 employee [3] - 61:12; 127:14; 149:24 employees [3] - 58:24; 149:9; 163:24 employees' [1] - 61:2 enable [1] - 10:4 encounter [1] - 105:8 encountered [1] - 38:8 end [8] - 20:20; 26:6; 41:1; 134:17; 142:25; 146:13; 150:5; 151:1 ended [1] - 70:16 ends [1] - 12:7 energy [6] - 21:23; 22:4; 32:14; 35:2; 45:14; 101:1 Energy [41] - 2:13; 7:6, 9; 14:2, 6; 16:4, 18, 25; 17:11; 21:21, 24-25; 24:15; 25:1, 7; 26:4, 13; 32:3; 38:25; 59:4; 65:5; 66:12; 82:4; 95:8; 116:22; 120:5; 128:16, 18; 141:4; 145:6; 146:12; 152:17; 156:12; 157:14; 158:9; 160:3, 8; 161:11, 23; 164:9, 19	Energy's [1] - 128:22 engage [1] - 105:13 engaged [1] - 127:2 engagement [4] - 26:16; 28:20; 33:7; 104:5 engine [3] - 138:1; 140:8 engineer [1] - 55:17 engineering [5] - 16:7; 17:13; 41:22; 152:25 engines [7] - 39:8; 105:10; 108:14; 140:10, 12; 148:24; 149:16 enjoy [1] - 165:19 enquiries [1] - 103:8 enquiring [1] - 74:3 enquiry [1] - 88:10 ensuing [1] - 163:5 ensure [10] - 6:2, 5, 21, 24; 11:3; 20:22; 38:5; 76:6; 103:23; 104:11 ensuring [2] - 21:4; 104:18 entail [1] - 52:12 entire [1] - 70:25 entities [1] - 159:24 entitle [1] - 136:13 entitled [3] - 4:25; 65:5; 159:11 entry [1] - 8:7 Environment [1] - 129:4 environment [2] - 103:25; 122:6 environmental [3] - 18:1; 89:19; 151:7 Epp [5] - 16:10; 18:14; 52:19; 54:5; 150:10 EPP [6] - 16:17; 18:17; 54:7; 95:7; 149:21; 157:25 equate [1] - 61:12 equipment [7] - 63:17; 88:22; 89:21; 126:15, 21; 127:16; 153:21 equity [10] - 130:3, 5, 18; 131:1-3, 8, 10; 132:2 especially [1] - 146:13 essentially [4] - 25:17, 19; 108:7; 125:22 established [3] - 4:15; 72:25; 157:21 estimate [4] - 55:13, 16, 18; 62:4 ESTIMATE [1] - 56:4 estimated [2] - 44:7; 160:15 estimates [3] - 24:24; 40:8, 20 et [4] - 18:9; 80:14; 138:12; 153:3 European [1] - 163:22 evaluated [1] - 112:9 evaluating [1] - 81:18 evaluation [2] - 155:5; 162:15 event [12] - 104:10, 12; 109:13, 22; 112:18; 114:19;	115:7; 122:12, 18; 123:2; 126:3 Events [1] - 8:9 events [5] - 37:20; 38:8; 53:24; 104:17; 114:15 evidence [39] - 6:25; 9:3, 5, 19; 23:10, 19; 24:6; 27:4, 15; 28:2; 29:5; 32:18; 40:15; 42:20; 45:8; 49:17; 19; 57:1, 3; 60:15; 74:7, 12, 18-19, 21, 24; 75:1, 10; 84:13; 120:23; 121:8, 24; 122:1; 134:25; 135:1; 136:6; 144:13; 151:24 evolution [1] - 38:2 exacerbated [1] - 20:13 exactly [4] - 80:4; 98:16; 130:18; 152:9 examination [15] - 8:25; 9:4, 13, 15, 17; 10:12; 22:10; 73:6; 76:10, 12, 16; 78:2; 93:18; 109:6; 136:9 examine [1] - 8:15 EXAMINES [5] - 17:1; 22:20; 73:24; 96:1; 123:16 example [16] - 25:14; 26:17; 40:15; 67:21; 79:15; 80:16; 86:20; 90:14; 108:10; 137:21; 138:1, 19; 149:6; 151:6; 153:7 examples [2] - 139:12; 140:2 exceed [1] - 122:23 Excel [2] - 55:7, 9 except [2] - 6:7; 145:24 exception [8] - 5:10; 86:12, 17; 99:2; 117:3; 119:14; 131:11; 158:22 exceptions [3] - 87:17; 88:17; 100:24 excerpts [1] - 136:14 excluded [1] - 125:25 exclusively [1] - 111:1 excuse [6] - 31:4; 53:4; 83:16; 91:20; 120:12; 157:9 execute [1] - 32:17 execution [2] - 17:8, 14 executive [8] - 3:20; 4:4; 5:7; 10:16; 18:11; 87:17; 88:17; 100:25 exercise [5] - 2:25; 50:4, 11; 51:21, 25 Exhibit [15] - 15:14; 19:2; 23:20; 27:4; 30:14; 33:23; 43:17; 49:19; 57:3, 17; 59:14; 74:8, 14; 88:15; 121:24 exhibit [9] - 10:13; 33:23; 40:6; 88:11, 13; 93:11; 133:13, 21; 135:15 exhibits [4] - 10:18-20; 31:14 exist [2] - 27:18; 135:24 existing [8] - 20:13;
---	---	--	---	--

29:24; 82:25; 103:15; 124:15, 20; 125:5; 158:1 expand [1] - 67:11 expansion [1] - 87:23 expect [2] - 74:4; 144:12 expected [3] - 48:24; 125:7; 150:13 expects [1] - 6:13 expenditure [3] - 143:5; 147:8; 153:17 expenditures [2] - 143:9; 147:5 expensive [3] - 6:11; 63:17; 131:18 experience [1] - 35:8 experienced [2] - 36:15; 103:1 expertise [1] - 54:4 expiration [1] - 19:25 explain [5] - 17:4; 28:2; 61:25; 106:24; 148:1 explains [1] - 141:2 explanation [2] - 130:4; 142:4 explanations [1] - 138:5 explored [1] - 24:8 external [10] - 58:22; 59:5, 9, 18; 60:19; 61:24; 62:1, 20; 164:20, 22 extra [2] - 126:5; 149:12 extreme [1] - 54:21 extremely [3] - 143:1; 144:8	far [6] - 10:20; 76:13; 93:5; 148:10; 159:4, 22 Faro [38] - 50:16; 75:8, 20; 77:4; 78:12, 16, 24; 79:4; 82:3, 17; 84:10; 87:10; 97:19; 98:13; 101:18; 103:14; 105:19; 106:13; 107:23; 108:19; 116:7, 15, 24; 117:3, 9, 11, 15, 18-19, 21-22, 24; 118:3, 8, 12, 16; 128:2, 23 fast [1] - 161:9 FD1 [1] - 117:5 feasibility [6] - 18:2; 26:2, 11; 27:1; 42:3, 5 feasible [3] - 32:10; 33:19; 37:9 feature [1] - 13:11 February [1] - 11:10 federal [1] - 4:15 feed [1] - 8:5 fellow [2] - 15:25; 17:3 felt [4] - 64:5, 12; 67:24; 155:6 few [6] - 9:13; 15:15; 19:3, 18; 74:6; 123:25 fewer [1] - 144:25 fielding [1] - 22:7 figure [1] - 54:12 figures [1] - 125:9 file [1] - 154:7 filed [1] - 7:11; 9:2; 15:14; 19:2, 16, 20; 23:10, 19; 139:14; 154:6; 162:4 files [1] - 75:23 filing [2] - 20:1; 155:11 filings [2] - 18:12; 154:8 final [6] - 19:24; 56:10; 68:17; 83:23; 120:1; 155:24 finally [4] - 18:14; 21:18; 25:24; 41:24 finance [6] - 16:9; 11; 18:7, 18; 106:19; 153:1 financial [17] - 12:3; 16:10; 25:17; 102:20; 104:23; 105:5; 106:1, 20, 24; 107:2, 15, 18; 159:20; 164:9, 14; 165:4 find...supporting [1] - 82:19 findings [2] - 85:15, 17 fine [8] - 15:22; 73:16; 92:6; 120:6, 16; 133:22; 136:5, 7 fired [2] - 87:25; 101:6 firm [2] - 125:20; 160:9 First [11] - 3:5, 8; 19:9, 12; 21:8, 13; 26:17, 20, 24; 67:21; 153:2 first [29] - 8:14, 17; 19:7; 22:13; 23:18; 29:9; 30:11; 35:11; 38:20; 57:4; 59:20; 64:24; 75:12; 81:9; 83:5; 84:4; 96:3;	100:22; 102:1; 108:8, 25; 123:17, 25; 124:3; 128:1, 15; 139:14; 148:13 firstly [3] - 19:20; 20:6; 142:16 fiscal [1] - 70:19 five [14] - 3:11; 53:8; 56:12, 15; 111:1, 9, 11, 15, 19; 112:4, 10; 113:19, 23; 117:22 fixed [1] - 147:17 flag [1] - 4:8 flags [1] - 148:7 fleets [1] - 108:14 flights [1] - 161:3 flip [1] - 57:2 Florian [1] - 11:8 flow [1] - 5:16 fly [1] - 161:3 focus [6] - 21:11; 50:25; 57:7; 83:19; 93:18; 111:16 focused [1] - 165:10 foliar [2] - 65:20 folks [2] - 67:13; 90:7 follow [4] - 20:3; 75:24; 96:25; 152:15 follow-up [1] - 152:15 followed [5] - 8:18; 46:8; 161:24; 163:13, 16 following [11] - 6:14; 8:15; 12:12; 29:18; 46:2; 65:13; 66:1, 10; 69:23; 93:18; 129:23 follows [1] - 75:5 footnote [2] - 28:24; 30:3 Footnote [4] - 28:25; 30:4, 12 FOR [1] - 152:12 force [1] - 147:16 forced [1] - 147:4 forecast [12] - 20:13; 37:23; 52:16, 24; 54:16, 19-20, 22; 68:20; 103:3, 6; 149:18 forecasting [4] - 17:24; 54:5; 157:16 forecasts [3] - 51:10; 52:19; 136:24 form [1] - 162:20 format [1] - 19:17 formally [1] - 99:14 format [2] - 10:17; 136:3 formula [3] - 157:17; 158:5 Fortin [2] - 2:7; 3:16 FORTIN [2] - 56:18; 134:4 Fortis [4] - 132:1, 10, 20 fortunately [1] - 165:18 forward [20] - 5:3; 6:19; 7:7; 22:7; 32:11; 33:9; 37:25; 39:4; 42:16, 19; 65:7; 67:15; 126:23; 133:8; 137:6; 143:16; 148:15; 155:19; 158:14; 163:3 fossil [4] - 87:25; 100:17; 101:6, 9 foundation [1] -	135:1 four [10] - 20:4; 23:6; 46:8, 11; 48:24; 54:25; 67:6; 97:3; 132:13; 152:19 framework [1] - 163:19 franchise [1] - 71:6 frankly [1] - 120:19 free [2] - 108:7; 163:21 freezing [1] - 126:14 frequently [1] - 148:23 Friday [1] - 12:7 front [7] - 31:9; 41:1; 48:15; 58:21; 68:12; 160:3; 162:6 FTE [1] - 145:21 fuel [6] - 87:25; 100:17; 101:6, 9; 111:2; 156:16 fuel-fired [1] - 87:25 full [8] - 4:12; 23:13; 26:18; 75:18; 89:5; 126:18; 143:14; 164:2 fully [1] - 149:11 fulsome [1] - 131:14 function [2] - 3:22; 138:11 fundamental [1] - 120:4 future [3] - 21:18; 37:12; 40:13 Future [2] - 21:21; 37:10	75:20; 77:9, 17, 19, 23; 82:7; 83:13; 86:6; 87:10; 96:5; 97:3, 12, 18; 98:7, 12; 101:18; 102:14, 21; 103:20; 104:24; 107:6, 23; 108:20; 109:2, 10, 21, 23; 110:8, 25; 111:1, 6, 9, 11, 15, 19; 112:4, 10, 17; 113:1, 4, 10, 20, 23; 114:13, 20, 23; 115:6, 10, 15, 19, 21, 23; 116:15; 117:15, 22, 24; 118:8; 119:7, 19; 120:10; 122:17, 21; 126:2 Gerbrandt [1] - 2:19 Given [1] - 116:5 given [15] - 8:24; 10:14; 12:10; 13:24; 20:1; 23:3; 43:12; 52:22; 54:20; 61:5; 88:5; 108:5; 113:10; 132:2; 145:16 GIVEN [1] - 56:5 glance [1] - 77:6 goal [1] - 139:14 goals [2] - 17:8; 22:5 government [3] - 37:10; 163:19, 21 government's [1] - 21:21 governments [1] - 21:11 GRA [22] - 5:3; 7:8, 11, 16, 23; 8:4, 13; 11:1, 17; 18:22; 32:19; 64:24; 74:1; 116:17; 117:23; 118:13; 121:22; 123:4; 136:24; 137:6; 144:19 GRAHAM [12] - 13:17; 14:7, 15, 18, 21; 22:13, 18; 56:14, 20; 73:11; 133:19, 25 Graham [6] - 2:10; 4:7; 13:15; 14:4, 12; 22:11 grand [1] - 160:22 grant [1] - 77:22 grappling [1] - 138:22 great [2] - 121:11; 135:12 greater [3] - 84:19; 100:12; 103:6 greet [1] - 160:5 grid [5] - 20:8; 48:3; 82:7; 125:11, 23 ground [3] - 50:17, 22; 51:14 Group [4] - 2:17; 8:19; 14:15; 73:12 group [4] - 55:23; 141:4, 13; 143:18 groups [1] - 5:19 growing [1] - 147:9 grown [2] - 20:23; 138:20 growth [11] - 20:6, 12; 137:19; 138:10-12, 23; 146:19; 147:2, 6 guarantee [1] - 12:6 guess [34] - 26:14, 23; 38:12; 43:23; 47:16; 51:13; 52:8; 53:3; 63:8; 67:7; 71:9; 73:25; 74:17; 77:10,
G				
gain [2] - 8:6; 157:8 gap [3] - 32:6, 13; 35:25 Gary [1] - 16:7 gas [1] - 110:25 gate [3] - 127:5; 163:3, 5 gathered [1] - 5:19 Gazankas [2] - 16:7; 17:9 GAZANKAS [3] - 16:17; 17:12; 95:7 General [7] - 5:1; 7:6; 19:16; 131:9; 144:6; 164:13, 23 general [5] - 18:8; 41:15; 42:23; 105:20; 107:25 generally [6] - 47:19; 50:21; 51:4; 132:23; 163:18; 164:1 generating [14] - 28:13, 21; 41:11; 71:7; 78:17; 82:2, 24; 87:24; 88:2; 101:7; 114:5; 128:24; 129:1 Generating [2] - 82:3, 11 generation [22] - 20:18; 23:7, 18; 31:3; 32:2; 36:24; 37:13; 41:10; 49:9; 100:17; 101:9; 104:11; 107:25; 108:4; 118:16; 124:15, 20; 126:13, 18-19; 128:4; 158:25 generations [1] - 3:9 generator [2] - 122:8; 132:22 generators [68] -				

25; 81:1, 4; 87:6; 90:15; 91:17; 92:18; 95:17; 105:25; 109:20; 115:12; 123:7; 128:1; 139:5; 144:5, 23; 146:4, 14; 150:11	heats [1] - 125:21 held [1] - 19:10 helicopters [1] - 160:24 hello [2] - 81:21; 136:18 help [9] - 6:13; 12:18; 28:2; 34:19; 93:17; 126:6; 132:5; 135:10; 164:11 helpful [12] - 33:2, 5; 44:23; 47:4; 59:7; 61:10; 64:16; 65:25; 77:5, 13, 24; 88:9 helping [1] - 130:17 helps [3] - 68:4; 131:4; 132:6 herbicide [11] - 23:8; 56:10; 64:19; 65:14; 18; 66:6; 68:2, 23; 69:10; 70:3; 71:22 herbicides [13] - 66:13, 17, 23; 67:12, 15, 23; 70:16; 71:2, 14, 17; 72:8, 19, 22 hi [2] - 14:8; 16:2 high [3] - 100:7; 143:2; 144:9 higher [11] - 35:13, 23; 42:12; 48:19; 63:16; 103:5; 132:19, 21, 24; 157:14; 158:17 highest [1] - 163:23 highlighted [1] - 147:20 highlights [1] - 19:19 highly [1] - 147:12 hire [5] - 62:3, 5; 63:10; 145:6; 151:8 hired [1] - 145:19 hiring [1] - 127:11 historical [3] - 51:2; 133:3; 136:23 historically [1] - 66:12 history [3] - 50:21; 112:7; 131:7 hit [1] - 64:5 hold [5] - 28:5; 73:10; 105:15; 157:5; 158:20 holding [1] - 157:10 holds [1] - 27:23 holiday [2] - 4:15, 17 home [1] - 144:18 honour [2] - 3:6, 9 hope [1] - 23:14 hopefully [2] - 11:4; 76:18 hoping [1] - 120:20 horrified [1] - 151:15 hospital [1] - 50:24 host [1] - 40:24 hour [3] - 91:22; 155:25; 156:1 hours [10] - 10:1; 94:4; 108:6, 11, 16; 140:16; 149:10, 16; 155:7; 157:7 house [2] - 142:10; 143:12 housekeeping [1] - 136:16 housework [1] - 142:13 housing [1] - 50:23 human [2] - 106:12; 153:2 hundred [1] - 160:20	hundreds [1] - 3:8 hydro [1] - 151:9 hydroelectric [1] - 87:24	I i.e [1] - 128:21 idea [6] - 16:25; 121:13; 146:15; 147:2; 156:24; 165:16 ideas [1] - 11:19 identified [2] - 28:17; 108:9 identify [5] - 3:14; 4:8; 26:11; 93:15; 134:21 IF [2] - 52:5; 56:4 immediately [1] - 122:7 impact [5] - 19:23; 26:7; 34:7; 102:1; 138:10 impacting [1] - 20:5 impacts [3] - 89:20, 22 impeding [1] - 153:20 implemented [1] - 154:2 imply [1] - 28:15 importance [1] - 81:5 important [12] - 3:19; 4:18; 11:2; 20:3; 26:10; 31:8; 79:21; 80:11; 81:11; 83:7; 89:17; 148:21 improve [2] - 12:19; 139:13 IN [1] - 52:6 in-house [2] - 142:10; 143:12 include [9] - 18:19; 24:24; 34:16; 40:8; 58:4; 65:20; 72:7; 74:10; 130:25 included [14] - 37:5; 42:20; 45:9; 46:19; 48:8; 68:21; 117:13; 124:17; 125:8, 15-16; 126:4; 155:12; 156:2 includes [3] - 21:22; 29:24; 124:14 including [10] - 6:16; 18:20; 24:7; 29:10; 32:14; 88:23; 119:1; 124:20; 125:5; 144:3 income [2] - 130:19; 147:18 Incorporated [1] - 8:9 incorporated [1] - 46:20 incorrect [1] - 142:1 increase [16] - 78:23; 84:13; 87:9; 91:2; 97:15; 103:17; 116:12; 118:20; 119:4, 16; 139:1; 146:19; 154:25; 156:9; 157:1, 6 increased [3] - 20:8; 21:15; 145:3 increases [3] - 19:25; 139:1; 145:22 increasing [3] - 21:8; 150:1; 156:17 incremental [1] - 108:7	incur [3] - 137:21; 143:24; 148:23 incurred [1] - 41:1 indeed [1] - 137:25 independent [2] - 142:9; 164:19 indicated [4] - 53:20; 55:4; 69:9; 88:6 indicates [4] - 43:25; 49:23; 68:18; 69:8 indication [1] - 88:8 Indigenous [2] - 4:19 Indiscernible [2] - 16:21; 111:15 individual [4] - 23:1, 3; 52:20; 161:12 individually [1] - 52:22 individuals [1] - 15:10 indulgence [1] - 72:25 industrial [1] - 20:11 industry [3] - 21:4; 89:12; 130:24 infeasible [1] - 68:3 info [1] - 132:25 information [30] - 4:1, 4; 8:7; 29:1; 36:6, 8, 11, 13; 38:20; 39:25; 40:1, 8; 41:20, 25; 42:21, 23; 43:10; 44:1, 5; 54:1; 55:25; 57:14; 61:3, 9; 67:7; 78:11; 87:14; 90:22; 99:9, 11 informative [1] - 26:5 infrastructure [6] - 20:18; 40:24; 102:21; 103:19; 104:24; 107:17 infrequently [1] - 159:19 initiatives [1] - 35:2 injection [1] - 65:21 Inn [1] - 2:1 input [1] - 159:20 insert [1] - 120:21 insight [1] - 46:5 install [22] - 41:9; 77:8, 12, 23; 79:8, 15; 80:9, 16, 20; 84:8, 18; 85:6; 86:5, 7, 15; 92:6; 97:8, 12, 18; 102:18; 105:10 installation [9] - 75:20; 77:4, 16, 19; 82:1; 98:6, 12-13; 104:20 installed [14] - 29:9; 41:10; 80:3; 90:3, 12; 97:4; 100:12; 112:4; 115:15, 20, 22; 118:8; 119:6; 122:21 installing [6] - 75:8; 85:24; 86:25; 102:21; 104:24; 107:7 instance [1] - 160:24 instead [5] - 8:11; 62:10; 89:14; 114:2; 135:2 instrument [1] - 158:24 instruments [1] - 159:15 integrated [1] - 132:23 intended [2] - 10:2; 160:23	intensive [1] - 147:12 intent [1] - 81:2 intention [1] - 72:21 interest [10] - 83:18; 122:4; 130:17; 157:10, 15; 158:12, 20, 25; 159:2, 15 interested [1] - 7:17 interesting [1] - 89:6 InterGroup [1] - 141:18 interim [4] - 19:24; 153:23; 154:1, 25 internal [12] - 59:2; 60:20; 61:8; 64:15; 127:10, 12, 16; 141:22, 25; 142:2, 5, 7 INTERNAL [1] - 61:19 internally [2] - 64:10; 143:16 Internet [2] - 134:4, 6 interpret [2] - 97:10; 115:9 interpretation [5] - 47:9; 78:3; 86:4; 90:16; 110:9 interprets [1] - 91:19 interrupting [1] - 73:11 intervener [2] - 9:3; 22:14 interveners [4] - 8:15; 19:7; 144:24 interveners' [1] - 130:1 introduce [7] - 3:19; 15:5, 9-10, 18, 25; 73:25 introduced [1] - 15:18 introductions [1] - 22:23 introductory [2] - 15:16; 16:20 investigations [1] - 30:6 investment [1] - 131:1 investments [2] - 20:15, 21 invitational [1] - 164:1 invitations [1] - 164:5 involve [1] - 6:10 involved [3] - 18:22; 51:8; 162:14 IR [14] - 10:24; 30:14, 20; 36:7, 10; 43:16; 57:17; 69:9; 106:18; 139:11; 144:14; 148:13; 149:22 IRs [8] - 33:24; 74:2, 25; 104:22; 129:12; 135:25; 137:2; 161:22 isolated [1] - 132:3 issue [10] - 23:17; 27:14; 49:16, 18; 56:9, 25; 84:25; 85:3; 97:17 issued [6] - 11:11; 87:13; 90:2, 21; 111:18; 127:3 issues [16] - 2:24; 6:22; 11:25; 22:22; 23:7; 33:13; 39:6, 15; 46:17, 23; 60:9;
--	--	--	---	---	--

62:16; 80:1; 105:1; 165:18 IT [2] - 8:8; 56:5 Item [4] - 82:21; 87:6, 21; 101:1 item [2] - 7:22; 67:19 items [4] - 36:23; 38:17; 93:3; 147:18 itself [4] - 74:21; 109:5; 112:1 IVM [1] - 66:18	LANDRY [24] - 14:4; 15:7, 24; 16:12, 19, 22; 17:1; 18:25; 22:8; 31:6, 16, 18, 21; 43:21; 45:21, 24; 76:7, 21; 92:10; 95:11; 119:21; 135:8; 139:17, 20 landry [1] - 15:22 Landry [15] - 2:13; 14:5; 15:4; 19:5; 31:4, 13; 43:19, 22; 45:19; 76:17; 92:8; 120:17; 123:21; 135:6; 136:15 lands [1] - 3:7 landscape [1] - 21:7 lapse [1] - 143:3 large [4] - 63:8; 131:16; 153:9; 162:18 largely [2] - 147:17; 150:18 larger [2] - 28:13, 15 last [22] - 49:22; 54:24; 70:17, 19-20; 71:3; 72:9; 77:25; 78:4; 81:23; 90:15; 109:6; 118:21; 132:13; 137:6; 140:1; 143:6, 10; 150:22; 154:6, 12; 157:21 late [3] - 35:12; 37:14; 82:14 lateness [1] - 12:4 latest [1] - 162:6 latter [1] - 127:15 law [1] - 156:16 LCOC [8] - 25:11, 16, 20; 34:4; 40:1, 11; 44:1; 124:7 learn [2] - 35:23; 67:8 learned [1] - 108:9 learnings [1] - 43:12 learnt [1] - 35:10 least [6] - 10:1; 15:15; 24:4, 13; 39:22; 159:13 left [6] - 3:16; 16:9; 95:14, 20; 120:22; 136:21 legal [18] - 4:7; 8:19; 77:8; 92:20; 107:5; 118:15; 119:23; 120:1, 5, 7, 9; 121:1; 151:10, 16; 163:20; 164:17, 24 legally [3] - 119:6, 19; 120:3 legislative [1] - 164:17 legitimately [1] - 140:9 Lemke [4] - 2:11; 3:21; 5:8; 93:20 LEMKE [2] - 4:2; 134:8 length [4] - 43:3, 8; 93:11; 105:22 Lesley [2] - 2:8; 3:18 less [6] - 35:21; 81:5; 146:9; 150:4; 157:6; 160:22 letter [4] - 4:23; 9:9; 69:11, 15 level [9] - 21:20; 41:9; 42:12; 61:1; 100:7; 123:2; 150:17; 163:2, 23 levelized [5] - 25:10; 26:8; 34:4; 43:25;	48:20 leverage [1] - 147:19 levers [4] - 138:14, 21; 147:13; 151:21 licence [5] - 143:3; 144:1, 4; 146:8; 151:10 licensed [1] - 119:1 licensing [1] - 103:25 life [8] - 20:20; 24:5, 13, 25; 34:9; 39:22; 40:9 light [1] - 11:21 lights [3] - 125:21; 149:5; 150:19 likely [1] - 106:14 likewise [1] - 93:10 limbo [1] - 155:10 limit [3] - 62:1; 128:7, 9 limited [7] - 56:17; 85:25; 86:15; 89:1; 99:17; 114:14; 138:21 limiting [1] - 87:4 limits [1] - 63:12 line [26] - 21:4; 34:3; 14; 43:24; 44:19; 60:3, 6, 10, 13; 62:9, 23; 67:4; 71:13; 83:7; 91:21; 93:23; 97:21; 99:15; 106:16; 120:18; 123:11; 139:5; 143:7, 10 linear [4] - 52:9, 14, 21; 54:8 linemen [2] - 58:24; 60:24 lines [3] - 59:1, 5; 71:10 link [1] - 94:1 linked [2] - 85:13, 23 liquefied [1] - 110:25 list [12] - 10:19; 73:17; 89:4; 98:9; 108:19, 21; 135:15; 146:5; 147:18; 152:2 listed [1] - 98:12 listening [2] - 65:11; 69:24 lists [1] - 74:8 live [1] - 117:8 LLP [1] - 14:13 LNG [7] - 108:20; 140:8; 150:20; 155:21; 156:1, 8, 25 load [19] - 17:24; 20:6, 8, 12; 37:23; 38:3, 5; 50:24; 103:3, 6; 125:7, 17, 25; 137:19; 138:10; 139:1; 146:19 loads [1] - 125:21 loans [2] - 158:9, 12 local [2] - 67:13; 160:6 locally [1] - 67:19 locate [1] - 103:13 located [1] - 125:14 locating [1] - 98:14 location [1] - 5:20 log [3] - 93:25; 103:24; 134:7 logging [1] - 134:11 logistical [1] - 3:22 long-term [13] - 17:23; 22:1, 4; 24:18; 32:4; 35:1; 37:3, 20; 38:9, 22; 42:1; 157:8 longest [1] - 24:25	look [34] - 22:6; 24:20; 26:15; 34:14, 18; 37:19, 21; 49:21; 51:2; 64:10; 74:8; 77:22; 89:19; 92:14; 108:24; 109:4, 8; 110:21; 131:22; 133:1; 138:16; 140:19, 21; 141:18, 24; 143:5, 19; 145:25; 148:12; 149:2, 23; 150:7; 151:7; 152:21 looked [7] - 51:19; 90:13; 107:6; 113:25; 131:21; 139:4 looking [16] - 25:9; 45:5; 47:9; 48:4; 72:1; 74:17; 84:10, 13; 103:21; 127:18; 132:11; 141:16, 18; 149:23; 150:14; 162:23 looks [6] - 17:23; 26:17; 32:5; 66:5; 72:3; 73:19 Lorelee [1] - 2:19 Lorrie [2] - 2:12; 4:10 lose [2] - 62:14; 64:14 lost [1] - 122:9 low [5] - 51:4; 106:15, 20; 107:15; 153:11 lower [5] - 157:11; 158:11, 18, 25; 159:12 lowest [1] - 63:6 lunch [6] - 5:13; 13:25; 91:25; 92:7; 93:18; 107:21	market [9] - 41:19; 130:20; 156:16, 18; 158:21; 159:5, 7-8, 11 marking [1] - 10:18 masks [1] - 5:24 material [3] - 19:21; 20:21; 47:8 math [1] - 117:20 MATTER [1] - 56:7 matter [9] - 6:23; 7:5; 14:14; 24:8; 27:25; 55:12; 60:21; 80:24; 105:23 matters [6] - 11:23; 12:2; 13:18; 15:2; 39:15 max [1] - 143:18 maximize [1] - 66:19 maximum [9] - 88:22; 89:12; 106:11; 112:8; 113:19; 114:4, 25; 116:12; 122:23 MAY [1] - 61:21 Mayo [3] - 50:16; 158:23; 159:1 McCullough [2] - 2:8; 3:18 mean [22] - 23:15; 28:1, 7; 47:8; 70:18; 80:6; 86:3; 92:16, 22; 106:24; 126:6, 16; 137:19; 138:4; 145:1; 146:8, 16; 151:4; 158:15; 162:13; 164:12 meaning [2] - 78:3; 85:6 means [5] - 7:4; 79:23; 129:5; 150:1; 155:23 meant [2] - 80:25; 103:4 meantime [2] - 104:7; 119:16 measure [2] - 88:5; 124:22 measurements [1] - 5:21 measures [1] - 5:22 mechanical [3] - 68:21; 70:7, 11 mechanism [1] - 158:24 mechanized [2] - 63:17; 65:21 meet [12] - 21:25; 22:4; 33:17; 38:3; 39:3; 117:10; 119:11; 148:5; 150:16; 159:25; 160:4; 165:13 meeting [2] - 37:22; 118:25 megawatt [7] - 34:15; 41:10, 21; 84:16; 112:21; 117:17; 118:6 megawatts [68] - 20:11; 77:4, 13; 78:16, 20, 25; 79:5, 8, 13-14; 82:6; 83:9; 84:14, 19, 22; 85:1, 16; 96:11, 21, 24; 97:1, 11; 98:24; 100:8; 102:12; 104:4; 106:12; 109:17; 110:2, 18; 112:3, 23; 113:15; 114:17; 115:3, 10; 116:2, 12, 17, 21, 23; 117:3, 6, 9, 11-12, 16, 18, 20;	
J	J1 [1] - 155:15 Jaimie [2] - 2:10; 4:7 January [5] - 11:11; 20:10; 35:9; 36:3; 103:2 Jason [2] - 16:10; 144:10 job [2] - 139:4; 160:7 John [3] - 2:13; 11:8; 14:5 Johnson's [1] - 50:16 join [1] - 125:13 judgment [1] - 135:5 July [1] - 154:3 jump [1] - 105:18 June [2] - 153:25; 154:10 jurisdiction [2] - 11:12; 12:2 jurisdictions [1] - 90:7 justified [2] - 64:4; 163:8	K	Keegan [2] - 2:15; 14:13 keep [6] - 90:19; 91:24; 126:13, 15, 19; 150:19 keeping [2] - 50:14; 149:5 Keish [1] - 2:1 key [5] - 19:18, 23; 20:4; 21:18; 126:20 kilowatt [11] - 25:12; 34:8, 17; 44:7, 13-14; 155:7, 25; 156:1; 157:7 kind [7] - 28:2; 92:10; 119:20; 125:24; 143:14; 147:2; 149:19 King [2] - 2:7; 3:15 knowing [1] - 161:2 knowledge [4] - 91:10; 99:7; 113:2; 116:14 Kwach'an [2] - 3:6; 19:12 Kwanlin [2] - 3:5; 19:12	L	labour [5] - 139:22; 141:23; 142:2; 147:16 lack [2] - 26:18; 32:11 lag [1] - 121:16 lagging [1] - 104:20 laid [2] - 135:2; 142:9 Lake [1] - 32:17 land [1] - 67:23

118:7, 11, 18, 20; 119:1; 125:3; 128:4, 6-7, 25 Member [3] - 2:7 member [1] - 3:18 members [6] - 3:11, 13; 8:20; 17:3; 19:6; 76:23 memorandum [2] - 4:22; 5:6 memory [1] - 154:16 mental [1] - 117:20 mention [7] - 37:1; 59:15; 88:2; 89:10; 90:17, 22; 99:5 mentioned [18] - 12:14; 16:23; 31:24; 38:9; 51:13; 64:21; 67:1; 75:11; 82:4; 99:1; 101:13, 21; 103:1; 108:17; 111:22; 114:1; 121:22; 123:4 mentions [2] - 28:12; 115:19 menu [1] - 7:22 merit [1] - 57:6 met [5] - 36:23; 119:7, 18; 156:13; 159:1 methods [3] - 65:14; 70:7, 11 metric [5] - 25:8, 10, 12, 16; 26:8 metrics [2] - 41:7; 131:12 mic [1] - 139:8 microphone [5] - 6:6; 12:23; 13:21; 120:14 microphones [1] - 12:20 Microsoft [1] - 55:7 mid [2] - 5:12; 103:21 mid-morning [1] - 5:12 MIDDLER [1] - 133:12 Middler [3] - 2:8; 3:17; 133:17 midst [1] - 118:19 might [11] - 35:4; 53:5; 61:7; 77:5; 90:6; 93:17; 100:10; 130:24; 160:24; 161:3 MIGHT [1] - 61:19 Mila [2] - 16:5; 32:3 million [14] - 7:13; 20:23; 45:4; 141:6; 142:9, 14, 17-18, 20; 151:2; 158:2; 163:11 Milojevic [12] - 16:5; 17:18; 32:3; 33:6; 36:5; 39:24; 40:6; 43:15; 53:20; 105:6; 107:10; 119:25 MILOJEVIC [107] - 16:17; 17:21; 27:13, 21; 28:23; 29:3, 16, 21; 30:2, 23; 32:3; 33:16; 34:1, 3; 36:12; 37:1; 44:4, 9, 15, 24; 45:6, 18; 46:10; 52:13; 54:3; 74:15; 76:1; 77:14; 78:6; 79:10, 25; 80:11; 84:7, 21; 85:9; 86:10; 87:12; 88:7; 89:17; 90:24; 91:10, 15;	95:7; 96:7, 17; 97:5, 13; 98:8, 20; 99:7, 13, 20, 25; 100:4, 19; 101:11, 19, 23; 102:24; 106:4; 109:3, 11, 25; 110:11, 17; 111:9, 24; 112:2, 6, 20; 113:2, 6, 13, 22; 114:7, 11, 16, 24; 115:8, 17, 23; 116:9, 20, 25; 117:12, 17; 118:2, 6, 10, 14, 17; 119:3, 8; 121:23; 122:20; 123:6; 124:12; 125:10, 14; 127:20, 24; 128:3, 9; 129:8, 13, 19; 145:18 Milojevic's [2] - 42:14; 143:18 mind [2] - 26:14; 50:14 mindful [1] - 7:24 mine [1] - 125:14 mines [7] - 125:12, 15-16, 20, 22; 126:4, 6 minimize [1] - 6:14 mining [1] - 125:25 minus [2] - 35:12; 154:14 minute [4] - 30:25; 31:25; 32:9; 59:13 minutes [9] - 5:13; 19:18; 53:9, 16; 56:13, 15, 20 missed [3] - 6:18; 96:15; 121:19 mitigated [1] - 89:24 mitigation [2] - 5:21; 46:21 mix [1] - 21:23 mixed [1] - 142:21 mobilize [1] - 64:2 model [3] - 54:8, 17; 143:22 modelling [1] - 55:17 models [1] - 35:14 modernization [1] - 21:2 modest [1] - 160:22 modification [4] - 100:16; 101:3, 9, 18 Mollard [14] - 16:9; 18:3, 18; 47:17; 50:13; 54:6; 60:16; 63:19; 68:4; 72:24; 153:18; 162:25; 164:8 MOLLARD [136] - 16:17; 18:7; 23:23; 41:5, 18; 47:16; 48:9; 50:6, 9, 13; 51:18, 22; 52:3; 55:9, 15, 22; 56:1; 57:11, 18, 23; 58:3, 9, 12, 19; 59:12, 22; 60:1, 22; 61:6, 15; 62:3, 21; 63:14, 23; 64:11; 65:3, 23; 66:8; 67:2, 9; 68:13, 16; 69:1, 6, 19; 70:13, 18, 22; 71:5, 12, 19, 23; 72:4, 10, 15, 21; 95:7; 106:23; 107:9, 19; 108:22; 126:10, 17, 24; 127:15; 130:7, 16; 131:7; 132:8, 11, 17; 133:2, 5; 139:2, 25; 140:6, 14, 22; 141:11, 17; 142:1; 144:5; 145:13; 146:1, 6; 147:10; 148:9, 14, 21;	149:11; 150:10; 151:4; 152:1, 6, 10; 154:3, 5, 7, 15, 19; 155:2, 5, 11, 14, 18, 22; 156:2, 5, 14, 22; 157:2, 16; 158:8, 15; 159:10, 14, 19, 24; 160:13, 16, 19; 161:6, 8, 13, 18, 20, 25; 162:3, 7, 12, 18; 163:18; 164:6, 11, 22; 165:3 moment [6] - 22:17; 76:6; 86:22; 109:7; 117:1; 165:20 money [4] - 21:5; 142:10; 156:20; 159:8 monitoring [1] - 151:8 month [2] - 108:6, 16 monthly [2] - 52:10 months [2] - 36:16; 144:14 Moon [1] - 32:17 morning [21] - 2:22; 5:12; 6:18; 13:24; 14:12, 16, 19; 16:2; 19:6; 22:21, 24; 23:5; 53:5; 99:16; 105:22; 107:11; 124:1; 137:20, 24; 165:14, 22 mornings [1] - 149:1 most [13] - 3:18; 32:11, 20; 33:17; 37:22; 74:5, 21; 134:20; 135:23; 141:5; 149:15; 158:10; 159:7 mostly [1] - 96:2 mother [1] - 158:10 motion [2] - 74:10; 75:10 move [24] - 6:19; 18:3; 27:22; 33:9; 49:15; 56:25; 64:19; 65:7; 66:2; 69:2; 70:15; 91:17; 98:1; 115:4; 121:2, 10; 133:8; 141:16; 148:15; 152:15; 153:22; 155:19; 158:4 moving [6] - 5:3; 14:2; 69:20; 107:20; 126:23; 160:1 MR [293] - 14:4, 8, 12, 16, 19; 15:7, 24; 16:2, 12, 19, 22; 17:1, 6, 12; 18:7, 17, 25; 19:5; 22:8, 16, 20; 23:23; 24:15; 25:1, 7, 22; 26:4, 13; 27:2; 28:1, 7; 30:17; 31:6, 12, 16-19, 21, 23; 33:4; 35:4; 36:2; 38:25; 39:19, 24; 40:11, 21; 41:5, 18; 42:6; 43:2, 21-22; 45:19, 21, 23-25; 46:14; 47:1, 7, 16; 48:9; 49:10, 13; 50:6, 9, 13; 51:18, 22; 52:3, 8; 53:10, 16, 19; 54:7; 55:9, 15, 22; 56:1, 8, 18, 24; 57:11, 18, 23; 58:3, 9, 12, 19; 59:12, 22; 60:1, 22; 61:6, 15-16, 22; 62:3, 21; 63:14, 23; 64:11; 65:3, 23; 66:8; 67:2,	9; 68:13, 16; 69:1, 6, 19; 70:13, 18, 22; 71:5, 12, 19, 23; 72:4, 10, 15, 21; 73:2, 8, 14, 19, 24-25; 76:7, 12, 19, 21, 24; 77:1; 83:17, 20, 24; 84:3; 91:23; 92:2, 4, 10; 93:22; 94:2; 95:11, 17, 21; 96:1; 97:23, 25; 98:3; 105:1, 6; 106:3, 23; 107:9, 19; 108:3, 22; 119:21; 120:9; 121:12, 19; 122:12, 16; 123:9, 13, 15-16; 126:10, 17, 24; 127:2, 15; 130:7, 16; 131:7; 132:8, 11, 17; 133:2, 5, 7, 11, 22; 134:4, 7, 12; 135:8, 23; 136:12, 18, 20; 137:4, 13, 16; 139:2, 7, 17, 19-21, 23, 25; 140:6, 14, 22, 24-25; 141:2, 11, 17; 142:1, 16, 19, 21; 144:5, 23; 145:9, 13; 146:1, 6, 14; 147:10; 148:9, 14, 16, 21; 149:11, 21; 150:10; 151:4; 152:1, 6, 10, 14, 19, 21, 23; 153:10, 16; 154:3, 5, 7, 15, 19, 23; 155:2, 5, 11, 14, 18, 22; 156:2, 5, 14, 22; 157:2, 16, 25; 158:8, 15; 159:10, 14, 19, 24; 160:13, 16, 19; 161:6, 8, 13, 18, 20-21, 25; 162:3, 7, 12-13, 18, 25; 163:18; 164:6, 11, 22; 165:3, 7, 12 MS [125] - 4:2; 13:17; 14:7, 15, 18, 21; 17:21; 22:13, 18; 27:13, 21; 28:23; 29:3, 16, 21; 30:2, 23; 32:3; 33:16; 34:1, 3; 36:12; 37:1; 44:4, 9, 15, 24; 45:6, 18; 46:10; 52:13; 54:3; 56:14, 20; 73:11; 74:15; 76:1, 15; 77:14; 78:6; 79:10, 25; 80:11; 84:7, 21; 85:9; 86:10; 87:12; 88:7; 89:17; 90:24; 91:10, 15; 96:7, 17; 97:5, 13; 98:8, 20; 99:7, 13, 20, 25; 100:4, 19; 101:11, 19, 23; 102:24; 106:4; 109:3, 11, 25; 110:11, 17; 111:9, 24; 112:2, 6, 20; 113:2, 6, 13, 22; 114:7, 11, 16, 24; 115:8, 17, 23; 116:9, 20, 25; 117:12, 17; 118:2, 6, 10, 14, 17; 119:3, 8; 121:15, 23; 122:20; 123:6; 124:12; 125:10, 14; 127:20, 24; 128:3, 9; 129:8, 13, 19; 133:12, 16, 19, 25; 134:8; 135:17, 20; 145:18 Mullen [2] - 2:12; 4:10 multiyear [2] - 17:15;	60:2 must [9] - 11:20; 21:18; 22:3; 92:10; 101:14, 24; 102:6; 140:5; 148:12 mute [4] - 12:22; 31:20; 95:14; 134:9	
					N
					N-1 [49] - 20:13; 32:5, 13, 20; 37:4; 103:5; 104:10; 105:8; 107:24; 109:12, 22; 110:9; 111:7; 112:18, 24; 113:21; 114:15, 19; 115:6, 25; 116:3, 7-8, 16, 18; 117:10, 21, 23, 25; 118:12, 24-25; 119:7, 11, 13, 18; 123:3; 124:5, 11, 13, 18; 125:13, 18-19; 126:1, 3, 12 N1 [1] - 122:19 name [11] - 3:1; 13:3; 14:4, 8, 12, 16, 19; 16:2; 23:13; 145:16; 152:20 namely [4] - 24:18; 26:8; 29:2; 57:14 nameplate [1] - 90:14 narrative [1] - 44:20 Nathaniel [5] - 2:18; 8:18; 14:18, 20; 136:14 Nation [6] - 3:5; 19:13; 26:18, 20, 24; 153:2 National [1] - 4:14 national [2] - 21:9, 19 Nations [5] - 3:8; 19:9; 21:8, 13; 67:21 natural [1] - 110:25 nature [5] - 42:24; 147:11, 17; 148:22; 161:4 near [2] - 32:21; 38:4 near-term [1] - 38:4 nearest [1] - 106:12 necessarily [2] - 86:24; 149:7 necessary [2] - 13:1; 136:11 need [35] - 25:3, 25; 26:15; 36:16; 38:3; 53:21; 62:25; 78:25; 84:10, 22; 85:2, 8; 86:8; 96:9, 19; 105:23; 119:5; 121:6; 124:25; 125:17; 126:13, 15; 136:15; 137:21, 24; 143:24; 144:15, 17; 148:25; 150:16; 159:5, 7; 160:24 needed [15] - 60:7, 10; 62:15; 103:9, 22; 104:5; 115:2; 124:9; 126:5; 143:3; 152:8; 160:23 needing [1] - 138:18 needs [6] - 22:4; 39:3; 53:8; 98:23; 146:23; 150:3 negative [1] - 131:24 negotiate [1] - 159:12 negotiation [1] -

151:14 neighbourhood [1] - 161:10 net [3] - 25:18; 37:21; 48:22 never [1] - 50:10 nevertheless [1] - 53:6 new [13] - 20:10, 15; 25:9; 37:25; 38:11, 21; 42:2; 95:23; 129:5; 137:25; 145:6; 146:21; 157:25 news [1] - 67:19 next [20] - 3:16; 6:21; 22:18; 34:13; 48:11; 69:20; 71:17; 73:6; 81:13; 82:18; 83:5; 98:1; 109:6; 121:2; 123:11; 148:6; 158:4; 164:3 nine [5] - 115:24; 117:17; 153:6, 8, 10 nobody [1] - 55:16 noise [1] - 6:5 non [7] - 4:20; 20:11; 54:5; 110:12, 18; 113:16; 118:17 non-emergency [4] - 110:12, 18; 113:16; 118:17 non-Indigenous [1] - 4:20 non-industrial [1] - 20:11 non-wholesales [1] - 54:5 none [1] - 15:4 nonetheless [1] - 11:11 noon [2] - 5:13; 91:22 normal [4] - 112:22; 114:6, 8; 115:11 normalization [8] - 23:8; 49:16, 24; 50:8; 53:12, 22; 54:15, 17 normalizing [1] - 51:9 normally [4] - 109:16; 110:2; 114:18; 116:2 north [1] - 132:4 note [13] - 23:6; 29:5; 30:5; 43:15, 23; 45:12; 52:16; 57:4; 79:3; 81:15; 91:22; 133:19; 158:23 noted [5] - 9:9; 87:16; 109:13; 128:3; 135:15 notes [3] - 29:22; 45:8; 92:14 nothing [2] - 89:9; 149:15 noticed [1] - 81:16 notifications [1] - 6:3 November [1] - 7:11 number [31] - 6:16; 10:13, 15; 37:11; 41:10, 15; 45:13; 52:16, 18; 64:22; 65:19; 67:20; 86:6; 88:11, 13; 95:15; 98:11; 100:4; 106:6; 108:5, 11, 16; 117:2; 118:1; 119:25; 133:13; 137:17; 138:5, 21; 142:21;	161:9 numbers [5] - 41:13; 44:21; 118:24; 134:22; 154:16 NY-YEC-1-10 [1] - 106:5 NY-YEC-1-6 [1] - 109:15 NY-YEC-1-8(a) [1] - 75:17 NY-YEC-2-1 [3] - 127:19, 22; 129:10 NY-YEC-2-3 [1] - 88:10 NY-YEC-23 [1] - 99:16 O O&M [8] - 39:5; 137:21; 138:15; 140:2; 147:20; 150:18, 23, 25 objection [1] - 13:8 observe [1] - 4:13 observed [1] - 35:13 observers [1] - 7:17 observing [1] - 6:14 obvious [2] - 60:9; 137:7 obviously [6] - 31:8; 40:13; 41:13; 92:17; 102:2; 120:4 occasion [1] - 59:1 occasionally [1] - 160:21 occasions [1] - 119:25 occur [2] - 9:3; 102:8 occurred [1] - 118:21 OCds [1] - 56:18 October [4] - 9:11; 28:18; 78:8; 145:20 OF [2] - 56:6; 152:11 offer [3] - 12:8; 149:6; 151:4 offered [2] - 27:15; 38:4 offhand [1] - 158:1 office [2] - 104:6; 128:19 officer [1] - 16:10 Official [1] - 2:19 offset [2] - 48:24; 150:6 offsets [1] - 7:14 often [3] - 92:23; 130:22; 146:16 OIC [2] - 156:14; 164:24 oil [1] - 140:4 old [1] - 129:17 ON [1] - 61:19 on.. [1] - 129:7 once [8] - 13:12; 35:22; 49:18; 65:2; 69:4; 110:4; 120:7; 143:23 one [72] - 3:10; 6:16, 18; 11:7; 21:23; 31:18; 32:7; 39:25; 40:25; 45:13, 21; 46:16; 52:17; 54:7, 25; 57:7; 62:3, 6, 19; 63:2, 4, 7; 67:20; 78:5; 80:20; 81:10, 14; 85:16; 86:1; 90:1; 97:9; 98:11; 101:15; 113:16; 114:2;	115:25; 118:3; 123:22; 129:5, 12; 130:4, 21; 131:25; 132:18; 135:18; 139:15, 18; 141:3, 12; 143:18, 21; 145:12, 21; 146:2; 147:19; 149:6; 154:11; 157:11; 158:22; 161:12, 22; 162:4, 6; 164:3 one-off [1] - 40:25 ones [2] - 124:23; 159:13 ongoing [3] - 5:21; 20:21; 137:23 onsite [1] - 88:22 onus [3] - 27:23; 28:5, 8 open [4] - 12:18; 33:25; 60:11; 150:2 opening [8] - 8:11; 19:1, 3, 17; 20:4; 22:6; 35:8 operable [4] - 83:15; 109:21; 119:2, 6 operate [38] - 77:21; 79:13, 20, 23; 80:6, 15, 24; 84:9, 19, 21; 85:8, 11, 16; 86:16, 20; 87:4; 91:16; 98:24; 100:8; 102:11, 19; 103:10, 23; 104:4, 15; 109:17; 110:1, 18, 24; 113:19; 115:2; 119:5, 9, 14; 123:1; 153:20; 163:19 operated [6] - 102:23; 114:19; 115:6, 14; 116:1; 118:22 operates [1] - 19:8 operating [16] - 84:16; 85:5, 20, 25; 86:12; 88:5; 89:21; 90:20; 99:23; 100:2, 11; 109:23; 110:4; 113:14, 18; 138:16 operation [3] - 101:3; 114:9; 128:22 Operation [1] - 110:22 operational [17] - 87:2; 88:3, 20; 89:2, 7, 9-10; 90:18, 23; 91:7, 9-10, 14; 99:6, 10 OPERATIONS [1] - 61:18 operations [10] - 33:3; 61:7; 62:13, 23; 64:12; 125:24; 132:15; 136:22; 137:7; 152:25 opinion [1] - 82:15 opportunity [7] - 8:22; 12:9, 11; 40:18; 83:22; 128:13; 135:21 opposed [3] - 88:21; 93:2; 131:18 opposite [1] - 146:18 option [37] - 24:3, 11, 13; 25:5, 21; 26:11, 19; 27:8, 17, 24; 28:12, 16; 29:14; 32:9; 33:8, 20; 35:18, 24; 37:8, 16, 24; 38:4, 11, 18, 23; 39:21; 40:4; 43:5, 9, 12; 49:9; 64:8; 151:11;	158:6 optional [1] - 151:10 options [18] - 25:3, 6, 9, 25; 26:3, 15, 22; 27:1; 28:21; 29:8, 24; 32:25; 33:15; 38:6; 39:1; 42:3; 103:22; 105:21 or.. [3] - 41:4; 155:10; 161:17 oral [2] - 8:10; 68:19 Order [2] - 11:10; 68:7 order [23] - 3:2; 7:12; 8:16; 35:17; 42:11; 75:23; 76:14; 84:8, 18, 21; 101:13; 104:4; 105:18; 108:4, 18, 23; 109:14; 110:5; 114:3; 136:1; 150:16; 154:25 ordered [1] - 75:21 ordering [1] - 103:20 organizationally [1] - 153:4 organize [1] - 149:9 oriented [1] - 12:3 original [2] - 96:17; 136:3 originally [1] - 96:7 ourselves [1] - 3:14 outcome [1] - 155:20 outline [1] - 163:6 outlined [1] - 20:4; 25:18; 32:18; 33:6; 35:8; 40:14; 105:6; 106:17; 147:7; 153:19; 162:25 outlines [2] - 33:17; 39:1 outlining [1] - 160:10 output [13] - 79:11; 80:2; 89:13, 22; 90:1, 10; 97:9; 99:21; 106:12; 112:21; 116:13; 118:16 outside [5] - 11:20; 64:2; 71:21; 150:8 outstanding [1] - 154:13 overall [6] - 17:6; 20:8; 47:7; 52:25; 79:17; 143:9 oversight [3] - 18:19; 162:24; 163:1 overtime [1] - 148:17, 20, 22-23; 149:4, 7, 13, 17, 24; 150:5 overview [3] - 17:10; 18:5, 15 own [12] - 2:18; 28:13; 46:15; 64:6; 87:11; 108:10, 15; 125:24; 130:2, 20; 131:18; 163:25 owned [5] - 33:1; 34:14; 41:16; 44:3, 6 P p.m [1] - 5:14 P.M [5] - 94:5, 7; 95:3, 5; 165:23 page [71] - 5:2; 8:4, 13; 11:1, 17; 23:21; 27:6, 11; 30:21; 31:16; 34:1, 13; 43:18, 24; 44:18; 45:17; 46:2; 48:11; 49:20; 57:2, 5, 19-20,	25; 59:14; 65:1, 4, 7; 66:3, 5; 68:15; 69:3, 21-22; 72:3; 74:14; 78:1, 6; 81:7, 13; 82:18; 83:5; 87:6; 88:14; 109:6; 116:21; 121:25; 127:19, 22; 128:15; 133:12; 134:22; 137:2; 140:1; 141:9, 15, 20, 25; 142:6 pages [5] - 42:11; 100:4; 135:24; 141:18; 144:13 paid [2] - 127:14, 16 pain [2] - 157:8 panel [15] - 15:5, 9, 18; 17:3; 22:10, 12, 21; 23:2; 31:13; 55:16; 73:3; 130:4; 134:24; 136:21; 160:3 Panel [1] - 123:17 PANEL [5] - 17:1; 22:20; 73:24; 96:1; 123:16 panelists [2] - 16:1, 24 paper [2] - 11:18; 145:11 paragraph [20] - 49:21, 23; 57:4, 12; 59:20; 61:22; 65:8; 67:1; 68:15, 18; 69:3, 12, 20-21; 70:1; 72:1, 6; 93:14; 146:4 pardon [1] - 155:25 parent [1] - 164:15 part [26] - 26:16, 21; 42:17; 43:3; 47:23; 61:24; 74:5, 22; 81:18; 90:15; 101:6; 106:16; 108:6; 109:5; 110:22; 117:24; 124:18; 125:1; 128:1; 131:9; 134:20; 136:6; 141:22; 160:5; 162:20; 163:13 Part [17] - 25:14; 40:16; 82:13, 21; 87:20; 101:1; 109:6, 9; 110:21; 111:4, 10; 113:8, 19; 114:13; 115:7, 9 participant [1] - 14:25 participants [13] - 5:19; 6:9, 13; 7:2, 16; 10:24; 12:17; 13:8; 15:12; 16:24; 17:10; 18:5, 15 particular [13] - 5:2; 11:21; 13:9; 26:14, 19; 49:22; 103:8; 140:12; 158:7; 163:1; 165:10, 13 particularly [5] - 20:7; 25:8; 36:14; 64:5; 149:8 parties [11] - 4:21; 8:5, 12; 9:14, 16, 19; 12:10; 13:15; 14:22; 48:14; 130:17 partly [2] - 20:24; 103:15 parts [1] - 146:1 party [4] - 9:24; 10:11; 12:24; 15:2 Pass [1] - 67:14 pass [4] - 101:14, 25; 102:16; 135:5
---	---	--	--	---

passed [2] - 102:6; 103:5 passes [2] - 71:13; 98:10 past [4] - 70:2; 158:12, 16; 159:3 patience [1] - 73:23 patient [1] - 165:17 pause [1] - 121:17 pay [5] - 107:14; 147:14; 149:2, 14 payable [1] - 18:9 payroll [2] - 18:9, 20 pdf [38] - 23:21; 27:5, 11; 30:21; 31:16; 34:1, 13; 43:18, 23; 44:18; 45:17; 48:11; 49:20; 57:2, 19-20, 25; 58:22; 59:14; 65:1, 4, 7; 66:3, 5; 68:15; 69:3, 22; 72:3; 78:6; 82:18; 83:6; 87:7; 88:14; 137:5; 140:21; 148:14 peak [12] - 17:25; 20:7, 11-12; 35:13, 23; 36:15; 103:2; 146:20; 148:25; 149:17 people [11] - 3:7; 4:20; 6:10; 53:7; 56:17; 143:13, 21; 149:2; 150:4; 160:5 people's [2] - 104:13; 125:21 per [27] - 25:11; 32:9; 34:8, 17; 41:10, 21; 44:7, 13-14; 45:4; 52:11; 62:3; 108:6, 16; 110:1; 111:17; 135:1; 140:8; 155:25; 156:1; 162:11 percent [17] - 20:8; 22:1; 51:5; 53:1; 58:14, 16; 61:11; 146:19; 148:1; 153:23; 154:2; 157:6, 11; 159:2; 160:20 percentage [2] - 51:24; 153:14 perfect [19] - 23:24; 30:24; 31:23; 32:24; 44:11; 45:19; 47:4; 53:19; 55:10; 56:2, 20, 24; 58:6; 59:23; 65:4; 66:9; 68:17; 69:7; 71:15 Perfect [1] - 29:22 perfectly [2] - 47:6, 10 perform [1] - 104:6 performance [1] - 139:13 performances [1] - 164:20 performed [1] - 164:25 perhaps [11] - 16:12; 17:2; 33:1, 21; 37:1; 52:13; 55:13; 125:13; 135:13; 136:15; 165:10 period [16] - 20:11; 23:16; 35:9; 43:13; 54:18; 70:17, 20; 71:1, 4, 18; 72:9, 18, 20; 151:13 periods [1] - 149:17 permanent [14] - 28:21; 29:8; 32:22;	34:20; 35:20; 40:3; 43:5; 48:5; 111:11; 113:23; 124:7, 16, 23; 128:4 permission [1] - 92:5 Permit [1] - 81:25 permit [75] - 67:18; 77:20; 79:10, 17, 20; 80:1, 16-17, 20; 82:13, 16, 21; 83:14; 84:5, 24; 85:1, 5, 12, 14, 19, 23, 25; 86:15; 89:1; 90:1; 96:11, 20, 23, 25; 97:7, 15-16; 98:23; 99:18, 22; 100:7; 102:11; 103:18; 104:2; 109:2, 4, 7; 110:1, 14-15, 21; 111:13, 18, 25; 112:1, 19; 113:4, 9, 12, 14; 114:7, 21; 115:21; 116:2, 7, 12, 15; 118:23; 119:4, 16; 122:22, 24; 128:9, 12, 20; 129:3, 17, 23 permits [5] - 80:14; 84:11; 112:8, 11; 122:18 permitted [20] - 68:1; 79:18; 88:20; 89:7; 90:10; 91:13, 16; 102:13; 110:3, 6; 112:17; 113:16; 114:2, 18; 115:10; 118:16; 119:12, 15; 120:3; 123:2 permittee [1] - 110:24 permitting [4] - 17:25; 42:14; 104:19 person [4] - 3:19, 25; 14:24; 143:18 perspective [5] - 35:22; 37:2; 43:12; 84:25; 90:9 pertinent [1] - 12:1 phase [1] - 127:3 phone [5] - 80:14; 81:12, 22; 82:4; 95:15 physical [2] - 5:23; 105:16 physically [2] - 104:11; 105:15 pick [4] - 56:9; 95:14, 20; 165:11 picture [2] - 59:4; 125:4 piece [1] - 103:20 place [8] - 3:4; 5:21; 41:18; 98:22; 142:12; 158:2 plan [47] - 17:16; 22:3; 24:19; 28:18; 29:11, 20, 23; 30:10, 12, 19; 32:4, 7, 11, 19; 34:11; 37:3-5, 15, 17, 20, 23, 25; 38:1, 10-11, 15-16, 21-22; 39:1; 42:1, 10, 25; 45:9; 56:9; 66:14; 72:7; 85:8; 112:14; 124:4; 125:1; 156:25 planned [4] - 21:24; 62:11; 125:5; 126:1 planners [1] - 22:3 PLANNING [1] - 56:4 planning [14] - 16:6; 17:22, 24; 21:14, 18; 55:22; 137:25; 145:7, 16, 19, 22; 153:1;	163:3 plans [1] - 71:17 plant [14] - 28:16; 29:14, 19; 33:8, 19; 34:14; 38:10; 41:7, 16, 21; 43:5; 44:10, 12; 71:7 plants [3] - 29:25; 44:7, 12 plants' [1] - 44:22 play [2] - 6:22; 21:13 pleased [3] - 19:14; 123:19; 160:2 pleases [1] - 15:17 plots [1] - 67:12 plotting [1] - 67:3, 14 plug [2] - 35:24; 140:7 plugs [1] - 140:4 plus [3] - 154:14; 156:23; 157:22 plus/minus [1] - 156:22 point [42] - 11:3; 13:14; 33:4, 10; 36:21; 40:21; 41:6; 44:16; 47:8; 52:25; 54:7, 14; 58:23; 62:12; 73:1; 75:4; 81:3; 82:14; 83:12; 84:17; 86:10, 12, 22; 87:13; 91:4; 92:13; 93:4, 15; 101:13; 105:11; 106:4; 107:10; 116:17; 120:18, 20-21; 125:22; 135:18; 136:10; 147:13; 160:1; 161:1 pointed [8] - 36:12; 54:23; 86:11; 92:15; 102:5; 117:4; 118:20; 119:8 points [2] - 140:15; 157:23 policies [1] - 162:4 policy [8] - 21:19; 24:21; 35:1; 37:12; 66:21; 161:23, 25; 162:2 Policy [1] - 65:6 pollution [1] - 115:20 portfolio [5] - 17:15; 18:10; 21:25; 32:12; 151:7 portion [3] - 61:4; 134:19; 155:9 portions [2] - 38:23; 134:22 pose [1] - 144:24 position [17] - 18:5; 25:20; 27:23; 28:5; 31:1, 25; 39:13; 46:14, 23; 47:13; 72:19; 92:18; 120:5; 145:6, 15; 148:2 positions [5] - 23:11; 139:22; 150:2, 4 possible [7] - 28:12; 35:20; 62:25; 89:13; 92:21; 135:12; 151:19 post [1] - 12:11 posted [3] - 8:3, 12; 11:17 postulate [1] - 35:18 potential [3] - 89:13; 19; 106:15 power [4] - 58:24; 60:13; 104:15; 150:17 practical [3] - 3:22;	35:22; 43:11 practice [5] - 9:6; 11:12; 13:6; 21:4; 83:25 practices [2] - 21:2 preamble [2] - 93:9; 123:22 preconstruction [1] - 18:2 predicament [1] - 126:5 preferable [2] - 12:17; 103:13 preference [2] - 108:15; 109:23 preferred [3] - 48:18; 49:4, 8 preliminary [3] - 15:2; 33:6; 41:22 preparation [1] - 18:21 prepare [1] - 93:17 prepared [4] - 6:16; 12:16; 36:17 preparing [1] - 7:25 present [5] - 25:5, 18; 37:21; 48:22; 158:13 presentation [1] - 93:7 presentations [3] - 6:21; 11:6, 16 presented [4] - 6:24; 25:13; 40:15; 73:17 presenter [1] - 11:15 presents [1] - 11:18 president [6] - 16:3; 17:4, 22; 153:7; 161:16, 19 pretty [7] - 50:17; 55:2; 75:23; 77:6; 79:6; 119:24; 149:4 previous [5] - 51:23; 78:12; 123:4; 162:17 previously [4] - 78:18; 82:1; 95:8; 103:16 price [3] - 63:6; 156:16, 18 prices [2] - 40:12 pricing [1] - 127:5 primarily [3] - 18:22; 74:3; 131:13 primary [1] - 105:7 printed [1] - 100:22 priorities [1] - 59:24 priority [9] - 59:17; 60:8, 11, 14; 62:8, 16; 63:19; 64:6, 15 private [1] - 130:23 pro [1] - 145:4 proactively [1] - 138:25 problem [1] - 45:23 problematic [1] - 74:2 procedure [1] - 163:17 procedures [1] - 5:5 proceed [11] - 13:15; 15:5; 16:15, 19; 36:9; 56:22; 73:22; 76:20; 79:1; 123:12; 128:20 proceeding [19] - 4:21; 7:5, 9; 9:10; 13:7, 16, 25; 26:12; 28:6; 32:19; 43:3; 47:25; 65:25; 68:8; 78:21; 120:22; 131:11, 19; 138:3	proceedings [5] - 4:13; 7:25; 21:15; 132:14; 157:21 PROCEEDINGS [6] - 2:21; 94:5, 7; 95:5; 165:23, 25 Proceedings [3] - 2:1; 4:25; 7:22 process [18] - 9:3; 26:16; 39:7; 53:25; 66:22; 76:8; 78:22; 79:2; 81:18; 82:15; 104:5; 107:4; 116:10; 119:4; 129:24; 132:13; 162:15; 163:12 processes [2] - 5:5; 126:20 processing [1] - 18:20 procure [1] - 39:9 procured [1] - 163:7 procurement [13] - 18:10; 127:3; 161:23; 162:2, 4, 10, 16, 19, 22; 163:4, 12, 17, 24 produce [1] - 144:13 production [38] - 85:6, 10, 21; 87:1; 88:1, 19, 21, 25; 89:3, 6, 8, 11, 16; 90:5, 9, 19-20, 25; 91:2, 5, 7-8, 12-14, 18-19; 92:19; 99:10, 17, 19-20, 24; 100:9, 11, 13; 102:12; 126:18 products [1] - 83:6 profile [7] - 130:20; 131:6, 10, 22; 132:22, 24; 159:13 program [10] - 18:1; 20:22; 60:2; 66:19; 69:11, 13, 16; 137:23; 138:19; 146:20 progression [1] - 77:7 progressively [1] - 137:8 project [46] - 21:14; 25:3, 25; 42:15, 17; 45:15; 48:19; 49:3, 7; 60:2, 5, 8, 14; 62:10, 14; 81:12, 18; 87:19; 88:18; 89:20; 98:5, 18, 21; 99:4; 102:2; 105:5; 106:7; 126:23; 128:21; 129:21; 142:24; 143:1, 6, 15-17, 19; 145:17, 19; 162:19; 163:2 projects [18] - 16:8; 18:1; 21:16; 22:4; 32:12, 14, 16, 22; 42:8; 59:17; 87:18; 100:25; 138:1; 142:22; 143:8; 144:3; 150:15; 162:19 promise [1] - 86:6 promissory [1] - 158:23 proper [2] - 135:1; 151:16 properly [1] - 153:21 property [3] - 34:16; 44:8; 122:5 proponent's [2] - 88:20; 89:7 proposal [4] - 67:15; 87:11; 90:11; 129:21 proposals [1] - 164:5
---	--	---	--	---

proposed [3] - 45:15; 78:14; 163:8 proposing [1] - 9:24 proposition [1] - 135:6 protect [1] - 158:24 protecting [1] - 122:5 protocol [3] - 4:22; 5:6; 9:9 PROVIDE [2] - 152:11; 154:21 provide [25] - 10:3; 17:9, 18; 18:4, 14; 24:6; 25:20; 26:1; 27:9; 42:2; 43:25; 49:11; 51:10; 60:20; 61:15; 66:25; 77:19, 24; 86:17; 92:18; 104:15; 150:17; 152:2; 154:20; 164:14 provided [23] - 8:8; 10:16; 28:8; 30:3, 19; 36:6; 40:1; 42:21; 44:5, 21; 46:4; 47:15; 66:10; 69:8; 74:24; 75:22; 78:12; 81:9; 84:4; 88:9; 109:13; 161:23 provides [11] - 24:3, 12; 25:17; 28:25; 38:24; 53:2; 57:20; 58:1; 69:12, 15; 97:6 provision [3] - 68:23; 116:13; 124:18 provisions [2] - 82:10; 129:3 provoking [1] - 11:19 proxy [1] - 25:22 prudent [4] - 22:3; 38:18; 106:7; 151:17 PST [6] - 2:21; 94:5, 7; 95:5; 165:23, 25 public [10] - 8:3; 26:17; 28:19; 33:7; 104:9; 105:2; 118:23; 122:4; 126:20; 164:2 pull [1] - 33:22 pulled [1] - 151:22 purchase [1] - 45:5 purchasing [1] - 47:25 purely [1] - 12:3 purpose [5] - 4:17; 9:18; 48:3; 84:23; 134:25 purposes [10] - 41:11; 82:9; 83:4; 88:16, 24; 107:24; 126:21; 134:20; 135:16; 146:21 pursuant [1] - 82:21 pursue [1] - 22:3 pursuing [3] - 119:4, 16; 120:18 pushback [1] - 67:17 put [16] - 9:22; 23:1; 37:25; 42:9, 19; 50:10; 67:15; 75:21; 76:14; 83:25; 92:11; 95:21; 97:18; 107:10; 119:22; 142:13 puts [1] - 32:11 putting [1] - 37:16	QC [1] - 2:13 qualification [1] - 140:5 qualified [2] - 58:25; 63:14 qualify [2] - 24:16; 58:20 quality [2] - 12:19; 128:11 quantify [2] - 26:6; 42:16 quarter [2] - 157:11, 13 quarterly [4] - 147:22; 153:24; 154:7, 17 quarters [1] - 46:1 queries [1] - 74:6 questionable [1] - 80:25 questioned [1] - 12:24 questioning [19] - 9:19, 21; 10:11; 23:16; 45:13; 64:22; 68:9; 75:16, 18, 22, 25; 81:16; 91:21; 93:7; 97:21; 120:18; 134:23; 150:25; 151:1 Questioning [1] - 87:6 questions [48] - 3:23, 25; 5:4; 8:21, 25; 9:22; 12:1, 10, 22; 16:20; 19:15; 22:7, 9, 11, 15, 17; 23:6; 35:5; 36:19, 25; 37:18; 53:11, 15; 56:9; 64:17; 68:5; 73:2, 4; 74:24; 83:19; 84:1; 86:2; 93:2; 94:3; 96:3; 120:6, 24; 121:5, 7-8; 123:5; 127:9; 129:25; 141:7; 144:25; 162:17; 165:10 quick [4] - 3:15; 15:11; 77:5 quickly [2] - 67:19; 157:1 quite [7] - 6:11; 34:10; 51:4; 84:12; 91:17; 100:4; 146:18 quits [1] - 121:2 quotation [1] - 99:15 quote [23] - 23:25; 24:9; 27:7, 16; 28:14, 24; 29:6; 30:5; 46:2; 48:12, 14-15; 49:6; 65:10, 12; 66:11; 69:12, 15; 70:1; 129:6, 11, 15 quotes [1] - 69:23	Rate [5] - 5:1; 7:6; 19:16; 131:9; 144:6 rate-oriented [1] - 12:3 rated [1] - 78:19 ratepayer [1] - 157:9 ratepayers [3] - 48:23; 156:20; 158:25 rates [9] - 18:11; 42:9, 17; 138:3; 156:4; 157:10; 158:3, 12; 159:15 rather [8] - 12:17; 23:1; 45:4; 93:8, 14; 95:23; 111:19; 149:22 Raven [1] - 2:1 re [2] - 82:1; 96:11 re-installation [1] - 82:1 re-submitted [1] - 96:11 reached [3] - 74:19; 104:1; 165:5 react [1] - 149:20 Reactions [1] - 13:11 read [34] - 19:2; 27:7, 16; 28:14, 25; 29:6, 20; 30:5; 46:3; 48:15; 49:23; 61:23; 65:12; 68:18; 69:12, 15; 70:1; 75:5; 78:8; 81:14, 20; 82:18; 83:7; 87:15, 22; 88:15; 93:10; 101:2; 110:23; 122:1; 128:17 readable [2] - 76:13; 136:2 readily [1] - 55:14 reading [2] - 93:14; 129:9 reads [2] - 75:4; 110:7 ready [14] - 16:15; 56:22; 73:20; 76:19; 95:9, 11, 13, 19; 104:19; 121:10; 123:12; 140:23; 148:16 real [2] - 130:14; 151:24 realistic [2] - 27:17; 144:15 realities [1] - 32:7 realize [3] - 128:13; 137:10; 154:17 really [19] - 33:10; 34:18; 35:17, 24; 38:7; 40:22; 42:25; 55:17; 80:24; 86:5; 92:24; 103:3; 114:14; 120:20; 134:19; 145:14; 146:9; 158:21 realtime [2] - 8:5, 7 reason [5] - 58:23; 59:3; 63:4; 108:14; 125:15 reasonable [2] - 25:22; 135:9 reasonableness [1] - 40:18 reasonably [2] - 7:17; 136:2 reasoning [1] - 46:6 reasons [3] - 46:6; 68:10; 151:24 reassign [1] - 62:9 rebuttal [17] - 27:4; 29:5; 45:8; 49:19; 57:3; 59:13; 60:15; 61:23; 74:7, 11, 13;	75:3; 86:11; 113:7; 119:9; 121:23; 122:1 receive [3] - 11:13; 127:6; 139:14 received [5] - 8:12; 10:14, 20; 11:6, 9 recent [4] - 3:18; 29:10; 40:15; 82:24 recently [1] - 60:18 receptor [1] - 106:12 recognize [10] - 3:6; 21:18; 22:21; 23:4, 12; 38:15; 48:14; 49:6; 53:23; 70:25 recognized [1] - 103:9 recognizing [2] - 33:18; 96:24 recollection [1] - 67:9 recommendation [1] - 128:19 recommended [1] - 66:16 reconcile [2] - 155:20, 23 Reconciliation [2] - 4:14; 21:11 reconciliation [2] - 4:16; 21:12 reconfiguration [2] - 47:21; 48:7 reconnect [1] - 94:1 record [20] - 7:1; 8:3; 19:2; 20:10; 28:6; 36:6, 11, 15, 22; 43:10; 49:1; 72:13; 93:3; 99:14; 103:2; 107:10; 120:23; 134:24; 135:4; 136:11 recording [2] - 7:25; 164:9 red [1] - 148:7 redefining [1] - 89:15 redirect [1] - 8:23 reduce [3] - 6:4; 11:4; 12:18 reduced [1] - 140:2 reducing [2] - 117:5; 159:4 reduction [1] - 57:8 reductions [2] - 147:8; 153:18 Refer [1] - 65:17 refer [12] - 5:2; 7:7; 23:14; 51:22; 85:10; 100:8; 121:23; 127:23; 145:10; 149:22; 153:24; 154:11 reference [21] - 11:4; 28:25; 30:7; 45:12; 57:13; 59:20; 64:21; 68:14; 74:25; 100:2, 6; 113:7; 117:1; 127:20; 129:9; 135:16; 137:1; 151:6, 20; 157:19, 22 referenced [11] - 30:13; 77:7; 91:1; 99:16; 102:9; 111:10; 114:13; 116:20; 117:2, 8; 125:1 references [1] - 23:15 referencing [2] - 5:1; 96:12 referred [18] - 30:12; 36:5; 39:20; 40:6;	42:2, 19; 43:15; 48:7; 51:15; 52:14; 64:23; 66:3; 89:1; 124:16; 134:18, 23; 136:8; 142:25 referring [28] - 10:24; 23:9; 34:5; 38:7, 21; 44:16; 60:15; 76:3, 9; 79:13; 90:4, 8; 91:11; 100:20; 107:1, 3; 111:10; 113:23; 115:21, 24; 129:10; 137:14; 142:17; 146:2; 159:16; 162:1, 5, 8 refers [3] - 87:3; 112:3 reflect [2] - 4:17; 83:14 reflected [1] - 145:21 reflection [1] - 148:3 reflects [1] - 58:22 refresh [1] - 32:4 refurbish [2] - 60:2, 6 refurbished [1] - 124:8 refurbishment [1] - 62:9 regard [3] - 18:21; 21:7; 135:7 regarding [6] - 9:5; 22:24; 40:12; 45:14; 82:20; 145:24 regardless [5] - 67:24; 111:20; 144:22; 156:10; 159:10 regards [1] - 87:5 register [2] - 13:15; 14:25 registered [1] - 14:22 registration [2] - 13:23; 14:2 REGRESSION [1] - 56:6 regression [6] - 52:10, 14, 21; 54:8; 55:6, 11 regular [3] - 80:13; 149:10, 16 regularly [1] - 50:18 regulate [1] - 97:7 regulates [3] - 79:11; 90:1; 97:9 regulation [4] - 86:4; 98:9; 99:17, 21 regulations [5] - 87:18; 88:18; 100:25; 102:4 regulator [32] - 75:7, 13, 19; 77:3, 11, 16-17, 22; 79:3, 22-23, 25; 80:5, 9, 13, 15, 21, 23; 81:2; 84:5, 8, 18; 92:5; 96:4, 9, 19; 97:3, 6; 100:3, 21; 103:22; 104:1 regulator's [3] - 84:24; 97:10, 14 regulators [1] - 69:14 regulatory [11] - 16:6; 17:22; 18:11, 21; 21:14; 26:16; 144:16; 145:7, 16 reinstall [13] - 78:18; 79:4, 7, 23; 80:5, 7, 10, 23; 82:22; 83:8,
Q	R			
Q2 [3] - 154:9, 21; 155:12	raise [6] - 3:15; 12:1; 13:8, 10; 15:3; 59:3 raises [1] - 11:25 random [1] - 75:23 range [3] - 44:13, 22, 24 Rapids [2] - 82:11; 106:11 rate [27] - 12:3; 19:25; 20:1; 130:5, 10, 23; 131:3, 19; 149:25; 150:6; 154:25; 157:2-4, 12, 14, 16; 158:13, 18, 20; 159:2, 11			

13; 97:11 reinstallation [1] - 96:4 reinstalling [1] - 78:15 reinstate [1] - 96:23 reinstitute [1] - 156:18 reiterate [1] - 107:9 rejected [2] - 28:18; 96:6 rejecting [1] - 100:21 relate [5] - 58:15, 17; 137:19, 22; 139:22 related [10] - 3:23; 23:6; 24:7; 31:2; 32:1; 35:6; 39:6; 61:24; 64:23; 67:12 relates [5] - 49:6, 13; 60:1; 70:21; 162:16 relating [1] - 87:19 relation [3] - 62:2; 101:5; 151:14 relations [2] - 21:8; 153:2 relationship [2] - 3:9; 4:19 relative [2] - 34:7; 51:24 relatively [3] - 50:15; 107:15; 160:22 released [1] - 37:10 relevant [8] - 6:21, 25; 33:2, 5, 11; 41:19; 60:21; 86:24 reliability [8] - 20:22; 39:7, 11, 15; 46:15, 17, 23; 47:3 reliable [5] - 24:3, 12; 38:24; 46:13; 54:16 reliably [1] - 55:17 relicensing [5] - 21:16; 141:9; 142:24; 143:15, 23 relicensings [1] - 143:8 relied [1] - 131:12 relieve [1] - 13:4 relocated [2] - 82:2, 23 relocated/de [1] - 78:19 relocated/de-rated [1] - 78:19 relocated/derated [1] - 83:8 rely [1] - 131:19 relying [2] - 125:23; 143:22 remainder [1] - 156:7 remains [2] - 53:3; 74:22 remarks [1] - 22:6 remember [1] - 67:13 remind [5] - 5:20; 6:2, 9; 9:14 reminded [1] - 13:3 remotely [1] - 48:2 remove [1] - 107:13 removing [1] - 38:10 rendered [1] - 160:11 renegotiate [1] - 158:17 renewable [19] - 21:22, 25; 22:1, 4; 29:11, 19-20, 23, 25; 30:9, 12; 32:12;	33:18; 35:2; 37:16; 39:1; 45:9; 112:14 renewed [1] - 4:18 rent [1] - 34:11 rental [41] - 31:2; 32:1, 17; 34:4; 35:18; 36:14; 38:23; 39:5, 21; 40:12, 22-23, 25; 41:14; 43:9; 44:22; 45:4; 46:12; 47:5; 49:4, 8; 74:3; 75:8; 82:16; 101:17; 102:21; 103:9, 11, 13; 107:23; 109:2, 10; 113:1, 3, 10, 18, 20; 114:1; 124:5; 150:21 rentals [20] - 29:8; 34:8; 35:24; 38:4; 41:19; 46:22; 105:20; 108:11, 17-19; 111:19; 116:6; 117:11; 124:11, 21; 125:6; 128:2; 137:22 rented [8] - 27:8, 17; 33:1; 36:10; 44:2, 12; 48:17, 20 renting [2] - 39:14; 46:18 reordered [1] - 136:1 reorganized [1] - 107:20 repeat [4] - 57:23; 122:14; 127:20; 129:14 repetitive [1] - 121:8 replace [1] - 125:2 replaced [1] - 124:10 replacement [3] - 32:15; 124:9, 25 replacements [1] - 125:6 replied [2] - 100:21; 129:12 reply [1] - 99:11 report [13] - 18:18; 33:13, 17; 45:14, 16; 46:2; 48:12; 147:23; 153:24; 154:6, 18; 155:12; 159:19 REPORT [1] - 154:22 reporter [5] - 9:8; 13:2, 5; 15:20; 133:16 REPORTER [6] - 30:15, 18; 122:10, 14; 133:14, 18 Reporters [1] - 2:19 reporters [2] - 7:24; 8:6 reporting [1] - 8:1 Reporting [1] - 8:2 representative [5] - 14:17; 16:14; 155:7; 158:21; 161:9 represented [1] - 108:4 representing [1] - 14:20 represents [2] - 32:4; 53:1 reprimanded [1] - 123:21 request [10] - 13:10; 29:1; 57:14; 81:10; 84:15; 87:14; 90:22; 99:9, 12; 164:5 requested [2] - 72:6; 139:11 requesting [7] - 7:10, 12; 81:11; 82:5; 91:2; 128:16, 18	requests [2] - 10:23; 40:1 require [11] - 5:24; 21:25; 80:15, 19; 86:19; 98:14, 21; 99:3; 101:14, 25; 102:10 required [16] - 7:19; 27:18; 40:24; 60:14; 98:10; 102:7, 15; 104:2; 105:2; 122:2; 150:19; 156:17; 163:24; 164:15 requirement [15] - 6:12; 7:10; 18:23; 19:22; 25:4, 6, 19, 21; 26:7; 34:7; 36:14; 37:21; 118:25; 151:10; 164:24 requirements [9] - 7:13; 20:25; 37:5, 22; 116:16; 117:10; 119:7, 18; 164:17 requires [3] - 98:4, 17; 135:9 requiring [1] - 20:20 research [1] - 156:9 reserve [1] - 145:19 residential [3] - 51:3; 155:8; 157:6 resolved [2] - 2:24; 46:24 resource [14] - 16:6; 17:22; 28:17; 32:5; 37:3, 15, 20; 38:10, 22; 42:1, 10; 145:22; 152:25 resources [5] - 24:19; 38:3; 59:16; 124:23; 153:3 respect [32] - 5:4, 22; 9:4; 26:25; 36:23; 41:6, 24; 42:18, 20, 22; 44:2, 11, 20; 46:11; 58:20; 59:9; 60:17; 61:14, 22; 64:17; 68:6; 70:20; 71:12, 18, 25; 73:3; 105:9; 107:16; 159:5, 7; 162:18 respectful [1] - 4:19 respective [1] - 9:4 respectively [1] - 58:17 respond [7] - 10:4; 12:11, 25; 13:9; 36:16; 151:5; 162:8 responded [2] - 96:19; 99:13 response [28] - 28:9; 29:1; 30:7; 33:22; 36:7, 11; 39:25; 43:16; 44:6; 54:23; 57:13, 16; 69:8; 74:17; 75:10; 86:21, 23; 88:10; 96:15; 99:15; 106:5, 18; 109:14; 122:2; 146:4 responses [13] - 10:24; 11:2; 30:14; 57:17; 74:2, 11, 25; 103:7, 14; 127:4; 135:25; 144:14 responsibilities [9] - 15:11; 16:25; 17:5, 11, 19; 18:6, 16, 18; 61:3 responsibility [2] - 22:24; 105:7 responsible [6] -	17:12; 18:8; 22:22; 139:9; 160:4 restart [1] - 156:12 restate [1] - 47:13 restrict [1] - 93:6 rests [1] - 28:8 result [7] - 10:9; 20:24; 54:17; 67:7; 84:6; 116:11; 121:9 resulting [1] - 7:3 results [6] - 48:22; 55:2; 62:5; 155:12; 159:20; 165:4 resume [1] - 91:25 RESUMED [1] - 95:5 retail [3] - 49:25; 50:22; 51:2 retailed [1] - 42:11 retains [1] - 11:12 retire [1] - 125:1 retirement [1] - 32:15 return [18] - 130:3, 5-6, 10, 18, 21-23; 131:2, 8, 10, 19, 24; 132:2; 148:8; 153:12; 159:11 returning [1] - 156:20 revenue [12] - 6:12; 7:10, 12; 18:23; 19:22; 25:4, 19, 21; 26:7; 34:7; 37:21 revenues [3] - 7:14; 139:1; 146:17 review [9] - 28:19; 49:1; 116:10; 131:9, 14; 143:1; 147:22, 24; 163:3 reviewed [2] - 3:24; 131:8 reviews [1] - 162:21 Revised [1] - 75:17 revised [11] - 76:11; 88:10, 12; 109:14; 139:15, 18-19, 23; 140:19; 145:23; 146:3 revision [1] - 117:7 RFP [2] - 127:3, 7 Richard [1] - 2:6 Rick [1] - 3:1 Rider [12] - 153:23; 154:4, 6; 155:9, 13, 15; 156:12, 16, 18, 21 riders [3] - 154:1, 13; 155:15 RIDER [1] - 154:22 riders [1] - 20:1 right-of-way [1] - 60:13 risk [24] - 42:11; 46:20; 102:20; 104:23; 105:5; 106:1, 6, 17, 20, 24; 107:2, 15, 18; 130:20; 131:6, 10, 22; 132:15, 19, 21, 24; 149:8 risks [14] - 26:2, 5, 7, 11, 19, 25; 42:3, 5, 7, 16; 132:6, 8; 136:22; 137:7 Ritchie [3] - 78:7; 81:8; 96:18 robust [2] - 26:1; 137:23 ROE [8] - 130:14; 131:6; 132:16; 133:3; 136:23; 137:8, 14; 138:6 Roger [4] - 2:16;	14:17; 73:19; 130:9 role [1] - 21:14 RONDEAU [23] - 14:16; 73:19; 93:22; 94:2; 123:13, 15-16; 133:7, 11, 22; 134:7, 12; 136:18, 20; 137:4; 139:19, 23; 140:25; 141:2; 152:14; 154:23; 165:7, 12 Rondeau [27] - 2:16; 14:17; 73:23; 93:21; 123:11; 124:16; 129:8; 132:12; 134:15; 136:17; 137:13; 139:17, 21; 140:15; 142:1, 16; 144:23; 145:9; 146:14; 147:20; 151:19; 155:23; 159:25; 160:13; 162:1; 164:12; 165:5 room [3] - 12:18; 103:15; 148:4 roughly [2] - 58:7, 10 Round [7] - 30:14; 33:24; 43:16; 57:17; 74:10; 75:10; 144:14 round [1] - 108:2 Rounds [1] - 10:25 RPR [1] - 2:19 rule [1] - 161:9 Rule [1] - 11:12 rules [2] - 11:13; 163:16 run [18] - 5:11; 47:20; 48:2; 67:16; 71:10; 107:11; 111:4, 6; 114:2, 14; 140:16; 143:12; 148:24; 149:17; 150:22 running [7] - 86:1; 111:1; 126:15; 143:14; 147:1; 148:25; 149:17 runs [1] - 149:3 RUTHERFORD [21] - 14:12; 22:20; 30:17; 19; 31:12, 17, 19, 23; 43:22; 45:19, 23, 25; 52:8; 53:10, 16, 19; 56:8, 24; 61:16, 22; 73:2 Rutherford [12] - 2:15; 14:13; 30:15; 31:7, 21; 44:15; 53:4; 56:23; 57:24; 68:13; 71:5; 73:5
S				
SABO [5] - 76:15; 121:15; 133:16; 135:17, 20 Sabo [3] - 2:9; 4:8; 76:15 safe [5] - 24:3, 12; 38:24; 69:13; 105:8 safety [10] - 39:7, 11, 15; 104:9; 105:2; 118:23; 122:5; 126:20; 153:4 sales [11] - 18:22; 23:7; 49:16; 50:1, 22; 51:2, 10, 24; 53:1; 54:16, 21 sanction [1] - 7:3 sanctioned [1] - 154:24 sanitizing [1] - 5:23				

save [5] - 8:10; 11:4; 83:22; 84:1; 134:10 savings [2] - 150:6; 158:22 saw [2] - 41:3; 135:17 say.. [1] - 121:14 scenario [6] - 24:24; 40:9; 125:19; 126:12; 148:24 scenarios [1] - 24:7 schedule [6] - 4:11; 5:9; 12:6; 91:24; 105:12; 140:18 Schedule [5] - 87:20; 100:16, 20, 24; 101:22 scheduled [3] - 53:5; 133:24; 155:16 scope [6] - 7:18; 11:20; 12:2; 160:14; 163:5 scoring [1] - 162:15 screen [2] - 13:12; 96:16 se [2] - 135:1; 162:11 second [10] - 13:22; 31:18, 20; 45:21; 47:23; 57:12; 73:10; 75:4; 102:2; 108:1 secondly [4] - 6:20; 20:17; 46:18; 123:20 secretary [3] - 3:21; 5:7; 10:16 secretary's [1] - 4:4 Section [21] - 49:22; 57:5, 13; 59:14; 65:9, 17; 66:2, 6; 75:2; 86:13, 17, 21-22; 107:12; 113:6; 119:9; 121:25; 122:8, 16; 123:1, 4 section [7] - 4:25; 29:4; 66:3; 86:12; 110:22; 121:21; 145:9 sections [2] - 18:23; 67:3 secure [1] - 105:18 SEE [3] - 52:7; 56:7; 61:18 see [48] - 23:24; 27:10, 20; 28:22; 29:15; 36:4; 44:3; 46:1, 8; 50:5; 57:10, 12, 19; 59:21; 61:7; 65:4, 22; 68:17, 25; 69:7, 11, 18, 22; 72:5; 77:7; 81:2; 88:11; 94:4; 100:22; 104:1; 110:20; 111:6; 114:12; 116:5, 17; 123:19; 130:10; 131:22; 140:17; 148:17; 149:25; 151:21, 23; 152:8; 160:6; 161:22; 165:5, 21 seeking [3] - 21:13; 82:22; 83:1 seem [1] - 81:19 sees [1] - 141:12 segments [3] - 62:24; 63:1, 3 selected [2] - 39:2; 103:15 selection [2] - 162:14 sell [1] - 51:3 semantics [1] - 38:15	send [5] - 60:10; 62:15; 107:13; 144:18; 148:7 sends [1] - 10:7 senior [1] - 153:5 sense [2] - 34:12; 110:5 sent [3] - 10:21; 76:16; 148:13 sentence [7] - 29:18, 22; 30:3; 46:8; 49:22; 68:18; 75:4 separate [9] - 49:24; 50:8; 53:21; 96:22; 97:17; 131:16; 136:7; 159:24 separately [1] - 142:23 separating [1] - 89:2 September [11] - 2:5; 4:13, 23; 81:15; 82:14; 84:6; 95:2; 96:8, 13, 18, 22 SEPTEMBER [1] - 165:25 sequence [6] - 37:19; 38:7; 73:6; 78:3; 81:1; 104:17 serious [1] - 19:21 serve [3] - 37:23; 38:5; 125:17 service [12] - 20:22; 24:4, 12; 38:24; 39:10; 47:6; 51:3; 72:22; 140:11; 148:11; 149:8; 160:11 serving [1] - 125:20 Session [1] - 95:3 set [2] - 20:10; 156:4 setting [2] - 17:7 settings [1] - 12:20 setup [1] - 2:25 seven [8] - 54:11; 97:4, 12, 18; 98:6, 13; 101:17; 118:3 several [8] - 19:9; 29:7; 36:16; 37:17; 97:24; 101:15; 123:21; 150:22 shared [1] - 3:4 shareholders [1] - 142:15 shift [1] - 59:24 shifted [2] - 63:11, 19 ship [1] - 143:12 short [8] - 19:3; 34:19, 25; 35:17, 25; 82:8; 147:18; 157:8 short-term [4] - 34:19, 25; 82:8; 157:8 shorter [1] - 38:6 shortfall [9] - 20:14; 32:21, 23; 33:18; 34:19; 103:7; 124:14, 21 shortfalls [1] - 19:22 shortly [1] - 115:4 show [2] - 38:18; 77:11 showing [1] - 80:8 shown [5] - 23:21; 27:5; 58:6; 59:11; 65:8 shows [2] - 34:6; 90:11 shutdown [1] - 165:8 side [5] - 3:17; 17:24; 81:15; 120:7; 147:8 sign [3] - 161:14;	163:10, 14 signature [1] - 163:25 signed [2] - 154:9; 163:21 significant [6] - 19:23; 20:6, 14; 81:13; 106:15; 146:19 significantly [1] - 89:24 signifies [1] - 146:17 signoff [1] - 163:10 silence [1] - 96:16 similar [7] - 9:3; 82:9; 93:1; 116:7; 131:21; 145:23; 163:19 similarly [1] - 121:4 SIMPLE [1] - 56:6 simple [4] - 52:9; 53:25; 54:4; 55:11 simply [8] - 23:13; 36:10; 64:9; 84:15; 126:9; 127:13; 136:1; 143:2 simultaneously [1] - 79:21 single [3] - 19:20; 52:24; 140:7 sit [2] - 144:10; 149:15 site [24] - 79:15; 80:3, 16; 82:7, 22, 25; 83:3; 84:10; 85:23; 89:5; 90:3, 13; 91:16; 97:7, 19; 98:15; 100:12; 102:14; 103:10, 13; 111:13; 116:13; 126:19 sitting [1] - 146:20 situate [1] - 138:4 situation [13] - 35:15; 99:2; 104:16; 105:9; 107:12; 109:19; 110:19; 111:8; 115:1; 118:18; 125:13; 137:10; 147:2 situations [1] - 111:7 six [17] - 55:1; 83:15; 109:11, 21; 112:16; 114:20; 115:5, 9, 13, 19; 117:18, 23; 118:3; 146:1 size [4] - 34:15; 44:12; 132:8 sized [1] - 44:9 sight [1] - 132:2 slow [1] - 30:16 slowly [1] - 12:15 small [3] - 7:21; 131:16; 134:19 smaller [4] - 50:15; 52:18; 132:4; 153:1 so.. [2] - 120:5; 151:25 socioeconomic [2] - 89:19; 98:5 software [1] - 21:3 sole [8] - 160:8, 17, 21; 161:2, 11, 14; 162:16; 163:8 solely [2] - 88:23; 134:25 solemn [1] - 9:7 solution [6] - 34:19, 25; 35:16, 20; 48:5; 68:3 solutions [2] - 34:20; 35:1 someone [1] - 41:3	sometime [1] - 81:12 sometimes [1] - 100:10 somewhat [2] - 107:20; 120:19 soon [1] - 120:25 sophisticated [1] - 41:2 Sorry [1] - 106:4 sorry [40] - 9:15; 31:6; 33:24; 41:3; 44:16; 50:2; 57:23; 62:21; 66:4; 68:13; 70:18; 72:1; 95:21; 96:14, 16; 100:19; 106:23; 114:11; 115:17; 116:25; 119:21; 121:15; 122:10; 129:8, 11; 132:8; 135:19; 139:7, 24; 140:20; 145:17; 146:1; 150:25; 152:1; 153:13; 155:22; 157:19; 161:13, 25; 162:7 sort [4] - 41:7, 9; 77:23; 104:17 sound [3] - 6:2; 12:19 sounds [1] - 92:2 sour [1] - 160:1 source [3] - 159:10; 160:21; 161:2 sourced [1] - 160:18 sources [4] - 20:15; 160:8; 161:14; 162:17 sourcing [2] - 161:12; 163:8 spare [7] - 46:19; 79:16; 80:16; 88:23; 115:25; 118:4; 143:13 spark [2] - 140:3, 7 SPEAKER [2] - 120:13, 16 speakers [1] - 12:18 speaking [7] - 13:6; 22:22; 132:23; 133:14; 136:21; 158:5 spec [1] - 48:1 specialized [4] - 63:23; 64:1; 143:4; 147:16 specialty [2] - 150:20; 151:8 specific [24] - 20:1; 21:22; 23:1; 36:24; 38:17; 44:2; 63:4; 67:21; 74:24; 93:15; 99:5; 111:4; 114:22; 116:6, 14; 141:3; 151:5, 20; 153:17; 157:18; 158:23; 162:22; 163:16 specifically [9] - 32:19; 35:6; 63:25; 70:24; 71:2; 79:19; 117:19; 134:21; 137:21 specificity [1] - 150:12 specified [1] - 80:6 specifies [1] - 114:20 spending [4] - 20:15; 21:5; 45:3; 142:10 spent [3] - 143:6, 10; 151:2 spiral [1] - 156:25 spirit [1] - 4:16 spoken [1] - 26:25	sponsor [1] - 18:11 spray [1] - 67:22 spring [1] - 105:14 St [1] - 2:1 stacking [5] - 108:4, 18, 23; 109:14; 110:5 staff [19] - 4:9; 8:20; 9:1; 19:7; 50:18; 51:13; 59:2; 61:7; 62:13, 15; 64:6, 15; 127:16; 142:13; 143:14, 16; 149:2, 11, 14 STAFF [1] - 61:18 Staff [4] - 2:11 stage [5] - 3:20; 21:9; 120:22; 163:3, 5 stake [1] - 106:21 stakeholder [8] - 26:18, 20, 24; 33:7; 69:16; 70:5, 12; 72:14 stakeholders [2] - 67:20; 155:3 stakes [1] - 143:2 stand [1] - 47:20 stand-alone [1] - 47:20 standard [3] - 22:1; 63:17; 131:15 standards [1] - 165:1 start [18] - 5:10; 13:17; 15:15; 17:2; 23:17; 74:6; 75:2; 77:25; 81:7; 120:25; 121:17; 128:16; 129:12; 130:1, 3; 148:4; 153:25 started [2] - 103:19; 137:7 starting [6] - 30:20; 43:18, 23-24; 44:19; 146:4 starts [2] - 57:19; 92:16 state [4] - 13:3; 28:12; 32:7; 106:5 statement [13] - 19:1, 17, 19; 20:4; 24:16; 35:8; 47:14; 49:12; 51:7, 23; 128:15; 147:18 statements [4] - 8:11; 47:10; 164:14 states [11] - 23:24; 29:5; 46:2; 48:12, 15, 21; 65:10; 69:22; 89:23; 114:24; 122:1 stating [3] - 24:17; 28:14; 90:22 station [16] - 28:13, 15; 51:17; 78:12, 17, 20; 79:8; 87:24; 88:2; 97:11; 101:7; 111:5, 14; 114:5; 115:22 Station [2] - 82:3, 11 station's [2] - 78:24; 79:4 Station.. [1] - 111:3 stations [2] - 52:2; 82:24 STATIONS [1] - 52:6 statutory [1] - 4:15 stay [2] - 80:21; 93:23 stead [1] - 2:18 step [1] - 4:18 steps [1] - 20:3 stewardship [1] - 3:7 still [13] - 26:10; 38:22; 59:14; 78:14;
---	---	---	---	---

115:12; 124:21; 127:2; 129:10; 150:3; 155:16; 157:5; 159:5, 11 stipulated [1] - 11:10 stop [1] - 137:11 storage [2] - 32:15; 45:15 strategic [1] - 24:19 strategy [1] - 17:7; 21:22, 24; 37:11; 46:21; 157:2-4; 158:16; 162:20; 163:4 strong [1] - 51:6 studies [2] - 18:2; 70:2 study [2] - 32:8; 66:25 studying [1] - 66:22 sub [1] - 111:10 subject [1] - 4:12; 6:23; 7:5; 15:7; 52:8; 60:4; 67:5, 9; 84:7; 96:12; 101:21, 23; 115:8; 128:6; 145:20; 154:9; 156:5 submission [5] - 11:25; 12:5, 9; 74:19; 120:2 submissions [9] - 6:24; 11:9, 13-14; 12:11; 83:23; 84:2; 121:1 submit [2] - 9:25; 144:25 submitted [8] - 9:11; 10:6; 96:7, 11, 18, 22; 99:9; 134:18 subsequent [3] - 12:12; 35:17; 128:5 successive [1] - 35:11 suddenly [1] - 103:5 sufficient [3] - 33:9; 43:10, 14 sufficiently [1] - 49:2 suggest [1] - 158:19 suggested [2] - 35:14; 154:23 suggests [1] - 57:5 suit [1] - 48:3 summarized [1] - 46:7 summarizing [1] - 39:25 summary [3] - 41:7; 58:18; 131:5 summer [1] - 105:14 supplier [6] - 39:8, 16; 46:17; 47:2; 106:25; 107:14 suppliers [2] - 105:12 supply [8] - 17:23; 25:9; 26:15, 19, 21; 27:18; 138:1; 146:21 support [9] - 8:8; 26:18, 20; 32:11; 33:9; 48:16; 143:4; 150:21; 151:16 supported [1] - 6:25 supporting [4] - 19:7; 21:3; 81:24; 163:13 supposed [2] - 62:17; 133:20 surface [1] - 65:20 surplus [1] - 136:9 surprise [1] - 10:3 surrounding [1] -	35:9 sustained [1] - 20:12 sustaining [5] - 20:21, 25; 21:6; 137:25; 146:21 sway [1] - 159:18 sweet [1] - 126:7 switched [3] - 6:7; 73:9; 120:15 sworn [1] - 9:7 system [7] - 25:15; 32:15; 45:15; 47:19, 21; 48:3; 112:15 systems [1] - 21:3 T Ta'an [2] - 3:6; 19:12 Tab [1] - 156:2 Table [10] - 133:11; 136:23; 141:12, 24; 142:2; 148:17; 149:22, 24; 150:7 table [8] - 3:17; 57:21; 58:1, 6, 10, 21; 59:11; 159:22 tabled [2] - 164:15 TAKE [1] - 56:5 takers [1] - 15:1 target [1] - 153:17 targets [2] - 21:22; 159:1 tax [2] - 34:16; 44:8 team [6] - 62:23; 103:21; 145:22; 147:23; 162:19, 21 technical [4] - 2:24; 4:9; 33:12; 127:6 technically [1] - 71:7 techniques [3] - 65:21; 67:4; 68:22 technological [1] - 165:18 technologically [1] - 6:17 telecommunication s [1] - 101:1 temperature [2] - 51:16; 52:11 temporary [2] - 83:2; 124:22 ten [10] - 54:25; 56:13, 15-16, 20; 110:13; 115:15, 20-21, 23 tend [3] - 50:22; 112:8; 138:15 tender [4] - 62:4, 6; 163:7; 164:5 tendered [1] - 63:3 tenders [2] - 164:1 tension [1] - 138:18 term [27] - 3:12; 17:23; 22:1, 4; 24:18, 21; 32:4, 16; 34:19, 25; 35:1, 25; 37:3, 20; 38:4-6, 9, 22; 42:1; 82:8; 89:16; 100:10; 157:8 terminology [1] - 90:8 terms [27] - 20:7; 24:19; 25:18; 26:12; 38:16; 39:7; 43:9; 55:13, 20; 61:2; 63:12; 65:25; 68:4; 85:9; 104:9; 105:20; 117:8; 125:25; 127:6; 129:2; 134:17; 137:24; 138:7, 14;	142:19, 24 terribly [1] - 81:11 territorial [1] - 21:20 territories [3] - 3:4; 19:9, 11 territory [1] - 37:13 test [15] - 19:21; 35:7; 40:18; 67:2, 12, 14; 68:24; 70:20, 25; 71:3, 18; 72:9, 18, 20; 102:6 testimony [7] - 5:17; 13:4; 46:4; 48:16; 134:17; 135:3 testing [1] - 54:18 tests [6] - 98:11; 101:15, 25; 102:16 text [2] - 27:5, 10 that.. [1] - 122:8 THE [78] - 2:22; 4:3; 14:11, 23; 15:22; 16:14, 21; 17:1; 22:11, 20; 30:15, 18; 31:4, 20; 53:4, 14, 17; 56:3, 6, 12, 16, 22; 73:5, 16, 21, 24; 76:5, 22, 25; 83:16, 18, 21, 25; 91:20, 24; 92:3, 8; 93:4, 25; 94:3; 95:9, 13, 19; 96:1; 97:20, 24; 98:1; 120:12, 14, 17; 121:18; 122:10, 14; 123:8, 10, 14, 16; 133:9, 14, 18, 23; 134:1, 5, 9, 14; 135:12, 19, 22; 136:5, 13, 19; 137:1; 141:1; 154:21; 165:5, 8, 15 the.. [1] - 82:20 theme [2] - 165:10, 13 themselves [2] - 125:16; 126:14 THERE [1] - 52:5 therefore [6] - 6:13; 74:21; 102:16; 103:6, 10; 106:14 thereof [1] - 26:19 thereunder [1] - 66:10 thermal [4] - 140:10; 148:24; 149:3; 150:22 THEY [1] - 61:18 they've [4] - 63:18; 109:22; 131:20 think.. [1] - 116:5 thinking [2] - 15:8; 152:24 third [4] - 49:21; 65:8; 102:6; 138:1 thorough [2] - 147:21, 24 THOSE [2] - 52:6; 61:21 thought-provoking [1] - 11:19 thoughts [1] - 15:8 three [14] - 3:12; 46:1; 67:5; 75:23; 83:13; 101:25; 102:16; 108:20; 110:25; 125:12; 141:18; 146:22; 150:1 three-year [1] - 3:12 threefold [1] - 138:20 threshold [4] - 156:22; 161:5; 165:7 thresholds [4] - 156:13, 19, 21;	163:23 throughout [5] - 4:6; 10:23; 23:16; 32:18; 103:7 Thursday [1] - 4:13 tight [2] - 143:12; 144:8 tighten [1] - 146:12 tightly [1] - 148:3 timely [1] - 20:2 timing [7] - 5:15; 19:24; 36:13; 37:2; 102:25; 106:1; 144:7 title [4] - 17:19; 18:15; 145:7, 18 TO [10] - 52:5; 56:3, 5; 61:17, 21; 94:7; 152:11; 154:21; 165:25 today [9] - 5:10; 19:10; 38:8; 68:5; 103:1; 124:17; 135:13; 144:10; 154:8 today's [1] - 165:9 together [2] - 107:21; 159:25 tomorrow [2] - 165:11, 22 took [1] - 36:18 top [5] - 88:14; 108:19; 125:6; 140:15; 149:12 topic [1] - 107:22 total [28] - 3:11; 57:21; 58:1; 80:3; 83:15; 84:16; 85:10, 15, 21, 25; 90:14; 97:7, 11; 102:11; 110:2; 111:13, 17; 112:15; 113:14, 24; 115:2; 116:3; 118:3; 122:23; 125:2, 7; 128:4; 143:5 totalling [1] - 128:25 touch [1] - 50:19 touched [1] - 41:25 tough [9] - 144:20, 25; 145:2; 146:16, 23; 147:3; 148:18 towards [1] - 142:25 track [2] - 60:25; 76:8 tracks [1] - 67:16 trade [2] - 163:21 traditional [4] - 3:4; 19:8, 11; 70:7 transactions [2] - 164:10, 21 transcribed [1] - 12:15 transcript [2] - 12:16; 92:25 TRANSCRIPT [2] - 52:7; 56:7 transcripts [2] - 7:25; 8:2 transmission [15] - 20:19; 58:5; 59:17; 60:3; 62:9, 23; 63:11, 15-16; 66:15, 23; 67:3; 71:9, 13 transparent [2] - 164:9, 13 Travis [4] - 78:7, 10; 81:8, 11 treasury [2] - 18:10, 20 treat [1] - 67:16 treated [1] - 11:14 tried [2] - 95:23;	131:20 tripled [1] - 146:22 trouble [2] - 13:19; 129:9 true [5] - 42:24; 88:6, 8; 90:15; 155:15 truth [1] - 155:15 Truth [2] - 4:14; 21:10 try [5] - 91:24; 117:7; 121:8; 136:10; 151:15 trying [1] - 76:6, 8; 77:1; 79:22, 24; 93:5; 95:21; 105:25; 120:21, 23; 121:5 Tuesday [1] - 9:11 tumble [1] - 137:7 turn [18] - 12:23; 13:9; 15:4; 23:19, 21; 27:3; 43:18, 23; 45:17; 48:10; 49:20; 57:15; 65:1; 66:4; 72:2; 136:22; 139:16; 141:7 Turn [1] - 134:9 turned [4] - 6:4; 30:22; 43:17; 140:18 two [17] - 11:6; 13:18; 24:7; 25:2, 25; 32:25; 33:15; 46:16; 53:11, 15-16; 86:2; 94:4; 140:8; 144:13; 146:10 type [1] - 38:15 types [1] - 61:4 typically [10] - 6:10; 38:13; 40:25; 55:8; 63:14; 64:1; 86:19; 89:12; 148:25; 161:10 typo [1] - 29:17 U UCG [3] - 14:17; 139:11; 145:24 UCG-1-26 [1] - 139:15 UCG-1-5 [1] - 139:23 UCG-104 [2] - 140:19; 144:2 UCG-126 [1] - 139:21 UCG-144 [1] - 141:7 UCG-YEC-1-1004 [1] - 140:20 ultimate [1] - 28:8 ultimately [2] - 6:11; 43:6 unavoidable [1] - 149:4 uncertainty [1] - 68:1 uncontested [1] - 74:22 under [39] - 4:24; 13:11; 27:6; 39:9; 49:22; 57:4, 13; 59:14; 65:8; 69:10; 83:6; 85:11; 86:17; 87:18-20; 100:18; 101:1, 10, 12; 102:4, 17; 103:15; 107:11; 109:9; 110:21; 111:7; 114:5, 7, 15; 115:11; 122:18, 21; 136:6; 163:19, 25; 164:24 underfoot [1] - 144:16 undergoing [1] - 153:11 underneath [1] -
---	--	---	---	---

27:10 understood [3] - 136:12; 144:1; 152:10 undertake [2] - 52:3; 61:6 undertaken [3] - 98:18, 22; 122:7 UNDERTAKING [5] - 52:5; 56:3; 61:17; 152:11; 154:21 undertaking [9] - 55:24; 60:20; 61:13; 98:4, 6, 17; 151:23; 154:18 undertakings [1] - 9:10 undertook [1] - 99:4 UNDRIPI [1] - 21:10 unexpected [1] - 2:23 unfeasible [1] - 68:2 unfilled [1] - 150:2 unfortunately [6] - 2:25; 6:17; 11:19; 12:4; 104:19; 121:12 UNIDENTIFIED [2] - 120:13, 16 unit [1] - 40:22 units [56] - 25:11; 31:3; 32:2; 33:1; 36:10, 15, 24; 40:25; 41:8, 14; 45:4; 46:12, 15, 19, 24; 47:5; 48:21, 25; 49:5, 8; 77:21; 79:16; 80:16; 83:1, 11; 88:23; 98:13; 103:9, 11, 14, 23; 104:15, 20; 105:13, 16, 18; 107:1, 13; 108:3, 5, 10; 109:12; 110:19; 113:18; 114:1; 117:18; 118:3, 6, 22; 119:10; 125:2; 149:2; 150:21 unless [2] - 72:18; 165:9 unlimited [2] - 86:5 unnecessary [3] - 7:4; 69:24; 93:10 unwarranted [1] - 68:2 up [59] - 6:25; 13:6; 22:13, 18; 23:19; 30:22; 31:5, 8-9; 33:22; 43:17; 45:16; 47:24; 56:9; 57:15; 60:11; 64:25; 68:7; 70:16; 74:13, 16; 78:19; 80:10; 82:8, 10; 83:4; 85:1; 92:9, 11; 95:14, 20; 96:11, 25; 97:11; 106:11; 108:11, 16; 109:17; 110:18; 117:7; 119:22; 124:19; 125:6; 126:14; 133:10; 135:18; 136:10; 140:4, 21; 142:21; 148:7; 152:15; 155:15; 156:10; 161:14; 163:25; 164:1; 165:11 up-to-date [1] - 6:25 upcoming [1] - 35:16 update [5] - 21:1; 66:25; 84:11; 117:5; 126:25 updated [4] - 10:21; 37:3, 14	uprate [1] - 138:2 Upstream [1] - 8:9 usage [6] - 89:16; 96:4; 112:18; 116:7; 140:12 use [1] - 65:18 useable [2] - 124:8, 17 useful [1] - 53:7 uses [1] - 79:3 utilities [4] - 131:15-17; 132:1 Utilities [7] - 2:16; 3:2; 8:19; 14:15; 19:15; 73:12; 108:1 utility [17] - 24:1; 25:3, 25; 26:1; 38:18; 43:1; 46:13; 47:6; 55:8; 131:21; 132:3, 15, 20 utility's [2] - 6:12; 46:5	W wade [1] - 150:10 wages [1] - 127:14 wait [1] - 43:19 waiting [3] - 76:22; 127:4, 19 walk [2] - 30:24; 31:24 wants [4] - 120:1, 6; 147:4; 151:19 Ward [2] - 2:11; 4:9 watch [2] - 134:2 water [3] - 143:3; 144:1, 3 ways [3] - 54:21; 126:11; 153:14 wearing [1] - 5:23 WEATHER [1] - 52:6 weather [19] - 20:12; 35:9; 36:2; 43:13; 49:24; 50:7; 51:9, 17; 52:2, 17, 23-24; 53:22, 24; 54:1, 14, 16-17, 20 web [5] - 5:3; 8:4, 13; 11:1, 17 website [8] - 3:24; 4:1, 5, 24; 7:20; 45:22; 65:1 week [2] - 4:12; 81:23 weighted [1] - 130:24 welcome [2] - 95:9; 134:14 welfare [1] - 122:4 WHAT [3] - 56:5; 61:18, 21 whereas [2] - 52:23; 89:8 White [1] - 67:14 Whitehorse [45] - 2:2, 15; 8:18; 9:2; 14:11, 14; 22:19; 23:10, 12-13, 15, 20; 29:2; 52:25; 67:4, 16; 71:3, 6, 10, 21-22; 72:6, 8; 82:10; 106:11, 16; 107:23; 108:18; 109:12, 16; 111:2, 5, 14; 113:1, 4, 10, 18; 114:5; 115:15, 22; 116:6; 117:14, 18; 138:2 Whitehorse's [1] - 81:16 whole [5] - 78:2; 81:1, 5; 125:4; 138:24 wholesale [1] - 17:24 wholesales [4] - 52:15, 18, 24; 54:5 willing [2] - 52:1; 61:13 win [1] - 63:1 winter [7] - 29:10; 35:16; 36:17; 103:4; 104:10; 118:22 wish [5] - 3:3; 13:8; 15:2; 128:17; 158:7 wishes [1] - 14:24 wishing [1] - 8:5 WITH [2] - 56:3; 61:17 witness [16] - 5:17; 9:19-22, 24; 10:1, 4, 8; 12:21; 15:5; 46:4; 83:19; 84:1; 93:12; 97:22	witnesses [13] - 8:14, 16, 21, 23; 9:5; 7; 10:11; 12:22; 13:3; 15:12; 16:13; 93:7; 135:3 won [1] - 63:3 wondering [4] - 13:19; 60:19; 77:2; 129:15 word [3] - 79:3; 120:2, 9 words [1] - 124:10 workload [1] - 145:1 worry [1] - 123:20 worse [1] - 137:8 worth [1] - 141:13 worthwhile [5] - 50:4, 12; 51:7, 20, 25 WOULD [1] - 56:5 writes [1] - 80:5 written [3] - 11:6, 16; 160:10	Y YDC [1] - 164:16 year [33] - 3:12; 19:21; 25:12; 27:19; 34:8, 17; 35:7, 21; 44:8, 13-14; 45:4; 54:20; 57:7; 58:13; 59:18, 25; 60:9; 61:5; 62:3, 18; 63:1; 64:6; 70:19; 104:14; 105:14; 108:8; 144:8; 146:10; 147:15; 161:1; 165:4 years [22] - 34:11; 54:25; 55:1; 57:21; 58:2, 14; 59:11; 60:5; 67:6; 68:24; 82:24; 130:13; 137:16; 139:13; 141:5; 146:10, 22; 148:18; 150:1, 22 YEC [99] - 5:1; 7:9; 8:15, 21; 10:24; 19:8; 22:3, 23; 24:23; 27:14; 28:11, 17; 29:1, 5; 30:9, 11, 13; 32:24; 33:2, 14; 36:21; 39:17; 43:16, 24; 45:5, 7, 16; 46:4, 12; 47:5; 48:21; 49:1, 23; 50:7, 10, 15; 51:19; 52:1, 10; 55:19; 56:3; 57:5, 16, 20; 58:1; 59:13, 23; 60:19; 61:17, 20, 23; 62:20; 63:13, 21; 64:7, 20, 24; 66:16, 21, 25; 67:8; 68:7, 19; 69:8; 70:6, 15; 71:17; 72:13, 17, 19; 74:11, 13, 18, 23; 75:6, 19, 22; 77:10; 78:17; 81:16; 82:15; 83:12; 87:14; 91:18; 99:9; 108:25; 109:1; 113:9; 116:18; 118:25; 119:7, 18; 124:6; 129:12; 134:24; 156:11; 161:22 YEC's [24] - 25:2; 27:4, 23; 29:5, 10; 31:1, 25; 32:1; 45:1; 46:23; 48:16; 49:18; 57:2, 13; 64:25; 70:10; 74:6, 17; 75:3; 77:8; 78:12; 96:3;	99:11 YEC-YUB-1-3 [1] - 133:11 YEC.. [1] - 65:15 Yee [42] - 2:18; 8:18; 9:2; 14:18, 20; 73:7; 19, 22; 74:15; 76:10; 83:16; 86:14; 91:20; 92:14, 22; 93:1, 4; 95:13, 16; 97:20; 102:4; 105:1; 106:23; 120:1, 4, 12, 17; 121:15; 122:10, 14; 123:8, 20; 124:2; 129:12; 134:16; 135:9, 17, 22; 136:14 YEE [30] - 14:19; 73:8, 14, 24-25; 76:12, 19, 24; 77:1; 83:17, 20, 24; 84:3; 91:23; 92:2, 4; 95:17, 21; 96:1; 97:23, 25; 98:3; 120:9; 121:12, 19; 122:12, 16; 123:9; 135:23; 136:12 Yee's [4] - 76:16; 92:19; 103:8; 127:18 YESAA [65] - 75:6; 14; 78:13, 22; 79:1; 80:19; 84:11, 20, 22; 85:2, 4, 7-9, 13, 17, 19; 86:8, 13, 17, 24-25; 87:3, 18; 88:4, 19; 89:4; 90:11, 17, 22; 91:9, 11, 19; 92:6; 96:10, 20, 25; 98:4, 10, 14, 17, 19, 21-22; 99:3, 5; 100:10, 18; 101:2, 10, 12, 14, 21, 25; 102:17, 19; 104:3; 106:9, 16; 112:9; 113:11; 119:9; 121:21 YESAB [25] - 87:8, 11, 13; 88:5; 89:8, 18; 90:4, 16, 21; 91:19; 97:17; 98:8; 99:8, 13; 102:22; 104:25; 106:2, 21; 107:4; 112:25; 116:10; 118:19; 129:20, 24 yesterday [2] - 45:13; 64:22 yesterday's [1] - 2:24 yourself [1] - 16:1 yourselves [1] - 4:8 YUB [5] - 6:9; 45:3, 14, 22; 145:23 YUB's [2] - 47:9; 65:1 YUB-1-3 [1] - 133:1 YUB-1-38 [1] - 148:12 YUB-143 [1] - 145:25 YUB-YEC-1-16-D [1] - 54:24 YUB-YEC-1-38 [1] - 148:13 YUB-YEC-1-43 [1] - 145:23 Yukon [62] - 2:2, 13-14; 3:2; 5:10; 7:6, 9; 13:24; 14:2, 6-7, 10; 16:4, 18, 25; 17:11; 19:9, 15; 21:20, 25; 22:14; 24:15; 25:1, 7; 26:4, 13; 32:3; 37:10; 38:25; 59:4; 65:5; 66:12, 24; 82:4;
--	---	--	--	---	--

YEC 2021 GRA, Volume 1, September 27, 2021

91:25; 95:8; 102:2;
107:25; 116:21;
120:5; 126:5; 128:16,
18, 22; 138:12; 141:4;
145:6; 152:17;
155:13; 156:12;
157:14; 158:9;
159:17; 160:3, 8;
161:11, 23; 164:9, 19;
165:19
Yukon-based [1] -
160:4
Yukoners [5] - 22:5;
35:11; 105:8; 123:18;
126:8
Yukoners' [1] - 39:3
yukonutilitiesboard
.yk.ca [1] - 7:21

Z

zero [3] - 93:8, 12;
136:8
Zoom [3] - 13:12;
93:23; 94:1