

MANITOBA CLEAN ENVIRONMENT COMMISSION

KEYYASK GENERATION PROJECT

PUBLIC HEARING

Pre-hearing

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Transcript of Proceedings
Held at Winnipeg Convention Centre
Winnipeg, Manitoba
THURSDAY, APRIL 11, 2013

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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

Bruce Webb

MANITOBA HYDRO

Janet Mayor - Counsel
Vicky Cole
Shawna Cole

CONSUMERS ASSOCIATION OF CANADA

Byron Williams - Counsel
Gloria Desorcey
Megan Menzies

FOX LAKE CREE NATION

Loretta Ross
Leslie Ager
Brandy Bone

MANITOBA METIS FEDERATION

Brandy Thomas
Erynne Sjoblom

MANITOBA WILDLANDS

Gaile Whelan Enns
Meghan LaBean

PEGUIS FIRST NATION

Lloyd Stevenson
Jared Whelan

FOX LAKE GRASSROOTS CITIZENS ORGANIZATION

Agnes Pawlowska
Peter Kulchyski

YORK FACTORY FIRST NATION

Gordon Wastesicoot
Wayne Redhead

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EXHIBIT NO.

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No exhibits marked

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1 Thursday, April 11, 2013

2 Upon commencing at 10:00 a.m.

3

4 THE CHAIRMAN: Okay. Good morning,
5 welcome all to this, I guess in a sense it is the
6 kickoff to the Keeyask Environmental Review
7 Process. Today's meeting really is to discuss
8 some administrative matters, to discuss some
9 ballpark time frames, also to discuss the IR, the
10 information requests process.

11 You have an agenda at your place and
12 you have a couple of booklets. After
13 introductions we will go through some of these
14 booklets, certainly not in extensive detail, but
15 we will touch on the highlights.

16 As I've said, some of you who have
17 been through this process before will know well
18 you are all expected to read and be cognizant of
19 the contents of all of this procedural stuff that
20 we produce and put out for the process, and also
21 to abide by the guidelines that we have put into
22 practice.

23 I would like to start off with
24 introducing those on our side of the table, the
25 Clean Environment Commission, the panel for this

1 proceeding, and then I will ask each of you, the
2 participants and the proponent, to introduce
3 themselves.

4 For those of you who don't know me,
5 I'm Terry Sargeant, I am the chair of the Manitoba
6 Clean Environment Commission. I have been for a
7 bit over nine years now. And I'm also the chair
8 of the panel for the Keeyask proceedings.

9 To my immediate left is Judy Bradley.
10 She is a new member of the Commission. Judy had a
11 long career in education as a teacher in Winnipeg
12 and laterally for a number of years with the
13 Manitoba Teacher's Society, retiring as their
14 boss, I guess, the general secretary.

15 Next to her is Jim Shaw. Jim, this is
16 the first review panel that Jim has sat on, but he
17 has been on the Commission now for two or three
18 years. He is a retired lawyer. He was with
19 Manitoba Public Insurance for many years. He has
20 been involved in some participant assistance
21 committees, but this will be the first review.

22 Next to Jim is Edwin Yee. Edwin has
23 been on the Commission for many years now. He is
24 a retired provincial public servant. He has a
25 scientific background which helps those of us who

1 don't have a science background in many cases.
2 Edwin has been on a number of Clean Environment
3 Commission reviews, including our hog review, the
4 Louisiana Pacific licence change application.
5 Actually Edwin chaired that panel when I was
6 conflicted out and couldn't be involved. Edwin
7 was also on the City of Winnipeg wastewater panel
8 and has been on a couple of participant assistance
9 panels.

10 Down on the other side of Cathy is Reg
11 Nepinak. Reg is another new member of the panel.
12 He is also a member of the Pine Creek First
13 Nation, and has a long career in Alberta's oil
14 patch, in Aboriginal social services, and also
15 spent some time working for Pine Creek First
16 Nation.

17 Clean Environment Commission staff to
18 my immediate right, somebody I am sure you know
19 well is Cathy Johnson, the long time, as Stuart
20 MacLean would say, long suffering Commission
21 secretary. She is the one who runs the show.

22 At the end of the table is Mike Green,
23 our legal counsel, and over by the door, our
24 support staff, Joyce Mueller and Amy Kagaoan.

25 So, starting over here, I would ask,

1 we will go down the table and introduce yourselves
2 please and what your role in this is. You will
3 have to -- just to your right, Bruce, there is one
4 right beside you there, and you have to push the
5 button to get it on.

6 MR. WEBB: There we go. I'm Bruce
7 Webb, I'm with the Environmental Approvals Branch
8 of Manitoba Conservation and Water Stewardship,
9 and I'm our contract person for the project. I
10 started on this about two weeks ago when our
11 regular person went on Pat leave, and I will be
12 doing it until December, at which time he will be
13 back but that will be after the hearing, perhaps.
14 And Elise Dagdick and I will be covering the
15 hearings again primarily.

16 MS. LABEAN: My name is Meghan LaBean,
17 I'm a researcher for Manitoba Wildlands.

18 MS. WHELAN ENNS: Gaile Whelan Enns,
19 director Manitoba Wildlands.

20 MS. THOMAS: Brandy Thomas, Natural
21 Resources Department for Manitoba Metis
22 Federation.

23 MS. SJOBLUM: Erynne Sjoblom, Natural
24 Resources director for the Manitoba Metis
25 Federation.

1 MR. WHELAN: Jared Whelan,
2 coordination services for Peguis First Nation.

3 MR. STEVENSON: Lloyd Stevenson,
4 Peguis First Nation.

5 MS. PAWLOWSKA: Agnes Pawlowska,
6 coordinator of Fox Lake Grassroots Citizens
7 Organization.

8 MR. KULCHYSKI: I am Peter Kulchyski,
9 I am a professor with the University of Manitoba
10 and a researcher with the Concerned Fox Lake
11 Grassroots Citizens.

12 MS. DESORCEY: I'm Gloria Desorcey. I
13 am the executive director for the Manitoba branch
14 of the Consumers Association of Canada. And to my
15 right is Byron Williams, the director of the
16 Public Interest Law Centre, and to my left Megan
17 Menzies with the public interest law centre.

18 MS. COLE: I'm Vicky Cole with
19 Manitoba Hydro. I'm the manager of major
20 projects, assessment and licensing.

21 MS. PACHAL: I am Shawna Pachal, I am
22 the division manager of the power projects
23 development division at Manitoba Hydro. And I
24 would like to take a second to introduce our long
25 suffering women who keep us all on track. Halina

1 Zbigniewicz is the manager of the Keeyask project
2 for Manitoba Hydro. Beside her is Debbie
3 Driedger, my assistant, and Suzanne Ketcheson
4 beside her who looks after the Keeyask secretariat
5 and manages all of the machinery that goes on with
6 the hundred thousand pounds of paper that we
7 generate.

8 And we also have some of our partners
9 here, Loretta, I will let you -- from Fox Lake.

10 MS. ROSS: Loretta Ross, executive
11 director of the Fox Lake Cree Nation. Leslie
12 Ager, she is the senior researcher at Fox Lake
13 Cree Nation. And Brandy Bone, she is the
14 coordinator of our impact assessment committee at
15 Fox Lake Cree Nation. Thank you.

16 MS. MAYOR: Janet Mayor, legal
17 counsel, I will be counsel at the hearing along
18 with Doug Bedford, once again. And you will
19 notice that there are a number of new faces that
20 you will be seeing through this hearing. Manitoba
21 Hydro, from a business unit perspective, is
22 divided between transmission and power projects
23 and generation. So you will see some different
24 faces throughout this hearing just to add some
25 excitement to your lives.

1 THE CHAIRMAN: We always welcome
2 excitement into our lives, particularly after six
3 weeks of all day hearings.

4 Okay. I would like to just go through
5 some of this adminis-trivia process guideline
6 stuff, just to draw your attention to key parts of
7 it. And as I said at the outset, to impress upon
8 you that you should go away and read this stuff,
9 not late at night in bed because you won't get
10 through it, but perhaps earlier in the morning
11 when you are in your office.

12 The first document is called a hearing
13 directive and it basically just sets out a lot of
14 the process for the entire project. And I'm just
15 going to go through it very quickly, starting on
16 page 3 where we have an introduction, and it just
17 notes that this hearing directive is intended to
18 be a reference guide to help people to understand
19 the review process. It goes on in point 2 to talk
20 about the project, the partnership which is
21 Manitoba Hydro and four Cree Nations who are in
22 the neighborhood of the proposal. It notes the
23 public registry which is administered by Manitoba
24 Conservation and Water Stewardship. The review
25 process point 3, the Clean Environment

1 Commission -- the Commission is part of the
2 regulatory process to review and finally approve
3 this project. However, we are just one of at
4 least four parts. There is a Federal
5 environmental review, which is handled by agencies
6 of the Federal Government. There is a Provincial
7 environmental review. There is the Needs For and
8 Alternatives To, as well as the Aboriginal
9 consultations which are mandated under section 35
10 of our constitution.

11 The Provincial review is actually at
12 least two part, and that involves initially and
13 ultimately in the end Manitoba Conservation and
14 Water Stewardship. The proposal, the application
15 for the proposal starts off with then the early
16 stages of the process, the approval of the scoping
17 document, the seeking of public input into that,
18 and then the receipt of the environmental impact
19 statement. And further public input and other
20 government departmental input all happens in that
21 branch of government.

22 And then for a project such as this,
23 it is referred to the Clean Environment Commission
24 and we hold public hearings to review the
25 Environmental Impact Statement.

1 The NFAT part of this, as you probably
2 well know, will be handled by the Public Utilities
3 Board in a separate review.

4 And the Aboriginal consultations is
5 also handled by other branches of government.

6 As we've noted in the Bipole
7 proceedings, there is often a fine line between
8 what constitutes our review of a topic and what
9 constitutes the section 35 constitutional
10 consultations. For example, if a project impacts
11 the ability to hunt and gather, from an
12 environmental perspective it is germane to our
13 review, but from a constitutional Treaty and
14 Aboriginal rights perspective, it is not germane
15 to our review. So sometimes it is a little odd,
16 and we will cross boundaries there, and I'm sure
17 that the other branches of government who are
18 conducting these consultations also cross
19 boundaries.

20 Finally, on the bottom of page 5, the
21 decision to issue a licence does not come from us.
22 In a case of a project like this, it doesn't come
23 from the branch, it ultimately is a decision made
24 by the Minister, and the Minister makes that based
25 on the advice received from at least the three,

1 the second, third and fourth of the components of
2 the review, our advice and recommendations, the
3 NFAT advice and recommendations, and also the
4 advice and recommendations which will come from
5 the Aboriginal consultations.

6 Turning over to page 6, we set out the
7 terms of reference, and these are more or less
8 boilerplate. So for most projects that come to
9 us, the terms of reference are very similar. In
10 this case we have been asked to review the
11 proponent's Environmental Impact Statement.
12 That's part of the 100,000 pounds of paper that
13 was referred to earlier. Most of you I'm sure now
14 have seen or even plowed through the one huge
15 binder, the second smaller binder, and then some
16 of you may even be bold enough to go through all
17 of the technical reports.

18 We've also been asked to review the
19 proponent's public consultation summary. And to
20 step back again, this is where we will get a
21 little bit of a cross over between the
22 consultation processes, but as far as the Clean
23 Environment Commission is concerned, it is the
24 consultations that the proponent, the partnership
25 engaged in with the public to talk about the

1 project, as well as the environmental impacts or
2 potential environmental impacts of the project,
3 and not the Treaty and Aboriginal rights.

4 We will hold public hearings in
5 northern communities as well as in the City of
6 Winnipeg. And in the end we will make our advice
7 and recommendations to the Minister in a report
8 sometime probably early next year, early to mid
9 next year.

10 Review process overview, we are
11 governed by our process guidelines which we will
12 go over in a few minutes, again, very briefly.

13 The panel, it is an independent panel,
14 we have our own code of conduct which will also
15 get referred to later, to ensure that none of the
16 panelists have any conflicts of interest in
17 respect of this proposal, and also to ensure that
18 we behave properly, we don't show bias and we
19 treat everybody with respect.

20 We talk about how a decision about the
21 project will be made. I won't go into that very
22 much.

23 The hearings, bottom of the page 7,
24 community hearings, they are the ones that we will
25 hold in the north. At this point we haven't

1 determined exactly which communities we will be
2 going into. We will certainly be going into
3 Thompson and Gillam. We have and will continue to
4 consult with the four Cree Nations, and those that
5 wish us to go into their communities, we will. So
6 there could be four additional hearings in the
7 north. I believe we have had confirmation from
8 Fox Lake and -- that's it so far. So we will be
9 going into Bird, and perhaps the other three
10 partners in the coalition.

11 The bulk of the hearings will take
12 place in Winnipeg. Our current hope schedule is
13 that these will commence in mid October, and our
14 guess is that it will probably be five to six
15 weeks of hearings, which if all goes well, we
16 could conclude the hearings before the end of
17 November, and then with our 90 day rule to get our
18 report out, we would have our report out by the
19 end of February. That's if all goes well.

20 In the Winnipeg hearings there are at
21 least three components which are set out here.
22 The proponent will make a presentation. They will
23 spend a few days, two or three days making a
24 presentation on describing the project, and then
25 describing the various components of the project

1 that they examined in their environmental
2 assessment. Following -- that will include
3 cross-examination and questioning from the
4 participants, you folks sitting around the table,
5 as well as questions from panel members.

6 Once we conclude with the proponent's
7 presentations, the participants will make their
8 presentations. That is what you participants will
9 be working on over the next number of months.

10 And then finally, final argument,
11 which is your opportunity to summarize your
12 presentations, give us your opinions, give us your
13 advice on what you think we should do, whether we
14 should recommend go or no go, and if we were to
15 recommend go, to suggest what conditions be
16 attached to the licence.

17 Number 5, how to participate. For
18 most of you this is not new news, but there are
19 participants which we have had -- how many groups
20 did we fund -- six so far -- five, probably six
21 participant groups will receive funding to
22 participate in this process. We have had in the
23 past and we may well in this one have non-funded
24 participants, we are not certain or aware of any
25 at this point.

1 Party is just basically anybody who is
2 involved in the process, the proponent, the
3 department and then all of you. Presenters
4 typically mean the public, people who just want to
5 come in and have their say, give us their opinion
6 on the proposal as well as on the environmental
7 assessment. The proponent, of course, is the
8 partnership, the group that wishes to construct
9 this generating station.

10 We also have different ways of
11 participating, written submission, anybody, any
12 member of the public, any public group is welcome
13 to submit written submissions which become part of
14 our record; oral presentations; or by becoming a
15 participant, as most of you around this table
16 have.

17 I'm not going to go into much detail
18 about, or any detail at all about written
19 submissions or oral presentations, they speak for
20 themselves.

21 Participants, we don't need to tell
22 you how to apply for participant status, you have
23 already got it.

24 Steps in the process, list of parties,
25 later on on the agenda Cathy will be talking about

1 the contact list and sharing of information.

2 Pre-hearing meetings, this is the
3 first. We will have at least one more, the final
4 one will be in early September, a couple of weeks
5 before we commence the hearings, and at that time
6 we will just talk more in detail about how the
7 hearings will unfold.

8 Information requests, we will talk
9 more about that later on today's agenda.

10 Submitting documents, there are a
11 number of topics around the submission of
12 documents. I won't go into the 14-day rule right
13 now, we will come back to that in a few minutes,
14 but we have specific requirements for the
15 submission of documents. They must be received by
16 noon at our office, which is across the street, on
17 the days specified. We will let you know well in
18 advance of when any of those deadlines are, what
19 dates they are, but noon will be common to all of
20 them, noon central time. They can be delivered by
21 personal delivery, registered mail, courier, et
22 cetera. We do require an electronic copy of all
23 documents that are sent to us. We will also
24 require, and this will be discussed a bit later by
25 Cathy, that you share all the information with all

1 other parties. We are not a central coordinating
2 agency in that respect. But we will give you the
3 mailing list, and basically when you send it to
4 us, just have everybody else on your email list
5 and make life a lot easier.

6 References to websites, we want them
7 to be clearly and easily available. So any
8 document wherein you refer to websites, make sure
9 that it is something that can be easily found.

10 Motions, we will come back to that
11 later on the agenda.

12 Interpretation, we will, certainly
13 when we are in the northern communities,
14 particularly Gillam and the Cree Nations, we will
15 almost certainly require translation or
16 interpretation services. We are prepared to,
17 well, certainly not only allow that, but to help
18 arrange for that. But it would be really helpful
19 if, particularly people in the communities could
20 identify somebody in their community who has the
21 skills to do that and then we would make the
22 arrangements to engage that person or those
23 persons. So we don't want a situation where we
24 land in a community and somebody can't understand
25 what we are saying. So please -- and we will make

1 this plea to the communities that we go into --
2 help us find somebody to do the interpretation.

3 One other thing, transcripts, we
4 transcribe everything, we are required by our law,
5 the Environment Act, to do that. That's being
6 done right now. We have verbatim transcripts.
7 They are typically available some time the day
8 after they are heard, but certainly very quickly.

9 Next in this binder is motions and we
10 will come back to that a little later; also the
11 information requests.

12 Pages 18 and 19, we have a list of
13 issues that will certainly be within our mandate.
14 This list is not exhaustive. So if you find what
15 you believe to be relevant issues that are not on
16 this list, please let us know and we will consider
17 that.

18 Page 20 is a very rough schedule of
19 events. We will talk a bit in detail later on in
20 the agenda about the schedule of events. Then the
21 next three pages include the Minister's letter to
22 the Commission asking us to conduct these
23 hearings, as well as the terms of reference for
24 the hearings.

25 Are there any questions in respect of

1 this document? Janet?

2 MS. MAYOR: On page 8 you indicate
3 that there are the steps of the hearing and it has
4 the participants', or the proponent's
5 presentations and then the participants'
6 presentations and the final argument. Is there
7 also built into the process, and I think in the
8 other document there is the rebuttal, that would
9 come after the participants' presentations?

10 THE CHAIRMAN: Yes. I was being quite
11 general in this approach -- I was being very
12 general when we wrote this document. It would
13 follow the practice that's set out in -- that we
14 followed in Bipole, but it is also set out in one
15 of the practice directions, order of proceedings
16 in the process guidelines.

17 Dr. Kulchyski?

18 DR. KULCHYSKI: Is it possible for us
19 to submit video and PowerPoint stuff, both to make
20 our presentation more interesting, but we will
21 hear some fairly powerful testimony. Could we
22 present you with video copies if we make them
23 available to everyone?

24 THE CHAIRMAN: Absolutely. Any other
25 questions?

1 Okay. I would like to move on to the
2 process guidelines. Now, for those that have been
3 involved in past processes, these are not new,
4 there may be the odd amendment, but nothing
5 significant. Again, I'm not going to go through
6 these in much detail at all, but I would like to
7 highlight a few things.

8 And the first is 1.02, which is the
9 application of the process guidelines, and
10 particularly the second part of it that gives the
11 Commission -- one, we have the authority under the
12 Environment Act to make rules of procedure
13 governing our process. And when we made those
14 rules of procedure, these process guidelines, we
15 further gave ourselves the ability to change them
16 at any time we want. So if we run into trouble or
17 don't like what you are doing, we may change the
18 rules, but we will be fair. Not really, but it
19 does say that we are the ones responsible for
20 these guidelines.

21 1.04, I want to particularly draw your
22 attention, it is about the Commission secretary.
23 And I'm sure I don't have to tell you, but you
24 should not be communicating with any members of
25 the panel on anything respecting the hearings at

1 any time during the process, so from today until
2 the day we file our report. I mean, this is
3 Winnipeg, it is Manitoba, we are a small
4 community, we are going to run into each other.
5 Even at the hearings you can chat about the
6 weather or your vacation, but don't talk with any
7 panel members about anything to do with the
8 process or the subject of the hearings. All
9 inquiries go through the Commission secretary.

10 That is further iterated in 1.05,
11 communications with the panel. And communications
12 with the panel, you can, I would also add, talk to
13 the secretary or talk to our legal counsel, Mike
14 Green.

15 Transcripts, I have already noted we
16 deal with that.

17 3.14, the truth in proceedings and
18 swearing in; those of you who have been through
19 our processes, and I think all of you have been
20 either in attendance or actively participating, we
21 require people to promise to tell the truth.

22 Time limits for presentations,
23 presenters, the general public are restricted
24 pretty strictly to a 15-minute presentation. You
25 participants, of course, are given considerably

1 more time. And the amount of time, we have a
2 process whereas we proceed over the next number of
3 months, the Commission secretary will communicate
4 with the various participant groups and just
5 discuss how much time you need, and we will allow
6 that, within reason. If you want a couple of
7 weeks, forget it. If you want two, three days,
8 four days, two or three days, no problem at all.
9 Whatever, a reasonable amount of time, you will be
10 given a reasonable amount of time.

11 Adjournments; the Commission may
12 adjourn a hearing from time to time, as most of
13 you will know occurred with the recent Bipole
14 hearings.

15 We have a number of practice
16 directions that are attached to our practice
17 directions. You should read through all of them.
18 I want to draw your attention to some in
19 particular. The order of proceedings, which just
20 sort of lays out in general terms how the
21 proceedings will unfold. A very important one is
22 the disclosure, witness and 14-day rule, ignore
23 that September 17th -- these are my notes, sorry,
24 you don't have that. The disclosure, witness and
25 14-day rule is one that we do enforce very

1 strictly. We will reiterate this throughout the
2 process, and particularly at the time of our next
3 pre-hearing, or the final pre-hearing meeting
4 which may be the next one. A detailed outline of
5 your presentation, the list of witnesses you
6 intend to bring, as well as the list of
7 authorities, journal articles, literature, et
8 cetera, that you intend to rely on, it is required
9 14 days before the commencement of the hearings.
10 And then the final version of your presentation
11 must be delivered seven days prior to the day you
12 will be making your presentation.

13 So these rules haven't changed from
14 Bipole. We did strictly enforce them in Bipole
15 and we will continue to strictly enforce those
16 rules.

17 Another practice direction to draw to
18 your attention in particular is cross-examination.
19 And in simple terms it basically just says, be
20 courteous, be respectful. If you are not, the
21 chair will shut you down pretty quickly. It was
22 not a problem at all during the Bipole process and
23 I don't anticipate it will be during these, but
24 just be aware of that.

25 As well there is, we have a code of

1 conduct for parties and representatives. So that
2 basically means everybody in this room, save for
3 the technical staff at the back of the table here,
4 but everybody else is bound by this code of
5 conduct for parties. And there is nothing really
6 onerous or provocative in here, it just asks you
7 to be prepared. Those of you who are
8 representatives, such as legal counsel, ensure
9 that you have proper instructions -- not only
10 legal counsel, but other representatives, be sure
11 you have proper instructions from your client.
12 Treat other participants with respect and
13 courtesy, and we will all live well. Again, it is
14 not something that we had any real problem with
15 during the recent Bipole hearings and I don't
16 anticipate it this time, but it doesn't hurt to
17 codify it, put it on paper, and ensure that you
18 folks read it and abide by these guidelines.

19 I don't think that I need to go
20 through the process guidelines much more than
21 that. I just ask, again I'm sounding repetitive,
22 but please have a look at them.

23 We do talk about evidence. We are
24 fairly flexible in our rules of evidence, with the
25 caveat that we expect them, the stuff filed on the

1 dates already noted. Expert evidence, we are
2 fairly flexible in establishing the credentials of
3 the experts that you bring, we are not going to
4 have cross-examination like in a courtroom. We
5 just ask that if you are bringing an expert,
6 provide a reasonable, without an thoroughly or
7 exhaustively detailed CV of the experts. We do
8 allow witness panels, if you wish to use that. We
9 do allow objections. That's probably about it.
10 We also, we allow leading questions, it is not a
11 real problem in our process. The thing that we
12 want to get on the table is as much information as
13 is necessary for the panel to make a good decision
14 in the end.

15 Post hearing, the process after the
16 hearing is closed, usually two or three days or a
17 week after the hearing is closed, we close the
18 record. After that you folks are finished, there
19 is no more involvement for the participants or the
20 proponent. It is up to the panel then to meet,
21 make decisions, and give instructions to our
22 report writer, and then ultimately 90 days
23 following the end of the hearings, to submit our
24 report to the Minister.

25 We have already gone through I think

1 all of the particularly relevant practice
2 directions. We also have a couple of tip sheets.
3 And this is more guidance for those of you who
4 aren't experienced, but most of you have had some,
5 if not a lot, of experience before us. But this
6 might be worth looking at. It is just some tips
7 on appearing before a panel and some tips for
8 representatives, and then the code of conduct for
9 parties and representatives.

10 I have also noted, I think at the
11 outset that we do have another code of conduct
12 that governs the conduct of members of the panel,
13 and it is fairly exhaustive. I'm not sure if it
14 is publicly available yet but it soon will be.

15 MS. JOHNSON: Yes, it is on our
16 website.

17 THE CHAIRMAN: It is on our website
18 now, so if any of you are interested in that, it
19 is available on the website.

20 So any questions in respect of the
21 process guidelines? Clear as mud, or was it
22 really clear and you don't have any more
23 questions?

24 Okay. Moving on then, motions, I
25 think it is in the back end of the hearing

1 directive on -- after page 16, it is the practice
2 direction. This practice direction was actually
3 developed last summer when we had a number of
4 motions brought forward, and this governs our
5 motions process. As most, if not all of you will
6 know, we do accept motions. We do accept motions
7 really in respect of anything of a procedural
8 nature. You may request the panel to hear a
9 motion and you may ask for remedies that we may or
10 may not allow. So any participants as well as the
11 proponent, designated participants as well as the
12 proponent may submit motions. It must be served
13 on the Commission as well as all other, the
14 proponent and all designated participants, which
15 means all of the groups in the room this morning.
16 Again, the time line is noon, for the party filing
17 the motion, the motion must be received by the
18 Commission and other parties by noon eight days
19 before the motion will be heard. And the
20 responding party must respond by noon four days
21 before the date of the motion.

22 At the bottom of the page what -- it
23 must set out the name of the proceeding, which
24 will be in this case it should be actually just
25 Keeyask, it is not Manitoba Hydro, but the Keeyask

1 project, the name of the party making the motion,
2 so whichever group wishes, state the precise
3 relief sought from the Commission and state the
4 grounds for the motion, include a list of
5 documentary evidence, a clear and concise
6 statement of the facts relevant to the motion,
7 copies of all of the documents or information that
8 support your motion, and then clearly identify
9 yourself, date, time, name, address, et cetera.

10 The Commission will, if we receive
11 motions, we will hold a special day for hearing
12 those motions. Motions of a general nature we
13 would like to deal with well in advance of the
14 hearing, so four to six weeks before the hearings
15 proceed.

16 If any of you wish to make what came
17 to be known during the Bipole process as a drop
18 dead motion, in other words, delay, adjourn,
19 cancel, if you wish to bring a drop dead motion,
20 we want it filed no later than 15 days prior to
21 the start of the hearings, and in this case with
22 sort of a clear gap of time between the northern
23 and southern hearings, that would mean early
24 September, but 15 days prior to the commencement
25 of the hearing so we can deal with it before the

1 hearings are scheduled to start.

2 Any questions about motions?

3 MR. WILLIAMS: Yes. For the record,
4 Byron Williams representing CAC Manitoba.

5 Mr. Chair, just in terms of motions
6 during the hearing, obviously the panel has the
7 option to abridge its process, but I'm trying to
8 recall if there were actual motions or just kind
9 of complaints during the hearing, but in the event
10 that one is bringing a motion during the hearing,
11 is it the panel's expectation or preference that
12 that would be in writing? Because obviously we
13 are under tighter time frames, but I'm looking for
14 some guidance from the panel?

15 THE CHAIRMAN: Yeah, that's a good
16 point, Mr. Williams.

17 We do, our process guidelines do allow
18 motions to be brought during the hearings. I
19 think that at that time, and we have had examples
20 of this in previous hearings, we didn't have it
21 during Bipole. We did have at the beginning, the
22 outset of the floodway hearings, on day one we had
23 a motion brought to adjourn the proceedings. We
24 heard the argument that day and we made a
25 decision, I believe, over night. I can't

1 immediately recall, but it was fairly quickly,
2 within a day or two. I think that the same would
3 apply in this case. We obviously, during the
4 hearings, would not have the eight and four day
5 rules. We would probably have some discussion at
6 the time such a motion is brought as to what would
7 be a reasonable time frame. The responding party
8 obviously needs a reasonable amount of time to
9 respond. So we would discuss that at that time
10 and work out a reasonable but expeditious process.

11 Answer your question?

12 MR. WILLIAMS: Thank you.

13 THE CHAIRMAN: Okay. Any other
14 questions on motions?

15 Now, the next thing in this book, we
16 will flip over quickly to the information request
17 practice direction. This has changed slightly.
18 Now, the significant changes in the practice
19 direction, and it will also come up when we talk
20 about the process for Keeyask, the significant
21 change is that rather than vetting them through
22 the Clean Environment Commission, which we did for
23 the floodway and for Bipole, for the floodway
24 which was in hindsight a much less complicated
25 process and didn't generate a huge number of

1 information requests, it worked well that we could
2 vet them, you know, combine them, approve some,
3 reject others and move it on.

4 As those of you who are involved in
5 Bipole know, it didn't work very well in Bipole.
6 It was just too large a number of information
7 requests.

8 So we are going to go back to the old
9 process, but with some guidance set out in this
10 practice direction. We ask you to submit your
11 information requests directly to the partnership,
12 the proponent. At the same time you are to
13 circulate them to the Commission, obviously, and
14 all other parties who will be listed on the
15 contact list we will come to in a few minutes.

16 It will be up to the proponent to
17 decide whether a question is relevant, repetitive,
18 redundant, et cetera. If they decide that they
19 are not going to respond to it for any of those
20 reasons, then they must clearly explain why they
21 are not responding to it. They will make their
22 responses as expeditiously as possible, but also
23 within the time frames that we will come to in a
24 few minutes.

25 I don't think there were any other

1 significant changes to the practice directions. I
2 think there was a little bit of language change to
3 clean it up, but I don't think there was anything
4 other significant. So any questions on that?

5 Mr. Williams?

6 MR. WILLIAMS: Yes, thank you. And
7 certainly our clients are appreciative of the
8 change of process. And just in terms of, in the
9 event it is conceivable, and we have certainly
10 seen this with other proceedings before the CRTC
11 or the Public Utilities Board, one may end up with
12 five or ten important information requests that
13 the applicant is declining to answer. I'm
14 presuming if that's the case, it is always open to
15 a party to make a motion to compel a response to
16 those information requests?

17 THE CHAIRMAN: It is open obviously.
18 But these guidelines, in the practice direction on
19 the second page there are a number of guidelines,
20 number 5 in particular, we may be able to address
21 this less onerously than having motions. It just
22 says in the event that such disputes cannot be
23 resolved by the parties, the Commission will
24 determine the matter in a summary fashion. So if
25 it becomes a problem and you can't resolve it face

1 to face with the proponent, then you should come
2 to us and we would try to resolve it with a less
3 formal process than motions. But if it breaks
4 down and you feel compelled to bring a motion, it
5 is always open to you to do that.

6 MR. WILLIAMS: Thank you.

7 THE CHAIRMAN: Any other questions on
8 the practice direction?

9 Let's flip back a page then to, it is
10 entitled at the top Keeyask information request
11 process, and this is, this will set out, describe
12 the process specifically for this project. The
13 practice direction does allow participant to
14 participant IRs. We have found in past practice
15 that this is very unwieldy and for the most part
16 unnecessary. So in this process it will only be
17 participant to proponent IRs, as was the case with
18 Bipole III. So all of your IRs are to be directed
19 to the partnership.

20 Subject matter of the information
21 requests are restricted to issues within the terms
22 of reference of the hearings. I suppose at some
23 point it may be debatable, you may have an issue
24 that you think is relevant and the proponent
25 doesn't agree, that may be one that could be

1 referred to the Commission for resolution.

2 As I've already stated, all
3 information requests are submitted to the
4 partnership, the Commission, and the other
5 participants ideally all at the same time.

6 We ask you to, and we've just passed
7 out a form that we ask you to do the IRs in. We
8 ask you to put your own numbering on it. So for
9 example, Mr. Williams, the Consumers Association
10 might be something like CAC-Keeyask number 1, or
11 001, whatever you want to do. The proponent, when
12 they receive them, will be responsible for
13 developing some kind of a tracking process.

14 The partnership will be required to
15 provide the requesting party with a written
16 response that satisfactorily addresses the
17 questions or issues raised. And as I have already
18 noted, the decision whether to accept and respond
19 to an IR will rest with the partnership. But if
20 they don't accept it, they must explain fully why.
21 And hopefully it will be something as simple as,
22 it is not redundant or it has already been
23 answered, and they will identify where it has been
24 answered.

25 So the time frames for the IR process

1 for Keeyask, basically it is starts right now, you
2 can start writing your questions as soon as you
3 leave the room if you wish, and start submitting
4 them to the proponent.

5 The round one information requests
6 will be accepted up until noon on May 31st. So
7 you have a month and a half or so to complete your
8 round one questions. And I note in here, please
9 submit them on an ongoing basis. Start submitting
10 them now. A huge dump of questions on the morning
11 of May 31st will not be viewed positively and will
12 really just slow down the process. So start
13 submitting them, submit them as you draft them.
14 And to the proponent I say, respond to them, send
15 your responses out in the same manner. Don't send
16 the responses out all in one big dump on
17 July 15th. That would be unfair back to the
18 participants.

19 So the deadline for responses for
20 round one is noon on Monday, July 15th.

21 The round two information requests are
22 two weeks later, noon on Wednesday, July 31st.
23 And you should note that round two information
24 requests are restricted to follow-up on round one
25 questions, so no new material in round two

1 questions. Follow-up, either you seek further
2 information or clarification, or you don't think
3 they answered it sufficiently in round one. No
4 new stuff in round two.

5 Responses -- I think I made a mistake
6 here. The round two information requests must be
7 submitted by noon, July 31st, and I think it
8 should be August 15th. So the round two
9 responses, here it says Friday, August 30th,
10 that's an error, it will be August 15th, and I
11 don't know what day of the week it is. If it is a
12 Saturday or Sunday, we will make it the following
13 Monday. So please note that.

14 And then also note in big bold letters
15 at the top of that second page that all dates are
16 subject to change. But our current scheduling,
17 May 31st, July 15th, July 31st, August 15th. It
18 is a Thursday -- well, let's make it Friday the
19 16th then.

20 I have August 30th, but we are going
21 to change it to Friday, August 16th. I should
22 have been able to figure that by subtracting 14
23 from 30, shouldn't I?

24 The format, as I have already noted,
25 and you have just been handed out a format, please

1 do it in that format. Also they must be submitted
2 in electronic form and they must be in an attached
3 document. Don't put it in your email, attach it
4 as a document. And finally, again repeating
5 myself, send it to all people on the contact list.

6 So any questions on the IR process for
7 Keeyask? You are all easy to please this morning.
8 Ms. Mayor?

9 MS. MAYOR: It would be of great
10 assistance to Manitoba Hydro and its partners in
11 responding to the second round of IRs if, when
12 they submit them, they make specific reference to
13 the answer that they are asking a question on.
14 Because as you have indicated, round two is only
15 to be in response to something that's been
16 answered. So if they could make specific
17 reference, and not just a general, this particular
18 IR, because some of the answers we may provide
19 could be lengthy, if they could specify what
20 particular piece is being requested and the number
21 and the page.

22 THE CHAIRMAN: I think that's a very
23 reasonable request, and so ordered. So please
24 note that in your round two responses,
25 specifically identify the round one response -- or

1 your round two IRs, specifically identify the
2 round one response that you wish to further
3 examine.

4 Any other questions on the IR process?

5 Okay. Next on our agenda then is the
6 contact list. I will turn it over to Cathy.

7 MS. JOHNSON: I believe that Amy
8 circulated through the room here trying to get
9 everything updated and make sure everything is
10 right. So that's the list that we are going with
11 at this moment. If there is any changes, please
12 let me know as soon as you know, because that
13 changes everything as to who gets what.

14 Once we finalize that, we will send
15 out the copy to everybody and you can make your
16 email lists or whatever, your contact lists,
17 because that's going to be the list that everybody
18 has to get, everybody on that list has to get the
19 information.

20 Do you want me to go on?

21 THE CHAIRMAN: Any questions on the
22 contact list? Okay, Cathy.

23 MS. JOHNSON: Okay. As far as number
24 of copies and how you distribute things, for the
25 most part email usually works well, which means

1 everybody on the list gets it, don't just send it
2 to us and expect the Commission to re-distribute
3 it to everybody else. It is up to each and every
4 participant, proponent, whoever you are on that
5 list, to send it to every other contact on that
6 list.

7 Now, if the files are too big to send
8 by email, you have a whole bunch of options. You
9 can zip file them, you can put them on the stick
10 and send the stick to everybody, you can put them
11 on a CD, or you might have to print paper copies.
12 Things like maps and things, not everybody has the
13 capability to print them. If that's the case, the
14 Commission needs ten copies, that's 1-0, 10
15 copies.

16 Only one is required for each of the
17 participant groups because it would just get too
18 unwieldy that way. But we are not interested in
19 standing in front of the Xerox machine any longer
20 than we have to. You all have money in your
21 budgets for this kind of activity. We made sure
22 of that. So that's the main thing. And if each
23 of the participants doesn't receive it, I consider
24 that it is not on the record until each and every
25 participant has it. So that's the rules and

1 everybody should understand that. Hopefully -- it
2 has worked out well before, but I just wanted to
3 make sure that everybody understood this.

4 Also, I will be sending the electronic
5 copy of this IR form so that everybody has it to
6 attach to the information. And there is probably
7 more stuff that you will be getting electronically
8 that we have missed somewhere along the line. But
9 everything will be electronic, everything that we
10 receive has to be electronic, whether it is just a
11 letter, whether it is whatever. I mean, if we do
12 get any paper, we have to go and scan it, so it is
13 just as easy to push the button so that everybody
14 has everything.

15 Any questions?

16 DR. KULCHYSKI: Do we need an
17 acknowledgment from all of the participants then
18 that they have received whatever we are sending
19 out, or as long as we have sent it --

20 MS. JOHNSON: As long as you have sent
21 it. It is up to you, but you put those
22 acknowledgments on, you have too much email then,
23 Okay. Everybody is happy?

24 I'm happy if everybody follows the
25 rules, things go very smoothly.

1 By the way, the other thing, Amy will
2 be dealing with all of the documents. So if you
3 need something that you are missing or need
4 clarification of what the number is or whatever,
5 she is the one to contact because I won't be able
6 to help you. And her name and contact information
7 will be on the list.

8 THE CHAIRMAN: Okay.

9 MR. WILLIAMS: Mr. Chair, if I might,
10 less about the pre-hearing process, but at the
11 hearing process, if I recall from Bipole III, it
12 was 50 copies -- okay, certainly we will abide by
13 whatever the Commission directs. You know, I
14 could be accused of developing too much paper, but
15 certainly the photocopying associated with the
16 hearing itself was quite extensive, whether
17 environmentally or just staff time, was of some
18 concern to us. So I'm inquiring as to the
19 openness of the tribunal, because obviously to
20 make a cross-examination flow more fluidly, you
21 might want to pull out of the thousands of pages,
22 50 pages from the record, to assist all parties in
23 following the cross-examination. And one idea we
24 have been kicking around in our office is to
25 provide that in an electronic format so it could

1 be displayed on the big screen as opposed to
2 making so many copies. Of course, we are at the
3 beck and call, or we will abide by what the
4 Commission determines, but we would certainly
5 encourage the Commission to at least consider that
6 as an option, so that rather than having to
7 provide 50, we might only have to provide 20 or 30
8 for the public.

9 THE CHAIRMAN: I think that's quite a
10 reasonable request, I mean, we are the Clean
11 Environment Commission after all. I would also
12 like to suggest that rather than 50 pages out of
13 an extract, it be five. But I think that's quite
14 reasonable, Mr. Williams, and we are certainly
15 open to that. I think there will certainly be a
16 need for some hard copies. The Commissioners
17 aren't in the practice of having laptops on our
18 tables when we are working, so we may require hard
19 copies as we are going through. But I can also
20 understand that for many of the documents, you
21 wouldn't need 50, or the process doesn't need 50
22 copies. So let's leave it open. We won't specify
23 a number right now, but we are certainly open to
24 those considerations. And I think making stuff
25 available to the other parties who are probably

1 less Luddite than some of us panel members in hard
2 copy would be very reasonable -- or in electronic
3 copy, pardon me, would be a reasonable request.
4 And I think that applies not only to you,
5 obviously, but to everybody around the table. So
6 we will do that as much as possible, and whatever
7 works. If it proves not to work well, then we may
8 have to change.

9 Any other questions? Ms. Whelan Enns?

10 MS. WHELAN ENNS: Mr. Chair, I have a
11 few questions that are mostly about the hearing
12 process. So I'm checking with you in terms of
13 where we are at in the agenda.

14 THE CHAIRMAN: You can ask them now.
15 Basically, I want to talk a little bit more about
16 the schedule but we can do that after that. So go
17 ahead.

18 MS. WHELAN ENNS: Great. Thank you.

19 I will ask the CEC these questions but
20 they may well need an answer for some of them from
21 Manitoba Hydro and the partnership. I would like
22 to know whether or not for these hearings any
23 expert presenter or witness from the proponent
24 will be available for cross-examination?

25 THE CHAIRMAN: Oh, I would well

1 anticipate that they would have, they would be
2 bringing their own experts, their advisors, as
3 they always do.

4 MS. WHELAN ENNS: And I'm including
5 both kinds, both sets of panels, if you will, that
6 is Manitoba Hydro in-house personnel, the experts
7 for the partnership? It is a basic question.

8 THE CHAIRMAN: I can't imagine it
9 would be any different than the Bipole process, so
10 wherein they had both.

11 MS. WHELAN ENNS: Thank you. We had
12 some delays during the hearings for Bipole III in
13 terms of just the point of time when paper
14 information was in the room from Manitoba Hydro,
15 when it was available to the CEC electronically,
16 and when participants in fact had it
17 electronically. So I wanted to either ask the
18 question, or encourage everyone involved to just
19 basically try to find ways to tighten that up and
20 to support the CEC and the participants in that
21 regard.

22 THE CHAIRMAN: I think that's a very
23 reasonable request. I think we have said, you
24 know, in Cathy's comments and mine throughout this
25 morning that we want all documents shared with

1 everybody at the same time. And that we would --
2 that all documents should be distributed
3 electronically as well as whatever hard copy
4 determination we come up with.

5 MS. WHELAN ENNS: Thank you. Just
6 turning pages quickly. I'm assuming in terms of
7 the partnership that witnesses and experts will
8 include then representatives of the partnership
9 community members; is that accurate?

10 THE CHAIRMAN: I don't think we can
11 predict that at this point. I think it is up to
12 the partnership to decide in due course who they
13 will be bringing before us. But typically again,
14 as with the Bipole process, fairly well in
15 advance, Manitoba Hydro in that case did give us a
16 list of the people they were bringing well in
17 advance so...

18 MS. WHELAN ENNS: Thank you. I would
19 also like to ask the chair possibly to direct or
20 to encourage so that Manitoba Conservation Water
21 Stewardship is engaged, if you will, in the
22 information list and the email exchanges of
23 information. During the Bipole III process it
24 took some encouraging and some events along the
25 way before the department was providing

1 electronically to the list documents and
2 information that we all needed electronically.

3 THE CHAIRMAN: Well, I think we can
4 encourage the branch to do that. They have been
5 as cooperative -- in my experience they have been
6 as cooperative as we have needed. So, we would
7 encourage them to continue to do so.

8 MS. WHELAN ENNS: Thank you. I'm just
9 double checking. I also just basically wanted to
10 say that I'm glad that the secretary and the
11 Commission overall has additional staff and
12 resources. I think that will help all of the
13 parties, including the times when the workload for
14 the secretary is such that we have had delays
15 because they aren't anyone's fault, it has got to
16 do with workload. I just wanted to say, it is
17 good to see.

18 THE CHAIRMAN: Well, we are certainly
19 glad we have extra resources as well. Although I
20 don't think that we have had any delays really due
21 to our lack of resources. I think it just meant
22 that our limited resources worked evenings and
23 weekends, and now they might have a little more
24 time on evenings and weekends. But thank you for
25 the comments.

1 MS. WHELAN ENNS: I have one last
2 question, I'm sorry if I wasn't clear. It is very
3 good to see the Manitoba Conservation Government
4 of Manitoba online link for all of the documents
5 to do with Keeyask. So I wanted to basically say
6 we can then assume this will be the Manitoba
7 Conservation website and online posting, and that
8 we are not using the Manitoba Hydro website this
9 time for EIS materials, is that correct?

10 THE CHAIRMAN: Well, we are not here
11 to tell the branch how to do things, but I think
12 that, you know, my experience looking at their
13 website for the Keeyask project, it is a pretty
14 comprehensive list of stuff right now.

15 MS. WHELAN ENNS: No, it is a definite
16 improvement. So again encouragement. And I would
17 like to basically say hello and thank you to the
18 Commission. We are back at it. Thank you.

19 THE CHAIRMAN: Yes, with not a lot of
20 break for many of us.

21 Are there any other general questions?
22 Mr. Williams?

23 MR. WILLIAMS: Yeah, I have two or
24 three. One is just in examining the availability
25 of our witnesses for the fall. One of them,

1 Professor Gibson, is available but he has got
2 quite a busy schedule and we wanted to explore the
3 possibility of a video conference or a video link
4 for the presentation of his evidence. And we
5 would be interested in the advice, or the guidance
6 of the Commission in that regard.

7 THE CHAIRMAN: We are certainly open
8 to it. My experience with video conferencing is
9 that we have to go off to some space on Notre Dame
10 Avenue or somewhere, with not a lot of room to do
11 that. If we are able to set up technology at a
12 reasonable cost in our hearing rooms, absolutely,
13 no problem. But it is just the technology working
14 it out. I have no opposition or aversion to that
15 other than the technological realities.

16 MR. WILLIAMS: We will pursue that
17 with the Commission secretary as to the
18 possibility.

19 Secondly, and this may not be the
20 right place for this comment, but I'm going to
21 make it anyways and I will -- we are mindful of
22 the Minister's reference to the Commission saying
23 that the NFAT is going to another place. We are
24 aware as well that there is an alternative
25 analysis going on at the Federal level under CEA.

1 We have some concern that what the Feds mean under
2 CEA in terms of an alternatives analysis, which
3 involves the technical, social, cultural, economic
4 and environmental, is something different from
5 what the province means. Certainly my experience
6 in NFATs in the past, or looking back at what was
7 attempted with Conawapa even in the '90s, it was
8 an economic need for alternative assessment rather
9 than the more environmentally holistic one that
10 the Feds aspire to. So that's -- this is perhaps
11 a question that the Commission cannot answer. We
12 are flagging this concern that the NFAT in
13 Manitoba may be unduly narrow. And I'm not sure
14 if the Commission has any insight in terms of what
15 the Minister means by an NFAT, apart from his use
16 of the term?

17 THE CHAIRMAN: No, the Commission has
18 no particular insight, probably no more insight in
19 that respect than you do.

20 So, you know, I noted earlier that
21 there are definite crossing boundaries between our
22 review and some of the Aboriginal consultation,
23 but there is obviously going to be boundaries
24 crossed between us and the NFAT, but in the end we
25 can only offer advice and recommendations in

1 respect to the environmental assessment part of
2 it.

3 MR. WILLIAMS: We will, of course, try
4 to remain within the scope of the hearing, but
5 when we go to the evidence, for example, of
6 Dr. Gibson, an essential starting point to a
7 proper sustainability analysis is a more holistic
8 NFAT analysis. So we will certainly notify
9 Manitoba Hydro and the Commission of our evidence.
10 We think that's an essential starting place. We
11 will be mindful of the limited jurisdiction of the
12 tribunal, but we think that we have to start with
13 proper practice.

14 THE CHAIRMAN: I think you know the
15 Commission is intrigued by the concept of
16 sustainability assessments and we have been for a
17 few years now. So I suspect that we would welcome
18 and allow Dr. Gibson to give his evidence as best
19 he and you feel he needs to.

20 MR. WILLIAMS: As I said, we will
21 certainly, mindful of the scope issue, we will
22 flag it for all parties just to give a bit of
23 notice before we file.

24 And in terms of material from the TAC,
25 or TAC dialogue, I'm assuming that will be part of

1 the record for this proceeding?

2 THE CHAIRMAN: It always is.

3 MR. WILLIAMS: And in terms of any
4 materials filed in the Federal assessment, I'm
5 just seeking clarification whether that would be
6 part of the record, or we would have to explicitly
7 incorporate it if we sought to include it?

8 THE CHAIRMAN: No, typically that has
9 not been part of our record, so if you wish to put
10 it on the record, you bring it.

11 MR. WILLIAMS: And subject to review
12 of my notes, I have one last point, a suggestion
13 which I expect will be unsuccessful but I will
14 make it anyways. This is a very hard working
15 Commission as compared -- they are all hard
16 working commissions, any one that I have appeared
17 before. The hours of this Commission are also
18 long compared to some other tribunals which I
19 appear before. And at the end of the day that's
20 the Commission's choice, not ours. Just on behalf
21 of our client I would note that going that extra
22 half an hour or an extra hour, like going to 5:00
23 as compared to 4:30 or 4:00, may allow you to do
24 more in a day. From counsel's perspective, it
25 makes us a little less efficient in the sense that

1 we lose an hour of work which might be used to
2 shorten cross-examination. So one issue I would
3 just suggest for the Commission is whether 5:00
4 o'clock is the best time to finish a working day,
5 or whether 4:30, although it may seem to lengthen
6 the hearing, might actually allow for some
7 efficiencies.

8 THE CHAIRMAN: What hours would you
9 recommend?

10 MR. WILLIAMS: Certainly 9:00 until
11 4:00, or a 9:00 until 4:30 would be preferable to
12 the 9:00 to 5:00. We certainly prefer the 4:00,
13 but with the recognition that if we're running
14 behind schedule, the Commission will sit extra
15 hours.

16 THE CHAIRMAN: Starting at 9:00 in the
17 morning is fine, you are well awake by then?

18 MR. WILLIAMS: I never look better
19 than at 9:00 o'clock in the morning, Mr. Chair.

20 THE CHAIRMAN: Thank you. Any other
21 questions, Mr. Williams?

22 MR. WILLIAMS: No, thank you.

23 THE CHAIRMAN: Anybody else?
24 Ms. Whelan Enns?

25 MS. WHELAN ENNS: Thank you,

1 Mr. Chair. I think this is probably a hope, but I
2 wanted to agree with the Consumers Association and
3 with Mr. Williams that we run certain kinds of
4 risks when we do not yet have information or the
5 reference regarding the NFAT review, which was
6 initially announced in January 2011, and then
7 again last November. So the risk I think is that
8 we may well have, including in terms of preparing
9 for round one of IRs, we may well find that we
10 have gaps then in subject matter and content
11 because we are not, we don't have clarity yet in
12 terms of the NFAT review.

13 So the Commission was flexible on this
14 to the degree that you could be in terms of the
15 Bipole III hearings. But I am concerned, because
16 we still basically have question marks and a gap,
17 and we may have further gaps than we can even
18 anticipate now, depending on what happens. So
19 just to comment and to agree with Mr. Williams'
20 concern.

21 THE CHAIRMAN: The flexibility that
22 was allowed in the Bipole process was really not
23 in respect of the need for, and on the
24 alternatives to it was restricted to alternatives
25 within the study zone. And I would think that

1 would continue in this. So within the study zone,
2 within the area that will be affected by the
3 Keeyask Generating Station, we would entertain
4 alternatives, and alternative ways of doing
5 things. But on the big picture as to the needs
6 to, and the big picture alternatives to, that
7 would not be within our mandate.

8 We can't control the timing or the
9 content or the ultimate process of the NFAT
10 review. That's completely outside of our
11 bailiwick. So while admittedly it may pose a
12 problem here or there for us on the Commission and
13 you as participants, we are going to have to deal
14 with it the best we can. But please don't go very
15 far into NFAT issues on the big picture, because
16 they won't be allowed. Within the study zone, the
17 immediate study zone around, the affected zone
18 around the project, alternatives to could be
19 considered, and alternative ways of doing things.
20 Does that clarify things?

21 MS. WHELAN ENNS: Yes, thank you,
22 Mr. Chair. I also wanted to agree, if I could
23 shortly, that a slightly shortened hearing day
24 could, in fact, allow more efficiencies, to use
25 Mr. Williams' comment. And that is the

1 preparation for the next presenter, witness,
2 cross-examination, the next day's hearings is
3 aided by having that extra time.

4 THE CHAIRMAN: Thank you. Any other
5 questions? General questions? Ms. Mayor?

6 MS. MAYOR: In terms of the hours for
7 the hearing, certainly that's going to be your
8 decision to make. However, we are very mindful as
9 to how long the hearing had to be extended the
10 last time, and we want to, from the partnership's
11 perspective, ensure that the hearing actually gets
12 completed within the time frame. So we will leave
13 that to you to decide the hours, but that of
14 course is a significant concern for the
15 partnership, keeping in mind the in-service dates
16 and construction dates.

17 Ms. Whelan Enns had mentioned use of
18 the website of the province. Manitoba Hydro's
19 partnership website will have the posting of all
20 of the relevant documents, so she will have that
21 as a source of information as well. So we wanted
22 to let her know that.

23 Finally, there is one other party that
24 has name tags around this table, but there is no
25 one present, and we are not sure that we are

1 familiar with the interests of that party. So we
2 just wanted to ask a question in that regard?

3 THE CHAIRMAN: Yes, a citizens group
4 from York Factory has come forward and expressed
5 their desire to be participants in this process.
6 And I think the concerns and issues that they wish
7 to bring are the same as those that were received
8 during the participant assistance process on
9 behalf of the First Nation, which as we all know
10 is a partner and put them in a conflict. But we
11 have been informed that a community group has sort
12 of taken over that position. And they have made a
13 request for participant assistance as well.

14 We haven't finalized a decision on
15 that, but depending on how well organized they
16 appear to be, they will likely be successful.

17 MS. MAYOR: Will Manitoba Hydro
18 receive a copy of that participant funding
19 request?

20 MS. JOHNSON: It was sitting in my
21 in-box this morning.

22 THE CHAIRMAN: You will.

23 MS. MAYOR: Thank you.

24 Sorry, just one other point. Some of
25 our additional partners have arrived and we would

1 just like to introduce them to the panel. We will
2 have Ms. Pachal do that.

3 MS. PACHAL: Wayne, can you introduce
4 yourself and Councillor Gordon?

5 MR. WASTESICOOT: My name is Gordon
6 Wastesicoot, I am with York Factory First Nation
7 on council there.

8 MR. REDHEAD: My name is Wayne
9 Redhead, I work as a project coordinator of the
10 York Factory Future Development.

11 THE CHAIRMAN: Thank you. Any other
12 general questions? The one item on the agenda
13 that we skipped over but we have already
14 addressed, probably more than once, is the hearing
15 schedule. On page 20 of the hearing directive
16 booklet, we have a schedule of events which is
17 still more or less on track. Early April, about
18 halfway down the page, early April, the
19 pre-hearing meeting. The IR process will be the
20 main bit of activity between now and mid to late
21 August. If we have a motions hearing date, it
22 would likely be in late August or early September.
23 Another pre-hearing meeting will be held likely in
24 early to mid September. The northern hearings
25 will commence in late September, somewhere around

1 the third week or so in September. As you will
2 know from the Bipole process, the participants are
3 actually encouraged not to attend those because we
4 want to keep them as unwieldy or as unthreatening
5 and as informal as possible in the northern
6 communities. A whole bunch of suits from Winnipeg
7 showing up with a huge entourage doesn't
8 necessarily ensure good dialogue in those
9 communities.

10 The submission date for -- the first
11 submission date, the 14-day rule, we will let you
12 know when that will be, but it will be somewhere
13 around mid September. And then the seven-day rule
14 to have your final submission in will unfold as we
15 schedule you in for your participant
16 participation, for your presentations as a
17 participant.

18 Right now our thinking, our hope is
19 that Winnipeg hearings will start on October 21st,
20 and hopefully be five to six weeks, which would
21 conclude then by the end of November.

22 Any questions on that? Mr. Whelan?

23 MR. WHELAN: Mr. Chair, I don't have
24 a suit and Peguis doesn't have an entourage. So I
25 don't think that there would be any large

1 groupings of people from the public participants
2 going up north either way.

3 THE CHAIRMAN: Okay. Thank you. Any
4 other questions on the schedule or any other
5 questions in general? Dr. Kulchyski?

6 DR. KULCHYSKI: Yeah, I'm just -- we
7 will be traveling to work with our community
8 representatives, and very likely we have the sense
9 that we might be talking with the concerned
10 citizens group from York Factory that's developed.
11 So is there any barrier to us working closely with
12 them?

13 THE CHAIRMAN: Absolutely not. It is
14 actually fairly common practice for the
15 participant groups to work together where it is
16 advantageous, and it can often be very helpful to
17 the process in that you eliminate repetition, or
18 you better coordinate your presentation and/or
19 theirs. So there is no barrier at all to working
20 with other groups. If you start working with the
21 proponent, then we might suspect --

22 DR. KULCHYSKI: There is no danger of
23 that.

24 THE CHAIRMAN: Ms. Whelan Enns?

25 MS. WHELAN ENNS: I think that I'm

1 hearing that you are aiming for a similar kind of
2 pattern as the Bipole III hearings, a week's
3 hearing in Winnipeg, then northern tour, and then
4 back?

5 THE CHAIRMAN: No. This time around
6 we will start in the north, and then the Winnipeg
7 hearings in total would start October 21st.
8 Slightly different than the Bipole process.

9 Any other general questions?

10 Okay. Thank you all for coming out
11 here. Sorry -- I'm not sure that we need to do
12 that now. There is -- well, the question is,
13 there is a fair bit of supplemental information
14 that we are expecting from the partnership. It
15 was indicated that it would be filed in the first
16 quarter of 2013, but it hasn't arrived yet. Do
17 you have any idea when that might be coming?

18 MS. MAYOR: We will have to advise the
19 Commission.

20 MS. COLE: It will likely, I will
21 assume you are referring to the environmental
22 protection plans and the monitoring plans as well
23 as the IRs that have been asked through --

24 MS. JOHNSON: There was a human health
25 risk assessment. We have heard rumours there is a

1 supplemental Sturgeon report coming, or not?

2 THE CHAIRMAN: A report from a
3 domestic plant workshop, updated traffic analysis,
4 a number of --

5 MS. MAYOR: I think we will have to,
6 based on the information that you are requesting,
7 we will have to get back to you with that
8 information.

9 THE CHAIRMAN: Thank you. Okay.
10 Again, thank you all for coming out here this
11 morning. I think this was a good start. I'm
12 really encouraged by the fact that almost all of
13 you are very experienced participants, which
14 should make this process go a lot better, a lot
15 more thoroughly. And even those of you who are
16 new are not totally foreign to our process.
17 Dr. Kulchyski, you are new as a participant but
18 you have appeared before Commission hearings in
19 the past. So I think that bodes well for a very
20 good, thorough, comprehensive, and hopefully not
21 too lengthy process.

22 So get out there, start working, get
23 those IRs in as quickly as you can. We will see
24 or talk with all of you as a group probably late
25 summer. So barring any more compelling questions,

1 that brings us to a conclusion. Thank you.

2 (Concluded at 11:29 a.m.)

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OFFICIAL EXAMINER'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.

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