

RÉGIE DE L'ÉNERGIE

REQUÊTE RELATIVE À LA DÉTERMINATION
DU PRIX UNITAIRE MOYEN DU TRANSPORT
ET À LA MODIFICATION DES TARIFS
DE TRANSPORT D'ÉLECTRICITÉ

DOSSIER : R-3401-98

RÉGISSEURS : **Me MARC-ANDRÉ PATOINE, président**
 M. FRANÇOIS TANGUAY
 M. ANTHONY FRAYNE

AUDIENCE DU 19 AVRIL 2001

VOLUME 11

ODETTE GAGNON et MICHEL DAIGNEUALT
STÉNOGRAPHES OFFICIELS

R-3401-98
17 avril 2001
Volume 9

COMPARUTIONS

Me PIERRE R. FORTIN
procureur de la Régie;

REQUÉRANTE :

Me F. JEAN MOREL
Me JACINTE LAFONTAINE
procureurs de Hydro-Québec;

INTERVENANTS :

Me CLAUDE TARDIF
procureur de Action Réseau Consommateurs (ARC) et
Fédération des associations corporatives d'économie
familiale du Québec (FACEF) et Centre d'études
réglementaires du Québec (CERQ);

M. RICHARD DAGENAIS
M. VITAL BARBEAU
représentants l'Association coopérative d'économie
familiale de Québec (ACEF de Québec);

Me ÉRIC DUNBERRY
procureur de l'Association de l'industrie électrique
du Québec (AIEQ);

Me PIERRE HUARD
Mme ISABELLE CÔTÉ
représentants de l'Association des redistributeurs
d'électricité du Québec (AREQ);

Me GUY SARAULT
procureur de la Coalition industrielle formée de :
l'Association québécoise des consommateurs industriels
d'électricité (AQCIE),
l'Association des industries forestières du Québec
limitée (AIFQ),
l'Association québécoise de la production d'énergie
renouvelable (AQPER);

M. PHI P. DANG
représentant Gazoduc TransQuébec et Maritimes inc.;

R-3401-98
17 avril 2001
Volume 9

M. RÉJEAN BENOIT
M. YVES GUÉRARD
représentants du Groupe de recherche appliquée en
macroécologie (GRAME) et Union pour le développement
durable (UDD);

Me DOMINIQUE NEUMAN
procureur de Le Groupe Stop et Stratégies énergétiques
(STOP-SÉ);

Me ANDRÉ DUROCHER
procureur de New-Brunswick Power Corporation (NB
Power);

Me TINA HOBDAV
procureure de New York Power Authority (NYPA);

Me PIERRE TOURIGNY
procureur de Ontario Power Generation (OPG);

Me ÉRIC FRASER
procureur de Option consommateurs (OC);

Me MARC LAURIN
Me MÉLANIE ALLAIRE
procureurs de PG&E National Energy Group Inc. (NEG);

Me HÉLÈNE SICARD
procureur du Regroupement national des conseils
régionaux de l'environnement du Québec (RNCREQ);

Mme MARCIA GREENBLATT
représentante de Sempra Energy Trading Corporation
(SET);

Me JOCELYN B. ALLARD
procureur de Société en commandite Gaz Métropolitain
(SCGM).

R-3401-98
17 avril 2001
Volume 9

TABLE DES MATIÈRES

	<u>PAGE</u>
LISTE DES PIÈCES	5
LISTE DES ENGAGEMENTS	6
PRÉLIMINAIRES	7
 <u>PREUVE DU RNCREQ</u>	
PETER A. BRADFORD	
PHILIP RAPHALS	
ELLIS O. DISHER	
EXAMINED BY Me HÉLÈNE SICARD	17
CROSS-EXAMINED BY Me F. JEAN MOREL:	62
CROSS-EXAMINED BY Me DOMINIQUE NEUMAN	109
EXAMINED BY Me PIERRE R. FORTIN:	133
 <u>PREUVE DE ÉNERGIE NB POWER</u>	
DARRELL BISHOP	
EXAMINED BY Me ANDRÉ DUROCHER	167

LISTE DES PIÈCES

PAGE

<u>HQT-13, DOC. 1</u> :	Page 120 originale, en date du 5 octobre 2000 et page 121, révisée en date du 12 avril 2001.....	12
<u>HQT-3, DOC. 1.1.1</u> :	Réponses d'Hydro-Québec aux engagements 13 et 14.....	13
<u>HQT-12, DOC. 1.1</u> :	Curriculum vitae de MM. Christian Bodet et Éric Maillé	14
<u>RNCREQ-15</u> :	Curriculum vitae de M. Philip Raphals.....	18
<u>RNCREQ-16</u> :	Curriculum vitae de M. Peter A. Bradford.....	21
<u>PIÈCE RNCREQ-17</u> :	Curriculum vitae de M. Ellis O. Disher.....	23
<u>PIÈCE RNCREQ-18</u> :	Preuve des experts de la RNCREQ	25
<u>HQT-2, DOC. 5.1</u> :	Réponse à l'engagement 2 pris lors du témoignage de M. Régis	165
<u>HQT-2, DOC. 2.2.2</u> :	Extrait du Plan de développement 1985 - Scénarios de développement d'équipements	166
<u>ENB-1</u> :	Curriculum vitae of Mr. Darrell Bishop.....	167
<u>ENB-2</u> :	Written evidence of Mr. Darrell Bishop.....	168

LISTE DES ENGAGEMENTS

PAGE

<u>UNDERTAKING RNCREQ-1:</u>	To which extent is passive ownership by a utility company into a transmission company is still... an RTO, is still permissible under Order 2000 in Mr. Disher's view.....	122
<u>UNDERTAKING RNCRQ-2:</u>	What is the FERC requiring in Order 2000 in terms of the formation of an RTO from a jurisdictional utility.....	124
<u>ENGAGEMENT RNCREQ-3 :</u>	Vérifier s'il existe des RTO qui ont été reconnus par la FERC aux États-Unis	132
<u>ENGAGEMENT RENCREQ-4 :</u>	Produire un commentaire plus élabor	

R-3401-98
17 avril 2001
Volume 9

PRÉLIMINAIRES

(9 h 30)

L'AN DEUX MILLE UN (2001), ce dix-neuvième (19e)
jour du mois d'avril :

PRÉLIMINAIRES

LA GREFFIÈRE :

Audience du dix-sept (17) avril de l'an deux mille
un (2001), dossier R-3401-98. Requête relative à
la détermination du prix unitaire moyen du
transport et à la modification des tarifs de
transport d'électricité.

Les régisseurs désignés dans ce dossier sont :
maître Marc-André Patoine, président, de même que
monsieur François Tanguay et monsieur Anthony
Frayne.

Le procureur de la Régie est maître Pierre R.
Fortin.

La requérante est Hydro-Québec, représentée par
maître F. Jean Morel et maître Jacinte Lafontaine.

Les intervenants sont :

Action Réseau Consommateurs, Fédération des
associations corporatives d'économie familiale, et
Centre d'études réglementaires du Québec,
représentés par maître Claude Tardif.

R-3401-98
17 avril 2001
Volume 9

PRÉLIMINAIRES

Association coopérative d'économie familiale de Québec, représentée par monsieur Richard Dagenais et monsieur Vital Barbeau.

Association de l'industrie électrique du Québec, représentée par Me Éric Dunberry.

Association des redistributeurs d'électricité du Québec, représentée par Me Pierre Huard et Mme Isabelle Côté.

Coalition industrielle, formée de : l'Association québécoise des consommateurs industriels d'électricité, l'Association des industries forestières du Québec limitée et l'Association québécoise de la production d'énergie renouvelable, représentées par maître Guy Sarault.

Gazoduc TransQuébec et Maritimes inc., représentée par monsieur Phi P. Dang.

Groupe de recherche appliquée en macroécologie et Union pour le développement durable, représentés par monsieur Réjean Benoit et monsieur Yves Guérard.

Me YVES GUÉRARD :

Bonjour.

R-3401-98
17 avril 2001
Volume 9

PRÉLIMINAIRES

LA GREFFIÈRE :

Groupe STOP et Stratégies énergétiques,
représentés par maître Dominique Neuman.

Me DOMINIQUE NEUMAN :

Bonjour.

LE PRÉSIDENT :

Bonjour.

LA GREFFIÈRE :

New-Brunswick Power Corporation, représentée par
maître André Durocher.

LE PRÉSIDENT :

Bonjour.

LA GREFFIÈRE :

New York Power Authority, représentée par maître
Tina Hobday.

Ontario Power Generation, représentée par maître
Pierre Tourigny.

Option consommateurs, représentée par maître Éric
Fraser.

R-3401-98
17 avril 2001
Volume 9

PRÉLIMINAIRES

Me ÉRIC FRASER :

Bonjour.

LA GREFFIÈRE :

PG&E National Energy Group Inc., représentée par
maître Marc Laurin et maître Mélanie Allaire.

Regroupement national des conseils régionaux de
l'environnement du Québec, représenté par maître
Hélène Sicard.

Me HÉLÈNE SICARD :

Bonjour.

LA GREFFIÈRE :

Sempra Energy Trading Corporation, représentée par
madame Marcia Greenblatt.

Société en commandite Gaz Métropolitain,
représentée par maître Jocelyn B. Allard.

Y a-t-il d'autres personnes dans la salle qui
désirent présenter une demande ou faire des
représentations au sujet de ce dossier?

Je demanderais par ailleurs aux intervenants de
bien s'identifier à chacune de leurs interventions
pour les fins de l'enregistrement. Merci.

LE PRÉSIDENT :

Alors, bonjour. Oui, Maître Morel, vous aviez quelque chose de spécial?

Me F. JEAN MOREL :

Excusez, quelques questions préliminaires, avec votre permission, Monsieur le Président, deux questions relatives aux engagements.

Bien que l'engagement numéro 3 ait été répondu verbalement précédemment lors des audiences par monsieur Bastien, il s'agit de vérifier le calcul du deux milliards cinq cent neuf millions (2 509 M\$), qui avait été donné en réponse par Hydro-Québec à la question numéro 71 de la demande de renseignements numéro 1 de la Régie, et la réponse a été donnée le onze (11) avril par monsieur Bastien, c'est au volume 7 des transcriptions, et plus spécifiquement à la page 17.

Toutefois, afin de compléter l'engagement, ou compléter la réponse, j'aimerais déposer une page, en fait, vous retrouverez les pages 120 et 121 de la pièce HQT-13, document 1, et la page 121 est révisée en date du douze avril deux mille un (2001), et les corrections au calcul du deux milliards cinq cent neuf millions (2 509 M\$), quoique l'engagement, tel que rapporté dans la transcription était de vérifier

le calcul du deux milliards cinq cent quatre-vingt-dix millions (2 590 M\$) mais c'est une erreur de transcription ou de frappe, le montant est de deux milliards cinq cent neuf millions (2 509 M\$).

Alors, j'ai suffisamment, j'espère, de cette page révisée pour les besoins de la Régie et des intervenants. C'est une page révisée d'une pièce déjà cotée.

HQT-13, DOC. 1 : Page 120 originale, en date du 5 octobre 2000 et page 121, révisée en date du 12 avril 2001

J'aimerais déposer également la pièce HQT-3, document 1.1.1, qui contient les réponses d'Hydro-Québec aux engagements numéros 13 et 14.

L'engagement numéro 13 était de :

Vérifier, dans le transport, quels sont les postes de transformation qui auraient des pointes en été

Et l'engagement numéro 14 était de :

Confirmer les spécifications thermiques exigées par les fournisseurs pour les

R-3401-98
17 avril 2001
Volume 9

PRÉLIMINAIRES

transformateurs

R-3401-98
17 avril 2001
Volume 9

PRÉLIMINAIRES

LE PRÉSIDENT :

HQT-13?

Me F. JEAN MOREL :

Document 1.1.1. HQT-3, pardonnez-moi.

HQT-3, DOC. 1.1.1 : Réponses d'Hydro-Québec aux
engagements 13 et 14

Me F. JEAN MOREL :

Pendant qu'on est dans...

M. FRANÇOIS TANGUAY :

On s'amuse...

Me F. JEAN MOREL :

Allez-y. Pendant qu'on est dans les engagements, j'ai bon espoir, après le lunch, de pouvoir déposer d'autres réponses d'Hydro-Québec, et on m'avise également que demain, les réponses aux engagements pris par le témoin Armstrong devraient être disponibles. Maintenant, si demain, on ne devait, ou la Régie ne devait pas siéger, si les réponses sont prêtes tôt dans la journée, je propose de les envoyer par télécopieur à la Régie et aux intervenants; si les réponses devaient arriver en toute fin de journée, vu qu'on approche du week-end, je proposerais de les distribuer à la reprise des

audiences mardi prochain.

LE PRÉSIDENT :

D'accord.

Me F. JEAN MOREL :

Merci. Je me dois aussi d'aviser la Régie que le témoin Daniel Leclair, qui devait témoigner la semaine prochaine, ne sera pas en mesure de le faire pour des raisons de santé. Deux témoins qui sont des collaborateurs de monsieur Leclair à la Vice-présidence finances, contrôle et comptabilité viendront toutefois se joindre au panel de témoins; il s'agit de messieurs Christian Bodet et Éric Maillé, monsieur Christian Bodet étant le directeur principal, Contrôle et comptabilité, et monsieur Éric Maillé étant coordinateur, Contrôle des risques financiers.

Alors, j'aimerais déposer, dès maintenant, la pièce HQT-12, document 1.1, qui contient les curriculum vitae de ces deux nouveaux témoins.

HQT-12, DOC. 1.1 : Curriculum vitae de MM.

Christian Bodet et Éric Maillé

Me F. JEAN MOREL :

Comme dernière question préliminaire, Monsieur le

Président, Hydro-Québec a reçu copie de la lettre du dix-sept (17) avril que les procureurs de PG&E National Energy Group ont fait parvenir à madame la secrétaire quant à leur choix de faire entendre leurs témoins sous les thèmes 4, 5 et 6 et non plus sous les thèmes 1 et 2.

La seule réaction que j'aurais à cet endroit est de réserver les droits d'Hydro-Québec, lorsque les témoins de PG&E NEG seront disponibles pour le contre-interrogatoire, de poser des questions, s'il y en a, sur la preuve dans la mesure où elle se rapporterait aux thèmes 1 et 2. C'est les seuls commentaires que j'aurais à faire à ce moment-ci.

LE PRÉSIDENT :

D'accord, on réserve vos droits.

Me F. JEAN MOREL :

Merci bien. Alors, ça complète les questions préliminaires pour l'instant.

LE PRÉSIDENT :

D'accord, merci. Alors nous étions rendus à la preuve de l'intervenant RNCREQ.

R-3401-98
17 avril 2001
Volume 9

PRÉLIMINAIRES

PREUVE DU RNCREQ

Me HÉLÈNE SICARD :

Bonjour. Hélène Sicard, pour le RNCREQ. Alors,
nous sommes prêts.

IN THE YEAR TWO THOUSAND AND ONE, on this
nineteenth (19th) day of April, PERSONALLY CAME
AND APPEARED:

PETER A. BRADFORD, Teacher and Consultant, P.O.
Box 497, Peru, Vermont, U.S.A.;

AND :

PHILIP RAPHALS, Associate Director, Helios Centre,
326 Saint-Joseph Blvd. East, Montreal;

AND :

ELLIS O. DISHER, Principal Consultant, Signal Hill
Consulting Group, 205 Church Street, New Haven,
Connecticut, U.S.A.

WHO, after having made a solemn affirmation, doth
depose and saith as follows:

EXAMINED BY Me HÉLÈNE SICARD :

Bonjour. Alors, juste pour informer le Banc, j'ai fait parvenir le curriculum de nos témoins par courrier électronique. Si certaines personnes ne l'avaient pas reçu ou voulaient consulter une copie papier, j'ai quelques copies papier avec moi ici, en avant.

Alors, bonjour, Messieurs.

- 1 Q. Et je m'adresse d'abord à vous, Monsieur Raphals. Pourriez-vous faire un bref résumé de vos qualifications à titre d'expert en énergie pour le Banc?

M. PHILIP RAPHALS :

- R. Depuis mil neuf cent quatre-vingt-seize (1996), je suis directeur-adjoint du Centre Hélios, un organisme indépendant d'expertises et de recherches dans le domaine de l'énergie. J'ai témoigné à titre d'expert dans plusieurs audiences de la Régie déjà.

Je suis également auteur d'un certain nombre de rapports et études, et pour des clients très divers. J'ai suivi de près l'évolution de la restructuration des marchés d'énergie au cours des dernières années et donc forcément également de la question de la réglementation du transport.

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 et 2 - PANEL 1
RNCREQ
Ex. by Me Hélène Sicard

Parmi mes récents travaux, je mentionnerai une étude du Plan stratégique 2000-2004 d'Hydro-Québec réalisé pour la Commission de l'économie et du travail de l'Assemblée nationale, en collaboration avec monsieur Philippe Dunsky, ainsi qu'une étude réalisée récemment pour la International Rivers Network concernant le rôle et le traitement de l'hydroélectricité dans les marchés concurrentiels.

Me HÉLÈNE SICARD :

Alors, je vous demanderais de reconnaître monsieur Phil. Raphals à titre d'expert en énergie pour les fins du présent dossier.

LE PRÉSIDENT :

Est-ce qu'il y a des intervenants qui ont des questions, est-ce que Hydro-Québec, vous avez des questions?

Me F. JEAN MOREL :

Nous n'avons pas de questions, merci.

Me HÉLÈNE SICARD :

Alors, je vous demanderais également de coter le curriculum de monsieur Raphals, comme RNCREQ-15.

RNCREQ-15 : Curriculum vitae de M. Philip
Raphals

Me HÉLÈNE SICARD :

Now, Mr. Bradford...

LE PRÉSIDENT :

Alors, on va reconnaître monsieur Raphals comme expert en énergie. On vous reconnaît, Monsieur.

Me HÉLÈNE SICARD :

- 2 Q. Mr. Bradford, could you please briefly describe your qualifications to the Régie as an expert in Utility Regulations?

MR. PETER A. BRADFORD :

- A. Yes. Between nineteen seventy-one (1971) and nineteen ninety-five (1995), I served on three different U.S. regulatory commissions, the State of Maine, the State of New York, the U.S. Nuclear Regulatory Commission. I had served as Chair of the Maine and the New York Regulatory Commission.

In nineteen eighty-seven (1987) and eighty-eight (1988), I was President of the U.S. National Association of Regulatory Utility Commissioners. I chaired the New York Commission when it prepared its initial electric restructuring principles, as well as during the time that it opened its gas and telephone markets to customer choice.

I have written a book and several articles on energy and energy regulations, and I currently teach in that field at the Vermont Law School and at Yale University.

3 Q. Thank you.

LE PR ESIDENT :

Ma tre Sicard, je pense que ma tre Durocher voulait faire une intervention pour...

Me ANDR E DUROCHER :

Simplement dire   votre t moin de parler plus pr es du micro, s'il vous pla t.

M. FRAN OIS TANGUAY :

Just pull the microphone a little closer to you.

Me H EL ENE SICARD :

4 Q. Yes, and I would ask you, Mr. Bradford, when you speak, it will be easier for you if you do not wear your earphones.

A. I was not wearing them.

5 Q. Okay, sorry, I saw you with them on.

A. I can't blame the problem on that.

Me H EL ENE SICARD :

So, I would ask the Board to please recognize Mr. Bradford as an expert in Utility Regulations.

LE PR  SIDENT :

Est-ce qu'il y a des intervenants qui ont des questions, est-ce que Hydro-Qu  bec, vous avez des questions?

Me F. JEAN MOREL :

Nous n'avons pas de questions, merci.

LE PR  SIDENT :

So, you are recognized as an expert in Utility Regulations.

MR. PETER A. BRADFORD :

A. Thank you.

Me H  L  NE SICARD :

Et, pour les fins du dossier, je d  pose le curriculum de monsieur Bradford, comme RNCREQ-16.

RNCREQ-16 : Curriculum vitae de M. Peter A.
Bradford

Me H  L  NE SICARD :

6 Q. Mr. Disher, could you please briefly describe your qualifications to the R  gie as an expert in Transmission Planning and Regulations?

MR. ELLIS O. DISHER :

- A. Yes, thank you. I am a Principal of Signal Hill Consulting Group, and I provide consulting services to the Electric Industry. My primary clients have been companies engaged in constructing merchant generating plants in New England and New York. I have also served clients such as the division of Energy Resources, in Massachusetts, and the Independent System Operator, in New England.

From nineteen seventy-three (1973) to nineteen ninety-seven (1997), I was employed by the United Illuminating Company, an electric utility based in New Haven, Connecticut, where I served in a number of positions related to electric system planning.

I was manager of Transmission Planning from nineteen eighty-five (1985) to nineteen ninety-four (1994), when I became Director of Strategic Analysis. In that position, I had responsibility for system planning, power supply and transmission service contracting activities and management of related regulatory affairs.

Throughout my career at United Illuminating, I represented the company on a number of committees and task forces of the New England Power Pool, or NEPOOL. In nineteen ninety-one (1991) and nineteen ninety-two

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 et 2 - PANEL 1
RNCREQ
Ex. by Me Hélène Sicard

(1992), I chaired the NEPOOL Operations Committee, and from nineteen ninety-four (1994) to nineteen ninety-seven (1997), I chaired the NEPOOL Review Committee, which at that time was charged with the task of restructuring NEPOOL.

Me HÉLÈNE SICARD :

Thank you. Alors, je demanderais à la Régie de bien vouloir reconnaître M. Disher à titre d'expert, in Transmission Planning and Regulations.

9 h 50

LE PRÉSIDENT :

Est-ce que vous produisez son c.v. comme RNCREQ...

Me HÉLÈNE SICARD :

Dix-sept (17).

LE PRÉSIDENT :

Dix-sept (17), oui.

Me HÉLÈNE SICARD :

C'est bien ça.

PIÈCE RNCREQ-17 : Curriculum vitae de M. Ellis O. Disher.

LE PRÉSIDENT :

Alors, est-ce qu'il y a des questions de la part des

intervenants ou Hydro-Qu  bec?

Me F. JEAN MOREL :

Hydro-Qu  bec n'a pas de questions.

LE PR  SIDENT :

Il n'y a pas de questions non plus du c  t   des intervenants. Alors, Mr. Disher, you are recognized as an expert in Transmission Planning and Regulation.

Me H  L  NE SICARD :

Merci.

- 7 Q. Now, I understand that, together, all three of you, prepared a report on behalf of the RNCREQ. This report dated February seventh (7th), two thousand and one (2001) was deposited and forwarded to all of the parties in this case. Did you prepare this evidence yourself or was it prepared under your guidance and control?

Mr. ELLIS O. DISHER:

A. Yes.

Mr. PHILIP RAPHALS:

A. We prepared it together.

Mr. ELLIS O. DISHER:

A. Yes.

- 8 Q. Are there any changes or modifications you wish to make to the document?

Mr. PHILIP RAPHALS:

- A. There is one minor change we would like to make which is on page 85 of our written evidence. In the second line, after the words "transmission planning questions would", we would like to insert the word "also", and at the beginning of the next line, after the words "rather than", we would like to insert the word "only". That is the only change.

- 9 Q. Do you adopt this document now as your proof?

Mr. ELLIS O. DISHER:

- A. Yes.

Mr. PHILIP RAPHALS:

- A. Yes.

Mr. PETER A. BRADFORD:

- A. Yes.

Me HÉLÈNE SICARD:

This proof is filed as RNCREQ-18.

PIÈCE RNCREQ-18 : Preuve des experts de la
RNCREQ.

- 10 Q. Maintenant, je m'adresse à vous particulièrement,

Monsieur Raphals, pourriez-vous décrire brièvement le mandat qui vous a été donné par le RNCREQ?

R. Oui, le RNCREQ m'a demandé, à titre d'expert en énergie, de préparer un rapport d'expert et d'assister dans la présente audience. Étant donné la complexité et l'importance de cette audience, il m'a demandé de traiter de plusieurs éléments, le premier étant de résumer le contexte dans lequel la requête de Hydro-Québec a été déposée, faisant état notamment des circonstances de l'adoption du tarif transport actuellement en vigueur, le règlement 659.

Par la suite, il m'a demandé de traiter plus à fond divers aspects de la proposition tarifaire de Hydro-Québec, dont la question des modalités d'approbation des additions futures au réseau.

Plus particulièrement il m'a demandé d'énoncer sur cette question une proposition concrète pour les causes tarifaires à venir. Pour mieux traiter de tous ces sujets, nous avons convenu de retenir les services et la collaboration de deux experts américains en matière de réglementation, soit monsieur Bradford et monsieur Disher.

Bien que ce soit moi qui vous adresse la parole pour le moment, je précise que nous sommes tous co-auteurs de la preuve, ayant tous collaboré à sa rédaction.

Toutefois, je tiens à souligner que, comme la preuve de Hydro-Québec est majoritairement en français, c'est moi qui l'ai lue, sélectionnant les passages pertinents que j'ai traduits et communiqués verbalement ou sous forme de résumé, au fur et à mesure, à monsieur Disher et monsieur Bradford.

La connaissance qu'ils ont acquise de la preuve de Hydro-Québec, mis à part les deux rapports d'experts en langue anglaise, a donc passé à travers moi. À ce stade de ma présentation, par courtoisie pour mes collègues et le meilleur fonctionnement de notre équipe, j'aimerais m'adresser à vous en anglais.

There are two broad issues that underlie our report. We detailed a number of ways in which in our view the shareholders interests have been given precedence over those of the customers, both wholesale transmission customers and customers of electricity in Hydro-Québec's proposal. These issues which include discounting of point to point transactions, the formula for determining the charges for network service, the use of a single fictive source for point to point transactions, among others, will be addressed in later panels.

The second underlying issue concerns the way the tariff itself is applied. In a number of ways which

will be discussed in detail in other panels, Hydro-Qu ebec has failed to implement the tariff it adopted. These failings are important to our client and to Qu ebec citizens in general. Sound and meaningful regulation requires not only that tariffs be set with appropriate rates and conditions, but that they be respected as well.

In this sense, determining whether or not Hydro-Qu ebec has respected the provisions of the transmission tariff that has been in force for almost four years now is for us a matter of considerable significance. If the tariff is not respected, the integrity of the entire process in which we are participating is called into question.

11 Q. Thank you. Now, gentlemen, if we turn to themes 1 and 2 of the present hearing, could you briefly describe for us the main points contained in chapter 2 of your expert report?

A. Yes, and of course chapter 2 is associated with theme 1 of the hearing, the context. First of all, we attempted to situate the present hearing in the evolution of Hydro-Qu ebec's open access policies. As we have shown in our written evidence, Hydro-Qu ebec's primary reason for adopting the transmission tariff that is subject to these hearings in nineteen ninety-seven (1997) was to obtain unfettered access to the U.S. market.

In nineteen ninety-seven (1997), it was clear that Hydro-Québec could not obtain this market access without adopting a transmission tariff equivalent to FERC's proforma tariff. Now, this market access is not an unmitigated blessing. While it was strongly favoured by Hydro-Québec and its shareholder, the Government of Québec, on the belief which recent events have proven at least partially correct that it would lead to greatly increased profits. It was also strongly contested by a number of native and environmentalists who believed also, in my view, correctly, that it could lead to hydro power development far beyond Québec's own needs, regardless of the environmental and social costs of those developments.

Others were concerned that attempting to be a full participant in the U.S. market would ultimately lead to major structural changes within Hydro-Québec itself. They too have been proven partly correct. Were it not for this goal, TransÉnergie would probably not have been created as a distinct division and Hydro-Québec might today still be regulated as an integrated utility.

While regulatory separation between competitive and monopoly lines of business is clearly essential, were it not for the goal of U.S. market access, this

separation might well have followed the lines laid out by the R  gie in its recommendation A-98-01, that is a clear separation between generation for domestic needs, a monopoly line of business, and competitive generation activities.

This in turn might well have taken a form similar to that used in B.C. where Powerex, the marketing arm, is a wholly-owned subsidiary of B.C. Hydro. Thus, the decision to pursue U.S. market access has had very real implications.

Furthermore, as we have also seen, this decision in nineteen ninety-seven (1997) was taken without any public involvement. Indeed, its implications have only gradually become clear.

While it is not an objective set by the R  gie for this hearing, one of its inevitable consequences will be to shed light on the structural changes that have taken place within Hydro-Qu  bec in order to accomplish this goal.

Given the critical role that Hydro-Qu  bec's market access or technically the power market authorization, or PMA, obtained by Hydro-Qu  bec's American subsidiary, HQ Energy Services US, it was somewhat surprising for us that Hydro-Qu  bec's written

evidence barely mentioned this question.

Indeed, when the RNCREQ asked if Hydro-Québec intended to proceed with further restructuring if that turns out to be necessary in order to maintain market access following FERC's RTO order, the company, I believe, responded that it had not addressed this hypothetical question.

Last week, however, we learned that in Hydro-Québec's view, once HQ US has obtained a PMA, it really is very unlikely to lose it. Furthermore, it also believes that TransÉnergie already meets the criteria for an RTO and, thus, that Order 2000 will have no significant consequences for Hydro-Québec.

As my colleagues will explain in a few moments, we believe that both of these views are incorrect. While in nineteen ninety-seven (1997) FERC accepted HQ US's application without carrying out a detailed examination of its ability to exercise market power, recent events make it increasingly unlikely that it would do so again.

Furthermore, we are convinced that TransÉnergie does not meet the criteria for an RTO if, as it now appears, membership in an RTO will eventually become a requirement for full market access, additional

structural changes will indeed be necessary if Hydro-Qu  bec is to maintain its access to U.S. markets.

In this regard, it is interesting to note that B.C. Hydro in its two thousand (2000) Annual Report recognizes possible loss of access to U.S. markets to be a significant business risk and admits that further structural changes may well be required to maintain it.

In our view, Hydro-Qu  bec faces the same risks and challenges. The decisions made by the R  gie in this proceeding will thus not in themselves determine Hydro-Qu  bec's future access to the U.S. market, but they may well affect it. Should the R  gie choose to make market access a guiding principle in its reflections, which Hydro-Qu  bec has not asked it to do, it would indeed refuse many of Hydro-Qu  bec's own proposals, such as for example the modification of Section 34 and the definition of load ratio share, which we will talk about in a later panel, as well as its proposal for rolling in the cost of direct assignment facilities.

It would also, for that same reason, reject one of our own proposals concerning the priority of native load when service must be curtailed. At the same time, it would require Trans  nergie to modify some of

its administrative practices which conflict with the tariff, such for example as allowing multiple points of receipt to be designated as a single point. And it would almost certainly have to refuse Hydro-Québec's request to set long and short-term point to point tariffs on different bases, 1 CP and 12 CP.

Most of these conclusions would also be appropriate should the Régie choose to disregard issues related to Hydro-Québec's market access, for the simple reason that they reflect sound regulatory principles.

One notable exception is our proposal regarding curtailment. In this case, the issue is one of priorities.

In accordance with the U.S. Energy Policy Act of nineteen ninety-two (1992), strict comparability of service between native load and third-party users is for FERC a non-negotiable principle which gives rise to the language in Section 13.6 of the proforma tariff and the same section of regulation 659.

In the Québec context, however, we feel that it is more appropriate to give native load an absolute priority with respect to curtailments. Of course, we will discuss this point in greater detail in theme 6.

Our point here is simply that the way the R  gie chooses to approach this question may depend, at least in part, on the importance it gives to protecting Hydro-Qu  bec's continued access to U.S. markets.

In either case, given that the text of regulation 659 was adopted whole-cloth from the FERC and has never been subject to public debate before the R  gie or to decisions of any kind in Qu  bec, an in-depth understanding of the proforma tariff itself and the related decisions that explain and expand upon it remains in our view essential to this hearing.

- 12 Q. Thank you. Could you briefly describe to the R  gie the requirement characteristics of an RTO as set forth in Order 2000? Mister Fisher.

Mr. ELLIS O. DISHER:

- A. Yes; in its Order 2000, FERC is very specific about this set of minimum characteristics that are required for a transmission entity to qualify as an RTO or a Regional Transmission Organization. There are four required characteristics that were initially proposed in FERC's Notice of Proposed Rulemaking and then reaffirmed in the final Order 2000.

The first is independence from market participants which FERC underlines with the statement that an RTO

must be independent in both reality and perception.

The second required characteristic is appropriate scope and regional configuration and in its discussion of this characteristic, FERC notes that it is important that the region not be dominated by a few parties, either on the buying or selling end of transactions, and that an RTO participant not be able to exercise market control by virtue of its control over critical transmission corridors.

The third characteristic is possession of operational authority for all transmission facilities under the RTO's control.

And fourth, exclusive authority to maintain short-term reliability, defining short-term as including everything from real time up to the planning horizon for the entity.

And these four characteristics in effect describe what the RTO should be. In addition, FERC has identified eight functions to define what an RTO should do. Seven of these were identified in the Notice of Proposed Rulemaking, but an eighth, interregional coordination was added in the final order.

These functions are generally administrative and operational in nature, including such activities as designing and administering the transmission tariff, managing congestion in the transmission system, providing certain ancillary services as a supplier of last resort, and planning for expansion of the transmission system.

Of particular interest is a requirement that the RTO must perform a market monitoring function through which market inefficiencies and abuses of market power would be detected and appropriately dealt with.

- 13 Q. Now, Hydro-Québec, Mr. Disher, has suggested that the most important feature of an RTO would be its size; is this view correct, in your opinion?

10 h 10

- A. I think it's unquestionable the size is an important feature of an RTO, and there is no question that FERC has indicated the desire to see RTOs that are as large as practical. In fact, some staff members at FERC have even suggested in the past that the entire Eastern Interconnection in the U.S., which extends from the Atlantic Ocean to the Rocky Mountains, could be a single RTO.

Size, however, is not as important in my view as the nature of what is contained within the boundaries of the RTO, whatever size it is. One of the primary

concerns regarding RTOs is that they are of sufficient scope, not just in geographic expense, but also in the number of market participants included to provide protection against the exercise of market power by any participant.

I do not agree that size is the key issue for an RTO. I believe that independence is the key issue and, in my view, FERC emphasizes that by making it the first required characteristic.

14 Q. Now, you have described a series of characteristics for us at this point; the President of TransÉnergie has suggested in his testimony that the criteria could be adopted to the Québec context. Is functional separation seen by the FERC as an acceptable alternative to independence in the context of an RTO, and if not, could you please explain to us why not?

A. Functional separation is not an acceptable alternative to independence for an RTO. I think that's clear from FERC's Order 2000. They have been very clear that it requires independence in the RTO's decision-making process. And they have also been very clear that no market participant should be able to control the RTO's decisions. Functional separation does not achieve this degree of independence.

FERC defines a market participant as an entity that sells or brokers the sale of electric energy, either

directly or through an affiliate. Such market participants in Order 2000 are to be excluded from the RTO decision-making process.

15 Q. Now, I may continue, in your view, is it likely that FERC would recognize Trans  nergie as an RTO or as equivalent to an RTO, even though it does not meet the independence requirement?

A. FERC addressed the question of Canadian transmission owners in Order 2000 explicitly and their conclusion was that for a Canadian entity that desires to obtain the benefits of RTO membership, that entity might either join a cross-border RTO or form a Canadian-only RTO. But in either case, the RTO must be "compatible with the rule".

Since FERC placed in its rule such importance on independence as a required condition, I cannot see how it would agree that an entity such as Trans  nergie could be accepted as an RTO. It appears to me that the potential for market control, either through a control of critical transmission facilities or through affiliated dealers is extraordinary.

16 Q. Now, it was stated that functional separation has not worked in the U.S., but that it does work here. Mr. Disher, in your experience, have American utilities resisted implementing functional separation?

A. I am not aware of any significant resistance among American utilities to implement functional

separation.

17 Q. We also understood from Mr. Régis' testimony, the President of TransÉnergie, he said that while he was unclear as to what type of permit these companies needed to obtain from FERC, they continued to do business as they did before, talking about American companies. Can you explain to you to what extent FERC can oblige a regulated utility to carry out its directive regarding functional separation?

A. Under the authority bestowed upon it by the Federal Power Act, FERC can and has required all utilities under its jurisdiction to implement functional separation between generation and transmission functions. This was an important feature of Order 888 and, to the best of my knowledge, all FERC regulated utilities, as well as most of the non-regulated utilities, the ones that are under public ownership, have in fact done so.

18 Q. Now, but are there effective sanctions against those who do not respect the rules?

A. In my view, the problem is not one of applying sanctions or of devising effective sanctions. The problem is detecting behaviour that might merit being sanctioned. And as FERC pointed out in Order 2000, the difficulty of policing functional separation is one of the reasons that FERC no longer considers functional separation adequate.

19 Q. Still for you, Mr. Disher, are you familiar with the

comment of HQ US and HQ Energy Services Group to the RTO and OPR?

A. Yes.

20 Q. Now, the Régie attorney, on a previous day of this hearing, has cited a passage of these comments which read as follows:

Economic interest may drive transmission owners to favour their affiliate merchant operations in numerous and often subtle way. RTOs effectively separate control of transmission from seller in the power market, thereby removing incentive to gain the transmission system to the advantage of particular power marketer. Vertically integrated utilities may employ preferential reliability practices and are inaccurately posting ATC and capacity benefit margin value to favour their wholesale merchant function. HQ Energy Services cannot always rely on the FERC complaint process because complaints are too often time consuming and expensive. Failure to achieve full participation will allow these anticompetitive practices to continue.

Now, in your view, even assuming that Hydro-Québec's functional separation has been meticulously executed,

would it make impossible, would it make impossible the kind of subtle manipulation that was described in this quotation?

- A. I think it would, excuse me. I think it would, the kind of subtle manipulation described here would still be possible. I believe that FERC moved from its functional unbundling position in Order 888 to its strong recommendation for independent RTO formation because such subtle manipulations are indeed possible, even under the most carefully structured separation.

FERC's approach to deregulation of the electric industry and to the introduction of competition into the generation sector has been incremental, taking a step at a time. And even though at one point, along this evolutionary path, functional separation may have been considered adequate for introduction of certain market reforms, FERC has moved beyond that stage to a requirement for real independence and decision-making regarding transmission.

- 21 Q. Thank you. Now, Hydro-Québec in the testimony of its President seemed to indicate that, since it already has obtained its PMA, it need not to be concerned about losing it, as long as it does not make changes in its transmission tariff that would violate the reciprocity condition.

Mr. Bradford, could you briefly describe the effect of recent events on the U.S. policy context in general and more specifically on the likelihood of increased scrutiny on power marketers such as Hydro-Québec?

Mr. PETER A. BRADFORD:

- A. Yes. Increased scrutiny of allegations of market power abuse is inevitable and past practices and permits cannot be considered immutable under present conditions.

In the months since our report was filed, we have seen events of enormous consequence with regard to the regulation and the deregulation of the electric utility industry, events in California and elsewhere, resulting in rapid price increases, the withdrawal of new entrants, the failure of demand to respond to wholesale price, the manifestation of unacceptable concentrations of market power and now, even the bankruptcy of a major electric utility, seem to mean different things to different people.

However, few would disagree with the fundamental proposition that California and the price rises elsewhere have illustrated the extreme consequences that can result in the electric industry when deregulation occurs in the absence of mechanisms

sufficient to assure fully effective customer choice.

All in all, these events reaffirm the wisdom of Alfred Khan's nineteen ninety-eight (1998) admonition that, and I am quoting now:

The central institutional issue of public utility regulation remains finding the best possible mix of inevitably imperfect regulation and inevitably imperfect competition.

It seems clear from California's distress as well as skyrocketing wholesale and retail prices elsewhere in North America that this illusive balance has too often not been reached.

It seems clear also that the worst customer abuse has occurred in those jurisdictions that rushed to deregulate before they had firmly established the existence of the necessary pre-conditions for competitive markets.

Finally, major reevaluations are occurring at the State and Federal levels in the U.S. on the role of market power in maintaining wholesale electric prices far above production costs. On this last topic, FERC and several States have opened generic and specific

inquiries, as have other agencies at the State and Federal levels.

President Bush has recently announced the appointment of two new FERC commissioners with strong reputations for blending regulation with pro-customer choice policies in their States.

These appointees are likely to bring new vigour and scepticism to FERC's scrutiny of market power, a scrutiny frequently denounced in California and elsewhere, including within FERC itself, as inadequate.

Quebec still has the opportunity to avoid many of these problems although in each of the proceedings in which I have appeared, the Régie has certainly been urged to emulate ineffectual aspects of U.S. regulation in the name of modern regulation or some such term.

In fact though, the dangers of piecemeal regulation, regulation that deals only with narrow tariff matters, without attention to their broader economic and market structure implications, becomes clearer every day in the U.S.

Québec is fortunately positioned to be able to apply

these lessons to its market structure and resource procurement policies before the costly consequences of piecemeal regulation manifest themselves for the customers here as they have in the U.S.

In this regard, I agree with Mr. Priddle that the principles laid down in the early years of regulation are especially critical.

22 Q. Can you please be more specific about some of the lessons that you have in mind when you talk about them?

A. Yes. For one thing, manipulation of interaffiliate relationships, including relationships involving transmission networks, is a real and a continuing problem for regulators everywhere. When you only read FERC's inquiry into the formation of regional transmission organizations to discover a history of the ways in which such manipulations continue in the U.S., more generally not a year went by, in the twenty-five (25) years in which I regulated utilities, without a significant example, and usually more than one, of such conduct in the U.S. utility industry.

And it's important to make clear that these are not necessarily instances of lawbreaking. They are simply instances in which parties took natural advantage of the opportunities provided by the combining of

essential bottleneck monopoly facilities with competitive activities.

Furthermore, codes of conduct alone are unlikely to provide a satisfactory remedy. Joel Klein, who was until recently the Chief Antitrust Official in our Justice Department warned the FERC explicitly on this point. He said, and I am quoting now:

Finally based on a century of experience, I would further emphasize that the department is also highly sceptical of any relief that requires judges or regulators to take on the role of constantly policing the industry. Relief generally shall eliminate the incentive or the opportunity to act anticompetitively rather than attempt to control conduct directly. We are institutionally sceptical about code of conduct remedies. The costs of enforcement are high and, in our experience, the regulatory agency often ends up playing catch-up while the market forces move forward and the underlying competitive problems escape real detection and remediation.

23 Q. You have recommended that the Régie proceed to

develop a detailed policy concerning interaffiliate transactions. Now, could you briefly explain your proposal?

- A. As I indicated, overcharging of monopoly customers and subsidizing competitive affiliates is no mere hypothetical concern. It is an ongoing and a pervasive phenomenon wherever companies in control of essential monopoly facilities are engaged in competitive activities.

10 h 25

The most effective remedy is to require divestiture of competitive from monopoly activities. Less effective is a requirement for full structural separation, that is the conducting of competitive businesses through separate subsidiaries, where competitive and regulated monopoly, to say nothing of unregulated monopoly, activities are carried on within the same business with only functional separation keeping them apart.

The code of conduct to guide transactions and interactions among these entities seems the essential minimum to protect those customers and customer choice.

We have provided NERUC's sample code of conduct in Appendix A of our report, and most U.S. states have developed such codes of their own.

We have proposed that the Régie initiate a process to develop such a code of conduct, and in response to Question 10 from the Régie, we detailed the issues that it should address, including the so-called asymmetric pricing principle under which non-tariffed assets and service transfers should be at the -- from the utility, from the monopoly function to the unregulated functions -- should be at the higher of cost or market, whereas transfers, the other way, should be at the lower of cost or market.

- 24 Q. Now, if we turn to theme 2 and thus the chapter 10 of your evidence, this chapter concerns the modality for proving additions or modifications to the grid in future hearings. Can you briefly summarize your evidence on this issue?

Mr. PHILIP RAPHALS :

- A. Yes. In chapter 10 of our evidence, we first of all explained why it is important for regulators to review alternatives to proposed transmission investments, including not only transmission alternatives but also supply and demand side alternatives.

We looked briefly at the procedures that have been put in place in a number of other jurisdictions to ensure that non-transmission alternatives are given adequate consideration.

We also demonstrated the public nature of transmission planning and the mechanisms for stakeholders involvement in a number of jurisdictions in the U.S. and Canada.

In this regard, we briefly described efforts in California to establish a competitive solicitation process in which generation and load management options can compete directly with proposed transmission additions, in order to find the least cost solutions.

It is interesting to note that in his recent comments to FERC on the RTO filing of the New York Independent System Operator, TransÉnergie U.S. asked FERC not to approve the RTO unless it included just such a competitive solicitation process. And if I may quote to you from this comment, this has been the comment of TransÉnergie U.S. to the FERC, it said:

*The New York RTO Transmission
Expansion Proposal suffers from one
major limitation which became
readily apparent during the
stakeholder discussions, it does not
ensure that the most cost-effective
solution to reliability need,
whether that solution is generation,
transmission*

built by traditional or non-traditional transmission companies, or load management programs is selected.

And then, a little later on, quote:

As a result of this limitation, the proposal does not ensure that the most cost-effective solution to reliability need is constructed. In some cases, a generation solution or a load management solution might be more cost effective. In other cases, a competing transmission provider that has developed a newer technology or has more innovative financing or management capabilities may be able to provide the best solution to the transmission need.

Our recommendation with respect to the modalities for the approval of future additions or modifications to the rate base is twofold.

First, we recommend that TransÉnergie be asked to prepare a long-term transmission plan after consulting on its own with the interested public, and second, that it present this plan to the Régie as a

preliminary phase of future rate cases.

Thus, prior to approving additions to the rate base in future hearings, and prior to approving individual investments, the Régie would have first had an opportunity to review these additions at an early enough stage in the planning process that it could have a meaningful say in the choices that are made.

25 Q. Now, has there been any new development on this point of view since your evidence was filed?

A. Yes, there are two important new developments. First, draft regulations concerning Section 72 and 73 of the act respecting the Régie were published in the *Gazette Officielle*.

Second, Hydro-Québec has now presented additional evidence suggesting that the planning review that we proposed was indeed unnecessary, given the type of information that it will present in hearings under Section 73.

It is of course good to know since the Régie will soon be able to fully exercise its jurisdiction concerning the authorization of new investments and the other matters covered by Section 73. The unfortunate situation where the Régie is obliged by Law to recognize certain investments as prudently acquired and useful thus appears to be coming to an

end.

However, we cannot agree that hearings under Section 73 make unnecessary any other review of transmission planning. If I understood Hydro-Québec's witnesses correctly, it intends, in proceedings under Section 73, to present a proposed project in the context of the entire grid and to present the alternatives that were studied -- the alternatives to that project that were studied by TransÉnergie.

However, my understanding is that it will not present other additions that are planned for the grid for a later date and at other locations, nor the potential alternatives under study for those future additions.

Thus, even though projects will be presented in the context of an integrated grid, the Régie will nevertheless not be shown the long-term plan but rather the proposed additions on a piecemeal basis.

Furthermore, it is my understanding that the timing of the request for authorization would be up to Hydro-Québec. It is thus to be expected that it will be relatively late in the planning process, when the key choices have already been made.

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 et 2 - PANEL 1
RNCREQ
Ex. by Me Hélène Sicard

To the extent that alternative solutions,
especially

those based on supply or demand side, as opposed to transmission investments, would require substantial time for detailed planning and implementation.

Thus, these options will very likely be foreclosed by the time that the hearing is held under Section 73, simply because they were not started soon enough to meet the expected need.

In other words, in order for the Régie to have a real say in the choice among a variety of transmission generation and demand side alternatives, it must be presented with a choice long before the service is required. It seems clear to us that proceedings under Section 73 will not provide this opportunity.

Thus, we stand by our recommendation that the Régie periodically examine TransÉnergie's long-term transmission plan, preferably as a preliminary phase to the annual rate case.

26 Q. Now, Mr. Disher, I understand from your background that you have been directly involved in transmission planning in New England?

MR. ELLIS O. DISHER :

A. Yes, that is correct.

27 Q. Could you briefly describe for the Régie the goals of the transmission planning process in general?

A. Yes. In my view, the transmission planning process aims to identify bulk system power reinforcements selected as the most societally cost effective among reasonable alternatives that will be needed in order to maintain reliable service. And it should identify these reinforcements in time to allow for their required permitting, detailed design, and construction.

28 Q. Okay. Now I know that you are talking here about three concepts in your statement, and I would ask you to elaborate on them, and I am taking them in reverse order, could you please explain what you mean first by reliable services?

A. Certainly. In my experience, and I think this is generally true throughout the industry, there are specific criteria that define the way in which the reliability of a bulk power system, consisting of supply resources, transmission facilities and loads, is to be examined by means of computer simulations.

These criteria are defined essentially by the Northeast Power Coordinating Council, or NPCC, for all of its members. Its members included the New England utilities, Hydro-Québec, Ontario, the Maritime Provinces, and New York.

The computer simulations must demonstrate that no transmission facilities will be overloaded or subject

to unacceptably low or high voltages following the loss of any element in the system.

Furthermore, the tests must demonstrate that the bulk power system will not become dynamically unstable under certain conditions. And if all of these tests are met, the system is considered to have met the reliability criteria.

29 Q. Now, you have also referred to "most societally cost effective among reasonable alternatives" in reference to the selected system reinforcement, could you elaborate, please?

A. Yes. What I intended in that phrase was to condense into a few words the idea first that a planning process should look at as many alternative ways of satisfying a need for reinforcement as can be judged to be feasible.

I was always guided by what I think is a legendary tale of a General Electric Engineering Manager who believed that there were at least eight ways to solve any engineering problem; and he demanded of his engineers that they present to him no less than eight ways to solve any problem before he would make a recommendation to Management. I think that is an appropriate attitude for a system planner.

In addition, in that phrase, I am trying to capture

the idea that the evaluation of alternatives must take into account not just the actual monetary cost of a reinforcement, or the direct benefits to the electric system, it must also consider environmental and societal costs and benefits as well. And that is the idea behind the difficult words "societally cost effective".

30 Q. In that context, is there a role for the public to play in the planning process, either through direct input or through participation in a regulatory process?

A. Yes, there is definitely a role for the public in both ways. As we observed in our previously filed testimony, the citizens of Qu ebec should be assured that the enormous investments that are projected by Hydro-Qu ebec over the next few years represent the right choices from amongst the available alternatives.

The right choices are those that will provide the most benefits at the least costs when all of the costs, monetary, environmental, societal, are considered. The assessment of both costs and benefits requires broad-based input and critical scrutiny.

31 Q. The third concept that I would ask you to further explain is embodied in the phrase, "bulk power system reinforcement". Does that mean reinforcement to transmission facilities or something beyond that?

A. It means something beyond that, and that is the reason that I didn't limit the discussion to transmission facilities, I think it relates back to the discussion about alternatives.

The alternatives will likely include not only upgrades to transmission facilities or the construction of additional transmission facilities but also some non-wires possibilities, alternatives that are not transmission facilities as such.

The search for feasible options should range over all components of what is known as the bulk power system, generation facilities, transmission facilities, and demand side options. Each of these areas should be examined for possible effective solutions to a transmission system problem.

32 Q. Now, could you relate to us how the transmission planning process in New England takes into account each of these concepts?

A. Yes. With respect to the methods and the computer models used to do the planning, New England's approach is similar to that used generally throughout the industry. Within the Northeast Power Coordinating Council in particular, there is a great deal of commonality among the various areas regarding how the electric system is represented in the computer models and what test procedures are used to determine its

reliability.

NPCC task forces review the plans that are developed by criteria to ensure that common standards are being applied and met.

In this part of the planning process, there is probably no material difference between New England and Hydro-Québec. The major difference overall that I see between New England's process and Hydro-Québec's is in the degree of public involvement in and public awareness of the planning process.

State regulators play a key role in this process in two ways. The public utility commissions in each of the six New England states regularly review forward looking for five to ten years capital construction budgets of the utilities in the context of rate cases. These construction budgets contain specific planned transmission projects, and major projects are reviewed in advance in that process.

In addition, state deciding councils review individual projects for the purpose of awarding permits to construct facilities. Generally, these reviews would require a detailed analysis of alternatives to the recommended project.

The proponents of a new transmission line, for example, will be required to defend their choice of route, design, and construction methods when they apply for a permit to construct. They will also have to defend the choice of a transmission facility change or addition rather than a non-transmission alternative.

Most states will expect particular attention to be paid to demand side options for relieving stress on the transmission system wherever feasible.

10 h 40

33 Q. So, is a project-by-project analysis sufficient on its own to ensure that the societally cost-effective solutions are chosen?

A. On its own, I do not believe that it would be. However, as I just mentioned, it operates in parallel, in New England, with the ratemaking process in which long-term transmission plans are examined. Furthermore, in New England, there is yet another transmission planning process which provides for public review under the auspices of the Independent System Operator of the ISO.

The ISO in New England is ultimately responsible for planning the expansion of the transmission systems and it works together with the region's seven transmission owners to perform the analytical studies

required.

The ISO produces a regional five-year transmission expansion plan that is updated on an annual basis.

The ISO Advisory Committee reviews and provides comments on the ISO's activities, including planning, and this Committee is composed of various interested parties, including representatives of special interest groups, environmental and otherwise, and representatives of state regulatory agencies.

Further review of the five-year plan, as well as individual projects occurs within the NEPOOL committees. NEPOOL is the association of market participants in New England, all of them, and its governing committees work in concert with the independent system operator.

Every proposed transmission project must pass a review by NEPOOL committees to ensure the project's compatibility with the system and to be sure that reasonable alternatives have been examined. The committee meetings are open meetings and state regulatory personnel and other interested parties regularly attend and participate in the discussions.

In summary, the planning process in New England

includes substantial opportunities for input and review at various points from those who depend on the system and have to live with the results of the plans.

Me HÉLÈNE SICARD:

Do any of you have something to add? No... thank you. So, the witnesses are ready for cross-examination. C'est notre preuve.

LE PRÉSIDENT :

Je pense qu'on tombe juste au temps de la pause, alors, de retour à onze heures (11 h). J'imagine que, Hydro, vous avez quelques questions?

Me F. JEAN MOREL :

Oui, effectivement, nous avons quelques questions.

LE PRÉSIDENT :

Est-ce que vous allez être dans la moyenne que vous nous avez annoncée, c'est-à-dire une heure?

Me F. JEAN MOREL :

Oh, en-deça, je devrais être en-deça d'une heure.

LE PRÉSIDENT :

Oui?

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 et 2 - PANEL 1
RNCREQ
Ex. by Me Hélène Sicard

Me F. JEAN MOREL :

Oui.

LE PRÉSIDENT :

Est-ce qu'il va y avoir d'autres intervenants aussi qui vont avoir des questions à poser? Oui, O.K. Alors, à onze heures (11 h), merci.

SUSPENSION DE L'AUDIENCE

REPRISE DE L'AUDIENCE

LE PRÉSIDENT :

Alors, Maître Morel, on vous écoute.

11 h 00

CROSS-EXAMINED BY Me F. JEAN MOREL:

Merci beaucoup, Monsieur le président.

34 Q. Good morning, gentlemen. Mr. Bradford, maybe you could do as your counsel told you and not wear those...

A. I am getting concerned that I do not look any different whether I have them on or off.

35 Q. I will be putting my questions to you in English albeit my English, let's hope it's understandable in the sense that I may be quoting things in French and I will let you then catch up with the translation if need be, but I will try to put my questions to you in

English.

I would start off by making sure, and I do not think your counsel would object, that even though she has identified chapters 2 and 10 of your written testimony as being the subject matter of your present testimony, I think you have touched on as well on section or chapter 1, sections 1.1 which is your mandate and as well as 2.2 which is your qualifications, especially since your cv's were just recently filed, so I may have some questions on that chapter 1 as well. For the rest, I am quite certain I will limit myself to chapters 2 and 10 for the time being.

I have noticed that the written testimony, and you have confirmed that it was co-authored, and I also notice that it is filed on behalf of the RNCREQ. I gather it is the whole of the RNCREQ's evidence in the present proceedings in the sense that there are no "Mémoire" or no covering...

Me HÉL+NE SICARD :

Je m'excuse, confrère, ça a été déposé comme ça a été déposé. Il est clair qu'on n'a pas de Mémoire, on n'en a pas déposé. Alors, j'aimerais juste savoir où s'en va mon confrère, là, ça ne me semble pas pertinent. Je m'objecte sur cette ligne-là, là, je

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 et 2 - PANEL 1
RNCREQ
Cross.ex by Me F. Jean Morel

prévois sa ligne.

LE PRÉSIDENT :

Quel est l'objet de votre questionnement?

Me F. JEAN MOREL :

Bien, je m'en allais au mandat, donc, je faisais juste décrire ce que je pensais était le résultat du mandat qui était le *testimony of Philip Raphals, Peter Bradford and Ellis O. Disher on behalf of the RNCREQ+. Ça fait que *I was merely asking if their mandate was to file the whole of the RNCREQ evidence and position in these hearings.

LE PRÉSIDENT :

Quelle illégalité y a-t-il là-dedans?

Me HÉLÈNE SICARD :

Le RN a produit, a fait produire un Mémoire d'expert. Je ne pense pas... et c'est la preuve qui est déposée devant vous et c'est ce qu'il y a. À savoir si c'est tout ce que le RNCREQ peut avoir à dire en argumentation ou plus tard dans le dossier, c'est évident... quant à la preuve.

Alors, que mon confrère soit un petit peu plus direct à ce moment-là, qu'il ne parle pas de Mémoire, qu'il parle de mandat, est-ce que c'est ça le contenu du

mandat, ce qui a été déposé.

LE PRÉSIDENT :

Alors, objection rejetée. Allez-y.

Me F. JEAN MOREL :

- 36 Q. It has been long since I have put that question to you. I was asking you if your mandate constituted in filing on behalf of the intervener, RNCREQ, the whole of their evidence in this proceeding?

Mr. PHILIP RAPHALS:

- A. I don't really know how to answer that question. We were asked to prepare an expert report and we did and this is our report. I wrote on the title page "On behalf of the RNCREQ" because I thought that that was the appropriate thing to write on the title page. As to whether or not the RNCREQ has other evidence or positions, I really think -- I do not feel in a position to respond.
- 37 Q. Well, I will try to be more specific then.
- A. I'm sorry.
- 38 Q. Sorry, I will try to be more specific then. I am referring now to page Roman numero IV of your written testimony, chapter 1, Introduction. And I will start off by reading the first sentence:

*The RNCREQ has mandated the HELIOS Centre
to*

*prepare a report addressing a number of
issues raised by Hydro-Québec's revised
application for the modification of
transmission rates.*

I gather the RNCREQ has identified to you those
issues which it felt that the Hydro-Québec
application raised?

A. Yes, but as I believe I explained earlier, the
precise issues that we developed emerged in a
process of exchanges between myself and the
representative of the RNCREQ.

39 Q. Okay. Did you say the representative or
representatives?

A. I said "representative".

40 Q. Okay, and who would that be?

A. That would be Mr. Jean Lacroix.

41 Q. In the course of those consultations with Mr.
Lacroix, did you specifically discuss the issues
that were raised in the RNCREQ intervention, as
they were raised in the RNCREQ intervention?

A. I am not sure what you mean by the RNCREQ
intervention.

Me HÉLÈNE SICARD :

Maintenant, les discussions que mon client a pu
avoir avec moi et avec les experts où est tous
présents pour discuter de ce qu'on va faire, je
voudrais

mettre un sérieux bémol, c'est entre nous. Le produit de ces discussions-là, c'est la preuve qu'on a fait déposer et c'est les sujets qui sont traités par les experts. Ce qui s'est discuté au-delà de là n'est pas pertinent et confidentiel entre mon client, moi-même et l'expert.

Me F. JEAN MOREL :

Premièrement, chère consœur, je ne vous avais pas incluse dans les conversations sur lesquelles je cherchais à obtenir des détails. Je voulais savoir quelles étaient les précisions, avoir plus de précisions sur le mandat qui a été confié par l'intervenante RNCREQ parce que, si je ne m'abuse, ce n'est ni le Centre HELIOS, ni ces messieurs qui sont intervenants dans la présente cause, mais plutôt le RNCREQ.

Alors, pour le compte du RNCREQ, ces messieurs témoignent ce matin et j'aimerais savoir comment ils ont perçu, compris, interprété l'intérêt et les raisons pour intervenir que la RNCREQ a donné à la Régie il y a plusieurs mois de ça.

Me HÉLÈNE SICARD :

Ce n'est pas aux experts que l'on engage d'interpréter nos motivations ou les motivations du client quand il décide d'intervenir. On donne un

mandat à des experts de traiter certains sujets.

LE PRÉSIDENT :

Non, mais si je comprends bien, c'est qu'on est au niveau de la compréhension du mandat par les experts. Donc, on n'est pas en dehors de la... on est limite, mais je vais maintenir la question.

Mr. PHILIP RAPHALS:

- A. Excuse me, may I make a clarification of a response I gave earlier. When you asked me "representative" or "representatives", I was not thinking of maître Sicard as a "representative", I do not know if formally she is or not, but I did not mean to say that my discussions were alone with Jean Lacroix. Normally, the three of us discussed these matters together.

11 h 10

- 42 Q. Yes, I understand that. And for further clarification, I understand maître Sicard to be counsel to RNCREQ and not an officer or representative of the RNCREQ herself, that is...

A. That is my understanding as well.

- 43 Q. I referred earlier to the intervention or request for intervention of the RNCREQ, it is the one that was initially filed with the Régie on the ninth (9th) of December, nineteen ninety-nine (1999) and I was asking if the interest and the concern and the

issues...

Me HÉLÈNE SICARD:

Peut-être que mon confrère pourrait demander à l'expert à ce moment-là s'il a lu cette demande d'intervention et s'il est au courant, avant de lui poser des questions sur la demande d'intervention. Si vous décidez que ces questions-là sont pertinentes.

Me F. JEAN MOREL:

44 Q. Mr. Raphals, I'll rephrase my question then. Did you discuss with Mr. Lacroix the content of the RNCREQ's intervention in these proceedings?

A. By "intervention" you mean the request for intervention at the beginning of the hearing?

45 Q. That's what I mean.

A. I did discuss it with him a long time ago but not in the context of preparing this report.

46 Q. Okay, thank you. Now, chapter 2 is your... all of you gentlemen's evidence as it relates to the request or the mandate given to you by the RNCREQ where you say that "it asked us", it being the RNCREQ, "asked us to review the context in which the present hearing occurs". And then, "specifically with respect to Hydro-Quebec's adoption of an open access tariff and its american subsidiary's application to the FERQ, to obtain authorization as a power marketer". I was quoting from your direct evidence. Can you explain to

me exactly what, or give me more detail as to what is your understanding of the RNCREQ's concerns with respect to HQ Energy Services US Inc.'s authorization as a power marketer?

A. Again, it is not -- I'm not sure how to respond to your question because I really cannot say that I know what is in the heart of the RNCREQ, I don't know its board of directors, I don't... I've met its president but have not spoken to him about this file. I know the exchanges that I had with Mr. Lacroix, which resulted in the choice to address this question but I don't feel that it would be appropriate for me to try to say what the intention of my client is.

47 Q. Okay. But you are nevertheless convinced that RNCREQ-18 filed and adopted by you in these proceedings as the testimony on behalf of the RNCREQ does represent the position of the intervenor.

A. I'm really not in a position to say that it represents the work that we carried out at the request of the intervenor.

48 Q. Okay. So, maybe I'll change my line of questioning then and before I move on to section 2... sorry, I'll stay on a bit on section 1 and talk about your qualifications and your c.v.'s. Now, you've indicated in your introductory remarks, Mr. Raphals, that the Helios Centre, for which you are associate director I believe, has done work for various clients and you've mainly focused on the work you've done the Hydro

Quebec strategic plan. Can you... I'm not asking you to name clients but can you indicate to me for what type of clients the Helios Centre does work?

A. Well, as I said, for a wide range of clients. Actually, my most recent client was Hydro-Quebec in a mandate concerning consumer matters carried out for a *table de concertation* including the *Service de recouvrement d'Hydro-Québec* and a number of consumer groups. I have carried out work for a number of environmental groups, a number... a certain number of First Nations, the native groups. On occasions -- you have c.v., I'm not sure, do you need me to tell you more about my clients?

49 Q. Yes, if you wish or maybe I can be more specific.

A. Please, yes.

50 Q. Do you do work for industry participants?

A. Infrequently.

51 Q. Private interests in the industry.

A. At times but not very frequently.

52 Q. Power producers?

A. Yes.

53 Q. Okay.

A. That is to say...

54 Q. Other than Hydro-Quebec?

A. Yes, we have done work for power producers other than Hydro-Quebec.

55 Q. Participants in the open markets or the markets that are opening up in the States?

A. I don't think so, none that comes to mind immediately.

56 Q. Private producers in Quebec?

A. Yes.

57 Q. Mr. Disher, you've indicated in your opening remarks, and it's indicated in your c.v. as well, that as the principal of Signal Hill Consulting Group your primary activities have involved assisting developers of merchant power plants, is that correct?

Mr. ELLIS O. DISHER:

A. That's correct.

58 Q. Where would those be mostly situated?

A. The developers have been active in New England and New York. I'll be glad to tell you who they are if you'd like to know.

59 Q. Not necessarily, but is you wish.

A. My primary client has been Duke Energy for instance. Duke is developing... has developed two plants, two merchant generating plants in New England.

60 Q. In those markets, would you say that your clients would be competitors of Hydro-Quebec Energy Services US?

A. That could be, yes. Excuse me, could I also just mention one other thing, one of my other clients has been a law firm in New Haven, Connecticut, representing TransÉnergie US in their effort to build a cable across Long Island Sound. So I've worked for

a variety of clients again, not just the ones that might be competitors, the HQ US for instance.

61 Q. Fine, thank you. I understand from Mr. Raphals' introductory remarks as well, and I'm addressing this to you, Mr. Disher and Mr. Bradford, that it is Mr. Raphals who has provided to you translated portions or excerpts of the Hydro-Quebec evidence in these present proceedings, that is correct?

A. That is correct.

Mr. PHILIP RAPHALS:

A. That's correct.

Mr. PETER A. BRADFORD:

A. Yes.

62 Q. And I guess you've taken cognizance of those portions of the evidence of Hydro-Quebec.

A. Yes.

63 Q. Yes. I was wondering if you are aware of other particular -- well, forget it -- particular characteristics -- I'll change my word -- of the Quebec context. I guess you are aware or he has made you aware of that thinking of the applicable legislation, both to the Régie and Hydro-Quebec?

A. Yes.

64 Q. And the recent amendments, well, recent, they're not so recent now but it happened in mid-year last year.

A. Yes.

65 Q. Mr. Raphals has made reference to the Draft Regulations under section 72 and 73 of the *Loi de la régie de l'énergie*, the Energy Board Act, have you taken cognizance of those Draft Regulations?

A. I'm aware of them.

66 Q. You can remember which one of you, or if all three, maybe you can indicate to me if all three of you are fully aware of what Mr. Régis, the president of TransÉnergie, had to say on RTO's when he appeared last week before the Régie, are you all aware of his use?

A. Only -- speaking for myself, only to the extent that we referenced them in our remarks earlier this morning.

Mr. ELLIS O. DISHER:

A. And the same for me.

Mr. PHILIP RAPHALS:

A. I was present, I heard Mr. Régis's testimony.

67 Q. And I think, Mr. Raphals, you're the one who referred to such remarks and more extensively earlier this morning, right?

A. No, I don't think I did but...

68 Q. Or was it Mr. Disher, I'm sorry.

A. I think it was Mr. Disher.

69 Q. I'm sorry, Mr. Disher.

Mr. ELLIS O. DISHER:

A. Yes.

70 Q. I was listening.

A. I know.

Mr. PHILIP RAPHALS:

A. However, I will add that I did explain to Mr. Bradford and Mr. Disher my understanding and certain excerpts from Mr. Disher's testimony.

71 Q. And I've taken from those earlier remarks, mostly Mr. Disher's then, that you gentlemen are taking issue with Mr. Régis's assessment or that TransÉnergie is somewhat equivalent to an RTO.

Mr. ELLIS O. DISHER:

A. We took exception specifically as another to my remarks on the basis of the requirement for independence as put forward by FERQ in Order 2000.

72 Q. Okay.

A. Obviously, Hydro-Quebec meets all the characteristics quite well, I mean, they're the operational authority for instance, and they have the authority to maintain short term reliability, there is no question there.

73 Q. Are you aware, Mr. Disher, of an existing perfect RTO right now somewhere in North America?

A. Not yet.

74 Q. Therefore, since they are not clear on the FERQ's position with respect or FERQ's concerns with respect to HQ Energy Services US PMA but you nevertheless

bring it in your evidence in section 2 on certain occasions; what are your concerns with HQ Energy Services US PMA in these proceedings and why do you bring it up, do you wish -- well, go ahead.

Mr. PHILIP RAPHALS:

A. All right. I'm a little confused about the beginning of your question, could you repeat or rephrase the question please?

75 Q. Well, I've asked you a little earlier if you were aware of the RNCREQ's concern with respect to the US, to HQ Energy Services US PMA in the US and you said you weren't aware of their specific concerns, you can explain to me what their specific concerns would be with the PMA.

A. Excuse me, I don't recall your asking me that but I'll be happy to answer if...

76 Q. Are you aware of the RNCREQ's concern with respect to HQ Energy Services US PMA?

A. I am aware that, for the RNCREQ, the context in which the tariff that is being examined in this hearing was adopted is relevant to the hearing and is, that is why I believe I was asked to present that context. I'm not specifically aware of the RNCREQ's position, if it has one, with respect to the PMA itself.

77 Q. So, you are of the view, I gather you can take issue with me if you don't agree with the characterization that I put on your evidence under section, chapter 2, but you are of the view that some of TransÉnergie's

actions might put the PMA in jeopardy.

A. Yes, I am, but the specific ways, I believe are more appropriate, will come up in the other panels, I made reference to them in passing in my opening comments but they really are the contents of the, of the later part of the hearing.

78 Q. And is that a good thing or a bad thing for you?

A. Well, as I said, personally I find that the question of market access is a doublehead sword, it has benefits and it has costs. I have, I'm not offering you a judgement as to whether it should be maintained at all costs, I think that this is, it is an important question and I believe an important element in the Régie's reflections on this hearing.

79 Q. Although you agree with me that the Régie's got no jurisdiction over RTOs PMAs and other things relevant to FERQ.

A. Of course.

Me HÉLÈNE SICARD:

Pour peut-être éclairer mon confrère et tout le monde là, parce que mon client est quand même conscient de ça, et c'est bien spécifique, on ne cherche pas à dire et monsieur Raphals l'a très bien exprimé, il y a deux côtés à cette médaille et on ne cherche pas à vous forcer en en voir un plus que l'autre, ce qu'on veut vraiment c'est que la Régie soit consciente des conséquences d'une décision par rapport à la

proposition d'Hydro-Québec et ce sera à vous de décider si vous voulez ou ne voulez pas vivre avec ces conséquences-là mais que vous sachiez lesquelles elles sont et comment nous on les perçoit quant aux PMA et quant aux RTO.

Me F. JEAN MOREL:

Est-ce que c'est une pause pour argumentation, ça?

Me HÉLÈNE SICARD:

Non, mais peut-être juste...

Me F. JEAN MOREL:

C'est un peu ça.

Me HÉLÈNE SICARD:

... pour vous éclairer sur...

Me F. JEAN MOREL:

Bien, j'ai des témoins ici qui vont s'efforcer de le faire, je n'en doute pas.

LE PRÉSIDENT :

Avez-vous une objection?

Me HÉLÈNE SICARD:

Non, non, non, je n'ai pas d'objection, j'essaie juste d'aider mon confrère à comprendre parce qu'il

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 et 2 - PANEL 1
RNCREQ
Cross.ex by Me F. Jean Morel

semble vouloir, c'était quoi le mandat du client,
c'est quoi la compréhension, alors je...

LE PRÉSIDENT :

Alors, vous vouliez nous donner un éclairage...

Me HÉLÈNE SICARD:

Voilà, c'est tout.

LE PRÉSIDENT :

... à la Régie, sur les conséquences possibles.

Me HÉLÈNE SICARD:

C'était le but...

Me F. JEAN MOREL:

De mon ignorance?

Me HÉLÈNE SICARD:

Non.

LE PRÉSIDENT :

Non, du travail qu'on a à faire dans le présent
dossier.

Me F. JEAN MOREL:

Ah! O.K., non, c'est juste parce que... sur les
conséquences, je cherchais lesquelles, alors qu'on
ne

voulait que m'éclairer.

11 h 35

80 Q. Maybe just to conclude on chapter 2, would it be your view or your recommendation that TransÉnergie join an RTO?

Mr. PHILIP RAPHALS:

A. I am not prepared to make a recommendation of that nature today and I do not -- I have not been mandated to do so and I do not think it is the time or place to discuss it.

81 Q. Fine. You must know for -- and then again, I am sure you will find the right answer, but you must know for the purpose of preparing such an expert evidence in these proceedings if the RNCREQ supports the Hydro-Québec exports to U.S. markets, if it is in favour of Hydro-Québec exports to the U.S.?

Me HÉLÈNE SICARD :

Ça, je vais m'objecter, s'il vous plaît. Il n'y a aucune référence dans la preuve qui indique qu'on supporte ou qu'on ne supporte pas les exportations et...

Me F. JEAN MOREL :

Je n'aurais pas posé la question si je l'avais trouvé dans la preuve. J'ai demandé au témoin s'il était au courant que le client qui l'a mandaté pour écrire sa

preuve dans les présentes audiences, si lui savait si ce client était pour ou contre les exportations de Hydro-Québec aux États-Unis. Il le sait ou il ne le sait pas.

Me HÉLÈNE SICARD :

Ce n'est pas à notre expert de répondre à ce genre de question, d'abord et avant tout. Ensuite, la question, si mon confrère veut poser à notre expert la question, "avez-vous reçu un mandat pour étudier la position quant aux exportations et avez-vous fait des recommandations", c'est autre chose. Mais de la façon dont sa question est posée, Monsieur le président, je m'objecte.

Il ne représente... monsieur Raphals, monsieur Bradford, monsieur Disher sont des experts retenus par le client. Ce ne sont pas des représentants du client et ils ne témoignent pas à titre de représentants du client, mais à titre d'experts. Et on sait tous que quand des experts témoignent, ce sont des gens qui sont indépendants. Ils ont aussi leurs propres opinions. On peut poser des questions sur leurs opinions...

LE PRÉSIDENT :

Maître Sicard, la question est juste de savoir s'ils sont au courant de la position de leur client sur ça.

Je pense que c'est une question de fait. "Est-ce que vous êtes au courant, oui ou non". Et la réponse est oui ou non, ils sont au courant.

Me F. JEAN MOREL :

C'est bien ça, ma question. Et je profite de l'occasion pour dire que possiblement, le RNCREQ aurait dû avoir un témoin ici ce matin ou possiblement qu'il en aura un plus tard au cours des audiences, je le souhaite. Et plus on tente -- ce n'est pas une plaidoirie, c'est une plaidoirette -- plus on tente d'isoler ces témoins de la position du RNCREQ, plus ces témoins semblent être ceux de Helios et non ceux du RNCREQ. C'est un...

LE PRÉSIDENT :

Bon, c'est ce que vous disiez, là, vous allez reprendre ça dans votre argumentation à la fin...

Me F. JEAN MOREL :

Oui, mais j'aurais de la difficulté à traiter de la preuve du RNCREQ.

LE PRÉSIDENT :

Bon, d'accord. Alors, vous avez compris le message. D'un autre côté, vous avez trois témoins experts...

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 et 2 - PANEL 1
RNCREQ
Cross.ex by Me F. Jean Morel

Me F. JEAN MOREL :

Ce qui n'est pas contesté.

LE PRÉSIDENT :

Pardon?

Me F. JEAN MOREL :

Je ne l'ai pas contesté.

LE PRÉSIDENT :

Non, mais on va se limiter à ces trois-là pour l'instant, il n'y a pas d'autre -- tout ce qu'ils peuvent dire, c'est si eux sont au courant...

Me F. JEAN MOREL :

C'est bien ça, je vous remercie de me rappeler la question.

LE PRÉSIDENT :

Non, non, mais...

Me F. JEAN MOREL :

Non...

LE PRÉSIDENT :

... mais ce n'est pas à eux à prendre position pour le RNCREQ, c'est juste si ça a été porté à leur connaissance. C'est le point que vous voulez faire.

Me F. JEAN MOREL :

C'est ça.

- 82 Q. Have any of you gentlemen been made aware of the RNCREQ's position in your consultation with the RNCREQ, in preparation of this written testimony, if the RNCREQ was for or against Hydro-Québec's exports to the U.S.?

Me HÉLÈNE SICARD :

Ce n'est pas la même question, là. Là, il demande si le RN est pour ou contre l'exportation. Ce n'est pas de savoir s'ils connaissent l'information.

Me F. JEAN MOREL :

- 83 Q. Have you been made aware by the RNCREQ of any position it may have with respect to Hydro-Québec's exports to the U.S.?

Mr. PHILIP RAPHALS:

- A. I am aware that the RNCREQ has concerns about some aspects of Hydro-Québec's exports. Personally, I regard the question of exports as complex and I am not aware of the details of exactly what -- of the exact nature of the RNCREQ's position with respect to exports.

- 84 Q. So, I guess you could not elaborate on those concerns that you are aware of? You said you were aware of some of the concerns that the RNCREQ had with respect

to exports? What are those concerns?

A. It is my impression, from discussions with my client, that the RNCREQ is concerned about the construction of new hydroelectric facilities for export needs, which are not meant for Québec demand.

85 Q. And you specified hydroelectric facilities, hydroelectric?

A. I did say that, yes. That does not mean that their concern is limited to that, but that is what I said.

86 Q. I understand.

A. If I may add something to an earlier response?

87 Q. Go ahead?

A. With respect to the report that we prepared and I just think it is important to note that this report was accepted by our client and was filed by our client and, therefore, I have reason to believe that the client was in agreement or that the client was pleased with the product that we produced.

88 Q. Fine. Are you aware of who may have approved of it at the RNCREQ, if it would be its Board of Directors or Mr. Lacroix himself or...

A. I transmitted it to Mr. Lacroix and he is my only direct contact and I do not know with whom he consulted.

89 Q. Very well. I will be moving on to chapter 10, and that is your testimony on the modalities for approving additions or modifications. At page 76 in section 10.2 or more specifically subsection

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 et 2 - PANEL 1
RNCREQ
Cross.ex by Me F. Jean Morel

10.2.1,

entitled "Planning and Project Approval", I guess in the first paragraph, you are sort of setting up the background or the context and you say that:

In the absence of any regulatory involvement in the planning process, they reviewed

"They" being, sorry, the regulators of vertically integrated utilities in the 1970's and 1980's:

they reviewed the prudence and usefulness of sustainable investments in new facilities in the context of rate cases.

Then, you add:

Once the facilities had been or about to be commissioned

And then:

it was only after a series of spectacular failures...

And I will stop here. Would those be generation facilities you are referring to here?

- A. Yes. Could I just note in the quotation the wording is "substantial investments", I believe you said

"sustainable", for the transcription.

- 90 Q. I stand corrected, but it should be both. Then, on the next page, page 77, you indicate that it is not clear how or to what extent they will be addressed, I guess being the various options to transmission upgrades...

LE PRÉSIDENT :

A quel paragraphe vous êtes?

Me F. JEAN MOREL :

Je suis au deuxième paragraphe complet qui commence par : *Because Section 72 of the Act was amended in June 2000"...

- 91 Q. Where you say that you are not clear on how or to what extent the options will be addressed in the supply plan required by the amended Section 72; would that statement stand now that you have taken cognizance of the draft regulations under Section 72?

A. I would say that it is somewhat clearer, but not entirely clear.

- 92 Q. Also the, not the next paragraph but the other one after that which starts off by:

Hydro-Québec appears to favour the approach embodied in the present application, namely that each year in its transmission rate

case, it will seek the Régie's authorization for the -- and then, you quote -- "the projects for the extensions or modifications to the network as well as the other capital expenditures included in the 2001 capital budget submitted by the carrier".

Now that Section 72 and maybe even before that, but Section 73, sorry, that Section 73 Draft Regulations are known, would it be a better quote to say to that, or to add to that, that Hydro-Québec or TransÉnergie would be seeking the Régie's authorization for projects that would not have otherwise been authorized under Section 73 of the Act?

A. I agree with you that this paragraph is in effect modified by the new developments that I described earlier, but I would not describe that modification in exactly the way that you did.

93 Q. But you are aware of the past experience in the gas industry or gas distribution in Québec?

A. Could you be more precise?

94 Q. Where the Natural Gas Act or the Natural Gas Board Act provided that investments over and above a certain amount of money, a million (\$1,000,000) for Gaz Métro and three hundred thousand (\$300,000) for Gazifère required specific authorization and only those that did not require specific authorizations were approved as such in

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 et 2 - PANEL 1
RNCREQ
Cross.ex by Me F. Jean Morel

the rate case?

- A. I am not familiar with the details of natural gas regulation in Québec.
- 95 Q. Recognizing the distinction you have just made with respect to Section 73 and its application now pursuant to the Draft Regulations, you are of the view that the Hydro-Québec approach would be a very dull scalpel indeed which only allows the Régie to punish the carrier and the owner if it finds *post facto* that its choices were inappropriate. Do you expect Hydro-Québec to proceed with an investment or TransÉnergie to proceed with an investment which would not have been authorized by the Régie?
- A. Well, as I said, the new development, that is the publishing of the Draft Regulation, means, and also Mr. Bastien's testimony the other day, that my understanding now of Hydro-Québec's approach is somewhat different than it was when we wrote this document in that it is now clear that the company intends to present requests for authorization for facilities of the categories described in the regulation prior to constructing them.
- 96 Q. Your second concern was that Hydro-Québec's original, or your characterization of -- I was able to say it this time -- your characterization of Hydro-Québec's proposal is that it imports complex transmission planning issues into what is already a complicated ratemaking hearing. Now, I guess we both agree that Section 73 proceedings would be different than rate

hearings?

A. Yes, Section 73 proceedings would be different than rate hearings.

97 Q. Virtually guaranteeing that they will not be addressed with the care that they deserve, being complicated, I guess, or complex. I do not know what you meant by that; could you expand?

A. Well, again, these paragraphs were intended to contrast the practice that I was able to discern in the prefiled evidence of Hydro-Québec with the approach that we were proposing.

Given these new developments, the appropriate comparison -- the question is the one that we presented earlier this morning which is whether or not a project-by-project analysis is adequate to ensure that the proper decisions are made.

(11 h 50)

98 Q. Okay, I am moving on to Page 78, Sub-section 10.2.2, entitled, "Ensuring that non-wire alternatives are considered". Then, its whole first paragraph is, I guess, explains that non, such non-wire solutions have to be considered instead of, I guess, or compared to wire solutions in order to relieve congestion on, thereby, you conclude, thereby relieving congestion on the grid. You are aware, of course that there is, at this time, no congestion on the TransÉnergie system?

A. I am, but I am also aware that TransÉnergie has said that it will avoid future congestion by making appropriate investments. So. I don't think that TransÉnergie's evidence is that there will, is that without any modifications to its grid, there will not in future -- I'm sorry -- I don't believe TransÉnergie's evidence is that if there are no additional investments, that there will in the future not be congestion.

99 Q. And you describe the non-wire solutions as whether, either on the supply side generation or on the distribution side. To start off with the supply side generation, what type of generation do you have in mind, especially in the Québec context?

A. I don't have a particular type of generation in mind, it depends what the problem is that is being addressed and what the possible alternatives are.

Mr. ELLIS O. DISHER :

A. I just wanted to add, when you consider supply side resources, one should consider all options for supply side resources. That could include anything from a peaking unit to a base-load unit, or it could include distributed generation or, you know, whatever.

100 Q. Okay.

A. But the focus is on supply side.

101 Q. Meanwhile, while you are here, to make sure that I understand, do you make a distinction on distributed

generation and small-scale generation, which you have included in your, in this paragraph as on the distribution side?

A. I think one can look at it as either on the distribution side or on the supply side, if you will. And for me, that distinction is not absolutely clear, it can depend, to some extent, on how it is connected into the system.

102 Q. So, if we stay on the supply side generation, you are of the view that it could include hydroelectric projects, thermo-generation, wind power?

A. Certainly.

103 Q. Solar?

A. Yes.

104 Q. Even in the Québec context?

A. Yes.

105 Q. And in the Québec context, wind power, in your view, would that require transmission additions, in any event?

A. Again, it would depend on the scale of the project and where it is located.

106 Q. Okay.

A. And it could possibly require transmission additions, it could possibly take the place of a transmission reinforcement that might otherwise be required. It simply is an option that should be considered in the set of options...

107 Q. Okay, but my point was to the extent that the wind

potential I guess, the wind power potential in Québec appears to be situated far away from the load centres, it would require transmission, in my view.

A. Right.

108 Q. I think we are done. Okay. Now the distribution side solutions, conservation, load management, and small-scale generation, which we have agreed was distributed generation, and at another point in your evidence, you were also referring to decentralized generation, I guess we are talking about the same thing all the time?

A. Yes.

109 Q. And what would be the possibilities for these, or this small-scale generation, in your view?

A. I am not aware of a specific kind of a small-scale generation that might be available right now, all I know is that there are a variety of types of small-scale generation that are being looked at by a number of parties throughout the industry, micro-turbins, fuel cells, all kinds of things.

110 Q. Yes.

A. And my point is that one should simply ask these questions when one is looking for a solution to a transmission system problem. I am not trying to suggest that there is any particular right answer in any of these areas, but one should simply ask these questions ask what the state of the art is right now.

111 Q. In the examples you have given me of the micro-

turbines and the fuel cells, what would be the fuel for these generation systems, most likely?

A. Possibly natural gas.

112 Q. Sorry, if you permit me to get back to the, for one more question on the supply side solutions of generation; in the Québec context, given the application of Section 72, or the new application, or the upcoming application of the new Section 72 -- that was a mouthful -- where the distributor's supply plan has to be proposed to the Régie and approved by the Régie, don't you think that the transmission can only be planned once the distributor knows what his new sources of electricity, which of the new sources of electricity for its needs will be accepted and adopted?

MR. PHILIP RAPHALS :

A. In part but not completely. For one thing, as Mr. Bastien pointed out the other day, it is entirely possible that Hydro-Québec production's proposals for the supply plan may come from existing resources, or resources that it has developed in the meantime for commercial purposes. So, transmission investments may arise, even ones which are eventually used to serve Québec load, may arise prior to and outside of the supply plan.

Secondly, there are other transmission investments

which may simply not be relevant to the supply plan at all. As we heard, there are investments that are related to reliability, there are investments that are related to third-party producers, and I think the sense of our testimony is that for each of these investments, the question of alternatives, from a transmission planning point of view, also needs to be explored, whether or not they form part of the distributor supply plan.

- 113 Q. I think you have given me examples of investments that you would want reviewed or planned, but not necessarily an exhaustive list. But would you agree with me that investments for the upkeep of the existing grid are not really that controversial and subject to alternatives?

Mr. ELLIS O. DISHER :

- A. If you are referring to maintenance of existing facilities...

- 114 Q. That is what I meant by upkeep, yes.

- A. Right. I would agree, yes.

- 115 Q. For other types of investments, for example investments that are sort of mandated or result from government or legislative or regulatory changes, for example noise reduction regulations where investments have to be made in transformation plants in order to meet the new noise reduction requirements, would you agree that those are similar to the maintenance

investments?

A. In a sense, yes, but I think there is no, there is nothing that would prevent the transmission planning entity from looking at a variety of alternative ways to achieve that legislative mandate, or regulatory mandate, or whatever it might be that would require the noise to be reduced, for instance, in your example.

116 Q. In the examples that you have given us or your citing of jurisdictions or regions where there are, in your views, different planning processes or consultation processes or advisory processes, namely PGM California and Alberta, do you, at the outset, agree that the context in those areas is somewhat different than in Quebec?

A. You are referring to Section 10.3?

117 Q. That is correct, yes?

A. Section 10.3.1?

118 Q. Yes?

A. Yes, indeed, the context is substantially different, not necessarily to the point where the transmission planning process is not relevant, but there are substantial differences of market structure.

119 Q. And one must recognize that, when assessing or judging those examples?

A. Of course, one must take it into account.

120 Q. At the top of page -- maybe you can help me understand -- at the top of page 79, sort of the

example or the argument you are making there is that there seems to be a lack, maybe a lack of coordination because distribution utilities would be subject to, as well as paragovernmental agencies or conservation utilities, would be subject to State regulatory oversight, and while my understanding is that transmission owners and ISOs and eventually RTOs are subject in the U.S. to federal regulation by the FERC?

A. Yes, although transmission is also regulated by the States to the extent that it is part of native load service.

121 Q. Is it one or the other, depending on the service that is provided, or is it concurrent regulation by the Federal and the State levels?

A. It is concurrent in the sense that the States regulate the siting of facilities, and as I indicated in my remarks this morning, pay particular attention to the environmental aspects of the route and the design and the siting and the construction methods that are used, in creating the facilities, the federal agency, FERC, regulates transmission service. It regulates service over the transmission facilities on the theory that that is engaged in an interstate commerce.

122 Q. But given the fact that in Québec, it is the same regulatory authority, the Régie, in front of which we are today, that would regulate siting, service,

rates, for the transmission provider as well as the supply plan, rates, facilities of the distributor, wouldn't that sort of simplify the process and address some of your concerns?

A. I think that it could simplify and address some of those concerns and I think the point we are trying to make is that it depends to a great extent on how that information is presented to the Régie.

123 Q. In the examples you have given us to your knowledge, being PGM California and Alberta situation, the planning -- could you be more, I guess, precise or give more detail as to the type of investments which are subject to such planning processes? I think we have sort of manage to exclude some in my discussions with you, being the maintenance or upkeep ones or other type required or that may be inevitable as required by regulation, but is it new lines, is it extension, is it system extension that is subject to such planning process or is it all investment projects, in your view?

A. My understanding is that it is all investment and upgrades to existing facilities for the purpose of expanding their capacity or the additions to the transmission system for the purpose of increasing the transfer capability across the transmission system.

124 Q. So there is capacity and expansion?

A. There is, but let me add also that even in the case of a mandated change such as we were discussing

earlier, those changes, depending on what they are, could also be subject to some of these review procedures that are discussed.

125 Q. Also in those jurisdictions, the fact that there are many transmission providers within the area, would that be another reason why planning of the type that is envisaged in those areas necessary or useful, in the sense that I believe you told us there was seven transmission providers in the New England ISO?

A. That is correct, there are seven now. That certainly has an effect on the history of the development of those procedures and on the nature of those procedures, but whether there was one provider or a dozen providers, I think the extent of the review would still be comparable to what it is today.

(12 h 05)

126 Q. At Section 10.5, page 84, Recommendation, the second paragraph deals with your wish that the Régie should require the distributor to participate fully in the consultation process in order that, as you indicate earlier in that paragraph:

... to ensure that non-wires solutions are given full consideration in selecting the investments that best reconcile the public interest, consumer protection and fair treatment of distributors...

Should not all of this process be left to the distributor, that it should be the distributor that does this consultation in the first place?

Mr. PHILIP RAPHALS:

A. I do not see why that should be the case. We are talking about transmission planning and it is TransÉnergie, it is the transmission provider that is responsible for that planning.

127 Q. But I guess the non-wires solutions we discussed were either the producer's or the distributor's areas?

A. I understood your question to be, should the distributor be alone responsible for this process. And since it is a process of transmission planning, I do not see how the distributor alone - - as far as I understand, the distributor does not plan the transmission system or determine what the required or what the various transmission alternatives are to meet a need or how much they cost. And so, the transmission provider is a necessary participant and I think obviously the central participant in transmission planning.

128 Q. I guess I was coming back to a question I put earlier to you in the sense that the distributors supply a plan being approved by the Régie in a public process and eventually the distributor would be authorized to get further supply from a particular production or generation source, I thought that the ideal solution

or the optimal solution would be determined there and that the transmitter just had to respond. That was my -- but maybe we will leave it for...

A. May I...

129 Q. Go ahead, go ahead, it was a question after all!

A. As I think as I tried to say earlier, I think it is clear that while the distributor supply plan may involve new transmission investments, there may be many other transmission investments which are not directly part of or directly flow from the distributor supply plan. And the seeking of alternatives, the eight alternatives, the eight possible solutions to any problem that Del referred to earlier, that same problematic is present even for those transmission investments which are not part of the supply plan.

130 Q. I guess we are back to exports, but we have settled that...

A. Not necessarily.

131 Q. If it is not for distribution within Québec, why would generation, further generation require transmission?

A. Well, for example, reliability improvements. I believe in the categories of investments that TransÉnergie presented. The first one was investments needed by TransÉnergie to improve its reliability which are not imposed by distributor or producer. It is my understanding and Del is far more expert in

this matter than I am, he may want to add to this, that for reliability improvements, reliability investments, there may also be supply side or demand side alternatives which have nothing to do with exports. They have to do with finding the least social costs solution to a need for improved transmission service.

132 Q. I guess in accordance with the NPCC requirements and rules and norms though?

Mr. ELLIS O. DISHER:

A. Yes, and if I could just add a comment to that. In my view, it is the transmission entity's responsibility to try to identify the points at which the transmission system may need reinforcement and the timing of those reinforcements and to do that planning far enough ahead of time that alternatives can be considered and construction can be done. So, to me, the transmission entity should be on a continuing basis analyzing the transmission system for any weak points, for any need for reliability reinforcements as Mr. Raphals has said.

133 Q. Excusez, Monsieur le président, je termine. Je suis conscient que j'ai peut-être abusé de mon temps. I am referring finally to page 85, to that paragraph at the top of the page which you have amended earlier this morning. And before you amended it, it read:

Once the Régie has begun to exercise its powers under Section 73(1), it is to be expected that the most important transmission planning questions would be addressed in those proceedings rather than in future rate cases.

And in view of the fact, as I have indicated to you, that we now have Draft Regulations under Section 73 of the Act, it is now, I guess, expected or it will probably happen in a foreseeable future that the Régie would exercise its powers under Section 73, where, yes, I guess you would expect the most important transmission planning questions to be addressed. You have amended to read now that:

Once the Régie has begun to exercise its powers under Section 73(1), it is to be expected that the most important transmission planning questions would also be addressed in those proceedings rather than only in future rate cases.

Why would it have to be done twice?

Mr. PHILIP RAPHALS:

- A. Well, given that as we have been explained the way Hydro-Québec intends to make, present applications

under Section 73, there will indeed be planning questions presented. Alternatives will be presented to the project for which authorization is sought. And so, in that sense, the same planning questions will be present in that hearing. But, again, my understanding from the testimony is that they will be presented only with respect to that particular investment unless -- of course, it is always possible that Hydro-Québec will seek approval several years in advance, but I do not think that we can expect that, so one issue is the timing, in the event that the Régie were to find that some of the alternatives were in reality at lower societal costs, there would still be a problem about, there could be a problem about implementing them.

But the more important question, just please let me finish, the more important question is that it is looking only at one investment, one proposed investment, rather than looking at the transmission planning horizon and all the expected needs that may come. And from what we now know, it seems to me very implausible that that would occur in a proceeding under Section 73.

134 Q. But if planning were to be made in the way that you propose, do you not agree that it would only have to be done in one of those two instances?

A. I think that if our proposal were accepted and if

there were an annual or a periodic review of the long-term transmission plan, that when it came time to authorize a project under Section 73, that hearing perhaps could be shorter and more efficient because the general principle would have been addressed earlier, in the same way that integrated resource planning made it more straightforward to authorize individual projects.

Mr. PETER A. BRADFORD:

- A. If I might, agreeing with what Mr. Raphals has already said, still it is important to keep in mind that the tariff setting process cannot just be about allocating last year's costs. If one of the goals of tariff setting, and I think your own witnesses have indicated this to be the case, is to be influencing resource decisions in the future and in an effective way, then, the regulator is constantly considering the ways in which the tariffs will influence future resource allocation and searching for a tariff methodology that maximizes the efficiency with which the system is operated and built in the future.

In order to do that, you cannot exclude future transmission planning considerations from the tariff setting process. On the one hand, of course, for reasons of decisional efficiency, you only want to review the plans and approve the plans in one

proceedings, but on the other hand, you certainly do not want to eliminate planning considerations, future considerations from the tariff setting process and turn it into a mere accounting exercise in which it simply distributes costs that have already been incurred.

135 Q. Thank you. Je n'ai plus de questions, Monsieur le président; je vous remercie. Thank you, gentlemen.

LE PRÉSIDENT :

Merci. Est-ce que... STOP-SÉ vous avez annoncé que vous aviez annoncé des questions, est-ce que vous avez une idée du temps requis?

Me DOMINIQUE NEUMAN :

Je préférerais planifier quarante (40) minutes, ça pourrait être moins mais...

LE PRÉSIDENT :

Alors, on va ajourner pour l'heure du midi. Alors, deux heures (14 h). C'est vrai, peut-être que ça serait mieux deux heures moins quart (13 h 45) parce que si on veut passer à NB Power aujourd'hui, deux heures moins quart (13 h 45).
Merci.

SUSPENSION DE L'AUDIENCE

(13 h 45)

R-3401-98
17 avril 2001
Volume 9

LE PRÉSIDENT :

Alors on en était Groupe STOP-SÉ. Alors, Maître Neuman, vous avez annoncé quarante (40) minutes?

Me DOMINIQUE NEUMAN :

Quarante (40) minutes, je vais essayer de faire moins, mais pour accroître mon taux de performance, je planifie quarante (40) minutes, comme ça, si je fais moins, le taux de...

LE PRÉSIDENT :

Alors peut-être que l'heure du dîner a porté fruit en réduisant le nombre de questions?

Me DOMINIQUE NEUMAN :

Un peu ça, ça a permis de les consolider. Avant de commencer, monsieur Guérard m'a informé qu'il désirait faire une remarque à la Régie.

M. YVES GUÉRARD :

C'est une question.

LE PRÉSIDENT :

Monsieur Guérard?

M. YVES GUÉRARD :

Bonjour, Yves Guérard, GRAME-UDD. C'est que la précision sur le mode de fonctionnement faite hier

R-3401-98
17 avril 2001
Volume 9

concernant la représentation par un avocat compliqué ou rend incertaine notre capacité d'interroger les témoins de RNCREQ aujourd'hui sur les thèmes 1 et 2. Tout ce que je voudrais faire, obtenir, c'est un peu comme vous l'avez fait pour ARC-FACEF-CERQ, est-ce que vous me permettriez de réserver un droit d'interroger un ou l'autre de ces témoins sur des sujets appartenant aux thèmes 1 ou 2 quand ils reparaîtront ici d'ici quelques semaines, alors que nous serons dûment représentés? Je vous promets que ça n'alourdirait pas, ça n'allongerait pas les délais de façon significative.

Me HÉLÈNE SICARD :

En principe, je n'aurais pas d'objection. Mon seul problème, c'est que le panel avec nos trois experts n'est disponible qu'aujourd'hui. Ils vont tous revenir mais par groupe de deux. Et on n'avait pas prévu de les faire revenir par groupe de trois. Et les disponibilités et indisponibilités risquent de rendre ça difficile. Alors si monsieur Guérard me dit qu'il veut interroger en particulier monsieur Raphals, monsieur Disher ou monsieur Bradford, ou les points qu'il veut toucher, s'il peut me l'indiquer, je vous demanderais, à ce moment-là, de ne pas obliger le panel à revenir deux fois à trois.

R-3401-98
17 avril 2001
Volume 9

LE PRÉSIDENT :

Mais sans obliger le panel à revenir, j'imagine que, Monsieur Guérard, vous pouvez sélectionner vos questions de façon à ce qu'elles puissent être adressées aux bonnes personnes au moment...

Me YVES GUÉRARD :

Absolument.

LE PRÉSIDENT :

Alors vos droits sont réservés, Monsieur Guérard.

M. YVES GUÉRARD :

Merci.

CROSS-EXAMINED BY Me DOMINIQUE NEUMAN :

Alors, rebonjour, Messieurs les régisseurs. I will speak in English as a courtesy for all the witnesses, and I hope my English will be understandable so that we don't have to use the...

136 Q. So, for the transcription, my name is Dominique Neuman, I represent Group STOP and Energy Strategies. My first questions will be, will concern Chapter 10 of the report, and later I will have some questions concerning Chapter 2.

My question is addressed to Mr. Raphals at first. I have a few questions in distinguishing what, in your

view, would be the content of the two planning processes that are discussed, first the ten-year supply plan to be submitted by H.Q. as a distributor under Article 72 of the Law, describing the means and visions to fulfil its demands, and secondly, the ten-year transmission plan that you recommend TransÉnergie should submit to the Board periodically.

Is it a correct understanding that you believe that the process planned under Article 73 before this Board is insufficient to provide such planning in transmission assets?

MR. PHILIP RAPHALS :

A. I would say that project-by-project analysis as foreseen in the authorization under Section 73 is not sufficient to address all the necessary questions related to transmission planning.

137 Q. Okay, so even though, in your recommendation, you mention that it would also be addressed through the process of Article 73, it is not the proper forum that would satisfy the need of long-term planification that you recommend in your report?

A. I believe what we said is that issues related to transmission planning would indeed appear in hearings under Section 73, but, as I just said, that process in itself is not adequate or sufficient to fully resolve the questions that should be addressed with

respect to transmission planning.

138 Q. Is it also your opinion that the other processes provided before other boards or forums in Québec would also be insufficient to fully examine, on a long-term basis, the planning in so far as transmission is planned, I am talking about the BAPE, that is Bureau d'évaluation public en environnement, the Parliamentary Commissions that examined the strategic plans, so do you believe that these forums also would be inadequate to provide the kind of review in transmission that you recommend?

A. I am not aware that either of those bodies have a mandate to review or would have the opportunity to review a long-term transmission plan, so the answer is, of course, no. Sorry, the answer is that they are not...

139 Q. How about the process provided under Article 72, would that process be an appropriate forum permitting the review of transmission planning as well as supply planning, which is the basic mandate of that article?

A. As I tried to explain before, I believe it is possible that some transmission issues may be raised in a hearing under Section 72, but it is also possible that none could be raised. And what is more likely is that even if some are raised, that many others would not be raised. And therefore, it seems to me that the supply plan proceeding cannot in itself fully discharge the need for addressing long

term transmission planning.

140 Q. Is it your view that the logical sequence in which the two plans -- supply and transmission -- should be reviewed is that first the Board should rule on the supply plan under Article 72, and subsequently, transmission should be examined separately at a later hearing, or do you see some interrelations between the two public reviews, both under Article 72 and the one for the transmission plan?

A. I certainly would not agree with your first formulation. As we have heard, transmission planning is an ongoing process. At any given moment, it is my understanding that TransÉnergie has a long-term transmission plan which changes gradually as different events occur, some of which may be related to the supply plan, some of which may not. So I don't see any direct relationship between the timing of the two.

Whether or not there is a supply plan hearing, when it comes, again, what transmission related issues may or may not be discussed in it, of course, if they raise issues which have already been addressed in transmission planning, it will simplify the problem with the supply plan. But I don't see that there is an intimate relationship or that the supply plan in any way affects the need for periodic long-term transmission planning, periodic review of long-term

transmission planning.

141 Q. Well would you agree that the siting of the generating sources envisioned by Hydro-Québec as a distributor in its supply plan, that a decision on the siting of these sources is an essential prerequisite to determine which avenues should be planned in terms of transmission?

A. Well, to the best of my knowledge, we don't first of all yet know -- there are a lot of things we don't know -- but I see no reason to feel, I see no certainty that specific facilities will even be discussed in the supply plan hearing. It seems to me entirely plausible that when the distributor announces that it has a need of X terawatt hours in the year two thousand five (2005) for instance, if Hydro-Québec Production could come to the hearing and say, "We are prepared to supply that energy for the following price", I am not sure at what point Hydro-Québec Production would have to specify even what facilities are included.

Now if the facilities are not built yet, I would certainly hope that they would specify them and that that would be part of the thinking in the supply plan. But we don't even have a final regulation yet. To that I would add, again as I said before, that there are many transmission investments which are not directly related to the addition of a new generating

plan...

142 Q. Yes, I understand that in your previous answer.

A. ... it would not be addressed in the supply plan.

143 Q. You expressed concern that non-wires solutions be explored. In your view, these non-wires solutions, would they be explored also through the review process under Article 72, or would you see that as being reviewed through the transmission plan review, how would you see the appropriate forum to which these options, these non-wires options should be explored?

A. Well, again, I really don't know how the Régie will choose to proceed under Section 72. I suspect that it will wish to look at demand side options for meeting the distributor's demand. So I expect that there would be a demand side aspect to the supply plan hearing, again not necessarily in relation to transmission investments.

The demand side programs that might be proposed as part of a supply plan, which is based on having enough kilowatt hours, are not necessarily the same as the demand side programs that could be proposed to relieve a specific transmission constraint. For instance, a geographically-focused DSM program, specifically to avoid load growth in an area where there is a constraint, is something that might well be the least social cost solution to a transmission

problem, which I would not expect to arise in the supply plan process.

144 Q. On the same subject, I have some additional questions to either Mr. Disher or Mr. Bradford. You are aware that certain jurisdictions in the United States, whether in the Mid-West, in New England, or in California, in the past few years suffered from several power shortages, and especially California now which is in the middle of an acute crisis.

You are also aware that it is feared that New York might face a similar problem in the coming future, and discussions are under way in that state to avoid a repeat of the crisis that we have seen in other states in that jurisdiction.

Is it your understanding that part of the explanation for these power shortages lies in an insufficiency in timely investments, both in generation and in transmission assets in these states?

MR. PETER A. BRADFORD :

A. It is hard to generalize, that is some of the shortages in both New York City and Chicago, not the past summer but the summer before, resulted from insufficiencies in the local distribution system, with local overload conditions.

My understanding is that some of the problems in California now are ascribable to, certainly to insufficient generation, although whether it is a matter of insufficient investment in generation as compared to, for example, a shortage of available hydro, the number of plants that are down for maintenance during the winter, those two things coupled with the lack of credit worthiness of the two big distribution companies in California that are making people who do have generation reluctant to sell to them, California now is just a witch's brew of problems, and I would be reluctant to say that it was primarily attributable to an insufficiency of generation or transmission investment.

145 Q. Do you have anything to add, Mr. Disher?

MR. ELLIS O. DISHER :

A. No, I don't, I think Mr. Bradford has covered it very well.

146 Q. Do you see any risk that the planning process might lead in some way, is there a tendency in the planning process to lead to insufficient investments in transmission, do you see any inherent tendency in the planning processes that exist presently under post-Order 888 jurisdictions in that regard?

A. I am not so sure that it is a failure of the planning process so much as it is a set of circumstances that developed because of the timing of changes that were

occurring in the system, or in the industry, basically. With the coming of a deregulated industry structure, there was a tendency for the integrated utilities to pull back, I think, from planning for supply side resources.

But, yes, that certainly was a contributing factor, I think, to what has happened. But there is, there were so many changes taking place within a short period of time that I am not sure you could really assign the credit or blame for what has happened to any one in particular function like that.

(14 h 05)

MR. PETER A. BRADFORD :

- A. I agree with that, and I would especially be hesitant to assign the problem primarily to planning processes, that is in both New York and in Maine, when I was regulating on those commissions, the siting of new transmission was very difficult from the nineteen seventies (1970's) forward, the concerns over health issues, over scenic issues and the fact that they had to go through so many communities were such very few major transmission expansions were proposed and even fewer successfully went forward, there were none in the eight years that I chaired the New York Commission.

To the extent that effective planning processes are

in in place such as it's possible to demonstrate that the transmission investment is in fact the least cost proposal and that in fact the route chosen is the best among all that could reasonably be considered, it seems to me that such a planning process enhances the chances of having projects built and having them go forward.

Of course, a poor planning process, one that is designed to arrive at a pre-determined conclusion or one that excludes the public from a reasonable degree of participation can result in controversies that will slow down the siting of a new transmission. But, planning done well, seems to me to be unlikely a root cause of the problem.

147 Q. Okay. So, if I understand you correctly, the proper planning process is likely to deal in a more articulate manner, in a more global manner these issues that may have reduced the capacity of utilities or transmission operators to build new transmission facilities in the past.

A. Yes. It may rule out some projects in an early stage but the ones that survive a comprehensive planning process are more likely ultimately to receive a legitimate approval from the government and support from the public.

148 Q. Okay. This finishes my question of section 10 of your report. On section 2, my questions are mostly aimed

at Mr. Disher and on the comment that was made a bit earlier today regarding the four characteristics and the eight functions that an RTO should meet under Order 2000 that was adopted by the FERC. In your view, which of these four characteristics and of these eight functions are not met by TransÉnergie? It was not... my understanding was not clear in that regard when you spoke about it earlier.

A. I was focusing primarily on the first of the four minimum characteristics which is independence. And to me that is the... not only the primary characteristics as far as FERC is concerned but it is I think the characteristic that Hydro-Quebec does not meet, that TransÉnergie does not meet. With respect to some of the other characteristics, I think I indicated that they certainly would be met by TransÉnergie or by Hydro-Quebec. But my focus is on the independence characteristic.

149 Q. Do you recall that Order 2000 discussed the issue of passive ownership by a utility in the transmission company and that was addressed in its discussion of the independence issue?

A. That was addressed, I'm not as familiar with that part of the Order as I am with other parts and I don't... I don't know how that applies in this case, I wouldn't be able to speak to that, I don't think.

150 Q. Okay. Well, is it your understanding that the FERC did not oppose as such the fact that a utility would

have a passive interest in a transmission company as long as both real and apparent separation of functions is properly in place?

A. My understanding from what I recall of reading the Order, and it has been a while since I've read it now, is that FERC did agree that passive ownership was permissible in certain cases I don't think that functional separation though would be... still be... I still don't think that functional separation would be considered adequate to make the independence criterion. And if you'd like we could certainly respond to this question later in writing and be a little more... looking at what FERC actually said in the Order.

151 Q. Okay. Can you take that... I don't know how to say *engagement* in English... undertaking, yes. So, to indicate... to indicate to which extent in Mr. ... Yes?

Me HÉLÈNE SICARD :

Est-ce qu'on peut avoir le numéro de l'engagement, à quel numéro on est rendu, parce qu'on n'était pas là?

LE PRÉSIDENT :

C'est votre premier.

Me HÉLÈNE SICARD:

C'est notre premier engagement, alors c'est 1 pour

nous, O.K., RNCREQ-1. Et pouvez-vous rephraser...

Me DOMINIQUE NEUMAN:

Absolument, absolument.

Me HÉLÈNE SICARD:

... votre question bien clairement, merci.

Me DOMINIQUE NEUMAN:

Absolument.

- 152 Q. To which extent is passive ownership by a utility company into a transmission company is still... an RTO, is still permissible under Order 2000 in Mr. Disher's view.

The requirements of... well, first of all, the creation of RTOs, is it a correct understanding that the FERC so far has not made the formation of RTOs mandatory but has favoured a voluntary approach in that field by which existing companies or future companies would have the appropriate time to make the proper decisions in that regard.

- A. As I recall, the wording of the Order, membership in an RTO is voluntary.

- 153 Q. And when you say "membership", even the creation of RTOs is voluntary.

- A. The creation of RTOs may be voluntary, I don't recall those exact words in the Order.

MR. PHILIP RAPHALS :

May I add something.

154 Q. Yes, please.

A. My recollection of the Order is that jurisdiction utilities were obliged by a date certain, which I believe was November fifteenth (15th) of last year, to advise FERC either of their membership in an RTO or of the steps they've taken to form one and why they have not been able to. And, well, it is of course true that membership is voluntary, I think that FERC has made it quite clear that it's voluntary but with a great deal of pressure to participate.

155 Q. If I may follow up on that answer. The option that was given, is it my correct understanding that the option given was either to form an RTO or to indicate the steps but also the obstacles that may exist for that specific company in forming an RTO, so that a company may express in that statement that, for various reasons, it is not proper or not possible for an RTO to be formed in the present time?

A. That may well be correct but I have to check the wording to be sure.

156 Q. Okay. So it will be the undertaking number 2, indicate which... what is the FERC requiring from jurisdictional utilities in terms of the formation of an RTO, whether it's mandatory or, well...

A. In other words, what is the obligation, what is the...

157 Q. In the Order from a jurisdictional utility.

UNDERTAKING RNCRQ-2: What is the FERC requiring
in Order 2000 in terms of
the formation of an RTO
from a jurisdictional
utility

Me DOMINIQUE NEUMAN:

158 Q. To your knowledge -- and my question is to Mr.
Disher or the members of the panel -- are there
already RTOs that have been formed and recognized
by the FERC in the United States since Order 2000?

Mr. ELLIS O. DISHER:

A. I am not sure, I don't know of any. Peter, do you?

Mr. PETER A. BRADFORD:

A. No. I don't know of any RTOs that have received
final approval, there are certainly proposals.

159 Q. From the earlier statements that were made in the
main presentation today by Mr. Disher and Mr.
Bradford, I understand that you have a concern
that Hydro-Quebec or TransEnergie might not be
recognized as an RTO contrary to the statements
that were made by Hydro-Quebec representatives
earlier in this process. Since the process in the
United States is not mandatory at this point and
since there are no RTOs effectually formed in the
United States, is it

proper in your view that this Board anticipates what might happen and what the reaction by the FERC may be or would it not be a sounder approach to wait until there is some signal by the FERC that there might be none compliance and only after that identify what that none compliance might be and see how it could be resolved by this Board. Do you understand my question?

Mr. PETER A. BRADFORD:

A. I think so but one part of it concern me, which is the premise that there are no RTOs. I certainly didn't mean to say that myself and I don't take Mr. Disher did either.

160 Q. Okay.

A. We both told you that we didn't know of any that had received final approval, that doesn't mean there hasn't been...

161 Q. Okay.

A. ... an approval. That having been said, my own view is consistent with Mr. Disher's that the independence condition is so important and has become so much more important in light of the market power problems that we've seen in the US in recent months, that it is extremely unlikely that an entity structured as Hydro-Quebec is now, could receive approval as an RTO.

162 Q. Okay.

A. You don't have to wait for FERC to find such an entity and turn it down in order to surmise that the approval would be, to be gentle about it, highly unlikely.

163 Q. Okay. But presently Hydro-Quebec has obtained a power marketer authorization...

A. Yes.

164 Q. ... from the FERC. To your knowledge, that PMA is still valid, is still in force?

A. Yes.

165 Q. And the existence of an RTO is not at this point mandatory to maintain a PMA.

A. That's true, I thought you were asking...

166 Q. Yes.

A. ... whether FERC would reject...

167 Q. Yes.

A. ... an RTO application from an entity...

168 Q. My question is both, because the main issue of your testimony, if I understand correctly, is that you described the historical process by which bylaw 659 was adopted and it was adopted in a context of permitting Hydro-Quebec to obtain a PMA, which was obtained. And your concern was that new rules that are in the process of being applied in the United States, namely Order 2000, might change that in the future, might compromise the capacity... might affect the capacity of Hydro-Quebec to maintain its PMA. Is that... that's the concern, that's the main concern

that...

A. No.

169 Q. ... that you expressed earlier, is that correct?

A. Speaking for myself but I would take what we're saying as being in response to assertions that have been made to the effect that...

170 Q. Okay.

A. ... one need not worry, that essentially because the PMA had been granted...

171 Q. Okay.

A. ... it would... there was no concern that anything now going on was likely to disturb it and we were responding to say: "Wait a minute, you can't take that situation for granted".

Mr. ELLIS O. DISHER :

A. I would just like to reenforce that, I think that's absolutely correct and we are not idly speculating that FERC is moving in this particular direction, I think it's very clear that they're moving in the direction, as we described it, toward a position of demanding a greater degree of independence and in the operation of the industry in order for the competitive parts of that industry to maintain their ability to be competitive.

14 h 20

Mr. PHILIP RAPHALS:

A. If I could just respond... I would like to respond to an earlier part of your question where you suggested that because these questions were still not fully resolved, the Régie should wait. To the best of my knowledge, the Régie is not being asked to take any position on -- it is certainly not being asked to certify TransÉnergie as an RTO or to say that it is not an RTO. We are simply at the phase of discussing the context in which the transmission rate case is taking place and, given that assertions were made which do affect that context, we thought it was important to contextualize them and to provide a more precise understanding of what that context is. I do not see any decision that we certainly are asking the Régie to make about RTOs.

172 Q. Are you recommending that Hydro-Québec increases its independence from TransÉnergie in anticipation of what is taking place in the United States?

A. No, we are not making a recommendation to that effect. We are suggesting that depending on the extent to which the Régie intends to influence future decisions about Hydro-Québec's PMA may affect its decisions in this file.

173 Q. To come back to the other statement by Mr. Disher, what would be needed in your view, what changes would be needed from TransÉnergie and Hydro-Québec to increase the level of independence to a point where

it would become acceptable? For instance, would it become necessary for TransÉnergie to join with transmission operators in other neighbouring jurisdictions to permit that level of independence or would there be some need or some corporate changes that would have to be made between TransÉnergie and Hydro-Québec?

Mr. PETER A. BRADFORD:

A. When you say "acceptable", you mean "acceptable" for what purpose?

174 Q. For the purpose of obtaining recognition as an RTO; that was the context in which independence was discussed earlier today?

Mr. ELLIS O. DISHER:

A. Again, I think the primary concern is with the independence of the transmission entity from the competitive part of the business. So I would say separation, actual corporate separation between the generation, the production business and the transmission business is necessary. Now whether TransÉnergie then joins with other transmission entities to form a larger scale RTO is a different question.

175 Q. If the two companies are separate, in your view, would that be sufficient or would there still be a problem of market strength of one client of

TransÉnergie who would dominate the transmission market, in your view, and would that influence the independence of TransÉnergie?

A. I do not think it is so much a question of TransÉnergie dominating the transmission market, because FERC has made it clear that an RTO can be a transmission company, a single transmission company. That is what it meant by a "transco" for instance in its Order. The question is whether the control of what is happening on the system by the transmission owner can benefit generation facilities that are also owned by the same corporate entity. And that is why I am saying what you need is corporate separation of the generation facilities from the transmission facilities.

176 Q. So I understand that if that corporate separation exists, there would no longer be an additional need to resolve the possible market dominance by one client on the transmission market. Is that my -- do I understand correctly your answer?

A. I think that's correct, it would have to be -- you would have to look at the actual structures that result from that and you would have to look at the market rules and how the market structure is set up. But I think that certainly would meet the independence criteria.

Mr. PHILIP RAPHALS:

A. If I could add to that. Your question was about the transmission market...

177 Q. Yes, transmission market?

A. There were other comments made about the number of buyers and sellers in the region covered by the RTO which should be a question that would have to be addressed. And there are other questions, for instance, whether the ownership of both entities by the same entity, the Government of Quebec, would in itself raise a problem. We are not making an explicit recommendation or statement about precisely what steps TransÉnergie would have to take. We could look into that if the Régie thought it was relevant which I do not think it does...

LE PRÉSIDENT :

Maître Neuman, on se demande pas mal où vous vous en allez avec ça parce que, finalement, on n'a pas à se prononcer sur le caractère RTO de TransÉnergie ou pas ou les aspirations à cet égard-là ou pas; ça ne nous concerne pas tellement.

Me DOMINIQUE NEUMAN :

J'ai eu les réponses que je souhaitais, ça terminait ma ligne d'interrogatoire sur ce point. Ça vise à répondre à certains... à nous permettre de répondre éventuellement à certaines remarques qui ont été

faites relatives au RTO, qui constituaient une partie importante du témoignage du panel ce matin. Et nous avons posé des questions en rapport avec ces affirmations qui ont été faites et qui ont été faites ce matin.

LE PRÉSIDENT :

Donc, vous n'avez pas d'autres questions?

Me DOMINIQUE NEUMAN :

Il y avait une réponse qui était...

178 Q. There was one answer which was uncertain and I mistakenly took it for granted, I asked if to the knowledge of the panel there was already an RTO in existence and the panel seemed to think it was not the case, but it was not absolutely certain. Maybe there could be an undertaking to verify if there is already an RTO, if there are already RTO's that have been recognized?

A. I think our answer is clear that RTO filings have been made, yes. Organizations have proposed themselves to FERC as RTOs, yes. What we are not prepared to say for the study is whether or not anyone has received final approval. So, again, if that is of interest...

179 Q. Is it possible, since I think it would be something relatively simple to verify to take an undertaking to that effect?

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 et 2 - PANEL 1
RNCREQ
Cross-ex. Me Dominique Neuman

LE PRÉSIDENT :

Ça va servir à quoi?

Me DOMINIQUE NEUMAN :

À répondre aux arguments qui sont faits dans la section 2 et qui ont été faits ce matin par le panel, relativement à certaines... au fait que Hydro-Québec ne remplirait pas différents critères, différents critères d'indépendance, qu'il y aurait des audits qu'il serait nécessaire d'instituer pour...

LE PRÉSIDENT :

Non, mais le fait que vous leur demandiez d'aller vérifier s'il y en a eu effectivement d'approuvés par la FERC, des RTO, ça va servir à quoi de plus, ça?

M. ANTHONY FRAYNE:

Je trouverais ça intéressant, Monsieur le président.

LE PRÉSIDENT :

Oui, bon, tant mieux. Alors, engagement numéro 3.

ENGAGEMENT RNCREQ-3 : Vérifier s'il existe des RTO qui ont été reconnus par la FERC aux États-Unis.

Me DOMINIQUE NEUMAN :

Je vous remercie, Messieurs les régisseurs.

LE PRÉSIDENT :

Merci. Est-ce qu'il y a d'autres intervenants qui veulent poser des questions à ce panel-ci? Non? Alors, la Régie.

EXAMINED BY Me PIERRE R. FORTIN:

Merci, Monsieur le président.

180 Q. Good afternoon, gentlemen. I have only a few questions for you. First, I would like to address Mr. Bradford and I refer you to your written evidence on page 81, please, to the subchapter entitled: "Stakeholder involvement and transmission planning processes". You mentioned that, elsewhere in North America and particularly in the States that are mentioned on pages 81 and 82, ISO prepared for long-term transmission plans and that these plans are treated as public documents.

From your knowledge of regulatory affairs in the U.S., and more particularly with respect to neighbouring States to Quebec, do these regulators have specific requirements related to the filing of long-term transmission plans?

Mr. PETER A. BRADFORD:

A. First, let me indicate that I did not have the lead responsibility for this section, so you may get a better answer from Mr. Disher. As to my own

knowledge, in two of the States, of course, I am a former regulator, and in both of those States, there were no such requirements when I was...

181 Q. I am sorry, could you speak just a little louder, please?

A. There were no such requirements as to transmission plans themselves. However, there was a requirement that, in the context of integrated resource planning, that the utilities prepare and file a plan covering all of their major investments and the interactions among them; it would have included transmission. And there were also requirements in the siting process that would have required in the context of any request for approval for a transmission investment that required the filing of an overall plan indicating not only the alternative chosen, but the alternatives evaluated.

182 Q. Are you aware of what kind of requirements are made, what kind of information, in addition to the one you just mentioned, is required to be filed in those States or in those two instances that you have mentioned?

A. As part of the integrated resource plan for example?

183 Q. Right?

A. Well, the integrated resource plan filing would be more general than the filing before -- in a siting proceeding, but it would indicate the magnitude and the anticipated projects in generation, in

transmission, in distribution. I should indicate that these requirements, and my familiarity with them goes back a few years to when generation was still regulated, and so, speaking in that context, it would not have required a detailed statement of, for example, the routes of individual projects at that time. However, in the filings before deciding boards, you would have gotten a very detailed statement with regard to everything from the routing, environmental impacts, the proposed impacts on rates and similar information, perhaps a slightly less detailed level as the alternatives that were considered.

184 Q. But you are referring, if I understand you well, you are referring to a few years ago, but would you have any specific information concerning the actual situation?

A. The requirements today...

185 Q. Yes?

A. I think Mr. Disher would be a better witness to ask.

186 Q. Very well. If Mr. Disher would please address the question?

Mr. ELLIS O. DISHER:

A. As I understand the question, you are asking what requirements the States would have with regard to the filing of the transmission plan?

187 Q. Exactly; are there any that have any specific requirements to that effect. And if so, what are

those requirements and what do they include as information being requested to be filed?

- A. The only thing that I am aware of in terms of -- that could be described as a requirement for filing of a plan is the kind of thing that I alluded to earlier in my comments when I noted that the public utility commissions in their rate review process asked for information from the utilities regarding their capital construction budgets, going forward in time. And in providing that information, the utilities are expected to identify major capital projects.

Beyond that, the plans that we have identified in our file testimony, for instance in New England -- actually, I think I have identified it in my comments this morning, the five-year plan that is developed by the ISO in New England has been done in response to Order 2000 and the direction that is given in that order to create and to make public transmission expansion plans for the system. Beyond that, I am not aware of specific requirements by states or by the FERC.

188 Q. Is this an information you would have to check though, or are you sure of what you are stating now?

A. I am certain of that.

189 Q. Very well. By the way, you referred to New England ISO with respect to the five-year planning, is there -- just a question of clarification -- you

referred to the transmission expansion planning process...

A. That is correct, that is what...

190 Q. ... is that to be differentiated from something else, what does that expansion planning process refer to, is that only extensions of, line extensions, what is it, or can it refer to reliability planning, additional investments related to reliability but not with expansion as such?

A. I don't see a distinction between the two necessarily, that just happens to be what the plan is called, it is the Regional Transmission Expansion Plan, it is called the RTEP. And expansion in that sense means additions to or upgrades of the transmission facilities in order to maintain reliable service.

191 Q. Okay.

MR. PETER A. BRADFORD :

A. One further point in the interest of completeness. Vermont, which is not one of the states in which I have regulated, is still an integrated resource planning jurisdiction and therefore would require, as part of the IRP filings of its utilities, that there be a section indicating their transmission planning intentions.

192 Q. Now, gentlemen, on these same page as 81 and 82 of the written evidence that was filed, you recommend

some kind of stakeholder involvement here, if I understand well your presentation. And you recommend that some kind of public input be allowed in the long-term transmission planning process. And you give some examples here, in Alberta, California, New York, and New England.

Is it a requirement made by the regulators in those states that this process be held and that it involves, as a mandatory procedure, public involvement?

MR. ELLIS O. DISHER :

A. I can't say that it is a state requirement, in the sense of something that is legislated or is written explicitly into the regulations for the state. What I was trying to say is that it does happen because the plans and the projects get reviewed by state regulatory agencies, and those are, by definition, public forums. Now the public is invited, for instance, to participate in the forums.

193 Q. But what if they are not, if that process is not followed, does it have any consequence at all before those regulating authorities, is there an automatic sanction?

A. A sanction on whom -- on the regulators for not following their procedures or...

194 Q. No, on those who file an authorization, a request

for, an application for authorization.

A. I wouldn't say that there is a sanction necessarily, but...

195 Q. That is a legal term.

A. ... certainly the regulators would not be happy, let's put it that way.

196 Q. Now you have testified this morning as to a substantial, I do not recall which witness said that, maybe Mr. Raphals, but you recognized, in answer to a question, that there are major differences between the Hydro-Québec situation at large and particularly TransÉnergie division and the situation in the North-Eastern states.

Given these substantial or major differences, can you elaborate on what justifies, in your opinion, the need for stakeholder involvement here in Québec, in so far as the TransÉnergie is concerned, the transmission division?

MR. PHILIP RAPHALS :

A. Well first, I would say that there are also many differences between states and regions. For instance, NEPOOL is a very unusually structured body and the NEPOOL tariff and the New England ISO is a very particular entity. The need for stakeholder involvement, it seems to me, is not dependent on any of these structures really, but simply on the

perception, which I think is a truism, that external review and public review of important plans is an important element of modern democratic decision-making.

- 197 Q. I understand, but I mean in the context, the particular context of Québec compared to the States, for instance, would you agree that there are, some of the differences involve the fact that here, in Québec, Hydro-Québec is responsible for generation, for most of the generation of electricity in the province, it is responsible for the distribution also, and so it does fulfil both functions for all, almost all electricity that is made in Québec.

Whereas in the States, there are various, there are many entities, many utilities that are involved in the transmission, there are many transmission owners, there are many generators, and there is an ISO, which is independent, which is non-profit, compared to TransÉnergie here, which is a for-profit operator. So considering those differences, would you have any -- what should I say -- nuances for the needs that you seem to imply for a stakeholder implication in the long-term planning process of TransÉnergie as such?

- A. Well, certainly the term "stakeholder" can be interpreted quite broadly, and in the sense of market participants, there are far fewer in Québec than there are in the North-Eastern States. But

stakeholders include not only market participants but also public and public interest entities, and of all the differences that you, all the characteristics that you have mentioned, I don't see any that would in any way remove the importance and the need for the market participant stakeholders that are present and also for the public interest sector stakeholders to have an opportunity to comment on and to, in some way, participate in the transmission planning process.

MR. PETER A. BRADFORD :

- A. I have to speak without specific reference to Québec, because obviously I am not well qualified to comment on the unique conditions here. But from my own experience, I would be inclined to say that the greater degree of vertical integration, the greater degree of monopoly, the smaller the degree of customer choice, the higher the need for meaningful public involvement in the decision-making process.

Now one can concentrate that public involvement entirely at the Régie or at the governmental point of decision, and say the other entities don't need to do it. But that was a situation that did exist in New York for many years, and ultimately, the Commission began to require actually for the utilities to have -- this is not in transmission planning now, it is in

customer service -- to have their own consumer advisory councils and to have meaningful meetings with them.

And the reason for it is because there were so many small decisions being taken by the utilities that suffered from a lack of informed judgement about the public, which wound up as disputes and controversies before the Commission, that it seemed better to move the public involvement process back a step in the chain to be sure that the utility itself was taking the public's views into account through semi-formal channels themselves, since the element of customer choice wasn't available, like the customers couldn't vote with their feet, if you will.

So there is a lot to be said for the proposition that the more concentrated the system, the more urgent the need for some mechanism for public inputs since there isn't going to be feedback in the form of customer choice.

198 Q. Thank you.

MR. PHILIP RAPHALS :

A. If I can add a word to that as well about the Québec situation. I believe we mentioned in our evidence that back as early as nineteen ninety (1990), when Hydro-Québec was an integrated utility, without an

independent regulator but answerable to the government, that a consultation process was initiated, which was quite broad and had precisely the intent of bringing the public, to a limited extent, into the decision-making process.

That was eventually superseded by, as you know by the public debate by integrated resource planning and so on, but the situation, obviously the context, the legislative context has changed very much, but, and so those tools which were eventually developed in that sense are no longer directly applicable. But the underlying need to consult the public is still there.

And that is why, in our recommendation, we really suggested a double approach, one, the regulatory approval where the transmission plan is presented to the Régie in a formal process, but we also suggested that "en amont de ça", that the transmission, provided that TransÉnergie consult directly with the public in preparing its plan.

199 Q. Just a moment, please. Mr. Disher, I am being suggested to have some clarification about some of your earlier comments in answer to my questions. We believe you said that there was no filing requirements related to long-term transmission planning as such, but at some point in your testimony, we believe you also stated that the

stakeholder involvement is done through State regulatory agencies. Was our understanding correct on this?

Mr. ELLIS O. DISHER:

A. That is correct. I am sorry I was not clear earlier, I may not be any clearer this time, but I will try. What I was trying to say was that in the context of State reviews of the plans of a utility, which includes system planning, not just transmission planning, in the context of a rate case for instance, and this is at the State level, it is a retail rate case, some of the information that must be presented to the State, to the regulatory agency, is the capital budget.

200 Q. The what?

A. The capital construction budget for the utility going forward in time, looking forward five to ten years in most States. And that capital budget will contain major transmission projects, as well as generation projects or whatever else, a new building, whatever they plan to do. So, in that context, the plan, the transmission facilities are presented to the regulatory agency and the regulatory rate review is by definition a public review. The public is a part of that process. That is what I was trying to...

201 Q. Okay...

A. ... get at. Does that...

202 Q. That answers the question. We were not sure, it seemed contradictory to a certain point. Now, it is clarified, thank you very much. Thank you, gentlemen, I have no further question, Mr. Chairman.

LE PRÉSIDENT :
M. Anthony Frayne.

QUESTIONS BY Mr. ANTHONY FRAYNE:

203 Q. Bonjour, Messieurs. Good afternoon, gentlemen. I would just like a little bit of clarification about the overall regulatory context for transmission now as you have been describing it. Specifically, are ISOs regulated in any traditional sort of way, either by FERC or by the State regulatory commissions?

A. ISOs are regulated by FERC.

204 Q. Okay. RTOs, are they regulated by somebody?

A. They will be regulated by FERC, yes.

205 Q. Okay. If Hydro-Québec was to join an RTO with -- well, I guess you mentioned what the alternatives are, it could be a transborder RTO or a Canadian RTO, would you see a role for the Régie in that regulatory structure or would this again be FERC who would be regulating if it was with the States and in Canada, I guess I should ask you the question?

A. I was going to let you answer for me. I think it is highly likely that there would be -- I think it is almost mandatory, necessary that there would be

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 & 2 - PANEL 1
RNCREQ
Ex. by Me Pierre R. Fortin

a

role for the Régie. And FERC indicated in its Order, in its discussion of the Canadian issues that for a cross-border, what they called cross-border RTOs, that it saw a need to then discuss jurisdiction, cross-border jurisdiction. So it certainly left the door open to discussion and creation of a dual role in the jurisdictional process there.

206 Q. Fine, thank you, that is my only question.

Mr. PHILIP RAPHALS:

A. If you like, I do have the passage here...

Mr. ANTHONY FRAYNE:

207 Q. Please?

A. It reads, this is from Order 2000:

Several parties were concerned that a cross-border RTO would have its rates, terms and conditions subject to the rate jurisdiction of at least two regulators. If a cross-border RTO forms, we will be open to proposals for innovative approaches for jointly overseeing a cross-border RTO with domestic and foreign utilities. For example, one approach might be for the cross-border RTO to try to develop a proposal acceptable to both regulators with the understanding that any regulatory difficulty would

normally be referred back to the RTO for resolution and resubmission to both regulators. Another approach might be to have different but complementary rate designs in the two countries.

- 208 Q. Could you give me the reference for that, please?
A. Unfortunately, I believe I reformatted this before I printed it, so I do not think my page numbers can help you.

Mr. ELLIS O. DISHER:

Is there a section number?

Mr. ANTHONY FRAYNE:

- 209 Q. Otherwise, I guess that will be a pretty easy engagement...

Mr. PHILIP RAPHALS:

- A. Yes, the section which is found in the table of contents of Order 2000 is called "Participation by Canadian and Mexican Entities".

- 210 Q. Okay, fine, so it is part of...

- A. Yes, it is part of Order 2000.

- 211 Q. We will find it, thank you very much. Thank you.

LE PRÉSIDENT :

Monsieur Tanguay.

QUESTIONS BY M. FRANÇOIS TANGUAY:

212 Q. I have some very broad questions. We have been speaking a lot about what is happening in the U.S. and I am trying to get this in scope with what we are trying to do here. A lot of information comes across from, well, to say the least, the very confusing situation in the States, especially in the Western States. And it is a lot more like noise than music right now, so I do not think I am going to buy that record yet. But one of the goals of the Board, of course, is trying to figure how we here in Québec would deal with planning with regard to tariff shocks.

And one of the messages that we have sent in our various decisions leading to this day is that our main worry or goal or information with regards to planning is to make sure that we do not have a tariff shock because we could suppose, for example, that a major line would be rolled in and we can imagine one or two billion dollar (\$1,000,000,000) investment being rolled into the tariff would have a certain impact.

So behind our looking forward approach is basically that one need -- I understand from what both of you said that major long-term planning is basically big broad outlooks of what is coming up. Is what I am

saying close to what you are saying in understanding? In other words, how deep do we have to go in information and how deep do you go into information with regards to planning, financially speaking?

Mr. ELLIS O. DISHER:

- A. I will start and Mr. Bradford could jump in also. I think what we are suggesting is certainly in line with your desire to avoid tariff shock. And that is the reason, to me, that is the primary reason behind the strong recommendation to look at a wide range of alternatives and to include in those alternatives any action that might be taken in any part of the system to relieve an identified problem in the system, whether it is supply side, transmission or demand side.

So I think the intent is to certainly keep the cost down. And as we indicated in our remarks, I think you also have responsibility to look at the total cost associated with a project which includes environmental and societal costs, but clearly the aim is to get the most benefit for the least cost.

Mr. PETER A. BRADFORD:

- A. When you look at the causes of price shock such as was experienced in the U.S. in recent years, there are some to which you are relatively immune, fuel

price changes for example are not likely to produce rate shock in Québec.

In the seventies (1970s), we had a rate shock of the sort you are talking about, major construction projects with significant overruns coming in and boosting the rate base by significant multiples. And there, a comprehensive planning process is important, a regulated comprehensive planning process in a vertically integrated utility. And as Mr. Disher indicated, for the reasons we have laid out so that you make your choices in an awareness of the full playing field, and you are quite right that it tends to be a broad look, but not all that broad. I mean, you really are comparing alternatives in a meaningful way and making your best judgments going forward.

The third source of price volatility that we have discovered relatively recently in the U.S. is to deregulate, how to put it, imprudently in the presence of market power concentrations that allow a few participants to use the market to their advantage, and have prices shooting up to levels far above costs. And that really is the principal cause now of the reassessments of restructuring that are going on in the U.S.

And I think at this stage of regulation as I

understand it in Quebec, where you still have close ties in a vertically integrated system, you are not looking at that kind of market power being exercised by deregulated competitors because -- you do have the generation sector to worry about, but you are not really in a competitive market situation.

- 213 Q. Both of you have led into what would be the second half of my question, which is DSM and the alternatives. It is always when you look into transport a little complicated to try and pin DSM to transport, in the sense that most of the programs in DSM have been very closely linked to the consumer and only very recently I think have been linked to planning, to taking a closer look at how we could deal with alternative production. In other words, cutting down waste has been a lot of DSM rather than anything else and I am trying to figure out how, as a Board here in Quebec, with our reality that we have one grid basically and only one occupant or almost only one occupant on the grid, how we could integrate DSM.

For example, would it go through some sort of a wire charge or would the alternatives have to be alternative routes, alternative ways of dealing with the load factors by, I do not know, curtailments or some other ways of doing it? What I am trying to figure out is exactly how can we deal with DSM in the

very narrow field that we have that is transportation, with very few players here?

Mr. PHILIP RAPHALS:

A. I can speak at least partly to that. I think your question addresses really two different problems. One is to what extent should the costs of system wide DSM be charged to the transmission system...

214 Q. Yes...

A. Because wire charge is really a part of the revenues from the transmission systems that are applied to that. In other words, what DSM cost should be included in the revenue requirement. And that I think is a very legitimate question and one which I think is worthy of serious debate. The other question is to what extent can DSM be an alternative to transmission investment? And that, I think, is much more of a case by case question.

There are many transmission investments for which DSM is in no way an alternative. If you are building a new generating station somewhere and need to connect it, you can do all the DSM you want, but until you connect, that generating station is not providing energy to the grid. But other transmission investments in fact are meant to relieve a constraint which could be addressed through demand side measures.

For instance, if in an urban centre, load is growing very dramatically such that it is expected that some sort of new line or new transmission investment will be required in a few years, focused demand side measures to reduce that load growth in that particular area could well avoid the need for that investment. So in that case, it is not just a matter of where the money goes, but actually what program might be an alternative to that investment. And that is what I was trying to get at in saying that this question has to be looked at long before the day comes when you need that investment because it takes time to plan these kinds of programs.

Mr. PETER A. BRADFORD:

- A. The phrase "wires charge" arose in the U.S. in the context of customer choice, that is with the realization that customers might leave the system and procure their power supply from other suppliers. There was a realization that by doing that, they might also be opting out of the obligation to pay for, among other things, energy efficiency programs also stranded costs and a number of other charges that were built into the old vertically integrated regulatory system.

If you do not have customer choice, you probably do not need a wire's charge per say to pay for energy

efficiency, you can do it in the way it was done in the vertically integrated systems in the U.S., either through using an integrated resource planning process to decide amounts of energy efficiency and which programs are most likely to be beneficial, the allocating of funding to those programs, and then, an on going process of monitoring and evaluation to be sure that the money is well spent and producing the results that are expected of it.

Under that approach, the regulator or whoever is administering the program is basically making their own judgment on an on going basis about the cost effectiveness of the energy efficiency programs. And the cost of the program is simply built into the revenue requirement probably of the distribution companies for the most part that are being regulated.

It is only at the point at which customer choice is permitted that you may have to begin to think in terms of a wire's charge to customers who migrated out of some part of that revenue requirement, in order to be able to continue to do meaningful energy efficiency programs. But in the absence of customer choice, then either an integrated resource planning process or a specific DSM oriented set of program requirements would suffice as well.

215 Q. Okay, one final question, and you may want time to

pick up on that one. Documents, I'm referring to documents from Hydro-Quebec, HQT-11, 5.1 and 5.2, you may be aware what they are, the two of them are that thick. And what I'm wondering is I'd like your opinion and I suspect you can't answer that now because there's too much stuff there but I'd like you to look at it and maybe come back with an answer as whether the information here seems to be sufficient for you on the basis that I've spoken before, which is rate tariff effect. Is the information we have there going to help the Régie enough in your perspective with regard to rate tariff impact? And since it's extensive, I'm not expecting an answer at all, so maybe it could actually be a written answer because it's probably a little long; it's going to need some scoping.

A. I think it is a good idea that we answer it later in writing but I can answer part of your question now. Having... I can't say that I've studied in detail the documents in HQT-11 but I have examined them.

216 Q. I dare him to find anyone here who has read this thing from the first page to the last.

A. It seems clear to me that this information on its own is not adequate because it's a description, it's a... most of the bulk of the information is a description of the demand requirements.

217 Q. Yes.

A. That in itself does not tell you what transmission

solutions TransÉnergie thinks it needs to construct or to improve in order to meet those demand requirements, and it seems clear to me that that is an essential component in reflecting on the implications of that expansion plan.

218 Q. Okay, I'll take...

A. I'm not to say this is not an important element but I don't see how it could be sufficient.

219 Q. I'll take that for an early answer and maybe if you feel, if you think, you know, if you think that your answer now is enough, well, just say so; otherwise, if you have things to add I'll gladly take something in writing, it doesn't have to be a thesis on the whole thing, just a...

A. Okay, we'll prepare it.

220 Q. ... few paragraphs. And as soon as you can possible.

A. Yes. Could I add something to your, I guess the first part of your first question as well?

221 Q. Yes.

A. The question of tariff shocks or rate shocks. I understand that the Régie's position in this hearing is that your interest in detail planning is limited to whether or not there are rate shocks, but to me, much of the sense of our proposal, with respect to the modalities for future additions, is in a sense to ask you to... or to suggest that you look beyond that in the future in a number -- and for a number of different reasons.

One is that even, transmission investments, because of their nature, may, even if there is no substantial rate shock and given the size with the rate base it would take a very major transmission investment to produce a large rate shock, but if you permit the expression, they can also have environmental shocks and social shocks.

These investments, depending on where they are and when they are, can really be of great significance to the people that live in Quebec and one of your, as I understand, one of your, one part of your mandate is to be aware of those elements and to respond to them. And for the reason we've described I think that in order to do that you need to look far in advance. So that's really the heart of our recommendation to look at the long-term planning.

There's also the element of optimality. Even if an investment doesn't produce a substantial rate shock it may still not be optimal, it may be that the same service could have been provided at lower economic cost or at lower social cost including environmental and social concerns, which means that a transmission investment which does not produce a rate shock may still not have been the best investment and the one which, to use the terms of section 5, is most consistent in the sustainable development.

Finally, there's the issue of the complexity of information and also of its uncertainty. The information that we do have about the current plan, which is essentially the rate projection over the next seven or eight years, I'm not sure how many, is really one scenario and we've already learned that it's a scenario which is not now seen as the most likely scenario in that it includes the Gull Island project which today apparently is not seen as likely to occur.

The future is very uncertain, especially in a world where third parties can build generation and require transmission service. Obviously, no one knows exactly what is the most, what the transmission requirements will be in many years, but I think we can be confident that the very capable planners at TransÉnergie are thinking about this and are aware of it and are trying to orient themselves in order to respond to these different scenarios.

And, again, this is I think a reason to look in greater depth, not just at the single scenario but at the portrait of the plan... the planning portrait within a reasonable horizon.

M. FRANÇOIS TANGUAY:

Okay, thank you for insight, gentlemen. So, I'm

awaiting anxiously.

LE PRÉSIDENT :

On va le prendre comme un engagement, donc un commentaire plus élaboré sur HQT-11, 5.1, 5.2.

Me PIERRE R. FORTIN :

Monsieur le Président, je m'excuse, monsieur Tanguay, il y a une précision. On a essayé de retracer la référence que vous faites, est-ce que ça ne serait pas plutôt HQT-13, document 1.2, pour les questions 5.1 et 5.2 de la Régie?

M. FRANCOIS TANGUAY:

Je suis peut-être dans la mauvaise pile.

Me PIERRE R. FORTIN :

En tout cas, nous, la référence que nous avons semblait plus directement reliée, là, à ce qui faisait l'objet de discussion présentement avec le témoin.

M. FRANCOIS TANGUAY:

Écoutez, on va vérifier, moi je ne vois pas 13, là, mais... 5.1, 5.2.

Me PIERRE R. FORTIN :

C'est peut-être une erreur de notre part mais ça nous

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 & 2 PANEL 1
RNCREQ
Questions by M. François Tanguay

semble directement relié à ça aussi.

M. FRANCOIS TANGUAY:

On va vérifier puis on vous le dira après le
break, là.

Me PIERRE R. FORTIN :

Parfait, merci.

M. PHILIP RAPHALS :

R. Évidemment, si c'est HQT-13, ma réponse à
l'intérieur de...

M. FRANCOIS TANGUAY:

222 Q. Oui, oui.

R. N'est plus bonne.

223 Q. Ça marche, on va vérifier puis on vous le dira
après le break, là.

R. Merci.

LE PRÉSIDENT :

Alors, we thank you, gentlemen. Ça fait votre
preuve sur les thèmes 1 et 2?

Me HÉLÈNE SICARD :

Oui, Monsieur le Président.

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 & 2 PANEL 1
RNCREQ
Questions by M. François Tanguay

LE PRÉSIDENT :

Alors, on va changer d'intervenant, on s'en va vers NB Power. On va prendre une pause jusqu'à trois heures et demie (3 h 30) et ça va vous permettre de vous installer. Merci.

SUSPENSION DE L'AUDIENCE

REPRISE DE L'AUDIENCE

(15 h 30)

Me ANDRÉ DUROCHER :

Excusez-moi de mon retard, j'étais en train d'essayer de convaincre un membre du Tribunal de changer une règle de pratique.

M. FRANÇOIS TANGUAY :

C'est une grosse job, ça, c'est une bien grosse job, ça.

Me F. JEAN MOREL :

J'ai le goût de lui demander laquelle.

M. FRANÇOIS TANGUAY :

Avant qu'on passe à vous, je vais préciser mon engagement auprès des gens du RN, mais est-ce qu'ils sont là?

LE PRÉSIDENT :

Il y a maître Sicard...

M. FRANÇOIS TANGUAY :

Je vous le dis tout simplement, là, je ne le dis pas en anglais puisque les experts sont partis, enfin, je sais qu'il en reste un dans la salle, un expert, mais, effectivement, le sujet était le bon mais la référence n'était pas la bonne. Donc ça va vous éviter de regarder la brique que j'avais dans les mains, j'avais sorti le mauvais morceau mais j'avais la bonne idée, l'idée du choc tarifaire.

Ce que je vous réfère donc, c'est effectivement HQT-13, document 1.2, page 10 de 41. Et ça, c'est effectivement une réponse de Hydro-Québec. Il y a un tableau à cette page-là qui, essentiellement, a été fait dans le but de donner, je vous lis la première phrase :

Cette analyse sommaire se veut un outil permettant à la Régie de se donner une vision à plus long terme de l'impact des investissements sur les tarifs de transport.

Et donc, effectivement, c'est ce tableau-là que j'aimerais que vous consultiez. Oui?

Me HÉLÈNE SICARD :

Je vais trouver le tableau.

M. FRANÇOIS TANGUAY :

De toute façon, vous l'aurez dans les notes, là, comme je vous dis, j'attends quand même une réponse écrite. Ça va? O.k., donc partez de ce tableau-là avec ce qu'on se disait tout à l'heure par rapport à l'éventuel impact puis le lien avec la planification.

M. PHILIP RAPHALS :

R. Il faut oublier la réponse que j'ai donnée, ça ne donne rien.

M. FRANÇOIS TANGUAY :

Mon * hard drive + est paresseux, de toute façon. Alors, je répète, HQT-13, document 1.2, page 10 de 41. Merci. Et je préfère une réponse hâtive que longue.

ENGAGEMENT RENCREQ-4 : Produire un
commentaire plus élaboré
sur HQT-13, document 1.2,
page 10 de 41

Monsieur Raphals, voulez-vous venir à un micro une petite seconde?

224 Q. Vous dites que vous retirez votre réponse de tout à

l'heure, c'est parce que vous aviez, est-ce que
c'est, elle était vraiment loin de ce document-là?

M. PHILIP RAPHALS :

R. Ah, complètement. Je répondais concernant HQT-11,
documents 5, 5.1, 5.2.

225 Q. O.k., qui est, on le sait très bien, un autre
document.

R. Alors, s'il vous plaît, oubliez la réponse que
j'ai donnée tout à l'heure.

M. FRANÇOIS TANGUAY :

O.k., on l'oublie puis on reprend la question avec
cette référence, effectivement. Merci.

LE PRÉSIDENT :

Alors, Maître Durocher?

Me F. JEAN MOREL :

Si vous me permettez, Monsieur le Président,
j'aimerais déposer, en réponse à des engagements
pris précédemment par les témoins d'Hydro-Québec,
certaines réponses.

Premièrement, la réponse à l'engagement numéro 2
pris lors de l'audience par monsieur Régis, à
savoir si le document intitulé * Séparation
fonctionnelle des activités de transport des
activités de production et

de ventes en gros - Les normes de conduite et de procédures +; l'édition de mai quatre-vingt-dix-sept (97) avait été déposée, ou transmise à la FERC, la réponse est non, ce qui avait été transmis à la FERC en date du dix (10) mars quatre-vingt-dix-sept (97), par les procureurs de HQ Energy Services Inc., est bel et bien l'exhibit 3 que, j'ai une réponse écrite, en fait, que je suis en train de paraphraser, que je vais déposer comme pièce HQT-2, document 5.1, est bien l'exhibit 3, comme je disais, qui était joint à la lettre du cinq (5) mars des avocats Leboeuf, Lamb, Greene & MacRae de New York.

HQT-2, DOC. 5.1 : Réponse à l'engagement 2 pris
lors du témoignage de M. Régis

Me F. JEAN MOREL :

Également, en réponse à l'engagement numéro 16, et je tiens à le préciser puisqu'il semblerait que sur la page frontispice, qui s'intitule * Extrait du Plan de développement 1985 - Scénarios de développement d'équipements +, on n'a pas mentionné que c'était une réponse à l'engagement numéro 16.

Donc, je le précise, ça sera déposé comme la pièce HQT-2, document 2.2.2, et l'engagement se lisait ainsi :

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 & 2 PANEL 1
RNCREQ
Questions by M. François Tanguay

*Fournir, si disponibles, les
scénarios étudiés eu égard à la
construction de la liaison Radisson-
Nicolet*

Et j'avais moi-même indiqué que la preuve démontrait qu'une ligne à courant alternatif, une sixième ligne, avait été envisagée. Et on fait état, dans cet, l'extrait du Plan de développement 1985 que je dépose en ce moment, de scénarios qui avaient été envisagés au niveau de la production. Alors, c'est la pièce HQT-2, document 2.2.2.

HQT-2, DOC. 2.2.2 : Extrait du Plan de
développement 1985 - Scénarios
de développement d'équipements

Me F. JEAN MOREL :
Merci.

LE PRÉSIDENT :
Merci. Alors, Maître Durocher?

Me ANDRÉ DUROCHER :
Je voudrais présenter comme témoin monsieur Darrell Bishop. Mr. Bishop, could you please state your name and spell it, please?

MR. DARRELL BISHOP :

- A. Yes, my name is Darrell Bishop, D-A-R-R-E-L-L,
Bishop, B-I-S-H-O-P.

IN THE YEAR TWO THOUSAND AND ONE, on this
nineteenth (19th) day of May, PERSONALLY CAME AND
APPEARED:

DARRELL BISHOP, Director, Energy Marketing and
Fuels, New Brunswick Power, 515 King Street,
Fredericton, New Brunswick;

WHO, after having made a solemn affirmation, doth
depose and saith as follows:

EXAMINED BY Me ANDRÉ DUROCHER :

- 226 Q. Mr. Bishop, we have filed your c.v. in both French
and English, we have e-mailed it to the other
intervenors in the case and to the Régie. We would
like to file this c.v. as ENB, Exhibit ENB-1, if
we can file it, it is your c.v.?

- A. Yes.

ENB-1 : Curriculum vitae of Mr. Darrell Bishop

Me ANDRÉ DUROCHER :

- 227 Q. Also, we have your written testimony that is

contained in the document that was filed with the Régie in both French and English. Was it prepared under your direction and control and guidance?

MR. DARRELL BISHOP :

A. Yes, it was.

Me ANDRÉ DUROCHER :

So we would like to file the evidence of Mr. Darrell Bishop as exhibit ENB-2.

ENB-2 : Written evidence of Mr. Darrell Bishop

Me ANDRÉ DUROCHER :

228 Q. In addition, there were a series of questions that were put to you by the Régie and by Hydro-Québec in Interrogatory Request No. 1, dated March fourteenth (14th), two thousand one (2001), and you answered Question 4 - Régie, and 5 - Régie, is that right?

A. That is correct.

229 Q. Also there was an interrogatory request from Hydro-Québec No. 1, and you answered Questions HQ-3 and HQ-4, that is correct?

A. That is correct, yes.

230 Q. And these questions, and I think there was also another question put to you by RNCREQ?

A. RNCREQ, yes, there was.

231 Q. And it was the same basically as a question put to

you before by the Régie, is that right?

A. Exactly.

232 Q. So all these questions that you, were answered also under your preparation, or direction or control?

A. They were, yes.

233 Q. Do you have any corrections to make or any additions to any of these documents, be it your written testimony or the answers to the questions that were put to you?

A. I wish only to speak to Question 5 of the Régie. It in fact was a response to whether TransÉnergie had discounted tariffs, and I've responded original evidence that, no, that was incorrect, and having followed up to respond to the Régie's question, I would agree with the documentation on table that RNCREQ has put in that discounts were available, there was not much transacted with New Brunswick Power when they were available, but in the recent year in fact, the level of discount has gone down dramatically to where we have seen only a very small percentage at any point in time.

234 Q. Just a few questions of introduction before filing and asking you to adopt your whole report, could you explain to the members of the Régie how is the Province of New Brunswick linked to the Northeast power market?

A. The substantial link, the, in fact, the only synchronous AC link is via one three hundred and

forty-five thousand volt (345,000 V) connection with a capability of seven hundred megawatts (700 MW) through Maine, or into Maine, into the New England market. The only other route is through Hydro-Québec through DC stations at Heel River in New Brunswick and Madawaska in Quebec.

So that the ties are limited, certainly the capacity of the one-existing synchronous AC tie directly into Maine affords a north-south flow maximum of seven hundred megawatts (700 MW) but is restricted technically into to New Brunswick, and in fact into the Maritime Provinces, to very low numbers that can be zero or even negative from time to time, depending of technical conditions of the system.

235 Q. And the thrust and the gist of your testimony and the representations that are made by New Brunswick Power are that the proposed tariff is too high, that it impedes trade. Can you explain what type of transaction the tariff as proposed would block or impede?

A. There are two particular circumstances, and I will talk about production in New Brunswick or the Maritimes for delivery into Maine, that the seven hundred megawatt (700 MW) tie capacity to New England in fact does limit the amount of exports that can be made from New Brunswick and the Maritimes. The only other route, as I have indicated, is through Hydro

Québec into the New England or New York markets.

And the level of the tariff at the moment requires a large margin between production costs and market prices in order to afford a margin both to the producer, in this case New Brunswick, if it were with the producer, and the consumer at the wholesale level, whether in New York or New England.

Subsequently, with that, and in the other direction, in fact, when New Brunswick, in fact, desires to purchase electricity, because of the restriction on the existing synchronous tie from Maine, then Hydro Québec quite frankly is, I might use the term "the eight-hundred (800) pound gorilla" in this equation where it is the only route for energy into the Maritimes. And that has proven to be the case here on a few occasions in the last year and a half.

236 Q. For example, you said it has been proven in a few occasions, could you elaborate on that?

A. Yes, in December of two thousand (2000), I mean, in December just gone by, we had an outage of the nuclear station in New-Brunswick, that nuclear station is a six hundred and fifty megawatt (650 MW) station, and left the Maritimes, or left New-Brunswick short of electricity save for high-priced combustion turbines.

At that time, arrangement was made with a marketer for delivery of energy from New York to New Brunswick, and the only available route was in fact through the Hydro-Québec system. The tariff that was applied for, the discount was rejected and the marketer, and of course paid by New Brunswick in turn was required to pay full tariff through the Hydro-Québec system into New Brunswick. That, of course, made the electricity rather expensive.

237 Q. What type of transactions are you potentially interested in doing in the North-East power market?

A. We essentially have a little longer-term view in our transactions than Hydro-Québec Marketing has indicated to us. We have, and continue to want to do monthly high-cap sales into New England, high-cap is installed capacity and underpin it with energy flows into the New England market as well.

And in turn, with the capacity rating of a synchronous tie and the surpluses that are available in New-Brunswick during the off-peak or summer seasons, the amount of surpluses in fact will exceed that capacity. Our concern, of course, is that the level of the tariff will in fact impede the trade that we can do into the New England or New York markets.

(15 h 45)

238 Q. Coming back to your report dated March fourteenth

(14th), two thousand and one (2001), you adopt these documents as your testimony?

A. Yes, I do.

239 Q. And you are ready to be cross-examined on your evidence now?

A. Yes.

Me ANDRÉ DUROCHER :

Thank you, that is what I had to ask.

LE PRÉSIDENT :

Merci. Est-ce qu'il y a des questions de la part de Hydro-Québec.

Me F. JEAN MOREL :

Sous les thèmes 1 et 2, en voyant la preuve et de la façon dont elle a été séparée, je me suis vite rendu compte que la grande majorité, sinon la totalité, de mes questions portaient plutôt sur les sujets qui seront traités par l'autre témoin. Donc, selon l'entendement et la façon de procéder adoptée par la Régie, je reverrai sûrement le témoin lorsqu'il reviendra sur les autres thèmes. Merci.

LE PRÉSIDENT :

D'accord.

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 et 2 - PANEL 1
ENB POWER
Ex. by Me André Durocher

Me F. JEAN MOREL :

I will see you again.

LE PRÉSIDENT :

Est-ce qu'il y a des intervenants qui ont des questions à poser à monsieur Bishop? Aucune question. Est-ce que la Régie a des questions à poser?

Me PIERRE R. FORTIN:

Je n'ai pas de questions, Monsieur le président; effectivement, ça va être plus aux thèmes 5 et 6.

LE PRÉSIDENT :

Anthony?

M. ANTHONY FRAYNE :

Je pense que non.

LE PRÉSIDENT :

Parce que les sujets abordés réfèrent plus aux thèmes 5 et 6 qu'à la prévision de la demande.

M. ANTHONY FRAYNE :

Non, je n'ai pas de questions.

LE PRÉSIDENT :

D'accord. Alors, merci, Maître Durocher. Thank you. That is all for today. Alors, nous allons nous revoir

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 et 2 - PANEL 1
ENB POWER
Ex. by Me André Durocher

mardi matin, à huit heures trente (8 h 30). Alors, ça va être assez tôt. Je vous demande d'en prendre note parce qu'il n'y aura pas de rappel. Alors, nous serons prêts, nous, à huit heures trente (8 h 30) pour les deux journées marathon.

M. FRANÇOIS TANGUAY :

On va espérer que notre Président va être guéri, il en a besoin.

LE PRÉSIDENT :

Je fais tout pourtant. Alors, merci beaucoup.

SUSPENSION DE L'AUDIENCE

R-3401-98
17 avril 2001
Volume 9

THÈMES 1 et 2 - PANEL 1
ENB POWER
Ex. by Me André Durocher

Nous, soussignés, MICHEL DAIGNEAULT et
ODETTE GAGNON, sténographes officiels dûment
autorisés à pratiquer la sténographie officielle,
certifions sous notre serment d'office que les
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Et nous avons signé :

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MICHEL DAIGNEAULT

Sténographe officiel

ODETTE GAGNON

Sténographe officielle