

MANITOBA CLEAN ENVIRONMENT COMMISSION

KEYYASK GENERATION PROJECT

PUBLIC HEARING

Pre-hearing

* * * * *

Transcript of Proceedings
Held at Winnipeg Convention Centre
Winnipeg, Manitoba

TUESDAY, SEPTEMBER 10, 2013

* * * * *

APPEARANCES

CLEAN ENVIRONMENT COMMISSION

Terry Sargeant - Chairman
Edwin Yee - Member
Judy Bradley - Member
Jim Shaw - Member
Reg Nepinak - Member
Michael Green - Counsel to the Board
Cathy Johnson - Commission Secretary

MANITOBA CONSERVATION AND WATER STEWARDSHIP

Stewart Pierce - Counsel
Tracey Braun
Bruce Webb

MANITOBA HYDRO

Janet Mayor - Counsel
Vicky Cole
Shawna Pachal

CONSUMERS ASSOCIATION OF CANADA

Byron Williams - Counsel
Gloria DeSorcy
Aimee Craft

MANITOBA METIS FEDERATION

Jason Madden - Counsel
Marci Riel
Jasmine Langing

MANITOBA WILDLANDS

Gaile Whelan Enns
Annie Eastwood

PEGUIS FIRST NATION

Cathy Guirguis - Counsel
Lloyd Stevenson
Jared Whelan

FOX LAKE GRASSROOTS CITIZENS ORGANIZATION

Agnes Pawlowska
Noah Massan
Ivan Moose

PIMICIKAMAK
Kate Kempton - Counsel
Darwin Paupenakis
Tommy Monias
Annette Lutteman

KAWEECHIWASIIHK
Roy Beardy

INDEX OF PROCEEDINGS

Opening by the Chair

5

1 Thursday, April 11, 2013

2 Upon commencing at 10:00 a.m.

3

4 THE CHAIRMAN: Could I have your
5 attention, please? We are going to start in about
6 five minutes, so please take your seats, five
7 minutes.

8 Okay. Welcome, welcome to our second
9 and almost certainly final procedural pre-hearing
10 meeting. For those of you who are new to the
11 process, I would just like to say that I'm
12 punctual to the point of being a pain in the butt,
13 so please be ready to go every day when we are
14 starting the hearings, which typically, once we
15 get into the main session, will be 9:30 in the
16 morning.

17 I would like to welcome some old
18 faces, faces that were with us as recently as the
19 Bipole hearings, others that have been with us in
20 past hearings, and also a lot of new faces in the
21 room today. So, welcome. Hopefully, you will get
22 something out of today's session.

23 We will try to lay out a bit about
24 what will happen once we get into the hearings,
25 first in the northern communities in a couple of

1 weeks, and then in about a month, or five or six
2 weeks, in the City of Winnipeg.

3 I would like to start by introducing
4 the people at the main table. We have got a lot
5 of people in the room. If we start introducing
6 behind the main table, we could be here half the
7 morning on introductions. My name is Terry
8 Sargeant, I'm the chair of the Manitoba Clean
9 Environment Commission. I am also the chair of
10 this panel which will be conducting the review of
11 the Keeyask Generation Project.

12 We will start off to the left.

13 MS. BRADLEY: Judy Bradley, retired
14 general secretary. I was an executive director or
15 CEO position, and I have made many submissions to
16 government in my work related to the Manitoba
17 Teachers Society. And I will pass it on.

18 MR. SHAW: Jim Shaw, I'm semi-retired.
19 I previously was the director of legal services at
20 Manitoba Public Insurance. Currently, in addition
21 to my duties here with the Commission, I am a
22 board advisor to the Legal Help Centre, I serve on
23 the discipline committee of the Law Society of
24 Manitoba, and otherwise I'm enjoying my
25 retirement.

1 MS. BRAUN: Tracey Braun, Director of
2 Environmental Approvals for Conservation and Water
3 Stewardship.

4 MR. PIERCE: Stewart Pierce, legal
5 counsel, Manitoba Conservation

6 MR. WEBB: Bruce Webb, Environment
7 Approvals Branch, Conservation and Water
8 Stewardship.

9 MR. PAUPENAKIS: Darwin Paupenakis,
10 from Pimicikamak, secretary to the councils.

11 MR. MONIAS: Tommy Monias, Pimicikamak
12 citizen, former secretary of the council, been
13 involved in the Article 9 consultation with
14 Manitoba Hydro, and also section 35.1 consultation
15 with Manitoba Hydro in the province.

16 MS. LUTTERMAN: Annette Lutterman, I'm
17 an ecological advisor to Pimicikamak on
18 hydroelectric development.

19 MR. BEARDY: Roy Beardy,
20 Kaweechiwasihk Incorporated, here to represent the
21 group. Thank you.

22 MS. WHELAN ENNS: Gaile Whelan Enns,
23 Manitoba Wildlands. And as the chair referenced,
24 some of us have had two or three sets of CEC
25 hearings regarding Manitoba developments before.

1 I have with me also this morning Annie Eastwood,
2 who is assisting with research for Manitoba
3 Wildlands' participation in the hearings.

4 MS. RIEL: Good morning, I'm Marci
5 Riel with the Manitoba Metis Federation.

6 MS. LANGING: Jasmine Langing,
7 Manitoba Metis Federation.

8 MR. WHELAN: Good morning, Jared
9 Whelan, Peguis.

10 MS. GUIRGUIS: Good morning, I am
11 Cathy Guirguis from Olthuis Kleer Townsend LLP,
12 legal counsel for Peguis First Nations.

13 MR. STEVENSON: Good morning, Lloyd
14 Stevenson from Peguis.

15 MR. MOOSE: Ivan Moose, I have been
16 recently asked to sit in on with Fox Lake
17 Grassroots Citizens, Concerned Citizens.

18 MS. PAWLOWSKA: I'm Agnes Pawlowska,
19 I'm the coordinator for the Concerned Fox Lake
20 Grassroots Citizens, and beside me is Noah Massan
21 for the Concerned Fox Lake Citizens as well.

22 MR. WILLIAMS: Good morning, Byron
23 Williams from Public Interest Law Centre,
24 representing CAC Manitoba. To my immediate left
25 is our boss, Ms. Gloria DeSorcy, executive

1 director of the Consumers Association of Canada,
2 Manitoba branch. And to her left is my colleague,
3 Ms. Aimee Craft.

4 MS. COLE: Good morning, I am Vicky
5 Cole with Manitoba Hydro, I'm the manager of major
6 projects assessment and licensing.

7 MS. PACHAL: Good morning, I am Shawna
8 Pachal, I am the division manager of the power
9 projects development division and I am responsible
10 for the licensing of the new Hydro projects.

11 MS. MAYOR: I am Janet Mayor, legal
12 counsel with Manitoba Hydro and one of the legal
13 counsel that will be representing the partnership
14 in the hearing. Some of the other counsel are
15 also present today.

16 MR. YEE: Good morning, I am Edwin
17 Yee. I am retired. I am a member of the Manitoba
18 Clean Environment Commission.

19 MR. NEPINAK: Good morning, I am Reg
20 Nepinak, and I'm not retired. And I'm a member of
21 the Clean Environment Commission.

22 MR. GREEN: Mike Green, legal counsel
23 to the CEC.

24 MS. JOHNSON: Go ahead, Jason.

25 MR. MADDEN: Jason Madden, legal

1 counsel for the Manitoba Metis Federation.

2 MS. JOHNSON: And I'm Cathy Johnson,
3 secretary to the Commission.

4 THE CHAIRMAN: Thank you all. The
5 nature of the pre-hearing meetings that we hold
6 are really to set agendas, talk about timetables,
7 and at this sort of final one before we get into
8 the hearing process itself, to really talk a bit
9 about some of the procedures and the process
10 guidelines that we will be following once we get
11 into the hearings. And I will come back to that
12 in a few minutes.

13 We will also look if anybody has any
14 brilliant ideas on how we may improve or make more
15 efficient the conduct of our hearings, please feel
16 free to bring it up this morning.

17 The process to date has been, the
18 official process to date is we have had two rounds
19 of information requests. We kicked off that
20 process somewhat earlier this year in the spring.
21 We have had two complete rounds with questions
22 submitted and responses filed. And I would like
23 to thank all parties for being very diligent in
24 getting it in on time and meeting the agendas and
25 timetables that we did set out in that respect.

1 There is still one document to come and that's a
2 bit of supplemental on cumulative effects
3 assessment.

4 And that I think is about all I have
5 to say on the process to date. It has been moving
6 along well. As some of you will know, we do have
7 some motions that have come in yesterday, and we
8 will discuss that later on in this morning's
9 agenda.

10 I would like to turn now briefly to
11 our hearing schedule. I would note that the
12 hearing schedule is draft, it is subject to
13 change, it is almost certain to change in some
14 respects. I would like to start off by noting one
15 error on the first page where we refer to Manitoba
16 Hydro rather than the Keeyask Hydropower Limited
17 Partnership, near the bottom of the page. This
18 document, this was sort of a cut and paste
19 document, it is one we developed for an earlier
20 project, and we just missed that. I believe it
21 has been already changed in the electronic copy,
22 but we discovered this after we made all of the
23 copies for this morning's meeting.

24 Our current schedule is to commence
25 hearings in Northern Manitoba for a bit over two

1 weeks in about two weeks. We are going to Gillam
2 on the 23rd of September. We will hold hearings
3 in Gillam, in Bird, and on the Thursday of that
4 week, in York Landing. The following week we will
5 be going into Thompson and Cross Lake, pardon me,
6 Split Lake. And we will be going into Cross Lake
7 on Wednesday, I believe it is October 9th. The
8 first four -- I guess three communities, First
9 Nations communities that we will be going into are
10 all partners in this project. Cross Lake
11 requested that we go in and conduct hearings there
12 and we readily agreed to that request.

13 For those of you who are not from the
14 northern communities, there will really be no role
15 for the participants to play in the northern
16 communities. We are going in there to hear from
17 the residents of those communities. So those of
18 you who are based in the south, if you want to
19 come in on your own dime and sit in, in the public
20 hearings, no problem, but there is really no role
21 for you. We want -- the panel wants to hear from
22 the local people and hear what their concerns
23 might be about this project.

24 We will have about a week or a bit
25 more off between the Cross Lake hearing and the

1 scheduled commencement of hearings in Winnipeg,
2 which is October 21st. We will then have, I
3 believe, four weeks of hearings and then a week
4 off. We like to say we decided to have a week off
5 so that all the participants would have plenty of
6 time to prepare their final arguments and come in
7 with some really cogent final arguments. The real
8 reason is we couldn't get space that week so we
9 had to move it another week. Winnipeg can be a
10 hard place to find space, particularly in the
11 fall. We started booking our space quite some
12 time ago.

13 The general process, once we get into
14 the main, the Winnipeg part of the hearings, we
15 will start off with opening statements by each of
16 the -- initially by the proponent and the members
17 of the partnership, followed by brief opening
18 statements by the participants, and then we will
19 turn to the serious consideration of the
20 environmental assessment. You have the document
21 in front of you which lays out more or less what
22 they are going to cover in each of the three weeks
23 that we think it will take to get through Hydro's
24 submissions and the examination of their
25 environmental assessments of those submissions.

1 Week six, somewhere early in November,
2 if all goes well and we are on schedule, we will
3 then turn to the participant presentations. That
4 will probably take a week and a half to two weeks.
5 We will then have our one week break. We will
6 come back then in the last week of November for
7 rebuttal, which is only the proponent that engages
8 in rebuttal. And then final argument from all of
9 the participants. This is assuming that
10 everything goes swimmingly and we don't have any
11 undue delay, or legitimate delays which may come
12 along. This is the schedule as we propose it
13 right now. As I noted at the outset, we will
14 reemphasize, it is very much in draft form. It
15 could and will change.

16 Any questions on the hearing schedule?
17 Yes, Ms. Mayor?

18 MS. MAYOR: Just two points. In terms
19 of the Winnipeg hearing, the opening statement, it
20 was our intention that, of course, there would be
21 a representative from legal counsel making opening
22 statements, as with the participants. However, we
23 had also wanted to have a representative of
24 Manitoba Hydro and each of the four communities to
25 speak as well. I'm not sure where that will fall,

1 but I assume legal counsel will go first, and then
2 just prior to the project overview we would have
3 the opening statement of the proponent.

4 THE CHAIRMAN: Well, we can work that
5 out. We had assumed that each of the partners
6 would have somebody making a brief opening
7 statement, as all opening statements will be.
8 Whether it comes at the outset, I would think that
9 probably the proponent should make the first
10 opening statements, followed by the participants.
11 On this sheet it says 10 to 15 minutes each. My
12 thinking is that the proponent, each member of the
13 partnership would get about 15 minutes, and the
14 participants will have about 10 minutes. I mean,
15 those of you who were through the Bipole
16 experience and those of you who are familiar with
17 this type of project know that the opening
18 statement isn't really very detailed or very much.
19 We just want to have an overview of what you are
20 going to be concentrating on and what issues are
21 of particular concern to your client.

22 MS. MAYOR: Thank you. So we can work
23 that out with Ms. Johnson in terms of the
24 scheduling. I just wanted to let you know there
25 will be a brief from legal and each of the --

1 THE CHAIRMAN: We assumed that.

2 MS. MAYOR: The second question, in
3 terms of cross-examination, you have set out here
4 that we will have a number of panels, which of
5 course they are still a work in progress. After
6 each panel, is it your intent to have
7 cross-examination of each panel?

8 THE CHAIRMAN: Yes, much as we did in
9 Bipole. It seemed to work well in the Bipole
10 process.

11 MS. MAYOR: Thank you.

12 THE CHAIRMAN: Any other questions on
13 hearing schedule?

14 MR. PAUPENAKIS: Yes.

15 THE CHAIRMAN: Go ahead.

16 MR. PAUPENAKIS: I just want to be
17 clear here, I was under the assumption that we may
18 have up to 15 presenters in Cross Lake. Is it my
19 understanding now that that's going to be like 11
20 presenters, and the proponent is going to have
21 four?

22 THE CHAIRMAN: No. Actually, what she
23 was speaking about, sir, and I didn't get all of
24 your names, I'm sure as we go through this
25 process, hopefully, I will remember your names and

1 get to know them. What she was talking about was
2 the opening session in Winnipeg. In Cross Lake
3 the proponent, and I would expect it will just be
4 one person, will have a brief description of the
5 project. And I assume that, I don't know what
6 kind of details you worked out with Ms. Johnson,
7 but typically presenters have 15 minutes. We will
8 have lots of time for your 15 presenters.

9 MR. PAUPENAKIS: Thank you very much.

10 THE CHAIRMAN: Any other questions?

11 You are always --

12 MS. MAYOR: Sorry, just one other
13 matter. There is also going to be the video that
14 we would like to show for the Winnipeg hearing
15 too, just to let others know that we would begin
16 with that as well.

17 THE CHAIRMAN: Yeah. And we always
18 allow -- I mean, from past projects there is a
19 significant amount of time at the outset for the
20 proponent.

21 MR. MONIAS: Excuse me.

22 THE CHAIRMAN: Yes, sir?

23 MR. MONIAS: I have a little bit of a
24 problem, in acting with the proponent or the
25 partners, one of the partners representing coming

1 to our community, Cross Lake, in regards to this.
2 You said about coming to listen to the rest of us
3 in Cross Lake.

4 THE CHAIRMAN: Yep.

5 MR. MONIAS: Okay. So when you come
6 to Cross Lake, it is about Cross Lake to tell you
7 what they think about this Keeyask project, from
8 their own experience, from other past projects
9 that have happened in the last 41 years. So, me
10 to go there as a proponent or a partner, going
11 into Cross Lake, it is a little bit risky. And I
12 think, my saying is that I think it is not right
13 to have somebody coming in there when this is a
14 Cross Lake hearing. We want -- our citizens want
15 to say what they think it is, not anybody else.

16 THE CHAIRMAN: My thinking, sir, is
17 that in Cross Lake, as in the other First Nation
18 communities that we go into, that the proponent
19 will really just give a description of what the
20 project is, that the proponent won't be there to
21 defend or debate your citizens, it will just be,
22 at the very outset, just an overview of the
23 project. It won't take long at all, probably 15,
24 20 minutes. And then we would hear from the
25 people in your community. They are not there to

1 defend or advocate, it is just to describe the
2 project. Yes?

3 MR. MONIAS: When I go back, when we
4 go back to Cross Lake, and there is a schedule,
5 October 8th --

6 THE CHAIRMAN: 9th, I think.

7 MR. MONIAS: So I have to go back and
8 tell the people that one of the partnership will
9 come to Cross Lake to do a 15, 20 minutes
10 presentation for the people. And the reaction
11 probably I would get is why? That's where our
12 consultation process in Cross Lake, when we
13 consult the residents of Cross Lake, plus other
14 surrounding communities that are affected by
15 Manitoba Hydro, in the past and probably into the
16 future, they are going to ask me the question, why
17 are you letting them in? This is our process.
18 This is our hearing, even though it is a 20, 15
19 minutes presentation.

20 THE CHAIRMAN: Part of the problem for
21 us, sir, is that as an administrative body, we
22 have to -- we have certain legal tenets that we
23 have to meet, and that includes an openness, that
24 the proponent has to be able to hear the concerns
25 of your community. As I said already, they are

1 not going to be there to defend them or advocate,
2 but they are entitled to hear the concerns in your
3 community.

4 MS. KEMPTON: Kate Kempton here. My
5 back is extremely bad, so I am propped against the
6 wall.

7 I'm legal counsel for Pimicikamak. I
8 think that we can park this for now, but you have
9 heard the concerns. The concern is that there
10 might be a tendency for people to be more afraid
11 to speak openly. And we realize, or I assume
12 there will be a transcript anyway.

13 THE CHAIRMAN: Oh, yes.

14 MS. KEMPTON: So the thought was that
15 all of the participants and the proponent parties
16 could be informed by the transcript. But, again,
17 we are not going to make a big fuss over this, it
18 is just the thought that perhaps some people would
19 feel more intimidated or less likely to be open
20 when they are speaking their minds on that day.
21 So we registered our concern about that. You will
22 do what you think is appropriate. We are
23 certainly not trying to hide anything, but we
24 actually want to do the opposite, we wanted to
25 encourage openness.

1 THE CHAIRMAN: I thank you for your
2 comments, Ms. Kempton, and I understand where you
3 are coming from. You know, we are not insensitive
4 to the concerns in Cross Lake, as well as many
5 other northern communities. You were involved in
6 the Wuskwatim hearings, as was I, and we heard a
7 lot of concerns from people in northern
8 communities, including many from Cross Lake that
9 came into Thompson. But I welcome your comment
10 that we can park it for now, but we will -- and I
11 think between either you or some of the
12 representatives of Cross Lake and Ms. Johnson and
13 Manitoba Hydro will work out something that
14 hopefully meets the needs of all of the people.
15 Is that fine? Thank you.

16 Any other questions on the hearing
17 schedule?

18 Okay. Thank you. Then we will move
19 along, and next on the agenda is this process
20 guidelines highlights. As you will know from our
21 pre-hearing meeting in the spring, and those of
22 you who have been involved in this in the past,
23 all participants, all participants to these
24 proceedings are expected to know and abide by our
25 process guidelines. And I just want to be bring

1 to your attention some that are key, some of which
2 have specific deadlines, and sort of reinforce
3 them today, but also leave you with this takeaway
4 so you know some of the dates.

5 Just on the first page of this
6 document, 1.02 is just the application of the
7 process guidelines, they -- these process
8 guidelines cover all of our hearings and our
9 proceedings. We also have an out in there, the
10 second paragraph says that notwithstanding the
11 process guidelines, we can change them any time we
12 want or need to. Typically, we haven't done that
13 other than to make the process a little better.

14 Commission secretary, please note, and
15 those of you who are familiar with administrative
16 law or any legal proceedings will know that you
17 shouldn't communicate with any of the members of
18 the panel while the hearings are in process. Any
19 communication with the Commission should be
20 through the Commission secretary or through our
21 legal counsel. And 1.05 says much the same thing.

22 Transcripts, and I think Ms. Kempton
23 noted it, we do do verbatim transcripts.
24 Typically they are available the next morning.
25 There may be the odd time when it is not quite

1 ready the next morning, but it is pretty rare, it
2 is almost always ready the next morning or the
3 next day. They are available online. If you want
4 hard copies, you can either print them yourself or
5 purchase them from our transcriber, Reid
6 Reporting.

7 Conduct of the hearings: We try to
8 keep the hearings reasonably informal, but we do
9 have to have some structure to them. And we also
10 want to note that we want the hearings to be
11 conducted in an orderly and professional manner.
12 Truth in proceedings, swearing in, all persons
13 making a submission, and that includes members of
14 the general public who are giving evidence, will
15 be asked to swear or affirm that the evidence they
16 give is true. If a representative is making a
17 presentation on behalf of an organization, then
18 that representative must also make the same
19 affirmation. But that's only if you are giving
20 evidence that's going to become part of the
21 record. And a representative making an opening
22 statement, or conducting cross-examination, or
23 making final argument, will not be expected to be
24 sworn in or to make the affirmation.

25 Time limits: Our guidelines allow

1 presenters to have a 15 minute period in which to
2 make their presentations. Those of you who have
3 been involved in the process and are participants
4 know that there is a lot of flexibility there, and
5 that participants will be allowed, not an endless
6 amount of time, but a reasonable amount of time to
7 conduct their business, to make their
8 presentations, and to put on to the record all of
9 the evidence that they wish to have put on.

10 Ms. Johnson may have contacted some of
11 you, in fact, I believe she contacted many of you
12 already. She will be refining that as we move
13 through the hearings just to find out how much
14 time you think you will need to make your case so
15 that we can schedule accordingly.

16 Adjournments: The Commission may
17 adjourn a hearing from time to time for a variety
18 of reasons. Those of you who went through the
19 Bipole process will know that we did do that while
20 further information and further assessment was
21 conducted.

22 I would just like to draw to your
23 attention some of the practice directions which
24 are appended to our process guidelines. The party
25 status, just know the rights and obligations

1 attached to party status. Most of you, at least
2 all of you around the table are participants, and
3 most of you at the table are participants, and you
4 have a fair degree of rights as well as
5 obligations. You will be entitled to
6 cross-examine the proponent and others.

7 Order of proceedings: That's really
8 reflected in the schedule that we have already
9 gone through today. Motions, which we will come
10 back to in a few minutes when we discuss item 7 on
11 the agenda.

12 A very important one, disclosure of
13 witnesses and the 14-day rule, the 14-day rule for
14 the hearings in Winnipeg is noon on October 7th.
15 You are expected, you are not only expected, you
16 are required to have a detailed outline of your
17 presentation, a list of the witnesses that you
18 will be calling, as well as a list of the
19 authorities, journal articles, literature, et
20 cetera, upon which you will be relying as you make
21 your presentations. So that's 14 days before the
22 hearing starts, so that's October 7th, you have to
23 have that information in.

24 Seven days prior to your presentation,
25 you have to have the final version of your

1 presentation submitted, again, it is noon on that
2 day, submitted to the Commission secretary.

3 And you must note that these time
4 lines are strictly enforced. If you are a day
5 late, you don't get to use that information in the
6 hearing. So, please, take particular note of
7 those dates and please abide by them.

8 Cross-examination and questions:
9 Cross-examination will be permitted to the extent
10 necessary, and you must conduct cross-examination
11 in a respectful manner and with no intent to
12 embarrass any other party.

13 You should also note that towards the
14 end of our process guidelines document there is a
15 code of conduct for parties and representatives.
16 It is pretty straightforward stuff. If I can boil
17 it down to a few words, it is just to treat other
18 people with respect and dignity. So, please, be
19 aware of that and, please, have a look at that.

20 For those of you that are new to these
21 proceedings, you might get a bit of help from a
22 couple of tip sheets that are also in the
23 document, one for presenters and one for
24 representatives.

25 Any questions on any of that stuff?

1 Ms. Kempton?

2 MS. KEMPTON: The seven days before
3 the hearing, the final presentation, if we are
4 going to be handing in expert reports written by
5 others or by our own experts, is that part of the
6 presentation that has to be handed in seven days
7 before?

8 THE CHAIRMAN: If it is expert reports
9 that you generate, that's seven days. If it is a
10 journal article expert report, we require the list
11 of it, you know, the title and the name, 14 days
12 before the start of the hearing.

13 MS. KEMPTON: Yes, sorry.

14 THE CHAIRMAN: Now, the seven days
15 isn't before the start of the hearing, it is
16 before you make your presentation. So if your
17 presentation is scheduled for November 10th, it
18 has to be in by November 3rd.

19 MS. KEMPTON: Right. Again, the
20 actual journal article written by somebody else,
21 it has to be listed and submitted 14 days
22 beforehand, but when do you actually need the copy
23 of that?

24 THE CHAIRMAN: The sooner the better
25 obviously, but the drop dead is seven days.

1 MS. KEMPTON: For that as well, okay.

2 Thank you very much.

3 THE CHAIRMAN: Mr. Williams?

4 MR. WILLIAMS: Yes, thank you,
5 Mr. Chair. Just in terms of the seven day
6 deadline prior to the oral presentation of
7 evidence during the hearing, my understanding
8 based upon Bipole III is, for example, a number of
9 our experts will prepare a detailed expert report
10 which we would file at least seven days prior to
11 the oral evidence, and then for the actual oral
12 evidence they would provide a Powerpoint
13 presentation which is derived from that pre-filed
14 material. So my understanding, based upon past
15 practice, is that that Powerpoint, provided that
16 it is derivative of the pre-filed material, we
17 don't have to have that in seven days in advance.
18 Am I correct, sir?

19 THE CHAIRMAN: That's correct. And
20 that's an obvious point that we should put in our
21 notes in the future. Yes, that is correct. We
22 want the detailed stuff in seven days; the oral
23 presentation when they present it, as long as you
24 have copies for all of us, which Cathy will get to
25 in a few moments.

1 Any other questions on procedures?

2 Ms. Mayor?

3 MS. MAYOR: In terms of seven day rule
4 versus October 7th, it was -- our concern came up
5 at the Bipole III hearings that though you asked
6 for a detailed outline by a deadline, in this case
7 a detailed outline of the presentation by
8 October 7th, which would include evidence,
9 reports, those sorts of things, in many cases
10 there was just a brief one-page document which
11 ultimately bore no relation to the evidence that
12 was submitted seven days prior. So I would ask
13 for your comments in that regard and your
14 assistance in that regard, that there should be a
15 meaningful outline of the presentations,
16 sufficient detail that allows us to prepare well
17 in advance of the hearing.

18 THE CHAIRMAN: I think you described
19 it very well. That's what we would expect is a
20 reasonably detailed outline -- I believe it does
21 say a detailed outline -- a detailed outline of
22 your presentation. A one page point form will not
23 be sufficient and may result in your material not
24 being allowed to be brought forward when your time
25 comes. So please note that Ms. Mayor is correct

1 in her description of what we expect on that 14
2 days, or October 7th, it should be detailed. The
3 parties should be able to -- other parties should
4 be able to know what you are going to be doing
5 when you make your presentation.

6 Mr. Madden, did you have something?

7 MR. MADDEN: I do. I guess one of our
8 concerns, and I will speak more to this when we
9 get to the motions, but Manitoba Hydro once again
10 has delayed in its engagement with the Manitoba
11 Metis Federation and the Metis community. And so
12 an agreement which had been referenced in the EIS,
13 you know, had just recently been put in place, and
14 the results of that is that the traditional land
15 use study may not be available by October 18th. I
16 can't imagine that the proponent's benefit of
17 delaying an engagement, then prejudice them -- and
18 then to be used to essentially avoid having that
19 evidence put before the panel. So I would hope
20 that, as always, the CEC would be reasonable, that
21 information by virtue of the proponent's own
22 delay, that may only become available later,
23 shouldn't be precluded from being before the panel
24 and it is well within what it is supposed to look
25 at. And I can just say that our experts will, as

1 you realized in the last Bipole III round, some of
2 the information was iterative and it came in at
3 later dates. And I would just, I don't know what
4 the point -- I don't know what specific reports
5 Manitoba Hydro is referring to, but I just -- I
6 think that there needs to be some flexibility that
7 the proponent can't actually benefit by virtue of
8 delaying in getting the information required.

9 THE CHAIRMAN: Mr. Madden, I think you
10 will agree that the Commission tends to be pretty
11 reasonable. We don't expect the impossible. We
12 do have some pretty strict guidelines, but if for
13 a very legitimate reason such as the one you have
14 just described, you can't meet it, then the panel
15 would consider some alterations to that. But it
16 has to be something that's beyond your control.
17 We are not going to be -- we are not going to
18 easily agree that something is beyond your
19 control, it has to be a reasonable thing. Does
20 that satisfy you?

21 MR. MADDEN: I just want to make sure
22 that what happened in the Bipole III hearing is
23 clearly the proponent itself didn't put
24 information before the panel, nor did it do its
25 homework on some other parts. So I just want to

1 make sure that they are not going to be
2 (inaudible) in putting relevant information before
3 the panel.

4 THE CHAIRMAN: We would hope that the
5 proponent doesn't withhold or unduly delay putting
6 information before the panel. You will note from
7 our report on Bipole that we were, in some cases,
8 critical of that, and we anticipate that that
9 won't repeat.

10 MR. MADDEN: Okay.

11 THE CHAIRMAN: Anything else,
12 Mr. Madden?

13 MR. MADDEN: No, thank you, Mr. Chair.

14 THE CHAIRMAN: Thank you. Any other
15 questions on the procedural process guidelines?
16 Yes, Ms. Whelan Enns?

17 MS. WHELAN ENNS: Two questions, if I
18 may? I think they are pretty straightforward but
19 it helps in terms of new people in the room
20 perhaps. Do the 14 day and 7 day rules then apply
21 to the partnership, to the proponent?

22 THE CHAIRMAN: Of course they do.
23 Although I am not sure what, other than something
24 as Mr. Madden has just described, I'm not sure
25 what the proponent would be bringing forward that

1 would fall within the 14 day rule. Can you
2 describe what it might be? They basically put all
3 of the information except for one or two -- I
4 think the supplemental thing that I noted on
5 cumulative effects. Everything is before us now
6 that we expect from the proponent. Is that not
7 the case?

8 MS. MAYOR: Correct.

9 THE CHAIRMAN: I'm not sure where that
10 would come into play.

11 MS. WHELAN ENNS: Point taken. Thank
12 you. Could you help us then in terms of the
13 distinction between a witness and presenter?

14 THE CHAIRMAN: Well, in the case of
15 the participants, if you have engaged an expert to
16 do a particular study for you and you are going to
17 have that expert make that presentation, then
18 that's the witness, or kind of witness we want on
19 your list. Does that answer your question,
20 Ms. Whelan Enns?

21 MS. WHELAN ENNS: I believe so. The
22 distinction I think is important because there are
23 presenters who are not providing documentation and
24 being cross-examined.

25 THE CHAIRMAN: Well, the presenters

1 who aren't being cross-examined are really just
2 members of the general public. And we don't
3 expect a member of the general public to let us
4 know 14 days ahead of time that they are going to
5 speak. This applies to participants, groups that
6 have, either through funding agreements or by
7 application, have requested participant status,
8 this applies to participants. You are a
9 participant, as you well know.

10 MS. WHELAN ENNS: Yes.

11 THE CHAIRMAN: So it is up to you to
12 ensure that we have a list of the witnesses,
13 experts, et cetera, that you will be bringing
14 before the hearings.

15 MS. WHELAN ENNS: Thank you very much.

16 THE CHAIRMAN: Any other questions on
17 process?

18 Thank you. Moving along, I will turn
19 it over now to Ms. Johnson who will talk about a
20 number of, we call them important matters,
21 administrative matters -- well, I will turn it
22 over to her and let her tell you about it.

23 MS. JOHNSON: And matters that could
24 make or break your presentation, so pay attention.
25 We have gone through the hearing schedule. We

1 also have some posters with the schedule on it.
2 The partners have all got them, they are being
3 posted in the north, but if you want copies to
4 post where members of your groups may see them, or
5 associated groups may see them, please help
6 yourselves.

7 We have gone through the business with
8 the northern hearings. In Winnipeg we will be at
9 the Fort Garry Hotel, most of the time in the
10 concert hall, which is the smaller room on the
11 seventh floor, except for the one week we will be
12 on the main floor in the Provencher Room. There
13 are two evening sessions, one on November 4th and
14 one November 14th, for presenters who can't come
15 during the days, we have that opportunity. If you
16 know of anybody, please alert them to that fact.

17 As we already said, I will be
18 contacting you shortly to figure out a schedule on
19 how much time you need. And I will stress, noon,
20 October 7th, is the deadline, and it doesn't
21 matter if it is a day late, if it is a minute
22 late, if it is an hour late, you are out of luck.
23 So plan accordingly.

24 And in those cases the Commission will
25 need 10 printed copies of your submission and one

1 electronic copy.

2 As we said, for the most part we
3 figure that the participant presentations will
4 start in the first week of November. We will see
5 how that works out once I get everything on paper.
6 And also if things do go a little longer, and we
7 only need a day or two to finish up, we will just
8 add that on to the end, so just be aware of that,
9 provided we can find a space, that's going to be
10 the hard part.

11 Okay. When you are doing your
12 presentations, your oral presentations, we do have
13 AV equipment available, a Powerpoint projector.
14 And Manitoba Hydro has kindly offered services of
15 their AV person, which Stephen Dueck. His contact
16 information there is on that sheet. So if you
17 need to talk about how you project things and what
18 kind of file formats, don't ask me, because I will
19 be no help whatsoever. So we are very thankful
20 for Hydro doing that, because it is always a pain
21 in the neck, as everybody knows.

22 Now, your presentation, please make
23 your slides readable. You lose everybody if you
24 put too much stuff on the slides and you can't
25 read it. Minimize the engineering schematics.

1 Little squiggles on the screen don't help anybody.
2 And please watch your colour schemes because there
3 are some people who are colour blind. So blue may
4 all look the same, same gray, you lose the umph
5 from your presentation. And I cannot stress
6 enough, do not use dark backgrounds. It gums up
7 the copy machines, and you can't write on the
8 slides, and that makes the panel grumpy. So you
9 don't want to go there. And please advise your
10 consultants and your witnesses to that fact as
11 well, because we had that situation to deal with
12 with Bipole.

13 Copies of materials to be shared at
14 the hearing; in the procedural manual, page 49,
15 there is some tips and things in there about
16 everything that we need. An electronic copy of
17 all materials is needed by the CEC. So whatever
18 form it takes, lots of times these things are too
19 big to email, so give us a stick or a CD, but make
20 sure that you label them so we can tell what they
21 are. Make your file names distinctive. Not just
22 CEC presentation, I don't know how many of those I
23 have seen. Put your name on it or your
24 organization somewhere on it so it is distinctive.
25 Same goes for the CDs and flash drives, because

1 flash drives are flying all over the place and we
2 will never know what is on them unless they are
3 marked.

4 At the Bipole hearing there was some
5 discussion that some of the participants would
6 just prefer to have electronic copies of the
7 presentation. I don't know how this group feels.
8 I mean, some of the presentations are so big that
9 you can't email them, so I think maybe we better
10 stick with paper copies. And in that case we need
11 50, that is 50 copies. Please note that.

12 THE CHAIRMAN: This is for the
13 hearings?

14 MS. JOHNSON: This is for the hearing,
15 this is your presentation at the hearing.

16 There is 11 required for the CEC
17 alone, 10 for the proponent, and three each for
18 the participant groups, and other partners that
19 are also there. There is also always requests
20 from the audience, so if you make a few extra,
21 that's no problem for us to get rid of them.

22 Here is another thing, please listen
23 carefully to this. Please deposit your copies at
24 the reception desk when you arrive. Don't hold on
25 to them until when you go up there, I know it is

1 for effect sometimes, but it just disrupts the
2 whole proceeding, because nobody knows what copies
3 and who has what. If you have secret information
4 in them, the girls are really good, they will hold
5 them for you until the last minute, until things
6 need to be distributed. Nobody will get them
7 ahead of time. This also makes the panel grumpy
8 if they don't have their copies when they need
9 them. So I'm going to say that too.

10 We are also discouraging putting your
11 copies at the end of your table because it causes
12 traffic within the hearing. Take it to the back,
13 it will be well distributed for you.

14 Also note, if your presentations are
15 more than one part, say you have three experts and
16 they have three separate presentations, bring them
17 to the table as a package. Just as an example
18 here, if you have a three part presentation, 50
19 copies, ten different participants, do you know
20 how much traffic that's going to cause for our
21 staff to have to walk around? If they are in
22 packages, it is easy to give them and make sure
23 that everybody gets what they need. And making
24 sure that you get your copies to the reception
25 desk at the appropriate time, which is if you

1 appear in the morning, between 9:00 and 9:15, not
2 at 9:29, because then you are disrupting the
3 proceedings as well to get them out; same in the
4 afternoon, between 1:00 and 1:15, not 1:29.
5 That's just a point I would like to make.

6 Also, if we move faster than expected,
7 perhaps you were scheduled to be first in the
8 afternoon but it looks like you are going to be in
9 the morning after the break, get your copies to
10 the reception desk at the break so that it can be
11 distributed. So just a little cooperation there
12 and things will go smoother and faster than we
13 have expected in the past. And if you don't have
14 your copies ready, we will point you to the copy
15 shop and you might lose your spot.

16 Also, everything, as you know, is
17 being transcribed. We need everyone to speak into
18 the microphone as clearly as possible at a speed
19 that the transcriber can keep up with. Otherwise
20 we will keep interrupting you, and that hurts your
21 presentation, you lose the flow.

22 For parties that need translation, we
23 are asking you to bring your own translator, just
24 to ensure that we have the appropriate language
25 and appropriate dialect. I'm not sure what the

1 translation needs are for this group. Is there
2 anything special that we need to do, or is it
3 going to disrupt -- so we don't disrupt the
4 proceedings? Do we need the booth, do we need --
5 will things flow? Does anybody have any special
6 requests?

7 MR. PAUPENAKIS: I have a group of
8 people who may want to present at the hearing in
9 Pimicikamak. I have noticed a few of them are not
10 mobile. My question is would an audio, I mean, a
11 video presentation be possible to show to the
12 panel, as well as being transcribed, a lot of them
13 will do it in their language, but a transcription
14 of their presentation will be provided?

15 THE CHAIRMAN: Yes, that would be
16 possible.

17 MR. PAUPENAKIS: Thank you.

18 The other question that I have is, for
19 our part, the Pimicikamak, for a video record, my
20 question is, would the panel allow us to have a
21 video record of our hearing in Cross Lake?

22 THE CHAIRMAN: Yes.

23 MR. PAUPENAKIS: Thank you very much.

24 THE CHAIRMAN: We have done that
25 before. In fact, Nisichawayasihk videotaped the

1 entire course of the hearings on Wuskwatim. So we
2 would not object. We ask, if you've looked at our
3 process guidelines, all we ask is that you request
4 ahead of time, which you have just done. So, yes,
5 you can do that.

6 MS. JOHNSON: No more questions.

7 MR. MADDEN: Cathy, maybe you
8 mentioned it, but one suggestion that I would
9 urge, that was a challenge in Bipole III, is that
10 parties would table, in particular Manitoba Hydro
11 would table a Powerpoint presentation which didn't
12 have numbers on the slides, and it became very
13 difficult in cross-examination. I mean, people
14 just didn't know what slide was being referred to.
15 So to put page numbers on the slides, it becomes
16 very helpful.

17 MS. JOHNSON: Good point, yes, that
18 was a big problem, especially when you want to ask
19 a question.

20 THE CHAIRMAN: Did everybody get that?
21 If you are doing a Powerpoint, please put a page
22 number or slide number on every slide.

23 MR. WHELAN: Ms. Johnson, Jared for
24 Peguis. Two points, some of the work that Peguis
25 has contracted includes using historical MTS maps.

1 Unfortunately, they are blue and green so we can't
2 do anything about people who have colour blind
3 problems. Second point, I presume that
4 participants, if they want to use the mailing
5 list, can distribute their presentations?

6 MS. JOHNSON: Yes, absolutely.

7 Okay. Now, we are on to the public
8 presenters. As I said we blocked out some time
9 for them. We will assist public presenters in
10 making copies, if they have copies to be made, but
11 they must be less than five pages to be made on
12 site. Otherwise, we need to have them ahead of
13 time so we can make them and bring them with us.

14 If you know any individuals that wish
15 to speak, please ask them to get in touch with us
16 at least seven days ahead of time. Even though we
17 do take sign-ups on site, it just helps us to
18 schedule, to make sure we have enough time for
19 everybody.

20 THE CHAIRMAN: I just want to note
21 that the two evenings may not be the only time
22 that we hear public presentations. We will likely
23 swap some afternoon times, but that will be
24 determined as we go through.

25 MS. JOHNSON: Now, moving on to

1 undertakings. We have been kind of lax at the CEC
2 on keeping track of those, but we are going to
3 toughen our rules up a little bit this time. So
4 the transcriber is going to keep track of the
5 undertakings, but I need everyone's assistance in
6 this, if you are asking for an undertaking, to
7 clearly ask what is to be done and in reference to
8 what documentation. And we would also ask the
9 responder to repeat what they understand is the
10 request, so that if there is any
11 misunderstandings, we can sort it out then and
12 there. It may take us a little bit to get into
13 the swing of things, but I think once we get it,
14 things will go much smoother.

15 We will be posting the presentations,
16 the oral presentations with the Powerpoint slides.
17 However, some of them are so large, especially
18 ones with pictures and graphics, that they don't
19 fit. So we provide a reference that people can
20 ask for them, and sometimes we just don't get the
21 copies in time to get them posted. So that's all
22 on you guys if we don't get them on time.

23 I have no idea where all of our
24 documents are. You have to talk to Amy if you
25 have a question about any documents that have been

1 filed up to now, anything that goes on in the
2 proceedings, and anything that's posted or not
3 posted. And I put her contact information there.

4 We will also accept written
5 submission, and the deadline for that is
6 November 14th. We have a little function on our
7 website that you can submit directly from there,
8 we also get emails or regular Canada Post mail.
9 And once we receive these submissions, we will
10 circulate them to all the parties, as it is part
11 of the record.

12 We will have wifi access at the Fort
13 Garry, and they are currently upgrading their
14 system. We are not sure whether it will be up and
15 running by the time we get there. In the past
16 everybody needed a code. If we still need codes,
17 they will be at the reception desk as before.

18 As we said, the transcripts will be
19 posted, most of the time the next day, but there
20 are times that doesn't happen. If you wish to
21 purchase them, the contact information is there.

22 And I just wanted to add a little bit
23 here because we had some discussions the last
24 hearing. We don't take roll call every day. So
25 the parties and representatives will be identified

1 as you introduce yourselves in your opening
2 statements. That list remains constant throughout
3 the hearing, and it is just presenters and
4 witnesses and questioners who are added whatever
5 day they appear. If you changes your allegiance
6 or something during the hearing, you have to go
7 with what you did in the first place. So that's
8 the bottom line, quit bugging the transcriber
9 about who is here and who is not. So the first
10 day, if you don't get it right, well, that's your
11 problem, it's not ours.

12 I also have to say, if you have
13 personal equipment, please mark it. Your computer
14 cords -- we end up with mice and all kinds of
15 things at the end of the hearing and have no idea
16 who they belong to. So I just advise you to mark
17 your equipment. That goes for travel mugs, we
18 have a cupboard full of those too.

19 We are going to, to the best of our
20 ability, provide power at each station for
21 everyone. You may have to share outlets, but
22 please don't plug things across the aisle because
23 that causes all kinds of problems for us,
24 everything has to be taped down. So if something
25 is not right, if it doesn't work out, don't string

1 it across the aisles for somebody to trip over.

2 As usual we will be printing some
3 reports. We have been limiting our numbers just
4 to save paper and space in our office. So later
5 on in the hearing, I will be asking each party how
6 many they need. You don't need to skimp, if you
7 need lots, that's fine. We just don't want to
8 waste paper again.

9 That's about all I have. If anyone
10 has any questions, I will be happy to answer them.

11 MS. LUTTERMAN: With reference to
12 number 9, the submissions, if members of the
13 public have -- or participants have additional
14 submissions that are in audio or video form, can
15 those also be submitted by November 14th?

16 MS. JOHNSON: I would think so. It
17 makes distribution a little more difficult, but we
18 can probably make CDs out of them.

19 MS. LUTTERMAN: Yeah. I think we
20 might strive to make sure that they are in written
21 form, but in case people want to have that option.

22 MS. JOHNSON: Sure.

23 MS. LUTTERMAN: Thank you.

24 THE CHAIRMAN: Any other questions on
25 process, Ms. Mayor?

1 MS. MAYOR: Sorry, just in response to
2 that, are we talking about participants' evidence
3 by November 14th, or members of the public you
4 were speaking about?

5 MS. LUTTERMAN: Yes.

6 MS. MAYOR: Thank you, sorry.

7 THE CHAIRMAN: Mr. Williams?

8 MR. WILLIAMS: Yes, I'm just getting
9 tribunals mixed up, so I'm asking for a memory
10 refresher. In terms of the exhibit list, will
11 there be an electronic update of it each day and a
12 paper copy available in the room?

13 MS. JOHNSON: We will do our best.

14 THE CHAIRMAN: Any other questions?

15 Ms. Whelan Enns?

16 MS. WHELAN ENNS: I wanted to thank
17 the secretary for the comments in terms of
18 Powerpoint presentations and their size. We did
19 have some success in the Bipole III hearings with
20 people, in fact, including witnesses for different
21 participants and certain of the Manitoba Hydro
22 experts providing in the room a pen drive, so that
23 people had electronic quickly. So I wanted to
24 just basically note that and ask if that is
25 acceptable, and also whether we can encourage

1 that? Because there were some, you know, three
2 and four gig apps which were on Powerpoint
3 presentations, which had to do with exactly the
4 issues you mentioned.

5 MS. JOHNSON: Yes, I don't see any
6 problem. Maybe we will have a designated spot for
7 that or something. We will think about it.

8 MS. WHELAN ENNS: Thank you.

9 THE CHAIRMAN: Any other questions on
10 process? Sorry, I didn't turn my mic on. Any
11 other questions on Ms. Johnson's comments?

12 Did you want to address the speaking
13 list? We also have an order of appearance. There
14 is just a one page sheet in your package, it is
15 just the order of appearance. I'm not even sure
16 who did it, but somebody in the office, a couple
17 of people in the office had a bit of a draw, and
18 this is the order in which you will make your
19 opening statements, cross-examination and closing
20 statements. As we did in Bipole, you are welcome,
21 in consultation with another party, to change
22 either your entire appearance schedule, or for a
23 specific day, if you can't make it or you want to
24 change. But this is the list that we will stick
25 by. If one party wants to swap with another one,

1 that's open as long as the panel is informed.

2 That's pretty straightforward, but any questions?

3 Okay. Yes, Mr. Paupenakis?

4 MR. PAUPENAKIS: Yes, I just wanted to
5 make a note that a correction needs to be made for
6 the record, that Pimicikamak is the official name
7 of our people, and we don't have no association
8 with the word Cree.

9 THE CHAIRMAN: So we just refer to you
10 as Pimicikamak?

11 MR. PAUPENAKIS: Pimicikamak.

12 THE CHAIRMAN: Simply --

13 MR. PAUPENAKIS: This one here is
14 correct.

15 THE CHAIRMAN: Okimawin?

16 MR. PAUPENAKIS: Yes.

17 THE CHAIRMAN: We will make that note,
18 thank you. Any other comments?

19 Okay. Before we turn to the next item
20 on the agenda, which that may take a little bit of
21 a debate, the Chair requires a biology break, so
22 we will come back in about six or eight minutes.

23 (Recess taken)

24 THE CHAIRMAN: Could you all take your
25 places again? We are going to resume in a moment.

1 I would like to call the meeting back to order.

2 The next item on the agenda is
3 motions. As you will know, we've had two motions
4 filed yesterday, one from Peguis and one from
5 Pimicikamak. They are -- in one of the motions,
6 Peguis and the first clause of the Pimicikamak
7 motion are essentially the same. They are
8 requesting that these hearings be adjourned until
9 a regional cumulative effects assessment has been
10 conducted and incorporated into the EIS. They
11 also allow for a similar or the same alternative,
12 that if we don't adjourn the hearings now, that we
13 do not get into final argument until the regional
14 cumulative effects assessment has been concluded
15 and filed.

16 The second remedy sought in the
17 Pimicikamak motion asks that we adjourn the start
18 of the hearing until the completion of a land use
19 and occupancy study has been -- and an impact
20 study has been done to determine Pimicikamak's
21 values, interests, concerns in the area. I
22 certainly don't intend to hear motion argument
23 today, but what I want to talk about a bit is
24 about the process and how we will deal with these
25 motions.

1 I would suggest that the two very
2 similar clauses be addressed as one motion, that
3 we hear both parties in that same motion hearing
4 on that one issue, and then we would hear the
5 second Pimicikamak one separately, on the same
6 day, but not in the same motion hearing.

7 We do have a little bit of a problem
8 with scheduling when we might hear these motions.
9 Typically, we like to hear motions, particularly
10 motions of this nature before the commencement of
11 the hearings. However, there is no time or
12 virtually -- I think there is probably no time
13 that we can do that next week, as the staff is
14 tied up in preparing for most of the hearings, and
15 then we would be in the north for two weeks. So I
16 would suggest that we have a motions day on
17 October 7th. That would allow all of the parties,
18 including the proponent, to respond, and the other
19 participants who may speak to one or the other of
20 the motions to prepare their presentations.

21 I realize that this poses a little bit
22 of a problem in that you are asking for an
23 adjournment of the hearings until your motions --
24 your motions are asking for an adjournment of the
25 hearings. I would note that having the motions

1 hearing date on October 7th fits in with your
2 alternative remedy, the alternative remedy that
3 you have sought. So I will throw that out on the
4 table for now. And I would initially seek input
5 from Ms. Kempton and Ms. Guirguis.

6 MS. KEMPTON: Thank you, Mr. Chair.
7 Well, I do have to say that October 7 is going to
8 be a big problem for me, because I haven't taken a
9 vacation in years and I'm booked to be in Italy
10 over that period of time, and I'm not going to
11 cancel that one.

12 THE CHAIRMAN: That's not very
13 considerate of you.

14 MS. KEMPTON: So that is a problem. I
15 mean, we do have other lawyers at our firm that
16 can argue it, but I'm the senior counsel in this
17 file and in the best position to argue it because
18 of my relationship with the Pimicikamak nation.

19 THE CHAIRMAN: What dates might you be
20 available?

21 MS. KEMPTON: I will tell you when I
22 am gone. I'm going September 30th through to the
23 15th, in that period of time. So other lawyers at
24 my firm are preparing our materials for the main
25 hearing, should they go ahead. And I was coming

1 back to be here for a lot of the hearings to go
2 ahead and argue them. We had probably thought,
3 obviously mistakenly, that because of the relief
4 being sought, that this hearing might be scheduled
5 for some time in September. I do appreciate the
6 timing is extremely tight for that.

7 THE CHAIRMAN: Yeah. I understand why
8 you had some delay in filing your motion and we
9 have no problem with that. But it does pose a
10 problem in hearing it. If we were to have a
11 hearing date sort of later in that week when you
12 are back, would that work? I mean, it is getting
13 tight to the commencement of the hearings, but you
14 know, if we did it the 16th or 17th?

15 MS. KEMPTON: I can make it work.

16 THE CHAIRMAN: Ms. Guirguis, can you
17 make that work?

18 MS. GUIRGUIS: Yes, that would be fine
19 for me too.

20 THE CHAIRMAN: Okay. So given that,
21 does anybody else have any objections to those
22 dates? I would also note that if anybody else has
23 any motions, they will have to file them PDQ, and
24 we only want to have one day of motions hearing.
25 We are not going to have days or even weeks of

1 motions hearings. We don't really want them
2 separated by any significant amount of time.

3 MR. MADDEN: Mr. Chair, what was the
4 date proposed again?

5 THE CHAIRMAN: The 16th or 17th of
6 October.

7 MS. KEMPTON: I would certainly
8 request, since I'm landing back late on the 15th,
9 that it not be the 16th, rather the 17th or 18th?

10 THE CHAIRMAN: We are easy.

11 MS. KEMPTON: Is the 18th possible?

12 THE CHAIRMAN: That's Friday, that
13 might be tough, because the staff, in particular,
14 will have to be putting everything together for an
15 early Monday morning flight. So if we can do the
16 17th, that would probably be the best for us.

17 So the 17th of October, Mr. Madden?

18 MR. MADDEN: Okay.

19 THE CHAIRMAN: So having agreed on
20 that, I will repeat, if any other participants
21 wish to file motions, get them in by about the 1st
22 or 2nd of October, so that we can give the
23 proponent sufficient time, and any other parties
24 who wish to speak to some of these motions
25 sufficient time to prepare.

1 We do have a motions practice
2 direction which probably needs to be changed, but
3 it asks for eight and four day time lines. So
4 filing the motion eight days before the hearing
5 and the response four days before, I think given
6 that we are now over a month until we do hear the
7 motions, I think we should have at least the
8 response from the proponent at least seven days
9 before the 17th, which would be the 10th. And
10 then any other parties that wish to speak to
11 either of these motions, please advise Ms. Johnson
12 ahead of time.

13 Other parties will be allowed to speak
14 but not for more than about five or ten minutes,
15 which was the practice on Bipole. The appellant
16 and the respondent will be given a reasonable
17 amount of time, probably somewhere in 20 to 30
18 minutes, but other participants would only be
19 given five to ten, depending on how many there
20 are. We are not going to spend a whole day doing
21 these things.

22 We would also welcome, particularly
23 from the movers of the motions, point form briefs
24 of your presentation. We don't work by affidavit.
25 We don't work necessarily by extensive briefs, but

1 a point form brief that puts in a few pages of
2 what you've submitted in a few hundred pages would
3 certainly help us in preparing for that.

4 Mr. Williams?

5 MR. WILLIAMS: Yes, thank you,
6 Mr. Chair. If CAC wished to file any written
7 materials with regard to this brief, with regard
8 to this motion, when would -- what time frame
9 would we expect that in, sir?

10 THE CHAIRMAN: Well, I would think
11 that perhaps the 10th as well, Mr. Williams. That
12 would give the panel, as well as the proponent,
13 sufficient time to prepare, to read your brief and
14 be aware of it. Although we don't necessarily
15 require written briefs from the movers, if other
16 participants wish to submit a written presentation
17 on these motions, you are more than welcome to do
18 that. The deadline will be October 10th.

19 Now, you are probably all taking notes
20 of these dates. We will produce minutes of
21 today's meeting which restate all of these dates
22 for you. They will be out in the next few days.

23 Mr. Madden?

24 MR. MADDEN: Sorry, I may have missed
25 it, did you also identify a date for other

1 participants who are interested in filing motions,
2 when they have to file by, or does the eight/four
3 rule apply?

4 THE CHAIRMAN: No, the eight/four rule
5 will not apply because our practice guidelines, as
6 most of our guidelines, allows us to sort of amend
7 as necessary. If you wish to file another motion,
8 we would like it filed by the 2nd of October, that
9 is the 15 days before the hearing, and then the
10 proponent will respond on the 10th, seven days
11 before.

12 Does that meet your needs, Mr. Madden?

13 MR. MADDEN: Yes, Mr. Chair.

14 THE CHAIRMAN: Ms. Mayor?

15 MS. MAYOR: So then all motions will
16 be heard on October 17th?

17 THE CHAIRMAN: All motions, so if any
18 other motions come in, I'm including the two that
19 we have before us, they will be heard on the 17th.

20 MS. MAYOR: And in terms of
21 Mr. Williams' question, he is going to be
22 providing materials, I'm assuming in support of
23 the motions as opposed to in support of the
24 partnership. If he is filing materials on the
25 same day, then we won't have an opportunity to

1 file a written reply. Should he not be having to
2 apply by October 2nd as well, which then gives us
3 until the 10th to file our written materials?

4 THE CHAIRMAN: Where I see this,
5 Ms. Mayor, is that rather than arguing on the day
6 of the motions, he is putting in a written brief.
7 Isn't that what you are suggesting, Mr. Williams?
8 So I don't know that you necessarily need to
9 respond to his intercession, but let's work this
10 out. Mr. Williams?

11 MR. WILLIAMS: Certainly our intention
12 is the main players obviously will be doing the
13 heavy lifting on this motion. Out of frankly a
14 courtesy to both the mover of the motion and the
15 respondent, and to provide better information to
16 the board, we think it is a good practice to
17 provide at least some outline of our submissions
18 in advance. We would probably recognize in the
19 limited time frame, still seek the five to ten
20 minutes that the board in its benevolence will
21 offer on the hearing day itself. But our intent
22 was to provide notice to all. And I don't have
23 instructions from our clients. It is quite
24 conceivable that CAC will have a more nuanced
25 position than my friend from Manitoba Hydro

1 anticipates. But I think -- I don't see a real
2 unfairness to either party in providing additional
3 material that we are not obliged to. I think it
4 is out of fairness to all and to the board. So
5 I'm not sure why a right to reply is necessarily
6 required.

7 THE CHAIRMAN: One would hope that you
8 are not asking, or not considering an extensive
9 written document?

10 I just note that motions typically are
11 between the mover of the motion and the proponent.
12 We, in the past, have allowed other participants
13 to make brief presentations either for or against
14 the motion. We will continue to do that. But I
15 would note to other participants, if you want to
16 bring issues up under the guise of these motions
17 that are somewhat different, then you should file
18 your own motions. Any issues with that?

19 So we will stick on those time lines,
20 that the motion date will be the 17th, the
21 proponent, KHLP, will file their response to the
22 motions on the 10th of October. Any participants
23 who wish to submit a brief statement on the motion
24 will also do so on October 10th. Any parties
25 wishing to bring in another motion will do so by

1 October 2nd.

2 Any questions, comments, objections?

3 Ms. Kempton?

4 MS. KEMPTON: Thank you, Mr. Chair.

5 The procedure for the motion itself, when we are
6 arguing it, I take it given the time allotted
7 there, it is not viva voce evidence, no testimony,
8 just oral submissions on that day. Is that
9 correct?

10 THE CHAIRMAN: That's correct, that's
11 been our practice in the past. And we
12 technically, 20 to 30 minutes for each of the main
13 parties, so you and Peguis and KHL P, and then
14 probably about five minutes for participants who
15 wish to speak briefly to it.

16 MS. KEMPTON: And will we have a right
17 of oral reply at the end?

18 THE CHAIRMAN: Yes. Yes, of course.
19 We like to keep each motion hearing to about two
20 hours so that, you know, if we have two or three
21 to get through in a day, that can take up a day.

22 MS. KEMPTON: Okay. Thank you.

23 THE CHAIRMAN: Anything else on the
24 motions?

25 It went a little easier than I thought

1 it might. Thank you all.

2 Well, then that brings us to the end
3 of the agenda, unless there are other issues or
4 questions that anybody might have.

5 Mr. Williams?

6 MR. WILLIAMS: Just a couple. In
7 terms of curriculum vitae of the Hydro expert
8 witnesses, I'm not aware when we might expect
9 them, but it certainly -- it would be helpful to
10 get a date when we might expect them by, because
11 we can start doing our work in terms of those
12 witnesses as soon as possible. So it would be
13 helpful to have an indication when we might get
14 the expert witnesses. In terms of the community
15 members, those are of less crucial importance, but
16 certainly in terms of those who Hydro will be
17 presenting as experts.

18 And then just a second point is, just
19 a reminder, and we will certainly talk with
20 Ms. Johnson off line, but one of our experts,
21 Dr. Gibson, is still intending to appear via a
22 video link. We are hoping for a date in November.
23 So there are some logistics that we will bring to
24 the board secretary's attention at a later time.

25 THE CHAIRMAN: Thank you. Does Hydro

1 have a response on when we might see the CVs of
2 the witnesses?

3 MS. MAYOR: I am sorry, we were just
4 looking through the process guidelines as to when
5 we are required to produce them. I apologize, I
6 can't offer it off the top of my head.

7 THE CHAIRMAN: I'm not sure that it is
8 in there. I'm just trying remember from Bipole.
9 It was actually quite early in the process that we
10 got a huge stack of CVs for the witnesses. I
11 would like to suggest that it, you know, be at
12 least the 14 days before the start of the Winnipeg
13 hearing, so that would be the 7th of October.

14 MS. MAYOR: That's acceptable. Thank
15 you.

16 THE CHAIRMAN: Does that work,
17 Mr. Williams?

18 MR. WILLIAMS: Yes, and we will
19 certainly welcome them sooner, but 14 days is --

20 THE CHAIRMAN: We always like stuff
21 sooner. Any other? Mr. Paupenakis?

22 MR. PAUPENAKIS: Thank you, Chair.
23 One note that I wanted to inquire about is that
24 the schedule, the notice -- I noticed Cross Lake
25 is not listed on the October 9th date.

1 THE CHAIRMAN: The schedule doesn't
2 include the three or four First Nations that we
3 are going into, if I'm correct. Actually, the
4 Bird and York Landing are here. Split Lake is
5 here. Cross Lake up on the top of -- oh, on this
6 one? No, this is just the location and we don't
7 have -- we haven't included the buildings in each
8 of the First Nation communities that we are going
9 into. I believe in part because in some
10 communities the space hasn't been identified yet.
11 Is that correct?

12 MS. JOHNSON: We haven't advertised
13 them.

14 THE CHAIRMAN: We haven't advertised
15 them.

16 MS. KEMPTON: Sorry, Mr. Chair, the
17 poster that's now available doesn't have Cross
18 Lake or a number of the other hearings, so we
19 can't really post it in Cross Lake.

20 THE CHAIRMAN: That's a good point.

21 MS. JOHNSON: No, we didn't include
22 the community hearings on the general poster
23 because they are basically invited meetings. Each
24 of the communities are to advertise however they
25 do to their community members. These are just the

1 general open to the public meetings. So if the
2 poster isn't of use to you, that's fine.

3 MR. PAUPENAKIS: The reason I would
4 like to maybe have them on there is for other
5 communities and other people that may want to come
6 and listen in on these hearings in Cross Lake. We
7 would like them to be made aware of this, that the
8 event is being held there on that date.

9 MS. JOHNSON: Well, we went back and
10 forth on this one with some of the communities,
11 that they wanted just the community members and
12 not a lot of outsiders coming in. So it is
13 whatever you want to do, we can work it out. We
14 can discuss that later and we will --

15 THE CHAIRMAN: I think if you wish to
16 have the information about your community hearing
17 advertised widely, we are quite prepared to do
18 that. And if you can work with Ms. Johnson, we
19 can arrange for that. As Ms. Johnson said, there
20 was some concern in some communities that they
21 didn't want it widely advertised because they view
22 it as sort of just their community hearing. But
23 if you want it, we can do it.

24 MR. PAUPENAKIS: Okay. Thank you very
25 much.

1 THE CHAIRMAN: Any other issues or
2 concerns?

3 Well, you are a wonderful group. We
4 are finished much ahead of schedule. I think this
5 is a good sign, hopefully, that you are able to
6 move along as swimmingly as this morning has.

7 So thank you very much. We will see
8 some of you, a few of you anyway up north. We
9 will see the rest of you at the hearing date on
10 October 17th. This adjourns today's session.

11 (Concluded at 11:39 a.m.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, CECELIA J. REID, a duly appointed Official
Examiner in the Province of Manitoba, do hereby
certify the foregoing pages are a true and correct
transcript of my Stenotype notes as taken by me at
the time and place hereinbefore stated.

Cecelia J. Reid
Official Examiner, Q.B.

This document was created with Win2PDF available at <http://www.win2pdf.com>.
The unregistered version of Win2PDF is for evaluation or non-commercial use only.
This page will not be added after purchasing Win2PDF.