

MANITOBA CLEAN ENVIRONMENT COMMISSION

MANITOBA-MINNESOTA TRANSMISSION PROJECT

PRE-HEARING

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Transcript of Proceedings
Held at RBC Convention Centre
Winnipeg, Manitoba
TUESDAY, JANUARY 17, 2017

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APPEARANCES

CLEAN ENVIRONMENT COMMISSION

Serge Scrafield - Chairman
Laurie Streich - Commissioner
Reg Nepinak - Commissioner
Ian Gillies - Commissioner
Cathy Johnson - Commission Secretary
Cheyenne Halcrow - Administrative Assistant
Mike Green - Counsel

MANITOBA CONSERVATION AND WATER STEWARDSHIP

Elise Dagdick

MANITOBA HYDRO

Janet Mayor - Counsel
Shannon Johnson
Maggie Bratland

CONSUMERS ASSOCIATION OF CANADA (Manitoba chapter)

Joelle Pastora Sale - Counsel

MANITOBA METIS FEDERATION

Marci Riel
Jasmine Langhan
Zachray Davis - Counsel

MANITOBA WILDLANDS

Gaile Whelan Enns
Douglas Tingey - Counsel

PEGUIS FIRST NATION

Jared Whelan
Wade Sutherland
Michael Jerch - Counsel

DAKOTA PLAINS WAHPETON OYATE

Warren Mills
John Stockwell
Craig Blacksmith

SOUTHERN CHIEFS ORGANIZATION

James Beddome - Counsel
Joanne Soldier
Jamie Neufeld

SOUTHEAST STAKEHOLDERS COALITION

Kevin Toyne - Counsel
Monique Bedard
Jim Teleglow

1 TUESDAY, JANUARY 17, 2017

2 UPON COMMENCING AT 10:00 A.M.

3

4 THE CHAIRMAN: Good morning everyone.

5 Welcome to our little get together. And this is

6 the start of the Manitoba-Minnesota Transmission

7 Environmental Hearing process.

8 I would like to start off, if I could, by

9 introducing the panel, then we'll and go around

10 the table, the panel and the staff.

11 So I would just mention that my name is

12 Serge Scrafield, I'm the Chair of this proceeding,

13 the Chair of the Commission as well. I've been

14 with the Commission for a grand total of four

15 months, so there will be many of you at the table

16 with more experience than me. And I'm, as I

17 mentioned, also Chair of this panel.

18 To my right, two over here, is Reg Nepinak. He is

19 our veteran member of the panel. He served on the

20 Keeyask panel and he is a member of Pine Creek

21 First Nation. Reg had a long career in Alberta's

22 oil patch and in the U.S., also in indigenous

23 services more recently, and spent some time

24 working for Pine Creek First Nations.

25 Laurie Streich, two over from my left, is

1 a new member of the Commission. After a period as
2 a journalist, Laurie had a long career in the
3 Manitoba Government, primarily with the
4 departments of Environment and Conservation. Much
5 of that time she was Director of Pollution
6 Prevention Branch.

7 Ian Gillies, to Laurie's left, this is
8 also Ian's first review panel, but he comes to the
9 Commission with a strong background in corporate
10 and community leadership. For 30 years, Ian
11 worked in a wide variety of managerial and
12 executive roles for Cargill Grain. Along the way
13 he also served as both treasurer and Chair of both
14 the finance and administration and the investment
15 committees for the United Way.

16 I would like to spend a minute with the
17 staff and our advisors. The person to my right,
18 who I think most of you know, is Cathy Johnson,
19 the very experienced Commission secretary whom we
20 rely on extensively.

21 On my left is Mike Green, our legal
22 counsel. And over by the table on the way in the
23 room is Cheyenne Halcrow, who is our support
24 staff. And Cecelia Reid to my right, at the end,
25 is the court reporter. And our sound technician

1 is Sonny Neufeld, in the corner to my left.

2 I would ask now that we go around the
3 table and introduce yourselves and describe your
4 role in the process. When you speak, please
5 ensure that the mic is turned on so that everyone
6 can hear, and turn it off when you're finished.

7 I would like at this time to add one
8 other note that we always have to add, and that is
9 to ensure that your cell phones are on silence or,
10 at most, vibrate. Thank you. And why don't we
11 start with Elise here on the left.

12 MS. DAGDICK: Hello, I am Elise
13 Dagdick. I'm with Manitoba Conservation
14 Environmental Approvals Branch.

15 MR. TOYNE: My name is Kevin Toyne.
16 I'm a lawyer at Hill Sokalski Walsh Olson, and I
17 am legal counsel to the Southeast Stakeholders
18 Coalition.

19 MS. BEDARD: My name is Monique
20 Bedard. I am president of the Southeast
21 Stakeholders Coalition and an affected landowner.

22 MR. TELEGLOW: I'm Jim Teleglow,
23 vice-president of the Stakeholders Coalition.

24 MR. MILLS: I'm Warren Mills,
25 assisting Dakota Plains Wahpeton Oyate. Joining

1 me shortly will be Craig Blacksmith, Dakota Plains
2 project manager, and my business associate, John
3 Stockwell.

4 MS. LANGHAN: Good morning, Jasmine
5 Langhan, HR constitution coordinator with the
6 Manitoba Metis Federation.

7 MS. RIEL: Good morning. I'm Marci
8 Riel. I am the director of energy and
9 infrastructure, Manitoba Metis Federation, and I
10 have lead counsel on the line. (Inaudible)

11 MS. JOHNSON: Could you repeat that?

12 MR. NEUFELD: Jamie Neufeld, I'm
13 environmental adviser to Grand Chief Jerry
14 Daniels.

15 MS. SOLDIER: Joanne Soldier, director
16 of operations, Southern Chiefs Organization.

17 MR. BEDDOME: James Beddome, legal
18 counsel for the Southern Chiefs Organization.

19 MR. JERCH: Good morning. Michael
20 Jerch of Jerch Law, here for Peguis First Nation.

21 JARED WHELAN: Good morning. Jared
22 Whelan, Whelan & Associates working for Peguis
23 First Nation.

24 MS. WHELAN ENNS: Good morning. Gaile
25 Whelan Enns, Director of Manitoba Wildlands.

1 MR. TINGEY: Doug Tingey, legal
2 counsel for Manitoba Wildlands.

3 MS. PASTORA SALE: Good morning,
4 Joelle Pastora Sale, Consumers Association of
5 Canada, Manitoba Branch. And unfortunately,
6 Gloria DeSorcy, executive director, is unable to
7 join us.

8 MS. MAYOR: Janet Mayor, legal counsel
9 for Manitoba Hydro. To my far left is Maggie
10 Bratland who has been heading up this project on
11 behalf of Manitoba Hydro, and Shannon Johnson, who
12 is the manager of environmental licensing.

13 THE CHAIRMAN: That's everyone. Did
14 we miss anyone? All right. Thank you.

15 Today's meeting is really to discuss
16 administrative matters, time frames, and the
17 information requests process which will begin
18 virtually immediately. You should all have an
19 agenda at your table that looks like this. Does
20 everyone have that? And some additional
21 materials, including an updated hearing schedule
22 which you should all have, and the schedule cover
23 dates for the pre-hearing activities, as well as
24 the hearing dates; those that have been confirmed
25 that is.

1 We will go through some of this material,
2 not in extensive detail, but we will touch on the
3 highlights. I know that a number of you have been
4 through this process before, some a number of
5 times. And you're well aware that, we would
6 expect that you would read and be aware of the
7 contents of all of these procedural materials that
8 the staff produces to make the process run well.
9 And we would also ask that you would abide by the
10 guidelines that were put into practice, and we
11 will be going through a few of these guidelines
12 today, but more of them, of course, are contained
13 in the documentation.

14 The purpose of the hearing is to allow
15 the public to express their opinion on the project
16 and to provide the panel with sufficient relevant
17 information to give informed advice to the
18 Minister. This is what we will keep in the back
19 of our minds, and we would ask that you would also
20 keep that in your minds all the way through. Our
21 job is to hear the public, and based on that, give
22 advice to the Minister.

23 Today I would like to go through some of
24 the "adminis-trivia" that goes with the process as
25 well, not in detail, but again just to draw your

1 attention to some key parts of it. Without
2 belaboring the point though, I would stress again,
3 read the materials, because there's a lot in
4 there. And if the process is going to be
5 successful and run smoothly, it certainly helps if
6 we all know it well. Some of you do, I know that,
7 but for others it might be something that you need
8 to do.

9 I'm going to change the order slightly.
10 If you look at item 3 on your agenda, it talks
11 about the process guidelines and the hearing
12 directive. I'm actually going to do the hearing
13 directive first, it's a little more germane or
14 pertinent to this project, so I'll start with
15 that.

16 Do we all have this document, Cathy?

17 MS. JOHNSON: There are extra copies
18 on the table.

19 THE CHAIRMAN: Okay. So there are
20 extra copies on which table?

21 MS. JOHNSON: At the back.

22 THE CHAIRMAN: And so for those of you
23 that don't have it with you, there are additional
24 copies. Some of you may have all of this
25 electronically as well, of course.

1 And this is called the hearing directive
2 for the Manitoba-Minnesota Transmission Project,
3 and the date on the copy of that should be
4 October 2016.

5 Now, basically this document sets out a
6 lot of the process for the entire project. And
7 I'm just going to go through it again very quickly
8 and hit some of the highlights from my
9 perspective.

10 If you look at the introduction, it will
11 simply tell you that it's intended to be a
12 reference guide and to help you understand the
13 process. There is a very brief description of the
14 project there, I won't belabour, I think most of
15 you are quite familiar with it.

16 If you go over to section 3, what that
17 notes is that we are, that's the CEC process, is
18 part of the Provincial regulatory process for this
19 project, and that will lead to the approval of it
20 by the Minister of Sustainable Development.
21 However, this is just one of the three reviews
22 that are going on. There's also a Federal
23 environmental review which is handled by agencies
24 of the Federal Government, in this case lead by
25 the National Energy Board. And there's also

1 requirements for the Province and the Federal
2 Government to carry out Crown consultations with
3 indigenous communities.

4 The Provincial review, which we are part
5 of, is managed by the Environmental Approvals
6 Branch of the Department of Sustainable
7 Development. It includes receipt of a proposal, a
8 scoping document, many of these steps, then
9 receipt of an Environmental Impact Statement, and
10 the public and the government agencies input at
11 various points in the preparation of those
12 documents.

13 For some of the major projects undertaken
14 or reviewed by the agency, the Minister will refer
15 them to the Clean Environment Commission for a
16 hearing, which they have done in this case, or
17 which she has done in this case. And on the
18 bottom of page 3, the decision to issue a licence
19 you will note does not come from us. We provide
20 advice.

21 The licence in the case of a class 3
22 development, those are the largest developments,
23 is issued by the Minister. Most licences are
24 issued by the Director of Environmental Approvals,
25 but the major ones are approved by the Minister.

1 The Minister will be informed in making
2 her decisions by, among other things, the results
3 of these hearings and our report to the Minister.

4 I would like to comment, if I could, on
5 two aspects of the review process. One has to do
6 with the consultation with indigenous communities
7 versus our role. There's often a fine line
8 between what constitutes our review of a topic and
9 what constitutes the Crown consultations. So for
10 example, if the project were to have an impact on
11 hunting or gathering, and that was from an
12 environmental perspective, that is relevant to our
13 review. However, from a rights perspective, that
14 would be dealt with in consultation -- it is our
15 understanding, we are not part of it, it is our
16 understanding that it is ongoing -- that the
17 Provincial Government is conducting with all
18 interested indigenous communities.

19 The second point I wanted to raise is
20 this project also underwent, and I haven't
21 mentioned it yet, but it also underwent a review
22 as part of a much larger plan, Hydro plan, a
23 couple of years ago through the Public Utilities
24 Board. At the end of that process, the Public
25 Utilities Board, which was a public process,

1 recommended moving forward with this project as
2 part of Hydro's development plan. And those
3 recommendations were accepted by the Province in
4 June of 2014. So we won't, in this forum, be
5 dealing with the need for the project or
6 alternatives to it. That has been dealt with by
7 the Public Utilities Board back in 2014, or
8 finished in 2014.

9 If you turn to page 4, we set out the
10 terms of reference. These terms of reference are
11 set by the Minister. I should make just a small
12 point here in the overall scheme of things, but
13 the terms of reference were set by a previous
14 Minister when the project was referred to us. But
15 they are -- they continue to be our guide for
16 reviewing this project.

17 These terms of reference are very similar
18 to the terms of reference for other projects. I
19 don't want to quite say they're standard, but they
20 tend to follow a certain pattern.

21 The first thing we have to do is review
22 the Environmental Impact Statement for the
23 project. Most of you by now have seen that, it's
24 several binders in size, the printed version, and
25 it is equally lengthy, of course, if you are using

1 the electronic version. It's also available, as
2 most of you know, on the Hydro website, and
3 there's links to it both at the Clean Environment
4 Commission website and the Environmental Approvals
5 website.

6 As part of this review of the EIS, we've
7 also been asked by the Minister to review the
8 proponent's public consultation summary and make
9 comments on that to her. So we will be doing that
10 as well.

11 Second part of our process is to hold the
12 public hearings and consider input from the public
13 and the stakeholders such as yourselves and
14 that -- as outlined in our schedule which we will
15 discuss a little later. We will hold a least a
16 portion of those hearings in the region of the
17 project. Well, in this case Winnipeg is also in
18 the region, but in the more central part of the
19 region.

20 Finally, we are to prepare a report for
21 the Minister of finding the results and providing
22 recommendations. We expect to file this by late
23 summer.

24 Yes, Gaile?

25 MS. WHELAN ENNS: Gaile Whelan Enns

1 here. I just wanted to ask, Mr. Chair, when
2 questions are going to fit into your approach to
3 the agenda? And the reason I'm asking that is
4 because I wanted to point out that there is also a
5 full Federal Aboriginal consultation with respect
6 to the MMTP project with the standing already
7 assigned, other than Arcan (ph).

8 THE CHAIRMAN: Thanks for that, Gaile.
9 I'll deal with the last point first. Yes, you are
10 right, as you mentioned, there is Federal
11 consultations as well.

12 Secondly on the questions -- I would
13 like to get through, there's two documents I'm
14 going to deal with, I would like to get through
15 the first document, and we will have a time for
16 questions and discussion, and then again after the
17 second document, if that's acceptable to everyone.

18 MS. WHELAN ENNS: Thank you.

19 THE CHAIRMAN: If you turn your
20 attention now to the review process overview, we
21 are governed by our process guidelines, including
22 practice directions, which we'll get to a little
23 later, and the code of conduct, and we'll also be
24 going over that.

25 If you'll turn to the bottom of page 5,

1 you will see a reference to the panel there. I
2 have already introduced the panel. And we have as
3 well a code of conduct which will be referred to
4 later, to ensure that the panelists also, of
5 course, also remain free of any conflict of
6 interest with respect to this proposal, and to
7 ensure to you that we don't show bias and that we
8 treat everybody with respect. We also talk in
9 that same section of the document about how a
10 decision on the project will be made, and I won't
11 go into that to any great detail.

12 So I would like to turn now to the
13 beginning of page 6, a section called the
14 hearings. As I said earlier, a community hearing
15 will be held somewhere in the southeast region,
16 likely at a fairly central location. The Winnipeg
17 hearings -- and we don't have that location firmed
18 up yet, that's why I can't mention that today, but
19 as soon as we do, of course, that will be
20 circulated to everyone.

21 The Winnipeg hearings will consist of
22 three parts which are set out here in the
23 document. The proponent, in this case Manitoba
24 Hydro, will make a presentation. They will spend
25 likely a few days describing the projects and the

1 various components of the project which they
2 examined in their environmental assessment.
3 Following that, there will be questioning from the
4 participants, that's you folks sitting around the
5 table, as well as questions from panel members.
6 Once we conclude with the proponent's presentation
7 and questioning, the participants will make their
8 presentations. And that of course is, again, you
9 people around the table here. Other participants
10 will -- well, the proponent and the panel will be
11 able to question the participants. Other
12 participants will be able to do so as well, but
13 only under certain conditions. And there will be
14 time set aside for members of the public to ask
15 questions of the proponent or to make
16 presentations. And if you are interested, those
17 who are from the public today, and in the future,
18 Cathy will be available to work those individuals
19 or groups into the schedule.

20 At the end of all of this, we will have
21 final argument, which is your opportunity to
22 summarize the presentations, give us your
23 opinions, give us your advice, and whether we
24 should be recommending approval, and if so, with
25 what conditions.

1 Our plan is to commence these hearings,
2 and I believe your schedule will outline this, on
3 May 8th, and our best guess is that there will
4 probably be about four weeks of hearings, which if
5 all goes well, we should conclude the hearings by
6 the beginning of June. We would then have our
7 report to the Minister by the end of August.
8 That's if all goes well, which we certainly hope
9 it does.

10 The length of the hearing should be
11 adequate to address the relevant issues, but not
12 lengthened by wandering off into the subjects that
13 the Commission has no mandate to address. And the
14 Chair will manage the hearings to keep us focused
15 on the terms of reference. That is my job and I
16 will be doing that, certainly in a respectful way,
17 but we will have to remain focused on our terms of
18 reference.

19 If you turn to the bottom of page 7 and
20 running all the way to page 11 is a long section
21 on how to participate. Again, I'm not going to go
22 into all of the details. I will just mention that
23 there are categories of participation. Those of
24 you at this table are formal participants and you
25 have been designated as such by the Commission.

1 That, by the way, is automatic that you receive
2 participant funding. But there is room to
3 designate other formal participants, and you can
4 approach Cathy if you are interested in that role.
5 We have had such participants in the past and we
6 may have non-funded participants, although we are
7 not aware of any at this point.

8 The term "party", which you'll see
9 throughout the documents, is basically anybody who
10 is involved in the process, including, among
11 others, the proponent, the department, the
12 participants and anyone else who chooses to become
13 part of the process. Presenters, typically being
14 the public, people who just want to come in and
15 have their say, give us their opinion on the
16 proposal, as well as on the environment
17 assessment. Of course the proponent, in this case
18 Manitoba Hydro, is the entity that wishes to
19 construct and operate this transmission line.

20 We also have different ways of
21 participating. The document will go into a lot
22 more detail. I will simply say we are open to
23 written submissions. So anybody, any member of
24 the public, any public group is welcome to submit
25 written submissions which become part of our

1 record. We, of course, receive oral
2 presentations, as we are expecting from all of
3 you. And by becoming a participant, as those of
4 you around this table have done so, that's the
5 other way of participating.

6 I'm not going to go into detail on
7 written submissions or oral presentations. I
8 think they speak for themselves. And there's
9 certainly information in the document. Should you
10 need more, you can contact Cathy. And I don't
11 have to mention to these participants how to apply
12 for participant status, because you all have it
13 already.

14 The steps in the process are outlined
15 on pages 12 to 13. I'm only going to very briefly
16 mention the list of parties. Cathy will go over
17 that list later in the agenda, and it also becomes
18 our contact list. And that plays a crucial role
19 in much of our process. And we will explain that
20 later.

21 The pre-hearing meetings, this is the
22 first of those meetings. We will have at least
23 one more a few weeks before the hearing. And at
24 that time we will just talk in more detail about
25 how the hearings will unfold.

1 Finally, information requests, which we
2 are going to talk about a little later on the
3 agenda and, of course, forms a critical part of
4 this review, and evidence submissions as well. We
5 will be dwelling at length on the 14-day rule, but
6 we will come to that.

7 If you turn to page 14, and this is very
8 important, you will see a section called
9 "submitting documents." Now, we're going to
10 stress this now, but we are going to stress it
11 throughout the sessions here. We have specific
12 requirements for the submission of documents to
13 the Commission. They must be received by -- and I
14 will really emphasize it and reiterate
15 throughout -- by noon in our office by the date of
16 the deadline. So there is different deadlines for
17 different documents. We do need them by noon or
18 they won't be accepted. There was more
19 flexibility around that at one time years ago at
20 the CEC that lead to considerable confusion and
21 some processes that weren't as adequate as they
22 should have been. In recent years the CEC and my
23 predecessor insisted on that, and I will be doing
24 the same. So we do need to have those documents
25 by noon on the deadlines. Most of the dates are

1 listed in the schedules. Those that are not will
2 be added as they are determined.

3 There is many ways they can be delivered
4 that's outlined there. We can get them delivered
5 personally, we can have them by registered mail,
6 courier, fax, email, or other means that the
7 Commission might determine from time to time. At
8 the very least, though, we do require an
9 electronic copy of all documents that are sent to
10 us. That's the most critical form of document.

11 We will also be requiring, and this will
12 be discussed a little later again, that you share
13 all of the information with all of the parties.
14 So when you are submitting a document to the CEC,
15 it has to be shared with all members on the list.
16 And that also is critical to have a smooth running
17 process and so that everyone is aware of what's
18 being submitted by all parties. You will get that
19 mailing list and you will have all -- the names of
20 all of the parties on that list, so there should
21 be no difficulty in finding out to whom you do
22 have to send them.

23 References to website: This is a small
24 point in the scheme of things, but it certainly
25 helps us and all the other participants. If you

1 are referencing websites in any of your work or
2 documents, please make sure they are clearly and
3 easily available. Make sure that it is something
4 that can be easily found. Maybe check it out
5 yourself first to make sure the link works. And
6 there are more details in the procedural manual
7 about this.

8 You will see a section that I'm just
9 going to skip over for now, we will come back to
10 it, but section 8 of your document, page 15, talks
11 about motions. We will come back to that.

12 I do want to talk very briefly about
13 interpretation. We will, upon request, provide
14 translations for persons who wish to make
15 representations, in this case in French. The core
16 of the area that the project is transversing is
17 bilingual. We will, of course, hear anyone who
18 wishes to make a presentation in French. We do
19 ask, though, that we be given some advance notice,
20 preferably two weeks, at least two weeks, so we
21 can make arrangements to have a translator
22 available for that.

23 And the second point I want to make here
24 is that we are also prepared to arrange for
25 translations for persons wishing to present in

1 Ojibway or in any other indigenous language. So
2 in this case I would take, though, my request one
3 step further. It would be very helpful if you
4 could identify people in the communities who could
5 do the translating for us. And again, if you
6 could do that two weeks in advance. We certainly
7 do not want to be in a situation where we aren't
8 able to understand a presenter. There may be
9 elders and others who would like to present in
10 their language and, of course, we are open and we
11 welcome that. So we would, if we could, on our
12 own, of course, make arrangements to try and find
13 someone who could do the translation, but if you
14 know of someone in your communities, we are very
15 open to that. And it would be very helpful.

16 The last thing I wanted to mention here
17 is the issue of transcripts. We transcribe
18 everything verbatim, including what's happening
19 today. We are required to do so by law. The
20 transcripts are typically available on our website
21 some time the day following the hearing session,
22 with some minor delays at times, especially after
23 an evening session. But we will get them out as
24 soon as we can always, and they will then be
25 available to you.

1 So that concludes a very rough summary of
2 the hearing directive document, and we are open to
3 questions or comments. Gaile?

4 MS. WHELAN ENNS: Thank you,
5 Mr. Chair. I wanted to just perhaps bring
6 everyone's attention to what's on the CEC website,
7 which is the referral from the Minister and the
8 full language for the referral in terms of holding
9 these hearings. I would have to think about
10 counting backwards, but certainly the last three
11 or so sets of hearings for Manitoba Hydro
12 projects, the referral has been in the context of
13 the principles for sustainable development for
14 Manitoba, and a good deal of the content then in
15 the hearings has been in relationship to those
16 principles. Thank you.

17 THE CHAIRMAN: Thank you, Gaile.

18 It must be early in the morning for --
19 yes, go ahead.

20 MR. TOYNE: Thank you, Mr. Chair. Two
21 quick points: First, the coalition and in
22 particular the Francophone members of the
23 coalition appreciate the acknowledgment that the
24 line, as it's currently planned, travels through a
25 bilingual area, and the offer to make translation

1 services available is much appreciated. On that
2 note, if work is still being done on identifying a
3 location or locations for the community meetings,
4 the coalition would suggest that perhaps
5 La Broquerie or the La Broquerie area would be an
6 appropriate place to have those meetings.

7 THE CHAIRMAN: Thank you for that
8 advice. We have noted that. Thanks. More
9 comments or questions? I realize that most of you
10 have been through, or many of you have been
11 through this so...

12 This was my oversight, but we did discuss
13 yesterday, the panel did, and our plan is for
14 elders who would like to speak, we will be
15 offering up tobacco to the elders. So if that is
16 something that is of interest to some communities
17 and people in those communities, we just wanted
18 you to take note of that. Thanks.

19 Yes, Warren?

20 MR. MILLS: Good morning,
21 Mr. Chairman. My associates weren't available
22 earlier, but I wanted to introduce Craig
23 Blacksmith on behalf of Dakota Plains Nation, and
24 my business partner, John Stockwell.

25 Just a couple of questions. It's been a

1 while since we have been here, Bipole was our last
2 visit, so things may have changed, but I had some
3 brief queries.

4 I guess the largest one that concerns us
5 is a significant amount of the info that's
6 provided and not provided and relied upon in this
7 process comes from the Provincial technical
8 advisory committee. Will there be a mechanism to
9 allow us to test or question or challenge that
10 information in this process?

11 THE CHAIRMAN: I will have to take
12 that question under advisement and get back to
13 you.

14 MR. MILLS: Thank you. It was denied
15 in Bipole, Mr. Chairman, and in hindsight, and I
16 know years have passed, but it always bothered me
17 that a significant amount of what this process
18 relies upon was unable to be tested. And I think
19 it would be healthy and certainly appropriate to a
20 full discovery if we were allowed to challenge
21 that. And not only challenge the information
22 provided, Mr. Chairman, but I observe that there
23 is a significant amount of TAC opportunity that
24 hasn't been provided, and we would also like to
25 know why those elements of the Provincial

1 Government aren't taking the opportunity to
2 contribute to this process.

3 Our next point was a question of Hydro;
4 if printed versions of the Environmental Impact
5 Statement are available, we would appreciate two
6 copies.

7 We observed at the Bipole transcripts,
8 Mr. Chairman, when we went back and reviewed them
9 at a later date, that they always showed that all
10 of us were in attendance, when in fact many of us
11 weren't. And it bothered us that a transcript
12 existed that indicated that a participant was
13 present, when they were not. I was wondering if
14 this new Commission would consider indicating on
15 the transcripts who was in attendance. I respect
16 that we have two technicians sitting, monitoring
17 that process, and I don't think it would be
18 additional work for a true attendance statement to
19 be included in the transcripts. We always found
20 it odd that some would complain at a later date
21 with regards to issues, that they hadn't been
22 present when they had an opportunity, and I think
23 logged attendance would be healthy for all of us.

24 Finally, in closing, Dakota Plains
25 observes that we are without legal representation,

1 and that may enter into our work at a later date.
2 And if we feel it necessary, we may add to our
3 team legal counsel at specific lines of
4 questioning or concern. And we just wanted to let
5 you know that now and make sure that would not be
6 a problem.

7 Those are our points, Mr. Chairman, and
8 we look forward to the process. Thank you very
9 much.

10 THE CHAIRMAN: Okay, thank you,
11 Warren. Just a quick couple of comments on the
12 easy ones. The other ones I will take under
13 advisement. Not a problem having legal
14 representation added later, that's fine. So that
15 one is good. The printed version of the
16 Environmental Impact Statement, is that a
17 possibility?

18 MS. MAYOR: Perhaps we can speak to
19 Mr. Mills after the process in terms of that.

20 THE CHAIRMAN: That sounds like Hydro
21 will address that with you.

22 MR. MILLS: Thank you.

23 THE CHAIRMAN: On the other two
24 issues, the questions around, the question -- I'll
25 start over. On the other two issues, the

1 questions around the TAC and the availability, et
2 cetera, I will take that back and we will
3 communicate with you. And on the true attendance
4 statement, I don't know to what extent that's
5 possible, but I will raise that with staff and I
6 will get back to you on that as well. Thanks.

7 MR. MILLS: Thank you.

8 THE CHAIRMAN: Yes, Jared?

9 MR. WHELAN: Good morning. First of
10 all I would like to introduce Councillor Wade
11 Sutherland, he came here a little bit late. He
12 was driving in from Peguis.

13 Second, I would like to second what
14 Dakota Plains has commented on, specifically about
15 the Provincial Government and the TAC comments
16 from various departments, branches, staff and
17 expertise inside the government. It has always
18 been frustrating to participants in hearings that
19 the Provincial Government never actually presents,
20 other than some general comments about what they
21 do, not actual comments on the project. I would
22 like to second that. We would appreciate seeing
23 Manitoba Government at the hearings presenting at
24 least a summary to their TAC comments. That would
25 be a good idea.

1 We have no objection to a logged
2 attendance at hearings. That's not a problem.

3 THE CHAIRMAN: Thank you, Jared. I
4 will, as I said, get back to you on the issue or
5 issues related to the TAC. Thanks.

6 Do we have more comments or questions?
7 Well, I think given that, we have taken note of
8 questions that were asked, and there is two or
9 three that we will be following up on.

10 We will move to the next section of the
11 agenda, which is a document called process
12 guidelines. I'll just take a minute to organize
13 my own papers here.

14 The full name of the document, just so
15 you can all find it, is called "Process Guidelines
16 Respecting Public Hearings." I think you should
17 all have it. And I'm going to run through it,
18 again in a cursory fashion. I would encourage you
19 all to become familiar with it, if you are not.
20 I'm just today going to highlight some of the
21 issues that have been important in previous
22 hearings, and some that we feel will be important
23 in this hearing.

24 If you turn to section 1.0, the
25 application of the process guidelines. I'm not

1 going to use page numbers here because here the
2 sections are well numbered. The second part of it
3 notes that, "the Commission has the authority
4 under the Environment Act to make rules of
5 procedure governing our process."

6 Of course, that includes the ability to
7 change those rules if they are not appropriate,
8 given the issues at hand. But if we do that, we
9 will do it fairly, with lots of notice.

10 You'll notice section 104, refers to the
11 Commission's secretary and 105 is entitled
12 "Communication with the panel." This is very
13 important and I would like to stress it. This
14 will not, of course, be new to those of you who
15 participated before.

16 You should not, or I don't -- for those
17 that have participated, I would not have to repeat
18 this, but there should be no communicating with
19 any members of the panel by any of you here
20 respecting the hearings at any time during the
21 process. So that will apply from today until the
22 day we file our report, which will be some time
23 around the end of the summer.

24 Now, as we are often reminded by Mike, to
25 my left here, that since Winnipeg, we are a

1 relatively small community and we're going to run
2 into each other. Manitoba is a small community.
3 And so that is going to happen. And if we are
4 talking about our recent vacation, shopping trips,
5 sporting events or the weather, those kind of
6 things are okay. But there should be no
7 discussion, when you do run into panel members,
8 about anything to do with this process or the
9 subject of the hearings. Any inquiries to do with
10 the hearings should go through the Commission
11 secretary. And you can also feel free to talk to
12 our legal counsel, Mike Green. So I don't think
13 that I have to belabour it anymore. Obviously
14 that is very important to the integrity of this
15 process, and we would ask you all to respect it.

16 The next section deals with transcripts,
17 and I think we've already covered that adequately.
18 That's not the next section, but that's 106.4.

19 I would like to turn us now to part 2.
20 I'm not going to spend any more time on part 1.
21 So part 2 is pre-hearing procedures. There's a
22 little section on motions at 2.08, and I will deal
23 with that later. The information request, 2.09, a
24 very important part of our process and that will
25 also be dealt with very shortly in a lot more

1 detail.

2 If you move now to section 3, and
3 specifically 3.14, I think you're all aware of
4 this, but of course we expect everyone to be
5 truthful in their testimony and presentations
6 before the Commission. And we will be asking
7 people to affirm that what they're about to say
8 will be the truth. And so that will be a more
9 formal, if you like, part of our process, but I
10 don't think it will be a surprise to any of you.

11 Section 3.16 talks about time limits for
12 presentations. The general public are restricted
13 strictly to a 15 minute presentation. What I
14 observed in the past, and what the Commission
15 staff has reiterated to me is that rarely, not
16 rarely, but generally they do not take even 15
17 minutes. I'm talking about the general public.
18 I'm not the participants at this table. When it
19 comes to the participants here, you will discuss
20 and negotiate with Cathy on appropriate
21 presentation time. We certainly want to
22 accommodate you within reason, and you will be
23 given a time adequate to express your views and
24 your conclusions about the project. And those, as
25 I said, can be worked out with Cathy, both the

1 time frame and the scheduling of your
2 presentation. So stay in touch with Cathy. She
3 loves hearing from all of you.

4 Very briefly, 317 evidence; we're fairly
5 flexible in our rules of evidence, a lot more
6 flexible than you find in court, but we expect
7 material to be filed on the dates already noted.
8 There will be no flexibility around the date.
9 There is some flexibility around content, but not
10 on the dates.

11 Expert evidence, which is 317.3; we are
12 again fairly flexible in establishing the
13 credentials of experts. So if you're bringing an
14 expert, we would ask you to provide a reasonable
15 but not necessarily exhaustive CV, just enough to
16 show that the expert is a specialist in whatever
17 field she or he is talking about.

18 We do allow witness panels, that's under
19 318. If you wish to use that, that's been used in
20 the past and we think effectively, so we will
21 certainly allow that.

22 Objections, we do allow objections. I
23 don't really need to spend much more time on that,
24 other than to say we do allow it.

25 320, I'm going to talk a bit more about

1 and that's a question -- now, we do allow even
2 leading questions, so we certainly permit the
3 questioning of witnesses. So all of you will be
4 able to question, as I mentioned earlier, the
5 proponent after the proponent's presentation. And
6 that is to the point where it's necessary for the
7 panel to make a good decision.

8 In the past, and this is going back a few
9 hearings, we also permitted the participants to
10 question each other. We do have some restrictions
11 around that now. What we found is some of the
12 questioning among participants really went back
13 over material that already had been stated, rather
14 than establishing new facts. So we have no
15 difficulty with questioning among participants who
16 may have points of view that are somewhat adverse
17 one to the other. What we will restrict is the
18 questioning between participants who have the same
19 view of an issue. The past experience is it
20 didn't really add any new material to the decision
21 making process.

22 If you want to question a particular
23 witness or group, I would ask that you ask -- seek
24 the leave of the Chair to proceed, and indicate
25 how the proposition presented is adverse to your

1 side, not when you are questioning the proponent
2 but when you are questioning a participant.

3 Section 322 talks about adjournment. The
4 Commission may adjourn a hearing from time to
5 time. As some of you know, there have been
6 adjournments of previous hearings. We certainly
7 would prefer not to have to do that, but we will
8 do it, if there's good reasons.

9 Section 4.01 to 4.04, and this is the
10 last comment I will make on this part of the
11 document, it talks about post hearing. The
12 process after the hearing is closed, usually, at
13 least some times we will allow the record to be
14 opened for a day or two after the hearings, if
15 there's still one or two documents that are to be
16 submitted. But very shortly, either immediately
17 at the end of the hearings or very shortly after,
18 we will close the record. At that point there is
19 no more involvement for the participants or the
20 proponent. It's up to the panel then to meet,
21 make decisions and give instructions to our report
22 writer. Within 90 days, and that's required by
23 law, the 90 days is, we have to submit a report to
24 the Minister which, of course, we will be doing.
25 So there will be no contact with the participants

1 or the proponent from the end of these hearings,
2 other than perhaps for a day or two to receive
3 additional documents, if there's any coming.

4 So I think that concludes what I have to
5 say about this part. I am going to move on now to
6 the practice directions. You will see, I hope you
7 all have this, but at the end of that document, or
8 after part 4 there's a number of practice
9 directions. I'm not going to go through them
10 exhaustively, but I'm going to touch on a few of
11 them.

12 On page 32, I want to spend time on this
13 one because this is very important as of today, so
14 page 32 is a section called information requests.
15 I'm going to let you all find that. Now, I am
16 going to spend considerable time on this because,
17 as I said, it begins today. We ask you to submit
18 your information requests directly to the point,
19 to the proponent. Years ago they used to be
20 submitted through the Commission and that caused
21 unnecessary delays and really didn't add to the
22 process. So they are now submitted directly to
23 the proponent. At the same time you are to
24 circulate the same information request to the
25 Commission and to all other parties who are listed

1 on the contact list, which Cathy will be
2 discussing later on this morning.

3 It will be up to the proponent to decide
4 whether a question is relevant, repetitive,
5 redundant, et cetera. If a proponent, in
6 answering the questions or in reviewing them,
7 decides not to respond for valid reasons, or at
8 least in their view valid reasons, they must
9 explain what those reasons are to the participant.

10 The proponent will file responses as
11 expeditiously as possible, but also within the
12 time frames that we'll come to in a few minutes.
13 In your schedule there are clear time frames for
14 this process. As I said, all of those requests be
15 directed to Hydro.

16 The subject matter of the information
17 requests are restricted to issues within the terms
18 of reference of the hearings. So again, we would
19 ask you to stay within the scope. It may be
20 debatable, there may be some gray areas, there may
21 be some debate between the participant, a
22 particular participant and the proponent. We
23 would ask that the first step in that process is
24 to meet and try and work that out yourselves. If
25 it can't be worked out, it can be referred to the

1 Commission and the Commission will make a decision
2 on whether the question is relevant or not. But
3 again, the Commission will use the same terms of
4 reference, so it should be obvious to the parties
5 to begin with, but if it's not, the Commission
6 will make a decision.

7 There will be a form provided to use for
8 information requests. We ask that you use that
9 form. It will speed the processes and make it
10 easier for the responses. We would ask that you
11 number your requests in whatever fashion you
12 choose to. And we are providing lists of
13 abbreviations, if you haven't already got them,
14 and that might help keep things standardized for
15 you.

16 The proponent, when they receive the IRs,
17 that's information requests, will be responsible
18 for developing some kind of a tracking process.
19 So you will do your own numbering, and that's
20 fine, but Hydro will develop a tracking process so
21 that Hydro and all of us are able to identify who
22 submitted which requests, and the subject matter
23 that its referring to.

24 The proponent is required to provide the
25 requesting party with a written response that

1 satisfactorily addresses the questions. And I've
2 already talked about their decision on whether
3 they accept or not the information request and
4 what happens afterwards.

5 As for the time frames for the
6 information requests process, basically it starts
7 right now. So I would urge you, if you require
8 information from the proponent, you begin
9 submitting those as early as possible. Round one
10 information requests -- we will be going over this
11 a second time when we get to the schedule, but
12 they will be accepted up until, and I express this
13 again, noon on Tuesday, February 21st. So that
14 gives us about five weeks -- is that right,
15 Cathy -- five weeks for you to get your questions
16 to Hydro. We would ask that you submit them on an
17 ongoing basis starting virtually immediately. A
18 huge dump of questions on the morning of
19 February 21st will not be viewed positively and
20 will just really slow down the process. Start
21 submitting them now and submit them as you draft
22 them.

23 And I would say to the proponent as well,
24 send your responses out in the same manner. I
25 would not like you to send all of your responses

1 on March 14th, which by the way is the date by
2 which Hydro has to respond to the first -- the
3 latest date by which Hydro has to respond to the
4 first round of questions. That would be unfair to
5 the participants to leave them all to the last
6 day. So I ask in both cases that they be done as
7 they are developed, or they be submitted as
8 they're developed.

9 As I mentioned the response date for --
10 the deadline for responses to the information
11 requests will be noon, Tuesday, March 14th. So
12 that looks to me like a little more than three
13 weeks after the end of the period for submitting
14 them.

15 Round 2 information requests, and this is
16 important, they are due two weeks later, noon,
17 Tuesday, March 28, again outlined in your
18 schedule. But there is a restriction on round 2
19 questions. Round 2 questions are restricted,
20 first of all, by being within scope, as were round
21 1 questions. But they are further restricted in
22 that they can only deal with follow-up to the
23 responses to questions 1. So if there is
24 something in the follow-up information from the
25 proponent, in this case Hydro, if there's

1 something in that response you don't understand or
2 needs further elaboration, that is the type of
3 question that can be asked in round 2. New issues
4 cannot be raised in round 2, those have to be
5 raised in the first round. And round 2 responses
6 will be due at noon, Tuesday, April 18; again, all
7 in your schedule. Yes, Jared?

8 JARED WHELAN: This is going back to
9 the question that Warren raised about TAC
10 comments, the Provincial Government's input on the
11 EIS from the proponent. Can participants file
12 information requests based on what TAC comments
13 were?

14 THE CHAIRMAN: I've taken note of that
15 and I'll come back to it. We're putting
16 questioning at the end of the documents, so I've
17 just made a note of it and I'll come back.

18 So as I said, the round 2 responses will
19 be due noon, Tuesday, April 18th, and that will
20 conclude the information request process. So that
21 all happens between now and April 18th, so that is
22 three months. So that's a three-month process.

23 You will notice at several points in the
24 documents, and I've already said that the dates
25 are subject to change by the panel where

1 necessary, but we are going to make every effort
2 to stick to this schedule. That's our preference
3 and it makes for a cleaner process and is fair to
4 everyone.

5 The information requests must be
6 submitted in electronic form and they have to be
7 in an attached document. I know I'm into the
8 details here, but it's very important that they
9 not be put into emails. An attached document
10 makes everything a lot easier. And copy all
11 people on the contact list. You'll have all of
12 their email addresses.

13 So that concludes the discussion on the
14 information requests and, of course, we will be
15 open to questions on that at the end.

16 If I can take you now to a different
17 practice direction, page 35, order of proceedings.
18 That just lays out the general terms of how the
19 proceedings will unfold. Again, I urge you to
20 have a good look at that. I'm not going to go
21 through it today.

22 I'm going to take us all the way down to
23 page 40, disclosure of witnesses and filing
24 deadlines. Again, I know that we are going over
25 and over this, but because it's been an issue in

1 previous hearings, I want to make it very clear,
2 these deadlines are very important. And we do
3 enforce them; the Commission has in previous
4 hearings, and we will continue to do that. They
5 will be enforced very strictly. So the
6 proceedings, we want to keep them efficient. And
7 to make sure that materials are available in a
8 timely way, we will insist that they be done by
9 the due date.

10 And now, two more dates for you to
11 remember, again, these will all be in the
12 schedule. But a detailed outline of your
13 presentation, assuming you are making one, and we
14 expect that from all the presenters, obviously, we
15 expect a detailed outline of your presentation, a
16 list of witnesses that you intend to bring, a list
17 of authorities, journal, articles, et cetera, to
18 which you are referring. That's all required by
19 noon, April 24th, which I think, if I remember
20 correctly, is about six days after the close of
21 the information request process. So we will
22 require all of that from all presenters by noon,
23 April 24th. That's two weeks before the hearings
24 commence.

25 The final version of your submission must

1 be delivered by noon seven days prior to the day
2 you will be making your presentation. So you will
3 work out a date for your presentation with Cathy.
4 Seven days prior, at noon, we will require the
5 final version of your submission. And copies can
6 be supplied the day of the presentation, but we
7 will require it be submitted to us seven days
8 prior to that.

9 These rules are not different, by the
10 way, from the previous hearings. These are the
11 same rules and same time frames, obviously
12 adjusted for the time of the year.

13 If I can turn now to page 45, and this
14 has to do with questions, and we talked a bit
15 about that already. What I do want to stress
16 here, and I didn't mention earlier, is that
17 basically what it says here, if I had to boil it
18 down, is to be courteous, be respectful and don't
19 be repetitive. Ask the question. Once it has
20 been answered, we ask that you move on to the next
21 question. If the question gets out of scope, or
22 becomes too repetitive, or something we would say
23 is disrespectful in any way to the proponent or
24 the other participants, the Chair will bring that
25 questioning to a close and he will do it quickly.

1 This has not been a problem in recent hearings,
2 for the most part, I know there has been some
3 instances, but for the most part apparently not,
4 and we don't expect it to be an issue in these.
5 If we keep focused that what we are trying to draw
6 out from whoever is being questioned is relevant
7 information for the panel, if we keep that our
8 focus, I think that will lead to the right kind of
9 questioning.

10 You will see in appendix B a number of --
11 I'm not going through any more of the practice
12 direction, but you certainly should yourselves.
13 Appendix B, there are a number of tip sheets.
14 These provide more guidance for those that aren't
15 experienced, and I keep saying many of you are.
16 They might be worth looking at. It's just some
17 advice on appearing before a panel and some tips
18 for representatives.

19 I would like to draw your attention
20 quickly to appendix C, code of conduct for
21 parties, and representatives, by the way. And
22 that's on page 64, for those of you who have not
23 found it. This code of conduct applies to
24 everyone in this room except, of course, the
25 technical staff here, but everybody else is bound

1 by this code of conduct for the parties. There is
2 nothing really onerous or provocative in here. It
3 just asks you to treat others with respect and
4 courtesy, as I mentioned earlier. It's not
5 something that the CEC has generally had problems
6 with, so we expect that you will all behave
7 accordingly. But having said that, it still
8 doesn't hurt to write it down, which is what we
9 have done, and we would encourage you to read it
10 and abide by these guidelines.

11 If you look at section 3 -- I don't know
12 the page, I think it's 3.01, additional
13 obligations of representatives, because some of
14 you have representatives to handle things for you
15 at the Commission, at least some of what you do at
16 the Commission. I would like to note 3.01, those
17 of you who are representatives, such as legal
18 counsel, ensure that you have proper instructions.
19 I think for most of you I'm just stating the
20 obvious, but not just legal counsel, for all
21 representatives, make sure you have proper
22 instructions from your client. We want to be sure
23 that what you are saying is what the
24 representative would like you to deal with and
25 vice versa. I don't think that I need to go much

1 more through this process, so I would just ask you
2 to please have a look at that.

3 I wanted to talk very briefly about
4 motions. You are free to submit procedural
5 motions to the Commission at any point in the
6 process. However, we would much prefer, if you do
7 have a motion with regards to some part of the
8 process, that you do it earlier rather than later.
9 If necessary, we will set a time frame for those
10 motions to be heard. But again, the sooner the
11 better. Because if there's any procedure or
12 technical issues, we would like to have those
13 addressed early on. Obviously we want the
14 hearings themselves to run smoothly as they can.
15 So if you do have issues or concerns, raise them
16 early.

17 There is more detail, I believe you
18 have -- so you will have -- normally, the
19 intention was to make it one of the practice
20 directives. It was inadvertently missed from that
21 collection of issues there, so we have prepared it
22 separately and you should have it in your package.
23 It is entitled "Motions" and you will have more
24 details there.

25 So I think with that, I'll ask if there

1 are any questions on the guidelines that I just
2 ran through here in the guidelines. So if there
3 is any questions or comments, now is the time to
4 raise them. Yes?

5 MR. BEDDOME: James Beddome. Just a
6 quick comment or an observation. One would be on
7 your comments about not being able to question
8 other participants. I understand the Commission's
9 intention of trying to be efficient, and I am sure
10 to respect time, but I'm wondering -- I can see
11 instances where questions of clarification could
12 be needed, so they wouldn't necessarily be
13 competing or adverse, but almost like a
14 clarification. I understand you don't want the
15 same repetitive stuff going over and over. I am
16 assuming that will be a matter of discretion for
17 Mr. Chairman and the panel to decide. I thought
18 that was worth noting, because I can see that
19 being an issue.

20 And certainly almost closely following
21 from that would be your comments on once you
22 understand the idea of keeping the indigenous
23 consultation separate from the environmental
24 hearing, but I think you are going to find often
25 the intertwined nature of indigenous rights and

1 the environmental concerns are going to make that
2 a challenge.

3 THE CHAIRMAN: Thank you for those. I
4 think your first suggestion is a very reasonable
5 one. So obviously if there is a need for
6 clarification on some presentation, we will be
7 open to that. We just want to avoid beleaguering
8 issues that have already been dealt with. So yes,
9 that's a good suggestion.

10 And your second point, yes, certainly the
11 previous Chair noted this as well, that there is a
12 gray area between a rights-based consultation that
13 occurs directly between governments, and the
14 issues we are dealing with here. We will err on
15 the side of making sure we are not excluding any
16 environmental issue getting discussed, and getting
17 discussed well here. If that means that we are
18 having to, you know -- not address, it is not our
19 job to address -- but if that means some overlap,
20 we will tolerate some overlap. We just don't want
21 to get into that whole issue when it is really not
22 our job, and it is being discussed.

23 MR. BEDDOME: Thank you, Mr. Chair.

24 THE CHAIRMAN: Yes, Jared.

25 MR. WHELAN: Thank you, Mr. Chair.

1 I'm not sure where Dakota Plains and Metis
2 Federation are in terms of consultation with the
3 Crown. Peguis will be completing consultation
4 with the Crown concerning MMTP project. The
5 results of that consultation may inform their
6 participation at the hearings. It may not be done
7 in time to inform any filing of information
8 requests, but it will inform the participation at
9 the hearings in May.

10 So again, we understand that the Clean
11 Environment Commission is not conducting
12 consultation, but the work that Peguis First
13 Nation, in sitting at the table with Manitoba
14 government, may very well inform what they bring
15 to the table, or their panel presentations from
16 their community members in May.

17 THE CHAIRMAN: Yes. Thank you for
18 that comment. I think that's also reasonable, and
19 if there are issues that come out of your other --
20 out of the consultation process that then have a
21 bearing on environmental matters that we consider
22 here, yes, we will be open to hearing about that
23 during your presentation or your questioning.
24 Thanks. Yes, go ahead.

25 MS. PASTORA SALE: Joelle Pastora

1 Sale, CAC Manitoba. I'm just expanding on the
2 question from Mr. Beddome, counsel to SCO. You
3 had indicated that parties who wish to request or
4 ask questions from other intervenors should be
5 coming to the CEC prior to the presentation and
6 indicating that they would like to ask questions
7 from the intervenors. Can you just expand on that
8 in terms of how should this be done and when?

9 THE CHAIRMAN: If you know in advance
10 that you are going to want to ask some questions
11 of another presenter, as I said earlier, we want
12 to be careful about too much of that. By the way,
13 another reason is some presenters are not maybe as
14 comfortable with being questioned as the proponent
15 is. So I want to be somewhat cognizant of that as
16 well. Having said that, if you do have questions
17 that are going to add to the information available
18 for us and make the best recommendations that we
19 can within our scope, raise those with us
20 beforehand, if you can. If it is something that
21 arises during the nature of the presentation that
22 is going to occur that day, it would still be
23 helpful, and we ask that you raise it with the
24 chair during the session before. Seek the leave
25 of the chair before asking the questions. The

1 earlier the better.

2 If I didn't make it clear, you do -- the
3 requirement is that you ask for the leave of the
4 chair to ask the question, either in advance, as I
5 mentioned, where you know in advance, which I
6 understand you may not always know in advance, and
7 at the hearing itself. So at the time of your
8 request or your desire to ask questions, before
9 you do that, seek the leave of the chair will be a
10 requirement. Thanks.

11 MS. PASTORA SALE: Thank you,
12 Mr. Chair. I do have a couple of other questions.
13 You indicated that experts will be asked to swear
14 and affirm prior to their presentations. Will
15 elders and knowledge holders, relying on ceremony,
16 be asked to swear or affirm prior to their
17 presentations?

18 THE CHAIRMAN: I'm going to seek some
19 advice on that. Just give me a second. When it
20 comes particularly to elders, and there may be
21 others who have a similar view, we will not be
22 insisting on the affirming. We will have the
23 ceremony or the process involving the gift of
24 tobacco. And I don't think -- well, I shouldn't
25 say I don't think, we will not insist on that, on

1 the swearing in or the affirming in.

2 MS. PASTORA SALE: Thank you,
3 Mr. Chair. I do have one more question. Do I
4 understand correctly that draft submissions of our
5 expert reports, as well as our presentations, must
6 be provided two weeks in advance? And then seven
7 days in advance to our presentation, the final
8 copies must be provided?

9 THE CHAIRMAN: The 14 days in advance
10 is an outline of your presentation. Seven days --
11 that's 14 days in advance of the commencement of
12 the hearing, and that's so all participants, not
13 just the panel, can be aware of what you are going
14 to be presenting. And then seven days before your
15 scheduled presentation we are asking for the final
16 version of your presentation -- sorry, of your
17 submission. I think I'm confusing terms and
18 that's where it has lead to a problem. I'm hoping
19 I'm going to get this -- let me just check.

20 So the outline two weeks in advance. The
21 submission seven days -- that's two weeks in
22 advance of the hearing. The submission seven days
23 in advance of your presentation time, and the
24 actual presentation on the day of your
25 presentation.

1 MS. PASTORA SALE: And then how many
2 copies of our presentation is needed? Physical
3 copies?

4 THE CHAIRMAN: 5-0, fifty.

5 MS. PASTORA SALE: Thank you
6 Mr. Chair. Those are my questions.

7 THE CHAIRMAN: Yes, Gaile.

8 MS. WHELAN ENNS: Mr. Chair, I wanted
9 to go back to a couple of things to do with IRs
10 for a minute. The first question, or perhaps
11 request, then is that when Manitoba Hydro is
12 providing its tracking record, that they be asked
13 or requested that they in fact not wait until the
14 end of the round. So if we are all aiming to have
15 more of the IR materials sooner in sequence, then
16 my question is, what can Manitoba Hydro do to help
17 us with tracking charts and tracking information
18 earlier than the very end of the report -- end of
19 the round?

20 THE CHAIRMAN: Do you have more
21 questions or --

22 MS. WHELAN ENNS: I have a second one
23 that has to do with IRs.

24 THE CHAIRMAN: Go ahead.

25 MS. WHELAN ENNS: Fair enough. The

1 reason the first question is because the tracking
2 chart was just pretty darn late. It is of less
3 use and we found we had to build our own.

4 The second comment has to do with the
5 fact that when the change to sending the IRs
6 directly to the proponent was put in place, that
7 we found ourselves in a situation where Manitoba
8 Hydro lost over 20 Manitoba Wildlands IRs. So
9 what I would like to know is what the assurance is
10 going to be, or what Manitoba Hydro has put in
11 place so that we are assured that each IR is being
12 handled and will be answered. They, of course --
13 again they know much better than we do what their
14 process is, but they break them into batches and
15 they have teams, of course, working on IRs. So I
16 wanted to basically make sure that we are going to
17 be fine in this regard.

18 THE CHAIRMAN: Okay. I think I will
19 answer them in reverse. There is one part that I
20 wanted to address, so just give me a second.

21 Thanks for those questions, Gaile. I
22 think as I said earlier, we are -- as much as we
23 are asking the participants to get the requests in
24 early as they go, not wait until the end, I also
25 asked Hydro at the same time to get the responses

1 out as quickly as possible. I'm going to apply
2 the same thing to their tracking system, if they
3 can get that out as quickly as possible, that
4 would be helpful.

5 And I guess I would ask Hydro and all
6 participants to do the best job possible in
7 keeping track of their questions, and in Hydro's
8 case, some of the responses. Should there be any
9 issues, I can't speak to the previous hearings,
10 but should there be any issues in these hearings,
11 let us know, let the secretary know right away and
12 we will look into it. I expect that the
13 submissions will come in a timely way. The
14 responses will come in a timely way, and
15 everything will be well tracked.

16 MS. WHELAN ENNS: Thank you,
17 Mr. Chair.

18 THE CHAIRMAN: Anymore questions or
19 comments?

20 MR. TOYNE: I have a question about
21 expert witnesses and expert reports. The question
22 arises primarily from the fact that this will be
23 my first CEC hearing. To what extent will an
24 expert witness that's being put forward by a
25 proponent or by a participant be open to challenge

1 on qualification or other traditional grounds that
2 a witness can be challenged on, say in a courtroom
3 or a panel such as this? Or is the fact that
4 someone is put forward as an expert, they are
5 automatically considered an expert by the panel?

6 THE CHAIRMAN: So, if there is a
7 challenge -- thank you, for the question. If
8 there is a challenge to the witness' expertise,
9 we -- yeah, as I mentioned earlier, we are not
10 asking for, you know, a CV several pages long.
11 Many of these experts have CVs a lot longer than
12 that with all of their publications, et cetera.
13 But if there is some questioning of the validity
14 of the expertise, we will deal with it at the
15 time. I guess you are free -- I guess you are
16 free to raise that issue and then we will look at
17 your comments. We will look at the credentials,
18 and we will make a decision. But I'm confident,
19 at least I would hope all -- I would urge all
20 participants to ensure that your experts have the
21 qualifications they say they have. And for the
22 most part I'm assuming that is what will happen.

23 MR. TOYNE: Just a follow up question,
24 if I may. So that might be an issue, if it is
25 going to be an issue that would be raised once the

1 witness is actually before the panel as opposed to
2 some sort of a pre-hearing motion being brought?

3 THE CHAIRMAN: The answer to that is
4 yes.

5 MR. TOYNE: Thank you.

6 THE CHAIRMAN: Warren.

7 MR. MILLS: Thank you, Mr. Chairman.
8 That's a very important point, and there is a
9 follow up to it. We would expect that we will be
10 presented with many witnesses who are, as an
11 example, engineers. We would ask that the witness
12 identify themselves as an engineer, a P.Eng or
13 more importantly, registered and in good standing
14 with their organization. The credo of the
15 Professional Engineering Association brings
16 additional support and respect to testimony that
17 we will receive. And as this team has discovered
18 the hard way, there is a significant difference
19 between a graduate engineer and an engineer who is
20 registered and in good standing with their
21 Provincial organization. So, if we could ask that
22 when someone describes themselves, they could
23 fully describe their professional registrations.

24 THE CHAIRMAN: Thank you. Thanks.
25 Just give me a minute. We will -- before the

1 hearing and before the presentation, we will rely
2 on the CV that's provided. And should that be a
3 question, we will deal with it at the time of the
4 presentation. So, if a different participant has
5 an issue around that, if you raise it, we will
6 deal with it then. We are not going to make a
7 blanket requirement that they go beyond stating
8 what they are. If they wish to list the
9 associations that they are part of, they can do
10 that, but we won't make that a requirement. Yes,
11 Jared?

12 MR. WHELAN: Thank you, Mr. Chair. Do
13 the rules on expertise and credentials and CVs
14 also apply to those people who will be presenting
15 on behalf of the proponent?

16 THE CHAIRMAN: Just the first part of
17 your question again?

18 MR. WHELAN: The rules around
19 expertise, providing CVs for experts who will be
20 testifying, do they apply to the proponent?

21 THE CHAIRMAN: Just give me a second
22 on that. My understanding is the usual process,
23 and that's what we will apply here, is that we
24 will take the word of the participant or the
25 proponent, that they are bringing an expert. They

1 will provide whatever background they feel they
2 should. We've asked that -- we have already asked
3 that a brief CV be supplied. We have not asked
4 for tremendous detail around that. That's how we
5 will continue to operate. Should there be some
6 issue concerning the expertise or the testimony of
7 the expert, we will deal with that at the time.
8 Thanks.

9 MR. WHELAN: Thank you, Mr. Chair.

10 THE CHAIRMAN: James?

11 MR. BEDDOME: Thank you, Mr. Chair.

12 Can I just ask a question and we can get some
13 further clarification? We are talking --
14 following up on expert witnesses, when we are
15 talking about professional engineers, it gets a
16 little easier. Obviously we would be looking at
17 potentially bringing in some traditional
18 witnesses, so that, you know, your traditional CV
19 doesn't really apply to these types of witnesses.
20 Maybe if you want to give any guidance or
21 clarification, I mean you are not looking for
22 much, but as to what you are looking for, I can
23 tell my client and maybe others in the room.

24 THE CHAIRMAN: Yes, when it comes to
25 elder knowledge, traditional knowledge and things

1 related to that, we won't be requiring any CV.

2 That in itself is sort of a contradiction in
3 terms. So, we will not be requiring that.

4 MR. BEDDOME: Thank you, Mr. Chair.

5 THE CHAIRMAN: More comments,
6 questions? Yes.

7 MR. TINGEY: Doug Tingey. It might be
8 that we will address this question beyond the
9 motions, but I notice on page 33, with regards to
10 information requests, when the person requesting
11 and the proponent can't agree on relevance or the
12 need to respond, it is said here that it will be
13 decided possibly by the Commission in a summary
14 fashion. Now, I'm assuming that the Commission
15 isn't expecting motions to be filed with regards
16 to these disputes; is that correct?

17 THE CHAIRMAN: So, what I've been
18 advised, and I did have some discussion on this
19 and some other topics with the previous Chair as
20 well, is that it rarely, if ever, happens. But if
21 Hydro, and we have asked and it is outlined in
22 here, that the parties try to resolve it first;
23 generally it will be proponent and one of the
24 participants. So we ask that you try and resolve
25 it. If you can't, you can refer to us in writing,

1 if you like, and we will make a decision. We
2 won't be going through a very formal process to
3 get to that decision. But we are hopeful that you
4 can resolve it yourselves. Thanks.

5 MR. TINGEY: Just to continue, if
6 there is any uncertainty as to the nature of the
7 participation of the panel in dealing with the
8 dispute, I notice that you put the final deadline
9 for motions as March 27th before the second round
10 of the information requests closes. So if there
11 is a possibility that a dispute is elevated to a
12 motion level rather than a summary -- being dealt
13 with in a summary fashion, I'm wondering if it
14 will be possible to change that deadline so it
15 gives parties time to deal with the second round
16 of information requests?

17 THE CHAIRMAN: Just give me a moment
18 on that. That date, the March date you referred
19 to, March 27th is for the procedural kind of
20 motions that we sometimes get. I'm not even
21 suggesting that we -- there be any, but we had
22 asked that procedural motions involving, or
23 related to the process be submitted by then so we
24 can deal with them before the hearing, so the
25 hearing can be as productive as possible. If

1 there are motions on other issues, including the
2 one that you raised, there could be others as
3 well, those can be raised with us at any time. We
4 hope to resolve things without having to go
5 through the motions process. But as I mentioned
6 when I talked earlier about motions, you are free
7 to raise them. So that can be done on that
8 subject or other subjects. Thanks. Yes, James.

9 MR. BEDDOME: Thanks, Mr. Chairman.
10 Just a quick clarification on that. I can just
11 foresee a situation, I understand that you want
12 procedural issues dealt with as soon as possible,
13 but what happens if a procedural issue doesn't
14 come to light until some point throughout the
15 proceedings after that? Even at some point in the
16 hearing it might come up, something you can't
17 foresee right now, and suddenly comes up, and I'm
18 wondering, you know, the rules seem to preclude
19 that, but how the Commission intends to deal with
20 that, should that situation arise?

21 THE CHAIRMAN: Well, once again I may
22 not have chosen my words quite as aptly. When I
23 use the word procedure, maybe a correct term will
24 be jurisdictional issues, so bigger picture
25 issues. If during the hearings or any time

1 leading up to the hearings there is a different
2 and smaller kind of procedural issue, absolutely
3 you can raise those, and you can raise them any
4 time and we will address them. And there have
5 been instances -- we are not encouraging it
6 because it tends to, you know, get us off track of
7 what the hearing is really about -- having said
8 that, obviously if there is legitimate concerns on
9 issues, you can raise them, and we will address
10 them at the time they are raised.

11 MR. BEDDOME: Thank you, Mr. Chair.

12 THE CHAIRMAN: In the interests of
13 time, if there is no more questions, we have some
14 other things on the agenda here.

15 So, we've actually dealt with five and
16 six already. I have waived them into the
17 presentation on item 3. So I would like Cathy to
18 talk about item 4, which is the contact list,
19 copies, information distribution, et cetera.

20 MS. JOHNSON: As we said, the most
21 important, or one of the most important documents
22 is this contact list. So, I talked to some of you
23 about who is on it, and who is not. I need to
24 know by the end of the day, either at the end of
25 this meeting come and fill in the blanks for your

1 organization; three main contacts for your
2 organization where information will be received.
3 If you can't provide all of the information right
4 this very second, please get it to me by the end
5 of the day by email, with your name, your address,
6 your relevant phone numbers, whether it is
7 business, fax, cell, and most importantly, email
8 address. And during the process, if anything
9 changes, I'm the first one you tell so that we can
10 update the list to make sure that information is
11 going to the right people throughout the process.

12 Okay. Yeah, as far as number of copies,
13 I don't think it is really relevant in this round.
14 Once we get down to making submissions and things
15 that's important, but if you are going to provide
16 printed information to the Commission, I need 10
17 copies at any point in time up to our next
18 pre-hearing meeting.

19 THE CHAIRMAN: Okay. I would like to
20 move us down to item 7, which is the routing
21 methodology workshop, again I will ask Cathy to
22 speak to it.

23 MS. JOHNSON: Okay. The Commission
24 panel asked Manitoba Hydro to put on this workshop
25 just to make sure that everybody is going to have

1 the same level of understanding, or we are all
2 working off the same page as to how this model
3 works, this new model that's new to Manitoba. We
4 haven't used it here before. So there is a
5 learning curve I think for everybody, Manitoba
6 Hydro, as well as ourselves. So the workshop is,
7 as you all know, will be held on Thursday at the
8 old Hydro building in the basement, from 9:00 to
9 4:00. And the purpose of this workshop is just to
10 talk about methodology. We won't be talking
11 numbers, we won't be talking about this route
12 versus -- this little bit of the route versus that
13 bit of the route, or why did you come up with
14 that. Those numbers won't be available anyway at
15 the workshop. It is all about the mechanics, how
16 it works, what the inputs were in general; not the
17 specific numbers, and that kind of thing.

18 If you have those kinds of questions,
19 those would be best placed in the IR process or at
20 the hearing. And if there is some major issues
21 that come out in common to everybody, we will deal
22 with those as we come.

23 So I don't know if Hydro has anything
24 more to say, or is there any issues about parking
25 or -- it is pretty obvious when you get there.

1 You will have to check in at security, however,
2 and if there is someone that needs to be called,
3 they would call Jenny Barnes. So everybody has to
4 check in at security and get their little badge.
5 And lunch will be provided as well.

6 So, if there is any questions about that,
7 I will try and answer them, or we can discuss
8 later with Hydro.

9 THE CHAIRMAN: Okay, thanks, Cathy.
10 And I just want to extend our thank you to Hydro
11 for agreeing to put this on. It should help the
12 hearings themselves be more productive, once we
13 all have an understanding, which I realize is not
14 easy, this is a complex thing, but some level of
15 understanding of how the model works. So thank
16 you.

17 That brings us to the hearing schedule.
18 Again, Cathy, do you have any comments on it?

19 MS. JOHNSON: No, this is the best
20 I've got today. I'm still working on the
21 community hearings which I hope to have sorted out
22 quickly. As we were quite happy we got the
23 Convention Centre for at least three weeks, that
24 makes us happy from our point of view, because it
25 is not far to go. Hopefully we can get finished

1 in four weeks.

2 I would ask you to pay specific attention
3 to the pre-hearing dates, because those are very
4 important, and then we will get to the next
5 pre-hearing meeting, and get to the rest of it.
6 That's the best that I can do at the moment. But,
7 as you know, it is a moving target all of the time
8 and we go with it.

9 THE CHAIRMAN: I just want to
10 emphasize, we will make every effort to stick to
11 these dates that have been firmed up. We realize
12 that there are events that may be out of our
13 control that may affect them and you will get lots
14 of notice. But the plan at the moment is to stick
15 as close to them as we can. Okay. Thanks Cathy.

16 Really that brings us to the close of our
17 session today. I want to thank you all for coming
18 out this morning. I think it was a good start. I
19 hope you all agree. And it is encouraging to us
20 that many of you are experienced participants such
21 that make our process so much better. And I do
22 know that many of you in this specific process
23 certainly have familiarity with similar processes
24 in the past. So I think this bodes well for a
25 good, thorough, comprehensive and hopefully not

1 too lengthy hearing process.

2 I would also encourage you and hope that
3 you commence your work now and begin submitting
4 those IRs, because I know that Hydro really enjoys
5 responding to them. So get them in, and the
6 sooner the better.

7 We will see and talk to all of you in a
8 group, and I believe it is April, is that right?
9 Yes, Thursday of course, at the workshop, and then
10 the week of April 18th for the next pre-hearing,
11 at least according to our current schedule. So
12 that brings us to a conclusion. Thank you again
13 for attending and we will see you all on Thursday.
14 Jared.

15 MR. WHELAN: My apologies, Mr. Chair,
16 you have taken several questions about IRs,
17 specifically about IRs about Federal and
18 Provincial TAC comments, and you said you were
19 going to take it under advisement. When will
20 participants have an answer on that question?

21 THE CHAIRMAN: I think I will answer
22 that as soon as possible. I need to have a few
23 discussions on what went on in the past and why,
24 et cetera, and I will get back to you.

25 MR. WHELAN: Thank you.

1 MS. MAYOR: Just some logistical
2 matters, in terms of the request for printed
3 copies; Manitoba Hydro will provide one copy to
4 any participant that hasn't yet received a copy.
5 It is over 4,000 pages. We have the one request
6 now, and it will take about a week or so to print
7 it. We are only providing one.

8 In terms of the question about parking
9 for Thursday, Ms. Johnson or Ms. Bratland will
10 send a map to show where there is a different
11 couple of spots in the parking lot. So just to
12 assist on Thursday, we will provide a map. Thank
13 you.

14 THE CHAIRMAN: Thank you. So that was
15 very helpful actually on both counts. Did you say
16 4,000 pages? I hadn't added it up but -- thank
17 you. All right. Thanks again all for
18 participating, and we will see you on Thursday.

19 (Concluded at 11:46 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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