

**YUKON UTILITIES BOARD**

**YUKON ELECTRICAL COMPANY LTD.  
GENERAL RATE APPLICATION 2008-09  
HELD AT HIGH COUNTRY INN  
WHITEHORSE, YUKON  
OCTOBER 7, 2008**

**VOLUME 1**

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**BEFORE BOARD MEMBERS:**

Wendy Shanks	Chair
Robert Laking	Vice-Chair
Richard Hancock	Member
Jody Woodland	Member
Kathleen Avery	Member

**BOARD COUNSEL:**

Giuseppa Bentivegna

**BOARD STAFF:**

Dwayne Ward	Technical Consultant
Deana Lemke	Executive Secretary

**APPEARANCES:**

Yukon Electrical Company Ltd.

Loyola Keough

Yukon Energy Corporation

John Landry

City of Whitehorse

Thomas Marriott  
Greg Garbutt

Dept. Energy, Mines and Resources

Val Mather

Leading Edge Projects Inc.

John Maissan

**TRANSCRIBER:**

Lois Cameron

1 **(PROCEEDINGS COMMENCED OCTOBER 7, 2008, 9:10 A.M.)**

2 **1. Opening Statement by Board Chair**

3 MS. SHANKS: Good morning everybody. I would like to call this hearing to  
4 order.

5 Today starts the Oral public hearing phase in to Yukon Electrical Company Ltd's  
6 (YECL) 2008-2009 General Rate Application (GRA). I would like to first introduce the  
7 Board members. On my immediate right is Robert Laking, Vice Chair of the Yukon  
8 Utilities Board; on my far right is Jody Woodland, Member. To my immediate left is  
9 Kathleen Avery, Member of the Utilities Board, and on my far left is Richard Hancock,  
10 Member. I am Wendy Shanks, Chair of the Yukon Utilities Board (YUB).

11 The YECL 2008-2009 GRA hearing has been convened as a result of an application  
12 received by the YUB on April 30, 2008 from YECL requesting approval for their 2008-  
13 2009 GRA.

14 For the record, I would like to introduce at this time Board Counsel, Giuseppa  
15 Bentivegna; Board staff, Dwayne Ward and Bob Clarke; and the court reporter, Lois  
16 Cameron. If any party requires a copy of the transcript of this hearing, they should speak  
17 directly with Ms. Cameron in that regard.

18 The Board's Executive Secretary is Deana Lemke, and if anybody has any questions  
19 with respect to the process or procedural matters generally, they should speak to Ms.  
20 Lemke, who is at the side of the room.

21 In its 2008-2009 GRA, YECL is seeking approval for a revenue requirement of  
22 \$46,660,000 for 2008 and a revenue requirement of \$47,902,000 for 2009. YECL is also  
23 requesting approval to continue existing deferral accounts for Purchase Power Flow  
24 Through costs, Fuel Price Flow Through costs and costs for the Diesel Contingency  
25 Fund.

26 In addition, YECL is requesting new deferral accounts to cover the Increased Fuel  
27 Costs Associated with Pelly Crossing and an Income Tax Rate Variance Deferral  
28 Account. The application also requested approval of Interim Refundable Rate Rider,  
29 Rider R, and Temporary Refund/Surcharge Rider, Rider G. These riders apply to all rate  
30 classes in YECL and Yukon Energy Corporation (YEC) retail customers excluding

1 Secondary Energy Rate 32 and Industrial Primary Rate 39. The Interim Refundable Rate,  
2 Rider R, commenced on August 1, 2008 in accordance with Board Order 2008-6.

3 Further, YECL requested that certain costs from ATCO I-Tek Ltd. and ATCO I-Tek  
4 Business Services Ltd., affiliates of ATCO Electric Ltd., which wholly owns YECL, be  
5 reserved as placeholders until such time as the Alberta Utilities Commission (AUC) rules  
6 on those costs as part of the benchmarking process before that Commission.

7 With respect to this application, a notice was issued with Board Order 2008-4 dated  
8 May 16, 2008. Within Order 2008-4 the Board ordered YECL to publish a notice of  
9 Application and pre-Hearing Conference no later than May 23, 2008 in such appropriate  
10 local news publications in YECL's service area. YECL was also ordered to make the  
11 application and supporting materials available for inspection at its Whitehorse office at  
12 100-1100 First Avenue and at the Watson Lake and Haines Junction public libraries.

13 A process schedule for this application was proposed with Board Order 2008-4, and  
14 revised with Board Order 2008-5. The schedule was further revised with Board Order  
15 2008-7 when YECL requested more time to provide responses to Information Requests,  
16 given the large volume of Information Requests. The Board also allowed an additional  
17 round of Information Requests on depreciation through Board Order 2008-11.

18 The Board would like to follow the following schedule for this proceeding:

19 The Board would like to sit from 9:00 a.m. to 5:00 p.m. each day. A 15-minute  
20 morning break will occur at approximately 10:30 a.m. each morning. Lunch is planned  
21 for roughly 12:00 p.m. to 1:30 p.m. each day. Each afternoon, we'll have a break around  
22 3:30 p.m.

23 YECL's Depreciation and Rate of Return witness will be available tomorrow,  
24 October 8, 2008, so depending on progress, YECL's main panel may have to stand down  
25 while the depreciation and rate of return witness portion goes forward.

26 If any party has a cell phone, I ask that it be turned off for the proceeding. To  
27 facilitate the marking of exhibits, Ms. Lemke has circulated a list of exhibits to date.

28 We would like to commence by having interested parties register, for the record, and  
29 then hear submissions from all parties as to what process should be followed for  
30 argument and reply. As well, the order for parties for cross-examination will be the order

1 of registration. I would ask Board Counsel, Ms. Bentivegna, to facilitate this process at  
2 this time.

3 **2. Preliminary Matters**

4 MS. BENTIVEGNA: If the counsel representing Yukon Electrical Company Ltd.  
5 can come forward and identify himself.

6 MR. KEOUGH: Thank you and good morning, Madam Chair and Board  
7 members. Loyola Keough for Yukon Electrical Company Ltd. If you're curious, to my  
8 left is Mr. Dennis DeChamplain; he is the Vice President and Controller of Yukon  
9 Electrical Company Ltd. and is here to keep me in line, so you can wish him well.

10 With regard, Madam Chair, to your point and argument at the Pre-Hearing  
11 Conference, we had expressed a preference for oral argument, if that were able to be fit  
12 within the timetable that the Board has set aside for the conduct of the proceeding. We  
13 still remain of that view, but obviously it would be important to know whether you  
14 thought you were going to go that way or not, sooner than later, so the parties could  
15 prepare for it. But I would certainly register a view that, if we can get the proceeding  
16 wrapped up quicker, there is, at least in Yukon Electrical's hope, that a decision could be  
17 gotten by year-end, whereas if we have an extended period for written argument, the  
18 likelihood of that occurring decreases in our mind, and that is the motivation for the  
19 request.

20 So we would register that request with you and we can obviously see what our friends  
21 say, and then the Board can deal with it, but we'll leave that with you for the moment.  
22 Thank you.

23 MS. BENTIVEGNA: The Yukon Energy Corporation. Who's representing the  
24 corporation?

25 MR. LANDRY: Madam Chair and Members of the Board, good morning. My  
26 name is John Landry — that's L-A-N-D-R-Y, for the record, initial P., John, and I appear  
27 on behalf of the Yukon Energy Corporation. With me at the table are consultants for  
28 Yukon Energy, Mr. Osler, whom the Board is familiar with, and Ms. Pollitt-Smith, who  
29 is also in Mr. Osler's office and helping with this application.

1 Madam Chair, in relation to the request for comments on the issue of argument,  
2 Yukon Energy, at least at this point in time, given the significance of the rate increase  
3 that is being requested by Yukon Electrical, and the numerous issues that have been  
4 raised, both by the Board staff and their IRs and by Yukon Energy and the other parties  
5 and their IRs, it would be Yukon Energy's preference to have written argument, and in  
6 line with Mr. Keough's suggestion in terms of trying to get a decision by the end of the  
7 year, we think that written argument could be done within a reasonable period of time,  
8 which would allow the Board time to deliberate and get a decision by the end of the year.

9 But it's our view that, given, like I said, the significance of the rate increase and the  
10 number of issues that have been raised, that it should be written argument.

11 MS. BENTIVEGNA: Thank you, Mr. Landry.

12 MS. SHANKS: For the City of Whitehorse, who is representing the City?

13 MR. MARRIOTT: Good morning, Madam Chair, Board. My name is Marriott,  
14 initials T.D. I represent the City of Whitehorse in this proceeding. With me, is my  
15 consultant, Mr. Garbutt from Garbutt Consulting Inc.

16 With respect to argument, I think the City's preference would be written argument.  
17 And, as Mr. Landry said, I think argument could be done within a reasonable time, which  
18 would result in an opportunity to get a decision before the end of the year.

19 MS. SHANKS: Thank you, Mr. Marriott. The Utilities Consumers Group — who  
20 is representing the Group?

21 MR. RONDEAU: Good morning. My name is Roger Rondeau, and I'm  
22 representing the Utilities Consumers Group. I have a couple of issues I'd like to bring up.  
23 First, the argument — it is our preference to have written argument, as our organization  
24 will probably not be able to attend all of the hearing process.

25 My second issue would be to ask the Board if we could be first in our cross-  
26 examination in order to avoid duplication. As I stated earlier, we will not be able to attend  
27 the whole hearing process.

28 MS. SHANKS: Mr. Rondeau, in what respect do you mean "to avoid duplication"?

29 MR. RONDEAU: Well, if I'm not here listening to the cross-examination from  
30 other interested parties, then I won't know what's been —

1 MS. SHANKS: For the Yukon Conservation Society, who is the representative?

2 (No response)

3 MS. SHANKS: For the Department of Energy, Mines and Resources, who is the  
4 representative?

5 MR. MATHER: I'm Val Mather from the Department of Energy, Mines and  
6 Resources. I'll have no issues that I'll be bringing forward.

7 MS. SHANKS: Thank you, Mr. Mather. Leading Edge?

8 MR. MAISSAN: Good morning. My name is John Maissan, Leading Edge  
9 Projects. My strong preference would be for written argument, and I too believe it can be  
10 done within a reasonable period of time. It's just much more manageable to deal with all  
11 the issues over a period of a few days, as opposed to a few hours. So, for me it would be  
12 much easier to have written argument. Thank you.

13 MS. SHANKS: Thank you, Mr. Maissan.

14 MS. BENTIVEGNA: I believe, Madam Chair, those are all the parties that have  
15 intervened in this proceeding.

16 MS. SHANKS: Thank you. Ms. Bentivegna, are you aware of any preliminary  
17 issues before the Board at this time?

18 MS. BENTIVEGNA: No, I'm not, Madam Chair.

19 MS. SHANKS: I would like to turn the mike over to — well, I guess first we  
20 should address the UCG's request, I mean, first crack at cross-examination. I think in this  
21 case the Board would like to have YEC go first for the cross-examination and UCG can  
22 proceed after that. On that basis, I will turn the mike over to Mr. Keough for his opening.

23 MR. KEOUGH: Thank you, Madam Chair. Maybe the first thing I can do is put a  
24 comment on the record regarding argument. It appears I'm swimming against the tide  
25 here. First time ever. So we won't make a big issue of this. We are certainly prepared to  
26 go the written argument route and if that's the preference of all parties, we will agree to  
27 that.

28 There is, then, the issue of the format of the written argument and I will comment on  
29 it briefly. At the Pre-Hearing Conference, Mr. Landry expressed a preference for a format  
30 that would have the applicant go first. Our intervening parties then provide a reply and

1 then with the final rebuttal reply right to the applicant. We are in full agreement with that  
2 as being the appropriate format for the final argument in a written form. It is sort of the  
3 way the courts go and it also is the way that the oral argument would go if it were  
4 presented orally. So, that would be our strong preference in that regard. With that, I will  
5 leave it with the Board to render a decision on the argument issue.

6 Madam Chair and Board Members, the Yukon Electrical Company Ltd, or Yukon  
7 Electrical for short, is very pleased to present to you today its 2008-2009 phase I General  
8 Rate Application. As you are aware, it has been some time since Yukon Electrical was  
9 before this Board requesting changes to its rates. Yukon Electrical is actually very proud  
10 of that and has a very good track record in this regard and has not come before the Board  
11 seeking rate increases for an extended period, notwithstanding the various cost pressures  
12 that have been present over the last 10 or so years.

13 In order to speak to this case, Yukon Electrical will be presenting three witness  
14 panels. The first is a company panel which is already seated to my left. The panel is  
15 composed of four witnesses. Mr. Jerome Babyn, who is the General Manager of Yukon  
16 Electrical and also the Northland Utilities Company, is located over in the Northwest  
17 Territories. Mr. Craig Steinbach is closest to the Board. They've got a nice, pretty sign so  
18 you can know who they are. He is the Manager of Customer Service for Yukon  
19 Electrical. To Mr. Babyn's immediate right is Mr. James Grattan. He is the Manager of  
20 Pricing for ATCO Electric. As the Board may be aware, Mr. Grattan spent what I would  
21 call his formative years — all dozen of them — here in the Yukon with Yukon Electrical,  
22 so he has considerable institutional memory regarding all the matters you are going to  
23 hear. So he is a person who is very key to us today in terms of understanding the history  
24 between the last case and the current one. Last but not least for this Board is Mr. David  
25 Freedman. He is the Director of Regulatory for ATCO Electric Ltd., Yukon Electrical's  
26 parent.

27 We would propose, as you have noted, Madam Chair, tomorrow morning, likely at  
28 the outset, if there is a convenient break, to put on the two other panels that we propose to  
29 present. And we'll do each separately because they're speaking to distinct reports. Yukon  
30 Electrical is putting forward a depreciation panel, which, as you know, is comprised of

1 Mr. Larry Kennedy, an independent expert consultant in the area, to speak to his report,  
2 and Mr. Freedman will join him on that panel, in case there are any depreciation  
3 questions that are of a company nature.

4 The third panel will be the capital structure rate of return panel. Again, Yukon  
5 Electrical has retained an independent expert, Ms. Kathleen McShane, who will be on the  
6 panel, again with Mr. Freedman. So those panels we would hopefully put up at the start  
7 tomorrow, to give people notice that they will start the day.

8 Hopefully, where the person who is crossing at the end of the day is interrupted,  
9 anyway, it really won't affect the flow of the cross. That would be our proposal.

10 I would also highlight for the Board the materials that will primarily be spoken to by  
11 this panel and that I will have adopted when we have them sworn. On that exhibit list,  
12 there are numerous documents that really comprise the evidence and testimony of the  
13 company. When I have them adopt the evidence, it will be except for the portions of the  
14 application and IR responses that were prepared by the two expert witnesses.

15 I won't laboriously go through each of the IRs and say, "except specific numbers". I  
16 will do a general statement. But just so the Board knows, these witnesses will obviously  
17 not be adopting the reports and IR responses prepared by the experts.

18 The primary exhibits to which the witnesses will speak are Exhibit B-1, which is the  
19 General Rate Application itself. B-4 is the further information that was provided on July  
20 4, 2008 in response to the Board's Order 2008-5. The balance of the information  
21 responses to all parties were provided in Exhibit B-7. B-10 is YECL's revised IR  
22 responses to certain parties dated September 15. B-14 are the responses to the  
23 depreciation Information Requests that were filed on September 30. And last but not  
24 least, Exhibit B-15 contains the CVs of the witnesses.

25 So those are the primary exhibits that I will be having the witnesses adopt. And what I  
26 will do, Madam Chair, for time saving and ease of reference, is simply refer to those  
27 exhibit numbers, as opposed to taking them all through the text of it.

28 It probably is best to have the witnesses sworn at this point in time.

29 MS. SHANKS: May we please have the witnesses sworn.

1 **YEC PANEL SWORN:**

2 **CRAIG F. STEINBACH, SWORN**

3 **JEROME W. BABYN, SWORN**

4 **JAMES R. GRATTAN, SWORN**

5 **DAVID FREEDMAN, SWORN**

6 MS. SHANKS: Thank you. Mr. Keough.

7 MR. KEOUGH: I'm glad the spelling bee was easy at the start. They started off  
8 with easy questions. I think they did okay.

9 Madam Chair, as I've just noted, the CVs of the witnesses have been filed as Exhibit  
10 B-15, and I will leave it in your hands as to whether or not you want each of the  
11 witnesses to briefly introduce themselves and indicate a position with Yukon Electrical or  
12 ATCO Electric, the parent company, and briefly describe their resumé. It's on the record.  
13 I'm in your hands.

14 MS. SHANKS: I think we're fine with Exhibit B-15, and the CVs that you sent  
15 were quite detailed in that exhibit.

16 MR. KEOUGH: Thank you. I will now have the witnesses adopt the evidence in  
17 these proceedings.

18 Q Mr. Babyn, we'll start with you first. You can pave the way and, hopefully, get all of  
19 these questions right. Sir, do you have before you a copy of Exhibits B-1, B-4, B-7,  
20 B-10, B-14 and B-15, all of which I previously described?

21 A MR. BABYN: Yes.

22 Q MR. KEOUGH: And, sir, were those materials prepared by you or under your  
23 direction?

24 A MR. BABYN: Yes.

25 Q MR. KEOUGH: Sir, do you have any changes, corrections or updates to make to  
26 those materials?

27 A MR. BABYN: No.

1 Q MR. KEOUGH: And except for the portions of those materials that relate to the  
2 two expert witnesses I described previously, do you adopt those materials as your  
3 evidence in these proceedings?

4 A MR. BABYN: Yes.

5 Q MR. KEOUGH: Thank you. Mr. Steinbach, you're closest to the Board, so I'll go  
6 with you next.

7 Sir, do you have before you copies of the same exhibits I have just listed for Mr.  
8 Babyn?

9 A MR. STEINBACH: Yes, I do.

10 Q MR. KEOUGH: And, sir, were those materials prepared by you or under your  
11 direction?

12 A MR. STEINBACH: Yes, they were.

13 Q MR. KEOUGH: And do you have any changes, corrections or updates to make to  
14 those materials?

15 A MR. BABYN: No, I don't.

16 Q MR. KEOUGH: And again, with the same caveat with respect to the expert  
17 witnesses, do you adopt those materials as your evidence in these proceedings?

18 A MR. BABYN: Yes, I do.

19 Q MR. KEOUGH: Thank you. Mr. Grattan, you're on. Sir, do you have before you a  
20 copy of the same exhibits I enumerated for the other witnesses?

21 A MR. GRATTAN: Yes.

22 Q MR. KEOUGH: And, sir, were those materials prepared by you or under your  
23 direction?

24 A MR. GRATTAN: Yes.

25 Q MR. KEOUGH: And, sir, do you have any changes, corrections or updates to  
26 make to those documents?

27 A MR. GRATTAN: No.

28 Q MR. KEOUGH: And with the same caveat regarding the expert witnesses, sir, do  
29 you adopt those materials as your evidence in these proceedings?

1 A MR. GRATTAN: Yes, I do.

2 Q MR. KEOUGH: Mr. Freedman. Sir, do you have before you copies of the exhibits  
3 I enumerated previously?

4 A MR. FREEDMAN: Yes, I do.

5 Q MR. KEOUGH: And, sir, were those materials prepared by you or under your  
6 direction?

7 A MR. FREEDMAN: Yes.

8 Q MR. KEOUGH: And, sir, do you have any changes, corrections or updates to  
9 make to those materials?

10 A MR. FREEDMAN: No.

11 Q MR. KEOUGH: And do you adopt those materials as your evidence to these  
12 proceedings, subject to the same caveat?

13 A MR. FREEDMAN: Yes.

14 MR. KEOUGH: Thank you. Madam Chair, before turning the panel over for  
15 questioning, I would note that we have prepared a service territory map. We have a large  
16 copy, and we'll probably try and get an easel or something at the break. But we have  
17 smaller copies as well. I'll leave it in your hands whether you want to mark it as an  
18 exhibit. But we thought it would be of assistance to the Board and parties to have the  
19 service territory map, which also includes Yukon Energy's service territory, just so that  
20 when people are talking about activities or projects they could visually understand where  
21 something is located vis-à-vis something else. So we have provided copies to certain of  
22 the counsel. We have extra copies that are available and can provide a copy or copies to  
23 the Board. And, as I say, we will get the larger version — the blow-up version —  
24 hopefully posted on an easel at the break or at lunch or something.

25 MS. SHANKS: How big is the blow-up version?

26 MR. KEOUGH: Not big enough for me to read it from here, but it's over there.  
27 It's a fairly large service territory map.

28 MS. SHANKS: Okay, thank you.

1 MR. KEOUGH: So, that's available. And I think, Madam Chair, with that, the  
2 witnesses are available for questioning.

3 MS. SHANKS: Thank you very much, Mr. Keough. Mr. Landry, would you like  
4 to proceed at this time with your cross-examination?

5 MR. LANDRY: Yes, I would, Madam Chair. And I wonder if I could just take one  
6 second, because I'm looking through this microphone to Mr. Freedman. I don't think  
7 that's very — so I'm just going to move it, if I can just have one second.

8 MS. SHANKS: Actually, just before you proceed, Mr. Landry — sorry. Mr.  
9 Keough, could the Board have a copy of their map as well? I wasn't sure how large your  
10 larger display was going to be, but I see it's not up yet.

11 I don't want anybody to get lost in the Yukon.

12 MR. KEOUGH: Madam Chair, it appears that it's a popular seller, so we may  
13 make additional copies available. If we can't get them over the lunch break, we'll get  
14 them tomorrow. But we will get some more copies because it seems like we've  
15 distributed all I had. Thank you.

16 MS. SHANKS: Thank you. Would you like to proceed? Mr. Landry, would you  
17 like to proceed with your cross-examination?

18 MR. LANDRY: Madam Chair, given that we're referring to the document in  
19 evidence, maybe we should just mark it as an exhibit. It probably is —

20 MS. SHANKS: B-16 would it be? Yes. So marked.

21 MR. LANDRY: Madam Chair, maybe just before starting the cross-examination I  
22 could just make a comment to my friend's comment on written argument. The main  
23 reason for the proposal that I had presented at the Pre-Hearing Conference was because  
24 of some of the difficulties that have arisen in the past, where you have what I call — and  
25 I have called in other jurisdictions — duelling arguments, where you don't necessarily  
26 have a connection on the issues, and that's the main reason why the court uses that type  
27 of argument.

28 But as part of that problem, the problem also exists that the primary and main  
29 argument by the applicant in any proceeding has to be a full argument, and then

1 effectively the respondent gets a chance — or the intervenors get a chance — to respond  
2 to that argument, and then the reply is simply a reply, which is something that has arisen  
3 new in the respondent's argument, or the intervenor's argument. I just wanted to make it  
4 clear that that is the reason for that because, otherwise, as we had in the past, what  
5 happens is you have reply and then sur-reply and then sur-sur-reply — I think we got to  
6 about four surs the last time by the time we got through it.

7 So when you do consider how you would like to do the argument, I would ask that the  
8 Board take that into consideration and make it clear that that's the way the argument  
9 should go.

10 MS. SHANKS: Thank you for your comments.

11 MR. LANDRY: And I might say, relative to my friend's other comment that, from  
12 our perspective, we have no difficulty in standing the panel down for any other panels. I  
13 mean, whatever is to the convenience of the experts coming in from out of town. I know  
14 they're both coming in from out of town, so the sooner we can get them on and off, that's  
15 fine from our perspective, too.

16 Now, Madam Chair, I'm going to go through a number of different what I'll call  
17 headings in my cross-examination, and I will try to identify before we go through the  
18 headings where in the application I will be referring to. We have a number of exhibits  
19 that we're going to ask to be marked and I'll try to introduce those exhibits before each of  
20 the headings.

21 And so, what I'd like to do, Madam Chair, is to first of all put forward to you a binder  
22 of documents that I'll be questioning the witnesses on, and I'd like to get it marked as an  
23 exhibit and then we can refer to it as we go along in the cross-examination. We have 20  
24 copies here, so I'm not sure how many the Board requires. I mean, the Board and staff —  
25 I think it might be. Maybe Ms. Lemke could help us there, but we have enough copies for  
26 everybody, I think.

27 MS. SHANKS: Mr. Keough, it looks like you have something you want to say.

28 MR. KEOUGH: Madam Chair, I have a bit of a problem with this. My friend, first  
29 of all, has not provided me with a copy of aids to cross, I think the typical practice in

1 most jurisdictions is for any materials that are going to be put to the witnesses to be  
2 provided at least 24 hours in advance of questioning, so that they can familiarize  
3 themselves with the documents and not be just expected to respond to something they  
4 hadn't seen or hadn't seen in a long time.

5 Second is probably equally important: sight unseen, I'm not prepared to have  
6 anything marked as an exhibit because I may object to it being marked as an exhibit, so I  
7 really have a problem with just saying, take a binder of material and, holus bolus, mark it  
8 as an exhibit, sight unseen. That is extremely unfair and somewhat prejudicial, I would  
9 note.

10 So I think, first of all, I do have the concern that my friend didn't advise us of this or  
11 provide us with an opportunity to know. It may be too late to do much about that; it may  
12 make the questioning a tad more cumbersome than if he had followed what I will call the  
13 normal practice in this regard.

14 The second thing is, I'm unfortunately going to suggest that we can look at the  
15 documents one at a time and decide whether or not there's a problem with them, but I'm  
16 certainly not prepared to just say, here's a binder of materials, they're all officially  
17 exhibits in this proceeding.

18 MS. SHANKS: I think at this time we will take a 15-minute recess.

19 MR. LANDRY: Could I make a comment, Madam Chair, that might help us a  
20 little bit?

21 MS. SHANKS: Certainly.

22 MR. LANDRY: First of all, I am not aware of a practice here from before. I have  
23 appeared here a number of times. I am not sure, that may be a practice in other  
24 jurisdictions. This was not an attempt to try to surprise anyone with documents.

25 In terms of the binder of documents, the way in which one does it in court or, for that  
26 matter, even before regulatory proceedings, is that we can either mark it for  
27 identification, so therefore it is not necessarily an exhibit until it's been confirmed to be  
28 so, or the other way, which is quite frankly my preferable way and one that I think does  
29 accommodate my friend, is that we mark it as an exhibit. It has 19 tabs in it. If my friend

1 wishes to object to any exhibit and it turns out, as a result of those objections, that you,  
2 Madam Chair, decided that it should not be an exhibit, we just take it out of the tab. I am  
3 not here to try to create any big surprises. It is an attempt to try to reference to previous  
4 Board decisions and that type of thing. So that's the way I think we can accommodate  
5 Mr. Keough's point about one exhibit at a time. Either way, I am free to do it either way,  
6 but it seems to me that to expedite the matter, we could do it, like I said, by introducing it  
7 for identification or as an exhibit. Then, if there are any specific documents, they can be  
8 taken out of the tabs.

9 We have done a number of documents from the record where we have done tables et  
10 cetera. You will recall that we asked for, in our IRs, a number of things to be prepared by  
11 YECL and it was basically put back on us to do it. We have done that. Again, we can go  
12 through the exhibit with the witnesses if they are not able to answer the questions and you  
13 decide that the document can't be put in as an exhibit. That's fine. If you are going to  
14 take a 15-minute break, I will give my friend copies of all the various documents that  
15 we're going to be dealing with and I will leave it to you.

16 MS. SHANKS: My intention would be to have a 15-minute break and give Mr.  
17 Keough an opportunity to look at the documents that you have brought along with you  
18 today. When the Board comes back, perhaps you and Mr. Keough would have had a  
19 chance to put your heads together on them.

20 MR. KEOUGH: Well, Madam Chair, I certainly appreciate the offer, I suppose,  
21 but I am not sure 15 minutes is going to enable either myself or the witnesses to digest  
22 the binder. That's why I'm suggesting that maybe we can go one at a time. I would  
23 appreciate 15 minutes to see what's in there, but one of the remarks my friend's made is  
24 extremely troubling. There were a number of Information Requests posed that asked  
25 Yukon Electrical to prepare various scenarios or alternatives. We responded that you  
26 have all the information, so you can do it yourself. What I'm hearing now is that my  
27 friend is going to be trying to introduce YEC evidence through the mouths of my  
28 witnesses, which I really have a problem with. If they want to put forward alternate  
29 scenarios and if they want to put forward new evidence, the appropriate way is for my

1 friend to have submitted evidence and put up witnesses to speak to it. It's highly  
2 inappropriate to present, in the guise of an aid to cost evidence of YEC and try to put it in  
3 through the mouths of my witnesses on a matter where you have expressly ruled that we  
4 didn't have to put in the scenarios — they could do it. That's just one example of, you  
5 know, a train wreck that we're headed towards. I am not going to simply accept that as an  
6 appropriate approach. This Board has made it very clear — and in fact has set specific  
7 deadlines — that would have allowed YEC to file evidence and they chose not to. Now  
8 he is going to try to put it in through the mouths of my witnesses? That's absolutely  
9 inappropriate.

10 I will take the 15 minutes, Madam Chair, but this is not going to be resolved in 15  
11 minutes.

12 MS. SHANKS: Okay.

13 MR. LANDRY: If I may, I'm not trying to introduce evidence in the sense of YEC  
14 evidence. Either the witnesses are going to confirm what I am going to try to do, or they  
15 are not. There's not going to be any evidence called by Yukon Energy.

16 MS. SHANKS: Thank you for your comments. In that case, I would like Mr.  
17 Keough to have an opportunity to look at the binder — 15 minutes. We may very well go  
18 through it piece by piece, but I think he needs to look at the binder.

19 MR. LANDRY: I would say, Madam Chair, if my friend wants me to go through  
20 it piece by piece, and if my friend wants me to ask the questions about the aid to cost  
21 evidence of arguments, I will do so.

22 MS. SHANKS: Thank you. In that case, we will take a recess and look to return at  
23 five after 10.

24

25 (PROCEEDINGS ADJOURNED)

26 (PROCEEDINGS REDSUMED)

27

28 MS. SHANKS: Please be seated. So, Mr. Keough, have you had an opportunity  
29 to look at the binder and what might you suggest we go from here?

1 MR. KEOUGH: Madam Chair, I think, at least at the moment, we've arrived at a  
2 temporary accommodation. We've taken a look at the materials in the binder and, by and  
3 large, the majority of them are extracts from Board decisions or Board orders or Board  
4 proceedings and certainly we have no difficulty with those being presented to the  
5 witnesses. Again, it would have been good to have a little bit of time for the witnesses to  
6 look at it, but those we're generally okay with. There are a series of additional documents  
7 that are not in the binder that my friend plans to introduce and, again, we're okay with  
8 those. There are some calculations that have been performed by his client that obviously  
9 we'll have to take subject to check, and that type of thing, but we won't object to those  
10 being presented to the witnesses.

11 In the binder, there are three tabs — 10, 11 and 12; no, I think it's 11, 12, 13 — or  
12 maybe not. It's 11, 12, 13 — that contain extracts from other jurisdictions — maybe sure,  
13 I don't think they're decisions. I think they might be filings. I don't know exactly what  
14 they are, but those three we have a real problem with. And what, subject to my friend's  
15 confirmation, what we've decided is we will distribute the binders, we will take those  
16 three tabs out and, if my friend decides that he wants to pursue the materials in those  
17 binders during his questioning, we will have the discussion, i.e., the debate, at that point.  
18 But, subject to removing those three tabs, we're good to go with him proceeding with his  
19 cross.

20 MS. SHANKS: Thank you, Mr. Keough. In that case, do we have an exhibit  
21 number for the binder? Okay, Mr. Landry, did you have something you wanted to say  
22 before that?

23 MR. LANDRY: Madam Chair, I just wanted to confirm our agreement on this  
24 and that my thought is that we would — just to make it a little bit easier so everybody has  
25 everything in case I do want to refer to the tabs — we would hand out the full document  
26 — I know it will be marked as C1-11, and then everybody can physically take the three  
27 binders out — or sorry, three tabs out — and then if we will attempt to get them in as  
28 evidence and if we're unsuccessful, then they stay out; if they're successful, they would  
29 just go into the binder. I think that's what we decided.

1 MS. SHANKS: Mr. Keough?

2 MR. KEOUGH: That's fine. We'll physically yank them out until further notice.

3 MR. LANDRY: So what we'll do is we have copies for the Board and the  
4 witnesses, we've provided copies to them, so it'll be C1-11, as I understand it, Madam  
5 Chair, and we'll give copies up and then everybody can physically take out 11, 12 and  
6 13, if that works okay with the Chair.

7 MS. SHANKS: Okay, C1-11 so marked.

8 MR. LANDRY: Madam Chair, while that is being distributed, we're a little shy  
9 for all the people in the room on copies of this. We're having further copies made,  
10 though, so for those who don't get a copy, we're trying to make sure that, obviously, the  
11 people who've had appearances have copies. We're making more.

12 MS. SHANKS: Any idea when you might have those available?

13 MR. LANDRY: Hopefully by noon. I think we're okay at the moment.

14 MS. SHANKS: Mr. Maissan? Were there any other parties requiring a copy of the  
15 binder, because we have other Board members who are happy to share, as well.

16 MR. LANDRY: I think we are in pretty good shape.

17 MS. SHANKS: In this case, you are asking us to remove Tab 11, 12 and 13, Mr.  
18 Landry?

19 MR. LANDRY: Yes, that is the agreement.

20 MS. SHANKS: If everyone could please remove Tab —

21 MR. LANDRY: Just to make sure we are talking about the same tabs, for fear that  
22 maybe we weren't as good at putting this together, and Tab 11 is a document which, at  
23 the very top, there is a subheading, "4.1 Introduction, B.C. Hydro".

24 MS. SHANKS: Yes.

25 MR. LANDRY: That one comes out. The next one is Tab 12, which is "Manitoba  
26 Hydro Integrated Financial Forecast". Let's be sure everyone has the same one. That also  
27 comes out. The next one is Tab 13 and it's called "NTPC 2006/08 General Rate  
28 Application". That one comes out also.

29 Are you okay with that, Madam Chair?

1 MS. SHANKS: Yes, thank you very much.

2 MR. LANDRY: So, in addition to that, at least for the first part of the cross-  
3 examination, we are going to be referring to a couple of exhibits that were prepared by us  
4 that we were talking about earlier. What I would like to do is get them marked now, if I  
5 could, Madam Chair. The witnesses all have copies of them and Mr. Keough. The first  
6 one will be effectively an extract of an attachment from Ms. McShane's evidence and it's  
7 entitled "Rates of Return on Common Equity Approved by Regulatory Boards for  
8 Canadian Utilities". It is a one-page exhibit. We would ask that it be marked as the next  
9 exhibit, which would be C1-12.

10 MS. SHANKS: So marked.

11 MR. LANDRY: Madam Chair, the next exhibit will be a one-page exhibit. It's  
12 entitled at the top "YECL Cost and Revenue Changes, 2009: Test Year Compared with  
13 2007 Actual". We would ask that that be marked as Exhibit C1-13.

14 MS. SHANKS: So marked.

15 MR. LANDRY: The final one in this group, Madam Chair, is a one-page  
16 document entitled "Comparison of YECL Group B Cost Changes 2003 through 2009".  
17 Could we have that marked as the next Exhibit C1-14?

18 MS. SHANKS: So marked.

19 MR. LANDRY: So, Madam Chair, for the purposes of the first part of my cross-  
20 examination, it will be important to have with you the binder document C1-11 and the  
21 three other exhibits we just marked — C1-12 through C1-14.

22 MS. SHANKS: Thank you. I think at this point everybody would have them in  
23 front of them.

24 MR. LANDRY: Thank you.

25 MS. SHANKS: Please proceed.

26 MR. LANDRY: Now, panel, for the first part, I believe most of my questions  
27 relate generally to policy and what has happened with YECL over the last number of  
28 years. So I'm going to direct my questions at Mr. Babyn. But if you require assistance,  
29 Mr. Babyn, please feel free to speak to your colleagues.

1 Q You are the senior manager at YECL in the Yukon?

2 A MR. BABYN: That is correct.

3 Q MR. LANDRY: Now, as my friend Mr. Keough has said, YECL hasn't been  
4 before the Board — at least a public proceeding like this — with an application for —  
5 what? — approximately 12 years? Is that right?

6 A MR. BABYN: That is correct.

7 Q MR. LANDRY: And would you agree with this statement, sir, that you're now  
8 coming before this Board and you're asking for a significant increase in rates?

9 A MR. BABYN: We are asking for a rate increase over and above the rates that we  
10 had previously charged customers.

11 Q MR. LANDRY: And, sir, would you consider the increase that you're requesting  
12 from this Board significant?

13 A MR. BABYN: I would say that it's appropriate for the cost pressures and what we  
14 need to provide safe and reliable service.

15 Q MR. LANDRY: I do understand that, sir, but I guess the question I'm asking you  
16 is: would you consider it significant?

17 A MR. BABYN: Would I consider a 4.9% cost increase in 2008 and a 5.8%  
18 increase in 2009 as high? I'd say, based on inflation and other factors, that it's  
19 reasonable.

20 Q MR. LANDRY: So you would say, sir, a combined increase of 11% over the two  
21 years is not significant in your view?

22 A MR. BABYN: Certainly, any time you have cost increases, customers are  
23 concerned. We're all concerned as consumers. However, we have an obligation as a  
24 utility to provide safe and reliable service, and in so doing, we have to incur certain costs.

25 Q MR. LANDRY: But sir, I don't want to dance on this too much, and I won't go  
26 much further, but I'm just trying to get you to decide one way or the other — would you  
27 consider this rate increase of 11% over two years significant?

28 A MR. BABYN: Again, I would consider it as an appropriate cost increase to  
29 deliver acceptable service.

1 Q MR. LANDRY: I see, but you don't consider it significant. Is that a fair statement?

2 A MR. BABYN: As I stated before, Mr. Landry, any time there is a cost increase  
3 for customers, it is not something that any of us like to see. So people's perception of  
4 what is acceptable, and what is high or low, may be different.

5 Q MR. LANDRY: I see, but do you consider it significant?

6 A MR. BABYN: I consider it appropriate.

7 Q MR. LANDRY: Well, let's stay with that for now. Now, sir, you requested — for  
8 obviously actual information back to the last application and in response to a Board Order  
9 you filed actuals for the last five years, from 2003. Is that a fair statement?

10 A MR. BABYN: Yes.

11 Q MR. LANDRY: Yes. So I'm going to focus on that last five years, where we have  
12 financial information that's been provided in a detailed manner, if that would be okay  
13 with you, sir.

14 A MR. BABYN: Yes.

15 Q MR. LANDRY: Okay. Now, would you, sir, agree that, from Yukon Electrical's  
16 point of view, Yukon Electrical has operated its utility in a prudent manner over that time  
17 frame?

18 A MR. BABYN: Yes, I would.

19 Q MR. LANDRY: And would you also agree, sir, that during that time frame, you've  
20 been able to provide good, reliable electric service to the ratepayers, up to standards  
21 normally expected of a utility such as Yukon Electrical?

22 A MR. BABYN: I would say that, based on the best information at any given point  
23 in time over the years, that yes, yes, we did.

24 Q MR. LANDRY: You think you've done a pretty good job over the last five years?  
25 Would that be a fair statement?

26 A MR. BABYN: Yes.

27 Q MR. LANDRY: Would you agree, sir, with the proposition that Yukon Electrical  
28 has done well financially over the last five years — 2003 to 2007?

29 A MR. BABYN: I think we've, you know, achieved an acceptable rate of return.

1 Q MR. LANDRY: I see. So you've done well?

2 A MR. BABYN: We've done in accordance with what was expected.

3 Q MR. LANDRY: Expected by who?

4 A MR. BABYN: By our shareholders and by this Board, in terms of the last  
5 approved.

6 Q MR. LANDRY: Oh, so you're referencing whether you've done well or not to the  
7 last approved rates of this Board?

8 A MR. BABYN: I think that's just one indicator; there are others.

9 Q MR. LANDRY: But in any event, over this time frame, 2003 to 2007, and I'm  
10 speaking calendar years now, you didn't see need to come back to this Board to review  
11 your finances — fair statement?

12 A MR. BABYN: We made decisions — again, as Mr. Keough had pointed out, it's  
13 something that we're very proud of that we haven't had to come before this Board for a  
14 number of years for a rate increase. I think anytime you can do that, that it shows that  
15 regulation is working well. So, you know, we feel that, you know, being able to stay out  
16 was advantageous.

17 Q MR. LANDRY: And it was advantageous because you performed well financially  
18 over the 2003 to 2007 time frame?

19 A MR. BABYN: That was one indicator; however, all things are considered when  
20 we have to deliver service to customers. We have to look at all aspects of our business,  
21 return just being one component of that.

22 Q MR. LANDRY: Well, sir, return's pretty important to your shareholder.

23 A MR. BABYN: I think return's important to any shareholder.

24 Q MR. LANDRY: Yes, I agree with that. But you would agree that it's important to  
25 your shareholder?

26 A MR. BABYN: I would agree that it's important to our shareholder.

27 Q MR. LANDRY: Now, sir, if you compared your actual rate of return and equity  
28 that you were able to achieve over the 2003 to 2007 time frame, would you agree, sir, that  
29 for the most part — and we'll go through it in a little bit of detail — that the actual return

1 that you were able to achieve over that time frame was a rate of return that was higher  
2 than the rate of return that was allowed for your parent in Alberta?

3 A MR. BABYN: And your reference, Mr. Landry, is?

4 Q MR. LANDRY: Well, I can help you a little bit there, sir, if you'd like. If you want  
5 to go to a document that was prepared by Ms. McShane, and it's now marked — at least  
6 the one-pager is marked — as C1-12 — do you have that?

7 A MR. BABYN: I see, is that Exhibit C1-12 — is that the one you're referring to?

8 Q MR. LANDRY: That's right. And you see that what Ms. McShane did for  
9 reference purposes for the purposes of her evidence was that she compiled rates of return  
10 on common equity adopted by regulatory boards for Canadian utilities. Do you see that?

11 A MR. BABYN: Yes.

12 Q MR. LANDRY: And of course, before you filed Ms. McShane's evidence, you  
13 would have reviewed that evidence — is that a fair statement?

14 A MR. BABYN: That's correct.

15 Q MR. LANDRY: And you support her evidence?

16 A MR. BABYN: Yes.

17 Q MR. LANDRY: Okay. So if you just take a look at the — and I apologize; I tried  
18 to blow this up and I couldn't, but for those of us who are challenged for reading it,  
19 including myself, I'll see if I've got the right numbers here — but if you go down to  
20 under "electric utilities" and this is a time frame from 1990 to 2008, and I'm looking at  
21 ATCO Electric. Do you see that, sir? Second one down.

22 A MR. BABYN: Yes, I do.

23 Q MR. LANDRY: I have underlined here in this Exhibit 2003 to 2007, which is the  
24 time frame that we were talking about earlier. Correct?

25 A MR. BABYN: Yes.

26 Q MR. LANDRY: And if you want to go down, so that you have a reference point —  
27 sir, if you go down to the handwritten portion at the bottom of the page — again, under  
28 2003 to 2007, you'll see the first number of columns is "YECL actual ROE" and there is  
29 a reference to an IR. Do you see that, sir? Second one down.

1 A MR. BABYN: Yes, I do.

2 Q MR. LANDRY: And would you agree with me that those are the actual ROEs that  
3 YECL achieved during the years 2003 to 2007, because I know there were a number of  
4 different ROEs in the application. But I understand these are the final ones. Am I right?

5 A MR. BABYN: Subject to check.

6 Q MR. LANDRY: Okay. Mr. Grattan, can you confirm that those are the right ones?

7 A MR. GRATTAN: I haven't done the math, but subject to check —

8 Q MR. LANDRY: Well, why don't we just do that right now? Could you go to City  
9 of Whitehorse, YECL-38 and just confirm that for me, please?

10 A MR. GRATTAN: Sorry, what was that? CW —

11 Q MR. LANDRY: City of Whitehorse-YECL-38.

12 A MR. GRATTAN: Okay, just a second, please. Okay, we're there. Thank you.

13 Q MR. LANDRY: Could you just take a look at that, so you can confirm that those  
14 numbers are indeed correct?

15 A MR. GRATTAN: Yes, that's consistent with our response on CW-38.

16 Q MR. LANDRY: I know it's consistent, but are they correct?

17 A MR. FREEDMAN: Subject to the 2007 of 10.70%, there was a formula error in  
18 that, and the actual return for that is 10.37. But the rest of them were as quoted. There  
19 was just a formula error in —

20 Q MR. LANDRY: Sir, I guess I'm having some difficulties, because I counted at  
21 least three different places in IRs and the application where different rates of return on  
22 equity were mentioned. I assumed these were the correct ones, and now you're changing  
23 the evidence of that IR now?

24 A MR. FREEDMAN: Well, when going through it — what's happened is when we  
25 do filings to the Yukon Utilities Board, we had quoted our rate of return. When we did  
26 the filing for this application, we updated the way we calculated working capital. So that  
27 caused there to be a rate of return that was provided in 2003 and 2004 to the Yukon  
28 Utilities Board being different than what was done in preparation for this application. It's  
29 unfortunate, but we did update for the way we calculated working capital.

1 Q MR. LANDRY: Well, sir, your counsel asked you whether or not there were any  
2 changes to the evidence. Is this actually a change now? Is this something you probably  
3 should have brought to the attention of the Board earlier?

4 A MR. FREEDMAN: Given that it didn't impact the revenue requirement in the test  
5 period, this was looked on as a non-material change. And perhaps I could have brought it  
6 forward, but because it had impacted the revenue requirement in the test period, I didn't  
7 see it as being something to bring up at that time.

8 Q MR. LANDRY: So the answer to CW-YECL-38 in relation to the rate of return for  
9 2007 is not correct.

10 A MR. FREEDMAN: The correct return for '07, using the information in the filing,  
11 should have been 10.37.

12 Q MR. LANDRY: Would it be a fair statement, sir, that since you originally filed  
13 and provided your schedules that the change to return — that has been made — and I  
14 think 2003, 2004 and now 2007 have all been reductions in the rate of return on equity.

15 A MR. FREEDMAN: Well, this one was because it was a formula error, so that  
16 caused that reduction — subject to check, I would say.

17 MR. LANDRY: Let's just go with these numbers, since these were the numbers  
18 that I assumed were the correct ones and we know that they're correct at least until 2006.

19 Q I will go back to you, Mr. Babyn, and the question I started with. With the exception  
20 — and I'm sure you've been looking at it — of 2005, would you agree with me that  
21 during the time frame we are talking about here — 2003 to 2007 — YECL earned a  
22 higher rate of return than what was allowed for your parent, ATCO Electric?

23 A MR. BABYN: I would agree that that is what is shown here; however, ATCO  
24 Electric is a significantly different type of company than Yukon Electrical.

25 Q MR. LANDRY: I see. But I will take that as far as it goes and we will come back  
26 to that. You are not taking issue with the numbers on this page, are you?

27 A MR. BABYN: Again, subject to any check there that we have, we accept them.

28 Q MR. LANDRY: You are not aware of Ms. McShane making any mistake in  
29 preparing her evidence?

1 A MR. BABYN: I am not aware of that.

2 Q MR. LANDRY: Now, sir, just on rate of return, while we are on that, you would  
3 have been aware, obviously — and your counsel and some various witnesses appeared on  
4 behalf of Yukon Electrical — that Yukon Energy brought forth a Revenue Requirement  
5 Application in 2005 — correct?

6 A MR. BABYN: I am aware that one was brought forward.

7 Q MR. LANDRY: Well, again, if Mr. Grattan needs some help to help you out,  
8 please feel free. But a Revenue Requirement Application was brought forward in 2005. In  
9 that Revenue Requirement Application, a rate of return on equity — excuse me, if I use  
10 “ROE”, you will understand that that’s the return on equity — that a ROE was set for  
11 Yukon Energy using an approach that effectively arises from the way the BCUC sets its  
12 return on equities for various utilities?

13 A MR. BABYN: That’s my understanding.

14 Q MR. LANDRY: Yes. Mr. Grattan, are you more familiar with that than Mr.  
15 Babyn? He was not here until —

16 A MR. GRATTAN: Mr. Babyn is quite capable of answering, but if he’s got some  
17 —

18 Q MR. LANDRY: — 2007. Well, Mr. Grattan, since you were there, perhaps you  
19 and I can go through these questions, just because I do know that you were involved in  
20 that proceeding. If I put something to you that you don’t agree to, I am sure you will tell  
21 me that.

22 Mr. Grattan, in 2005, when Yukon Energy was before this Board, it proposed an  
23 approach to setting up ROE that utilized the formula that was utilized by the BCUC —  
24 correct?

25 A MR. GRATTAN: Based on my recollection, that was correct for that proceeding.  
26 I also seem to recollect that Yukon Energy, at some point in that proceeding, said that it  
27 did not necessarily mean, on a go-forward basis, that that mechanism would be what they  
28 would propose in the years to come. That is just my recollection, of course, Mr. Landry.

1 MR. LANDRY: But let's go through what they did do and then we'll figure out  
2 what they're doing since then, okay?

3 Q In that proceeding, what they proposed to the Board was to use a methodology that  
4 started with the formula used by the BCUC for a starting point?

5 A MR. GRATTAN: Fair.

6 Q MR. LANDRY: And one of the reasons they suggested that was to keep the costs  
7 down. What I mean by costs — the costs of having to get involved with rate-of-return  
8 evidence. Is that a fair statement?

9 A MR. GRATTAN: That might have been one of the reasons — sure.

10 Q MR. LANDRY: Yes? Sir, as I understand the BC Hydro — sorry, the BCUC  
11 approach, and we can take a look at the decision of this Board in describing it, but I'm  
12 pretty sure you're familiar with it — as I understand the BC Hydro approach, the way it  
13 starts is they set, in effect, a benchmark ROE based on long Canada bonds at a certain  
14 point during the year?

15 A MR. GRATTAN: We are definitely getting over my head here with regard to  
16 being an expert on how BC Hydro sets benchmark return for —

17 Q MR. LANDRY: Sir, I am not asking you to do anything but confirm that that is  
18 your understanding as to how they set the rate of return. Can you do that?

19 A MR. GRATTAN: I am not sure my —

20 MR. KEOUGH: Did you mean BC Hydro or BCUC, because you switched there?

21 MR. LANDRY: I apologize.

22 Q When I am talking about this, I am talking about BCUC, Mr. Grattan.

23 A MR. GRATTAN: Okay.

24 Q MR. LANDRY: So, you don't have any understanding of that?

25 A MR. GRATTAN: As an accountant living in Whitehorse during that time frame, I  
26 have a cursory understanding of how that is set in British Columbia.

27 Q MR. LANDRY: Well, sir, let's go to a description. You would have read, sir, at  
28 the end of the decision that — sorry, at the end of the proceeding for the YECL 2005

1 application — you would have read the decision that was rendered by this Board, given  
2 that you were part of the YECL intervention team?

3 A MR. GRATTAN: I'm confused. You said "YECL application"?

4 MR. LANDRY: If I confused you, sir, I apologize.

5 Q You would have read the decision of this Board in relation to the 2005 Revenue  
6 Requirement Application of YEC.

7 A MR. GRATTAN: Yukon Energy's application.

8 Q MR. LANDRY: Yukon Energy, sorry.

9 A MR. GRATTAN: Yes, I would have read it at the time, yes.

10 Q MR. LANDRY: And maybe, sir, just to bring it back to you a little bit, we could  
11 go to Tab 6 of Exhibit C1-11.

12 A MR. GRATTAN: Yes, I found that reference.

13 Q MR. LANDRY: Do you see that? And if you could go to the second page of Tab  
14 6, which is page 43 of 49 — do you see that, Mr. Grattan?

15 A MR. GRATTAN: Yes, I do.

16 Q MR. LANDRY: And this is the extract from that decision relating to the capital  
17 structure and rate of return on equity — do you see that?

18 A MR. GRATTAN: I do.

19 Q MR. LANDRY: And you'll see down below a description of the BCUC approach,  
20 and I'm going now under what is the subheading "evidence". It's about five lines down,  
21 where it starts, "The BCUC automated adjustment ..." — do you see that?

22 A MR. GRATTAN: Yes, I do.

23 Q MR. LANDRY: And I'll just quote this for the record. It says, "The BCUC  
24 automated adjustment mechanism is a formulaic approach that sets the risk for a  
25 benchmark low-risk utility, based on long Canada bond yields plus an equity premium of  
26 350 basis points." Do you see that, sir?

27 A MR. GRATTAN: I do.

28 Q MR. LANDRY: And you would have been aware of that at the time?

29 A MR. GRATTAN: At the time, yes.

1 Q MR. LANDRY: And then it says after that, and I quote, “Each individual utility,  
2 then, is assessed a risk premium based on its individual business and financial risks over  
3 and above the benchmark utility.” Do you see that, sir?

4 A MR. GRATTAN: I do.

5 Q MR. LANDRY: And you would have been aware of that, obviously, at the time.

6 A MR. GRATTAN: Yes, at the time.

7 Q MR. LANDRY: And YEC proposed a mechanism as to how they could use that  
8 formula to set a return on equity for Yukon Energy — correct?

9 A MR. GRATTAN: Correct.

10 Q MR. LANDRY: Now, sir, given the approach that Yukon Energy took in 2005 —  
11 and maybe Mr. Babyn, you could answer this question: did Yukon Electrical consider  
12 adopting the same type of approach to setting RO —

13 A MR. GRATTAN: Finish your question, I guess.

14 Q MR. LANDRY: — did they adopt the same type of — Sorry, did Yukon Electrical  
15 consider adopting the same approach that Yukon Energy had proposed in the 2005  
16 Revenue Requirement Application?

17 A MR. FREEDMAN: Mr. Landry, we looked at that but, from Yukon Electrical’s  
18 perspective, the capital structure rate of return is a significant component of our revenue  
19 requirement. It had been a significant period of time since Yukon Electrical had been in  
20 before the Board and, given the significance of this component of revenue requirement,  
21 we thought it an opportunity to examine it in this proceeding. And we sought Ms.  
22 McShane’s expertise in this, and she has provided similar expertise in some other  
23 affiliated companies, and we brought forward the evidence in this proceeding.

24 A MR. GRATTAN: If I could add to Mr. Freedman’s statements there, as I recollect  
25 — and unfortunately I don’t have the information before me but, at that point in time,  
26 Yukon Electrical argued consistently with Yukon Energy that the formula approach may  
27 not necessarily be applicable on a go-forward basis, and if one was to check the record at  
28 that point in time, I believe Yukon Electrical argued that the rate of return sought by  
29 Yukon Energy was too low. If I remember correctly, sir.

1 Q MR. LANDRY: You thought, sir — Yukon Electrical thought at that time that  
2 using the BCUC approach to determine rate of return on equity and the way in which  
3 Yukon Energy wanted to use it, you thought that rendered it a too low rate of return?

4 A MR. GRATAN: I am just going by what would have been said on the record at  
5 that time, sir.

6 Q MR. LANDRY: Just to point out to you and the rest of the people that are here,  
7 obviously, the determination that the Board made on rate of return — and to be fair to  
8 you, sir, page 45 of that same decision does state that it did not impose a precedent. Do  
9 you recall that?

10 A MR. GRATAN: Yes, I do recall that, sir.

11 Q MR. LANDRY: So, Mr. Freedman, maybe I could go back to you, since you seem  
12 to have some information on the decision by YECL. You are saying that YECL  
13 considered using the approach of BCUC, but decided against it and decided to effectively  
14 file Ms. McShane's evidence — is that a fair summary? If it's not, you tell me.

15 A MR. FREEDMAN: I think what I was saying was because capital structure and  
16 rate of return is such a significant component of our revenue requirement and, as Yukon  
17 Electrical had not been in for a significant period of time, and to provide evidence in this  
18 proceeding, we sought the services of Ms. McShane. We didn't rule in or rule out  
19 anything. She came with her evidence and we went through her evidence and adopted it.

20 Q MR. LANDRY: I accept that, sir. I guess the question then is — I'll be a little bit  
21 more straightforward — did the YECL ever consider using the BCUC approach that  
22 YECL used in 2005? I just want — sorry — to know whether or not YECL considered  
23 using the approach adopted by YEC in the 2005 proceeding — did you consider that?

24 MR. KEOUGH: Madam Chair, I am not sure what turns on this area, but I think it  
25 is important — and I'm just trying to skim these materials as we're speaking — but if you  
26 do turn to page 45 of 49, you will find that Mr. Grattan's recollection is indeed accurate.  
27 There is a paragraph there that, in fact, describes YECL's position, that it took an  
28 argument where it says, "YECL, in their final argument (page 30) did not support the  
29 level of return being requested and did not support the use of the automated adjustment

1 mechanism similar to that of the BCUC. In the view of YECL, since no evidence has  
2 been introduced by YEC on the pros and cons of such a mechanism, then the Board  
3 should not make any determination with respect to return on equity.”

4 So, I am not sure where the question is going, but it’s pretty obvious that YECL was  
5 certainly no fan of the approach that my friend’s client was adopting. So I am not sure  
6 what turns on all this, but that is part of the document as well, I think, that clearly makes  
7 the point.

8 MR. LANDRY: I have no difficulty, Madam Chair, with my friend reading that, to  
9 be fair to the witness. I guess I go back to my question then that I thought was fairly  
10 simple. Maybe I wasn’t as clear as I should have been.

11 Q Did, then, YECL ever, for the purposes of this proceeding, consider adopting the  
12 approach that YEC took in the 2005 revenue requirement hearing?

13 A MR. FREEDMAN: I would have to say, from my perspective, that we didn’t. We  
14 sought the services of Ms. McShane and we introduced her report as evidence.

15 Q MR. LANDRY: If we assume for the moment the same, I think, 52 basis points  
16 that was approved above the benchmark BCUC rate of return for YEC, it would be equal  
17 to YECL, would you agree with me that if one did take the BCUC approach and took that  
18 52 basis points, that you would arrive at a rate of return less than what Ms. McShane is  
19 asking for now for 2008?

20 A MR. FREEDMAN: I don’t have the updated —

21 A MR. GRATAN: Could you help us with the numbers, sir?

22 MR. LANDRY: I will give you the numbers and you could do this subject to  
23 check, Mr. Freedman or Mr. Grattan.

24 Q It is my understanding that if the BCUC approach was adopted for the 2008 that the  
25 benchmark — the one we start with, if you know what I mean, is 8.62. Then you would  
26 add 52 basis points on my assumption, which would come to a 9.14%. Now, subject to  
27 check — I accept that you go check — that obviously is less than the 9.25% that Ms.  
28 McShane is recommending that this Board adopt.

29 A MR. FREEDMAN: It’s in the range, but it is lower.

1 MR. KEOUGH: Madam Chair, I would also say that I'm getting a little  
2 uncomfortable with the witness speaking to Ms. McShane's testimony. She's going to be  
3 here. My friend's going to have an opportunity to talk to her. Comparing what might be  
4 another suggested rate of return to Ms. McShane's own recommended rate of return and  
5 her being able to justify which she thinks is appropriate is probably more helpful to the  
6 Board if it comes from her. She's the expert on it. I realize that these witnesses can agree  
7 with math, but I'm not sure agreeing with math is really helpful to you in arriving at your  
8 decision.

9 MS. SHANKS: I think Mr. Landry is just getting at whether or not they were  
10 considering it or not. Is that the case?

11 Q MR. LANDRY: Pretty simple, I would have thought — Mr. Babyn, I will go back  
12 to you. I would have thought, as you said earlier, that you would have adopted — not  
13 “adopted” — but you would have definitely supported the evidence of Ms. McShane.  
14 Correct?

15 A MR. BABYN: We do support her evidence.

16 Q MR. LANDRY: Yes, and Ms. McShane's evidence is that this Board should adopt  
17 a rate of return on equity of 9.25%, correct?

18 A MR. BABYN: That is correct.

19 Q MR. LANDRY: Now, instead of using the BCUC approach, which you said you  
20 didn't even consider, Mr. Freedman, if I understood your answer, what YECL decided to  
21 do was to at least use, as a starting point, the Alberta approach. Is that a fair statement?

22 A MR. FREEDMAN: That is Ms. McShane's evidence.

23 Q MR. LANDRY: Well, Mr. Freedman, I don't want to be splitting hairs every time  
24 we have a question and answer, but sir, as I understand it, she was effectively directed by  
25 YECL to start there. Am I right?

26 A MR. FREEDMAN: That is correct.

27 Q MR. LANDRY: Now, sir, I want to take a minute to go back over how this Board  
28 — not the Alberta Board; not the BCUC — has dealt with rate of return in relation to  
29 Yukon Electrical. I would like to take you back there. Of course, presumably since you

1 are in charge of regulatory affairs, Mr. Freedman, you would be aware of the previous  
2 Board decisions with respect to Yukon Electrical?

3 A MR. FREEDMAN: Correct.

4 Q MR. LANDRY: So, I wonder if we could start with the first one, which is at Tab  
5 2.

6 MR. KEOUGH: Madam Chair, before my friend moves on, I did have a couple of  
7 concerns about Exhibit C1-12 — having now had an opportunity to one, look at it, and  
8 two, see what use he was going to put to it — that I would like to register for the record. I  
9 am not going to ask that you knock it off, but I think there are a couple of things that the  
10 Board should understand. One is that my friend has compared the apples to the oranges  
11 here. He has compared the approved return for ATCO Electric to the actual return for  
12 Yukon Electrical. He has not compared like numbers. He hasn't compared approved to  
13 approved or actual to actual. The second thing is that he has not noted that the numbers  
14 for ATCO Electric have been derived using the formula-based approach that was in place  
15 in Alberta when there is no formula-based approach in this jurisdiction. So, I think it's  
16 important to understand that — and he certainly hasn't commented on whether or not  
17 ATCO Electric has ever agreed to a formula-based approach and whether or not it is  
18 being reviewed. I think it's important to understand the context and not just accept these  
19 documents without that context.

20 MR. LANDRY: Madam Chair, I must say that I am having real difficulty with the  
21 interruptions that I'm getting in cross-examination. If Mr. Keough would like to give  
22 some evidence, he can go to the stand. My questions were simply this: this is what was  
23 filed on behalf of Yukon Electrical. It says what it says at the top. I was comparing  
24 allowed returns on equity to actuals. That is what I was doing. Those were the questions I  
25 asked.

26 MS. SHANKS: Thank you.

27 MR. KEOUGH: Madam Chair, again, I'm afraid I'm not comfortable with what my  
28 friend is suggesting. He's the one who put these to us a few moments ago. If I had had  
29 time to see them in advance, maybe I would have had objections to them to start. I didn't

1 see them; I don't know what use he's making of them; so I'm sorry for my interrupting,  
2 but he's going to have to get used to it.

3 MS. SHANKS: Please proceed with the rest of your cross-examination, Mr.  
4 Landry. I take note of your comments, Mr. Keough.

5 MR. LANDRY: Thank you, Madam Chair.

6 Q So if we could go, sir, to Tab 2. This is the decision of this Board in 1992 in relation  
7 to a time where rate-of-return evidence was before the Board for both Yukon Energy and  
8 Yukon Electrical. Are you aware of that, sir?

9 A MR. FREEDMAN: I see that.

10 Q MR. LANDRY: And if you could go to page 17, which is a couple of pages into  
11 the tab, you can see about the middle of the page, under "Requested Rate - Fair Rate of  
12 Return". Do you see that, sir?

13 A MR. FREEDMAN: I see that.

14 Q MR. LANDRY: And you can see, and I'll quote in the first paragraph, after the  
15 first comment, it says, "YECL requested a fair rate of return on rate base deemed to be  
16 financed by equity of 14% for the two years." Do you see that?

17 A MR. FREEDMAN: Yes, I do.

18 Q MR. LANDRY: And at that time, sir, the parent of Yukon Electrical was Alberta  
19 Power, correct? APL?

20 A MR. FREEDMAN: That's correct.

21 Q MR. LANDRY: And if you go to the next paragraph, it says, "YECL's requested  
22 fair rate of return was based on APL's requested rate of return for the years 1991 and  
23 1992." Do you see that?

24 A MR. FREEDMAN: I do.

25 Q MR. LANDRY: Then it goes on, it says, "During the course of the proceedings,  
26 the company found it necessary to file Yukon specific evidence with respect to fair rate of  
27 return on common equity." Do you see that, sir?

28 A MR. FREEDMAN: Yes, I do.

1 Q MR. LANDRY: And, sir, you know, you can take a look, if you like. It's on the  
2 next page at the very top, but as a result of the filing of that evidence, the companies  
3 changed the rate of return that they were asking and they weren't going to ask for 14% —  
4 the APL one; they were going to ask for 14.75% to 15%. Do you see that?

5 A MR. FREEDMAN: Yes, I do.

6 Q MR. LANDRY: And then, sir, if you go to what was actually decided by this  
7 Board — not the Alberta Board — on page 25, sir. Do you have that?

8 A MR. FREEDMAN: Yes.

9 Q MR. LANDRY: And you'll see at the top of page 25 of Tab 2 of Exhibit C1-11,  
10 and the first full paragraph, the Board states, "The Board has also concluded that YECL's  
11 business risk does not defer materially from that of a high grade utility. The Board  
12 considers that there is ample opportunity for YECL to make application to the Board for  
13 rate relief in the event that a company perceives that the closure of a mine..." — which,  
14 at that time, we were talking about Faro — "...would have a detrimental effect on the  
15 revenues". Do you see that, sir?

16 A MR. FREEDMAN: Yes, I do.

17 Q MR. LANDRY: So, in that case, effectively they were allowed a lower rate of  
18 return as then their parent was asking for in Alberta — correct?

19 A MR. FREEDMAN: That's correct.

20 MR. KEOUGH: Maybe the witness could speak into the mike a little clearer,  
21 Madam Chair.

22 A MR. FREEDMAN: Back in 1991-92, Alberta Power was a fully integrated utility  
23 with generation transmission distribution.

24 Q MR. LANDRY: That's right. And now ATCO Electric is more transmission and  
25 distribution — a fair statement, sir?

26 A MR. FREEDMAN: Correct. That's correct.

27 Q MR. LANDRY: And would you agree that, as a general proposition, generators  
28 tend to be riskier than transmitters or distributors?

1 A MR. FREEDMAN: This is getting more into Ms. McShane's area, but I would  
2 tend to agree with that.

3 Q MR. LANDRY: And, sir, obviously at that point in time — let me withdraw that  
4 question.

5 I'd like then to take you, sir, to a decision that the Board made in relation to Yukon  
6 Energy, because that was a joint —

7 You'll recall, of course, back prior to the company splitting off, that joint applications  
8 were made to the Yukon Utilities Board.

9 A MR. FREEDMAN: Yes, I am.

10 Q MR. LANDRY: And so the Board had to make a decision, obviously, on Yukon  
11 Energy in that year, too. If you could go to Tab 3, sir, and that's Board Decision 1992-1  
12 — do you see that?

13 A MR. FREEDMAN: Yes, I do.

14 Q MR. LANDRY: And again I've extracted from that decision, the rate-of-return  
15 evidence — sorry, the rate of return determination by the Board. Do you see that?

16 A MR. FREEDMAN: Which page would that be?

17 Q MR. LANDRY: Well, it's the whole extract. The extract — I was intending to  
18 effectively put in all the parts of the decision that related to rate of return. Do you see  
19 that?

20 A MR. FREEDMAN: Yes, I do.

21 Q MR. LANDRY: And if you would go to the last page, which is page 32, of that  
22 decision, sir. And I go to under the "Board's Position" at 4.3.3, and I'm going to start  
23 quoting from the third line in, where it starts "the Board". Do you see that, sir?

24 "... the Board has concluded that the fair rate of return on common equity of a high  
25 grade utility with a common equity ratio of approximately 35% is 12.75% for each of the  
26 years 1991 and 1992." Do you see that, sir?

27 A MR. FREEDMAN: Yes, I do.

28 Q MR. LANDRY: And then it says, "The Board has also concluded that YEC's  
29 business risk does not differ materially from that of a high grade utility." Do you see that?

1 A MR. FREEDMAN: Yes, I do.

2 Q MR. LANDRY: Similar determination to YECL.

3 A MR. FREEDMAN: Yes.

4 Q MR. LANDRY: And it notes that YEC's common equity was higher than YECL's  
5 at 41 or 42%.

6 A MR. FREEDMAN: Yes, I see that.

7 Q MR. LANDRY: And they then made the determination that at least the starting  
8 point for YEC's rate of return would be the same — 12.75% for the two test years.

9 A MR. FREEDMAN: Yes, I see that.

10 Q MR. LANDRY: Now, sir, the next time that Yukon Electrical was before the  
11 Board giving rate-of-return evidence was for the 1993-94 GRA. Do you agree with that,  
12 sir?

13 A MR. FREEDMAN: Yes.

14 Q MR. LANDRY: And if you would go to Tab 4 for that, sir. And, again, I've done  
15 the same — I've extracted from that decision in 1993 the portion that deals with fair rate  
16 of return. Do you see that?

17 A MR. FREEDMAN: Yes, I do.

18 Q MR. LANDRY: And if you would start on the first page, which is page 56 of that  
19 tab, it shows at the very top, under "Requested Rate" — it says "In the revised  
20 application, the companies requested a rate of return on rate base, deemed to be financed  
21 by equity, of 13.125% for each of the years 1993 and 1994..." See that?

22 A MR. FREEDMAN: Yes, I do.

23 Q MR. LANDRY: And, sir — and that was the evidence that was brought forward at  
24 the time, Ms. McShane's evidence, as you can see down below.

25 A MR. FREEDMAN: Yes, I see that.

26 Q MR. LANDRY: And her range of rate of returns was 13 to 13.9%.

27 A MR. FREEDMAN: Yes, I see that.

28 Q MR. LANDRY: And, sir, the decision is at page 63. Do you see that?

29 A MR. FREEDMAN: I see that.

1 Q MR. LANDRY: And you see, sir, that notwithstanding Ms. McShane's evidence,  
2 the conclusion of the Board was that a fairer return on common equity was 11% for the  
3 two years.

4 A MR. FREEDMAN: Yes, I see that.

5 Q MR. LANDRY: And, sir, I wonder if you could — so we're at this point. Now  
6 turn back to Exhibit C1-12, which is Ms. McShane's compilation of the rates of return  
7 adopted by various regulatory boards.

8 A MR. FREEDMAN: Yes, I have that.

9 Q MR. LANDRY: Do you have that?

10 A MR. FREEDMAN: Yes.

11 Q MR. LANDRY: And if we could go to 1993, and we go up to ATCO Electric —  
12 sorry, 1993. Yes, 1993. And we go up to ATCO Electric. Do you see that?

13 A MR. FREEDMAN: Yes, I see that.

14 Q MR. LANDRY: And ATCO Electric's allowed rate of return by the Alberta  
15 Board at the time was 11.88%. Correct?

16 A MR. FREEDMAN: I've got — 11.8 — 11.68.

17 Q MR. LANDRY: Well, subject to check. Take it from me, sir, I had to look myself,  
18 but it's 11.88%.

19 A MR. FREEDMAN: Okay, I'll do that subject to check.

20 Q MR. LANDRY: So, once again, the Utilities Board in Yukon decided that Yukon  
21 Electrical would get a lower rate of return than ATCO Electric. Do you want to refer to  
22 the actual exhibit?

23 A MR. FREEDMAN: Yes.

24 Q MR. LANDRY: Okay. It's actually Section 6, Attachment 1-1 of Ms. McShane's  
25 evidence.

26 A MR. FREEDMAN: Oh, no, I was just asking — you took me through all the  
27 Yukon Electrical ones, so I was just going to add the numbers.

28 MR. LANDRY: Oh, sorry.

29 A MR. FREEDMAN: The number for 1993 for Yukon Electrical —

1 Q MR. LANDRY: 1993 was 11%, subject to check. That's what we just went  
2 through.

3 A MR. FREEDMAN: Yes.

4 Q MR. LANDRY: And ATCO Electric is 11.88%.

5 A MR. FREEDMAN: Yes.

6 MR. KEOUGH: Madam Chair, it might be in here somewhere because I'm not  
7 sure — but is there somewhere in the materials — the point I'm missing is: did this Board  
8 compare itself to the Alberta Board? I'm just trying to struggle as to whether or not my  
9 friend is trying to make a connection here, as in this Board set a rate of return less than  
10 the Alberta Board. I can't make the connection, and I'm trying to struggle to get through  
11 what he's provided to see if there is anywhere he can help bridge me with this  
12 connection, because otherwise I'm not sure I find what he's doing appropriate.

13 MS. SHANKS: Could you clarify that, Mr. Landry?

14 MR. LANDRY: Madam Chair, I was just trying to compare what was actually  
15 ruled on by this Board and the allowed rate of return for ATCO Electric — it's as simple  
16 as that. I was not suggesting that Yukon reference the Alberta Board to rule lower. If I did  
17 that in my questions, I apologize; there was no intention. I was just pointing out to the  
18 Board the difference.

19 MR. KEOUGH: Well, Madam Chair, he was saying the Alberta Board has set a  
20 rate lower than this Board. That seemed to be drawing a comparison and we have no idea  
21 of time frames, we have no idea of evidence that was put before the respective boards —  
22 we have no idea of anything. Therefore, I think his comparison is extremely unfair. He's  
23 just making two numbers — I can grab two numbers from anywhere and one will be  
24 higher than the other, but we have no evidence to show that one is even related or  
25 relevant or determined on the same basis as the other. That is what I am struggling with.  
26 We are left here with a record where you are going to be having my friend probably argue  
27 that one rate was set lower than the other, but it's in a vacuum. We don't know what the  
28 basis —

1 MS. SHANKS: I think the Board accepts Mr. Landry's clarification, and the  
2 question has been answered. It has been asked and it has been answered.

3 MR. LANDRY: Thank you, Madam Chair.

4 Q I would like to go to one further one, Mr. Freedman. It's the last time that rate of  
5 return was at least dealt with by this Board, albeit in a bit different manner than the  
6 previous times, and that's at Tab 5 of Exhibit C1-11. Do you see that, sir?

7 A MR. FREEDMAN: I see that.

8 Q MR. LANDRY: As with a number of utilities across Canada, at that point in time  
9 there was a negotiated settlement between the parties. Do you see that?

10 A MR. FREEDMAN: I see that.

11 Q MR. LANDRY: That is your recollection, sir?

12 A MR. FREEDMAN: That is my recollection.

13 Q MR. LANDRY: Yes. In this case, there was a negotiated settlement that was put  
14 before the Board for approval and, in fact, this Board did approve that negotiated  
15 settlement — correct?

16 A MR. FREEDMAN: That's correct.

17 Q MR. LANDRY: In the return on equity portion, which is attached to the actual  
18 settlement — it's the Yukon Energy copy of it, but I understand a similar copy was sent  
19 to Yukon Electrical — that the rate of return on equity was set at 11.25%?

20 A MR. FREEDMAN: I see that.

21 Q MR. LANDRY: And this Board approved that negotiated settlement with that  
22 return on equity?

23 A MR. FREEDMAN: That is correct.

24 Q MR. LANDRY: Again, if we could go back, sir, to C1-12 — and again I refer  
25 once more to 1996, and you can see that ATCO Electric's rate of return on common  
26 equity adopted by the Alberta Board for ATCO Electric was 11.25%. Do you see that,  
27 sir?

28 A MR. FREEDMAN: Yes, I see that.

1 MR. LANDRY: Sir, just before I go to the next point on that, I would just like to  
2 confirm something. If you go to Tab 1 or Exhibit C1-11 — again this is an extract from a  
3 filing made to the Board by Yukon Electrical in 1998 in relation to 1996 and 1997 actual  
4 results. Do you see that, sir?

5 A MR. FREEDMAN: Yes, I see that.

6 Q MR. LANDRY: Subject to check, sir, would you agree with me that, in fact,  
7 notwithstanding that the settlement and the approval of this Board allowed a rate of return  
8 of 11.25%, Yukon Electrical actually earned 13.03% in 1996?

9 A MR. FREEDMAN: I see that, yes.

10 Q MR. LANDRY: Subject to check, you would agree with that?

11 A MR. FREEDMAN: Yes.

12 Q MR. LANDRY: Pardon?

13 A MR. FREEDMAN: Yes, subject to check.

14 Q MR. LANDRY: Thank you. Now, sir, I just want to take you to a couple of other  
15 things on that document, which is C1-12. Following along from where we were, one  
16 thing we do know from this document is that ATCO Electric has had its return on equity  
17 set by the Alberta Board — I understand it's by a formula base — at 8.75% for 2008?

18 A MR. FREEDMAN: That's correct.

19 Q MR. LANDRY: And what you would ask this Board to do is that you would ask  
20 this Board to actually approve a rate of return of 50 basis points higher than your parent,  
21 ATCO Electric?

22 A MR. FREEDMAN: That's what we've put forward in this filing to it.

23 Q MR. LANDRY: Now I suppose, just to finish off this document, Exhibit C1-12,  
24 you can see that there were a couple of calculations, Mr. Freedman, that were done on  
25 this down below in handwriting. Obviously there's going to have to be, according to your  
26 evidence, a correction to 2007, which I'll try to get done before we finish the cross, but  
27 could you, sir, confirm that we have done the math correctly, just so you go. If we take  
28 2003, I'll tell you what we did, and if you could confirm that on the record at some point  
29 in time, sir. What we did is we took the actual return on equity that Yukon Energy

1 earned, which was 10.54% in 2003 – do you see that? And we subtracted the ATCO  
2 Electric of 9.40 to get 1.14, and then we just took what percentage of the ATCO Electric  
3 return.

4 A MR. FREEDMAN: I'll confirm these numbers, subject to checking.

5 Q MR. LANDRY: Thank you. And, sir, you might as well, since you were the one  
6 who changed the 10.37 — could you give us that number too and do the same thing?

7 A MR. FREEDMAN: I will.

8 Q MR. LANDRY: So I guess, at one level, sir, you would ask this Board to do  
9 something that it has not done before, at least in the evidence that I've put before you, of  
10 setting Yukon Electrical's rate higher than its parent. You're asking them to do that?

11 A MR. FREEDMAN: Yes. It has been, from our perspective, 12 years since this  
12 issue has been looked at and we brought forward Ms. McShane and her evidence, and  
13 that will be tested through this proceeding.

14 Q MR. LANDRY: Sir, I want to sort of ignore, I guess, what the YUB as a separate  
15 regulatory body has done, and I want to talk a little bit more generally than that vis-à-vis  
16 your company and your parent company's position, at least as I see it in the evidence.  
17 Would it be a fair statement, sir, to say that your company and your parent company's  
18 position is that allowed return on equities in Canada by Canadian regulatory bodies allow  
19 what you consider to be unfair or low returns?

20 A MR. FREEDMAN: This issue is currently being looked at in Alberta, where there  
21 is going to be the generic cost of capital proceeding. The Alberta Utilities Commission  
22 has started a new process for this issue to be looked at, so the company will be putting  
23 evidence forward in that proceeding.

24 Q MR. LANDRY: I understand that, sir, and that is in the evidence somewhere,  
25 except that my point is a little bit — and I might not have been as clear as I should have  
26 been — is it your company's position and your parent company's position that the rate of  
27 returns on equity generally awarded by regulatory bodies in Canada are low?

28 A MR. FREEDMAN: I think that would be a fair statement.

1 Q MR. LANDRY: And, sir, I'd like to make sure that we do have a reference to this  
2 on the record, and if you could — do you have Ms. McShane's evidence before you, sir?

3 A MR. FREEDMAN: Yes, I do.

4 Q MR. LANDRY: If you could go to page 36 of that evidence, sir. Does the Board  
5 have that before it?

6 MS. SHANKS: Just getting it.

7 MR. LANDRY: Thank you. And, sir, just while the Board is getting it before  
8 them, the other page that I will be referring you to is page 8, footnote 5, so page 36 and  
9 page 8.

10 MS. SHANKS: For clarification, that's page 36 of Ms. McShane's testimony.

11 MR. LANDRY: Yes, it is. And maybe Ms. Lemke could give me a hand on what  
12 the exhibit number is — oh, is it not marked as an exhibit?

13 MS. SHANKS: It's in the application.

14 MR. KEOUGH: It's in the application.

15 MR. LANDRY: Oh, it's in the application.

16 MR. KEOUGH: B1 under Tab 8.

17 MS. SHANKS: Tab 8.

18 MR. LANDRY: For the record, I probably referred to it sufficiently that it can be  
19 referenced in the transcript. I was just making sure they could be referenced in the  
20 transcript.

21 MS. SHANKS: Okay, thank you.

22 MR. KEOUGH: Section 8, Attachment 1, just to help you out.

23 MR. LANDRY: Thank you very much.

24 MS. SHANKS: Some of us have it and some of us don't, I can see. Can you just  
25 wait a moment?

26 MR. LANDRY: While we're waiting, I'll point Mr. Freedman to the passage that  
27 I'd like him to look at. Mr. Freedman, the passage I'd like you to look at effectively starts  
28 at 949 and goes down into, I guess, basically the whole paragraph but, realistically, it's

1 about half of that paragraph. Where it talks about Yukon Electrical and your  
2 shareholders.

3 MR. FREEDMAN: Yes, I see that.

4 MS. SHANKS: We have it in front of us now.

5 Q MR. LANDRY: Sir, this was the reference I was referring to that Ms. McShane  
6 has provided. I just want to get it confirmed on the record that it's Yukon Electrical's —  
7 that it agrees with this position. Effectively, if I can summarize this, as I did before, it's  
8 that both Yukon Electrical and its shareholders — and I assume that “shareholders”  
9 probably means ATCO Electric and CU? Would that be fair?

10 A MR. FREEDMAN: I think it's saying as well as shareholders in other Canadian  
11 utilities with similar allowed returns. I think it was broader —

12 Q MR. LANDRY: But it was intended to encompass Yukon Electrical and your  
13 shareholders.

14 A MR. FREEDMAN: Correct.

15 Q MR. LANDRY: So you would adopt that position that, from your perspective, the  
16 Canadian regulatory bodies have awarded low — and I'm summarizing and if you don't  
17 like my summary, please tell me — rates of return on equities?

18 A MR. FREEDMAN: Relatively low. Yes, that's correct.

19 Q MR. LANDRY: In fact, sir, if you go to page 8, the position of your company —  
20 and I'm looking at footnote number 5 — do you see that?

21 A MR. FREEDMAN: I see that.

22 Q MR. LANDRY: Your position is, sir, that the Alberta approach to setting return on  
23 equity is not fair.

24 A MR. FREEDMAN: That's reasonable.

25 Q MR. LANDRY: That's reasonable? That's your position?

26 A MR. FREEDMAN: That's — our summation is that ATCO Utilities views the  
27 returns as low.

28 Q MR. LANDRY: And that they're not fair.

29 A MR. FREEDMAN: Correct.

1 Q MR. LANDRY: Right. Even though you know, don't you, sir, because you're  
2 from Alberta, that the obligation of the Alberta Board is to set a fair return for its utilities.  
3 Correct?

4 A MR. FREEDMAN: That's the obligation of the AUC. That is correct.

5 Q MR. LANDRY: Yes, and that would be the same obligation that would be for the  
6 BCUC or the YUB — correct?

7 A MR. FREEDMAN: That's correct.

8 Q MR. LANDRY: Yes. So is it a fair statement, given all that, sir, that from your  
9 perspective, you don't believe that the BCUC, in establishing its formula mechanism,  
10 produces a fair return?

11 A MR. FREEDMAN: That's our conclusion.

12 Q MR. LANDRY: I assume from that, sir, that you don't think this Board, when it  
13 set its return — at least in 2005 if not earlier — set a fair return for Yukon Electrical —  
14 or Yukon Energy?

15 A MR. FREEDMAN: That is what was said at the time.

16 Q MR. LANDRY: And you agree with that?

17 A MR. FREEDMAN: We agree with that.

18 MR. LANDRY: Now, before we get into some details in terms of specific issues, I  
19 would like to talk generally about the rate increases that you're requesting. So, what I  
20 would like to use as an aid to cross-examination is the next Exhibit C1-13.

21 Madam Chair, I know we had one break, and I apologize, I wasn't looking at my  
22 watch. I leave it to you as to —

23 MS. SHANKS: I would like to push through til lunch.

24 MR. LANDRY: Okay, thank you. Can I assume that means at noon, for my  
25 purposes?

26 MS. SHANKS: For my purposes as well. C1-13?

27 MR. LANDRY: Just to see if I can stop at a point.

28 MS. SHANKS: Yes.

29 MR. LANDRY: C1-13.

1 Q Mr. Babyn, I think I can let Mr. Freedman off the hook for a minute and I would like  
2 to ask you some questions about C1-13, sir. As I have indicated to your counsel, as noted  
3 up above, with the exception of the final calculation that's done at the bottom of the page,  
4 the 19.9%, these numbers come from your application — at least that's what we believe  
5 to be the case — and the sources are provided at the top. Do you see that?

6 A MR. BABYN: I see that.

7 Q MR. LANDRY: Now, sir, would it be a fair statement to say — and again I am  
8 just talking generally — that there are certain costs that YECL can control in the sense  
9 that they are within your bailiwick of business and then there are certain costs that are  
10 really sort of out of your control. Is that a fair statement?

11 A MR. BABYN: Which ones? I would have to — could you clarify which ones —

12 Q MR. LANDRY: I see you don't agree with that as a general statement.

13 A MR. BABYN: I would have to know what your specific references are.

14 Q MR. LANDRY: Well, let's go to them, sir. What we tried to do here for you, sir, is  
15 just to separate some of the costs that you don't have much control over versus the costs  
16 that are effectively in your bailiwick of running your business, okay? We have Group A  
17 costs — without trying to get adversarial or doing an advocacy point — and Group B  
18 costs. Under Group A costs, would it be fair to say that these costs that we are talking  
19 about there are really not markedly in the control of Yukon Electrical to influence?

20 A MR. BABYN: I would say generally that's the case.

21 Q MR. LANDRY: Whereas in Group B —

22 A MR. GRATTAN: Sorry, Mr. Landry, I was going to just mention that with  
23 regards to purchase power, for example, Yukon Electrical participated in the 2005 Rate  
24 Application filed by Yukon Energy, and we intervened with regard to the revenue  
25 requirement for Yukon Energy. So, the overall statement does not — under the total  
26 control of Yukon Electrical. While I would say, yes, we don't have control over the  
27 ultimate Board decision, we do have an opportunity to intervene with regards to certain of  
28 these items, purchase power being one of them.

1 Q MR. LANDRY: Point taken, sir. But for the purposes of, say, let's use actuals  
2 2007, sir. There was a rate set for wholesale power. Is that a fair statement?

3 A MR. BABYN: Yes.

4 Q MR. LANDRY: Yes. And, really, that rate you didn't have any control over in  
5 2007. It was set, and whatever you had to purchase from Yukon Energy, that was the rate.

6 A MR. BABYN: That's correct.

7 Q MR. LANDRY: Okay. So, to go to my second group of costs, which is Group B  
8 costs — these are more things that you work at day in and day out. They're more  
9 controllable, in the sense that they're things that you look at to try to control. Is that a fair  
10 statement?

11 A MR. BABYN: I think, generally, if I look at operation and maintenance as an  
12 example, there are external factors that come into play there that can change our costs in  
13 that regard.

14 Q MR. LANDRY: But there are a number of internal factors that you can have an  
15 influence on each one of these. Would that be a fair statement?

16 A MR. BABYN: There are certain things that you can influence.

17 Q MR. LANDRY: And, sir, just in terms of trying to — and this is all subject to  
18 check, by the way. I'm assuming we put the proper numbers down, okay? There is  
19 nothing in here, like I say, except for the last 19.9%, that I'm aware of, that is different  
20 from what is in your application.

21 But as I understand it, sir, if we take the Group B costs, okay — just the Group B  
22 costs — and we look at the difference between what the 2007 actuals are to the 2009 test  
23 period — do you see that, sir?

24 A MR. BABYN: Yes, I do.

25 Q MR. LANDRY: That in fact there is an increase of approximately \$3.6 million.

26 A MR. BABYN: Yes, that's what it shows.

27 Q MR. LANDRY: Sorry?

28 A MR. BABYN: That's what it shows here.

29 Q MR. LANDRY: Yes. So, subject to check, you would accept that?

1 A MR. BABYN: Yes.

2 Q MR. LANDRY: Okay. And subject to check, sir, and again it's a mathematical  
3 calculation, that that is a 25.6% increase.

4 A MR. BABYN: Subject to check.

5 Q MR. LANDRY: And would you agree with this proposition, sir, that a 25.6%  
6 increase in these types of cost is a significant increase?

7 A MR. BABYN: I would agree that it has had upward pressure on cost, but we have  
8 explained in our application under, for instance, O&M costs under Schedule 5.2, we have  
9 explained the detailed variance analysis. But I would agree that this appears to be a large  
10 number.

11 Q MR. LANDRY: Would you agree with me, sir — I'm just going to ask one more  
12 time, though. I won't go through it like I did the other time. Would you agree with me,  
13 sir, that it is a significant increase?

14 A MR. BABYN: I would agree that when it's looked at in isolation as a Group B  
15 cost that it looks fairly significant.

16 Q MR. LANDRY: Fairly significant? I'll come to you in a second, Mr. Freedman.  
17 Fairly significant, sir?

18 A MR. BABYN: Yes.

19 Q MR. LANDRY: And that's your position?

20 A MR. BABYN: Without going through each individual item and talking about it  
21 specifically?

22 Q MR. LANDRY: Yes.

23 A MR. BABYN: Yes.

24 Q MR. LANDRY: Okay. Mr. Freedman, sorry. I apologize for interrupting you.

25 A MR. FREEDMAN: I'm sorry. I was just going to add that when you look at  
26 that, and you throw out the 25% — but, you know, if you look at the amortization of  
27 deferred credits — a 248% increase — well, that's going from a period where we didn't  
28 have any rate case costs being amortized to a period where we're in front of this Board  
29 and we've got rate case costs. And these are all explained throughout the application. So,

1 I think — you know, they've been up 248%, but that's because we've got a rate  
2 proceeding.

3 Q MR. LANDRY: Sir, maybe you can help me, then, if you'd like to comment on  
4 these Group B costs. You've been involved in many regulatory proceedings. You know  
5 what O&M, depreciation, amortization, and return are, as general categories, don't you?

6 A MR. FREEDMAN: Yes, I do.

7 Q MR. LANDRY: Yes. Would you, sir, consider a 25.6% increase a significant  
8 increase?

9 A MR. FREEDMAN: And that's all my point was — that included in that 25%  
10 increase is a 248% increase for the amortization of deferred credits, which is explainable  
11 because they're going from a low level, when there wasn't a rate proceeding, to a period  
12 where we are incurring significant costs.

13 So I agree with the statement, but there are reasons for these increases. And in the  
14 deferred credits, that's a very significant increase — 248%. That was the only point I was  
15 trying to make.

16 Q MR. LANDRY: Sir, maybe we could back — and I'm not sure what the answer to  
17 the question was. Do you consider for these Group B costs a 25.6% increase to be a  
18 significant increase?

19 A MR. FREEDMAN: They're significant and they're explainable.

20 Q MR. LANDRY: Okay, and would you, ignoring the one that you picked, which is  
21 the lowest cost item, if we go to the highest cost item, which is operating and  
22 maintenance, it shows a 27.8% increase. I agree it's subject to check. Would you agree  
23 with me, sir, that a 27.8% increase in operations and maintenance for a two-year period is  
24 a significant increase?

25 A MR. FREEDMAN: I would agree with that statement and that's why the  
26 application has gone to lengths to explain that increase.

27 Q MR. LANDRY: And this is after a year, sir, and you know this. You've corrected  
28 it and I'll take your corrections, subject to check. This is after a year in which you earned  
29 a rate of return on equity of 10.39% — correct?

1 A MR. FREEDMAN: That is correct.

2 Q MR. LANDRY: Now, sir, and I go back to you, Mr. Babyn. I'd like to go through  
3 now on the revenue side, sir. And again, as I indicated to you, the only item that I  
4 understand was a calculation was the last one. The rest come from your application, and  
5 you can see the 11% number down at the bottom of the page, and these are approximate,  
6 obviously. See that 11% down the second-to-last line?

7 A MR. BABYN: I see that.

8 Q MR. LANDRY: And that's the percentage increase, ballpark, that you're asking  
9 for from this Board over the two-year period we're talking about?

10 A MR. BABYN: Ballpark, yes.

11 Q MR. LANDRY: Sir, what that 11% does not reflect, though — I think you'd agree  
12 with me — is that the change in fuel price increased from the 1997 GRA fuel prices to  
13 the present fuel price. Is that a fair statement?

14 A MR. BABYN: That's what we said in our application.

15 Q MR. LANDRY: Yes, I understand that. I'm just trying to get this on the record to  
16 be a number. If you include the fuel increase, okay, from the 1997 to what you've  
17 assumed in your application, in fact, subject to check, the actual increase in primary rates  
18 is, ballpark, 20% — 19.9%. Would you agree with that, subject to check?

19 A MR. BABYN: Subject to check.

20 Q MR. LANDRY: And, sir, in relation to that point, in your application, as I  
21 understand it — and maybe Mr. Grattan could help. I don't want to get into a detailed  
22 area that you might not know, Mr. Babyn, but at least as I understand it, the fuel price  
23 that is assumed for the purposes of this General Rate Application that will go into  
24 primary rates is approximately — do I have this right, Mr. Grattan? — 96 cents a litre.

25 A MR. GRATTAN: Well, if I could take you to Schedule 4.2 of the application.

26 Q MR. LANDRY: Is this the one that was filed July 4?

27 A MR. GRATTAN: It would have been originally included in the original  
28 application and I believe we added the years 2003 and 2004 to it.

29 Q MR. LANDRY: Are you using the one from the update?

1 A MR. GRATTAN: Yes.

2 Q MR. LANDRY: Okay. And what does it tell me in terms of the fuel cost that is  
3 assumed that will go into primary rates — 96 cents. Do I have that right? Approximately?

4 A MR. GRATTAN: 96.61 cents in 2008 and 96.07 cents in 2009. That slight  
5 difference is due to the change in the mix of generation.

6 Q MR. LANDRY: And the fuel price that you took as your starting point and what  
7 you effectively assumed was the fuel price that you saw in January 2008, as I understand  
8 your application. Is that a fair statement?

9 A MR. GRATTAN: Yes, I believe that's a fair statement.

10 Q MR. LANDRY: Mr. Grattan, I know you know more about this than I do, so I  
11 want to talk about Rider F in terms of the fuel price that you last assumed for the  
12 purposes of Rider F calculation in August, and subject to check, sir. Would you agree  
13 with me that, subject to check, the fuel price that was used in the August Rider F  
14 recalculation was \$1.25 a litre?

15 A MR. GRATTAN: Subject to check, yes.

16 Q MR. LANDRY: Now, sir, if one utilized that \$1.25 instead of 96 cents — do you  
17 understand what I'm saying — for the purposes, could you tell me, first of all, after you  
18 confirm the 19.9% that we have on Exhibit C1-13, could you tell me in fact what, if it  
19 was \$1.25 per litre that was used for the purposes of your calculation to put into primary  
20 rates, what the percentage increase would be? Could you do that calculation? I don't  
21 expect you to do it now, but could you take that as an undertaking?

22 A MR. GRATTAN: Well, rather than doing the math right now on the fly, I probably  
23 should take that as an undertaking.

24 Q MR. LANDRY: If you would, that would helpful if you could file that, please.

25 A MR. GRATTAN: Okay. I am sorry. The undertaking is to provide the rate  
26 increase if we had used \$1.25 as opposed to the average of the 96 cents included in the  
27 application?

28 Q MR. LANDRY: Yes.

29 A MR. GRATTAN: Okay.

1 Q MR. LANDRY: Yes, and just to make it a little bit easier, could you just do it for  
2 2009, since we're a ways through the year?

3 A MR. GRATTAN: Just 2009.

4 Q MR. LANDRY: And I am sure that Mr. Babyn is going to check it, but of course  
5 starting my question was to get confirmed the 19.2 — sorry, 19.9% number we calculated  
6 to start with.

7 A MR. GRATTAN: Yes, we said, subject to check, that that was a good number,  
8 subject to check.

9 MR. LANDRY: Now, sir, I am just going to go to the last exhibit I handed up in  
10 this pile, which is Exhibit C1-14. Again, Mr. Babyn, you are probably as good as anyone  
11 to speak to this.

12 Q Sir, what we have attempted to do here is just take Yukon Electrical's numbers for  
13 actuals from 2003 to 2007 and then put in the two test periods for what we're calling the  
14 Group B costs. Do you see that?

15 A MR. BABYN: Yes, I see that.

16 Q MR. LANDRY: The calculation that we did that we would like you to take,  
17 subject to check, is the increase, year over year, and percentage increase. Do you see  
18 those columns?

19 A MR. BABYN: I see the columns.

20 Q MR. LANDRY: Yes. Can I take it that you will accept, subject to check, that those  
21 are the correct increases and/or percentage increases in here?

22 A MR. GRATTAN: I was just going to say, Mr. Landry, that I believe what you are  
23 saying is that you have taken the numbers from the application, put them in a slightly  
24 different format and come up with this exhibit. So, subject to check, we can agree with  
25 them.

26 Q MR. LANDRY: Okay. I appreciate that, Mr. Grattan, and Mr. Grattan, are you  
27 perhaps maybe a bit better to ask questions on this? No? Okay, we will go with Mr.  
28 Babyn then.

29 MR. KEOUGH: I suggest you just toss them out and they'll figure it out.

1 MR. LANDRY: They'll throw it back at me?

2 MR. KEOUGH: I might do that.

3 Q MR. LANDRY: Okay, sir, what I was attempting to show here is the type of  
4 percentage increase in these Group B costs we talked about when you were not before the  
5 Board — okay? — through the actuals that we have versus the percentage increase that,  
6 now that you're before the Board and you're putting forward what, as you know, I call  
7 "significant rate increases", where they are. That's what I'm trying to do. Do you see that,  
8 Mr. Babyn? Just to compare?

9 A MR. BABYN: I see that.

10 Q MR. LANDRY: Yes. Sir, subject to check, would you agree with me that the  
11 average — and I'm just using percentage averages here — percentage increase year over  
12 year between 2003 to 2007 was, ballpark, 4.8%?

13 A MR. BABYN: Subject to check.

14 Q MR. LANDRY: Looks right. Looks right, Mr. Babyn?

15 A MR. BABYN: Yes, it does.

16 Q MR. LANDRY: Sir, so you have an average over the five years or four years —  
17 however this works — where you've given us actual numbers, where you have earned a  
18 return, for the most part, except for 2005, higher than your parent, and your average has  
19 been in the ballpark of 4.8%, subject to check.

20 A MR. BABYN: Subject to check.

21 Q MR. LANDRY: Yes. And, sir, now you're coming before the Board and over a  
22 two-year time frame for those same group costs, you're asking for a 25.6% increase.  
23 Correct?

24 A MR. BABYN: Subject to check, I see your numbers there.

25 Q MR. LANDRY: Sir, what I would like you to do for me is — if you could do a  
26 calculation, and Mr. Grattan, maybe you're the person to do this — I would like you to  
27 assume, for the purposes of my question, that instead of 25.6%, we use the average over  
28 the previous number of years. I will even go a little higher — let's say 5% per year, so a  
29 total of 10% — 10% total. I would like to know what the impact would be on revenue

1 requirement. Just so you can have a number so you can see at least how we calculate it —  
2 the problem is that we don't have the model — we calculate that if you actually got the  
3 5% that you've done between 2003 and 2007 when you weren't before the Board and you  
4 had to worry about your return of 5% for both 2008 and 2009, that the reduction in  
5 revenue requirement was \$2,217,000.

6 A MR. GRATAN: I guess right off the bat, I'm wondering about the relevance of  
7 what you're asking us, Mr. Landry, because you're asking us to look in the past, and  
8 you've asked us, subject to check, to confirm the costs in Type B are rising 5 to 6% per  
9 annum. And our application before you today, along with all the interrogatory answers  
10 and the large amount of detailed information that has been provided, shows the numbers,  
11 the 25.6% increase over 2007. There's a plethora of responses relating to Schedules 5.1,  
12 5.2, 5.3 as part of the interrogatory responses, as well as the application, and we've put  
13 before the Board why those numbers are increasing — very detailed reasons why those  
14 numbers are increasing — and you're now asking us to say, "Well, ignore all of that;  
15 ignore all of what was put in the application, ignore what we've responded to with  
16 respect to your company's interrogatories, as well as other intervenors, and come up with  
17 a number that is different."

18 It doesn't make any sense to me, the relevance to the question. Can we do the  
19 calculation? Of course we can do the calculation. Can you do the calculation? Of course  
20 you can do the calculation. But I'm flabbergasted as to the relevance to it, Mr. Landry,  
21 because of all of the work.

22 There's no place to hide with regard to Yukon Electrical. We're a company of 55  
23 people. We've put that forth in the application; we've shown all of our numbers and the  
24 reasons why we've increased from year to year, to year to year. If you want to talk about  
25 those numbers and why those numbers are going up, that's why we're here. We're here to  
26 talk about the details.

27 The 60,000 foot stuff, fine and dandy — we can do the calculation or you can do the  
28 calculation, but it's the details you really have to get your head around to understand why  
29 the company is coming before you with respect to the increases that we're seeing.

1 Q MR. LANDRY: Are you finished?

2 MR. KEOUGH: I'm not.

3 MR. LANDRY: Sorry, Mr. Keough.

4 Q Are you finished? I just want to know if you're finished.

5 A MR. GRATAN: Yes, I am.

6 Q MR. LANDRY: You are. Okay, can you do the calculation for me, please?

7 MR. KEOUGH: Madam Chair, before the witness agrees to do that, I have a  
8 significant concern with it. This is — and I'm trying to find it, actually. This is very  
9 similar to one of the Information Requests that were asked by YEC, and Yukon Electrical  
10 did not respond to doing what could be endless scenarios and said that the information is  
11 available; Yukon Electrical can do them and present them if you want. I'm just trying to  
12 find the specific reference to it, because the Board did not direct Yukon Electrical to do  
13 these scenarios.

14 We could choose 5%; we could choose 6; we could choose 6.5, we could choose 8  
15 and 9 and we could choose 10 — endless. And my friend has the ability; in fact it appears  
16 they already have done the calculation. If my friend wants to present evidence with  
17 respect to a multitude of potential scenarios, if you hypothetically accepted a certain  
18 number, he could present that evidence. But it's not what my client has presented.

19 My client has presented a case with detailed justifications for the requested increases.  
20 We're here to have those tested. If he wants to put forward scenarios, he had full  
21 opportunity.

22 So, like the prior ruling that I'm trying to locate, but I'm sure you recollect, this is  
23 inappropriate and I'm going to suggest to you that the witness will not take the  
24 undertaking. We refuse to do it.

25 MS. SHANKS: Mr. Landry, do you have any further comments?

26 MR. LANDRY: I am not sure if it's a comment to the speech we heard or Mr.  
27 Keough, but I will respond to Mr. Keough by saying simply this, Madam Chair: these are  
28 the actual numbers and the forecast numbers that my friend has produced and his client  
29 has prepared. They have the capability to run scenarios. It will come as no surprise to this

1 Board that we will be making very strong arguments that Yukon Energy is of the view  
2 that this is an extraordinary increase and it should be limited to no more than what they  
3 had when they weren't before the Board between 2003 and 2007. We are simply asking,  
4 which is a very normal thing to do in a proceeding such as this, with their actual  
5 information, to run a scenario assuming — instead of 26.6% — a 5% per year for the test  
6 periods.

7 MS. SHANKS: Mr. Landry, I am having a hard time seeing where you actually  
8 are going to go with this.

9 MR. LANDRY: We will argue, Madam Chair — we will get into specifics. We  
10 are going to argue that the increase that they are requesting and the ballpark \$4.1 million  
11 for 2009 should be cut back significantly. We believe that it should be cut back to the  
12 point, at the very least, and perhaps even further than that, of no more than 5% a year. All  
13 we're asking the company to do, if that is the case — if that is what happens — what  
14 impact does that have on these numbers. It's as simple as that.

15 MR. BABYN: Just further comment to that — again I agree that we can certainly  
16 run the numbers and what impact it will have on revenue requirement might be of interest  
17 to some. From an operations point of view, what impact is that scenario going to place on  
18 our operations and our ability to provide safe and reliable service?

19 We put, again, the detailed explanations here about what we need to do to deliver the  
20 service. Is the increase high? Well, certainly there are components that show that it's  
21 high, but these are unusual times. That is why we are before this Board. We need a  
22 certain level of staffing. We need to maintain operations and safety practices that we have  
23 not had to endure before. We are here to provide the service to Yukoners like we did for  
24 decades. We can't do that without proper funds available to do it.

25 MS. SHANKS: Thank you, Mr. Babyn. I note that it's coming up to the lunch  
26 hour. It's 10 minutes to 12:00 p.m. I think, on that note, the Board will reserve comment  
27 on the request until after our lunch period.

28 MR. KEOUGH: Madam, for your reference, it is in Board Order 2008-9, page 4 of  
29 5, your ruling with respect to YEC-YECL-40, A and B, that I was referring to.

1 MS. SHANKS: Thank you very much, Mr. Keough. Mr. Landry?

2 MR. LANDRY: Do you want me to continue on until noon?

3 MS. SHANKS: I think we'll take a break. This looks like an appropriate time. It's  
4 10 minutes to 12:00 p.m. We'll have our lunch break now and we will return at about  
5 1:20 p.m.

6 MR. KEOUGH: Madam Chair, I have one request to make of you. I am fully  
7 aware of the rules related to me not being able to discuss matters related to the case with  
8 the witnesses once they are under oath. I certainly always abide by that, but I will plan  
9 either at lunch or at night to be meeting with them and Ms. McShane and Mr. Kennedy. I  
10 would seek your dispensation that with my undertaking not to discuss the subject matter  
11 and case that I be permitted to do that.

12 MS. SHANKS: I have no problem with that.

13 MR. LANDRY: And for the record, we have no problem with that.

14 MS. SHANKS: On that basis, we will all have lunch, and we will see everybody  
15 back here at 1:20 p.m.

16

17 (PROCEEDINGS ADJOURNED)

18 (PROCEEDINGS RESUMED)

19

20 MS. SHANKS: Before the lunch break, we had an objection from Mr. Keough to  
21 Mr. Landry's request for an undertaking from the YECL panel to calculate: if the  
22 increase was 5%, what would be the change in the revenue requirement? Mr. Keough  
23 referred to Board Order 2008-9 as well.

24 The Board has considered the objection and has decided that the undertaking is  
25 permitted and that this calculation is different from Board Order 2008-9, in which the  
26 Board determined that YECL did not have to prepare the detailed scenarios being  
27 requested. So, in that case, we'll proceed with that undertaking requested by Mr. Landry  
28 before the lunch break.

1           And Mr. Landry, before you proceed with your cross-examination, I wonder if you  
2 have an idea of how much time you still might require in your cross-examination.

3           MR. LANDRY:   Madam Chair, it's a little difficult to tell. I think I — you know,  
4 with all the objections and everything. I don't mean that critically; I just mean in terms of  
5 time. And at the break — I think I was about an hour and a half or three-quarters, and I  
6 gave a five-hour estimate. I'm going to try to stay with that, so probably most of the  
7 afternoon, I would think.

8           MS. SHANKS:    So, sorry — my math. We're at 1:30, so —

9           MR. LANDRY:    About another three hours and a bit. But again, as with any cross-  
10 examination, it depends how we make out, in terms of some of the questions I'm looking  
11 for.

12          MS. SHANKS:    So, you're looking at a good part of the afternoon, obviously.

13          MR. LANDRY:    Yes. And Mr. Rondeau asked me about that, and that's what I told  
14 him.

15          MS. SHANKS:    Okay, thank you.

16          MR. KEOUGH:    Thank you, Madam Chair — two points. One, I understand that  
17 Mr. Rondeau had inquired — not of me, but had inquired if we could switch the order of  
18 the panels in the morning from what I had verbally stated, so that Ms. McShane would go  
19 first, because he had questions of Ms. McShane and wondered if he could question her at  
20 the outset, as opposed to waiting to deal with the depreciation panel. And we have no  
21 problem accommodating that. We will certainly be prepared to put Ms. McShane and Mr.  
22 Freedman on first thing in the morning. That way, Mr. Rondeau doesn't have to spend  
23 time here, waiting for them to become available. So we're prepared to accommodate that,  
24 if it's acceptable to the Board.

25               The second point is that I'm advised that the witnesses have — I think it's two  
26 responses to questions that were posed this morning by Mr. Landry that they have gotten  
27 the answers to over the lunch break.

28          MS. SHANKS:    Okay, and on that basis, the Board has no problem with the  
29 Kathleen McShane panel appearing first tomorrow morning.

1 MR. FREEDMAN: Yes, I have a follow-up on the subject to check with  
2 Exhibit C1-12. This is to confirm the numbers and percentages in that exhibit and update  
3 2007 with the updated return percentage that was provided by Yukon Electrical in the  
4 morning. So, with an actual ROE in 2007 of 10.37%, that would result in a plus 1.86 for  
5 the next column, which is Yukon Electrical's ROE compared to ATCO Electric. And  
6 then the final number for 2007 would be percentage better/worse Yukon Electrical versus  
7 ATCO. It would be 22%. And that's my confirmation.

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

9 MS. SHANKS: With respect to the —

10 Q MR. LANDRY: Before Mr. Grattan finishes, I was just wondering, so does that  
11 mean that all of those numbers then, sir, you've had a chance to check, or was it —?

12 A MR. FREEDMAN: Yes. So the rest of that exhibit is confirmed.

13 MR. LANDRY: Thank you. I apologize for the interruption. Thank you.

14 MS. SHANKS: Mr. Grattan?

15 MR. GRATTAN: In response to running the revenue requirements model with  
16 fuel costs at \$1.25 per litre, I'll just read through the figures for you: per YEC 16C, we  
17 ran the fuel cost at \$1.25. That resulted in a 2009 fuel cost of \$6,859,000. Per Schedule  
18 4.1, line four of the application, the fuel cost estimate was \$5,299,000. So, based on the  
19 change in assumption, there is an increase in fuel cost of \$1,560,000.

20 So if you go to Schedule 2.1, line 48, the original shortfall on that line is \$4,130,000;  
21 add the increase in costs of \$1,560,000; you come up with a revised line 48 of  
22 \$5,690,000. If you take that shortfall, divide it by the forecast sales of \$37,687,000, you  
23 determine a rate increase over two years of 15.1%, as compared to the 11% per the filing.

24 So if my math is correct on all of this, there is an increase of 4.1% as a result of that  
25 change in assumption on fuel cost.

26 MS. SHANKS: Thank you, Mr. Grattan.

27 MR. LANDRY: Can I just follow up with Mr. Grattan on that, Madam Chair, just  
28 to make sure the record is clear.

1 Q Mr. Grattan, did you do an accompanying percentage — first of all, did you check the  
2 19.9% number at the bottom or is that still —?

3 A MR. GRATTAN: No, I have not been able — I have not confirmed that yet.

4 Q MR. LANDRY: And you will then reflect, in response to that undertaking, also  
5 how that would change with the different fuel cost.

6 A MR. GRATTAN: I believe the change is 4.1%, regardless of the math, but I will  
7 double-check that for you.

8 Q MR. LANDRY: Would you do that for me, please?

9 A MR. GRATTAN: Sure.

10 MR. LANDRY: Thank you.

11 MS. SHANKS: In that case —

12 MR. LANDRY: I guess that was the undertaking so, if I can, I'll continue my  
13 cross-examination.

14 MS. SHANKS: Please proceed.

15 Q MR. LANDRY: And just as a preliminary point, because I know when we were  
16 discussing this a little bit earlier, and Mr. Grattan is probably as good as anybody to  
17 answer this question: Mr. Grattan, Exhibit C1-11, which is the binder, if you could go to  
18 the decision in 1996-97, which was the last time YECL was before the Board. This is just  
19 going to be no doubt an undertaking on the record, but I just want to follow through.

20 MR. GRATTAN: Sorry, I was digging for the binder.

21 MR. LANDRY: Tab 5.

22 MR. GRATTAN: As Mr. Landry knows, this predates my time in the north.

23 Q MR. LANDRY: I do, but I know you know where the records are so you can  
24 probably get this confirmed quicker than I can. And the reason is because there are issues  
25 relating to capital structure and I'd just like to get it confirmed for the record what it was  
26 at the time.

27 Now, as I understand this, Mr. Grattan, there was a filing that effectively was made  
28 by the utilities, including schedules. What I'm trying to find out, and I'll give you the  
29 numbers and see if you can confirm them for me, is what the capital structure of that

1 filing was for YEC/YECL. Just to help you a little bit, if you go to the negotiated return,  
2 which is attached —

3 You've seen the first page, where it has the rate of return, which is 11.25, which I  
4 went over with Mr. Freedman today.

5 A MR. GRATTAN: Yes.

6 Q MR. LANDRY: And if you go to the next page, item 3, it talks about the capital  
7 structure. I mistakenly had thought that the actual YECL capital structure and YEC  
8 capital structure were actually listed there, and they're not. They just talk generally about  
9 capital structure. So I'd like it if you could provide us with what the capital structure for  
10 YECL was. Just, you know, I'm looking for 1997. If I have it right, and I want to make  
11 sure this is right, it has long-term debt of 48.62%.

12 A MR. GRATTAN: Forty-eight point what, sorry?

13 Q MR. LANDRY: Point six two.

14 A MR. GRATTAN: Sorry?

15 Q MR. LANDRY: Point six two.

16 A MR. GRATTAN: Okay.

17 Q MR. LANDRY: Preferred of 15.30 common equity of 36.13 and then no-cost  
18 capital of minus .04%. I think that just —

19 A MR. GRATTAN: That's for 1997?

20 Q MR. LANDRY: Yes. And it's all, as I understand it, where we get this, Mr.  
21 Grattan — if you look at the order again — the first item on the first page, it references to  
22 Exhibit 148, if that helps you. It's the very first paragraph.

23 A MR. GRATTAN: So, you are looking for us to confirm that 1997 capital structure  
24 as you have just outlined.

25 Q MR. LANDRY: Yes, for YECL.

26 A MR. GRATTAN: Yes, I can undertake to do that for you.

27 MR. LANDRY: Thank you.

28 Q Now, Mr. Babyn, I would like to go back to you before we get into what I will call  
29 the more detailed part of the cross-examination. I just have a couple more general

1 questions for you, sir. I guess I know that we've quibbled over whether or not your 11%  
2 is a significant increase or not, but would it be fair to say from your perspective in terms  
3 of looking at your operations and looking at preparing an application that you did  
4 everything reasonable, you think, within your power to keep the rate increase down?

5 A MR. BABYN: Yes.

6 Q MR. LANDRY: And you understand, obviously, that that's an important thing to  
7 do from the perspective of ratepayers?

8 A MR. BABYN: Yes, I do.

9 Q MR. LANDRY: Yes. Now, sir, you knew before you prepared the application that  
10 Yukon Energy was going to be connecting the Minto Mine to the system? You knew that.

11 A MR. BABYN: I knew of it, yes.

12 Q MR. LANDRY: Yes. And YECL participated in some fashion in both the resource  
13 planning hearing and the PPA hearing — I will call it “process” — that the Board had?

14 A MR. BABYN: Mr. Grattan has pointed out that we were involved in the PPA but  
15 not the resource —

16 Q MR. LANDRY: Not the resource planning. Thank you, Mr. Grattan. But in any  
17 event, in the PPA you would have been aware and — I throw this out at the panel — that  
18 what was projected in terms of revenue once the mine was connected for a full year —  
19 let's take 2009 — that YEC was projecting additional revenues from the sale of surplus  
20 hydro of around \$4 million?

21 A MR. BABYN: I believe the numbers varied between — is that right? — yes, 3.2  
22 gigawatt hours to four gigawatt hours' worth of sales to the Minto Mine at somewhere  
23 around 10 cents a kilowatt hour. So —

24 Q MR. LANDRY: So, a ballpark?

25 A MR. BABYN: Somewhere in the \$3.2 to \$4 million range, yes.

26 Q MR. LANDRY: Mr. Babyn, I presume it's just a coincidence that the amount you  
27 are requesting as an increase for 2009 when the Minto Mine will be on is about \$4  
28 million?

29 A MR. BABYN: It would be.

1 Q MR. LANDRY: I am going to suggest to you that, in relation to a number of issues  
2 in your application, that there were reasonable approaches open to YECL from a rate  
3 regulatory point of view which could have lowered the rate increase, but YECL chose to  
4 not accept those approaches and took approaches that were more favourable to YECL.  
5 Can I assume you will disagree with that?

6 A MR. BABYN: I disagree.

7 Q MR. LANDRY: Well, we're going to test that. Sir, I wonder if you could — I'm  
8 going to go to a different area of cross-examination, just to help the panel and the Board.  
9 The Information Requests that I'm going to refer to, Madam Chair, are: YEC-YECL-17  
10 and YEC-YECL-II-1.

11 MS. SHANKS: Can you repeat that number again?

12 MR. LANDRY: The second round of IRs, number 1. These questions — just so  
13 you understand, both of those IRs related to the depreciation issue. That's where I'd like  
14 to go. So to help the panel, if you could have those before you, that would be — those are  
15 where I hope to ask most of my questions on this subject. And I'll go with you, Mr.  
16 Babyn.

17 Q Now, you would have known before you filed this application that in the 2005  
18 revenue requirement hearings or application of YEC that the Board approved what is  
19 called the "ASL approach" for depreciation?

20 A MR. FREEDMAN: I will take these ones for now. Yes, I was aware of that.

21 Q MR. LANDRY: Well, I'll tell you what — I'll go with you for awhile, and if you  
22 want to pass it back, you can. You were aware of that when you prepared this application,  
23 correct?

24 A MR. FREEDMAN: Yes, I was.

25 Q MR. LANDRY: And the impact in that application, sir — and you'd know this, I'm  
26 sure, from your past. From adopting the ASL approach, as opposed to the ELG approach,  
27 was there a material decrease in the revenue requirement for the 2005 test year?

28 A MR. FREEDMAN: I know we answered a response what the impact is for us here  
29 — it's material.

1 Q MR. LANDRY: Yes. So that had a significantly positive effect on the rate  
2 increase that was being requested in the test year and beyond?

3 A MR. FREEDMAN: Well, it would be timing, given that there is — when you're  
4 depreciating a \$100 asset, it's \$100. So, eventually, things do turn around, but in the  
5 immediate test period, it was lower.

6 Q MR. LANDRY: And in the immediate test period and for some period thereafter,  
7 it would be a lower increase. Would that be a fair statement?

8 A MR. FREEDMAN: I just know for the test period, but I'll —

9 Q MR. LANDRY: Well, let's stay with the test period for now. Now, sir, Gannett  
10 Fleming Inc. — Mr. Kennedy prepared your depreciation study, obviously.

11 A MR. FREEDMAN: Correct.

12 Q MR. LANDRY: And he used the ELG method?

13 A MR. FREEDMAN: Correct.

14 Q MR. LANDRY: Would you agree with me, sir — and you've reviewed Mr.  
15 Kennedy's evidence, correct?

16 A MR. FREEDMAN: That's correct.

17 Q MR. LANDRY: And you support that evidence?

18 A MR. FREEDMAN: We do.

19 Q MR. LANDRY: And, sir, would you agree with me that Mr. Kennedy accepted at  
20 least the fact that both ASL and ELG were, from a regulatory perspective, appropriate  
21 depreciation methodologies?

22 A MR. FREEDMAN: He had concerns with ASL. He doesn't feel that that is the  
23 method — he does not feel, and did not recommend, that method. He does not support  
24 that method, but he did — I believe his position is that ASL has been used.

25 Q MR. LANDRY: Yes, and he accepted and, again, I don't want to put words in your  
26 mouth so, sir, please stop me if you're uncomfortable with this. But, as I understand his  
27 evidence, sir, he accepted that ASL was an appropriate depreciation methodology. He  
28 didn't agree with it, but he accepted that fact. Would you agree or disagree with that, sir?

1 MR. KEOUGH: Could we get the reference to Mr. Kennedy's evidence? I'm just  
2 a little uncomfortable that while you don't have "to put words" in Mr. Freedman's mouth,  
3 because he's here to address it; Mr. Kennedy will be here tomorrow. But if we're going  
4 to be speculating on what he said, I wouldn't mind getting the reference in his evidence.

5 MR. LANDRY: Let me try it a different way. You don't have to answer that, Mr.  
6 Freedman. I will try a different way.

7 Q You know that Mr. Kennedy filed depreciation evidence for YEC in 2005?

8 A MR. FREEDMAN: Yes, I am aware of that.

9 Q MR. LANDRY: Yes, and in that depreciation evidence, he used ASL?

10 A MR. FREEDMAN: That was the ultimate method that was used by YEC.

11 Q MR. LANDRY: Yes, and that's what Mr. Kennedy used for the purposes of the  
12 depreciation study.

13 A MR. FREEDMAN: I know that there were concerns from him on, you know —  
14 his recommendation was not that method, but he ended up saying that ASL was a method  
15 that could be used.

16 Q MR. LANDRY: And just so we that we don't make it look like YECL is the only  
17 utility that uses ASL, you know — sorry, that YEC is not the only utility that uses the  
18 ASL method — from your experience, sir, you know that there are many utilities in  
19 Canada that use ASL — correct?

20 A MR. FREEDMAN: The more light utilities that I'm aware, like AltaLink Fortis,  
21 the ATCO Group of Companies, all use the equal group method. There are Crown  
22 corporations I am aware of that use the average service line. The ones I am more familiar  
23 with — the ones in Alberta — are more like Yukon Electrical — publicly traded  
24 companies, who are using equal group. But there are companies using —

25 Q MR. LANDRY: Well, sir, let's see the various companies that at least YECL  
26 provided in their information responses that used both the ASL and the ELG approach.  
27 So, if you could start with YEC-YECL-17, sir?

28 A MR. FREEDMAN: Yes, I have that.

1 Q MR. LANDRY: And, sir, if you could go to the question and answer, but I'm  
2 really referring to the answer of (f) of that, which is on page 3 of 6? You were asked the  
3 question in this Information Request, with the aid of Mr. Kennedy, to provide a summary  
4 of the regulated utilities in Canada using, effectively, the ELG method.

5 MR. KEOUGH: To be clear, this response was provided, I think, by Mr.  
6 Kennedy, if I'm not mistaken.

7 A MR. FREEDMAN: It was.

8 MR. KEOUGH: This is his evidence.

9 Q MR. LANDRY: Okay, sir. Well, let me then just review it and see if it fits with  
10 your recollection or your knowledge. In (f), there is a listing here of the companies, in  
11 response to the Information Request to YECL, that use ELG. Is that a fair summary of the  
12 utilities that you're aware of, sir?

13 A MR. FREEDMAN: That's what his response states.

14 Q MR. LANDRY: Is it a fair summary of the utilities that you are aware of, sir?

15 MR. KEOUGH: Well, Mr. Landry, in fairness, it says where Gannett Fleming is  
16 aware. I mean, you have testimony here from Mr. Kennedy. Mr. Kennedy is being  
17 proffered as a witness and now you want the company witness to speak to Mr. Kennedy's  
18 evidence. I am not sure, Madam Chair, that that's very appropriate. This is Mr.  
19 Kennedy's testimony and he will be here tomorrow morning.

20 MR. LANDRY: Madam Chair, I am asking for Mr. Freedman's view of whether  
21 or not this is an appropriate listing in his knowledge — his level of knowledge.

22 MS. SHANKS: I think the question can be answered.

23 A MR. FREEDMAN: Keep in mind, we bring in Mr. Kennedy as the expert. He has  
24 more knowledge in this area, but I have no reason — you know, I, myself, have not that  
25 same knowledge on who all uses it. He went over this information with me and I support  
26 this evidence.

27 Q MR. LANDRY: So, you are not aware of others I guess is the question.

28 A MR. FREEDMAN: I don't know.

1 Q MR. LANDRY: So, sir, if you could go then to the second IR that I referenced  
2 earlier — YEC-YECL-II-1.

3 A MR. FREEDMAN: Yes, I have that.

4 Q MR. LANDRY: Again, in response to this, it was in relation to the ASL method.  
5 There was a listing. I presume what I'm going to hear is that it was a listing by Gannett  
6 Fleming. In any event, there is a listing there of the utilities that have used the ASL  
7 method. Do you see that?

8 A MR. FREEDMAN: Yes, I see that.

9 Q MR. LANDRY: And, sir, can I assume that, on the second page, just so the record  
10 is clear, that the third bullet in is intended to be Yukon Electrical Company Ltd.? Do you  
11 know whether that's the case? Or, sorry, Yukon Energy, I mean. I'm mixing the two up  
12 — I apologize. Or is that something I should ask Mr. Kennedy?

13 A MR. FREEDMAN: You can confirm that with Mr. Kennedy, but I would say  
14 that's probably meant to be Yukon Energy.

15 Q MR. LANDRY: And, sir, again, going with your level of knowledge, are you  
16 aware of any other utilities, other than the ones listed here, that use the ASL method?

17 A MR. FREEDMAN: I'm not aware of any other utilities.

18 Q MR. LANDRY: But you can see in here, sir. You're familiar with some of these  
19 companies, would you agree with that?

20 A MR. FREEDMAN: Yes, I am.

21 Q MR. LANDRY: They're not all Crown companies, are they? Crown-owned  
22 companies?

23 A MR. FREEDMAN: There are Crown companies in this list, but they're not all.

24 Q MR. LANDRY: FortisBC, for example, which is a company that was referred to  
25 earlier in one of the Board Orders — that's a privately owned company, correct?

26 A MR. FREEDMAN: Yes, that's correct.

27 Q MR. LANDRY: Now, sir, I just want to again confirm something for the record. If  
28 ASL was actually used as the approach by YECL, it's my understanding — I just, like I  
29 say, want to confirm it for the record — that the reductions in revenue requirement

1 request for 2008 and 2009 are properly set out in YEC-YECL-17, which is the answer to  
2 question (e), a reduction of 391,000 for 2008 and 419,000 for 2009?

3 A MR. FREEDMAN: Yes, that's correct. We are aware of that and we looked at  
4 that, but we are looking for ways to minimize revenue requirement increases, but in our  
5 mind, the equal group method — equal life group method — better matches the  
6 consumption of the asset to the cost. So, yes, we're aware of it, but there are other issues  
7 that come into play and that was the rationale for the decision.

8 Q MR. LANDRY: Sir, just in terms of impact that it would have — and I'm thinking  
9 of return here, Mr. Freedman — if it was decided by this Board that it was more  
10 appropriate to take the ASL approach as opposed to the ELG approach, that wouldn't  
11 impact your return. Is that a fair statement?

12 A MR. FREEDMAN: Yes, that would be a fair statement.

13 Q MR. LANDRY: It's simply effectively, in terms if it were talking about financial  
14 impact, there would be a cash impact, would there not?

15 A MR. FREEDMAN: Yes, there would be a cash impact and, from our perspective,  
16 maybe an intergenerational equity impact, but that's —

17 Q MR. LANDRY: I accept the philosophical debate that goes on in this, but I'm  
18 thinking about the financial statements. There'd be a cash impact.

19 A MR. FREEDMAN: Correct.

20 Q MR. LANDRY: And it would effectively mean there would be — if I'm looking at  
21 a cashflow statement — there would be less cash from the perspective of Yukon  
22 Electrical, right?

23 A MR. FREEDMAN: That would be correct.

24 Q MR. LANDRY: Now, sir, again I want to sort of change slightly topics. I want to  
25 talk a little bit about the approach that Yukon Electrical has adopted in relation to future  
26 removal and site restoration costs. Are you the person I should be questioning on that?

27 A MR. FREEDMAN: You can start with me.

28 Q MR. LANDRY: Okay, let's try that. And just so that, again, we have the  
29 documents in front of you that would be relevant, what I'd like to question you on here

1 — and really most of these are factual questions, but YEC-YECL-17, which is something  
2 we were referring to earlier, and again YEC-YECL-II, but the second one, question  
3 number 2, including the attachments, and the financial statements of YECL for the 2007  
4 year. I'm not sure whether or not they're attached in a couple of places, but where I have  
5 them referenced, sir, is City of Whitehorse-YECL-04(a) Attachment 5. Do you want me  
6 to give you that again?

7 A MR. FREEDMAN: 4(a) Attachment 5?

8 Q MR. LANDRY: And it would be helpful, sir, as we're going through this, if you  
9 could have — obviously, the financial statements and those IRs in front of you. And once  
10 you're there, sir, if you could start with the — maybe I'll have to give you another one.  
11 Just give me one second.

12 If you could start with YEC-YECL-II, and it's in response to (c), but I'm looking at  
13 Attachment 1.

14 MR. KEOUGH: In the electronic age, I think you're going to need to go one-by-  
15 one. I can't seem to get —

16 MR. LANDRY: What's that?

17 MR. KEOUGH: I don't think either one of us can get five exhibits up at the same  
18 time.

19 MR. LANDRY: Well, let me do it one at a time. I do apologize. I just thought it  
20 might be helpful to you. If you don't have paper copies, that's fine. Let's start, then —  
21 where I'd really like to start, then is YEC-YECL-II-2(c), Attachment 1.

22 MR. KEOUGH: I have that.

23 MR. LANDRY: And just for the record — so we make sure that we're all on the  
24 same document — it is a table, which I have as Yukon Electrical Company Ltd., 2008-09  
25 General Rate Application, Accumulated Depreciation Net Salvage 2003-2007.

26 MR. KEOUGH: That's correct.

27 MR. LANDRY: Does the Board have that, Madam Chair?

28 MS. SHANKS: Yes, we actually all do.

29 MR. LANDRY: Okay. Do you have that, Mr. Keough?

1 MR. KEOUGH: I'm good. Thanks for caring.

2 Q MR. LANDRY: Sir, I'd like to go through this, just to understand what we're  
3 talking about here. And maybe if what we could do is go through what's called at the  
4 bottom of the page "Total Company". Do you see that?

5 A MR. FREEDMAN: Yes, I see that.

6 Q MR. LANDRY: So, sir, if I understand this correctly, if we start in 2003, in the  
7 first column at the bottom, which is approximately \$2.5 million. Do you see that?

8 A MR. FREEDMAN: Yes, I do.

9 Q MR. LANDRY: Now, as I understand it, what that number is, is it's the  
10 accumulated amount in the accumulated depreciation account relating to net salvage. Am  
11 I right in that?

12 A MR. FREEDMAN: These are Mr. Kennedy's schedules — and he's gone over  
13 them. But, yes, I believe that that's what that column represents.

14 Q MR. LANDRY: Maybe I'm just having a bit of trouble here. I thought these  
15 effectively create the numbers that go into your financial statements. Am I wrong?

16 A MR. FREEDMAN: Yes. No, that's fair —

17 Q MR. LANDRY: Okay. So, again, I'm really looking from the perspective of  
18 where this goes, in terms of your financial statements ultimately. I just want to make sure  
19 I've got the right numbers. So, as I see this, what happens — and maybe you could  
20 follow along with me, Mr. Freedman.

21 In 2003, you have the accumulated depreciation of approximately \$2.5 million. Then,  
22 in that year, there is actually an expense relative to net salvage of approximately  
23 \$477,000. Is that the way to read that?

24 A MR. FREEDMAN: Correct.

25 Q MR. LANDRY: And that amount — that \$477,000 would go, effectively, into the  
26 accumulated depreciation. Do I have that right?

27 A MR. FREEDMAN: Yes.

28 Q MR. LANDRY: Yes. And then the next line that I see is a negative —  
29 approximately \$325,000. Do you see that?

1 A MR. FREEDMAN: Yes, I see that.

2 Q MR. LANDRY: I wonder if you could just explain to us what that is — not what  
3 specifically you did for that. But what is that number telling us? Is that effectively the site  
4 restoration or salvage costs that were incurred during that year? That's my understanding,  
5 sir, but I just want to get it confirmed from you.

6 A MR. FREEDMAN: Before — I'm going to have to confirm back to you about  
7 what that negative number stood for.

8 Q MR. LANDRY: How about you, Mr. Grattan? Are you aware if that's the actual  
9 amount that would have been —

10 A MR. GRATTAN: No, I'm not aware.

11 Q MR. LANDRY: No. Okay, so can we do it subject to check or are you  
12 uncomfortable to do it that way?

13 A MR. FREEDMAN: Well, we can do it subject to check.

14 Q MR. LANDRY: And it's my understanding then, sir, on that proviso, that as we  
15 go through the years to 2007, you'll see the next time — it appears that the difference  
16 between those two numbers gets added to the accumulated depreciation accounts, so that  
17 you get up to about \$2.6 million?

18 A MR. FREEDMAN: I am struggling with the \$2.6 million.

19 Q MR. LANDRY: I apologize, sir, I didn't realize that you weren't that familiar with  
20 this document, but if you look at the total company at the bottom, you start at \$2.5  
21 million. You see that?

22 A MR. FREEDMAN: Oh, you're looking at the end of 2003. I was going right to the  
23 end. Fair enough, yes.

24 Q MR. LANDRY: Okay, so you accept — okay. You now have approximately \$2.6  
25 at the end of 2003 and your accumulated depreciation account relating to net salvage.

26 A MR. FREEDMAN: That's correct.

27 Q MR. LANDRY: Now that we've gone through one year, I think the other ones  
28 will go quicker. So what we have, in 2004, is an expense of approximately \$517,000 and,  
29 subject to check, an expense of about \$33,000?

1 A MR. FREEDMAN: Correct.

2 Q MR. LANDRY: And the difference between those two is what's added to the  
3 accumulated depreciation account for net salvage.

4 A MR. FREEDMAN: Correct.

5 Q MR. LANDRY: Again, we go to 2005 — that amount is \$609,000 approximately,  
6 with an expense of \$135,000?

7 A MR. FREEDMAN: That's correct.

8 Q MR. LANDRY: And then the credit goes to the depreciation account again. Then  
9 we have, in 2006, it's \$571,000 less \$162,000 expense, again with a credit going to the  
10 accumulated depreciation account. Again, in 2007, I think it's \$598,000? I am having a  
11 hard time reading that myself.

12 A MR. FREEDMAN: Yes.

13 Q MR. LANDRY: So approximately \$598,000 and in there we have a positive in the  
14 net salvage. I am assuming that the site restoration and salvage resulted in a positive  
15 number.

16 A MR. FREEDMAN: That's what that indicates, yes.

17 Q MR. LANDRY: Yes. Again, the two of those totalled come to your approximately  
18 \$4.6 at the end of 2007.

19 A MR. FREEDMAN: Yes, that's correct.

20 Q MR. LANDRY: Okay. Now, again this is just a mathematical calculation, but I  
21 would like you to do it for me. Of course, it is subject to check, but as I go through from  
22 2003 to 2007, which are the only actual numbers that we have before us at this detailed  
23 level, the average cost for salvage and site restoration was about \$123,000. Could you  
24 accept that, subject to check?

25 A MR. FREEDMAN: Subject to check.

26 Q MR. LANDRY: Now, sir, I would like to take you to Attachment 2 of that same  
27 document, which is YEC-YECL-II-2(c). Attachment 2 — do you have that?

28 A MR. FREEDMAN: Yes, I have that.

29 MR. LANDRY: Does the Board have that?

1 MS. SHANKS: Yes, we do actually.

2 Q MR. LANDRY: Now, sir, I am just trying, again, to make sure I understand these  
3 numbers. Here, on accumulated depreciation for net salvage, we start in 2008 with the  
4 approximately \$4.6 million that we referred to earlier — correct?

5 A MR. FREEDMAN: Right.

6 Q MR. LANDRY: And then we go to 2009 and that goes to \$5.9 million. Then, at  
7 the very bottom at the far bottom to the right is a total number, approximately \$6.4  
8 million?

9 A MR. FREEDMAN: That's correct — yes.

10 Q MR. LANDRY: And, as I read that, sir, what this is ultimately telling me is that,  
11 based on your forecast and the numbers that Mr. Kennedy has given to you and what is in  
12 your financial statements, you will ultimately have an accumulated depreciation account  
13 for net salvage at the end of the test year 2009 of approximately \$6.4 million.

14 A MR. FREEDMAN: That's correct.

15 Q MR. LANDRY: Right. And, sir, just so we understand once again the issue, what  
16 this is showing is that, in your financial forecast for your revenue requirement, you're  
17 showing a salvage expense that's put in through, effectively, the income statement in  
18 2008 of about \$945,000.

19 A MR. FREEDMAN: Yes, that's correct.

20 Q MR. LANDRY: And in 2009, it's just a bit over a million dollars — correct?

21 A MR. FREEDMAN: This is accumulated, so I just have to confirm that that's  
22 correct.

23 Q MR. LANDRY: So it's \$945,000 goes into the expense side on the income  
24 statement and, therefore, into the revenue requirement in 2008, and approximately \$1  
25 million again goes into the expense side of the income statement and into your revenue  
26 requirement for 2009. Correct?

27 A MR. FREEDMAN: That's correct.

1 Q MR. LANDRY: Okay, this is where I need some help, and maybe you're going to  
2 have to go back and find out for me. I think what I'm seeing here is, when you look under  
3 the fourth line of this table, it says "net salvage", or "net salv" — do you see that?

4 A MR. FREEDMAN: Yes.

5 Q MR. LANDRY: And there are negative numbers there.

6 A MR. FREEDMAN: Yes.

7 Q MR. LANDRY: I'm assuming, sir, that that's the forecast for the net salvage or,  
8 sorry — future restoration and site removal costs that are incurred during that year.

9 A MR. FREEDMAN: That's my understanding.

10 Q MR. LANDRY: Okay. Now, what I'm trying to understand, sir — and maybe  
11 we can start with the financial statements. That would help us, keeping those numbers in  
12 mind. Sir, if you could go to the financial statement now, which is, again, City of  
13 Whitehorse-YECL-04(a) Attachment 5, which is your 2007 financial statements. You  
14 probably have them somewhere else. Do you have that?

15 A MR. FREEDMAN: I have them.

16 Q MR. LANDRY: Good. If you could go to page — we'll start at page 15 of 29. It's  
17 Note Number 6 in your financial statements, but in the IR, up at the top it says page 15 of  
18 29. Do you have that?

19 A MR. FREEDMAN: Yes, I have that.

20 Q MR. LANDRY: Note Number 6 relates to property, plant and equipment, correct?

21 A MR. FREEDMAN: That's correct.

22 Q MR. LANDRY: And property, plant and equipment —

23 MS. SHANKS: Mr. Landry, we're still actually looking for the reference here.

24 MR. LANDRY: Oh, I'm sorry. Attachment 5.

25 MS. SHANKS: Okay, thank you, we have it.

26 MR. LANDRY: The financial statement and page 15 of 29, so we're looking at  
27 Note 6. Do you have that, Madam Chair?

28 Q Now, just looking at Note 6, it references property, plant and equipment, which is a  
29 balance sheet item — fair statement?

1 A MR. FREEDMAN: That's correct.

2 Q MR. LANDRY: Everybody's electronic, so it's going to be a little harder than  
3 paper, but if you go back to page 5 of 29 under financial statements — sorry, on this  
4 exhibit, but it's page 5 of 29 in the attachment.

5 A MR. FREEDMAN: Yes, I have that.

6 Q MR. LANDRY: And we see the balance sheet, correct?

7 A MR. FREEDMAN: Correct.

8 Q MR. LANDRY: And under assets, you see "property, plant and equipment".

9 A MR. FREEDMAN: That's correct.

10 Q MR. LANDRY: And we see for 2007 the total amount there is approximately \$41  
11 million, and there's a note there, Note Number 6.

12 A MR. FREEDMAN: That's correct.

13 Q MR. LANDRY: So, sir, I wonder if you could just take a look at the note and I'm  
14 going to ask you a general question and then we'll go into the specifics. Would you agree  
15 with this, sir — and it's my understanding — that your future removal and site restoration  
16 costs — sometimes referred to as "net salvage" — is actually run through the balance  
17 sheet?

18 A MR. FREEDMAN: That's correct. It goes through accumulated depreciation.

19 Q MR. LANDRY: Right, so in that respect, if we go back to Note 6 and on the  
20 exhibit again, page 15 of 29, we see effectively the numbers we were talking about. What  
21 I mean by that is that if we go down to the notes to the end of the numbers — and I quote  
22 for the record it shows: "Accumulated depreciation includes an amount provided for  
23 future removal and site restoration costs, net of salvage value of \$4,688,000". Do you see  
24 that?

25 A MR. FREEDMAN: Yes, I do.

26 Q MR. LANDRY: That's the same number we were referring to earlier that is at the  
27 end of 19 — sorry, 2007. Right?

28 A MR. FREEDMAN: Yes, that's correct.

1 Q MR. LANDRY: So, in order to get to the \$41-million number we referred to on  
2 the balance sheet, which is at the bottom of the middle column under 2007 — do you see  
3 that \$41 million number that we referenced in the balance sheet?

4 A MR. FREEDMAN: Yes, I do.

5 Q MR. LANDRY: Excuse me. In order to get that, these costs are effectively in  
6 there as an offset, right, to the asset values?

7 A MR. FREEDMAN: They actually increase the asset value.

8 Q MR. LANDRY: This is what I need to know. You have accumulated depreciation  
9 amounts that you — sorry, I don't mean "you"; you know what I mean by that — your  
10 company includes in your accumulated depreciation. So, you have an accumulated  
11 depreciation, and this \$4,688,000 is actually what? An offset to that in some fashion?  
12 Maybe you could explain that.

13 A MR. FREEDMAN: Right, so if you've got assets of \$30 million and you've got  
14 accumulated depreciation of \$4,688,000 then the net amount would be \$30 million, less  
15 \$4,688,000. Now, the net salvage that you were talking about reduces that \$4.6 million  
16 number, so that means it increases the PP and E number.

17 Q MR. LANDRY: That is what I was getting at. That is what I thought it was. That  
18 was where I was getting confused. So, this is effectively a liability, in effect, on the  
19 balance sheet.

20 A MR. FREEDMAN: Right. The \$4,68,000.

21 Q MR. LANDRY: Yes, the — I am going to this — future removal and site  
22 restoration costs we're talking about here in the accumulated depreciation account of  
23 \$4,688,000 is actually a liability on the balance sheet — correct?

24 A MR. FREEDMAN: It could be shown as that. It is netted against the depreciation,  
25 but yes.

26 Q MR. LANDRY: So, do I understand it, sir, and again I apologize for popping  
27 around, especially for those people on computers, but if we go back to the point I was  
28 talking about earlier, where we had those net salvage costs for 2008-2009 forecast of  
29 approximately \$113,000 in 2008 and \$75,279, those items — those negative costs — are

1 not run through their income statement. They are actually — and let me try this, so it's on  
2 the record — they are actually run through this accumulated depreciation relating to the  
3 future removal and site restoration cost account.

4 A MR. FREEDMAN: That's correct.

5 Q MR. LANDRY: Now, as I understand it, sir, for the purposes of doing your  
6 financial statements — not financial statements, I'm sorry — your financial forecast for  
7 the purpose of the revenue requirement hearing, you have, in effect, accepted the  
8 numbers that Mr. Kennedy has produced for you for those two years — is that a fair  
9 statement — from his depreciation study?

10 A MR. FREEDMAN: Yes, we accepted the evidence of Mr. Kennedy.

11 Q MR. LANDRY: Yes, but you used those numbers that he created for 2008-2009  
12 for the purposes of producing the revenue requirement request?

13 A MR. FREEDMAN: That's correct.

14 Q MR. LANDRY: Now, sir, on that, as I understand it, notwithstanding the fact that  
15 that account — I'll call it the “site removal and restoration account” — had accumulated  
16 to approximately \$4.6 million to the end of 2007, Mr. Kennedy suggested to you that you  
17 needed to increase the amount on a yearly basis to get that account up even higher than  
18 that. Is that a fair statement?

19 A MR. FREEDMAN: I remember seeing that in one of his responses, where he  
20 shows that schedule and, yes.

21 Q MR. LANDRY: And I'm not trying to get into Mr. Kennedy's evidence; I'm  
22 trying to get into what's in your financial statements, if you understand the difference.  
23 It's my understanding, sir, if we can go back to, and I would like to refer to this one.  
24 Again, it's YEC-YECL-II-2(c) Attachment 2. Do you have that?

25 A MR. FREEDMAN: Yes.

26 MR. LANDRY: Do you have that, Madam Chair?

27 MS. SHANKS: Yes we do, thank you.

28 Q MR. LANDRY: Just so I understand — and, again, please take this subject to  
29 check, or if you need to confirm it, but as I understand, sir, what your financial forecast is

1 for revenue requirement, the \$945,000 in 2008 and the \$1,003,000 in 2009 include within  
2 it approximately \$191,000 true-up that Mr. Kennedy suggested. Is that a fair statement or  
3 would you like to take that one subject to — or take an undertaking on that?

4 A MR. FREEDMAN: If I could just — I know he has responded to that and that  
5 number shows up, so I'll see if I can find that reference.

6 Q MR. LANDRY: Sir, if it helps at all, I've been referred to YEC-YECL-II-  
7 2(b)(iii)(d), and that was just for the record.

8 Is that the number you were looking for? Sir, I don't mean to be — this is important  
9 for me to get on the record but I'm looking for the actual numbers, so —

10 A MR. FREEDMAN: I'll undertake to get these numbers.

11 Q MR. LANDRY: What I'm really trying to — just so you understand what I'm  
12 trying to get at, sir, I'm trying to get at the fact that the numbers that you have in your  
13 2008 and 2009 revenue requirement request actually include a fairly significant true-up of  
14 around \$190,000.

15 A MR. FREEDMAN: And I agree they do include a number for that true-up. I think  
16 the number — I don't have that number at my fingertips. It's in that range and I'll  
17 confirm that, subject to check.

18 MR. LANDRY: Thank you.

19 Q Now, sir, in terms of your actual financial — Mr. Freedman, I'll try you on this, but if  
20 you want to pass it on, please do. In terms of your actual financial results, okay, we have  
21 actuals from 2003 to 2007. Would you agree with me that there is no evidence from your  
22 actual results — okay — on the record, where the costs that were actually incurred for  
23 future removal and site restoration, are in fact higher than what your yearly expense you  
24 put through the income statement?

25 A MR. FREEDMAN: That's fair.

26 Q MR. LANDRY: So, in effect, if the Board approved the approach that you're  
27 taking now, at the end of 2009, you'd have approximately \$6.4 million available on your  
28 balance sheet as a liability to the company to allow for future removal and site restoration  
29 — correct?

1 A MR. FREEDMAN: That's correct.

2 A MR. GRATTAN: Just further to that, Mr. Landry, just to interject for two  
3 seconds, in reference to a number on Yukon Electrical's balance sheet for future site  
4 restoration, just to — and I know you know this. This issue was front and centre as part  
5 of Yukon Energy's 2005 Rate Application and, in its arguments, Yukon Energy stated  
6 that it had \$5.7 million on page 13 of its argument.

7 Q MR. LANDRY: Sir, what are you referring to there?

8 A MR. GRATTAN: You made reference to Yukon Electrical having a future site  
9 restoration —

10 Q MR. LANDRY: No, what are you referring to, sir?

11 A MR. GRATTAN: Your argument, Yukon Energy's final argument.

12 Q MR. LANDRY: Is that on the record here, sir?

13 A MR. GRATTAN: I'm just reading.

14 Q MR. LANDRY: No, is it on the record here, sir?

15 A MR. GRATTAN: I'm reading it.

16 Q MR. LANDRY: Yes. My question is very simple: is it on the record?

17 MR. KEOUGH: Mr. Landry, in fairness, every word the witnesses say is new  
18 evidence and is not on the record.

19 MR. LANDRY: Well, let me just explain a point here, Madam Chair, because this  
20 does concern me. I have no problem — my friend's witnesses having computers at their  
21 desk — at the panel; but the fact that they're using either wireless or the Internet in order  
22 to get information that's not on the record, I'm very uncomfortable with that. I didn't put  
23 it on the record at the beginning of the proceeding, but if that's what's being used in order  
24 to respond to that, it's inappropriate and that's why I ask the specific question.

25 MS. SHANKS: The Board would concur with Mr. Landry, Mr. Grattan, and if  
26 any individual is using the Internet or wireless capacity for that, please adhere to —  
27 Mr. Keough.

28 MR. KEOUGH: Madam Chair, we can confirm with the witness, but I do not  
29 think people are on the Internet. I think it's documentation that was considered to be

1 relevant to issues that may arise, so unless I'm wrong, I think Mr. Grattan simply has the  
2 materials from recent proceedings available to him in a file. I can correct that, but I don't  
3 think he's out there surfing the net getting it at the moment.

4 In preparing for the proceeding, we did examine other recent proceedings, including  
5 those of YEC and specifically relating to matters that may arise.

6 MR. LANDRY: Madam Chair, if I may just respond to that, this is an issue I have  
7 raised in many proceedings before. The problem with allowing computers to be on the  
8 desk is that, unless I know what they're looking at, okay, it's very difficult to cross-  
9 examine. I don't want to stop any of the witnesses from being able to refer electronically  
10 to what the record is, but beyond the record, that is where I have some difficulty. If they  
11 want to refer to another document, they should tell me they want to refer to another  
12 document. I should be allowed to take a look at it to see whether it's appropriate. Again,  
13 there's no ill motive that I'm suggesting for Mr. Grattan on this, but it makes it very  
14 difficult for all of us to have a fair hearing if that doesn't happen.

15 MS. SHANKS: Your points are noted, Mr. Landry, and the Board would ask  
16 witnesses to refrain from referring to documents that they haven't indicated to other  
17 parties that they will be referring to.

18 Q MR. LANDRY: Now, Mr. Freedman, because presumably it's something that you  
19 and I have been talking about, and if you can't answer, again just please hand it off to  
20 your colleagues. I want to take a quick look at asset retirement obligation. I wonder if you  
21 could please go to YEC-YECL-II-2 and the question I would like to refer to is sub (i).

22 A MR. FREEDMAN: Yes, I have that.

23 Q MR. LANDRY: This was a question in relation to asset retirement obligation that  
24 was asked of YECL. In any event, the answer, as I understand the answer is, in terms of  
25 the financial statements of Yukon Electrical, notwithstanding the requirement under  
26 CICA with respect to asset retirement obligation, YECL does not have any specific item  
27 in their financial statements relating to asset retirement obligation. Is that fair?

1 A MR. FREEDMAN: That's correct. I mean, in accordance with — I mean, our  
2 statements are audited in compliance with GAAP and with acknowledgement of our  
3 auditors there is no requirement for Yukon Electrical to record any ARO.

4 Q MR. LANDRY: Sir, I hate to ask this, but are you familiar with the GAAP rules  
5 in relation to asset retirement obligation?

6 A MR. FREEDMAN: I am familiar that we have done — I have read the handbook  
7 and I am sort of familiar with the rules. I know that this has been an issue that's been —  
8 well, in 2004 when this matter came up, we spent a lot of time with our auditors as to  
9 whether we did or did not require to record an ARO. It was determined that no, because  
10 of the indeterminate — the nature that we are always replacing the assets, basically, so  
11 there is no end life — we are not required to record an ARO in accordance with the  
12 handbook section.

13 Q MR. LANDRY: Sir, I accept that, and perhaps just so that you can have a  
14 reference point, could you take a look at Tab 9 of Exhibit C1-11. Tab 9 is actually an  
15 exhibit from the 2005 Revenue Requirement Application of YEC that is referenced in the  
16 decision, which is the CICA handbook in relation to the transitional provisions on asset  
17 retirement obligation. Is that the type of thing you were referring to?

18 A MR. FREEDMAN: Yes.

19 Q MR. LANDRY: And sir, as I understand it, what YECL has done on their  
20 financial statements is they've determined there's no need for an asset retirement  
21 obligation for the reasons you said before, but they have not, in addition to that, taken out  
22 of their financial statement the — I always get this wrong — future removal and site  
23 restoration costs — correct?

24 A MR. FREEDMAN: In accordance with GAAP that's how it was before this  
25 provision came in from CICA. We spent a lot of time with our auditors to ensure that we  
26 were in compliance with GAAP with what we are doing, and what we are doing in the  
27 regulatory arena is still in compliance with GAAP. So we continue to book this net  
28 salvage, and there is no requirement to set up the whole liability on day one in accordance  
29 with these provisions, given what I said previously.

1 Q MR. LANDRY: And that is the position of — obviously, Yukon Electrical?

2 A MR. FREEDMAN: Yukon Electrical, our parent company, our auditors.

3 Q MR. LANDRY: And you take that position, notwithstanding what it said in the  
4 transitional provision? I will quote it to you, and then you can comment, please. Under  
5 the transitional provision, after the first bullet, it starts with: “As of the beginning of the  
6 fiscal year in which an entity first applies this Section, the entity removes from its  
7 balance sheet any provision for future removal and site restoration costs or other amount  
8 previously recognized as the liability for asset retirement.” Do you see that?

9 A MR. FREEDMAN: Correct. And it goes on to say: “and recognizes the A, B, C”.  
10 Well, we didn’t recognize A, B and C, so we still have to do the first bit of it. So, that was  
11 the issue.

12 Q MR. LANDRY: And, sir, you’re aware that in the 2005 revenue requirement  
13 hearing, this was an issue for Yukon Energy?

14 A MR. FREEDMAN: Yes, I was aware of that.

15 Q MR. LANDRY: And Yukon Energy took a very similar position to the position  
16 that you’re now suggesting?

17 A MR. FREEDMAN: I’m similarly aware of that.

18 Q MR. LANDRY: And that was debated before the Board, and the Board ultimately  
19 concluded, obviously differently from what both Yukon Energy thought at that time and  
20 what you’re thinking now — correct?

21 A MR. FREEDMAN: And I’m not fully aware if all the circumstances are the exact  
22 same between the two companies, but I am aware of the ultimate decision of the Board in  
23 Yukon Energy’s case.

24 Q MR. LANDRY: Well, sir, it’s interesting you should go there, because there was a  
25 question I wanted to bring to your attention, where Yukon Electrical tried to differentiate  
26 themselves from Yukon Energy on this point, and I’d like to refer you to that. If you  
27 could go to YEC-YECL-17, which is one I referred to earlier, and the question I’d like  
28 you to take a look at — and please read it, sir, before I ask you a question — and that is  
29 (g), as in “Greg”. And please feel free to read the whole answer, sir. It does refer back to

1 the previous Board decision. But the paragraph I'd like to ask you a couple of questions  
2 about is the last paragraph in that answer, after the quote from the Board decision.

3 A MR. FREEDMAN: Just a preface — this was a response provided by Mr.  
4 Kennedy, given — you know, he was our expert, and he was involved in both  
5 proceedings. You know, I have reviewed this response, but I just want to make you aware  
6 that Mr. Kennedy, who was our expert, and who was familiar with both proceedings,  
7 provided this response.

8 Q MR. LANDRY: Okay, but, sir, I'm asking you, as a representative of this  
9 company, the difference between Yukon Energy and Yukon Electrical, and this is where,  
10 in the record, I have been pointed to from the people who have gone through the entire  
11 record, where you — when I say “you,” I mean the company — have provided that  
12 differentiation. Is that the company's position as to why Yukon Electrical is different  
13 from Yukon Energy in this respect?

14 A MR. FREEDMAN: Well, this is what Mr. Kennedy represented to us was the  
15 difference, so we put this response. He is more familiar with the two proceedings, and  
16 this is what he explained to us was the difference.

17 Q MR. LANDRY: Okay. Do you agree with it? I don't want to put you in a difficult  
18 position, Mr. Freedman, and we are sort of teetering on Mr. Kennedy's evidence, versus  
19 your evidence, I accept, but I have to ask, because I want to know what the company  
20 position is on this because, just so you know, Mr. Freedman, so you know where I'm  
21 going: first of all, it is my understanding, which you can confirm, that Yukon Electrical  
22 didn't — or Yukon Energy did not — put anything in as an asset retirement obligation  
23 back in 2005. That was in the decision of the Board.

24 A MR. FREEDMAN: And that's why I was — you know, this was Mr. Kennedy's  
25 response. He went over it with us. The company's position is that Yukon Electrical does  
26 not have to record an asset retirement obligation and Yukon Electrical is complying with  
27 GAAP by setting up a provision for net salvage. That is the company's position.

28 This response, I think if you need to follow up for it, I think it would be best with Mr.  
29 Kennedy, given that he provided it and I accepted his response.

1 Q MR. LANDRY: And like I say, I don't want to make it difficult for you, so I'll  
2 just go away from that for a second, okay, and I'll ask you this: as a representative of the  
3 company, why do you say that Yukon Electrical is in a different position than Yukon  
4 Energy in relation to this issue?

5 Keeping in mind both companies — YEC in 2005 and you in 2008 — took exactly  
6 the same position, what differentiates you from Yukon Energy?

7 A MR. FREEDMAN: My understanding, from what Mr. Kennedy told me, is that is  
8 not the case. He can maybe respond to that. The company's position is that it does feel  
9 the proposed treatment of the ARO by not setting it up in compliance with GAAP, agreed  
10 to by the auditors that it's the correct way to proceed. The setting up of net salvage has  
11 been recommended by Mr. Kennedy and we've accepted that that is a requirement. He is  
12 our depreciation expert. So that is the company's position.

13 In his response, he said there were differences and I think he should follow up with  
14 that.

15 Q MR. LANDRY: So can I summarize that, because I'm not sure exactly the answer  
16 to that. I'm not being critical of you but I know you're in a bit of a difficult area. Is it the  
17 position of the company that these are the only two differences between Yukon Energy  
18 and Yukon Electrical? That's what I want to know.

19 I know it's Mr. Kennedy's differences, but are there other ones?

20 MR. KEOUGH: Madam Chair, I've let this go on probably way longer than I  
21 should have. We're talking about testimony that was prepared by Mr. Kennedy. It's not  
22 as though he's not going to be here. He's going to be here in the morning. Mr. Freedman  
23 is going to be on the panel with him tomorrow. I've already indicated that.

24 To be quizzing Yukon Electrical's witness in detail about a testimony of another  
25 witness when we're going to present that witness, one, is not fair to the witness and, two,  
26 is not very appropriate.

27 Questions regarding Mr. Kennedy's evidence should properly be directed to him. And  
28 I think the record is really not being served very well by trying to press Mr. Freedman to

1 respond to testimony prepared by Mr. Kennedy. It's far easier just to ask my friend to  
2 hold the questions and put them to Mr. Kennedy.

3 MR. LANDRY: Madam Chair, I wonder if I could just have a moment to respond  
4 to that. This issue is a very important issue and it has a very, very dramatic impact on the  
5 increase that's being requested by Yukon Electrical. It's a policy issue; and it's a simple  
6 proposition that Yukon Energy's position is, given the ruling of the Board in 2005, there  
7 is no difference between Yukon Energy and Yukon Electrical in this regard. What I'm  
8 trying to get simply from the company is whether or not they consider there to be a  
9 difference and, if so, what are they.

10 I have no difficulty with Mr. Freedman saying, "These are the only ones we're aware  
11 of, you know, and you can speak to Mr. Kennedy about that." I'm asking for a policy  
12 position from YECL. Would they accept or not accept what the Board decided back in  
13 2005 for YECL — sorry, for YEC? Presumably they don't accept that, and I appreciate  
14 that.

15 But this is the only place I could find where it was put down in writing as to why —  
16 or in the record — as to why there was a difference between the two. That's the reason  
17 for pursuing this.

18 MR. KEOUGH: Madam Chair, I am not saying he can't pursue the issue. I am not  
19 saying he can't pursue it with the company. What I am saying — and my friend is right,  
20 it's an important issue, so let's do it at the right time with the right witness. This is Mr.  
21 Kennedy's evidence. We are going to have him here. We are going to have a company  
22 representative on the panel with him. It is far more productive to have the author of the  
23 testimony, who is hours away from appearing, speak to his own evidence and then the  
24 implications of that evidence on the company, when it has been clarified by the author,  
25 can be commented on by the company representative. What we are trying to get here is  
26 Mr. Freedman to be boxed into a corner without the benefit of the expert who wrote the  
27 testimony here to comment on his own testimony. That is very unfair.

28 I am not saying he can't pursue it with the depreciation panel. I am saying that the  
29 proper place to pursue it is with that panel and with the author.

1 MS. SHANKS: Mr. Landry, would it interfere with your line of questioning today  
2 if you were to take the approach Mr. Keough has outlined.

3 MR. LANDRY: I have no difficulty, but I do have a couple of follow-up  
4 questions. I won't look at this; I will just ask relative to the financial statements, okay  
5 Madam Chair? I mean, this is an extremely important issue. Probably the record now  
6 speaks for itself for the purposes of what we need, but I would like to pursue a couple  
7 more questions. I will not reference this answer if that is the way to do it.

8 MS. SHANKS: Please proceed on that basis.

9 Q MR. LANDRY: Again, I want to go back to how you deal with FRSR here — it's  
10 easier for me to say it that way. Again, I understand that the FSR — FRSR, I can't even  
11 get that right — actually is an account, if I can put it that way, that is a part of your  
12 accumulated depreciation account. Is that the way to understand it?

13 A MR. FREEDMAN: That's what it ultimately discloses, yes, it's a part of it.

14 Q MR. LANDRY: And that account gets run through, in effect, on your financial  
15 statements through your balance sheet — correct?

16 A MR. FREEDMAN: The provision for these costs go — I don't want to get too  
17 technical — the provision for the net salvage costs, as you pointed out earlier, goes  
18 through the income statement as part of depreciation expense in accumulated  
19 depreciation. The actual net salvage costs go through the balance sheet account and don't  
20 hit the income statement.

21 Q MR. LANDRY: And the impact of that, as we have already determined — I just  
22 want to make sure it's clear in the record — is that it is effectively — I don't mean  
23 technically on your balance sheet — a liability of Yukon Electrical Company. Right?

24 A MR. FREEDMAN: That's correct.

25 MR. LANDRY: I will leave it there, Madam Chair. If need be, I'll take a look at  
26 the transcripts and if need be, I will follow up tomorrow.

27 Madam Chair, just so I have that reference again, when is the approximate time you  
28 would like to take a break?

1 MS. SHANKS: We are looking for a break around 3:30 p.m. My watch says just  
2 20 minutes to 3:00 p.m. Time is moving a little slow this afternoon. I don't know why.

3 MR. LANDRY: I don't know why, either.

4 MR. KEOUGH: It's not my interruptions.

5 MR. LANDRY: Oh, no, of course not.

6 Q MR. LANDRY: I guess just to end on that — I would like to pursue another  
7 matter — but to end on that, sir, it is the decision of the company that, at least from  
8 Yukon Electrical's perspective, that they would not take the approach that was adopted  
9 by this Board for Yukon Energy. Is that a fair statement?

10 A MR. FREEDMAN: That is a fair statement. To be honest though, you could  
11 consider now versus 2005 — there is this project underway called “international financial  
12 reporting standards” that is going to be in place by 2011. There is still some uncertainty  
13 as to what impact that is going to have on how companies report matters for planning  
14 purposes, as well as regulatory purposes. So, with that out there, we would also suggest  
15 that it is premature to change a methodology that Yukon Electrical has been doing, given  
16 that this project — IFRS — there is still some uncertainty which would result from that  
17 process that is underway. We could be changing something now and then come in 2009-  
18 2010 to change the accounting treatment again.

19 Q MR. LANDRY: But it's not going to happen in the test years that we're talking  
20 about here.

21 A MR. FREEDMAN: That's correct.

22 Q MR. LANDRY: Sir, I want to go to another item that I gather you took some  
23 notice of when the decision came down from this Board in 2005, and it's in relation to  
24 what was called, I believe — and I think I have the right expression — “right case  
25 reserve”? Do you know what I'm talking about, Mr. Freedman?

26 A MR. FREEDMAN: Yes, I believe I do.

27 Q MR. LANDRY: I wonder if you could refer to YEC-YECL-45. Do you see that?  
28 Could you get that?

29 A MR. FREEDMAN: Yes, sorry, I have that.

1 Q MR. LANDRY: Now, sir, again, without going through all the detail of this, as I  
2 understand this situation, sir, is that up until 2005, YECL had been putting into a reserve  
3 account — and please correct me if I have the wrong numbers here — approximately  
4 \$75,000 a year. Is that correct?

5 A MR. FREEDMAN: That's correct.

6 Q MR. LANDRY: And by the time 2005 came along, there was about \$450,000 in  
7 that reserve?

8 A MR. FREEDMAN: That is correct.

9 Q MR. LANDRY: That reserve, in effect, was a reserve set aside, if I can put it that  
10 way, for the purposes of rate case issues?

11 A MR. FREEDMAN: At that time, that was what it was being set aside for.

12 Q MR. LANDRY: Right. So the amount that would be set aside every year, if I  
13 understand it, had accumulated up to 2005 and was on the — and help me here —  
14 balance sheet at \$450,000.

15 A MR. FREEDMAN: That is correct.

16 Q MR. LANDRY: Okay. As I understand, unlike the issue with the site restoration  
17 matter and net salvage matter, on this one, as a result of the Board decision in 2005,  
18 Yukon Electrical decided to take that \$450,000 reserve amount — take it off the balance  
19 sheet — and take it into retained earnings or into the income statement, I guess. Is that a  
20 fair statement?

21 A MR. FREEDMAN: It was put into retained earnings as a result of that decision,  
22 which, from our perspective, as it related to 1996-97, which was a joint proceeding with  
23 joint rate hearing costs, we applied that decision to that.

24 Q MR. LANDRY: Obviously, this goes without saying, that decision that you —  
25 Yukon Electrical — took was obviously of benefit from a financial perspective to the  
26 company — correct?

27 A MR. FREEDMAN: Well, compared to the treatment that had been previously  
28 recorded, that was a benefit.

29 Q MR. LANDRY: But it was a \$450,000 benefit in 2005 to the company — correct?

1 A MR. FREEDMAN: To ensure that our treatment for — as you said, this was  
2 a joint proceeding with joint rate hearing costs. One company was approved a certain  
3 treatment and all that Yukon Electrical was doing was complying with that consistent  
4 treatment for this joint proceeding.

5 Q MR. LANDRY: So you wanted to — can I put it this way, sir? I am not sure I  
6 fully understood that. You wanted to make sure that in this case you were consistent with  
7 the treatment of YEC. Is that a fair statement?

8 A MR. FREEDMAN: Given that it was a joint proceeding and these were joint rate  
9 hearing costs for the joint proceeding.

10 Q MR. LANDRY: Sorry, what joint proceeding?

11 A MR. FREEDMAN: The 1996-97 proceeding. It was a joint proceeding.

12 Q MR. LANDRY: But your point was that you wanted to be consistent with how  
13 YEC was treated. Is that a fair statement?

14 A MR. FREEDMAN: Given the joint nature of that proceeding. That was — yes.

15 Q MR. LANDRY: Sir, here's the point I put to you. Let's not quibble, it did have a  
16 material benefit to YECL by putting that amount — I think it went through the income  
17 statement, but definitely into retained earnings. Is that a fair statement?

18 A MR. FREEDMAN: It went to retained earnings in 2005.

19 Q MR. LANDRY: And did it go through the income statement of retained earnings?

20 A MR. FREEDMAN: No.

21 Q MR. LANDRY: It just got converted from a liability to retained earnings.

22 A MR. FREEDMAN: Correct.

23 Q MR. LANDRY: And you would agree with me that that was a \$450,000 benefit to  
24 the company in 2005.

25 A MR. FREEDMAN: To be consistent with the treatment afforded Yukon Energy.

26 Q MR. LANDRY: Sir, here's the point I'm having difficulty with. We talked about  
27 the use of the BCUC formula. You didn't go with that; you didn't even consider that  
28 possibility to keep costs down. We talked about the ASL versus ELG — didn't go with

1 that. You stayed with ELG. We talked about the site restoration removal cost — didn't go  
2 with that, right?

3 But in one case where you wanted to be consistent with the 2005 decision that  
4 benefited YECL, you went with that.

5 A MR. FREEDMAN: The distinction I'm making is this was a joint proceeding. We  
6 incurred costs jointly in that proceeding and the Board was very clear of how these costs  
7 should be treated. So we took it that the same costs should be treated similarly with both  
8 companies, given the joint nature of the proceedings. So that is a distinction that Yukon  
9 Electrical was making with how these costs would be treated.

10 A MR. GRATTAN: I was there at that time, and the Board recognizes and Mr.  
11 Landry recognizes that Yukon Electrical did put forth a position associated with that  
12 proceeding, that's the regulatory hearing costs for the 1996-97 hearing should be a  
13 reserve account as opposed to a deferral account. Yukon Energy stated their position that  
14 no, that was incorrect. We both stated our cases and they were different and the Board  
15 made a decision.

16 It's not much more complicated than that. The Board made a decision relating to the  
17 joint filing in 1996-97 and we said, "Well, I guess we shouldn't have been recording a  
18 liability of \$75,000 per year for 1998, 1999, 2000. So there was an expense booked by  
19 Yukon Electrical that was reversed in accordance with generally accepted accounting  
20 principles, discussed with the auditors, et cetera, and that was the result of it.

21 MR. LANDRY: I'd like to go to another topic, Madam Chair, and where I'll be  
22 referring to for this next topic the application of Yukon Electrical on page 1-3. Also, I'd  
23 like to refer to — I'll put it on the record, at least. I know it's hard to do all these at once  
24 with electronics, but YEC-YECL-9, and I'll also be referring to the binder that I've put as  
25 C1-11.

26 Q Mr. Freedman, given that you seem to be able to answer more of the questions,  
27 maybe I'll go with you on this one, too. Where I'm going, just so you understand, is I  
28 want to ask a few questions concerning your assumptions that you used in the application  
29 and, most specifically, the assumption relating to inflation.

1 Mr. Freedman, you're aware, on page 1-3, that the inflation assumption that is used  
2 for the purposes of — and I believe this is non-labour O&M — 5%.

3 A MR. FREEDMAN: Yes, that's correct.

4 Q MR. LANDRY: 5% for 2008 and 5% for 2009.

5 A MR. FREEDMAN: That's correct.

6 Q MR. LANDRY: Do I have that right, that that's for all non-labour O&M? Is that  
7 what that inflation assumption is for?

8 A MR. FREEDMAN: Yes, that's correct.

9 Q MR. LANDRY: And on page 1-3 of your application, the other assumptions that  
10 are used there and showing, for example, in 2009 a labour increase of 9.5% — collective  
11 agreement staff?

12 A MR. FREEDMAN: Yes, that's correct.

13 Q MR. LANDRY: Then for the outside of collective agreement staff, 7.5%.

14 A MR. FREEDMAN: Correct.

15 Q MR. LANDRY: In YEC-YECL-9, there were a number of questions relating to  
16 non-labour costs, and specifically to inflation — and if you could just go there for a  
17 second, sir.

18 First of all, just as a general statement, the inflation number that was used for the  
19 purposes of your revenue requirement was an Alberta-based inflation number?

20 A MR. FREEDMAN: That's correct.

21 Q MR. LANDRY: And sir, if you could go to question (d) in YEC-YECL-9 and the  
22 answer to that.

23 A MR. FREEDMAN: Yes, I have that.

24 Q MR. LANDRY: And just for the record, the question was: "Please provide the  
25 actual inflation rate for Yukon and for Alberta for each of the past five years." See that?

26 A MR. FREEDMAN: Yes, I do.

27 Q MR. LANDRY: And if you go to (d), you put a table — when I say "you", sir, I  
28 mean your company — into (d). Do you see that?

29 A MR. FREEDMAN: Yes, I do.

1 Q MR. LANDRY: And do I take it, sir, that the 5% that you utilize for the purposes  
2 of putting into rates and for your forecast in the revenue requirement was the 5% under  
3 2007 Alberta year-over-year change?

4 A MR. FREEDMAN: Yes, that was what — given when we were putting this  
5 forecast together and what was the best information at the time, we used the actual 2007  
6 rate for Alberta as a basis for going forward.

7 Q MR. LANDRY: Again, not to belabour it, because the record speaks for itself —  
8 but, sir, if you look at both Canada — and British Columbia, which will go to the side —  
9 but Canada and Whitehorse, as an example. You chose effectively the highest inflation  
10 rate that had been seen year over year since 1998, including Alberta — is that a fair  
11 statement?

12 A MR. FREEDMAN: Given that Yukon Electrical, for the reasons stated in the  
13 bullets below, is influenced significantly by what happens in Alberta, and given what in  
14 (e) we feel we have experienced as a company, as far as inflation in the last few years —  
15 yes, we did use that rate.

16 Q MR. LANDRY: So, notwithstanding that Whitehorse inflation right up to the end  
17 of 2007, which was the time frame you were looking at for the purposes of your filing,  
18 had never seen an inflation rate — at least in the year-over-year in the document you  
19 provided here — higher than 2.5 percent, you decided that ratepayers should pay rates  
20 according to an inflation rate that was much higher than Whitehorse?

21 A MR. FREEDMAN: Again, for the reasons stated in these bullets below, that  
22 Yukon Electrical seems to be more influenced — you know, given the parent company is  
23 in Alberta and these costs are influenced by the Alberta rate — the purchases of line  
24 materials from Alberta, the transportation services coming from or through Alberta. And  
25 then we looked at, in response to (e), what Yukon has experienced. Yes, we did go with  
26 that rate over the lower rate in these tables.

27 Q MR. LANDRY: Sir, are you generally familiar with applications that are filed by  
28 other utilities, let's say in the western —

1 A MR. FREEDMAN: Well, there are a lot of applications going on, and I obviously  
2 try to be familiar with the ones that would impact the companies I am responsible for. So,  
3 I try.

4 Q MR. LANDRY: And you are responsible for Yukon Electrical and ATCO  
5 Electrical — if I understand this right?

6 A MR. FREEDMAN: And the Northland Utilities.

7 Q MR. LANDRY: And Northland Utilities — electrical companies.

8 A MR. FREEDMAN: Yes.

9 Q MR. LANDRY: So, companies that — other electrical companies would be of  
10 interest to you, in terms of their filings?

11 A MR. FREEDMAN: That's correct.

12 Q MR. LANDRY: That's a fair statement. And do you generally try to keep up on  
13 what filings have been made by other electrical utilities in the west?

14 A MR. FREEDMAN: Yes. Obviously, from Yukon Electrical, we've got to be  
15 familiar with what the ATCO Group of companies are filing and what the other electrical  
16 utility companies are filing.

17 Q MR. LANDRY: Sir, I'm going to use a few examples here. I want to know what  
18 your understanding is. I'll tell you what my understanding is, and you can confirm or not.

19 Sir, it's my understanding that the electrical utilities — and I'll use Manitoba Hydro,  
20 BC Hydro and Northwest Territories Power Corporation. When they do inflation rate  
21 forecasts, they use the local forecast for that. Do you have any knowledge of that, sir?

22 A MR. FREEDMAN: No, I am not familiar with the companies you mentioned as  
23 far as what rates they're using.

24 Q MR. LANDRY: You know that in each indication, they would have to — you  
25 know this, though, sir, that in each filing they would have to make for a General Rate  
26 Application similar to this, they'd have to make assumptions relating to inflation?

27 A MR. FREEDMAN: For sure, that's correct.

28 Q MR. LANDRY: Would you have in the past reviewed the filings of, say, BC  
29 Hydro?

1 A MR. FREEDMAN: BC Hydro not as closely as some of the Alberta utilities. The  
2 ATCO Group, obviously, but the Alberta utilities such as AltaLink and Fortis. As I say,  
3 there is a lot — ENMAX EPCOR; there's a lot going on in Alberta, but I'm less familiar  
4 with BC Hydro.

5 Q MR. LANDRY: But you are somewhat familiar with BC Hydro?

6 A MR. FREEDMAN: Somewhat, but limited.

7 Q MR. LANDRY: I see. And, sir, do you know what was the inflation rate that was  
8 assumed by BC Hydro in relation to their 2008-09 General Rate Application, which is a  
9 public document?

10 A MR. FREEDMAN: No, I'm not aware of what they used in their filing.

11 Q MR. LANDRY: Okay. Would it surprise you, sir, if BC Hydro or Manitoba  
12 Hydro — for that matter, any other electric utility, would use a local rate of inflation?  
13 Would it surprise you?

14 A MR. FREEDMAN: They would have to —

15 MR. KEOUGH: Madam Chair, my friend is now putting in evidence through a  
16 question and he knows he's doing it. This is to do with the materials that we had taken  
17 out of the binder for this very reason and he's trying to go in the back door by putting a  
18 question: would it surprise you? That's him putting in evidence and that's not  
19 appropriate. The witness has already said he's not familiar with what BC Hydro is doing  
20 and he can ask him the same question with regard to Manitoba Hydro, but he's now  
21 putting in evidence in the guise of "would it surprise you?" and that's highly  
22 inappropriate and I think he actually knows it, as well.

23 MR. LANDRY: With all due respect, Madam Chair, it is not inappropriate, but I'll  
24 withdraw the question so we don't get into a debate over it and so we can get through  
25 this.

26 Sir, I'll ask the same question about Manitoba Hydro. Are you generally familiar with  
27 their filings?

1 A MR. FREEDMAN: A similar level of — probably less knowledge than BC  
2 Hydro. Again, my main areas would be the Alberta utilities, but I'm aware of Manitoba  
3 Hydro.

4 Q MR. LANDRY: And do you know that the inflation rate that was assumed by  
5 Manitoba Hydro for their 2008-09 General Rate Application — again, the application  
6 being a public document?

7 A MR. FREEDMAN: No, I'm not aware of their inflation rate.

8 Q MR. LANDRY: Sir, one that I would expect, given your affiliation with  
9 Northland — is it Northland Utilities in Northwest Territories?

10 A MR. FREEDMAN: Yes, Northland Utilities in Yellowknife and Northland  
11 Utilities (NWT) Ltd.

12 Q MR. LANDRY: And, of course, Northland is — another utility in the area is the  
13 Northwest Territories Power Corporation.

14 A MR. FREEDMAN: I am aware what Northland has filed for inflation in the  
15 proceedings they've just —

16 Q MR. LANDRY: I didn't ask you that, sir. I asked you whether you were aware  
17 that Northwest Territories Power Corporation is in the area with Northland.

18 A MR. FREEDMAN: Yes, I'm aware of that.

19 Q MR. LANDRY: That's right, and you intervene in those applications. Is that a fair  
20 statement?

21 A MR. FREEDMAN: Yes, that's a fair statement.

22 Q MR. LANDRY: And sir, given that, would you accept this, that Northland  
23 Utilities, for inflation, assumed 2%?

24 A MR. FREEDMAN: No.

25 Q MR. LANDRY: Not Northland, sorry — NTCP assumed 2% for their General  
26 Rate Application.

27 A MR. FREEDMAN: Northland, similar — the same jurisdiction — had similar  
28 inflation rates this year. So NTPC may have had that, but Northland had similar inflation  
29 rates.

1 Q MR. LANDRY: I know you want to put in, sir, what Northland did. I'm hearing it;  
2 you got it in, okay? You got it in. The question I asked you: could you confirm for me  
3 that Northwest Territories Power Corporation had an inflation rate of 2% for non-labour  
4 O&M? Could you confirm that for me?

5 A MR. BABYN: For what year, Mr. Landry?

6 Q MR. LANDRY: For their latest General Rate Application that you intervened in.

7 A MR. BABYN: For what years were those, please?

8 Q MR. LANDRY: Give me one second. What I have here is — sorry. What I have,  
9 sir, is its 2006-08 General Rate Application.

10 A MR. BABYN: When was it filed?

11 Q MR. LANDRY: The information I have is from a workshop that occurred in  
12 January 2007.

13 A MR. BABYN: Okay, so that's a while, a ways back, is what you're saying. So it  
14 may or may not be. I think what's important here is —

15 Q MR. LANDRY: Sir, before we go there, can you confirm? Let's go one step at a  
16 time. Can you confirm then, in their latest General Rate Application, they assumed 2%?  
17 That's all I'm looking for at this point in time.

18 A MR. BABYN: Subject to check.

19 Q MR. LANDRY: Okay.

20 MR. KEOUGH: Could you clarify for me what the 2% was for?

21 MR. LANDRY: Sorry?

22 MR. KEOUGH: 2% inflation on what? Did you say non-labour?

23 Q MR. LANDRY: I said non-labour O&M.

24 A MR. FREEDMAN: For the year 2008?

25 Q MR. LANDRY: Yes, 2006 to 2008 is what I think the General Rate Application is  
26 for.

27 A MR. FREEDMAN: There is a big difference between inflation in 2006 compared to  
28 inflation in 2008.

1 Q MR. LANDRY: Let me try it in a different way, since we're dancing around  
2 something that I don't know why we are dancing around. Mr. Babyn or, I guess, Mr.  
3 Freedman, would you or your company have taken part in a workshop for the GRA phase  
4 I of NTPC that took place in January 2007?

5 A MR. BABYN: Yes.

6 Q MR. LANDRY: And at that workshop, there was a document that was distributed  
7 among the people who attended?

8 A MR. BABYN: There was.

9 Q MR. LANDRY: I wonder if, sir, you could take a look at a document that was at  
10 Tab 13 of Exhibit C1-11, and was taken out, which is an extract from the PowerPoint  
11 presentation — the document that was given to, as was my understanding since I wasn't  
12 there. My understanding is that it's an extract from that workshop and it relates to  
13 inflation. Do you have that document, sir?

14 A MR. BABYN: I see the document that you refer to.

15 Q MR. LANDRY: Okay. Sir, do you see in the document — that's why I was having  
16 trouble answering the questions, because I am going from the document itself. Do you  
17 understand, sir, that the inflation numbers that are in there were the inflation numbers that  
18 were assumed by NTPC at that time?

19 A MR. BABYN: I suppose if it's in this document, they may have assumed that  
20 they were in there, I suppose.

21 Q MR. LANDRY: Well, that's what they presented to the workshop. I am not sure  
22 what we're having trouble with. This is what they presented to the workshop participants  
23 as an assumption they were making for budgeting purposes for inflation. Can you not  
24 agree with that?

25 A MR. BABYN: Fair enough. I just don't recall this particular document.

26 MR. FREEDMAN: It says 2% for all costs except travel and 3% for travel.

27 Q MR. LANDRY: Right. I see that, sir.

28 Sir, you chose an inflation rate of 5%. Can you confirm for me, sir, that the actual  
29 Alberta inflation rate on a 12-month basis to August 2007 is actually 4%, not 5%?

1 A MR. FREEDMAN: I am not sure about August 2007. The 5% — the actual year on  
2 year rate for the full year January to December —

3 Q MR. LANDRY: I didn't ask you that, sir. I asked you from August to August. Can  
4 you confirm for me? This is a simple question —

5 A MR. FREEDMAN: You said August 2007.

6 Q MR. LANDRY: August 2007, sorry, to August 2008, on a 12-month basis, that it  
7 was actually 4%, not 5%?

8 A MR. FREEDMAN: Subject to check, it was in that area.

9 Q MR. LANDRY: Okay. Sir, I am going to ask for an undertaking. I would like, sir,  
10 for you to calculate the impact to your revenue requirement, because this is something we  
11 cannot do. We have tried and we cannot do it. Impact revenue requirement, if you use the  
12 assumption for non-labour O&M of an inflation of 2%, 2.1%, 2.5% and 4% instead of the  
13 5%.

14 MR. KEOUGH: Madam Chair, this sort of gets back to this unending scenario  
15 thing. We are in the middle of our case, and I don't think it's fair to burden the witnesses  
16 with endless scenarios. We can discuss with the witnesses what would be involved in  
17 performing this function. But my friend has chosen four scenarios — he could have  
18 chosen 40, I suppose, but the point being, if we had gotten an Information Request on  
19 this, we would probably have dealt with it at that point in time.

20 To expect witnesses who are on the stand to go and run all these scenarios overnight  
21 when they are continuing preparation for the next day — reviewing transcripts and  
22 whatever else they have to do — undertakings and the like — I just think is unfair.

23 I am prepared to consult with the witnesses and see what might be involved in  
24 preparing this and maybe provide a — if it's doable, provide a limited number of  
25 scenarios. But I certainly think going with these four scenarios is more than should be  
26 requested, unless it's a very simple thing to do.

27 MS. SHANKS: Mr. Landry, do you have some comments?

28 MR. LANDRY: Madam Chair, once again, this is a situation where we can't run  
29 the model. This is going to be a situation where, once again, we'll be arguing strenuously

1 before the Board the proper inflation rate in the Yukon is a Yukon-based inflation rate.  
2 And, in the alternative, even the 5% is not any longer applicable because of the most  
3 recent CPI numbers.

4 So, I find I am having some difficulty with my friend. At one level, the answer to our  
5 IRs was, “No, you go do it.” And now we can’t do something, so we need this  
6 information in order to see what the impact is, and he’s saying, “Well, no. We’re not  
7 going to do that.”

8 Quite frankly, the Board is in as good a position as anybody, at the end of the day, in  
9 a ruling to say — if that’s what the Board would prefer and if you decide that you want to  
10 go with the 2% inflation rate, instead of a 5% inflation rate — to the companies, “Prepare  
11 your revenue requirement based on a 2% over a 5%.” You can do that.

12 I submit to you, Madam Chair, that these are not overly onerous for the purposes of  
13 running through the model. And, in the circumstances, I think they should be done.

14 MR. KEOUGH: Well, Madam Chair, I think my friend actually hit on it — we’re  
15 getting ahead of your decision. If the Board, at the end of the day, is persuaded that an  
16 appropriate inflation rate for non-labour is different than what has been applied for, then  
17 you, in the decision, will say that you approve an inflation rate of X, not the called for  
18 5%. And then you will direct the company in its re-filing to re-calculate everything, using  
19 that inflation rate. That’s what happens after a decision is rendered, not coming into a  
20 proceeding and running endless scenarios on what would happen if you did 2, 2.1, 2.54.

21 So, my friend is absolutely right. At the end of the day, if you are persuaded to go  
22 with a different rate, then your decision will say in a re-filing to file along this line, and  
23 obviously the company will comply. But to do it midstream here in the proceeding for a  
24 number of different items when the witnesses are on the stand, I think is not acceptable.

25 MS. SHANKS: What kind of time frame are we looking at to partake this  
26 undertaking?

27 MR. FREEDMAN: I’d say it would be a number of hours, but I —

1 MR. LANDRY: I don't need this for my cross-examination, Madam Chair. It can  
2 be filed next week, as far as I'm concerned. I'm not going to follow up on cross-  
3 examination. I just want to know what the number is.

4 MS. SHANKS: In that case, the Board concurs with Mr. Landry and would please  
5 ask that that exhibit be produced.

6 MR. LANDRY: I would like to go to another topic, which is somewhat related.  
7 Just so you know, Madam Chair, I have agreed with my friend, Mr. Marriott, that he will  
8 be pursuing the other percentage increase assumptions that I referred to earlier with Mr.  
9 Freedman relating to the collective agreement and outside the collective agreement. I am  
10 just going to move on from that.

11 Q What I would like to talk about is your issue of FTEs, Mr. Freedman. I keep saying  
12 "Mr. Freedman", but if you want me to go to somebody else, please tell me.

13 A MR. FREEDMAN: I think you are probably at the point that you are moving —

14 Q MR. LANDRY: More and more to your left?

15 A MR. FREEDMAN: Yeah, I think so.

16 Q MR. LANDRY: And vacancy rates — those are the areas I was going to ask  
17 some questions on. What I have in terms of references is the application page 5-3 and IR  
18 YEC-YECL-8, but I have it revised. It says "8 revised", if that helps. I don't know if it's  
19 Mr. Grattan I will be dealing with. No? Are we going so far to the left that we are to the  
20 Board? Who should I be asking some questions to, Mr. Babyn?

21 A MR. BABYN: You can start with me.

22 Q MR. LANDRY: Again, it's 5-3 in the application and YEC-YECL-8 Revised.

23 A MR. BABYN: I have that, Mr. Landry.

24 Q MR. LANDRY: Okay. If we could just sort of start, sir, with page 11 of 11 of  
25 YEC-YECL-8 Revised? Do you have that?

26 A MR. BABYN: Yes, I'm just scrolling down to that now.

27 Q MR. LANDRY: It's a table, going from 2003 to 2009, at the top it has "FTEs".

28 MS. SHANKS: Mr. Landry, we are having a little trouble locating that. What exhibit  
29 is it?

1 MR. LANDRY: September 9, 2008, if that helps somebody find an exhibit number,  
2 but that's the date at the top.

3 MR. BABYN: I think it's B-10, Madam Chair.

4 MS. SHANKS: It's the revised IRs?

5 MR. LANDRY: Yes.

6 MS. SHANKS: It looks like we have it in front of us now.

7 Q MR. LANDRY: Mr. Babyn, do you have that, by the way?

8 A MR. BABYN: Yes, I do.

9 Q MR. LANDRY: Sir, I'm just again trying to reference off the previous five years  
10 and then going into the test year, but let's focus on the test years. As I understand this, sir,  
11 what you are going to ask the Board for —

12 MS. SHANKS: Mr. Landry, I'm sorry, we are having IT difficulties up here. We  
13 still don't have it.

14 (Pause)

15 We have it.

16 Q MR. LANDRY: Mr. Babyn, what I understand this tells us is that for the purposes  
17 of going — like I said — sorry, let me start again. What I'm looking at is obviously the  
18 FT equivalents — or FTEs, I guess they are called — during the years that you were not  
19 before the Board in terms of actuals and then going into the test years. So, it's at the top  
20 where I'm referring to. Do you see that?

21 A MR. BABYN: Yes.

22 Q MR. LANDRY: What I understand you are asking the Board to do is approve  
23 effectively FTEs effectively of an additional four people — 4.2 people — in 2008 and  
24 then an additional 2.2 for 2009. Is that correct? A total of 56.4.

25 A MR. BABYN: That's correct.

26 Q MR. LANDRY: And down below, if I understand this document correctly, if we  
27 just take 2008 and 2009, which were focused on, it shows the impact over 2007 actuals,  
28 right? It shows base wages, cost of living, et cetera.

29 A MR. BABYN: That's correct.

1 Q MR. LANDRY: The total, as I see it here, is the base wages — if I'm  
2 understanding this right — going from \$4,034,000 to \$4,532,000, is, ballpark, 23%  
3 increase. Is that into 2009 over 2008?

4 A MR. BABYN: Subject to check.

5 MR. LANDRY: Okay. I'm going to check that right now because I'm terrible at  
6 math and I want to make sure I'm not misleading. Okay, it shows you I was wrong, Mr.  
7 Babyn. I always want to check my math. As I understand it, it's ballpark approximately  
8 23% in 2009 over 2007. Just so that you're checking the right subject to check, if you  
9 know what I mean.

10 Q Now, sir, I want to talk a little bit about these increases and the impact vis-à-vis the  
11 issue of what's called vacancy rate. As I understand the position of Yukon Electrical in  
12 terms of answering various questions on vacancy rates — and, if you want, you can refer  
13 to page 5 of 11 of that same IR, where a position is put down in answer to (f) that is  
14 repeated in a number of places in the record in relation to vacancy rates. I'll quote it, it  
15 says, "Vacancy rates are calculated based on an approved complement for FTEs. As such  
16 vacancy rates are not applicable given that there were no Board approved FTEs for this  
17 period."

18 Do you see that?

19 A MR. BABYN: Yes, I'm aware of that.

20 Q MR. LANDRY: So, sir, is it — and I was very surprised by that, given my  
21 experience with vacancy rates, but I guess the question I wanted to ask you, sir, given  
22 that, and maybe you can help me, is: are you not aware of vacancy rates in years other  
23 than test years?

24 A MR. BABYN: I think we just wanted to make the differentiation that, you know,  
25 in fact, we didn't have an approval because it was a non-test year for vacancy rates and  
26 FTEs. We certainly in the course of our day-to-day business, just like any business, are  
27 aware that we have vacancies and we have additions and we have people leaving, and so  
28 we're very familiar with that concept — absolutely.

1 Q MR. LANDRY: And in your day-to-day business, whether it be 2003, 2006, 2008  
2 — let's go with actuals: 2006, 2007 — there would be such a thing as a vacancy rate that  
3 you would have within your business, right?

4 A MR. BABYN: We would be aware of there being a vacancy rate for any given  
5 year.

6 Q MR. LANDRY: I guess the first question I would ask you, sir, is why then did you  
7 not answer the question in that respect? You were asked for vacancy rates.

8 A MR. BABYN: Well, I think we looked at it from the point of view that we didn't  
9 have sort of approved vacancy rates in the true regulatory methodology. We didn't have  
10 that. But in the course of our day-to-day business, as I said, we do, as any other business,  
11 have ups and downs in staffing levels and it does have an impact on what we would call a  
12 vacancy rate.

13 Q MR. LANDRY: So that would mean, sir, that you would have a vacancy rate, in  
14 the way you described it, for 2003, 2004, 2005, 2006, and 2007.

15 A MR. BABYN: We likely would be able to calculate one, that's for sure.

16 Q MR. LANDRY: Sir, I thought that's what was asked in the IR, and I'll get to the  
17 IR in a second, but in any event, if that's not what you took the IR to be, that was what it  
18 was intended to be and I would ask you if you could provide —

19 Sorry, let me go on the record, so that — the actual question that was asked that you  
20 gave that response to, it says — and you can take a look at it — please provide the actual  
21 vacancy rates for each year from 2003 and 2007. Do you see that, sir?

22 A MR. BABYN: Yes.

23 Q MR. LANDRY: Could you do that for us, please?

24 A MR. BABYN: We could provide it, I guess, I would just add to that — when we  
25 looked at it and have been looking at it, we thought it probably wasn't overly relevant to  
26 the current circumstances. In 2008 and 2009, the test years that are before this Board, we  
27 have implemented specific programs that have allowed us to fill a number of vacancies,  
28 to improve our recruiting and hiring techniques, so we don't believe what has happened  
29 in the past is reflective of the future.

1 That would be one of the perspectives we would take on that. So in 2008 and 2009,  
2 they are a different way the company has been operating. We've had to enhance benefits  
3 to fill a number of vacancies and we feel that the programs we've implemented will help  
4 stabilize the vacancy rate that we've historically had.

5 So, we just didn't see it as being relevant to the test years.

6 Q MR. LANDRY: I guess I'm having real difficulty with that, because I don't see  
7 that in your answer. You just basically take your regulatory point of view and say,  
8 "Vacancy rates are calculated based on effectively approved FTEs from the Board." But  
9 in fact, you've told me — I think you've told me — there are actual vacancy rates from  
10 2003 to 2007. You just decided not to provide those in response to the question.

11 A MR. FREEDMAN: Just getting back to that, in regulatory filings, the way vacancy  
12 rates are calculated is based on how much over or under the approved complements. The  
13 Board approved the complement of 45 FTEs, and you come in with 49 FTEs, you'll have  
14 a negative vacancy rate. And that is the context of how we looked at this IR and the  
15 vacancy rate. And questions — given that it was 1996-97 that there was a last approved  
16 FTE, so to speak, that would really be where we would have calculated the vacancy rate,  
17 given that that's really what's been approved in the revenue requirement. So, given that  
18 we've not been in for 12 years, and we've only approved 45 FTEs in 1996, and we're  
19 applying and have 50 FTEs now, really, one could see that we've got a negative 5  
20 vacancy rate, because, really, in our revenue requirement, there are only 45 FTEs.

21 So, it was in that context that we thought that information may be misleading, and  
22 that's why we were struggling with providing it.

23 Q MR. LANDRY: I take your answer, and I don't want to quibble with it, but that  
24 probably should have been put down in answer to this question. Let me just ask this, Mr.  
25 Babyn: You indicated that you do understand the idea of vacancy rates, in the context of  
26 actual years relative to what complement you expect during the year. I assume that's what  
27 you're talking about. Could you calculate those for 2003 to 2007, please?

28 A MR. BABYN: Yes, we'll undertake to provide that.

29 MR. LANDRY: Thank you.

1 MS. SHANKS: Mr. Landry, I note that it's 25 minutes after 3:00 p.m. I don't  
2 know if it's a good time in your line of questioning for a break?

3 MR. LANDRY: If I could just have a second, I might be able to finish off this  
4 area. So, let me just take a look at my notes, Madam Chair.

5 Actually, you know what, Madam Chair, it's probably a good spot. I do have a few  
6 follow-up questions, so this would probably be a good spot to take a break.

7 MS. SHANKS: In that case, we'll take a 15-minute break, and we'll try and be  
8 back in this room about 20 minutes to 4:00 p.m.

9

10 (PROCEEDINGS ADJOURNED)

11 (PROCEEDINGS RESUMED)

12 MS. SHANKS: Mr. Keough's back to his maps, I see. I still don't —

13 MR. KEOUGH: Madam Chair, we are pleased to inform that we have extra copies  
14 of the hand-held versions versus the Blackberry versions, if I may put it that way, as  
15 opposed to the larger ones. Some people apparently didn't get a copy this morning, so  
16 we're just going to put the extra copies at the back.

17 MS. SHANKS: Thank you very much.

18 Mr. Keough, would you like to proceed? I mean Mr. Landry. I was just saying that the  
19 day has gone so well.

20 MR. LANDRY: I've been called worse.

21 MR. KEOUGH: I haven't. Okay, I have.

22 Q MR. LANDRY: Let me start where I left off, which is in regard to vacancy rates. I  
23 just want again to go to the application, which is at page 5-3. We will go with you, Mr.  
24 Freedman, because you seem to be able to answer some of these questions. Just so I  
25 understand what is assumed for the purposes of this application, keeping in mind the  
26 FTEs that I discussed with Mr. Babyn, the vacancy rate that is assumed for the  
27 application is a 4% vacancy rate in 2008, if I have that right.

28 A MR. FREEDMAN: That's correct.

29 Q MR. LANDRY: Then it's —

1 A MR. FREEDMAN: 1.7%.

2 Q MR. LANDRY: 1.7% for 2009, so it drops 2.3% for 2009?

3 A MR. FREEDMAN: That is correct.

4 Q MR. LANDRY: Do I understand it correctly, sir, that if we assume for the moment  
5 that this Board accepted the FTEs that I discussed with Mr. Babyn for 2008-2009, the  
6 higher the vacancy rate the lower the revenue requirement for those labour costs?

7 A MR. FREEDMAN: That would be correct.

8 Q MR. LANDRY: Right, so the fact that the vacancy rate goes from 4% to 1.7%  
9 from 2008 to 2009 would mean that, in effect, more revenue requirement in terms of  
10 labour costs was being applied for in 2009 than 2008?

11 A MR. FREEDMAN: Yes, for the reasons stated in our application, that is correct.

12 Q MR. LANDRY: For whatever reasons. I am not trying to get to the reason. I am  
13 not trying to have an argument with you.

14 A MR. FREEDMAN: Yes. Correct.

15 Q MR. LANDRY: I am trying to figure out what the effect would be.

16 A MR. FREEDMAN: That is the effect.

17 Q MR. LANDRY: Right. So, sir, if the Board accepted the vacancy rate for 2009 of  
18 1.7% and yet it turned out that the vacancy was more in line with 4%, that would have a  
19 positive impact on the income statement of Yukon Energy — or Yukon Electrical —  
20 correct?

21 A MR. FREEDMAN: That is the impact, correct.

22 Q MR. LANDRY: So, obviously from the perspective of trying to make sure that we  
23 have the best rates in place, vacancy rate is an important consideration — correct?

24 A MR. FREEDMAN: That is correct.

25 Q MR. LANDRY: And you would want to make sure that you have the right  
26 vacancy rate, so that the rates reflect effectively what your best forecast is.

27 A MR. FREEDMAN: Yes, that's correct.

28 A MR. BABYN: Just to add to what Mr. Freedman had said, the reverse works that  
29 way, as well. If we have less vacant FTEs, it would go the opposite way.

1 MR. LANDRY: I appreciate that addition, sir.

2 Q MR. LANDRY: If I can put it this way, I guess if your vacancy is actually at, say,  
3 5%, even though the Board — let's assume for 2008 — approves 4%, that's to the risk of  
4 Yukon Electrical, correct?

5 A MR. GRATTAN: Can you say that again, Mr. Landry? I think you got it backward.

6 Q MR. LANDRY: I went the wrong way, yes, thank you. It was my mental  
7 gymnastics again. Sorry, I'm just trying to get it clear on the record.

8 If the vacancy rate was accepted at 4% and it turned out to be 2%, that would be to  
9 the benefit of Yukon — sorry, that would be detrimental for Yukon Electrical.

10 A MR. BABYN: That's correct.

11 Q MR. GRATTAN: Whereas if the vacancy rate was 5% instead of 4%, that would be  
12 to the benefit of Yukon Electrical.

13 A MR. GRATTAN: Correct, unless of course the additional vacancy has to be  
14 covered off with external contractor or some sort of outside resource.

15 Q MR. LANDRY: I'm saying, all other things being equal, and I should have started  
16 with that.

17 A MR. GRATTAN: Yes, and that's an important clarification. Yes.

18 Q MR. LANDRY: Now, sir, just one question that relates to the collective  
19 agreement issue that has been identified, and that's for 2009, Mr. Babyn. If I understand  
20 it correctly, your collective agreement with your — I'm going to call it a union; I think  
21 it's called an association — ends December 31, 2008.

22 A MR. BABYN: December 31, 2008, that is correct.

23 Q MR. LANDRY: And so you're going to be negotiating your 2009 collective  
24 agreement, if you haven't already started.

25 A MR. BABYN: That is correct.

26 Q MR. LANDRY: So the 9.5% that you're asking this Board to accept hasn't been  
27 negotiated yet. In other words, we don't have a collective agreement that says you are  
28 required to pay the 9.5% — here in the Yukon.

1 A MR. BABYN: That is correct at this time. However, just for clarification for  
2 yourself, Mr. Landry, and for the Board, we recognize that our markets and the Northland  
3 Utilities Company and ATCO Electric have already finalized their collective agreements  
4 for 2008 and 2009 and so our rates that we put forward in this application are reflective of  
5 those costs that we have to be competitive with. So we feel fairly confident in terms of  
6 their accuracy.

7 Q MR. LANDRY: Sir, what you want, if I understand the evidence that you've put  
8 forward here, is you want this Board to effect, before you negotiate, a revenue  
9 requirement that assumes in effect an increase that is competitive with something in  
10 Alberta as opposed to the Yukon, correct?

11 A MR. BABYN: It would have to be competitive with a collective agreement  
12 that has been negotiated in Alberta as well as the Northwest Territories, that would cause  
13 us considerable loss of staff if we weren't able to compete in that market, especially for  
14 the technical trades and other positions such as that.

15 Q MR. LANDRY: I think the answer to my question is yes.

16 A MR. BABYN: I think I gave you the answer.

17 Q MR. LANDRY: Okay, let's try it again then, sir. What I'm saying to you, sir, is  
18 that, before the collective agreement is even negotiated, you're asking this Board to put  
19 into your revenue requirement an amount that you say is competitive, not with the Yukon  
20 situation, but competitive with the Northwest Territories or Northland and/or ATCO  
21 Electric.

22 A MR. BABYN: Our entire application, or many components of it, are based on our  
23 best forecast information at the time that we filed the agreement. As it relates to what we  
24 can expect in terms of our labour settlement, we believe that those numbers are very  
25 accurate, but every number in an application is forward-looking. It's a forecast.

26 Q MR. LANDRY: If I understand the record correctly, you are basing it on your  
27 estimate of the type of numbers that are going to be in Alberta, and I guess you've now  
28 added the Northwest Territories for your sister companies. Is that a fair statement?

1 A MR. BABYN: In order for Yukon Electrical to be competitive, we have to be at  
2 those rates.

3 Q MR. LANDRY: Mr. Babyn, if I can just stop you there. Could we at least get the  
4 answer to the question first and then I'll allow you to go on. Is it a fair statement — what  
5 I'm saying?

6 A MR. BABYN: It is based on an agreement that has not yet been negotiated;  
7 however, it is based on good, solid information and research and an understanding of our  
8 markets, and we are confident that those numbers are going to be at least where we've put  
9 them in terms of our application.

10 Q MR. LANDRY: Sir, I am going to try one more time. It is my understanding, in  
11 looking at the record, that the 9.5% amount that you've put in here is reflective of what  
12 you understand the collective agreements either are or are going to be in both Alberta and  
13 the Northwest Territories. Is that a fair statement?

14 A MR. BABYN: That is certainly one consideration, as well as the local market  
15 analysis that we are looking at.

16 Q MR. LANDRY: When you say local market, you are talking about the Yukon?

17 A MR. BABYN: I am talking about how some positions have a local market  
18 comparison and others have an external market comparison.

19 Q MR. LANDRY: Would it be fair to say, sir, that you, as a company, have made a  
20 company decision within your organization — within the ATCO Group, if I can put it  
21 that way, and correct me if I'm wrong — that the best thing for your company is to access  
22 effectively employees through the ATCO network?

23 A MR. BABYN: As we've said in IR responses, we essentially have three markets  
24 from which Yukon Electrical draws its employees. We have the ATCO companies, where  
25 we can draw employees, particularly technical and management type positions; we have a  
26 local market from which we can hire some of our administrative type positions and some  
27 of our junior type positions right here in Whitehorse and in the Yukon. We also have a  
28 market that is external to both of those markets.

1 Q MR. LANDRY: So, sir, let's go with the Alberta one — the technical one and —  
2 what did you say? — management?

3 A MR. BABYN: Yes, in terms of the collective agreement, we are talking about our  
4 technical staff. The management is outside the collective agreement.

5 Q MR. LANDRY: And you, as a company, have decided that the best way to access  
6 the people you want is through your ATCO Group of companies. I am using that  
7 expression. If you want to change it to something else, please do.

8 A MR. BABYN: There are significant benefits if we are able to draw from the  
9 ATCO Group, in terms of their utility expertise, and what they already know about the  
10 delivery of service in the same way as Yukon Electrical and our customers have been  
11 accustomed to. Certainly, there are those benefits; however, we recognize that, you know,  
12 for some of our technical trades, when we can attract them from ATCO, we have to  
13 attract them from somewhere else, but we have to be competitive in terms of what we pay  
14 our employees in order to get them here. That has proven very difficult over the last three  
15 years.

16 Q MR. LANDRY: Well, it has proven very difficult over the last three years, but you  
17 said to me from the beginning here, sir, that between 2003 and 2007 you operated your  
18 company in a prudent manner. Are you disagreeing with that now?

19 A MR. BABYN: Absolutely not, but things change in 10 years.

20 Q MR. LANDRY: I accept that, sir, but I look at it this way: you have operated from  
21 2003 to 2007. You have good returns and you operate in a prudent manner — fair  
22 statement?

23 A MR. BABYN: We had the discussion briefly this morning. I agree that we have  
24 operated in a prudent way, but things have changed and we are under new pressures,  
25 there are different programs we have to implement, there are requirements that have  
26 changed for our company that we have to meet and manage, and those add costs. We  
27 have explained those in great detail in Schedule 5.2.

28 Q MR. LANDRY: And you are saying that it changed just like that between 2007  
29 and 2008?

1 A MR. BABYN: In terms of what, Mr. Landry?

2 Q MR. LANDRY: In terms of these increased cost pressures. All of a sudden, they  
3 happened in 2008? They weren't there in 2007 when you earned 10.39%?

4 A MR. BABYN: I think some of them were there, but there certainly has been more  
5 in the test years and that's why we report to this Board.

6 Q MR. LANDRY: Sir, since you're going to hear this, I might as well put it to you: I  
7 put it to you, sir, that what you're doing in this application is putting forward a wish list.  
8 Can I assume you disagree with that?

9 A MR. BABYN: Absolutely.

10 Q MR. LANDRY: Now, I'd like to change topics again. And what I'd like to go to is  
11 issues relating to your capital additions proposed for the test years, Mr. Babyn. Again, as  
12 I did for other topics, the references I have are for ones I'll be referring to and are in the  
13 application on page 9-1 and page 9-27.

14 And in relation to this one, Mr. Babyn, I do have another aid to cross-examination  
15 exhibit, and I'd like to hand that out now. Since I've already provided copies to the panel  
16 — just while that's being distributed — Mr. Babyn, it's the document, entitled  
17 "Comparison of YECL Capital Additions and Contributions in Aid of Construction 2003  
18 to 2009". Do you have that in front of you? It was provided to you earlier this morning.

19 MS. SHANKS: Mr. Landry, are you requesting that this exhibit be marked?

20 MR. LANDRY: Yes, please.

21 MS. SHANKS: And does somebody have an exhibit number?

22 MR. LANDRY: I think it's C1-16, if I'm right — or, hold it — sorry, 15 — C1-  
23 15.

24 MS. SHANKS: C1-15 so marked.

25 MR. BABYN: I believe we have it, Mr. Landry.

26 MR. LANDRY: Okay. It's entitled "Comparison of YECL Capital Additions and  
27 Contributions in Aid of Construction 2003 to 2009".

28 MR. BABYN: Yes, I have that.

1 MR. LANDRY: Again, once again, sir, this is an aid to self-examination, and with  
2 the exception of some of the calculations that are made, is reference to your filing. Do  
3 you see that at the bottom?

4 MR. BABYN: I see that.

5 MR. LANDRY: And, sir, just so you know, the things that have been calculated,  
6 as in the other ones, are in the increase in terms of dollars and the increased percentage  
7 for each of the years, year over year. Those are what we have added, and I'd ask you, if  
8 you're comfortable doing it, to take those subject to check.

9 MR. BABYN: Subject to check.

10 MR. LANDRY: And I guess it goes without saying, but I might as well put it on  
11 the record — I'm assuming that when you've taken numbers subject to check, that if you  
12 have any disagreement with them, you'll come back on to the record and inform us?

13 MR. BABYN: That would be fair.

14 MR. LANDRY: Thank you. I'm trying to go through this, Mr. Babyn, so bear with  
15 me a little bit.

16 Sir, if we could go to the end of the document, you can see what we have done here is  
17 — we've done an average of capital additions from 2004 to 2007. Do you see that?

18 So, for example, in line for its capital additions to rate base, the average capital  
19 additions to rate base is probably \$6.6 million over that time frame.

20 A MR. BABYN: I see that.

21 Q MR. LANDRY: And subject to check, that looks right?

22 A MR. BABYN: Subject to check.

23 Q MR. LANDRY: Then you can see the less the contributions that relate to those  
24 various capital contributions and you come down to a net addition to rate base. Do you  
25 see that?

26 A MR. BABYN: I see that.

27 Q MR. LANDRY: And would you agree with me again, subject to check, that that  
28 looks reasonable?

29 A MR. BABYN: Subject to check.

1 Q MR. LANDRY: Okay. Then we have the average for the test years, which would  
2 be 2008 and 2009, in terms of capital additions. You can see we have \$11.7 million  
3 approximately for the capital additions to rate base, subject to check.

4 A MR. BABYN: Subject to check.

5 Q MR. LANDRY: It looks about right — if you have \$9.9 million in 2008 and \$13.5  
6 million in 2009, it looks pretty well accurate, wouldn't you say?

7 A MR. BABYN: Yes.

8 Q MR. LANDRY: Then again we go through the less contributions, and we have a  
9 net figure of net additions to rate base of \$9.2 million, correct, subject to check?

10 A MR. GRATTAN: Subject to check.

11 Q MR. LANDRY: And presumably, if that is correct, what that means is that, in  
12 those years, the average net additions to rate base are \$9.2 million.

13 MR. GRATTAN: Sorry, I was off-line.

14 MR. LANDRY: Sorry, I was talking to Mr. Babyn.

15 A MR. BABYN: No, that is correct.

16 Q MR. LANDRY: Of course you can see that, when you look at it from that  
17 perspective, your average net additions to rate base from 2004 to 2007, compared to your  
18 two test years, it shows a fairly dramatic increase in net additions to rate base — would  
19 you agree with that?

20 A MR. GRATTAN: Most definitely agree.

21 Q MR. LANDRY: Well, dramatically. Do you have difficulty with that?

22 A MR. GRATTAN: Due to the reasons that are included in the application, for sure.

23 Q MR. LANDRY: We'll get to the reasons, but it's a dramatic increase. Are we okay  
24 with that? A 100% increase, that's pretty dramatic, isn't it?

25 A MR. GRATTAN: Your words.

26 MR. KEOUGH: I don't know if we need to get caught up in the adjectives, Madam  
27 Chair, like we did this morning. Significance, beauty — they're all in the eye of the  
28 beholder. I just don't think my friend needs to waste everyone's time pressing on getting  
29 the witnesses to agree to his adjectives. I think he has his answer.

1 Q MR. LANDRY: A pretty straightforward question, but I'll go on. I want to talk a  
2 little bit about some of the additions to rate base, Mr. Babyn, that have occurred since the  
3 last time you've been before the Board in 1996-97. I guess one of the ones I'd like to ask  
4 you a question about is a diesel that was purchased for Haines Junction. Are you aware of  
5 that diesel?

6 A MR. GRATTAN: Yes, I am.

7 Q MR. LANDRY: And that diesel was purchased post the 1996-97 hearing?

8 A MR. GRATTAN: Yes.

9 Q MR. LANDRY: And Haines Junction is on the grid, the WAF grid?

10 A MR. GRATTAN: Yes, it is.

11 Q MR. LANDRY: Do you know when, Mr. Grattan, that that was purchased?

12 A MR. GRATTAN: 1997.

13 Q MR. LANDRY: Do you know what the costs were to purchase that?

14 A MR. GRATTAN: Just one moment; I think we have that in one of our IRs.

15 Q MR. LANDRY: Thank you. And while you're looking for that, Mr. Grattan, I'd  
16 like to know the megawatts of it, too, please.

17 A MR. GRATTAN: I found the answer to your first question. Your first question asks  
18 how much was spent on the mobile unit in Haines Junction, and that is on page 18 of 59  
19 of YEC-YECL-25(a). I will let people pull that up on their screens.

20 Q MR. LANDRY: While they're pulling that up, could you just give me the number,  
21 so I can put it down here.

22 A MR. GRATTAN: Per that interrogatory response, we state that in 1997, \$542,000  
23 was spent on the mobile unit in Haines Junction to install a 1.5 megawatt generator and a  
24 480 volt-14-4KB/25KB — so, dual voltage — step-up bank.

25 Q MR. LANDRY: And the purchase of that diesel unit was for a total of \$542,000?

26 A MR. GRATTAN: That's what we have documented, yes, \$542,000 per YEC-  
27 YECL-25(a), page 18 of 59.

28 Q MR. LANDRY: I know you're saying "per" that. Do you have some doubt about  
29 that number?

1 A MR. GRATTAN: No, unless you've got other information than I do.

2 Q MR. LANDRY: No, I don't. So, you're saying that you have a 1.5 megawatt unit  
3 for, ballpark, \$540,000?

4 A MR. GRATTAN: Yes.

5 Q MR. LANDRY: Sir, is it possible to determine the revenue requirement impact  
6 of that diesel for the test years?

7 A MR. GRATTAN: Is it possible mathematically? Yes, it is possible mathematically.

8 Q MR. LANDRY: Presumably, it's a capital addition that occurred since the last  
9 hearing and it's in rate base and it's generating the usual things in rate base than having a  
10 revenue requirement impact — correct?

11 A MR. GRATTAN: Yes, I believe I answered your question. I said yes, it's possible.

12 Q MR. LANDRY: Could you please, on an undertaking basis, determine what the  
13 revenue requirement impact is?

14 MR. KEOUGH: Madam Chair, I'm afraid I'm going to have to have a little more  
15 justification as to why this is necessary for a unit that has been, as I understand the  
16 information, purchased 11 years ago and has been providing service to customers since  
17 then. In order for the witnesses to go away and trace through an individual asset of an  
18 asset group and the impact of that individual asset, I think I would like to know a little bit  
19 more about why we would be undertaking such an exercise.

20 MS. SHANKS: The Board did make a ruling that they found that capital  
21 contributions over the last 10 years — that they were relevant to have questions in those  
22 areas. I assume that that has fallen into that category for Mr. Landry.

23 MR. KEOUGH: That's not what I was hearing, Madam Chair.

24 MR. LANDRY: Sorry, I am confused. I asked for a capital addition that occurred  
25 in the last 10 years, and I would like to know what the revenue requirement impact is.

26 MR. KEOUGH: And my question was why?

27 MS. SHANKS: I answered to your objection, saying that the Board did make a  
28 ruling, and they found any questions in relationship to capital additions over the last 10

1 years were relevant — or could be possibly relevant to the revenue application before the  
2 Board.

3 MR. KEOUGH: Well, Madam Chair, I don't think that answered my question, but  
4 that's fine.

5 Q MR. LANDRY: Now, Mr. Grattan —

6 A MR. GRATTAN: Sorry, I was looking — are you going to clarify your question?

7 Q MR. LANDRY: I thought it was pretty clear; I would like to know —

8 A MR. GRATTAN: I was looking for the revenue requirements for a \$542,000 asset  
9 that was acquired in 1997.

10 Q MR. LANDRY: That is what I am asking for, yes, for 2008-2009.

11 And sir, we're going to get to another diesel request that you're making at the Board  
12 in a second, but I guess the question I'm not seeing on the record, and if you could point  
13 me to it, I'd appreciate it. I don't see any analysis that was prepared and put on the  
14 record, which justified the purchase of a 1.5-megawatt diesel on the grid that was needed  
15 for system capacity. Is there such an analysis on the record?

16 A MR. GRATTAN: I believe what's on the record is what's stated in this  
17 interrogatory response, sir.

18 Q MR. LANDRY: Is the answer then that there isn't anything on the record?

19 A MR. GRATTAN: No, there is what is put in this response.

20 Q MR. LANDRY: Is there an analysis on the record, sir, justifying the purchase of  
21 a diesel on the grid for the purposes of system capacity? Is there an analysis on the  
22 record? Is it in that IR or otherwise?

23 A MR. GRATTAN: It has nothing to do with system capacity on the grid, sir. I  
24 believe the justification says, "extended outages and lengthy restoration time" as the  
25 reason why it was installed in Haines Junction, sir. That's what it says.

26 Q MR. LANDRY: So, sir, is there any indication on the record where Yukon  
27 Electrical had a discussion with Yukon Energy, who operates the grid, that it was  
28 necessary for that purpose?

1 A MR. GRATTAN: I don't have any documentation or recollection of those  
2 discussions that may or may not have taken place between Yukon Energy and Yukon  
3 Electrical when they were under joint management.

4 Q MR. LANDRY: Now, sir, I want to go to another diesel unit, which is the  
5 proposal you have before the Board — at least, as I understand it is a proposal for a diesel  
6 at Carcross. Are you aware of that one? Or, is that better to go to somebody else?

7 A MR. BABYN: Yes, we are aware of that.

8 Q MR. LANDRY: And, firstly, can I assume, sir, that you've not purchased that  
9 diesel yet?

10 A MR. BABYN: That is correct.

11 Q MR. LANDRY: And sir, again, as I understand the justification — please correct  
12 me if I'm wrong — is that you referenced the Yukon Energy resource plan discussion on  
13 system capacity and, more particularly, the system criteria that was being discussed at the  
14 hearing. Correct?

15 A MR. BABYN: It was one of the sources of information that led to our decision.

16 Q MR. LANDRY: Would you agree with me if I said that it was one of the key  
17 sources of information that led to your decision?

18 A MR. BABYN: I think it helped us make a decision that was absolutely necessary  
19 to improve the service that we're providing to our customers in the Carcross and Tagish  
20 areas.

21 Q MR. LANDRY: To improve the service when, in fact, for those areas the actual  
22 electricity is provided by the grid — correct?

23 A MR. BABYN: The actual electricity is provided by the grid; however, that area  
24 and that group of customers have experienced a higher level of outage time than other  
25 customers in the service area, and particularly other customers who have a standby diesel  
26 to go on when the grid is not available.

27 Q MR. LANDRY: But sir, let me just be clear where I'm going here. It's Yukon  
28 Energy that operates the grid — correct?

29 A MR. BABYN: It is Yukon Energy that operates a portion of the grid.

1 Q MR. LANDRY: Well, the WAF grid. How about if we do that?

2 A MR. GRATTAN: What do you mean by “operates,” sir?

3 Q MR. LANDRY: Well, they own and operate the grid. They own the transmission,  
4 and they’re the ones who service the transmission, and they are the ones who service the  
5 generation on the WAF grid. Is that a fair statement?

6 A MR. GRATTAN: Except for the standby diesel units that are owned and operated  
7 by Yukon Electrical in Ross River, Carmacks, Teslin and Haines Junction. And in the  
8 case of soon to be, I guess — Pelly Crossing, when Pelly Crossing is connected to the  
9 grid, and then, lastly, Stewart Crossing.

10 Q MR. LANDRY: Mr. Babyn, given that you seem to know a little bit about this  
11 purchase, and you’re the General Manager, have you had discussions with senior  
12 management of Yukon Energy to determine whether or not they believe that it’s  
13 necessary for that diesel to be purchased to meet system capacity requirements?

14 A MR. BABYN: We did not feel obligated to have that discussion. We have a  
15 distribution power line that provides service to Carcross and Tagish. It is Yukon  
16 Electrical that responds to the extensive outages; it is Yukon Electrical that deals with the  
17 service complaints that come from those customers, and a logical solution that is going to  
18 reduce that and provide those people with non-discriminatory service is to put in a  
19 standby power plant for them.

20 Q MR. LANDRY: So I guess the answer to my question is no, you didn’t have  
21 discussions about this with the person who owns and operates the WAF grid.

22 A MR. BABYN: Not specific discussions that I’m aware of.

23 Q MR. LANDRY: And didn’t specifically ask them how this would impact system  
24 capacity requirements?

25 A MR. BABYN: We didn’t have those specific discussions with them at this point.

26 A MR. GRATTAN: Mr. Landry, I think you just missed a very important point with  
27 regard to system capacity. You just asked about system capacity with regard to the WAF  
28 grid and, as we all know, there has been all sorts of system capacity on the WAF grid for  
29 many years, which is coming to an end with regard to the interconnection of Minto

1 Explorations. That's on the record and that's a fair statement. But I think what we're  
2 trying to communicate here, hopefully reasonably well, is that the level of service  
3 associated with regard to our customers — Yukon Electrical customers — in the Carcross  
4 and Tagish area has been negatively impacted as a result of the large amount of outages  
5 due to them being at the end of a long radial line, and that is what is driving this debate  
6 today.

7 So I think it's a very important forum for us to discuss this today and it's important to  
8 talk about system capacity from the grand WAF system perspective, but you also have to  
9 take a look at what is going on at the end of a long radial line in the Southern Lakes  
10 region of the Yukon. That's all we're asking here today.

11 Q MR. LANDRY: Mr. Babyn, if I could go back to you again, sir, my question really  
12 didn't relate to what Mr. Grattan was talking about. Did you have discussions with senior  
13 management of Yukon Energy in relation to this purchase and its impact on the grid and  
14 did Yukon Energy agree that this was an appropriate decision for the grid?

15 MR. KEOUGH: I think that question has been answered twice already. I'm  
16 assuming the answer would be the same the third time.

17 A MR. BABYN: We did not have a specific discussion with them.

18 Q MR. LANDRY: I'm just going to take a second here, but I wonder if you could  
19 refer, so that you have it in front of you, to the document that I understand was part of  
20 your justification for this proposal to this Board, and it's Tab 15 of Exhibit C1-11. Sir,  
21 just so you know where I'm going to be referring, so you can get to it quickly, it's on the  
22 second page of that, item number 3, at about line 11.

23 A MR. BABYN: I see that.

24 Q MR. LANDRY: And while you have that, I hope you have a paper copy and you  
25 don't need electronic, but could you also — just so you can see where I got the reference  
26 to the resource plan — could you go to page 9-23 of your application? Do you have that,  
27 sir?

28 A MR. BABYN: Yes, I am just pulling it up, Mr. Landry. I have too many things  
29 opened up here.

1 MR. LANDRY: Do you have that, Madam Chair?

2 MS. SHANKS: Yes, actually we do, thank you.

3 Q MR. LANDRY: Okay, Mr. Babyn, if you could start with the application at 9-23,  
4 which I understood was your justification for purchasing the Carcross diesel. Is that a fair  
5 statement?

6 A MR. BABYN: That was a summary of some of the considerations that we used to  
7 make this decision.

8 Q MR. LANDRY: Well, sir, this was the application that you filed before this  
9 Board. Is this the justification that you were putting to this Board for the purchase of this  
10 diesel? That is what I am asking.

11 A MR. BABYN: This is the information that we provided to this Board; however,  
12 it's important I think to indicate to the Board that there are many other considerations.  
13 Yukon Electrical takes our obligation to provide safe and reliable service first and  
14 foremost. That is what we would look at. If we are having trouble in an area with  
15 extensive outages, that is going to take priority over any criteria or anything else. We  
16 would consider criteria, we would look at a whole bunch of things, but at the end of the  
17 day, how can we improve service to the Yukon ratepayers — our customers?

18 Q MR. LANDRY: Sir, I know we've been playing back and forth. You've been  
19 trying to avoid the answers to a number of my questions, but I am going to ask you very,  
20 very clearly: was this the entire justification that you provided in your application to the  
21 Board for the purchase of this diesel unit in this application — not in the follow-up IRs?

22 A MR. BABYN: In the application, yes.

23 Q MR. LANDRY: And nothing about what you were talking about would you agree  
24 with me is contained within the words of page 9-23?

25 A MR. GRATTAN: Well, I can —

26 Q MR. LANDRY: Mr. Grattan, if I could just go with Mr. Babyn for a second.  
27 Well, do you want to give him the answer, Mr. Grattan?

1 MR. KEOUGH: They are members of a panel. They are entitled to talk last time I  
2 checked, that's why they are on a panel. If they want to have a chat, they are entitled to  
3 have a chat.

4 MR. LANDRY: Fine.

5 A MR. BABYN: As our discussion says, I guess it's an interpretation, but when the  
6 grid should stop serving a community, that would reflect outages. I believe that could be  
7 interpreted that way. Certainly, I can't emphasize enough that that is such an important  
8 criteria that we're talking about: reliability of service for those customers out there.

9 Q MR. LANDRY: Sir, let me just give you what I took from this, okay, and then  
10 you can disagree with me. This says, on page 9-23, "Carcross New 1.5 MW Power Plant  
11 (per Yukon Energy Resource Plan)." It says, "It has been determined that communities  
12 over 1 MW should have local generation to serve them if the grid should stop serving the  
13 community in accordance with the YUB approved Yukon Energy 20-year resource plan."  
14 Do you see that?

15 A MR. BABYN: I see that.

16 Q MR. LANDRY: That was your first justification for this unit, wasn't it?

17 A MR. BABYN: Within the context of the first sentence, it's if the grid should stop  
18 serving them, which implies reliability to me.

19 Q MR. LANDRY: Sir, if I could just have for the record, then, could we go to  
20 Exhibit C1-11, which I referred you to earlier, Tab 15, second page of that exhibit, which  
21 is page 3-21, from the Yukon Energy Corporation 20-year resource plan — do you see  
22 that?

23 A MR. BABYN: I see it.

24 Q MR. LANDRY: And that's the one that you were referring to, is it not? That's the  
25 community criteria that you were referring to in your application, correct?

26 A MR. BABYN: That is correct.

27 Q MR. LANDRY: And you have indicated that, notwithstanding that this was what  
28 you were relying upon, the Yukon Energy resource plan and what was said by Yukon

1 Energy in the resource plan, you didn't have any communication with Yukon Energy  
2 about it.

3 A MR. BABYN: Just in terms of the whole concept. You're referring to the plan  
4 and the 20-year resource plan. I mean, there's some criteria in there. We have our opinion  
5 on system planning and how that should be done, and we believe we need to be involved,  
6 our key customers need to be involved; everybody needs to be involved in those  
7 decisions. As it relates to that 20-year plan, Yukon Energy has chosen to not proceed with  
8 some of those aspects of the plan.

9 There are some things within the context of that plan that Yukon Electrical supports.  
10 This criteria is certainly one that makes sense to us, especially in light of huge reliabilities  
11 in the Southern Lakes region impacting a significant number of our customers. The  
12 criteria fits.

13 It's one consideration but, again, the reliability is of key significance here.

14 Q MR. LANDRY: So you talked to everybody but Yukon Energy. Is that a fair  
15 statement then? Is that what you're saying?

16 A MR. BABYN: I don't see the relevance of it.

17 Q MR. LANDRY: I'll go beyond that. Sir, just so I understand this, you're  
18 purchasing that you believe to back up the grid, in effect, correct?

19 A MR. BABYN: To back up the grid serving those customers in the Carcross-  
20 Tagish region, yes.

21 Q MR. LANDRY: Correct?

22 A MR. BABYN: That's correct, yes.

23 Q MR. LANDRY: And, sir, you would have been aware, since you did look at the  
24 resource plan when you referenced and decided to purchase this diesel that, in the  
25 resource plan, Yukon Energy was proposing to the Yukon Utilities Board, for system  
26 planning purposes, to refurbish the Whitehorse Mirrlees.

27 A MR. GRATTAN: Sorry, I'm going to help out Mr. Babyn since Mr. Babyn  
28 wasn't here. Mr. Landry, could you repeat the question, please?

1 Q MR. LANDRY: You would have been aware, sir, that Yukon Energy's resource  
2 plan that was brought before this Board and, ultimately, recommendations came from it,  
3 where Yukon Energy was proposing for system planning and system criteria purposes, to  
4 refurbish the Mirrlees in Whitehorse.

5 A MR. GRATTAN: There was refurbishment of the Mirrlees in Whitehorse that was  
6 proposed, and I believe at some point there was a change in direction that there was going  
7 to be a refurbishment of one of the diesel units in Faro. So there was lots of macro-WAF  
8 decisions and discussions taking place with regard to Yukon Energy's resource plan.

9 That's an important distinction: it was Yukon Energy's resource plan.

10 Q MR. LANDRY: Mr. Grattan, I don't —

11 A MR. GRATTAN: Sorry, I —

12 MR. LANDRY: Madam Chair, I would like a little bit of help on this. My friend's  
13 going to be able to advocate their position very well. He's a very good advocate. I'd like  
14 my questions answered and I don't think we need advocacy as part of that.

15 This is not the first time it's happened. We're going to be here for a long time if it's  
16 going to continue.

17 MR. KEOUGH: The threat of being here for a long time, Madam Chair, is no reason  
18 for my friend to interrupt a witness halfway through a response. The counsel asked the  
19 question; the witness was in the process of answering it, and I think they're entitled to  
20 give their answer.

21 My friend is rudely interrupting them in the middle of it and I really don't think that's  
22 appropriate. I think witnesses should be shown respect and allowed to give their answer. I  
23 don't think he was answering any relevant question; I don't think he was answering  
24 anything other than the question he was asked. The fact he was elaborating on it is too  
25 bad for my friend; he has asked a question; the witness is entitled to answer.

26 So contrary to my friend saying "Don't allow the witness to ask..." I'm going to ask  
27 you to allow the witness to give his full response.

28 MS. SHANKS: I will take note of it. Since we're getting close to the end of the  
29 day, I will ask witnesses to please try and focus on the question asked.

1 Q MR. LANDRY: I am going to try to be clear, Mr. Grattan, because I don't want  
2 the extraneous discussion. I want to know a very specific answer to a very specific  
3 question. You were aware, sir, as part of the 20-year plan, that what Yukon Energy was  
4 proposing to this Board was to refurbish the Whitehorse Mirrlees as part of their system  
5 planning criteria.

6 A MR. GRATTAN: Yes, as part of Yukon Energy's plan, I was aware of that.

7 Q MR. LANDRY: That's right. And they were also planning to refurbish the Faro  
8 unit — correct?

9 A MR. GRATTAN: As part of Yukon Energy's resource plan, yes, they were  
10 planning on refurbishing the Faro unit.

11 Q MR. LANDRY: And sir, you would have known at the time that the approximate  
12 cost of doing that was in the neighborhood of \$450,000 to \$500,000 a megawatt —  
13 correct?

14 A MR. GRATTAN: That number rings a bell for me, yes.

15 Q MR. LANDRY: In the case of your proposed purchase at Carcross to support the  
16 grid, the cost, on a per megawatt basis, is \$1.3 million — correct?

17 A MR. GRATTAN: You are comparing apples and oranges, sir.

18 Q MR. LANDRY: I don't care if I am or not; you will be able to argue that at that  
19 point in time.

20 MR. KEOUGH: No, he is entitled to respond and clarify at this point in time. You  
21 can't cut him off and say he's not entitled to give a full response.

22 Madam Chair, I think the witness is entitled to give the response. My friend keeps  
23 saying, "You're entitled to elaborate", and then when he goes to elaborate, he stops him.

24 MR. LANDRY: Madam Chair, I don't want to get the Board or anyone else into  
25 difficulty here. I will try to be clearer. I will try to be clearer. I know what the advocacy  
26 position is of Mr. Grattan. I am just asking a very simple question, Madam Chair.

27 Q What is the cost on a megawatt hour — per megawatt, sorry — of your proposed  
28 Carcross purchase? Is it approximately \$1.3 million?

1 A MR. GRATTAN: The cost to construct the mobile diesel generation plant in  
2 Carcross — I will go with your math — is what you just said.

3 Q MR. LANDRY: Well, sir, you have in your application, \$2 million. That's what is  
4 in your application and it's 1.5 megawatt. Are you having trouble with that?

5 A MR. GRATTAN: I think you just came back with the math of \$1.3 million per  
6 megawatt. Is that correct?

7 Q MR. LANDRY: Are you okay with that number?

8 A MR. GRATTAN: Subject to your math, I am agreeing with you.

9 Q MR. LANDRY: The next capital addition that I would like to talk about, Mr.  
10 Babyn, is the automated meter reading capital addition of approximately — I think I've  
11 got this number right — \$4 million. Am I right?

12 A MR. BABYN: That's actually Mr. Grattan's area.

13 MR. GRATTAN: You get to deal with me again, sorry.

14 Q MR. LANDRY: Is it approximately \$4 million, sir?

15 A MR. GRATTAN: I will take you to the IR response on that. That's documented  
16 in YUB-YECL-15 and I'll give you the number in a second. I have a lot of numbers in  
17 my head, so I'll make sure I've got it correct. On page YUB-YECL-15(c), Attachment 1,  
18 page 3 of 5, project cost is estimated to be \$4,185,000.

19 Q MR. LANDRY: And sir, could you tell me how that is divided between the two  
20 test years?

21 A MR. GRATTAN: That will be in Section 9.

22 Q MR. LANDRY: When you say "Section 9," you mean —

23 A MR. GRATTAN: Section 9 of the application. In 2008 — subject to check  
24 here — \$330,000 in 2008.

25 Q MR. LANDRY: And \$3.855 million in 2009.

26 A MR. GRATTAN: Correct.

27 Q MR. LANDRY: And if we could go to page 921 of the application, sir. Do you  
28 have that?

29 A MR. GRATTAN: Just bear with me for a second, please. Okay, I'm there.

1 Q MR. LANDRY: And sir, for fear of bouncing back and forth again, I'd also refer  
2 you to 19 — or, sorry, 9-27. And what I'm going to be asking you is: was this what you  
3 put into your application as justification for the \$4.1-million expenditure? If you want to  
4 go to 9-27, it has something there, too. So, those are the two references.

5 A MR. GRATTAN: Yes, that's correct.

6 Q MR. LANDRY: Would it be fair to say that — and I'm reading from here — your  
7 sister company, ATCO Electric, which is actually a parent, right?

8 A MR. GRATTAN: ATCO Electric is Yukon Electrical's parent.

9 Q MR. LANDRY: They have put an automated meter-reading installation in —  
10 correct?

11 A MR. GRATTAN: That is correct.

12 Q MR. LANDRY: And you feel that it would be appropriate for Yukon Electrical, at  
13 this point in time, to draw upon that expertise and put one in here?

14 A MR. GRATTAN: No, the benefits documented with regards to the business case are  
15 far more wide-reaching than that.

16 Q MR. LANDRY: Well, sir, if I can just stay with where I'm at in the application  
17 now, and I'll read it so that we don't get back and forth again. It says, "It would be  
18 beneficial for Yukon Electrical to draw on their expertise and consider" — and I  
19 emphasize "consider" — "implementing AMR to increase operational efficiency and  
20 move toward other features and benefits of that technology." That's what it said.

21 A MR. GRATTAN: That's a good reading of it, yes.

22 Q MR. LANDRY: So, first of all, you're considering implementing it, and I guess  
23 you'll wait and see whether or not this Board thinks it's appropriate to do it at this point  
24 in time.

25 A MR. GRATTAN: We're before the Board to test the capital before it, yes.

26 Q MR. LANDRY: But in terms of this one, specifically, there are a number of capital  
27 additions that are ongoing. I accept — but in terms of this one, specifically — effectively  
28 this is something that the Board could rule on and make a determination that would  
29 impact the way in which you're going to proceed over 2008-09.

1 A MR. GRATTAN: It's a big project. We are moving forward with regards to it. A  
2 small amount of dollars are budgeted to be spent in 2008. We believe the business case is  
3 extremely strong and supports the recommendation we've put forth to include in the  
4 AMR system to be fully implemented in 2009.

5 Q MR. LANDRY: I've seen your business case that you've provided in response to  
6 an IR, sir. But would you agree with this as a proposition, sir? You'd agree with this, I  
7 assume — it's a lot of money.

8 A MR. GRATTAN: \$1,185,000, I believe.

9 Q MR. LANDRY: It's a major capital expenditure relative to the other capital  
10 expenditures that you're proposing in this application — a fair statement?

11 A MR. GRATTAN: That would be your adjective, yes.

12 Q MR. LANDRY: Do you want to use an adjective? I'm tired of fighting adjectives  
13 today. What would your adjective be? Major, significant, material — what one would  
14 you want to use?

15 A MR. GRATTAN: I would say business altering capital project with regard to the  
16 future of how Yukon Electrical goes about its business in the Yukon.

17 Q MR. LANDRY: So you wouldn't agree with material, significant, large, major?

18 A MR. GRATTAN: I just said business altering. It will fundamentally change how we  
19 go about our business.

20 Q MR. LANDRY: Sir, would you at least agree with me on this, that this is not  
21 essential for the operation of your utility in a prudent manner? I'm emphasizing the word  
22 "essential," sir.

23 A MR. GRATTAN: The business case looks at two alternatives: the status quo, which  
24 looks at the cost that would be incurred to continue manually reading our meters in the  
25 Whitehorse and Southern Lakes area or, conversely, what has been put forth as part of  
26 this application — a proposal to implement an AMR system that would automate all of  
27 those now manual processes.

28 Q MR. LANDRY: My question to you —

1 A MR. GRATTAN: So the simple answer to your question is, yes, we could continue  
2 to read for one more year, 10 more years, however long it's deemed prudent by this  
3 Board for us to continue to read manually. But we believe there are strong reasons why  
4 this project should be considered before this Board as something prudent, and the dollars  
5 to be spent as being prudent, to realize the benefits that I won't go into unless you would  
6 like me to repeat them, but they're well-documented in the business case.

7 Q MR. LANDRY: I'm going to switch topics again, Madam Chair, and I might be  
8 able to finish this topic in the 15 minutes we have, if that's okay with you. I'm going to  
9 talk a little bit — and I presume it'll be Mr. Freedman who will be involved in this. It has  
10 to do with the YECL cost of debt that you've included in your revenue requirement. Are  
11 you the appropriate person to ask those questions of?

12 A MR. FREEDMAN: That would be fair enough, yes.

13 Q MR. LANDRY: As I understand it, sir, YECL is establishing, both for 2008 and  
14 2009, a cost debt based on 200 basis points above long-term Canada bonds, and it's based  
15 on a recommendation from Ms. McShane.

16 A MR. FREEDMAN: That's correct.

17 Q MR. LANDRY: As I also understand it, and I can refer you to an IR, sir, but you  
18 might know it off the top of your head, Ms. McShane used a forecast for long-term  
19 Canada bonds at 4.5% or 5%.

20 A MR. FREEDMAN: That's correct.

21 Q MR. LANDRY: And, sir, if you could refer to YEC-YECL-39(g), which is an  
22 updated forecast of long-term Canada bonds to June of 2008 — and you may have this on  
23 the top of your head, too, sir — but I just wanted to confirm that the updated forecast for  
24 six months to June of 2008 is 4.08%, so, ballpark, 4.1%.

25 A MR. FREEDMAN: That's correct, and given that we're updating one part of the  
26 formula that got us to the debt rate, the other part of the formula are the spreads, and as  
27 we're all aware of what's happening with spreads right now, it's dramatically increasing  
28 so that updated the yield on the long-term Canada bonds and the other part was that it  
29 spread.

1 Q MR. LANDRY: The question was pretty specific. The update is 4.08% —  
2 correct?

3 A MR. FREEDMAN: For that one component of how we came up with that rate,  
4 that's right.

5 Q MR. LANDRY: And what YECL has utilized, for the cost of debt in a test year,  
6 is the cost of CU debt of, in effect 200 basis points above that 4.55%.

7 A MR. FREEDMAN: That's correct.

8 Q MR. LANDRY: And you've talked about spreads, but in actual fact the spreads  
9 that are referenced at least to the latest debt that has been utilized for Yukon Electrical are  
10 much less than the 200 basis points — correct?

11 A MR. FREEDMAN: Given the — it's correct, but —

12 Q MR. LANDRY: That's all I want to know for now.

13 A MR. FREEDMAN: I want to add to that —

14 Q MR. LANDRY: I am sure you do.

15 A MR. FREEDMAN: But it's important —

16 MR. KEOUGH: He is entitled to.

17 A MR. FREEDMAN: Because you asked for an update at a point of time. As we are  
18 all aware, there is a financial crisis going on right now where these spreads have gone  
19 even beyond. So, if you wanted an update, it's not accurate given what is happening in  
20 the markets to just stop it at the time that we did this IR Response. It went from up to  
21 165, where now, the latest information we have is that even if you can get to the markets,  
22 the spreads are now for CU over 200. They are at 205. Given that we're in the process of  
23 updating and given the situation in the financial markets, I thought it was important that  
24 the latest information from that area is that the spreads are actually over 200. They are at  
25 205 and going northward.

26 Q MR. LANDRY: Well, sir, let's just go with what we have formally on the record,  
27 as I understand it. I would like to go on the record about what the spreads were. That was  
28 the question. And the question was that the spreads were at least up to the latest debt that  
29 YECL is at significantly less than 200 basis points. Is that correct?

1 A MR. FREEDMAN: That is what was on the record. But given the situation in the  
2 financial markets, why is it so — we answered an IR about what we knew to date back in  
3 July or September. Things have dramatically changed, so if we're wanting to cut off at a  
4 point of time, the hearing is now and I think it's relevant to say, given the situation where  
5 things, you know, have dramatically changed in the financial markets. It was important to  
6 provide — given that we're providing updates in this matter, because of the change, I  
7 think it's relevant to say that the spreads right now are northwards of 200 basis points.

8 Q MR. LANDRY: I understand that, sir. I understand your position on this. I am  
9 looking for just some answers to questions on the record. Okay? And on the record, the  
10 debt that was utilized by Yukon Electrical — the last debt — was significantly less than  
11 200 basis points above. If I have my IR correct, the last one was 76 basis points —  
12 correct?

13 A MR. FREEDMAN: Correct.

14 Q MR. LANDRY: And as recently as — I can't remember the exact dates, but it  
15 was several months ago — the amount was 165 basis points. Correct? That was the  
16 information you had when you filed your application — correct?

17 A MR. FREEDMAN: Not correct. The 165 was updated for beyond the application  
18 and in response to the Information Request.

19 Q MR. LANDRY: So, what you had when you filed was what debt you had to the  
20 end of — again, I — 2006 I think was the last debt that you had obtained through CU.  
21 Correct?

22 A MR. FREEDMAN: Correct, but this is forward looking. We were trying to come  
23 up with a forecast for the test period. We used historical, but we were trying to come up  
24 with a forecast.

25 Q MR. LANDRY: And at that time, you had a spread at the last debt which was 76  
26 above.

27 A MR. FREEDMAN: Correct.

28 MR. LANDRY: Madam Chair, I'm going into another area, so it would probably  
29 be a good time to break. Just so — I know the next question is going to be: how long?

1 I'm longer, obviously, than what I suspected. But I don't imagine that I'm going to be  
2 much more than another hour.

3 MS. SHANKS: Thank you, Mr. Landry. Just before we adjourn today, in light of  
4 the submissions that the Board received this morning from parties on argument and reply,  
5 the Board would just like to get some feedback from all the parties on the proposed  
6 schedule. The Board is proposing that we have simultaneous argument for October 24  
7 and simultaneous reply November 7. I wonder if we could just get a little bit of feedback  
8 from all parties.

9 MR. KEOUGH: Well, Madam Chair, I would prefer, if I could, to consult with  
10 Yukon Electrical about the dates. And am I to assume from your statement that you've  
11 already ruled that there would not be a staged argument — that you're going with  
12 simultaneous?

13 MS. SHANKS: That's correct.

14 MR. KEOUGH: Could I just then confirm the dates with them and let you know in  
15 the morning?

16 MS. SHANKS: Thank you.

17 MR. KEOUGH: I mean, I don't imagine it would be — I just want to look at a  
18 calendar, as well, to see — I'm looking at October 24 being a Friday, and I may ask you  
19 to push it to the Monday.

20 MS. SHANKS: October 24 is a Friday, and November 7 is a Friday. That leaves  
21 two weeks. Does somebody have a calendar here now we could have a quick look at?

22 MR. LANDRY: October 24 is a Friday. And what was your second date, Madam  
23 Chair?

24 MS. SHANKS: November 7.

25 MR. LANDRY: November 7 is a Friday also, and it's two weeks from then.

26 MS. SHANKS: I'm glad to see you have some technology, Mr. Landry.

27 MR. LANDRY: I do, but it doesn't work beside the calendar up here.

28 MS. SHANKS: I'll just give Mr. Keough a chance to maybe take a look at those  
29 dates.

1 MR. KEOUGH: Madam Chair, our concern is that, in this time frame, we've just  
2 been swamped with Information Requests. And then ATCO Electric — the General Rate  
3 Application was filed a little while ago, and they're due right around the same time. I  
4 think, if it would work, I might ask that both dates be slipped from the Friday to the  
5 Monday, which is probably a very sad comment on all of us that we would be using the  
6 weekend. But I think if the dates — still keeping the two-week staggered period, but just  
7 slipping it to the Monday and the Monday, would be of assistance, given the other  
8 demands that are going to be on a fair number of the group you're seeing here.

9 MS. SHANKS: I would take that to be October 27 and November 10 — is that  
10 correct, Mr. Landry?

11 MR. LANDRY: Yes, although — I was just wondering about November 10. But I  
12 suppose November 11 in some places — I don't whether it is up here. But —

13 MS. SHANKS: Is that the holiday Monday?

14 MR. LANDRY: Tuesday. I think it's Tuesday. That's what I was thinking — I  
15 think Monday is fine. So from our perspective — if you're looking for comment from us  
16 — that's fine.

17 MS. SHANKS: City of Whitehorse.

18 MR. MARRIOTT: We have no problem with that.

19 MS. SHANKS: Okay. Energy, Mines and Resources.

20 (No response)

21 MS. SHANKS: Leading Edge.

22 MR. MAISSAN: I have no problem with that, other than to say I'm travelling —  
23 leaving on the 19<sup>th</sup>, so I would have to complete whatever I do well before those dates.

24 MS. SHANKS: UCG isn't here to give us some feedback on that, so the Board  
25 will confirm those dates tomorrow morning.

26 On that basis, I'll adjourn for today, and we'll reconvene tomorrow morning at 9:00  
27 a.m.

28 MR. LANDRY: And Madam Chair, before we adjourn, what I understand is that  
29 Ms. McShane will start first and we will break up the panel?

1 MS. SHANKS: That's my understanding. UCG has asked to cross-examine first.

2 MR. LANDRY: That's what I understand.

3 MS. SHANKS: We'll reconvene tomorrow at 9:00 a.m.

4

5 (PROCEEDINGS ADJOURNED AT 4:55 P.M.)