

RÉGIE DE L'ÉNERGIE

HQT-HQD - DEMANDE D'APPROBATION
DU TAUX DE RENDEMENT DES CAPITAUX PROPRES ET
DU MÉCANISME DE RENDEMENT DES ÉCARTS DE RENDEMENT

DOSSIER : R-3842-2013

RÉGISSEURS : M. GILLES BOULIANNE, président
Me MARC TURGEON
M. PIERRE MÉTHÉ

AUDIENCE DU 1er NOVEMBRE 2013

VOLUME 5

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Sténographe officiel

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Me DOMINIQUE NEUMAN
procureur de Stratégies énergétiques et Association
québécoise de lutte contre la pollution
atmosphérique (SÉ/AQLPA);

Me HÉLÈNE SICARD
procureure de Union des consommateurs (UC).

TABLE DES MATIERES

	PAGE
LISTE DES ENGAGEMENTS	5
PRÉLIMINAIRES	6
PREUVE DE HQT D - PANEL 2 : TAUX DE RENDEMENT DES CAPITAUX PROPRES (suite)	7
JOHN P. TROGONOSKI	7
JAMES M. COYNE	7
GILLES GAUDREAU	7
STÉPHANE VERRET	7
FRANÇOIS G. HÉBERT	7
CROSS-EXAMINATION BY Me GUY SARAULT	8
INTERROGÉS PAR Me JEAN-FRANÇOIS OUIMETTE	170
CONTRE-INTERROGÉS PAR Me HÉLÈNE SICARD	175
RÉINTERROGÉS PAR ME ÉRIC DUNBERRY	185

LISTE DES ENGAGEMENTS

PAGE

E-4 HQTd: Provide a copy of the June twenty-seven (27), two thousand and thirteen (2013) letter of the BCUC referred to at page 5 of Dr. Coyne's additional testimony filed as HQTd-3, Document 2.1, and also provide a copy of the written response addressed by Concentric to the BCUC in response to the said letter

168

R-3842-2013
1er novembre 2013

- 6 -

L'AN DEUX MILLE TREIZE, ce premier (1er) jour du mois
de novembre :

PRÉLIMINAIRES

LA GREFFIÈRE :

Protocole d'ouverture. Audience du premier (1er)
novembre deux mille treize (2013), dossier R-3842-
2013. HQT-HQD - Demande d'approbation du taux de
rendement des capitaux propres et du mécanisme de
traitement des écarts de rendement.

Les régisseurs désignés dans ce dossier sont
monsieur Gilles Boulianne, président de la
formation, de même que maître Marc Turgeon et
monsieur Pierre Méthé.

Les procureurs de la Régie sont maître Hélène
Barriault et maître Jean-François Ouimette.
Poursuite de l'audience du trente et un (31)
octobre deux mille treize (2013).

Je demanderais par ailleurs aux parties de bien
vouloir s'identifier à chacune de leurs
interventions pour les fins de l'enregistrement.
Aussi auriez-vous l'obligeance de vous assurer que
votre cellulaire est fermé durant la tenue de
l'audience. Merci.

LE PRÉSIDENT :

Merci, Madame la greffière. Bon matin tout le monde. Bonjour, Maître Sarault. Vous êtes prêt à procéder au contre-interrogatoire?

Me GUY SARAULT :

Certainement, Monsieur le Président, Messieurs les régisseurs.

PREUVE DE HQT D - PANEL 2 : TAUX DE RENDEMENT DES
CAPITAUX PROPRES (suite)

L'an deux mille treize (2013), ce premier (1er) jour
du mois de novembre, ONT COMPARU :

JOHN P. TROGONOSKI,

JAMES M. COYNE,

GILLES GAUDREAU,

STÉPHANE VERRET,

FRANÇOIS G. HÉBERT,

LESQUELS témoignent sous la même affirmation
solennelle, déposent et disent :

(8 h 35)

CROSS-EXAMINATION BY Me GUY SARAULT :

My name is Guy Sarault, and I represent the industrial users; there's two groups, one is called the Association québécoise des consommateurs industriels d'électricité, and the other is the Conseil de l'industrie forestière du Québec, that groups mostly pulp and paper companies.

I'm going to address my questions mostly to the experts, so Mr. Coyne, Mr. Tronogoski. They're directed to you as a panel, so you have the right to respond as you wish. I suppose most of the answers will come from Mr. Coyne, but I just presume. If I may, I will go from general to particular just to, you know, some of my questions at the beginning might seem redundant but just to make sure we're all on the same page.

Q. [1] So just to clarify the big picture items, we have a recommendation for return on equity of nine point two percent (9.2%), and in the evidence filed corporately by the company Hydro-Québec, they propose to maintain the common equity ratio of HQT at thirty percent (30%) and that of HQD, Distribution, at thirty-five percent (35%). Can we consider that all of these elements are part of your own recommendation?

Mr. JAMES M. COYNE :

A. Our recommendation is specific to the cost of equity, but we endorse the company's proposal to leave its current capital structure as is. But that's the company's recommendation.

Q. [2] Buy you endorse it?

A. Yes, we do.

Q. [3] Okay, thank you. The summary of your results are at page 13, and also 110 of your report, and you also had a slide yesterday, I believe, in your PowerPoint presentation showing your summary results.

A. Yes, I have that in front of me.

Q. [4] Yes, so maybe for everyone's benefit, it would be a good idea to show the slide that we had yesterday, showing the summary of the results, is that too cumbersome?

A. No, I think we can manage that, and it's probably a good idea.

Q. [5] Because a lot of your slides yesterday were taken directly from your report, I gather, for some tables?

A. That's correct.

Q. [6] So...

A. That would be slide 16; it may take us a few

moments to...

Q. [7] No, it's okay, but I may as well start so we don't lose too much time. But your summary is divided into two sections, one is Capital Asset Pricing Model, at the top of the page, which you call your CAPM Reconciled, and at the second half of the page bottom, we have your Discounted Cash Flow results. And you have three different Discounted Cash Flow analyses -- Constant Growth, Sustainable Growth, Multi-Stage-- and you have that both for your Canadian Utility Proxy Group and your U.S. Electric Utility Proxy Group, correct?

A. That's correct.

Q. [8] And I note that your recommendation for a return on equity of nine point two percent (9.2%) corresponds to the lowest result of your Discounted Cash Flow analysis for the U.S. Electric Utility Proxy Group, correct?

A. That is correct.

Q. [9] I note that you did not, that your lowest result, the Sustainable Growth in the U.S. Electric Utility Proxy Group is the lowest result of all three DCF analyses, correct?

A. That is correct.

Q. [10] And I note that you did not conduct the same

analysis for your Canadian Utility Proxy Group, and I believe you said yesterday that you didn't have the required data available to perform that calculation?

A. That's correct, Value Line provides that data for the U.S. utilities, but I don't have it for the Canadian proxy group.

Q. [11] But isn't it possible to make, you know, yourself, you know, a home-made calculation for this test?

A. Well, that would trouble me, and that's one of the concerns I have with home-made calculations is that I would be imposing my judgement when I have market data. And recall that the reason I'm placing reliance on the U.S. proxy group is that, when we look at the operating characteristics of these companies, they're more like HQT&D than are the Canadian proxy companies.

(8 h 41)

So for me to take a less applicable proxy group and to begin to manufacture inputs in that way, I don't think would be of service to the Board in its deliberations.

Q. [12] But...

A. I would also note...

Q. [13] Sorry.

A. ... that, if I might, that if you look at the other results for the Canadian proxy group...

Q. [14] Uh, huh.

A. ... I would expect that those would have been higher than for the U.S. proxy group consistent with the others so it would have given me a number that would have been higher than those that I am currently endorsing.

Q. [15] Yes. However, if I look at your U.S. electric utility proxy group, I note that the sustainable growth result of nine point two percent (9.2%) is the only one below your average of nine forty-one percent (9.41%).

A. That's correct.

Q. [16] Okay. And it's also the lowest of all results. Could it be safe to assume that all else being equal, that had you perform a similar calculation for the Canadian utility proxy group, that in all probability it would also have been the lowest of all DCF results for that proxy group?

A. I can't say that, that would be speculation on my part. You can see that the multistage is at nine point three eight (9.38) which... So it would be a judgement that I really am not prepared to make.

Q. [17] Well, I mean, it's the same basic approach as the one you used for the U.S. utility proxy group, right?

A. Yes, but the inputs are different...

Q. [18] Conceptually.

A. But the inputs are different to sustainable growth that they are to the multistage.

Q. [19] I agree. That... I'm talking, you know, sustainable growth for a Canadian utility proxy group versus sustainable growth for U.S. utility proxy group. And we see that when you do it for the U.S. you end up with the lowest result of all of your DCFs. It's what I'm suggesting to you.

A. Well, I understand you're suggesting but without those inputs it would be speculation on my part.

Q. [20] Okay, fair enough. Now I'm going to move to pages 112 and 13 of your report.

A. I should note, we now have access to the slides so we can cross references as we need to.

Q. [21] Okay. Well, I'm going to read the excerpt. It's at the bottom, it starts at the bottom of the page 112, line 19, and I quote

Under current market conditions,
Concentric believes greater weight
should be given to the DCF model. The

average of the DCF method for the U.S. electric utility proxy group produces a relatively tight range of 9.20 percent to 9.58 percent, with an average of 9.41 percent. The Canadian DCF produces a range of 9.38 percent to 12.05 percent, averaging 10.71 percent. Placing more weight on the analytical results produced by the DCF model with U.S. proxy companies and selecting the lower end of the range due to the lack of generation risk (even though we have not made any offsetting adjustment for higher financial risk), the estimated cost of equity for HQD and HQT is 9.2 percent.

So you say you therefore placed primarily reliance on that figure of 9.2, which is the lowest result of your DCF analysis and which corresponds to the sustainable growth calculation, correct?

A. Well, I think your quote was accurate but you've characterized it slightly differently in your question. So would you kindly restate your question?

Q. [22] Well, I mean, the lowest, you know, you said

"selecting the lower end of the range". Well, the lower end of the range is the nine point two percent (9.2%) if we look at your table.

A. Yes, it is.

Q. [23] Okay. And that corresponds to the result of the sustainable growth analysis.

A. Yes, it does.

Q. [24] Okay. Now the proxies that you've used for purposes of this calculation or the six U.S. proxies that we see everywhere in your report, correct?

A. Yes, that is my proxy group.

Q. [25] Okay. And we see that at least two of those holdings, because they're holdings, correct?

A. The publically traded data, the market data, for the stocks are at the holding company level.

Q. [26] Correct.

A. The operational comparisons we've made are at the regulated utility level.

Q. [27] Uh, huh.

28 **4

(8 h 47)

Q. [29] But the six, when you say you have six proxies, those six companies are holdings, correct?

A. They're at the parent level, yes, correct. That's

for the stock that's traded. But I might add that, when we screen, we screen for companies that are primarily regulated, regulate electric utilities which gives us comfort in choosing the parent level company for proxy purposes.

Q. [30] And would it be correct to suggest that in those six U.S. proxies, if we look at the operating companies, that several of them, and I would even suggest most of them, are integrated companies that operate generation facilities?

A. We had that data specifically in response to data request. Some have none and some have generation as do the Canadian utilities in our proxy group as well.

Q. [31] I'm taking you to your exhibit JMC-4, Schedule 1 of your report.

A. Yes, I have that in front of me.

Q. [32] Okay. And it's entitled "Regulated Generation and Stranded Cost Recovery" and the second last column of your table, we see the words "regulated generation" and you have a choice of three answers : limited, yes or no. So, if we have "yes", it means that those companies own regulated generation, correct?

A. That's correct.

Q. [33] And if we see "no", it's the opposite, they don't?

A. That's correct.

Q. [34] And if we see "limited", could you expand on the exact meaning of "limited"? Is it half way between yes and no?

A. No, I believe not. Let me confer with Mr. Trogonoski but I believe our cut-off there was fifteen percent (15%).

Q. [35] Right.

A. Fifteen percent (15%) was our cut-off for limited.

Q. [36] Cut-off for what?

A. For regulated generation. That was our definition of limited and as if they had less, oh! excuse me. Let me explain. Less than fifteen percent (15%) of their net load was provided by owned generation in rate base.

Q. [37] Okay. And if I look at your U.S. proxy group, there is a lot of yesses, in that second to last column.

A. Yes, there are a lot of yesses and I would add that, we have additional information that I think is probably informative in that regard. We can look at the percents for each company, and let me just confer with John here in terms of where that is

because I think that might even be more informative on this issue... One moment please. We believe that's in response to, was it the Régie's question, 10.1? Okay, we believe it was in response to your data request, 10.1.

Q. [38] Hum, hum.

A. And there we actually have the percentages for each of these companies.

Q. [39] But we also see a percentage at the bottom of exhibit JMC-4, Schedule 1. For your U.S. proxy group, we see that seventy point twenty-eight percent (70.28%) do own regulated generation, so they are yesses, and that seventeen point seventy-eight percent (17.78%) own limited generation. Correct?

A. That's correct.

Q. [40] So, coming back to that nine point two percent (9.2%) result, it is correct to suggest that your calculation, that the utilities at the basis of your calculation, are those utilities for which there is a fairly significant proportion of generation, correct?

(8 h 52)

A. Well, I think the, if you look, and I would like to refer to this Table 10.1, because I think it's

probably the most accurate portrayal of their generation ownership. And can we bring that up on the screen... it's not there, well maybe we can just refer to it on the record, that's Response to Industrial Customers 10.1 ... is it possible to access that on the screen for all... or maybe we all have it in front of us... so it is in response to...

Q. [41] Well, the response itself, I mean, as I can see...

A. Well, there's an attachment to that response.

Q. [42] That's correct.

A. Yes.

Q. [43] Sorry, Mr. Stenographer, I was away from my microphone, I apologize.

A. And I think that that response is probably the most accurate portrayal of generation ownership in both proxy groups, because there, you can actually see the percentage of net energy for each of the operating subsidiaries in each of the proxy companies.

Q. [44] But the point I was, the general point I was trying to make here, coming back to my initial question that those companies at the source of your DCF calculation of sustainable growth leading to

your result of nine point two percent (9.2%) do own generation facilities, correct?

A. Some do, some do not.

Q. [45] That's right, in the proportions that we've seen?

A. Well, the proportions we've seen, you're going by...

Q. [46] ... and the percentage at JMC-4?

A. Right. Those percentages pertain to the numbers of customers who have associated with an operating company that own more than fifteen percent (15%) of generation. If you look to the response to 10.1, you can see that, of these companies, there are several that have no generation and then others that are in the middle, and then others that are nearly fully met by owned generation. And you can see that the same is exactly true for the Canadian proxy group, two of those, or three of those have no generation, and the remainder have some or near full.

So it's an issue, it's an issue throughout the industry that it's difficult to find a publicly-traded pure T&D company. So when we do cost-of-equity analyses, we screen for those companies that are best related to the target

company, and then we look to see if there are any adjustments that are necessary for their operating characteristics.

And as I indicated in opening remarks yesterday on this issue, that if we looked at the companies from the Value Line forty-eight (48) in the U.S. that are pure T&D companies, and we took them as a screen, they wouldn't pass the other screens we used, but their allowed rates of return were lower than those in the proxy group companies that we used, and ten point four eight (10.48) versus nine point seven 0 (9.70) for the pure T&D companies. And it's also the case that they had lower common equity ratios.

And to put this in perspective, we've done research on this issue, this isn't the only place that this comes up when we're looking at cost of equity for T&D companies, it also comes up for some in the U.S. We've done research for this over the two thousand and four/two thousand twelve (2004-2012) period, and the average allowed differential for a pure T&D company versus a company with generation ownership was forty-one (41) basis points.

So our view on this was that, if you were

to make an adjustment, that would be, at least that puts a perspective on it, but I would add that we have taken the very low end of the range of our results accommodating for that factor that we do have a pure T&D company. And it's also the case that we've made no adjustment for the fact that HQT & D have capital ratios that are well below those of the proxy companies.

So for those reasons, we felt that that was not... it was not necessary to make any adjustment for generation.

- Q. [47] But according to your own calculations, the required adjustment to reflect the risk of generation is of the order of forty-one (41) basis points?
- A. If one were looking at a, if one were looking at the centre of range, at the centre of range, off of that, one might look at a forty-one (41) basis point adjustment. But we're looking at the low end of the range, and I should say it would be the centre of the range with a comparable capital structure. And we weren't looking at either of those, we were looking at the low end of the range, and we were not looking at a comparable capital structure.

Q. [48] But considering that even your low end of the range of nine point two percent (9.2%) does include generation, if I were to make your adjustment, wouldn't your recommendation be eight point eight percent (8.8%)? Well, nine point two (9.2) less forty (40) basis points.

A. Well, you take...

Q. [49] That's arithmetic.

A. Well, you are ignoring my two prior statements. The low end of the range is to account for the fact that we do have a pure T&D company and now you are saying "Why aren't you taking the low end of the range and then make a further adjustment for generation." well, I think you are double counting and you've ignored what I've said about the capital...

Q. [50] I'm sorry, Mr. Coyne, I don't think we're on the same page here. Isn't it correct that the US proxy companies, at the basis of your sustainable growth DCF calculation of nine point two percent (9.2%) do have generation facilities? They operate generation facilities, yes or no?

A. The companies that I have run all of my methods for contain the same quantities of generation. The reason that we run US and Canadian proxy companies

using two different models is to look for a range of results. One wouldn't typically take the low or the high end of the range. Why I might not have taken the twelve point four eight percent (12.48%) Canadian result and adjust it from that, I don't think that would be fair and reasonable so...

Q. [51] My question is very simple.

Me ÉRIC DUNBERRY:

Let him complete.

Me GUY SARAULT:

Q. [52] I think he had completed it. Had you completed your answer?

A. Well, I was going to say that, you know, if I were to take the low end or the very high end, without any good reason to do so, and then to adjust from there, I think I am circumventing the very purpose of our analysis which is to show a reasonable range of results using multiple methods. The reason I have taken the low end of the range is for those two reasons, as I mentioned. A, we have a low risk company, this is a pure T&D company and that tells me that it's okay to go towards the lower end of my range. But to do that and make a further adjustment would be double counting.

Q. [53] But my question was a lot simpler than that,

Dr. Coyne, a lot simpler.

A. But my answer is more complicated.

Q. [54] It could be answered by yes or no. Isn't it correct that the six proxy companies at the basis of your DCF sustainable growth calculation do own and operate generation facilities, yes or no?

Me ÉRIC DUNBERRY :

Monsieur le Président, l'idée d'insister trois fois pour avoir un oui ou un non sans une réponse complète qui implique nécessairement certains éléments additionnels est une approche qui tient rarement la route. Monsieur Coyne a répondu complètement à cette question-là en apportant les éléments qui donnent une réponse complète à la question et le procureur de l'AQCIÉ recherche une réponse qui n'est pas celle que le témoin entend lui donner pour la simple et bonne raison que ça ne se répond pas par un simple oui ou un non.

Alors il peut bien insister aux fins de retrouver dans les notes sténographiques un oui ou un non pour ensuite le plaider, mais ce n'est pas comme ça que ça se produit habituellement, et encore moins dans des cas de questions techniques.

Me GUY SARAULT:

Q. [55] I think my question was extremely simple. I'm

just asking him whether the companies at the basis of this calculation do own and operate generation facilities and the answer is, or should obviously be yes, as indicated in his own exhibit JMC-4. That was my simple question and then he goes on a long answer ending up by saying that what we have here in front of us, talking about this calculation, is a pure T&D and it's not the case. That's my problem.

A. Let me see if I can correct any confusion there. I said that HQT and D are pure D&T companies, not the companies in the proxy groups. I have been clear that the companies in the proxy group in both, some of the companies in both the US and Canadian proxy groups, have generation assets and they are included in all my calculations and all my methods, including the sustainable growth.

Q. [56] Thank you. That makes it a lot clearer. And my next question is: if we were to make the generation adjustment from that nine point two (9.2%) arithmetically we would end up with eight point eight (8.8%), correct?

A. You could do that but I don't think that would be reasonable.

Q. [57] That's correct. Let's agree to disagree on

that point. Now turning to the CAPM. As we know, your recommendation is primarily based upon the results of your discounted cash flow analysis and more specifically those results on the basis of the US electric utility proxy group as opposed to the Canadian, correct?

(9 h 03)

A. Well, I think you've read the exact quote from my text...

Q. [58] Yes.

A. ... I'll refer back to that when I say that I placed greater weight, not prime, you've said primarily on, I placed greater weight on the DCF result.

Q. [59] Okay. Would you agree that primarily and greater weight are more or less synonyms?

A. No, I would not.

Q. [60] Okay. I will go for greater weight.

A. Thank you. Thank you.

Q. [61] Is it correct that therefore, you do not place any reliance on the results of your capital asset pricing model?

A. That would not be consistent with my prior answer. No. If I understand your question, if you'd kindly repeat it.

Q. [62] Do you place any reliance on the results of CAPM estimate for purposes of your recommendation?

A. Yes, I do.

Q. [63] And what is the percentage of reliance on the CAPM?

A. I don't do it mathematically. I do it by looking at the results of two. As I've explained in the testimony, I look for consistency between the two results. I'm looking for the results of one to be corroborated by the others and when they're not corroborated, I look for differences and reasons why. So I'm looking for one to reinforce the other and I make, as explained in the testimony, there are adjustments, and adjustments I make to the CAPM model.

Q. [64] May I say...

A. But at the end of the day, I place weight on both of them.

Q. [65] But when you say greater rate on the DCF analysis, could you define "greater"?

A. More than half would be one definition. But I don't do it in such a mathematical way. By that, I look at the, if you go back to, I think probably the most intuitively way to do this is to go back to look at slide... Well we still have it up there,

good. Slide 16. If you look at the range of results from the, you know, we... with great care, we chose the proxy group companies and, for the reasons we have described, we have found that the U.S. proxy group is more like HQT & D than those companies in the Canadian proxy group because they contain operations that are dissimilar to those of HydroQuébec T & D.

And if you look at the range of results that we get from the DCF from nine point 2 (9.2) to nine point five eight (9.58), they fall into a relatively tight band and this isn't the only case we do this in. We see a wide variety of CAPM and DCF results for various proxy groups, both on the gas side and the electric side. And these are about as tight as they get for us when we run this kind of cashflow models which is, as an analyst, that's important. And when we look at the number of adjustments that are required to every input to the CAPM model, in order to get what I would construe to be a reasonable result, it tells us that something is going on with CAPM that we need to be concerned with. And we need to be concerned with the level of risk-free rates, because of market conditions, we need to be concerned with Beta

because of where we've been with stock markets over the last several years and we need to be concerned with the market risk premium because we're not seeing, we're seeing issues in stock and equity markets that we've not seen for some time.

So, all parties in this proceeding that use the CAPM, and others we're seeing, increasingly need to make adjustments. The DCF's that I've run are run using market data. So, for that reason, I have more faith in them that they're giving me a clear align to an investor's perspective than that which I'm getting from the CAPM. So, for those reasons, I place greater weight on them.

Q. [66] You will need your earphones for my next question because I will quote from a decision rendered by the Régie in two thousand and eleven (2007) for Gaz Métro. It's decision D-2011-192 and I believe that you testified yesterday that you're very familiar with that decision, that you've read it many times.

Me ÉRIC DUNBERRY :

Alors, la référence est D-2011-182 et monsieur Coyne a référé à la décision de deux mille neuf (2009) de Gaz Métro.

Me GUY SARAULT :

Ah!

Me ÉRIC DUNBERRY :

Alors, pour corriger les deux hypothèses de mon collègue.

Me GUY SARAULT :

Q. [67] Have you read the two thousand and eleven (2011) decision?

Me ÉRIC DUNBERRY :

Do you have a copy Me Saraut? Me

GUY SARAULT :

This is publicly available. I have one copy here for me.

Me ÉRIC DUNBERRY :

Do you intend to use it? Me

GUY SARAULT :

No, I mean, I'm just asking him if he's ever read it and we'll start with that.

(9 h 08)

Mr. JAMES M. COYNE :

A. Yes, I have looked at the prior Gaz Métro decisions. I don't...

Q. [68] Including this one?

A. Can I see the decision you're speaking of?

Q. [69] It is more recent jurisprudence on the same

subjects. Almost two years ago. Q.

[70] 2011-182, correct?

Q. [71] Yes, dated November twenty-fifth (25th), two thousand and eleven (2011).

A. Yes. Yes, I have read that decision.

Q. [72] Thank you. So back to your earphones, I'm going to read in French, so I will hope that the translation will serve you right.

A. Could I at least ask you to direct me to where you're reading from, which paragraph?

Q. [73] Paragraphs 204 and 205. Do you have access to an English version of that decision?

A. I do.

Q. [74] Okay, but I'll read it in French so you can hear it at the same time and look at your own translation to make sure that we understand each other. Alors 204 :

[204] Quant au modèle AFM...

DCF en anglais pour la traduction,

... la Régie est d'avis que ce modèle comporte certaines difficultés pratiques, notamment quant à l'estimation du taux de croissance des dividendes des titres choisis. La Régie note que l'estimation du taux de

croissance des dividendes est prospective et qu'elle repose sur les prévisions des analystes financiers. La Régie note également que l'application de ce modèle se fait à partir de données américaines uniquement.

Paragraphe 205 :

[205] En regard de la preuve soumise, la Régie retient principalement aux fins de sa décision le MÉAF.

which is CAPM, in French,

Il s'agit de l'approche retenue dans ses décisions antérieures. Ce modèle est reconnu et utilisé tant dans les milieux de la finance que par la majorité des experts témoignant devant les organismes de réglementation.

Fin de la citation.

So we see in this recent decision that, contrary to you, the Régie "retient principalement", places primary reliance on CAPM versus DCF, and despite that, you come here with a recommendation placing more weight on the DCF, correct?

A. Well, I feel, I did not stop reading the Régie's

decision at paragraph 205, I also read paragraphs 206 and 207, and if I could, I would like to quote them if I might?

Q. [75] Sure.

A. [206] However...

and I take these as connected thoughts for that reason,

... the use of this model does entail difficulties which the Régie addresses in greater detail below.

[207] For reasons of caution, as no one model can perfectly reproduce investor expectations of return, the Régie will take into account, for the purpose of determining Gaz Métro's ROE, the results of the DCF model, despite the weaknesses noted above.

So I take those as connected thoughts.

Q. [76] You're absolutely right, and we see that in the Régie's decision, and we'll come back to this subject later, if I may, that they did make an adjustment for other models, adjustment in their conclusion. And you do also propose an adjustment of seventy-five (75) basis points for other models?

A. That's correct.

Q. [77] In your CAPM results.

A. As I said, we read this decision very carefully.

Q. [78] Yes. We'll come to your adjustment later on in the discussion -- stay tuned. I also note that you present Canadian DCF estimates but that you do not seem to place reliance on them, is that a fair assessment?

A. That's correct. They are, the proxy group is not as... is not as representative of HQT&D, and the results are over those that I get for more a representative proxy group. For those reasons, I did not give them weight.

Q. [79] So it's zero reliance for those?

A. I wouldn't say zero, because I look at, I mean, the reason we present these results is because I believe they're informative to us and I believe they're informative to the Board. I want to see as much reasonable market data as I can portrayed in the context of the ultimate recommendation. So I wouldn't say zero weight.

Q. [80] Close to zero then. Very little.

(9 h 14)

A. I look at them as being informative but not determinative.

Q. [81] Okay. Thank you. Coming back to your U.S. DCF

estimates, is it correct that the dividend yield is based on the US dollar dividend and the U.S. dollar stock price averaged over different periods, right?

A. You are referring to the U.S. proxy group?

Q. [82] Yes.

A. In the DCF results?

Q. [83] Yes.

A. Yes. Those are expressed in U.S. dollars.

Q. [84] So it's a U.S. dollar dividend yield?

A. That's correct. I might add that the U.S. dollar and the Canadian dollar move in close parity these days.

Q. [85] I'm aware of that. And the growth forecast, that's an average forecast for the U.S. samples, the U.S. dollars earnings, is that correct?

A. That's correct.

Q. [86] Either there is sustainable growth, their constant analyst growth forecast or the two stage or multistage based on ending U.S. GDP growth, right?

A. Yes.

Q. [87] So the growth rate at the basis of your calculation is U.S.-based as well?

A. Yes, it is. And that's one of the reasons why I compared it to the Canadian results to see if it

would give me a different answer and another reason why I used the CAPM model because I can put more Canadian data into a capital asset pricing model and as a result it's it serves for me as a test.

Q. [88] Uh, huh. So I take it that your U.S. DCF estimates are based a hundred percent (100%) on U.S. data?

A. That would be correct.

Q. [89] So there is no interest rate adjustment for, example, to take into account the differences and the level of interest rates between the countries or differences in the forecast inflation rate?

A. I have examined those factors and not found it necessary to make those adjustments but I would add that when you think about what we are calculating here, it's a percent return on a rate base so it's a percent return that an investor would require for investment in an electric utility and I think that percent return transfers very directly to either side of the border.

Q. [90] Thank you. I would now like to turn to capital structure, if I may, and I go to page 52 of your report. It starts with "As discussed in Appendix B", okay, line 10, at line 10. You see it?

A. I'm sorry, which page?

Q. [91] 52, line 10.

A. Is it possible for me, because I think this might be informative for the Board by the way to just append my prior answer concerning your question regarding inflation that if one looks at the consumer price forecast for the United States and Canada, you know, they are within close proximity to each other. And as I mentioned before, the GDP outlook for Canada is now stronger than it is, the GDP outlook for the U.S. is now stronger than it is for Canada so we looked at a host of macroeconomic factors that allowed us to make that decision but...

Q. [92] The decision not to make adjustments.

A. That it wasn't necessary.

Q. [93] That's right.

A. Yes.

Q. [94] So coming back to page 52 of your report, line 10, on the subject of capital structure.

A. Yes.

Q. [95] Okay? And I quote

As discussed in Appendix B, the equity ratios for HQD and HQT are somewhat lower than the deemed equity ratios for the operating divisions of the

Canadian proxy group, and are substantially lower than the authorized equity ratios of the U.S. electric utility proxy group.

The one that you use, right?

In order for HQD and HQT to have the opportunity to earn weighted compensatory equity return at their respective equity ratios as the U.S. electric utility proxy group at an average equity ratio of 50.2 percent, significant increases in the authorized ROE would be required to compensate for the difference in authorized capital structure. Using commonly-accepted methodologies, Concentric estimates that an adjustment to ROE of between approximately 1.50 percent and 3.00 percent would be warranted to compensate for a 15 to 20 percent decline in the common equity ratio from the U.S. proxy group average.

End of quotation.

(9 h 20)

As you know, and I'm... this is a subject that we've briefly discussed at the outset of my examination, HQ's evidence that you endorse, proposes to have an identical return on equity for both HQ Transport and HQ Distribution and to maintain their equity ratios at their respective levels of thirty percent (30%) and thirty-five percent (35%), correct?

A. It is... that's correct.

Me ÉRIC DUNBERRY :

Maintenant, simplement pour ne pas qu'il y ait encore d'ambiguïté dans le dossier, là, Hydro-Québec ne propose pas le maintien d'une structure de capital. Ça a été bien dit hier. Hydro-Québec a indiqué que cette question n'est pas à l'ordre du jour, que ce qui a été choisi et décidé c'est de présenter deux sujets, le taux de rendement et le mécanisme de traitement des écarts, les deux sujets qui ont fait l'objet de longs débats et qui ont d'ailleurs fait l'objet de décisions procédurales, et que la décision était de se concentrer sur ces deux sujets-là, et d'ailleurs monsieur Gaudreau a fait un commentaire spécifiquement sur ça. Alors, quand on dit qu'on propose le maintien, ce n'est simplement pas à l'ordre du jour. Il n'y a pas de

débat sur cette question-là. Il n'y a pas de preuve sur cette question-là. Il n'y a pas de recommandation sur cette question-là, c'est un sujet qui n'est pas discuté et pour lequel il n'y a pas de preuve. Alors je ne veux simplement pas qu'il y ait d'ambiguïté sur cet élément-là.

Me GUY SARAULT :

Maître Dunberry, pourriez-vous lire, s'il vous plaît, les deux lignes que j'ai soulignées en rouge dans le rapport de votre expert?

Me ÉRIC DUNBERRY :

Monsieur le Président, un procureur ne fait pas faire à un autre procureur ce genre d'exercice. Me GUY SARAULT :

Je vais vous le lire, moi. Me

ÉRIC DUNBERRY :

Alors je pense qu'il peut faire son travail, merci, Monsieur le Président.

Me GUY SARAULT :

... HQT and HQD are proposing to maintain their current deemed equity ratios of 35.0 percent and 30.0 percent, respectively.

End of quote.

Me ÉRIC DUNBERRY :

Monsieur le Président, on reviendra en ré-
interrogatoire pour éliminer toute ambiguïté. LE

PRÉSIDENT :

Merci, Maître Dunberry. Vous pouvez poursuivre,
Maître Sarault.

Me GUY SARAULT :

Oui.

Q. [96] Assuming, for purposes of my question, that
such is the proposal as endorsed by yourself, is it your
understanding that these differences in
capital structures and the deemed equity ratios for the
same ROE are, can be explained or are justified by the
risk, business risk differential between HQ
Transportation versus HQ Distribution?

Mr. JAMES M. COYNE :

A. I might ask you to break, it seems to me like there
are two questions here, if you would parse them
please?

Q. [97] Would you agree with me if I were to suggest
that keeping these different equity ratios while
having the same return on equity for both companies
is justified by the fact that the equity component,
the different equity component in each company can
be explained by differences in business risk?

A. If I understand your question, yes, the presumption is the differences in business risk is determined by the difference, or is accounted for in the difference in their allowed capital ratios, yes.

Q. [98] Okay.

A. These are the capital ratios originally set by the Régie in the original decisions for HQT&D, and at that time, they considered the risk differentials between the companies, and I'm assuming that those risk differentials are still relevant in our propos today.

Q. [99] Alright. So in order to dispel any possible confusion on this point, and you'll need the earphones, I'm going to read you an extract from HQ's evidence, HQT-1, Document 1, at page 21 of 27, and I quote,

L'utilisation d'un même taux de rendement des capitaux propres pour les deux divisions réglementées est justifiable du point de vue d'Hydro-Québec...

A. Pardon me, I hate to interrupt you, counsel, but can I get to where you are in the same document, just so I can read along?

Q. [100] Can you read French?

A. No, but I think I have -- is this the company's evidence?

Q. [101] Yes.

A. Okay, I would just like to get to read along in English, if I might.

Q. [102] Okay.

A. At which page?

Q. [103] Page 21 of 27, in French.

A. I hope that translates.

Q. [104] Often times, it can be longer in French. But the quote I have in my notes here is in French, so I will read it in French and you'll get, I hope, a good... Actually, my expert is handing me an English version of this evidence, and it would be at page 16.

A. And how does the paragraph begin?

Q. [105] Line 24, I'll read it to you out loud :

Use of the same ROE for both regulated divisions is justifiable from HydroQuébec's perspective by the fact that the use of different capital structures takes into account the risk differentiation of both regulated divisions. This way of doing things is not new and is specifically applied by

the Alberta Utilities Commission.

Is that your understanding as well?

A. I read that in English very much like that.

Q. [106] But is that, do you agree with the statement that they're making here?

A. Well, they make two statements, which?

Q. [107] Both of them.

A. Well, the first, they're saying the point of view is, from Hydro-Québec, that it accounts for the different capital structures due to the differentiation of risk between the two regulated divisions, I agree that that's the company's position, I agree with it. And they take note of the Alberta Utilities Commission, which also distinguishes on that risk basis; I agree with that. I don't think that's the final word on the topic but I agree that they do.

(9 h 26)

Q. [108] Perfect.

A. I would note that in Ontario, if one is looking for another comparison, that they set capital structures for all electric, regulated electrics, at forty percent (40%) without distinguishing between the risk of T&D so... There are other models out there but that is, that's true for

Alberta.

Q. [109] So do we agree that the fact that HQ Transportation has less common equity than HQ Distribution necessarily means that it has more debt and therefore a higher financial risk than HQ Distribution, correct?

A. That's correct.

Q. [110] If I'm coming back to the excerpt from your report at page 52 that we read together in which you were talking about an adjustment in order to compensate a higher financial risk, in your opinion could HQ Transportation pretend that it has more financial risk and therefore request a premium in its return on equity over that of HQ Distribution. Would that be justified to bring such an adjustment in HQ Transportation's return on equity versus HQ Distribution in order to offset the differences between their respective financial risk?

A. Well, again if I might, let me see if I can break your question down to its parts. Are you asking... Well, let me ask you if you would break, again, I think there are a few questions in there. Are you asking the question that one could account for differences in business risk in the capital equity ratios, is that at the heart of your question?

Q. [111] That was my previous question and you agreed with that.

A. Yes. Okay.

Q. [112] It's not my present question.

A. Alright, then take it slowly for me if you would.

Q. [113] I'll take it very slowly.

A. I appreciate that.

Q. [114] You know, if we re-read together your logic at page 52 of your report, and we know that your US proxies have on average a common equity ratio of fifty percent (50%), roughly twenty (20) points over and above that of HQT and HQD, right?

A. That's correct, we can see those numbers on the screen.

Q. [115] Okay. And you suggest, and I'll repeat the quote, as to this adjustment that you think would be justified,

In order for HQD and HQT to have the opportunity to earn weighted compensatory equity return at their respective equity ratios as the U.S. electric utility proxy group at an average equity ratio of 50 percent, significant increases in the authorized return on equity would be

required to compensate for the
difference in authorized capital
structure.

So you are suggesting here that higher financial risk, because they have less equity ratio, would justify adjustments, upward adjustments, in their return on equity. That's what you are saying.

A. It could, yes. But we have not requested such an adjustment.

Q. [116] So if I want to push your logic to its limit then HQT, having a higher financial risk on account of its lower equity ratio, should say, "Well, I need to have an adjustment upward in my return on equity in comparison to HQ Distribution because I have a higher financial risk." That's exactly what you are suggesting at page 52, it's the same logic, Sir.

A. Unless that financial risk was offset by a difference in business risk.

Q. [117] Correct. We both agree.

A. But I'm not suggesting such an adjustment be made so you are pushing my logic, but I'll go that far with you.

Q. [118] But if the differences in capital structure are justified by differences in business risk, then

an upward adjustment in ROE would be double counting, right?

A. If they were offset by differences in business risk...

Q. [119] Correct.

A. ... there would be no need to adjust ROE.

Q. [120] Yes, that's right. And the adjustment would become double counting.

A. Well, it wouldn't be necessary.

Q. [121] That's right, would not be necessary.

A. If it were offset by a business risk, that's correct.

(9 h 30)

Q. [122] Okay. And in the case of Hydro-Québec, we both agree that the fact of the matter is that these different equity ratios are justified by different business risks?

R. Difference of five percent (5%) between them.

Q. [123] Yes.

R. I'm not suggesting the fifteen (15%) to twenty percent (20%) is justified.

Q. [124] Correct.

R. Yes. And I would add that, I'm deferring to the Régie's two things. One to their initial judgment concerning the business risk between the two and

also to judgments that other Canadian regulators made in that regard as well.

Q. [125] What did you... I didn't understand the last sentence. That was a little quick.

R. Judgments that other Canadian regulators have made as well.

Q. [126] To what effect?

R. To differences in risk between T and D.

Q. [127] Yes, the transmission is usually considered as less risky than distribution?

R. Correct.

Q. [128] Okay. Would you agree that it's common for Canadian regulators to adjust capital structure to account for differences in business risk?

R. It is common practice.

Q. [129] Would you agree that for some, they use exclusively capital structure to adjust for business risk while others adjust for business risk through both capital structure and return on equity? Would that be fair?

R. It is true that I do see both although it's much more commonly the case that Canadian regulators adjust for business risk in the capital structure.

Q. [130] Okay. Thank you. Are you aware of any Canadian regulator that does not take the business

risk of the utility into account in determining its deemed common equity ratio?

R. Yes.

Q. [131] Which one?

R. Newfoundland and Labrador I would say would probably be one. We also see, I think of that in Manitoba.

Q. [132] I'll leave that to Dr. Booth to comment. Thank you. What about the practice in the United States? I mean, do most of the regulators follow the same practice to take business risk into account for purposes of determining deemed equity ratio?

R. They do.

Q. [133] Yes? So, is it fair to assume that the regulators in the United States who approved the deemed common equity ratios that we see for your US proxy group, have taken their business risk into account in order to arrive at those figures?

R. What they commonly do, and we provided an extensive amount of testimony in the US on cost of capital including capital structure, is they look to evidence of comparable companies and their capital structures. As they also attempt to satisfy the fair return standard, they look to capital

structure as a measure that these companies will be on comparable footing to their peers in terms of raising capital and they understand that capital structure is an important measure of the financial integrity of the firm.

So, it's typical for us to present a comparability profile of other utilities when we're presenting cost of capital when capital structure is an element that's on the table for discussion. So they look to peer groups for evidence that the company that they're regulating, usually taking into account a host of factors, including credit rating and credit metrics, the kinds of things that we talk about here are suitable for them to remain within the range for the proxy group companies and then if they see elements of business risk that differentiate them from their proxy group, they may have an aggressive capital spending plan during financial times that weren't more cautious balance sheets. I've seen regulators that have encouraged and asked utilities, or ordered them to have more equity on their balance sheets and others less to bring them back in line with what they deem to be a fair and reasonable capital structure. So, it's, I think that's a correct description of how it's

accomplished. But business risk is an element of the consideration and there's a strong, again there's a strong comparison associated with the two proxy group companies.

Q. [134] So, it's fair to assume that regulators, such as those approving the deemed common equity ratio of your proxies, of your US proxies, if they come to the conclusion that the given utility has a higher business risk, the likelihood will be that they will approve a higher common equity ratio in the capital structure?

R. They will look to peer group companies to establish a base line and then they will judge the target company relationship to the peer group and consider business risk as well as financial risk in making those determinations.

(9 h 38)

Q. [135] Taking, coming back to Canada and taking the example of the National Energy Board, are you aware of the famous, or infamous, ruling, RH-2-94, in which the Board established a return on equity adjustment methodology and also set different common-equity ratios for different types of pipelines, and I think at the time it was thirty percent (30%) for the main line, thirty-five

percent (35%) for West Coast, and forty-five percent (45%) for liquid oil pipelines; does that trigger any memory?

A. Yes.

Q. [136] It does. And to the best of your recollection, were those different common-equity ratios set at those levels in order to account for differences in business risk?

A. I would have to bring the decision up before me to make that judgement.

Q. [137] But to the best of your recollection?

A. I quite honestly would want to look at the page that had the articulated... I wouldn't mind taking the time to do that, but I'd just feel better having it in front of me.

Q. [138] Coming back to the Alberta Utilities Commission, were you aware that they have, or had, a policy to adjust for business risk differences exclusively with different common-equity ratios so all the utilities would have different common-equity ratios but they would have the same ROE?

A. I think that's a fair description, it's similar to the practice we see in Ontario, where business risk is adjusted for the capital structure, but they have the same ROE.

Q. [139] Assuming, for purposes of my question, that a higher business risk normally justifies a higher equity ratio as an offsetting measure, would you agree that, all else being equal, the much higher average equity ratio of around fifty percent (50%) of your six US proxies with equivalent or lower credit ratings, in comparison to the equity ratios of HQT, at thirty percent (30%), and HQD, at thirty-five percent (35%), necessarily means that the market perception is that the business and regulatory risks of your US proxies is a lot higher than the business and regulatory risks of both HQT and HQD?

A. That would be a false presumption, and I would like to explain in great detail why that would be so. First, let me speak to HQD & T. As we recall, these capital structures were set by the Régie in its initial decisions more than ten (10) years ago, and at that point in time, this was new out-of-the-box regulation for these two companies, and much has occurred both in the electric industry and financial markets in that period of time. We've seen, as a result of that, we've seen an evolution of a formula that the Régie adopted in that period of time, tied to the Canadian risk-free

rate. And over time, that ROE has deviated substantially from ROE awards by the Canadian utilities, not the US electric utilities, we've seen other jurisdictions where the same has been the case.

In the US, the comparisons we're making are today, and the results of capital structures and ROEs are the result of litigated proceedings with substantial evidence provided over the last ten (10) years accounting for these fundamental shifts in the industry and in financial markets.

So I don't think it would be fair to presume that at all, I think it would be a fairer presumption that we have a data base of litigated returns and proceedings in both Canadian and US jurisdictions that have occurred since then that have recalibrated capital structures and ROEs based on current market conditions. And we haven't had that opportunity in Quebec.

Q. [140] Okay, well let me simplify...

A. For HQT & D, I would add.

Q. [141] Let me simplify my question and keep it at a conceptual level. We have Utility A, with a capital structure of fifty percent (50%), okay, and a credit rating of A-, alright?

A. I'm with you.

Q. [142] On one side.

A. Okay.

Q. [143] And we have Utility B, with a capital structure of thirty percent (30%), that's twenty percent (20%) less.

A. And thirty percent (30%) debtor equity.

Q. [144] Equity, equity against equity, one with fifty percent (50%) equity and one with thirty percent (30%) equity. And Utility B and we have Utility B, with a capital structure of thirty percent (30%), that's twenty percent (20%) less.

(9 h 44)

A. And thirty percent (30%) debtor equity.

Q. [145] Equity, equity against equity, one with fifty percent (50%) equity and one with thirty percent (30%) equity. And Utility B...

A. And -- I'm sorry -- what was your rating for the second company?

Q. [146] The first company was A-.

A. And the second?

Q. [147] Let's, for purposes of discussion, say AAB.

A. AAB?

Q. [148] Aa2.

A. Aa2.

Q. [149] Aa2, which is higher than A-, we both agree?

A. You've given me an S&P rating and a Moody's rating,
I'm...

Q. [150] Okay, let's say that...

A. ... I wish we could stick to one.

Q. [151] ... Utility B is AA.

A. Okay.

Q. [152] Okay, versus A- for Utility A.

A. I'm now with you.

Q. [153] So let's repeat our comparison -- thirty percent (30%)... fifty percent (50%) equity ratio, A- credit rating; B, thirty percent (30%) equity ratio, AA credit rating. All else being equal, conceptually, doesn't this necessarily mean that the market perception is that Utility A is a lot riskier than Utility B?

A. Well, I don't want to take your broad premise too far, you've given me two different credit ratings, and I would agree that the second company, with the AA credit rating is a signal from that rating agency that it is lower risk. And it could be lower risk... it could be lower risk financially, although it has less equity in its balance sheet, that's not the only thing that they factor in, they look at cash flow, relationships, etc.

So you're asking me to take a very basic premise I think a little bit far, but I would say that, at least on the first point, from a creditrating standpoint, they're saying that Utility B is lower risk, but it's a host of factors, it's business risk, it's financial risk, there's a whole lot that goes into that. So I wouldn't want to go farther than that with your example.

Q. [154] No, what I was trying to do is to isolate two factor -- common-equity ratio in the capital structure and credit rating. And there was, if you remember my question, an "all else being equal" in the comparison, right?

A. Okay, all else being equal, except for the capital structure?

Q. [155] And the ending result for the credit rating.

A. And your question is?

Q. [156] That Utility A, with a fifty percent (50%) equity ratio and a lower credit rating of A-, is necessarily perceived my markets to be riskier than Utility B, in Finance 101.

A. From a debt perspective, yes, I would agree with that.

Q. [157] Thank you. Is it also your understanding that the policy of several Canadian regulators is to

change the capital structure only when they perceive a significant change in the business risk profile, since the last determination?

A. It varies across the board, depending upon provinces who have seen a number of generic proceedings where ROE and capital structure are considered together, sometimes there's a generic proceeding on ROE followed by individual proceedings on capital structure of the individual utilities. So I wouldn't generalize quite at the extent that you have.

Q. [158] Okay.

A. But I am aware that some look at capital structure, that look at changes in business risk over time as an element of reviewing whether or not it's necessary to change the capital structure.

Q. [159] Well, I will take an example that you should be very familiar with, do you remember having participated, I believe in two thousand twelve (2012), in a cost-of-capital hearing for Enbridge before the Ontario Energy Board?

A. Yes.

Q. [160] And Dr. Booth was there as well?

A. Yes, I do. I referred to it yesterday.

(9 h 50)

Q. [161] Okay. And in that hearing, I've been told by Dr. Booth, that you indicated that the fair return standard required that both the capital structure and the fair return on equity be jointly determined in every year. Is that correct?

A. Well, are you reading from a specific...

Me ÉRIC DUNBERRY :

Monsieur le Président, peut-être encore une fois, et ce n'est pas la première fois qu'on pourrait permettre au témoin d'avoir le document auquel on réfère? Quand on prépare un contre-interrogatoire habituellement, on arrive avec ce genre de documents pour justement éviter de se faire rappeler... Il est toujours préférable de permettre au témoin de lire avec lui-même. Alors, c'est un extrait qui est dans les notes de mon confrère, qu'il s'apprête à lire. Alors, je vais lui permettre de poser la question dans la mesure où le témoin, qui le requiert d'ailleurs, a une copie du document. Il y a peut-être un paragraphe, comme on a vu tantôt, juste en haut ou juste en bas qui devrait également être ajouté.

LE PRÉSIDENT :

Vous n'avez pas de copie?

Me GUY SARAULT :

Q. [162] The question is a general question and if he remembers, he does, that's fine. I just, I'm asking him whether he proposed that when he appeared. If he does remember it, fine, if he doesn't, he just has to tell me that he doesn't remember and then I'll cover the subject with Dr. Booth. That's simple.

Me ÉRIC DUNBERRY :

Monsieur le Président, je pense que le témoin a déjà demandé si c'était possible de voir une copie du document. On pourra à la pause lui fournir la copie. Je ne m'objecte pas à la question. C'est une question d'équité pour le témoin. C'est une approche assez simple, là. Habituellement, c'est ce qu'on permet au témoin de faire. Alors, qu'il pose sa question après la pause lorsqu'on aura pu, peut-être récupérer le document. Il en a certainement une copie, il a des extraits dans ses notes.

Me GUY SARAULT :

I'm not asking the witness to read from the decision. I'm just asking him if he remembers it, whether he proposed what I just described. I mean, it's one year ago and that's a very simple proposal. If he doesn't remember, fair enough! I'll

accept the answer and I'll move on to something else. I don't have the document with me and it's not necessarily, you know, reproduced as such in the decision as to exactly what he proposed.

Me ÉRIC DUNBERRY :

Monsieur le Président, je ne veux pas faire de procédurite, là, ici mais, ce qui se passe, là, je vais vous expliquer un petit peu ce qui se passe dans la mesure où mon confrère veut simplement lire dans la transcription une déclaration que monsieur Coyne aurait fait pour ensuite lui faire dire qu'il ne s'en rappelle pas et la déclaration aurait été transcrite dans la transcription et le docteur Booth dira que lui s'en rappelle. Et voilà l'approche qu'on utilise ici. Je trouve ça complètement inacceptable.

(9 h 52)

Ce n'est pas des choses qu'on fait quand on contre-interroge un témoin. J'invite mon collègue à obtenir copie du document qu'il a, de toute façon, il en a une copie. Il cite lui-même. Il le lit. Et on pourra le déposer. Peut-être que c'est un document qui est assujetti à une entente de confidentialité. Je n'en ai aucune idée. Alors, pour ces raisons-là, je vous demanderais simplement

qu'on passe à la question suivante ou qu'on reporte la question lorsque le document aura été soumis, qu'on aura pu vérifier.

LE PRÉSIDENT :

D'accord, Maître Dunberry. Maître Sarault, j'ai bien compris que vous n'aviez pas le document. Êtes-vous capable de le retrouver d'ici la pause, j'imagine?

Me GUY SARAULT :

Docteur Booth est en train de regarder ça. LE

PRÉSIDENT :

Merci, Maître Sarault. Vous pouvez poursuivre. Me

GUY SARAULT :

Je vais vous revenir en temps et lieu, si nécessaire.

LE PRÉSIDENT :

Maître Sarault, on va en profiter pendant cette petite pause. Est-ce que vous en avez encore pour... Comment vous estimez le reste?

Me GUY SARAULT :

Je suis rendu... Bien, là, on vient de sauter. J'ai mis un petit drapeau vert. Je ne sais pas si je vais revenir. Je vais en parler avec le docteur Booth. Lui, il va en parler en tout cas. Ça fait l'objet du texte de l'Appendix E de son rapport.

Oui, effectivement, si on veut prendre une pause, c'est un bon moment.

LE PRÉSIDENT :

Donc, la Régie va prendre une pause quinze (15) minutes. De retour à dix heures dix (10 h 10).

SUSPENSION DE L'AUDIENCE

REPRISE DE L'AUDIENCE LE

PRÉSIDENT :

On peut poursuivre, Maître Sarault? Me

GUY SARAULT :

Oui.

(10 h 11)

I would like to bring your attention to Appendix E to Dr. Booth's testimony.

A. I have that.

Q. [163] I would like you to go to page 11. Well, before I submit any question, can I take for granted that you did read this appendix?

A. I did read Dr. Booth's testimony, yes, including his appendices.

Q. [164] I'm sorry?

A. Yes, I did.

Q. [165] Thank you. So in the second paragraph, at page 11, Dr. Booth states, and I quote

I have also recently been involved in three hearings into the business risk of natural gas distribution utilities.

The first proceeding that he then talks about led to a Union Gas decision by the OEB, decision EB 2011-0210. Were you personally involved in that proceeding?

A. I was not.

Q. [166] Are you personally knowledgeable about the decision issued by the Board?

A. I read it at one point in time but it's been some time.

Q. [167] Okay. The second proceeding that Dr. Booth talks about at the bottom of page 11 concerns Enbridge, leading to a decision EB-2011-0354. Do you see that at the bottom of page 11?

A. I do.

Q. [168] And he talks about you in that proceeding. Did you in fact participate in that proceeding?

A. Yes, I did.

Q. [169] You did. And you are aware of the decision?

A. Yes, I am.

Q. [170] Okay. And the third proceeding that he talks about is at page 12, in the middle of the page. It's a proceeding before the BCUC leading to a

decision G-20-12. Do you see that?

A. I do.

Q. [171] Did you participate in that proceeding in particular?

A. I believe this was the generic proceeding and I was involved, my role there was different, I was involved in terms of making a recommendation pertaining to automatic adjustment formulas. I did not file cost of capital testimony there.

Q. [172] Okay. But are you aware of the decision referred to?

A. I am aware of it, yes.

Q. [173] Yes? You read it?

A. Yes. I did not... I did not read every word of it but I read the parts that were most germane to my work.

Q. [174] Great. And at the bottom of page 12, and this will lead to my question, he says, rightly or wrongly

The conclusions I draw from these recent decisions are twofold.

And I'll stick just to the first conclusion.

First, they confirm that the appropriate base for determining a capital structure change is a change

in the business risk faced by the
utility since the last decision order.

End of quote. Do you agree or disagree with Dr.
Booth's assertion as a matter of principle?

- A. I find that capital structure and ROE both pertain to the allowed cost of capital for regulated utility. Regulators in Canada, especially sometimes look at the change in risk over time, especially those in a province such as Ontario where they're regulating over sixty (60) electric utilities, multiple gas companies. They perceive it as being efficient from a regulatory perspective so that they don't have to change capital structure each time to look for a change in business risk as an indication that it's an appropriate time to change capital structure. So from a regulatory perspective, I understand this. From a financial theory perspective, or even a fair return standard, one wouldn't find that premiss included there.

(10 h 17)

So it's an element of regulatory efficiency that's adopted by some regulators.

- Q. [175] But you... okay, so you find it sound from a regulatory policy perspective but not sound from a financial theory perspective?

A. I find it limiting from a financial theory perspective, and I find evidence of it used by some regulators as a trade-off for regulatory efficiency, versus the cost of proceedings such as this one, that can be costly for consumers and for the Board, etc. So it's a compromise, it's not based in financial theory.

Q. [176] I would like now, basically on the same subject of, you know, taking the evolution of the business risk into account for purposes of decision-making by regulators, I refer you to Exhibit HQTD-5, Document 1, page 28 of 111; it's your response to Régie Question 8.1.

A. Do you know if that was the first set or the second set?

Q. [177] It's HQTD-5, Document 1... hold on a second... it's dated October ten (10) of this year.

A. I believe I have that in front of me.

Me GUY SARAULT :

Hold on a second, I may have made a mistake here.

Monsieur le Président... je voudrais juste signaler en passant que ma confusion est la suivante, c'est que c'est effectivement une pièce HQTD-5, Document 1, qui était originalement du quatre (4) octobre mais qui a été révisée au onze (11) octobre, O.K.,

et c'est la question 8.1.

Q. [178] Sorry for that, because the exhibit I had on paper here does not correspond with what I had on my computer. When I prepared my notes, I had the later version on my computer. Okay. So the question was, and it's in French so...

A. May I ask which exhibit are we on?

Q. [179] HQT-5, Document 1, revised version of October eleven (11), two thousand and thirteen (2013).

A. And which question number?

Q. [180] 8.1.

A. And this is the response, it begins with,

As discussed in response to Request
7.1...

Q. [181] Correct.

A. Okay.

Q. [182] Alright, so are we on the same page?

A. Yes.

Q. [183] And the question, and I'll read it in French, and I see you're wearing your earphones, so we're good :

Étant donné que le nombre de comptes d'écartés a augmenté au fil des années entre 2003 et 2013, peut-on considérer

que, de ce point de vue, le risque d'affaires d'HQTD a diminué depuis la fixation initiale des paramètres permettant de fixer le TRCP d'HQTD, en 2002-2003?

So the, what they're saying in essence is that, the introduction of variance and deferral accounts since two thousand and two (2002) and two thousand and three (2003) would have reduced the business risk of Hydro-Québec and that, therefore, this should be taken into account. And you say, in your answer,

As discussed in response to Request 7.1, the important question for investors is not whether HQD and HQT have more or less risk protection mechanisms in 2013 than in 2002. Rather, the important consideration is how HQD's and HQT's business and financial risk compares to the other companies in the proxy group.

Correct?

A. Yes.

Q. [184] So that's your position. So what you're saying in essence is that, as far as you're

concerned, the evolution in the risk of Hydro-Québec, since two thousand and two (2002), two thousand three (2003), is not relevant for purposes of your analysis?

(10 h 24)

A. That's not what I've said.

Q. [185] Okay then...

A. Would you like me to elaborate?

Q. [186] Absolutely.

A. The view that we have, as expressed there, is that our job here is to establish, with a rigorous analysis, the appropriate ROE of HQT & D and in doing so, we take an investor's perspective because that's the requirement of the fair return standard. And the ROE is a forward looking concept. What would an investor require today. These are rates that would take place on Janua... if this is implemented as proposed, my understanding is that this would come into effect January one (1), twenty fourteen (2014).

Q. [187] Correct.

A. So, this needs to be a forward looking rate of return for an equity investor in order to satisfy the fair return standard. So, while it may be interesting and informative to look at the

historical evolution of the companies, that would not be determinative of a forward looking ROE from an investor's perspective. So that's our primary focus.

Q. [188] Okay. Then you carry on in your answer by saying, "While it is true that HQD and HQT have more deferral in variance accounts today than in two thousand two (2002)" full stop. I'll stop here for purposes of my question. Would you agree with me if I were to suggest to you that the fact that they do have more deferral in variance accounts today would make them less risky than ten years ago?

A. No. I would not. Deferral in variance accounts are a measure that can moderate risk for the utility but, in order to make that determination, you would need, if you wanted to look at the entirety of the evolution, you would look at more than that. The comparison that we make is to other utilities and we do compare them in terms of their deferral in variance accounts because that's how an investor would look at them. They wouldn't look at, it's the house example that I used yesterday. They wouldn't look at the evolution of that house over the last ten (10) years. They would look at that house

versus others in similar neighbourhoods. That would be an appropriate perspective from an investor's stand point. So, we have done a rigorous analysis which compares HQT & D's variance in deferral accounts versus other utilities in the proxy group, which is an informed view that an investor would take.

Q. [189] Okay, let me keep my question at the conceptual level and, let's take utility A and utility A has no deferral, nor any variance account. Nothing. Okay?

A. Okay.

Q. [190] And utility B has all of the variance and deferral accounts that HQD, for example, has today, in two thousand and thirteen (2013). All else being equal, and I insist on all else being equal, would you consider utility B to be less risky than utility A?

A. Truly, all else being equal, my answer would be yes.

Q. [191] Thank you.

A. And you're comparing A to B today, not a historical comparison but today?

Q. [192] Today.

A. Yes.

Q. [193] Further down...

A. Could I ask for a moment while I consult with my panel?

Q. [194] Sure.

A. We can proceed. Thank you.

Q. [195] Thank you. Further down in the same answer, you say, and I quote "In order to evaluate the comparability of the Canadian and U.S. proxy groups, Concentric has examined the business and financial risks of each operating company relative to those of HQD and HQT." Correct?

A. Yes.

Q. [196] Assuming that for purposes of my question at a conceptual level, that the Régie would come to the conclusion that HQD and HQT have better regulatory protection than your U.S. proxies, would this factor alone militate in favour of a lower ROE?

A. The premise of your question is if the Régie decided that they had lower risk, lower business risk, financial risk?

(10 h 30)

Q. [197] Better regulatory protection, lesser regulatory risk than the proxy group companies.

Q. [198] Than the proxy group companies.

A. If they were to make that decision, yes. Okay? Then the second part of your question?

Q. [199] I'm asking you whether this finding would constitute one element favouring a lower rate of return.

A. Well, as we discussed, the difference, if they were to reach that conclusion, you know, risk has three elements: there's business risk, that's a part of the business risk.

Q. [200] Uh, huh.

A. But there's also financial risk and both of those relate to the allowed cost of equity. I would hope that the Régie would also consider... That, of course, is not the result of our analysis for HQD and T versus the proxy groups, I would say, at the outset but they should also consider the difference in capital structure between HQD and T and the proxy groups. And...

Q. [201] We covered that earlier on.

A. We have. But you can't view them in isolation.

Q. [202] No. But we're looking at individual elements and trying to assess their respective influence into the global decision making process leading to a return on equity.

A. But if the presumption is all else is equal, it's

not in this case.

Q. [203] Uh, huh.

A. We have capital structures that are lower than...

Q. [204] Much lower.

A. Much lower, thank you, than other Canadian utilities and US utilities so that's not equal in that sense.

Q. [205] You are aware that the Régie not only has a jurisdiction to oversee the regulation HQ Transmission and HQ Distribution, but it also oversees the regulation of a natural gas distributor called Gaz Métropolitain.

A. I am, under the Act. I understand that so.

Q. [206] Uh, huh. And I understand that you read decisions on cost of capital pertaining to Gaz Métropolitain.

A. I have.

Q. [207] Okay. So...

A. I have also submitted evidence on behalf of Gaz Métro pertaining to cost of capital.

Q. [208] That's right. You read my mind. So knowing all of this, would you consider Gaz Métro to be riskier than HQ Transmission? In your professional opinion. I'm suggesting...

A. Yes.

Q. [209] ... to you that it is.

A. I understand that. Yes, I would.

Q. [210] You would?

A. Yes.

Q. [211] Would you consider Gaz Métro overall to be riskier than HQ Distribution?

A. Nominally so.

Q. [212] Nominally? Could you quantify nominally?

A. I have not attempted to qualify nominally but... I could describe the basis for my answer.

Q. [213] Yes, please.

A. Okay. They're both from the distribution business and as a result of that they have essentially the same business models, you know, their role is to hook up and serve customers and to provide them supply and that supply comes from other sources that they acquire through contracts and otherwise. I know that, in the past, gas distributors both in Canada and the US have been found to be riskier and a lot of that has had to do...

Q. [214] Riskier than electric distribution?

A. Distribution, yes.

Q. [215] Correct.

A. And a lot of that has had to do with price competition between the fuels so, for example, when

the Régie first set the capital structure for HQD back in two thousand two (2002) I believe it was, we faced a very different price regime that we're seeing today. So what we've seen is an evolution over time of gas prices, for example, versus electric, that have brought them closer together from a competitive balance standpoint. So I think the risks of the two are moving closer together than we have seen them in the past so that's why I say nominally. I don't see a significant difference between the two at this point in time.

Q. [216] But in the province of Quebec, obviously, you realize that most residences are heated with electricity?

A. That's my understanding.

Q. [217] Would you agree with me that, you know, for existing houses and dwellings, conversion costs from baseboards, as we call them, to natural gas heating facilities would be such that, you know, it's not really viable from a financial standpoint to convert from electricity to gas.

A. My understanding that to the extent that HQD is experiencing competition from natural gas, it's in the commercial and industrial sector where they're better able to act on those price differentials...

Q. [218] Uh, huh.

(10 h 35)

A. ... in all sectors for the reason you suggest. Capital appliances take a while to replace, and it's at the end of their useful lives most often that they become replaced by the then more economic fuel in a going-forward basis.

Q. [219] But you agree with me that generally speaking, in the residential market, I mean, that Hydro-Québec has a clear domination when compared to Gaz Métro, in the heating, residential heating market?

A. I would agree that that is the case today, but I would also say that they're experiencing new competition from Gaz Métro in all their sectors where they overlap, where there is pipe in the ground.

Q. [220] And would you also agree with me if I were to suggest that generally speaking, electricity, if we leave the heating use of it, has a lot more possible usages than natural gas, I mean, for my computer, I'm better off with electricity than natural gas?

A. Well, I couldn't argue with that, yes.

Q. [221] So then, at the conceptual level, the

distribution of electricity is also safer because electricity can be used for more things than natural gas, that's what I'm suggesting to you.

A. Well, I would argue that that's a... yes, the absolute number of end-use applications for electricity is greater, but on the margin, when you confer to a heating customer, that's worth a whole lot of computers.

Q. [222] Well, you'd be surprised.

A. We're seeing this evolution across North America, where natural gas is just simply more competitive in all end-use applications, it's certainly given electric distributors more competition than they've experienced over the last decade.

Q. [223] So to conclude on this questioning of evolution in risk and comparison with peers, is it your testimony that even if the Régie comes to the conclusion that the overall risk profile of both HQT and HQD is lower than it was ten years ago, this would not be a valid justification for a lower return on equity?

Me ÉRIC DUNBERRY :

Lower than what?

Me GUY SARAULT :

A lower risk premium that they were awarded back,

ten (10) years ago.

- A. A lot has changed in ten years, I would hope the Régie would consider financial markets today in terms of reaching its determination of what rate of return would meet the fair return standard. It would be important to look at it from an investor's perspective, as I've said, and that's based on markets today and markets looking forward. And if the Régie were to take the evolution, no party in this proceeding, and I would refer especially to Dr. Booth in his testimony, but others have argued that the formula today is producing a fair return for HQT & D.

So I don't know how the Régie would take, if we were brought forward in time by the ROE produced by the formula and we were to ask ourselves, should we take that as a measure of the fair evolution of that ROE over time, I don't think that Dr. Booth would suggest, nor other parties in this proceeding that I've read had suggested that that is providing a fair ROE today.

So I think that is an indication that the evolution of risk over time, or appropriate ROE over time, has not been measured well by the formula that's been in place. So I think it's an

appropriate time, given that it is ten (10) years, for the Régie to take the forward-looking evidence we've presented as a measure of what that appropriate ROE is and re-benchmark, rebase that ROE for what it best deems as being a reasonable estimate of the market-based return, based on the stand-alone principle.

Q. [224] Are you through?

A. I am.

Q. [225] My question did not pertain so much about the behaviour of the adjustment formula over the last ten (10) years, it was rather on comparing HQT's and HQD's risk profiles overall as they were ten (10) years ago with their risk profile today in two thousand and thirteen (2013). And what I'm suggesting to you is that, if the Régie comes to the conclusion that their overall risk profile is lower today than it was ten (10) years ago then this could justify allowing a lower risk premium to both of them in the calculation of their return on equity?

A. That risk premium differential would be based in that case on the determination that the Régie made ten (10) years ago and we know, every piece of evidence in this proceeding, suggests that those

risk differentials have changed over time because markets have changed over time regardless of what's happened to HQT and D. The price of risk is increased in Canada for all utilities and for, and for, as measured in bonds at least for both utilities and corporations. So I would hope it would take that into account but, I think the fairest measure for the Board, and the one that's most closely linked to the fair return standard, would be to look at how they compare today with other utilities today. That would give them the most informed decision.

And if I could, I would like to, I think your question is an important one, so I would like to just come back to my relative simple example here if I can, because I think it helps us to ground the discussion. And the fair return standard, as I see it, is the top line. It's A versus B, versus C today, not as implied by your question. A today versus A ten (10) years ago. That's not how an investor would make an investment decision pertaining to utility today. They would be looking at the top line and that's very much tied to the opportunity cost and the comparability principles that are contained in the fair return

standard. And I'll come back to my very simple example again of the house. You know, it's not what it was worth ten (10) years ago, it's what it's worth today vis-à-vis houses in other neighbourhoods. So, that all links together. So, I would not agree that that would be the appropriate measure setting ROE today. That would be backward looking. This is a forward looking concept.

Q. [226] But Dr. Coyne, if "par malheur" as we say in French, the Régie would sadly come to the conclusion that the risk profile of your U.S. proxies is not an appropriate comparison with the risk profile of HQT and HQD, then we have to look at something else in order to determine the risk premium, right?

A. Well, I would hope...

Q. [227] The assumption is that they're not satisfied with comparability and that, as you may suspect, could be our position.

A. If they were not satisfied with that comparability today, I would hope that they would look at another measure of contemporary and forward looking comparability, but not backward. Because that would not be consistent with the fair return standard.

Q. [228] Okay. I would now like to turn to another

subject, which is the generation risk which, at page 53 of your report, you assess at forty-one (41) basis points. We know that many of your US proxies, seventy percent (70%) of them, have generation facilities. Do you know or do we have information in the record as to what kind of generation facilities we're talking about for most of them? Is it nuclear? Coal-fired? Natural gas co-generation? Do we have that detailed information in the record?

- A. We have not quantified their specific sources of generation for these purposes. I believe they're contained in the financial reports that we provided, but we have not used the make-up of the generation as part of our analysis.
- Q. [229] So not knowing that information, would it be possible for the Régie to take into account the development of alternative green energy supplies in the United States as to their potential impact on those US proxies who do own, like more ancient forms of electricity generation facilities?
- A. I like the way you state that because you're focussed on potential and forward looking impact, so...
- Q. [230] So what's the answer to the question?

A. The, have we specifically accounted for the, if I could rephrase your question, have we specifically accounted for the forward risk that that generation may represent to those utilities in a risk differential, is that another fair characterization of your question?

(10 h 47)

Q. [231] Well, let's say that, you know, there would be a policy in the United States to develop green energy electricity sources, more environmentally friendly than for example coal fire plants or nuclear plants, not knowing exactly what kind of generation facilities are own by your proxies, it would be difficult for the Régie to assess the impact of such policies in the United States and what they could have on the risk profile of those U.S. proxies that do own old generation facilities.

A. So a standard such as we have here in Quebec that would require new renewable resources in the supply mix to... I mean, first a broad answer to your question. In the United States there are twenty-two (22) states that currently have renewal portfolio standards that do, as here in Quebec, require utilities to make purchases largely from independent power producers for wind, solar,

biomass, other renewal resources, so we do have policies in that regard that these utilities face. And I looked to, we considered that and the way we considered that is we looked to the regulatory protection that these companies have in place for purchases of those resources that are covered under PPAs, power purchase agreements, we look at the recovery mechanisms they have in place and we also look at the capital cost recovery mechanisms that they have in place that would cover any required expenditures. So we account for it that way and then in the global way, we also look at, we think of investors as being informed on these issues and we look at the indication, as well as regulators, and we look at indications of their allowed returns for those with generation versus those that don't have it. So we think we have accounted for that in three different ways.

Q. [232] Dr. Coyne, if I may, could you refer us to an exhibit number into this record where we would find a detailed analysis such as you have just described?

A. Are you referring to the cost recovery mechanisms? That's in appendix A.

Q. [233] Appendix A to your... This is where we find

it? Is there any additional information maybe in the form of answers to information requests?

A. Well, appendix A contains our risk analysis where we analyse the cost protection measures that these utilities have and we examine specifically their power purchase agreement, their ability to pass through costs for power purchases and we examine their capital cost recovery mechanisms there as well. If you are asking me to recall everything that might be in the interrogatories, I would not trust my memory for everything that is there. We answered, I believe it was collectively over five hundred (500) in a very short period of time.

Q. [234] I know, I realise that.

A. So I would not attest that there isn't additional information that could be relevant.

Q. [235] Are you aware that in Germany, following the Fukushima disaster in Japan, that the government decided to do away with producing electricity with nuclear plants. You remember that?

A. I understand that that was the policy immediately following Fukushima, yes.

Q. [236] Yes.

A. I also understand that they failed to do that but that was the policy at that point in time.

Q. [237] Uh, huh. But should they perhaps more gradually go in that direction? You can imagine that for a utility operating a very costly nuclear plant, this is extremely bad news.

A. In Germany?

Q. [238] Anywhere.

A. Or are you taking...

Q. [239] Anywhere. I mean, let's say the U.S. has a new president a couple of years from now and that new president decides that, you know, nuclear plants are bad and we should concentrate on our efforts on alternative and safer forms of electricity generation, assume that scenario for purposes of my question, how is that factored in in you forty-one (41) basis points?

A. Well, first of all, I wouldn't, well, I take it we're off Germany, we're now asking the question, should there be a U.S. decision that would, for some reason, outlaw nuclear power plants at some point in the future, would that be considered...

Q. [240] Gradually move away from them?

A. Yes.

Q. [241] Is that your question?

Q. [242] Yes.

A. Well, I would say it's probably bad news for

consumers initially, because of the cost impact I'd be concerned with. But the, from a utility perspective, it would depend on their ability to recover stranded costs from those assets if they were deemed to no longer be used and useful. And typically, when there's a case where there's a Federal policy, or State policy for that matter, regulators allow those costs to be passed through to consumers, because it's a policy decision that really is made beyond the regulator's hands, that policy decision has come from somewhere else.

And the company would not typically be held accountable for that change in policy, that's up to the legislative body to make those decisions, and regulators would typically abide by that regulatory policy, and they might attempt to mitigate the impact on consumers, you know, by effectuating that change in rates over time, but that is typically how such policies are implemented. I think your example is probably rather severe, but that would be how it would be typically handled through the regulatory process.

Q. [243] Well, I mean, when I saw that happening in Germany, I thought it was severe.

A. I did too.

Q. [244] So nothing is impossible, I suppose.

A. Well, and as I said, in Germany, they struggled to implement that policy, there's been a lot of backlash politically and otherwise.

Q. [245] I am turning now more specifically to your U.S. utilities evidence. So am I to understand that, in your judgement, that these six U.S. proxies operate in a regulatory, institutional, economic and financial environment that's comparable to the environment in which both HQT and HQD operate here in Quebec?

A. From an investor's perspective, yes.

Q. [246] And the specific evidence on this issue is Appendix A, the risk analysis?

A. That's where the bulk of our evidence is contained, yes. It's also contained, it's described in the body of our testimony as well, and the interrogatories that also relate to this issue, but it's summarized in A.

Q. [247] That's right, the comparability of the, you know, their respective environment?

A. That's correct.

Q. [248] And this comparability leads you to conclude that the returns on equity authorized to those U.S. proxies in the U.S. can be relied upon by the Régie

for purposes of Hydro-Québec?

A. That wasn't the purpose of Appendix A, no.

Q. [249] But does it lead you to that conclusion?

A. No, we do a bottom-up analysis on ROE using those proxy groups, using, as we discussed earlier, both Canadian and U.S. data, we're not relying on other authorized ROEs as a basis of our recommendation. That job would have been a lot easier, but we took months to do this work.

Q. [250] So you know that in the past, the Régie has expressed concerns with the use of U.S. returns on equity as a tool or an element to be taken into account for purposes of determining a Quebec utility's return on equity?

A. The other allowed returns as a direct measure, well, I guess perhaps they were most clear on this in Gaz Métro and I might cite them there.

Q. [251] Yes, please.

11 h

A. But I would say that we have not used U.S. allowed returns as a basis for our recommendation, so I don't see that we're in discord there. I took it that the evidence that was presented in that case, the Régie found to be inadequate from a standpoint of understanding the differences in those financial

and institutional environments and that's why we sought to address with the analysis that we provided in Appendix A around those financial and institutional environments. Then we've also provided the Moody's report in that regard and other information in a) regarding the specific comparability of the regulatory environments for those individual utilities, all the way down to the level of detail of what specific cost recovery mechanisms they have. So we have in no way used an allowed return for these utilities as a measure of our recommendation to the Régie.

Q. [252] Not even as a comparison?

A. Oh! we provide them as comparisons but you will not find them in our recommendation. Otherwise I would be recommending ten point two (10.2), which is the average allowed return for a U.S. utility and I might make some risk adjustment off that but that would clearly be simplistic and inaccurate for these purposes.

Q. [253] So, am I to understand that, for purposes of your evidence, the comparisons that we find in certain tables between U.S. returns on one hand, and Canadian returns on the other, should not be taken into account by the Régie in its decision?

A. No, I did not say that. These are the same industry comparable institutional regulatory environments so I think they're worthy of note. The Régie and other regulators in Canada routinely look at allowed returns in Canada and in the U.S. It's part of their framework that gives them a perspective on what other regulators are doing. So, I wouldn't say it's irrelevant, but I would suggest that the Régie, based on its opinions in the past, is more comfortable with deciding in a more fundamental way what that appropriate return should be.

Q. [254] So, to sum it up, I mean it may be a useful tool for informed judgment but you would not consider those comparisons to constitute serious elements to be taken into account by the Régie for purposes of arriving at a rate of return for Hydro-Québec?

A. Well, if we go back to the fair return standard, which I think is true north for us all in this proceeding, it's based on investors' perspective of comparable investments and we have seen significant outflows and inflows of capital across the boarder in the utility business. We do a lot of work for Canadian companies that are looking at investments in the U.S.. We do work for U.S. companies that are

looking at investments in Canada. It's a very fluid investment environment. So, I would be surprised, in fact I know for sure, that investors do look at these returns. So, in that sense, I think it is relevant from a fair return standard, because we're looking at the comparability standard. But when the Régie has the ability to, so, in that sense, I would expect the Régie to take them into account because it's trying to look at an investor's perspective and they would at a North American landscape for utility investments.

But when they actually make their decision, while they might take them into account, I would suggest that they have the ability, based on this evidence, to look at a bottom up approach to what an investor would require on HQT and D based on this analysis that's much more granular than just a broad view of the market.

Q. [255] While on this point, I'd like to come back to the Régie's decision D-2011-182, rendered on November twenty-fifth (25^e) two thousand eleven^h (2011) for Gaz Métro.

A. In which paragraph number please?

Q. [256] 268 to 272. Under the rubrique "Comparaison avec les distributeurs américains". You might want

to use your earphones.

A. Okay.

(11 h 04)

At paragraph 268 it is stated :

[268] En audience, il a été question de la comparaison entre les rendements octroyés aux entreprises réglementées canadiennes et ceux octroyés à leurs vis-à-vis américaines. Tant les dirigeants et experts de Gaz Métro que ceux de l'ACIG sont venus exposer devant la Régie les enjeux qui s'y rapportent.

[269] Selon la Régie, la preuve présentée à cet égard au présent dossier n'est pas très différente de celle dont elle a été saisie en 2009. La Régie est d'avis que la preuve soumise ne lui permet pas d'en arriver à des conclusions différentes de celles auxquelles elle était arrivée en 2009.

[270] La Régie juge que, bien qu'il soit manifeste que les taux de rendement octroyés aux États-Unis

soient supérieurs en moyenne à ceux octroyés au Canada, la preuve est peu concluante quant aux raisons qui justifieraient de retenir les taux accordés aux États-Unis comme base de référence pour les taux à accorder au Québec.

(11 h 05)

You're telling us today is that this is not what you're proposing to the Régie to do in this case, correct?

A. What is it that I am not proposing to do? Sorry.

Q. [257] To use US returns as a reference basis for returns to be determined in Quebec.

A. Well, I have to apologize, Counsel, because I feel it necessary to answer your question, to continue with that paragraph and then the next two.

Q. [258] Uh, huh.

A. Because I think I could answer more appropriately.

Q. [259] Okay. Well, let's continue.

La preuve est, en effet, très faible quant aux données récentes sur les décisions américaines et quant à l'analyse des régimes réglementaires et institutionnels en vigueur chez nos

voisins. Entre autres, le Distributeur n'a pas fait la démonstration que les opportunités qui s'offrent sur le marché américain sont comparables en termes de risque.

So what you are telling us today on this specific issue is that your appendix A does address these concerns and those resolve them. Or should resolve them to the Régie's satisfaction.

A. The next two paragraphs are also operative on this issue and you could read them if you'd like or I would. I want to head to your question but I do want to give it the proper context.

Q. [260] Yes, but, you know, they're talking about, here, about the environment such as we were discussing a couple of minutes ago and I believe that you told me that for purposes of the record in this instance, that our answers to the Régie's concern in this regard would be found in appendix A.

A. Well, it goes on to, these are connected thoughts all under comparison with the US distributors. There are three paragraphs there and two which follow.

Q. [261] Okay. Let's read them.

A. I've read them with great care.

Q. [262] Let's read them on the record if you will.

La Régie constate que la preuve du
Dr Morin inclut des rendements
réalisés calculés à partir de données
consolidées.

Isn't that the case here that your proxies are
basically holdings?

A. I'm sorry, your question was?

Q. [263] Isn't it the case here in that your proxies
are essentially consolidated holdings?

A. Would you kindly read the next sentence because
this is included. The concern that's specified is
specified in the next few sentences.

Q. [264] Okay.

A. Our evidence takes it down to the operating company
level for this very purpose because of the concern
expressed by the Régie. We begin with the operating
company but our analysis of realized versus
authorized returns, which the Régie is expressing
concerns for there, Dr. Morin did not provide, we
have, we analyse as the chart showed yesterday, the
realized versus authorized returns for each company
in the proxy group over a ten (10) or eleven (11)
year period, or twelve (12) year period, addressing

this very specific concern. So we did not rely on evidence of realized returns at the holding company level. We were seeking to assist the Régie with ameliorating this concern with that analysis. And that is included in appendix A.

Q. [265] Are you...

A. The Régie deems this information to be relevant so we wanted to satisfy the relevance of the information with what it was looking for specifically. We thought they were being very clear and they weren't asking for something that was unreasonable and we had the ability to provide it.

Q. [266] When you say that you have supplied a comparison of the authorized returns and the returns actually realized by the operating companies, are you talking about the comparison that we find at page 59 of your report? Chart number 4, page 59.

A. Provisional reference, we had that in our discussion points yesterday so we'll bring that up for all to see.

Q. [267] This is what you are talking about?

A. Chart number 4.

Q. [268] Page 59 of your main report.

A. Yes. I think that's the same one we had in our

opening remarks yesterday as well. Right.

Q. [269] So would you, I believe that I've counted fifteen (15) operating companies in your US proxy group.

A. That's correct.

Q. [270] Okay. So what you compare on this chart, is the average earned by all fifteen (15), so you take individual returns realized by each of the fifteen (15) operating companies and divide it by fifteen (15), is that a fair assumption?

(11 h 10)

A. Pardon me one moment while I check... What we do is, for each utility that has an authorized return in that year, we take that and we take the simple average of them all in that year.

Q. [271] So, that's right, so you have fifteen (15) operating companies, so you take the return that they all realize, and let's say one has earned fourteen percent (14%), the second has earned eight percent (8%)... bla... bla... bla... you add them up and you divide by fifteen (15), and it makes an average?

A. Well, not divide by fifteen (15), for as many observations as we have for the fifteen (15) in that year. If we don't have an observation for that

year, we can't count it in the average.

Q. [272] But what...

A. For that company.

Q. [273] ... what I understand here is that, we don't have the individual results for each individual operating company, but an average of all fifteen (15) of them?

A. Well, those aren't, those are not in concert with each other. If we have the number for that company in that year, we use it; if we don't, we don't. So the denominator in that case would be fourteen (14) or thirteen (13), or eleven (11), however many observations we have in that year, so that we're not biasing our result in any way.

Q. [274] Okay, for example, I'm looking at your Exhibit JMC-3, providing the authorized ROE of the fifteen (15) operating companies of the U.S. Electric Utility Proxy Group, and I see that in the case of NSTAR Electric, you don't have it, and in the case of Southwestern Public Service, you don't have it either, so you only have thirteen (13)?

A. Yes, that was for that year two thousand eleven (2011), and if you'll see in Footnote... Footnote 1, if it was not specified in the rate case because it was resolved through a settlement agreement...

Q. [275] Uh-huh.

A. ... we would not have a number for that year.

Q. [276] Okay. So for the authorized ROE for that year, it would be divided by thirteen (13)?

A. That's correct. We think that's the fairest representation of the data.

Q. [277] Okay. And the same goes for the actually earned return, the realized return, correct?

A. Yes.

Q. [278] It's an average?

A. It's an average of the included data for that year, yes.

Q. [279] So, conceptually, let's say, I take two utilities, Utility A and Utility B, right? In the case of Utility A, the authorized return is ten percent (10%), right?

A. I'm with you, yes, but I'll jot, just to be safe. A ten percent (10%).

Q. [280] Authorized.

A. Okay.

Q. [281] And its actual realized return is fifteen percent (15%), plus five (5%).

A. Okay.

Q. [282] And in the case of Utility B, the authorized return is also ten percent (10%), but the actual

return is only five percent (5%), minus five (5%). But if I make an average of both of them, I'll say, well, I mean, if I add the authorized returns, it's twenty percent (20%), divided by two (2) then, and if I add the actual returns, it's fifteen (15%) plus five (5%), gives twenty (20%), divided by two (2) equals ten (10%).

So there's no fluctuation whatsoever, that's what an average does, when you abstract, you know, you do not take into account each individual result of each operating company.

A. Yes, and in that case, that's exactly how we're portraying it, as an average of the experience of those utilities. But that's not where it stops, that's not the only description, we also looked at the variability of the returns, and we have another chart on that, and is that in Appendix A... and if I'm right, if I'm right, I would add of the observations that we had, there are a hundred and thirty-one (131) observations in that analysis, seventy-nine (79) of them were then plus or minus one percent (1%) of the allowed ROE, but we also did a, an analysis of the variability of the returns of these utilities as well and we have a chart on that, addressing, I think, the concerns,

the concern that you're getting after implicitly in your question, and what is that chart number? Chart 5 and is at, on page 61, shows the variability of the return.

So if you look at the variability and the average together, I think that's a, that paints the picture. And the picture is that these companies generally earn within plus or minus one percent (1%) around their allowed return and on average, they are allowed return. And that was the specific question that the Régie was addressing in the decision that we were just looking at together for Gaz Métro. Did they actually earn these allowed returns? Because, the claim has been made by some that U.S. utilities may be allowed a higher return but question whether or not they ac
(11 h 17)

- A. Just looking out together for Gaz Metro, do they actually earn these allowed returns, because the claim has been made by some that U.S. utilities may be allowed a higher return, but question whether or not they actually realize them or not. So this analysis addresses that issue for these specific companies. And on average, they do earn their allowed returns.

Q. [283] Well, on this subject...

A. And I should say that this is... I have to bring us back to the investor's perspective, because that's how an investor would look at this. On average, can I expect that that return is going to be earned by the utility. Because that will form their expectations regarding earnings on a going-forward basis.

Q. [284] I'd like to bring you, on the same subject, to schedule 5, to Dr. Booth's testimony.

A. And do you have a page for that?

Q. [285] Schedule 5. It's in the main testimony, and at the end of the testimony you have schedules, and it's the fifth one. Schedule 5.

A. I have it.

Q. [286] This is a list of the actual returns on equity realized by close to sixty (60) U.S. utilities, as published in AUS in September two thousand and thirteen (2013). Right? This is the first I'm giving you. AUS. Do you know AUS?

A. Yes I do.

Q. [287] Do you know what it stands for?

A. I used to, but not at the top of my head.

Q. [288] Okay. So it's a publication, well-known publication about utility financial information.

- A. I'm aware of... We use SNL, which is used more broadly by analysts, but I'm aware of AUS.
- Q. [289] Okay. It's a reliable publication that you know?
- A. We don't subscribe to it, but I know others do.
- Q. [290] Okay. Good. I'd like to look...
- A. And, can I ask you... Okay. Just to orient me. I don't see any source at the bottom of this schedule. So what is the source, again? It's AUS for what period?
- Q. [291] September two thousand and fourteen (2014).
- A. For September twenty fourteen (2014)?
- Q. [292] Thirteen (13).
- A. Thirteen (13), yes. Let's hope not fourteen (14).
- Q. [293] We're not in twenty fourteen (2014) yet.
- A. Quickly enough. So AUS, September twenty thirteen (2013). And... Yes. And I should ask, are these at the holding company level?
- Q. [294] Yes. Some, we are at the holding level. And some are... Four of them, and we'll go through them, are proxies that you actually use at the holding level.
- A. But I must say, the analysis we've done on allowed returns is at the operating company level. Not the holding company level.

Q. [295] But...

A. This is the issue that the Régie had last time.
This is at the holding company level.

Q. [296] But nevertheless, I mean, if I may carry on,
and then you... if you have nuances you want to
make to your answers, you may. You're free to do
so.

A. I... I have... I have to stop, if I might, that I
don't consider that nuances. These are fundamental
differences with companies that may have other
businesses that are in these allowed returns. So...
Well, I'll stop there, but to see what your actual
questions are on the schedule. But I have that
concern.

Q. [297] Okay. Well, the first of you U.S. proxies
that we find on this schedule 5 is Nextera Energy.
It's in the list of electric companies, and there
are two lists: one for low returns on equity, and
one for high. You see that? And Nextera Energy,
with ten point seven (10.7), is in the high list.
Do you see that?

A. I see that, and again, I believe that's at the
corporate level, yes.

Q. [298] Okay.

A. We look at it at the Florida Power & Light level.

Q. [299] The second one of your U.S. proxies that we see there is Southern Company, also in the high list of electric companies, with an ROE of nine point two (9.2). Do you see that?

A. Again, I see that, but it's at the holding company level. Yes.

Q. [300] Hum, hum. We do not see Consolidated Edison, correct?

11 h 23

A. I don't see it there, no. But I haven't taken the time to examine this, whether or not it's there or not yet, but, put it this way, I'll take it based on your work that it's not there.

Q. [301] Uh-huh.

A. I don't know what this, I mean, it doesn't tell me what sample it is and why these companies are included there or not, and again, there's some context here that's missing for me, but, let's see where we can go.

Q. [302] The fourth one is Wisconsin Energy which is a combination of electric and gaz companies.

A. And where do you see that?

Q. [303] The second group, in the middle of the page is called "Combination Electric & Gaz" and the second company in the high group, is Wisconsin

Energy Corporation at thirteen point two percent (13.2%). You see that?

A. There's something else I want to look at simultaneously. I apologize. Could you repeat the question?

Q. [304] If you look at the document in the middle of the page...

A. Uh-huh.

Q. [305] ... "Combination Electric & Gas Companies", and we see the second one in the high group, Wisconsin Energy Corporation with thirteen point two percent (13.2%). This is one of your holding proxies.

A. That's correct.

Q. [306] Thank you. The fifth one is Xcel Energy, again in the combination Electric & Gas Companies that we see in the high group, also in the middle of the page, with ten point nine percent (10.9%) ROE?

A. I see them.

Q. [307] Yes. And, as was the case for Consolidated Edison, we do not see NorthEast Utilities.

A. I do not see them there.

Q. [308] Yes. So, to return to these companies, for your six, we have two that are classified as

electrics, two that are classified as a combination of gas and electricity and two not mentioned at all in the AUS report. Can I ask you why you include utilities that combine both gas and electricity amongst your list of six U.S. proxies?

A. Yes, because they're primarily electrics based on the screening criteria that we used. You'll recalled that when we reviewed the, if we haven't together, that we screened based on the percentage, we screened two ways, that sixty percent (60%) of their revenue needed to be from regulated utility operations...

Q. [309] Sixty percent (60%)?

A. Sixty (60) and then sixty percent (60%) of that needed to be from electric operations. So we're looking fundamentally for regulated utilities that were primarily regulated electric utilities. There are combination companies that are in the group. However, the two have gas operations.

Q. [310] Uh-huh. Obviously, when you chose your proxies, both at the holding level and at the operating level, I believe you said that you screened from an initial list of forty-eight (48) companies and you brought it down to six gradually, by making your comparability analysis, correct?

- A. We started with a screen of forty-eight (48) companies characterized by Value Line as electric utilities. That was the starting point of our analysis. The Value Line electric utility list.
- Q. [311] Even though here, AUS, you know, qualifies two of those holdings as a combination of electric and gaz.
- A. And Value Line characterizes them as electric but we measure the percent of their revenue, you know, we go, this is quite simple in my mind, we look at the percentage of revenues they derive from gaz and electric operations to make that determination so, we're taking a finer, we're screening on this basis, not just simply listing them. I presume if they have some gaz, they're probably including them as combination.
- Q. [312] Right. If we look at the pure electric only on this list, and there's several of them, we can see that the range of actual ROE's go from two point three percent (2.3%) for the lowest, which is FirstEnergy Corporation all the way up to fourteen percent (14%) for PPL Corporation in the high list, correct?
- A. At the holding company level for these companies, yes.

- Q. [313] Would you agree with me that this is a huge range acknowledging a great deal of volatility in the returns of these companies.
- A. Well, your volatility is... You can't tell volatility just by looking at this. But your question has two parts, you know? Is there a broad range from two point three (2.3) to fourteen point 0 (14.0), yes. At the holding company level, yes. FirstEnergy, for example, has unregulated operations in that enterprise. We screened out FirstEnergy. We're not suggesting they are an appropriate comparative for HQT&D. We began with a universe of forty-eight (48) and got to six for a reason. We were looking for those that were most like HQT&D. Not those that were most dislike.
- Q. [314] Well, we're... We're talking about comparing, you know, the U.S. environment to the Canadian environment as well. And even though you chose six U.S. proxies, isn't this table an evidence that generally, in the world of electric companies in the U.S. - and we're in two thousand thirteen (2013) - we can see a great deal of volatility between allowed returns and actual returns. Because I don't believe that any regulator would allow returns as low as two point three percent (2.3%).

If we look at the low list.

- A. You can't make that assumption. The holding company of FirstEnergy has something like five regulated companies, and in addition to that, it has other unregulated operations. So, you're asking me to make a determination as to allowed ROE. You have to look at that at the Ohio Edison level at the... at the PECO level, et caetera, to look at the allowed ROE for the regulated utility versus its earned ROE. That's the analysis that we have done in the chart that we reviewed together. You can't make that... You're making two leaps, there, that are... that I would not substantiate.

One is you're comparing holding companies that we haven't used to ones that we have used. Two is you're making a presumption regarding allowed ROE. There is no allowed ROE for FirstEnergy Corporation. You have to look at the regulated electric utilities. And we did not deem those as being comparable to a low-risk HQT&D, for purposes of our analysis. We have not suggested that HQT&D are like all U.S. utilities. We've suggested that they're like the proxy group companies that we've used for this purpose. And that's why we used proxy companies. Otherwise, you're just making broad

based adjustments across the market with holding companies and non-holding companies. And I don't think that's a reasonable way to approach this work.

Q. [315] But, Dr. Coyne, isn't it a fact that your DCF estimates are actually based on your six U.S. holding companies proxy group?

A. That are prima... Yes. That are primarily electric utilities with regulated electric utility operations. That's why they're screened on that basis.

Q. [316] So the very financial information that you used for purposes of your DCF calculation, which is the basis of your ROE recommendation of nine point two (9.2), was made with the financial information from the holdings. Correct?

A. We... We do so with... The DCF analysis, recall that we have three different versions of the model. We have constant growth, we have sustainable growth, and we have... and we have multi-stage as well. Each of those begin with the stock prices for the holding company level and their dividend returns, and they're projected forward, the earnings growth, on those three bases. And the reason we screen the holding companies carefully,

to get regulated companies with primarily regulated operations, is so that we can use that data. Yes.

Q. [317] Okay.

A. And... And I should also say that they have A-credit rating, so they're a strong credit rating, low-risk electric utility operations.

Q. [318] I now want you to go to Dr. Booth's schedule 6, in his main report.

A. And I must, given that you've drawn my attention to schedule 5, before we leave that entirely, I must say that it's not sourced. So I'm assuming this is from AUS, September twenty thirteen (2013), and those data are what they are, but I have no ability to check that, but I'm not relying on them for more than our discussion, but it's a concern I have.

But, where are you redirecting me?

(11 h 32)

Q. [319] I believe that if you read the report of Dr. Booth, and the text of the report there is a reference to schedule 5 in the text - we could do a word search - and this is where you find the source. He hasn't lied about it.

A. I'm not suggesting so. I'm just suggesting sourced documents to verify these things. So where are you redirecting me?

Q. [320] Schedule 6.

A. Yes. I have it.

Q. [321] So, here, the source is, it's Reuters for the first column, two thousand and twelve (2012), correct, and for the balance, it's all from Standard & Poor's.

A. And are these at the holding company level, or are these at the utility level? Regulated utility level?

Q. [322] Holding level.

A. So these are...

Q. [323] So...

A. What are the annual ROE's that holding company earned, returns on...

Q. [324] So, these are the actual returns on equity for the pure electric companies that AUS has used, where he got the returns from either Standard & Poor's from two thousand two (2002) to two thousand eleven (2011), and from Reuters for two thousand and twelve (2012). So he, Dr. Booth, considers these sources as reputable. And at the bottom, he's reported the return on equity data for two Canadian companies: NSPI, standing for Nova Scotia Power, and NP, standing for Newfoundland Power, for the same period. Do you see that?

A. I do see that.

Q. [325] And in the second last column, he calculates the standard deviation. You know what the standard deviation is?

A. Yes I do.

Q. [326] Okay. Can you tell us what your understanding of the concept is?

A. It's the square deviations divided by the mean. And the understanding of the concept beyond that...

Q. [327] So it measures validity and variability in actual returns versus authorized returns. Correct?

A. No.

Q. [328] Okay. So, correct me if I'm wrong.

A. You can't use authorized returns at the holding company level, because they don't exist. The authorized return is only at the regulated utility level. This tell us nothing about the ability of the regulated utility to earn its authorized return. That's the analysis that we've provided in the chart we reviewed earlier. This was the concern that the Régie had in Gaz Metro, with this very type of analysis.

Q. [329] So... So what you're telling me here is that what it measures is the actual fluctuation in returns over time versus the mean.

- A. No. It's more fundamental than that. You're...
Well, there is the mathematical issue, but then there is what is it you're applying it to. But divorcing... I think we're okay with the math. You're looking at the standard deviation in these earned returns at the holding company level for these companies over time.
- Q. [330] Hum, hum.
- A. Those don't tell us anything about what's going on at the operating company. That's the analysis that we've done. And you can't pull that from Reuters, you can't pull that from Standard & Poor's. You have to pull the financial reports of each of the company that files with their regulator what their earned returns were, and compare them against the decision that provides the authorized return. It's not this simple. This does not give us that data.
- Q. [331] Well, we do find, though, two of your U.S. proxies in this list, don't we?
- A. At the hol...
- Q. [332] Nextera and Southern?
- A. At the holding company level, based on what you've just told me, yes.
- Q. [333] And they have standard deviation levels of one point twenty-six (1.26) for Nextera, and one

point forty-two (1.42) for Southern, compared to zero point five four (0.54) for Nova Scotia Power, and zero point six four (0.64) for Newfoundland Power. Seeing these figures, would you agree with me that over the two thousand and two (2002) to two thousand and twelve (2012) period, those two holding companies' return, actual return, has been almost twice as volatile as the return of the Canadian counterparts? At the holding level.

(11 h 38)

- A. Well, the data Dr. Booth is presenting here, I presume he's calculated his standard deviations appropriately. I would make two observations. You're comparing it to two Canadian utilities. You know, whereas Fortis, you know, whereas other companies we could be comparing here. I don't know why we're just using these two versus this much broader group of electric utility holding companies and secondly, as I look at the standard deviations of these holding companies, I see that those two are the lowest of this group, suggesting that these are amongst the least variable and that somewhat consisted what the screening criteria that we used, but I don't see this as, your math is as pointed out but I don't see what that tells us. You're

comparing holding company returns with a very small set, only two companies of Canadian holding company returns. So, I just don't see what that tells us.

Q. [334] Well, that, apart from these concerns, and you know, how representative it is, you agree that with my calculation, that for those two of your U.S. holding proxies, their actual returns, over the period, were twice as volatile as the two Canadian counterparts?

A. Well, I guess so. I guess I would have to stipulate to that that what's what this math shows but again, your comparing, you're making comparisons that the Régie has found inappropriate in the past and I don't see what this does to assist the Board in making the determination that needs to be made here, but yes.

Q. [335] Okay. Fair enough. I would now like to turn to another subject, and I'm reasonably confident to end before lunch. I'm at page 18 of 22 of my notes, so we're progressing. I would like to talk about your CAPM estimates starting with your risk-free rate assumption. You're alright?

A. In which page of my testimony are you on?

Q. [336] Your risk-free rate assumption of 4.25, 4.23, I'm sorry.

A. Sir, I use to be referring to a specific page.

Q. [337] Yes, actually, it's at page 68 and to... My understanding... Page 68, lines 15 and following.

A. Yes.

Q. [338] So :

To estimate the risk free rate, Concentric relies on the 2013 through 2018 Consensus Economics forecast of the Canadian 10-year government bond and adds the current spread between 10-year and 30-year government debt. Use of the 2013 through 2018 forecast allows for some adjustment from near-term bond yields that are near all-time lows, to higher interest rate levels that investors are factoring into their longer-term expectations.

So you, in fact, use a five-year, two thousand and thirteen (2013) to two thousand and eighteen (2018) forecast, as the basis for determining the risk-free rate to be used for Hydro-Québec's return on equity for the two thousand and fourteen (2014) test year.

A. That's correct.

Q. [339] So, a risk-free rate over a five-year

forecast for a return on equity over one test year only?

A. I know that it will take place if implemented on January twenty fourteen (2014). I don't know how long it will be in place for but the idea is that it's a forward looking market estimate of ROE and two things we know, utility investors take a long view on stocks and investments on utilities, that's why we look at a thirty-year (30) investment arising to begin with, and secondly, we know that financial markets, especially risk-free rates, have not been a normal condition. So this is the measure that we have used to try to account for the fact that these markets are in a, they're not in a state of normal conditions and this gives us a forward look that we think is consistent with what an investor would account for as they look at the risk-free rate.

Q. [340] But are you recommending here that this return on equity of nine point two percent (9.2%) be fixed for a period of five years, for example, to be in line with your risk-free forecast?

A. I'm not.

Q. [341] You're not?

A. No, but I'm suggesting that an investor would take

the perspective of a long view when they make an investment in electric utility and that they would take this kind of information into account when they do so. And, you know, I would know to that, the Régie in its prior decisions, has also taken into account the state of flux in the risk-free rate and found it necessary to make adjustments. Dr. Booth has done so with his operation twist adjustment. This at least provides us with the basis from consensus economics of what the market and those participants in the consensus economics forecast view as being the trend line in thirty-year (30) bond years over the near future, over the next five years.

Q. [342] We both know that you are against going for a new adjustment formula for the years after two thousand and fourteen (2014), correct?

A. I have not recommended for that reason, yes.

Q. [343] Okay. And in your additional testimony filed on this issue, and don't go there, I mean, it's just a very short sentence, filed as HQTD-3, document 2.1 at page 7, you say that Concentric recommends the Régie to establish ROE through periodic rate hearings and not adopt a formula, right?

(11 h 45)

A. Correct.

Q. [344] When you say periodic rate hearings, what is your recommendation as to how frequent those hearings should be held once your nine point two (9.2) would be approved?

A. Well I didn't make a specific recommendation and the reason for this is I've observed that the Régie has found it, for example, appropriate with Gaz Métro to roll forward its allowed ROE of eight point nine percent (8,9%) from two thousand twelve (2012) to two thousand thirteen (2013) and fourteen (2014), and so I'm mindful that if the ROE is set by the Régie in this proceeding that they may again be inclined to let it roll forward if these market circumstances don't change. That may be a policy that they find to be a suitable step towards adopting a longer term formula until market settle down to quote, unquote, normal conditions again. So yes, it is anticipated that it would be between periods of time but I don't know what that period of time would be depending upon the Régie's preference.

Q. [345] Est-ce que je peux demander à ce moment-ci au témoin d'Hydro-Québec de nous dire que, en autant,

si, en autant qu'ils sont concernés, ce taux de neuf virgule deux pour cent (9,2 %) est proposé pour l'année deux mille quatorze (2014) seulement ou si c'est plutôt le souhait d'Hydro-Québec de voir ce taux prolongé sans cause tarifaire sur le taux de rendement pour une période plus longue qu'un an.

(11 h 46)

M. GILLES GAUDREAU :

R. Ce que l'entreprise pense, c'est que la cause actuelle est pour l'année deux mille quatorze (2014). Pour deux mille quinze (2015) et les années suivantes, on devrait voir au cas par cas comment les marchés se présenteront et nous verrons à ce moment-là quelle sera la décision de l'entreprise. Et la Régie pourra décider à ce moment-là d'entendre la cause ou pas.

Q. [346] Vous n'avez pas encore, au moment où on se parle aujourd'hui, novembre deux mille treize (2013), vous n'avez pas arrêté votre décision sur cette question-là?

R. À ce moment-ci, je comprends que la cause porte sur l'année deux mille quatorze (2014).

Q. [347] Exact. Mais je voulais voir si vous aviez des intentions sur un horizon à plus long terme?

R. Ce que je peux compléter cependant, c'est que, comme on le mentionnait dans notre témoignage, l'entreprise n'est pas contre une formule d'ajustement automatique. Ce qu'elle dit, c'est que, présentement, le contexte économique n'est pas propice pour fixer les paramètres d'une telle formule.

Q. [348] Oui, ça, j'ai bien compris ça.

R. Merci.

(11 h 48)

Q. [349] So, Dr. Coyne, coming back to you on this issue, where is the slide on your risk-free rate... Dr

JAMES M. COYNE :

A. Well, we have one up on the screen that summarizes it for you.

Q. [350] I know that, but you were talking more specifically about the risk-free rate, let me find it...

A. Could you be referring to the one that we provided on capital market trends?

Q. [351] Where you said that regulators accept, like a forward-looking, longer term forward-looking vision for the risk-free rate. That's off memory.

A. Yes, slide 4 would be where we have that.

Q. [352] That's right, I'm quoting from page 4,

Regulators are accepting a longer view on risk free rates, especially those reliant on CAPM

Do you have specific decisions to quote in support of that regulatory policy?

A. Well, here, I've seen, for example, that the Operation Twist adjustment is just that, that the Régie has accepted in Gaz Métro. And I see, I just submitted testimony in Wisconsin that was heard yesterday, where I included this very analysis, in that case using U.S. bond yields. And the... I've... staff is within twenty (20) basis points of my recommendation having gone through their own analysis, and it hasn't been an issue. So I see, not just in Canada but in the U.S., a recognition that abnormally low interest rates have to be accounted for if you use the CAPM, although that regulator is not using the CAPM I might add, but they're accounting for it in terms of the risk premium model they were using.

So it's a general acceptance that I see in both the U.S. and the Canadian landscape. I don't see any regulator that's adopting a current ten-year, to the contrary, I don't see any regulator that's adopting the current 30-year bond yield as

being the appropriate measure run through a CAPM of the utility cost of capital, some adjustment has to be made in every case if one is using a CAPM.

Otherwise, I think it would show, if you look at, you know, if you go back to our slide... if we could, John... if we could go back to slide 16... if one were to take a look at current 30-year bond yields, you would be shaving probably a hundred (100) basis points off that, or something like that. And I don't see Dr. Booth not making any adjustment for the current level of interest rates, it's necessary if one is to derive something that one considers to be a reasonable return on equity.

So it's one of the problems I have with the CAPM right now is the guesswork required in terms of determining what that appropriate adjustment is, and in my view, the most objective evidence that we have is by looking at this consensus view of where the risk-free rate will be over the next five years.

Q. [353] So do I take it that it is your testimony that the Operation Twist adjustment proposed by Dr. Booth constitutes, in your eyes, a forward-looking adjustment in the risk-free rate?

A. I would have to ask him to interpret that, I

wouldn't want to interpret it for him, but the way I have understood his rationale for it is that quantitative easing is having an impact on riskfree rates, we know that it will not last forever. And so, he makes that adjustment for that reason. So I believe it's forward looking, but I would not want to replace him on the stand.

Q. [354] Well, he'll have the opportunity to explain it. I'd now like to turn to the market risk premium that you proposed at six point six seven percent (6.67%), which is the average of a fifty/fifty (50/50) mix of historical and projected market risk premiums for both the Canadian and U.S. markets, correct?

A. Yes, that's correct. If I might, I would just like to add, on the risk-free rate profile that, I mentioned this yesterday, but I think it's important that, I'm not making a judgment as to what this risk-free rate is. I'm simply using that at a consensus economic forecast and, as I also noted, since I conducted that analysis, that forecast was three point six two percent (3.62%) over that five year horizon and today, it stands at four point five two percent (4.52%). So, when we submitted this testimony back in April, that was

anticipatory to this evolution of bond yields and I think we've now seen that has come true.

Q. [355] But that new figure is over a five-year horizon, correct?

A. That's the current view over a five-year horizon which has gone up by ninety (90) basis points since that period of time.

Q. [356] But would you agree with me that, in its past decisions, and it was certainly the case for the last rate decision for Gaz Métro back in two thousand eleven (2011), the Régie has usually used the risk-free forecast for the projected test year only based upon the consensus forecast.

A. But they made two adjustments. They made a credit, well they made three. They made a credit's spread adjustment, they made a, as I recall, I think they accepted an operation twist type adjustment and they also made adjustments for other models. And I believe that all those were a legitimate attempt by the Régie to account for the discontinuity in markets and the challenges one has where the CAPM was wrestling with them.

Q. [357] For the last decision for Gaz Métro in two thousand eleven (2011), the one we talked about, D-2011-182, I would suggest to you that there was

no operation twist adjustment.

A. I know I have evidence on that in terms of describing the adjustments that the Régie made and I would rely on that. We provided a table to choose the recommendations made by the witnesses and those ultimately adopted by the Régie. So, I would accept that as being definitive in my memory.

Q. [358] Are you referring to the table that we find at page 79 of your report, table 6, "Various CAPM Inputs"?

A. Yes, indeed.

Q. [359] For recommended and allowed ROE's and you have a number of Régie's decisions. You see?

A. Yes, I do.

Q. [360] And for the Gaz Métro two thousand twelve (2012) rate case, which is the decision I was talking about, you see there is no operation twist adjustment, that the first one that we see with this adjustment in particular is for Intragaz in two thousand and thirteen (2013)?

Me ÉRIC DUNBERRY :

Ce que je comprends que mon confrère veut mettre en preuve, c'est que le mot « operating twist » n'apparaît pas ou est-ce qu'il veut poser la véritable question au témoin de savoir si le

concept a été tenu en compte quant au caractère déraisonnablement bas des taux d'intérêt. Il y a le concept et il y a les mots. Je pense que le Dr. Booth a baptisé son ajustement « operation twist » à une époque assez récente. Alors les mots ne semblent pas être là mais le concept pourrait peut-être faire l'objet d'une question.

Me GUY SARAULT :

Je pense que j'ai déjà posté cette question au Dr. Coyne, je lui ai demandé ce qu'il comprenait que l'opération « twist » était un ajustement dans le « risk-free rate » on a « forward looking basis ». Il m'a dit que c'était son interprétation et qu'il laisserait au Dr. Booth le soin de l'expliquer. Alors j'ai déjà posé cette question, je pense. Et tout ce que je voulais souligner ici c'est que ça n'a pas été utilisé pour les fins de la décision D-2011-182, qu'il n'y avait pas cet ajustement à l'époque.

Q. [361] Okay. Are we good?

A. Can you give me one moment. Because I want to look at the Gaz Métro decision again.

Q. [362] Well, I'm suggesting to you, if this may accelerate your research, that there was no operation twist adjustment in that decision in

particular.

A. Well the, my recollection is that the Régie didn't make an adjustment to the risk-free rate. I'm not sure that they called it operation twist, but I think that they adjusted what would have been a, the typical process of three month out, twelve (12) month out, based on the then current one year out look for the 30-year bond yield. But I did wanted to refer back to the decision to see exactly what they did. It was, operation twist is actually Dr. Booth's language. I don't think that's the language of the Board. But I know that he has made those recommendations in the past. The Board has made other adjustments, it is my understanding, to the risk-free rate and what I wanted to refer to was to the specific language that they used around the risk-free rate-making adjustment if I might do so.

(12 h 00)

A. Well, I mean... You know, the decision speaks for itself, I mean, we all know it.

Me ÉRIC DUNBERRY :

Monsieur le Président, je vais revenir en ré-interrogatoire alors peut-être qu'on peut sauver trois minutes, là, parce que je pense que le témoin

veut simplement répondre à la question.

Me GUY SARAULT :

Q. [363] C'est ça, je n'ai pas d'objection.

A. I know...

THE PRESIDENT:

Go ahead.

A. I know I have the part of the decision I was hoping to reference and if I can cite from paragraphs 208 through 211...

Me GUY SARAULT:

Q. [364] 208?

A. Yes. Through 211 and there, the Board acknowledges, The CAPM model requires the establishment of a risk-free rate... The usual practice is to use the 30-year Government of Canada bond yield. Dr. Morin suggested a risk-free rate of 4.40% for calculating the CAPM while Dr. Booth suggested 4.50%.

And then the Board notes

The risk-free rate based on the Consensus Forecasts of August 2011 and the yield spread between Government of Canada 10-year and 30-year bonds for the previous month, as filed by Gaz

Métro, is 3.91...

Based on the evidence in the record,
the Régie determines the risk-free
rate to be in the range of 3.91 to
4.50%.

So I take it in that that the Régie saw it suitable
to make an adjustment to the risk-free rate based
on its conclusion in paragraph 211. It wasn't just
strictly relying on the three point nine one
percent (3.91%) which it set as the low end of the
range.

Q. [365] And you see that as an implicit adjustment?

A. Explicit.

Q. [366] Explicit? Okay. Duly noted. Okay, I would now
like to come back to the risk premium, the market
risk premium and I suggested to you that your
recommendation of six sixty-seven percent (6.67%)
is the average of a fifty-fifty (50-50) mix of
historical and projected market risk premiums for
both the Canadian and US markets and I believe you
agree with that?

A. That's correct.

Q. [367] And do we agree that it's a straight
arithmetic calculation that the average of your
forward looking results, at page 75 of your report,

comes to seven point three four five percent (7.345%), which is the average between six fourteen (6.14) and eight fifty-five (8.55).

A. The overall average I used was the six six seven (6.67). Perhaps I don't understand your question. Are you suggesting the average of the forwarding looking?

Q. [368] Well, what I'm suggesting, to make it very simple for you, is that we can see from this table 4, at page 75, that the forwarding looking results are significantly higher than the historical. Especially in the US.

A. Yes, they are higher, yes.

Q. [369] Okay. So we both agree that this forward looking data, for lack of a better word, has the effect of pushing up the overall result of your market risk premium.

A. It does. It's forward looking and it's not surprising to me because with lower bond yields the inverse relationship between market equity risk premiums would be expected to be higher, that's the nature of that relationship. But it is also market-based information based on the five hundred companies (500) companies in the S&P and every company in the Toronto Stock Exchange that we

derived that from.

Q. [370] I would now like to come back to the Régie's decision for Gaz Métro's rate case two thousand and twelve (2012), we've talked a lot about it, at paragraph 213 to 218 inclusive.

A. Yes, I see that.

Q. [371] Uh, huh. And I have the French copy in front of me so you may want to wear your earphones.

(12 h 05)

Au paragraphe 213 :

[213] Le Dr. Morin présente une prime de risque du marché de 6,70 % à partir d'études sur la base de données historiques ou sur la base de données prévisionnelles. Les dates de début et de fin de données historiques varient d'une étude à l'autre.

[214] Le Dr. Booth présente des estimations de la prime de risque du marché à partir de séries de données couvrant des périodes débutant en 1926 et en 1957 et se terminant en 2010. Il établit ses estimations à partir des moyennes arithmétique et géométrique et de la méthode des moindres carrés

ordinaires. Il recommande une prime de risque du marché de 5,5 %. Sa recommandation est corroborée par une étude du professeur Fernandez. Les résultats de cette étude sont établis à partir des opinions d'un échantillon de professeurs de finance, d'analystes financiers et de dirigeants de sociétés.

[215] La Régie souligne qu'elle a statué dans le passé sur l'établissement de la prime de risque de marché à partir de moyennes arithmétiques des données historiques ainsi que sur les sources de données pour établir cette prime de risque de marché. La Régie décide de faire porter son appréciation sur les données historiques à partir d'études autant canadiennes qu'américaines qui lui donnent accès à des données fiables et mises à jour de façon régulière.

(12 h 06)

Q. [372] Paragraph 216, we can skip because they're

talking about "moyenne arithmétique" and so on, and at 217, it confirms that it uses a fifty/fifty (50/50) mix of American (sic) and U.S. data for purposes of the market risk premium. And at 218, it concludes by establishing the "prime de risque du marché" within the range of five fifty (5.50%) to five seventy-five (5.75%), which is far from your six sixty-seven (6.67%). Is it safe to conclude from this that the Régie did not accept Dr. Morin's use of projected data leading to his proposed six point seventy percent (6.70%) and, as clearly stated in paragraph 215, that the Régie preferred to limit its analysis to historical data only?

A. I am not aware of the... I haven't studied the evidence that Dr. Morin presented in terms of his forward-looking market equity risk premium, so I don't know if it's the same that we've presented here, but what we have done, I believe, is consistent with what we try to do. Often times, we are stuck with history when we run the CAPM, we look at, in this case, almost ninety (90) years of data concerning returns in both the Canadian and the American stock markets, and from that, we compute a very long-term average over a variety of bond yields.

And I think we calculated that the average bond yield over that period of time was five point one percent (5.1%)... good, my memory is right in that regard... five point one percent (5.1%). And we all know, and I think Dr. Booth would agree with this as well, that there is an inverse relationship between the market equity risk premium and the risk-free rate, so one would expect, knowing nothing else, that if we're in an environment where interest rates are in the three or four percent (3-4%), that that market equity risk premium would be higher than the norm in the past.

But more importantly, we now have investors in two broad markets, the Toronto Stock Exchange and the S&P 500, that are relying on these projections of growth for those companies, and they're saying, "This is what we think the return is in those markets." And we take that market data to try to inform and balance this perspective on the history with the future.

So I see what the Régie has said there, I don't know what evidence that they had presented to them in terms of this forward-looking market estimate, but I would ask the Régie, in considering your question, which is an important one, if they

would refer to the work that we have provided, because I'm not aware of others that do this, this is not an easy exercise.

But if they would go to our schedules, where we show that work, and the basis for it, beginning with Schedule JMT-7, Schedule 1. And maybe if I explained it, it would assist those with understanding what it is we've tried to accomplish.

There, we take the forward-looking growth rates for each of these companies in the S&P 500, and in the following schedules, we do it for the Toronto Stock Exchange companies as well, and we compute using a DCF model, because that's what we use with earnings growth rates to compute what the implied return is, expected return in the market for each of those companies.

And then we weight them accordingly. And then we compute the overall market return, and you can see, in the case of the U.S., that's twelve point seven eight (12.78). And then, we deduct that same forward-looking bond yield, so we're assuming they had the same forward-looking market estimate of risk-free rates that we do in order to get the implied market risk premium.

So I can't think of a more comprehensive

way of trying to determine what investors are thinking about the risk premium inherent in equity markets. And to me, that is useful information for the Board in terms of establishing how investors look at both the U.S. and Canadian markets for required returns.

Q. [373] Are you through?

A. I am.

Q. [374] Thank you. I would now like to turn to the Beta estimate, unless you want to take the lunch break now... I'd like to finish before lunch, if I could?

LE PRÉSIDENT :

Vous allez finir avant le lunch, mais on est rendus au lunch.

Me GUY SARAULT :

On est rendus?

LE PRÉSIDENT :

Il vous reste quatre pages, je ne sais plus, là? Me

GUY SARAULT :

Trois.

LE PRÉSIDENT :

Trois...

Me GUY SARAULT :

Il y a le Beta, l'ajustement pour les autres

modèles, la comparaison avec, la question de la formule d'ajustement automatique, je n'en ai pas très longtemps encore.

LE PRÉSIDENT :

Lunch, parce que, écoutez, on a commencé à huit heures trente (8 h 30).

Me GUY SARAULT :

Oui, je comprends.

LE PRÉSIDENT :

Je vois du monde qui travaille continuellement. Me

GUY SARAULT :

Oui, oui, c'est sûr. On peut revenir avec le bêta. LE

PRÉSIDENT :

D'accord. Pause-lunch jusqu'à treize heures dix (13 h 10). Merci.

SUSPENSION DE L'AUDIENCE

(13 h 20)

REPRISE DE L'AUDIENCE

LE PRÉSIDENT :

Vous pouvez poursuivre, Maître Sarault. Me

GUY SARAULT :

Merci, Monsieur le Président. Messieurs les

régisseurs.

Q. [375] So, Dr. Coyne, before we left for lunch, I informed the Régie that I was about to question you on your Beta estimate. My understanding is that, you proposed a Beta of zero five nine (0.59), which is an adjusted Beta, for your benchmark electric utility, is that correct?

Dr. JAMES M. COYNE :

A. That's correct.

Q. [376] And I would like to compare your proposal in this case for the benchmark electric utility with the Beta that was determined by the Régie in its decision of two thousand and eleven (2011), the D-2011-182 for the benchmark gas distributor. And I bring you to paragraphs 224 and 225 of the decision, and I believe that you have it somewhere in your binder?

A. I do. One moment, please... did you say 224 and 225?

Q. [377] 224 and 225.

A. Yes, I'm there. Thank you.

Q. [378] Alright. At 224, the Régie states, and I quote,

[224] En ce qui a trait à

l'utilisation de bêta ajustés, la

Régie retient la conclusion qu'elle a déjà exprimée dans ses décisions antérieures. L'explication couramment utilisée dans les milieux de la recherche financière pour justifier un ajustement des bêta bruts, soit la tendance observée sur le plan empirique pour les bêta en général d'évoluer à terme vers la moyenne du marché qui est de un, ne peut être valablement retenue dans le cas d'une entreprise réglementée. En présence de droits exclusifs de distribution, il apparaît difficile de concevoir comment le risque propre à cette activité pourrait se modifier substantiellement à la hausse et évoluer vers le risque du marché au fil des ans.

[225] Ceci ne résout toutefois pas nécessairement de façon entière la problématique reliée à la qualité des bêta bruts et à leur capacité à prédire correctement les rendements dans le cadre de l'application du

MÉAF. Il demeure difficile de déduire la valeur du bêta de façon objective à partir des données observées sur les marchés pour les sociétés retenues dans les échantillons. En conséquence, sur la base de la preuve au dossier, la Régie établit le bêta d'un distributeur repère...

et on parle ici d'un distributeur de gaz, évidemment,

... dans une fourchette de 0,50 à 0,60.

soit une moyenne, donc zéro cinquante-cinq (0,55) en moyenne.

Do you have evidence on record in this case alleviating the concerns expressed by the Régie as to the use of adjusted Betas?

A. Well, first of all, I would, I need to take issue with your conclusion in your preamble that this benchmark is a gas distributor, because the Régie made an adjustment for the gas distributor off that benchmark, so...

Q. [379] Made an adjustment for Gaz Métro.

A. Yes.

Q. [380] This was the benchmark distributor.

A. Well, I'm not... I'm not sure of that...

Q. [381] I am.

A. But your question is to me.

Q. [382] I know.

A. I'm not.

Q. [383] I'm suggesting to you that it was for Gaz
Métro specifically.

A. I can only read what's there, and it reads
"benchmark utility", I know, in this decision, that
the Régie made an adjustment for Gaz Métro relative
to the benchmark, so it's beyond my knowledge to
know if that benchmark referred to an average
benchmark utility or a gas distributor per se. So I just
wanted to put that out there for the record.

But your question specifically is, has
anything changed that would moderate the Régie's view
pertaining to adjustments to Beta, is it a
fair characterization of your question?

Q. [384] What I'm asking you, do we have anything in
your written evidence containing explanations
purporting to alleviate the concerns expressed by
the Régie as to the use of adjusted Betas for a
regulated utility?

A. Well, again, as I said, we looked at this decision
quite carefully and we saw the procedure that the

Régie went on to utilize, wrestling with the problem that we're faced here with Beta and it ultimately, as I understand it, looked at, looked at an adjustment for Beta that converge towards the industry mean as opposed to the market mean. And I think if, probably the best way to discuss that, I mean you can see in the conclusion...

Q. [385] Where does it say that?

A. Well, if you look at the conclusion, based on the range converting, diverging to point five zero (.50) to point six zero (.60), let me see if I can find that... One moment please.

Q. [386] Alright.

A. I would refer you to paragraph 222 where, I believe that my understanding was based on this that Dr. Booth used that procedure, of reverting the mean, the Beta towards the industry average for the utilities's group. In 222, the Régie acknowledges that procedure and in 223, it acknowledges the procedure used by Dr. Morin. The Régie is not explicit in paragraph 225 in terms of which of these it found more persuasive other than to give us their range. So they don't make an explicit in that regard. But I presume that they found it somewhat influential based on the range that they

utilized in 225. And I also used that procedure in our analysis looking at the convergence of the Betas for a proxy group and we converge those to the industry meaning for both the Canadian as the U.S. proxy group.

Q. [387] But my question was where in your written evidence in this case, in your report, or in responses to information requests, do we have written explanations addressing directly concerns expressed by the Régie as to the use of adjusted Betas?

A. Well, you can, if you look at our evidence, in the CAPM section, which begins on page 67, and beginning, with our discussion of adjusting raw betas beginning on the top of 71, studies pertaining to them converging toward... betas converging towards one that rolls over to page 73, we discuss the adjustments that the Régie has considered in the past on page 73, our conclusion regarding why it's appropriate to adjust them and then our conclusion on page 74. So that's where we gave it consideration.

Q. [388] This is it?

A. Yes.

Q. [389] Thank you.

A. And I would note the analysis that we've done as well in the CAPM section of my schedules that pertain to the conclusions and the summary analysis that we provided there. I think it's, if it would be of assistance to the Board, what I would do is refer us to the schedule where we walk through the math of this, because I think it's instructive. I mean, we did, again, look quite carefully at what we thought the Régie was signalling here regarding their concerns. So, if you would bear with me on that, I would take us to exhibit JMC-6, schedule 1. I think this is one of those cases where Betas is best understood by looking at the numbers as opposed to just the concepts per se.

13 h 32

We'll bring that up on the screen in a moment but if it's possible first to look at JMC-6, schedule 1, together, I could walk through the procedures as well as the logic around that at the same time. I think it might be helpful to us. If you look at the top stands for the U.S. proxy group, you can see there that we have raw betas for each company in our proxy group and then we have the adjusted betas as reported by Bloomberg and Value Line for each of these companies. The

adjusted betas are the standard Marshall Blume adjustment towards the market mean of one and the next column, the industry-adjusted beta, column 4, is an adjustment of those betas. The point five four (.54) being the bottom line represents an adjustment towards the industry mean for them and that's why they're down, the average for those is point five four (.54). We're averaging that, column 4, with, do you see the average betas over in, the mean adjusted betas in 6, as well as that, you know, it might be better on the screen here. Good. We have that up. Can we all see that? Maybe between that plus what we have in front of us... Okay. The end result, let's look at the end result. I'll back away from there. The end result is point five nine (.59), you can see at the bottom of column 7, that represents the average of column 6, which is point six four (.64) and in column 4, which is point five four (.54). Point five four (.54) represents the betas converging towards the industry mean and column 6 represents the betas converging towards the market mean. So what we have done is taken the average of those two to get to our point five nine (.59).

So we're acknowledging that the Régie has

considered this evidence in the past, we presumed that they have found some benefit in that, some reason in that, and some logic in that. So we have incorporated that in our analysis in that way. But we are weighting at fifty-fifty (50-50) with the adjustment we use elsewhere, which is the standard market adjustment to beta. So we're weighting those fifty-fifty (50-50) in order to get our, the end result beta that use in our analysis. I hope that was clarifying.

Q. [390] So for all intents and purposes, the net effect of the adjustment is to increase the beta from where it would otherwise be.

A. I would say it would decrease the beta from where it would otherwise be with the standard adjustment towards the market mean of one which is the most widely used approach with beta.

Q. [391] Well, we go from zero point fifty-four (0.54) to zero point fifty-nine (0.59) because of the mean market adjusted beta adjustment.

A. Or I could say that we go from zero point sixty-four (0.64) to zero point five nine (0.59) with the same logic. Under most circumstances that would be the beta that we would use but, you know, the ranges between these are not enormous but we

certainly want to talk about the differences. And, by the way, the point five nine (.59) that we used in our analysis, you know, these are the market sources that we used to generate that and, as we discussed yesterday, the beta that we've used here, point five nine (.59) is lower than that adapted by the BCUC which is point six o (.60) to point six six (.66), more or less in the middle of the range adopted by the AUC of point five o (.50) to point six five (.65) and just a little bit lower than that adopted in Newfoundland of point six o (.60).

(13 h 39)

So certainly other Canadian regulators have found that to be a reasonable estimate of the Beta for Canadian utilities.

Q. [392] Okay. I will turn to the adjustment for other models. At page 11 of your report, you state, and I quote :

Concentric makes a 75 basis point adjustment for differences between the CAPM results and the DCF model. This reconciliation is consistent with the Régie's approach in factoring in an adjustment for the "Results of Other Models" in the 2012 Gaz Métro rate

case.

Is that correct?

A. And you are reading from page 11?

Q. [393] Of your report.

A. Yes. And I'm sorry. Which line were you on?

Q. [394] I don't have it here.

A. Oh! I see. You're on line 3.

Q. [395] Okay.

A. Yes, I'm with you.

Q. [396] So, when you refer to other models, what you're telling us here in fact is that the adjustment is for differences between only the CAPM results and the DCF model, which is the only other model dealt with in your report.

A. No, I didn't... That's not the only reason cited but that is the reconciliation, it allows you to view those models in the same way. And yet, the only other models that we have used are, yes, the DCF models, that's true.

Q. [397] Thank you. And you say that it's consistent with the Régie in two thousand twelve (2012), or two thousand eleven (2011) rather, because the decision was rendered on November twenty-fifth (25^e), two thousand and eleven (2011) and theⁿ adjustment for other models, in that decision was

of the, and within a range of zero point twenty-five (0.25) to zero point fifty (0.50), so an average of zero point three seven five (0.375), which is exactly half of what you're proposing in this case. And yet, you say it's consistent.

A. Consistent in the sense that the Régie found it necessary to adjust... The Régie also considered the results of other models which I presume they refer to as the DCF in that case as we did here, and consistent in the sense that they found the need to make an adjustment. It's not the exact same adjustment but I would note that we don't make other adjustments prior to that for operation twist or credit spreads or other factors. We make one adjustment and that is in this reconciliation to other models. So...

Q. [398] It is your view that a double adjustment is still consistent?

A. I did not say that.

Q. [399] But that's what it is. Multiply zero point three seven five (0.375) by two, you get zero point seventy-five (0.75) points, which is exactly what you propose.

A. Well I did, we did not make, as I just mentioned, we didn't make other adjustments prior to that. For

us, there's just one adjustment and that is this factor. And as I explained yesterday, there were several reasons for that adjustment and, you know, just even considering the comment I made before lunch, pertaining to the calculation of the market equity risk premium, and the relationship between the market equity risk premium and the bond yield that was calculated over and where we are today, which is one of the factors that I mentioned. My risk-free rate is four point two three percent (4.23%). The bond yields over which historic risk premiums were calculated was five point zero one percent (5.01%). That difference alone is in the order of eighty (80) basis points. If you use the relationship that the Régie has adopted and others in the past, we have estimated in our regression results - I take it back - the Régie is at a factor of one in the relationship to the risk-free rate but, what we've done elsewhere has approximated the difference between the risk-free rate, the relationship between bond yields and allowed ROE, risk-free rate and allowed ROE's is being in the order of about point five.

So if you look at the difference in risk-free rate during an historic period of time and

where they are today, that alone would get you to an adjustment of about forty (40) basis points to normalize, for forward looking risk-free rate. But there are several other factors that are included in that adjustment as well as we discussed on slide 17 yesterday and if we could John, it might be helpful to flip to that. Yes, yes. So, I think that's probably the most succinct summary of the basis for our seventy-five (75) basis point adjustment.

(13 h 44)

Q. [400] Thank you. Now I would like to turn to my last subject, "Automatic Adjustment Formula." At page 69 of his report, Dr. Booth proposes the following formula, and I quote,

I therefore recommend that in the future both HQT and HQD have their allowed ROE adjusted from that set for 2014 by 75% of the change in the forecast long Canada bond yield subject to that rate exceeding 3.95% and 50% of the change in the credit spread both calculated according to the Régie's decision for Gazifère and the values established in this

hearing.

End of quote.

So do we agree, Dr. Coyne, that what Dr. Booth proposes is the same adjustment formula as what was approved for Gazifère in two thousand ten (2010) and also for Gaz Métro, for that matter, in two thousand eleven (2011), subject however to a minimum risk-free rate of three point nine five percent (3.95%) at the basis of the formula from now on, does that sound like what he's proposing and your understanding of what he's proposing?

A. I'm going by memory on the factor, on the risk-free rate being point seven five (0.75), but subject to check out, I would accept that that was, those were the formulas adopted for Gaz Métro and for Gazifère, with the exception of the, I have no awareness that there was a floor of a risk-free rate as proposed here, and I would note that both formulas have since been suspended.

Q. [401] You're entirely correct, and that's what I'm suggesting to you, that this is the difference in this current proposal versus what was approved for Gazifère and Gaz Métro.

A. And is that your question, is that the difference?

Q. [402] Yes.

- A. Again, subject to check on the seventy-five (75), I think that's right, that would be... that would be the difference.
- Q. [403] And is it your understanding that the minimum floor of three point nine five percent (3.95%) for the risk-free rate purports to evacuate the abnormally low results that the formula could produce with lower risk-free rates?
- A. I don't think I provided evidence on the floor in this proceeding.
- Q. [404] No, I'm asking about your understanding of the purpose of the floor, proposed by Dr. Booth, what does it pertain to do, in your understanding?
- A. Well, Dr. Booth provided similar evidence in BCUC, where I did provide evidence in response. The... I think his intent is to recognize that bond yields are low, abnormally low, and to... to hold in abeyance the impact of the formula until they reach the level of the floor. I believe that's his overall intent, but it has a, it has an unfortunate impact in that, and perhaps undesirable, I don't want to imply intent, but it downwardly biases the result of the formula if you're in an environment where you're currently below three point nine five (3.95). And I could explain why if you like.

Q. [405] But if you have to use a minimum risk-free rate of three point nine five percent (3.95%) in order to trigger the application of the formula, don't you do away with that problem?

A. No. The reason you don't is that, the risk-free rate and the risk premium move in opposite directions. So if you're, let's just say for sake of argument that we're at today's long Canada bond yield, and you would have to move up to three point nine five (3.95) before that would have effect. The second part of the formula relates to the bond spread, and you would expect you would have some movement in the bond spread in the meantime. So you would be holding, you would have no adjustment for the fact that underlying risk-free rates are increasing, meanwhile, the bond spread is shrinking. So the first adjustment you would get to the formula would probably, would have to be a negative one, by the fact. Regardless of what may have happened to the bond spread, one would expect, I shouldn't say "regardless", one would expect it would move downward because that's how it works.

(13 h 50)

The bond yield comes down as the risk-free rate goes up. So it, the net effect is to bias the

formula is you were to construct it this way, and the BCUC agreed with us in their decision on this matter.

Q. [406] And that's, that's what you talk about in your additional testimony, filed as HQTD-3, Document 2.1, on the subject of the adjustment formula, and you refer to a recent BCUC proceeding, correct?

A. Let me bring that up.

Q. [407] Okay, and more specifically at pages 4 and 5.

A. And where specifically are you referring? Okay, on page 4, beginning with, "In British Columbia...?"

Q. [408] So what I'm suggesting to you, Dr. Coyne, is that the BCUC essentially approved the same approach but set the floor risk-free rate at three point eight percent (3.8%) and not at three point nine five percent (3.95%) as now suggested by Dr. Booth in the current proceeding here. But for everything else, we're talking about the same approach.

A. Yes, the difference is that, the... well, let me correct any misunderstanding. The difference is that the formula doesn't take effect until that point in time. So that serves to, that serves to mitigate the concern we have. And again, the

Commission recognized that concern and acknowledged that it would downwardly bias the formula, if it were not dealt with. This is the way they chose to deal with it.

I want to... I want to be careful there because it's very important should this Commission consider the adoption of a formula. I see no reason to adopt a floor, I think if the Régie decides that a formula is appropriate, on a going-forward basis, then I think the right way to do so is to adopt the parameters of the floor, given the best... the parameters of the formula, given the best information that is available to it.

We did express reservations about a formula for this reason, that we're not in normal market conditions. And our concern is that, you don't have normal risk-free rates and you don't have normal bond yields, and Dr. Booth has acknowledged this in his own testimony, and we're guessing as to what the normalized relationship will be on the other side of this between risk-free rates and utility bond spreads.

So if one were to lock in a risk-free rate and a bond spread today, in all probability, they're going to shift, you know, a year from now,

two years from now, as markets stabilize. So my concern is that the Régie might lock itself into a formula that might create a problem for it, out of the box. That was the reservation that we expressed here in British Columbia.

And I believe they addressed our, fundamentally addressed our problem by not having the formula take place so they could move in one direction only out of the box, they simply wait for the floor to be reached before it takes effect.

Q. [409] At page 5 of your additional testimony, the same testimony we're talking about, on the subject of the adjustment formula, you state, and I quote,

In its letter dated June 27, 2013, the Commission sought stakeholder submissions on the specification of inputs for the new reinstated annual AAM formula. In response, Concentric has submitted recommendations to the BCUC on specification of the input parameters required to estimate the formula.

The only think I would ask is an undertaking to file the June twenty-seven (27), two thousand and thirteen (2013) letter from the Commission, and

also to file a copy of your recommendations in response to the Commission.

(13 h 55)

Me ÉRIC DUNBERRY :

Monsieur le Président, avant de nous engager concernant le second document, je voudrais m'assurer que ce document a été versé publiquement dans un dossier et demanderais peut-être la permission d'en discuter avec monsieur Coyne quelques secondes avant de nous engager au dépôt de ce document qui pourrait avoir été assorti de certaines conditions.

LE PRÉSIDENT :

Allez-y. Excusez Maître Sarault. Me

GUY SARAULT :

Oui, je voudrais cependant signaler que l'existence de ces recommandations est expressément, on y fait expressément référence dans le témoignage écrit du Dr. Coyne dans le présent dossier. Il en a parlé oralement tantôt. Il nous en a donné une petite idée et ça a été demandé par un organisme de réglementation public pour une décision réglementaire. Alors je vois mal, après avoir obtenu les explications verbales pourquoi on ne pourrait pas avoir accès au document lui-même.

Me ÉRIC DUNBERRY :

Je n'ai pas dit qu'il n'y aurait pas d'accès d'offert à ce document Maître Sarault. Je vais aller prendre quelques instants pour, si vous me le permettez...

LE PRÉSIDENT :

Allez Maître Dunberry. Me

ÉRIC DUNBERRY :

Alors Monsieur le Président, il nous fera plaisir de prendre l'engagement et de souscrire et d'assurer la communication de ces informations additionnelles.

Me GUY SARAULT :

Est-ce qu'il y a un numéro d'engagement? Est-ce qu'il y a un numéro d'engagement Madame la greffière?

LA GREFFIÈRE :

Si je ne me trompe pas, je pense qu'on est rendu à l'engagement numéro 4 d'Hydro-Québec.

Me ÉRIC DUNBERRY :

Alors voilà, pour l'engagement 4. LE

PRÉSIDENT :

Est-ce qu'on pourrait le formuler s'il vous plaît? Me

ÉRIC DUNBERRY :

Oui, alors l'engagement numéro would be to provide

a copy of the June twenty-seven (27), two thousand and thirteen (2013) letter of the BCUC referred to at page 5 of Dr. Coyne's additional testimony filed as HQT-3, Document 2.1, and also provide a copy of the written response addressed by Concentric to the BCUC in response to the said letter.

E-4 HQT: Provide a copy of the June twenty-seven (27), two thousand and thirteen (2013) letter of the BCUC referred to at page 5 of Dr. Coyne's additional testimony filed as HQT-3, Document 2.1, and also provide a copy of the written response addressed by Concentric to the BCUC in response to the said letter

Me GUY SARAULT :

Alors Monsieur le Président, ça complète mes questions.

LE PRÉSIDENT :

Merci, Maître Sarault. Me

GUY SARAULT :

Merci.

(13 h 58)

LE PRÉSIDENT :

Parmi les intervenants qui ont demandé de
contreinterroger, j'ai ici l'ACEF de l'Outaouais.

Me STÉPHANIE LUSSIER :

Pas de questions, Monsieur le Président. LE

PRÉSIDENT :

Merci, Maître Lussier. Il y a également l'ACEF de
Québec.

Me DENIS FALARDEAU :

Pas de questions.

LE PRÉSIDENT :

Merci, Maître Falardeau. Maître Turmel pour la
FCEI.

Me ANDRÉ TURMEL :

Nous n'avons plus de questions. LE

PRÉSIDENT :

Merci, Maître Turmel. Maître Sicard. Me

HÉLÈNE SICARD :

Pas de questions.

LE PRÉSIDENT :

Merci. Maître Gariépy. Me

ANNIE GARIÉPY :

Je n'ai pas de questions. LE

PRÉSIDENT :

Merci. Et on arrive à vous, Maître Neuman pour

Stratégies énergétiques et l'Association québécoise de lutte contre la pollution atmosphérique.

Me DOMINIQUE NEUMAN :

Pas de questions.

LE PRÉSIDENT :

Merci. La Régie, Maître Ouimette.

INTERROGÉS PAR Me JEAN-FRANÇOIS OUIMETTE :

Oui, Monsieur le Président. Dans notre cas, nous aurons une seule question en fait, une seule ligne de questions.

Q. [410] Pour cette ligne de questions, je vais amener le témoin à sa pièce JMC-11. Je vais prendre l'annexe 4 aux fins de notre discussion. Alors juste pour rappeler, évidemment je réfère à la pièce JMC-11, annexe 4, du rapport de monsieur Coyne.

M. JAMES M. COYNE :

A. Yes, I have it, JMC-11, Schedule 4.

Q. [411] Pièce dans laquelle vous présentez les résultats du modèle DCF pour l'échantillon des entreprises canadiennes. Je comprends que les taux de rendement sur les capitaux propres que vous présentez à la colonne 10 sont censés refléter les rendements attendus par les investisseurs pour chacune des entreprises de l'échantillon. Vous êtes

d'accord avec ça?

(14 h 04)

- A. In column 10 I would note that, I will confirm with my colleague, that there was, we captured... I know there was mistake in the number for Valener that we fixed and I want to make sure that this reflects that, the one we are both looking at. The answer is yes. I just wanted to make sure that we were looking at the corrected version. You should have a grey box around Valener at eight percent (8%). If it does, then the answer to your question is yes, the results are in column 10 for that sample, for that thirty (30) day group. Yes.
- Q. [412] Et est-ce que vous êtes d'accord pour dire que les rendements attendus seraient en fonction du risque perçu par les investisseurs pour chacune de ces entreprises.
- A. The growth rates that are there, I mean, this is one of the models we've used, the thirty (30) day multistage. The expectation would be that in the stock price as well as the growth rates, that there would be some reflection of their perspective on the risk of these companies, yes.
- Q. [413] Et parmi les six entreprises que vous présentez dans votre échantillon, on remarque que

trois sont plutôt actives dans le secteur de l'électricité. Je fais référence ici à Canadian Utilities Limited, je fais référence également à Emera Inc. et à Fortis Inc. Dans le cas de Canadian Utilities et de Fortis, je comprends qu'il y a peu ou pas de production pour ces deux entreprises-là tandis que Emera est une entreprise intégrée donc qui comprend de la production. Est-ce que j'ai raison? Est-ce que ma compréhension est bonne?

A. Yes. Emera is near fully integrated. Canadian Utilities does not have generation and Fortis has some, yes.

Q. [414] O.K. Et c'est ce qu'on voit à la pièce JMC-4, annexe 1 je crois.

A. That's correct.

Q. [415] O.K. Et... Oui?

A. I would note that there is a reason that we run three models, thirty (30), sixty (60), ninety (90) days and using both Canadian and American proxy groups to do this. So I would not want to limit my remarks to the ROE as to just this one schedule.

Q. [416] Oui, oui, absolument. Je comprends. Et est-ce que vous êtes d'accord sur cette base que les entreprises Fortis et Canadian Utilities seraient davantage comparables avec HQTD?

A. More comparable than the other companies in the schedule?

Q. [417] Oui.

A. Well, if you are asking me to make the comparison between these three and TransCanada, Valener and Enbridge, I would say that they are more like HQT and D than those companies but the sum total of my conclusion is that the American companies are closer to HQT and D than are those companies for reasons of their electric operation focus and regulate electric utility operation focus. Canadian Utilities Limited is of course both gas and electric. Emera of course is a diversified holding company on both sides of the border and has gas pipelines and a fully integrated NSPI. Emera probably would not have satisfied the screen that we used for the Norwood. Canadian Utilities had satisfied the screen. If we were to run the same screen that we ran for the US companies for them.

(14 h 09)

For Fortis, I think, there again, I don't think they would have satisfied the screen because of their strong gas concentrations, they have assets in the Caribbean, so I would not say that

they're more like HQT & D than the U.S.

comparables, they were screened for that reason.

But compared to the others in this Canadian group, I would say yes.

Q. [418] O.K. Et nous remarquons également, à cette pièce, et également aux annexes 5 et 6, que le rendement attendu pour Emera, qui est une compagnie intégrée, est significativement plus élevé que les rendements attendus pour Canadian Utilities et Fortis inc., avec un écart assez important, là, on parle d'un écart supérieur à cent (100) points de base. Alors je vous demanderais, est-ce qu'on peut déduire que les investisseurs voient un risque nettement inférieur pour les distributeurs et transporteurs d'électricité dans un contexte canadien évidemment ici par rapport aux entreprises intégrées?

A. No, I think we need to consider what Emera is. You know, they have a marketing, a non-regulated marketing and trading company, they have investments in the Caribbean basin, they own Bangor Hydro Electric, Maritimes and Northeast, Maine Public Service, they're a very diversified holding company. And most of those assets are U.S. or Caribbean basis utilities, so that would be a

conclusion I would not reach. Me

JEAN-FRAN OIS OUIMETTE :

Alors  a compl ete les quelques questions que
j'avais pour le panel. Je vous remercie.

LE PR ESIDENT :

Merci, Ma tre Ouimette. La R egie n'a, Ma tre
Dunberry, la R egie n'aura pas d'autres questions pour
les t emoins. Je vois appara tre madame... ma tre
Sicard?

Me H EL ENE SICARD :

En fait, j'aurais une question, si vous me la
permettez, j'aurais d u venir plus t ot, je pensais
qu'on n'en avait pas besoin, mais l a, mon... Je
voudrais juste, je vais vous la poser en fran ais,
l a,  a va  tre plus rapide et plus facile. La
question s'adresse... I'm sorry, sir, but it's just
going to be short and easy. Si vous me permettez
une question?

LE PR ESIDENT :

Allez, Ma tre Sicard.

CONTRE-INTERROG ES PAR Me H EL ENE SICARD :

Q. [419] Je voudrais confirmer que dans les exemples
de comparatifs qui ont  t  pris dans l'analyse,
qu'il a exclu l'incidence pour tous les comparables
qui ont un m canisme incitatif, c'est- -dire que

leur rendement que, c'est parce que certaines entreprises, et on retrouve ça à la pièce JMC-4, « Schedule 5 »...

A. Yes, I have that in front of me.

Q. [420] O.K.. On voit que certaines de vos comparables ont des mécanismes incitatifs, je veux juste m'assurer que lorsque vous avez regardé le rendement de ces compagnies-là pour le compiler, que l'incidence apportée par le mécanisme incitatif, qui vient augmenter ou réduire le rendement, a été pris en considération et exclu des chiffres que vous nous donnez comme comparables à la fin. C'est ma seule question. Est-ce que vous comprenez?

A. I did.

Q. [421] Okay.

A. But I would like to confer with my colleague on the answer.

Q. [422] Okay, thank you. Et je m'excuse pour le retard.

A. Yes, so the result that we have utilized for that analysis is the net result, so that would have been the portion only to the shareholder, it would not include the portion that would have been refunded to the customer.

Q. [423] Okay, but in the portion of the shareholder, is part of that portion an extra or is it affected by the sharing mechanism?

A. Well, let me give you a case in point, let's just say for sake of argument that their allowed ROE was ten percent (10%), and the actual accounted for at the end of the year was twelve percent (12%), let's just presume they had a fifty/fifty (50-50) sharing mechanism?

Q. [424] Uh-huh.

A. Then eleven percent (11%) would have been the number that we utilized. So the, over the course of the year, they operated their company so that they saved operating expenses that generated two percent (2%) in ROE equivalent savings, if fifty percent (50%) of those were returned to customers, we accounted only for half of that difference that would have been the shareholders' portion.

Me H EL ENE SICARD :

Thank you. Je vais vous demander trente (30) secondes pour parler avec mon client et avec ma tre Sarault, est-ce que c'est possible?

LE PR ESIDENT :

Oui.

Me H EL ENE SICARD :

Merci.

(14 h 13)

Q. [425] Is it possible for you to give us for the...
your last selection of companies that you've chosen
at least, le rendement, si on inclut toute
incidence d'un m ecanisme incitatif? Ou si c'est un
exercice tr es compliqu e?

Me  ERIC DUNBERRY :

Monsieur le Pr esident, j'ignore si cet exercice est
simple ou non. J'ignore si cet exercice est
pertinent. Et je m'interroge sur la possibilit e de
demander au t emoin de faire ce genre... c'est- a-
dire qu'il n'a pas fait cette analyse-l a ou peut-
 tre qu'il pourra nous r epondre   cet  gard-l a dans
un instant. Mais pour l'instant, c'est de lui
demander essentiellement de faire un travail   la
demande d'un des intervenants qui peut repr esenter
une somme importante en termes d'effort sans que ce
soit pertinent et tout en reconnaissant qu'il n'est
quand m eme pas   la disposition de tous et chacun
pour faire des rapports additionnels ou
compl ementaires au soutien des repr esentations  
venir.

Me HÉLÈNE SICARD :

Écoutez, je vais laisser ma question à la discrétion de la Régie, mais je vais expliquer quand même. On est dans un contexte où Hydro-Québec demande un taux de rendement qui n'inclut pas le mécanisme de traitement des écarts. On l'a. Il est traité. Il va être traité séparément. On a pris longtemps, nous, pour acquis, c'est un dossier qui... que, là, on fixait un taux de rendement, qui est un taux de rendement, et je pense que c'est ce qu'Hydro-Québec demande, puis à côté de ça, on va avoir un mécanisme incitatif où il pourra, selon votre décision, avoir un rendement supplémentaire.

Alors, si je veux regarder les bons chiffres et que la Régie ait une base de comparaison valable, il faudrait peut-être comparer des pommes avec des pommes. Quant aux experts, je comprends que c'est l'expert d'Hydro-Québec, mais les experts sont les experts qui doivent éclairer tout le monde, et la Régie, ils ne sont pas ici juste pour éclairer Hydro-Québec ou pour présenter la position d'Hydro-Québec, ils présentent ce qu'ils connaissent sur le sujet et l'expertise. Puis en bout du compte, c'est les clients qui paient pour ces gens-là.

Me ÉRIC DUNBERRY :

Monsieur le Président, la difficulté principale que j'ai, c'est qu'il n'y a pas deux taux de rendement raisonnable. Nous sommes tous ici pour faire fixer un taux de rendement raisonnable suivant le critère, les critères qui ont été reconnus par la Régie et d'autres régulateurs, la norme de rendement raisonnable suivant différentes approches classiques maintenant avec lesquelles tous sommes bien familiers. Et il y a un seul taux de rendement raisonnable.

Alors, je comprends de la question qu'il y aurait un taux de rendement raisonnable avec ISM et un autre taux de rendement raisonnable sans ISM, et qu'il y aurait un lien à faire entre les deux. Sincèrement, d'abord, je pense que je ne comprends plus la demande eu égard à la précision qui a été apportée. Et, deuxièmement, l'expert Coyne et Concentric ont été sollicités pour faire des représentations sur un taux de rendement raisonnable et non pas deux suivant une décision hypothétique à venir sur l'existence ou le contenu inconnu à cette étape-ci d'un mécanisme de traitement des écarts.

LE PRÉSIDENT :

En fait, si je comprends bien, Maître Sicard, ce que vous voulez avoir ou ce que vous demandez, c'est bien entendu le taux de rendement qui a été autorisé versus le taux de rendement final...

Me HÉLÈNE SICARD :

Voilà!

LE PRÉSIDENT :

... en fin d'année, taux de rendement réel si on considère que le mécanisme incitatif...

Me HÉLÈNE SICARD :

Voilà!

LE PRÉSIDENT :

... en place pour...

Me HÉLÈNE SICARD :

C'est exactement. Oui, oui. LE

PRÉSIDENT :

... certaines des entreprises amènent des modifications. J'ai vu des taux aussi. Donc, écoutez, je pense que les experts ont cette information-là, à savoir lorsqu'ils ont analysé les taux réels, est-ce que, là-dedans, il y avait une partie, une bonification reliée à un mécanisme incitatif.

(14 h 18)

Mr. JAMES M. COYNE:

A. Could I address the Board on this issue? What we have reported is the net result of the earning sharing mechanism so after any sharing for customers that portion that was left for the shareholder. So if that is what you are looking for, that is what we've provided.

Q. [426] No...

A. If you are looking for the gross, in other words what would have been earned prior to the earning sharing... Is that what you are asking for?

Q. [427] No. What I'm looking for is what would have been earned without the sharing mechanism by the shareholder? I would like to know if it's possible to exclude from your, let's say, your averages for... the result for an ex-company and you have, I was going to, for example you have an incentive, I understand there's incentive regulation so possibly a sharing mechanism for Consolidated Edison of New York. Well, if Consolidated Edison, I don't have the numbers in front of me, but got ten percent (10%), was there one percent (1%) or two percent (2%) of that that came from the sharing mechanism? Is it possible to get "le rendement" of the company that have sharing mechanism excluding the impact

that the sharing mechanism has had?

A. I think I understand your question. Is it possible?

To do that would mean, the data we've collected is the reported earned ROE of the company, as I have mentioned, after any sharing. I think what we would need to do would be to look for the compliance filings for each of these companies over twelve (12) years and I think we reported earlier that was a hundred and seventy-one (171) filings to see if we could find those filings and to look at what the gross would have been prior to that net. So it would be a substantial effort to do that because not all of these are electronic, especially when you go back over that many years. I just want the Board to be aware as it decides the value of this information as to whether or not that is worth the effort. But we could attempt to do so as Mr. Yardley's reported, the compliance filings around ESMs are different for each company with different schedules and things of that nature, so we've relied on our standard reports at the end of each rate year and it would mean, in some cases, going to the commission itself to get these documents so I would, again, I would just like the R egie to be aware of what they are asking for if we do this.

Q. [428] Okay.

(14 h 20)

Me ÉRIC DUNBERRY :

Monsieur le Président, eu égard à la réponse de monsieur Coyne, je ne peux que maintenir mes commentaires antérieurs.

LE PRÉSIDENT :

J'ai bien saisi. Vous avez quelque chose à ajouter Maître Sicard?

Me HÉLÈNE SICARD :

On ne demandera pas le détail... LE

PRÉSIDENT :

C'est ça.

Me HÉLÈNE SICARD :

On va laisser la Régie libre de le faire. Nous on a de l'information pour argumenter pour le moment, là, sur les chiffres. Voilà. Merci.

LE PRÉSIDENT :

Merci Maître Sicard. Donc Maître Dunberry, la Régie n'a pas d'autres questions, les intervenants n'ont pas d'autres questions. Ça termine. Est-ce que vous avez des questions en réinterrogatoire?

Me ÉRIC DUNBERRY :

En réinterrogatoire et ça ne sera pas très long. J'ai une question pour monsieur Gaudreau que

j'avais annonc e en tout d ebut de contre-interrogatoire concernant la structure en capital, et je lui donne un pr eavis pour qu'il puisse y r efl echir. Et j'aurai quelques questions pour monsieur Coyne.

R EINTERROG ES PAR ME  ERIC DUNBERRY :

Q. [429] Mr. Coyne, let me start with you. And the purpose of this re-examination is just to ensure that we have complete answers to some of your questions or clarifications. In one of the questions asked, you simply indicated that you did a bottom-up approach and I think I know what you meant. This expression has a common meaning but just to make sure we have a clean record, could you, perhps in some additional words, define what you meant by your bottom-up approach?

JAMES M. COYNE:

A. Yes, we, as I mentioned, we used the capital asset pricing model and the discounted cash flow model for U.S. and Canadian proxy groups and we used market based inputs or inputs from third party sources to populate those models and build the resulting ROE as a result of those inputs conveyed through the model. So we didn't look to other boards as an indication of what the appropriate ROE

was in the context of that specific line of questioning. So that's what I meant by bottom-up.

Q. [430] Thank you. A second question. You were asked by maître Sarault to compare the applicants in this case with Gaz Métro. And I understood that you prepared evidence in the Gaz Métro two thousand thirteen (2013) rate case, correct?

A. Yes, I did.

Q. [431] And you used the expression "nominally different". I believe you were asked to make a comparison in-between these two entities or three entities and you referred to a nominal difference. Could I ask you what was your recommended ROE in the Gaz Métro two thousand thirteen (2013) re-application?

A. It was nine point three percent (9.3%).

Q. [432] Thank you. You were also, and this is my third question, you were also asked to make a comparison between A and B and if I got it right, A was a company and, you wrote this down on a piece of paper, you may want to track it down. A was a company with a fifty percent (50%) equity ratio and a credit rating of A minus (A-) and B was a company with a thirty percent (30%) equity ratio and if I got it right, with a double A (AA) credit rating.

And you were asked whether company A would be perceived as being riskier than company B, all else being equal, and your answer was, and I took note, riskier from a debt perspective, a debt perspective. Would there be any other relevant perspective that you would have given in completion of your answer to that question?

A. Yes, I would have and that is of course the equity perspective and, the equity investor is concerned with business risk and also concerned with financial risk and with financial leverage. And, when you place lower equity on the balance sheet, that means that they have a slimmer line of defence vis-à-vis the bondholders that get paid first. So, of course, from an equity perspective standpoint, they are very much concerned with the quality of the balance sheet or the leverage on the balance sheet. They do have a different view in that regard.

Q. [433] Thank you. Question number 4. You were presented with some differences between Canada and the United States in terms of, if I believe, interest rates, inflation rates, and exchange rates at one point. And it was also pointed out by maître Sarault that the financial information, or some of

the financial information that you used to derive your ROE recommendation, were expressed in U.S. dollars. And then you said that, and I took note, that your ROE was quite transferrable across the boarder because it was expressed as a ratio, a percentage. Could you explain in greater detail why you feel that this ROE you recommended can cross the boarder, notwithstanding these differences in rates and/or inflation rates and/or exchange rates?
(14 h 25)

- A. Yes. The transferability is because we have, in the U.S. of course, we have rate based dollars that have been invested in U.S. dollars, in Canada, they've been invested in Canadian dollars, and expressed as a percentage return, it's a reflection of their required return, you know, based on comparable investments both on their side of the border and on the other side of the border, and in international markets for that example, because we're expressing them as a percentage that mitigates impacts of any cross-border differences, but I would also say that that's assisted by the fact that we have dollars, Canadian and U.S. dollars that are moving fairly closely together.

And it has been concluded recently by URS,

for example, in their recent equity report, that they don't see any reason why an equity investor would see a reason for a difference between expected returns in the U.S. versus Canada.

Me ÉRIC DUNBERRY :

Q. [434] Thank you, Mr. Coyne.

A. And that's -- pardon me, that's DBRS.

Q. [435] Thank you. Question 5, and I would ask you to take a pen and paper, and I'll try to be clear. This is the bigger question of the list, and we're almost done. It's more of a question of concepts, I would believe -- you were asked, through a number of questions, to deal with what I would call, it's a big word, "contamination".

You were asked to deal with the contamination of the proxy group by the ownership of generation assets in some entities. You were also asked to confirm the inability to calculate a sustainable growth rate DCF for Canada for lack of data. You were also questioned on some imperfection in the comparability of certain of these entities.

And now withstanding all that, you indicated, in an answer to a question to maître Sarault that you still find it preferable, notwithstanding this imperfection in the data

available, that you still find it preferable to rely on market data than, and you said, "to overlay my judgement on these data and/or to manufacture value", that's what you said.

I would like to ask you the following three sub-questions: First, could you expand on the reason why, at the end of the day, you still prefer to use market data than manufactured or "synthetic data", as you used yesterday? That's the first sub-question.

Could you too explain what are the risks associated with this regarding market data, arguing that they're not perfect, to then use your own judgement, what are the risks for regulators in doing that?

And third, would you see any reason why, in Quebec, contrary to other jurisdictions, this Board should not consider U.S. data?

(14 h 30)

Me GUY SARAULT :

Là, je pense qu'on commence à s'éloigner dangereusement d'un réinterrogatoire qui soulève des questions pertinentes aux sujets que j'ai abordés en contre-interrogatoire. Je pense qu'on vient de la franchir, la frontière. Là, ça commence

à être de... En tout cas!

Me ÉRIC DUNBERRY :

Monsieur le Président, je pense d'abord que cette question est hautement pertinente aux fins de vos délibérations. Le contre-interrogatoire et la preuve écrite est amplement, traitent amplement de cette question de l'usage des données américaines, de la comparabilité des échantillons. Et le témoin, en réponse à de nombreuses questions en contre-interrogatoire, a indiqué que, oui, il y avait des éléments de propriété de génération de production d'énergie, oui, il y avait des données qui étaient plus limitées au Canada qu'aux États-Unis, et, oui, la comparabilité présente certaines limites.

Et au terme de cela, il a indiqué qu'il préfère utiliser des « market data » pour justifier sa... Je pense que c'est fondamental aux fins de vos délibérations d'avoir une preuve aussi complète que possible sur cette question-là, parce que vous allez être appelé à trancher sur ce point très particulier. La position d'Hydro-Québec, elle est très transparente. Nous vous offrons un dossier qui, je pense, n'a jamais été aussi détaillé sur la comparabilité et l'usage des données américaines. Je pense que le témoignage de monsieur Coyne et

monsieur Booth, qui passera ensuite, pourra certainement apporter sa propre perspective.

Et le Tribunal pourra avoir entendu tant monsieur Coyne, qui nous quitte ce soir, il va revenir, mais il ne sera plus appelé à témoigner peut-être, et monsieur Booth qui débutera lundi son contre-interrogatoire et son interrogatoire en chef qui pourra répondre à la même question. Je pense que, comme décideur, vous avez un intérêt évident à entendre cette réponse qui est sincèrement propre en réinterrogatoire.

Me GUY SARAULT :

Je réitère que je me souviens très bien de ma ligne de questions, je n'ai aucunement soulevé cette question de « market data » en contre-interrogatoire. Il n'en a même pas été question une minute et quart.

Me ÉRIC DUNBERRY :

Monsieur le Président, je dirais que les références à toutes les « schedules » réfèrent à des « market data ». Et on a utilisé beaucoup de données.

LE PRÉSIDENT :

Effectivement, l'élément de comparatibilité avec le demandeur et le groupe de proxy américain, puis c'est dans plusieurs décisions à la Régie, on a eu

à discuter effectivement de comment valables étaient ces comparaisons-là. Donc, j'invite le docteur Coyne à répondre à la question.

(14 h 31)

Me ÉRIC DUNBERRY :

Q. [436] Mr. Coyne, I would invite you to go through three elements I have suggested. Thank you.

A. Thank you. On the first, the use of market data versus synthetic data, the very purpose of the fair return standard is to set a market base greater return and I think nobody knows better than the market regarding that rate of return. So, it's simply standard practice to use that market data we have access to. And the reasons for that are really two-fold. One is that markets move quickly and we all would struggle to outguess what the market thinks at a given point in time. So we listen to them well. There are a broad number of participants. They have their view and they bet with their dollars, so, on both sides of the boarder, that's similar.

The second related to that is that, the Régie doesn't have an easy job. I've read other experts ROE evidence, and not to here... you can get opposing views that may seem reasonable. And

the, I think the true north in this, it is the market data because it gives us an unbiased estimate of this required return. That's not to say that some judgment isn't required in assembling it and putting it together in a careful way, and of course, it begins with the proxy group selection, et cetera.

But, if you take a synthetic approach, and I sympathize with the Régie in this regard, that if you have to look to an estimate of the risk-free rate and estimate of the Beta, and an estimate of the market equity risk premium, and then, make adjustments for other models. You're making judgments on top of judgments that, from one proceeding to the next, I think you could get a different opinion, probably an informed opinion but still opinions in any one of those matters. So, it's for that reason that regulators, when they have access to market data, chose to use it.

And in the past decisions, the Régie has not had access to this data. It was only in, I think it was June of two thousand twelve (2012) that we began to get coverage from SNL and... it was in the spring of two thousand twelve (2012). So, the Régie, and the experts before the Régie,

now have access to data that they haven't had before. So I think this is an opportune time for the Régie to take advantage of the resources it has available to it to make as informed a decision as possible, utilizing that data.

On the second quest... you know, related to that, the risk of disregarding market data would be the risk of not providing a fair return, and of course, that's the very fundamental of the job of the Régie in this case as it is for other regulators that are overseeing these matters. And, it's for that reason that we've seen regulators in another jurisdiction give more weight to the DCF, you know, because they recognize that you have inputs that are directly coming out of the market that govern all those models, and as a result, I think they're more transparent and less subject to... this is of use so to speak.

And in terms of the other, the third question, is there any reason why Québec should not consider US data? I think the Régie has already bridged that gap in your last Gaz Métro decision, where you put more weight on the market equity risk premium for example, and if I stop and think about Québec as a trading partner with the US, if I stop

and think about Hydro-Québec playing the important role it does in the north-east region, as a provider of electricity, both inside the borders of Québec into New England where we live, it's very much an integrated company between these borders.

In fact, I don't know that there's a more integrated company between these borders than Québec. I know that at one point in time, Hydro-Québec was the largest issuer of debt and foreign debt in the US. That's no longer the case. But the electrons from Hydro-Québec cross the border, the dollars raised to capitalize the company cross the border. So I certainly think it's a natural thing to consider in an investment perspective which is a North American one.

Q. [437] Thank you Mr. Coyne. There was, and this is my last question, there was a question where you simply said you're referring to the holding company and we have done our analysis using data relative to the operating company and there was a discussion with schedule 5 and schedule 6 and you were told that, there was a reference in the body of the report of Dr. Booth, to these two schedules. I was able to locate those references, and there are a couple of statements that have been made with

respect to schedules 5 and 6. So, I would simply like to have you have a chance to complete your answer. So, could you please take page 78 of Dr. Booth's report, lines 3 to 12 and you will see, Mr. Coyne, that this question and answer, actually the answer starts with "Yes, in Schedule 5 I list the utilities". Could you take a few seconds to read lines 3 to 12 and I will ask you if you have any comments considering that we now know that these schedules refer to the holding companies and you had done your analysis with the operating companies, whether you have a comment with respect to the allegations and statements made in this paragraph.

(14 h 36)

A. I'll begin by reading the passages. Is there any other support for Moody's observation and I presume that Dr. Booth is pertaining to the two thousand nine (2009) Moody's report and not the more recent one where they've changed this observation regarding the US market. But he asked the question "Is there any other support for Moody's observation?"

Yes. In Schedule 5 I list the utilities covered by AUS in its

monthly Utility Report (September 2013). In particular I report the ROE where the range for pure electric companies is from 2.3% for First Energy to 14.0% for PPL Corporation. For reference purposes First Energy is not a small company its market capitalisation (value) is over \$15 billion US and it is in the S&P 500 index. For the combination Gas and Electric companies the ROE range is from 0.4% for MDU (an NYSE listed company) to CMS Energy at 13.6%, while for the gas companies, the range is from 7.2% for EQT to 19.6% for Questar. I am not suggesting for one minute that these companies are comparable to any Canadian companies but these are what are regarded as utilities in the US and it is their risk profile that affects the valuation of utilities; not those for a small group of companies that for the moment are low risk.

Well, I guess two observations. One is that Dr.

Booth is referring, as we discussed, holding companies and I think he is reaching conclusions regarding those holding companies for operating companies and, as we discussed earlier, that's the very concern that the Régie had in its Gaz Métro decision so I don't think those conclusions are appropriate and they certainly should be precluded by indicating that those discussions pertained to the holding company. And I would add that, well, Dr. Booth does go on to describe,

The fact that we can create a small group of currently low risk companies does not mean to say that they are regarded as low risk, since the markets are only too aware that circumstances change.

Well, that's true that markets are too aware that circumstances change but, you know, we are looking at how markets view these low risk utilities that we use in our proxy groups for how they are perceived today and I think that's all an investor really has to go by. But we are not doing the analysis that Dr. Booth has done here and I should say that, you know, AUS, as I mentioned earlier, is as far as we know, is one individual putting

together reports. SNL that we use is a large organization that puts together substantial amounts of data on utilities and their decisions. It's a much more reliable source than AUS. We found errors in their reporting in the past so... But I think the biggest concern I have here is the fact that this is holding company data leading to those conclusions.

Q. [438] Thank you. And my last question would be to ask you to go to page 79 and there is a reference to schedule 6. My understanding here again is that schedule 6 refers to holding companies and not operating companies for the purposes of your analysis. And could you read lines 3 to 8 and let us know whether you have any comments in addition to those you've made considering that this schedule refers to holding companies.

A. Reading from line 3 on page 79,

Schedule 6 reports the actual ROEs for most of the AUS pure electric companies, where the median electric revenues are 95%. Some do not have complete data but I found ROE data from S&P's analyst reports for 2002-2011 and updated this with more recent

data from Reuters. I also matched this data with that for Newfoundland Power and for Nova Scotia Power since NSPI is the major subsidiary of Emera and NP is the corner stone of Fortis.

Schedule 6 then reports the standard deviation of their annual ROEs as well as the average ROE.

I presume, based on the prior observation, that these again are holding company data and not the allowed returns and earned returns for the subsidiary operating companies which is the basis that we have conducted our analysis on.

(14 h 43)

Q. [439] Thank you. Monsieur Gaudreau, moi, j'aurais une seule question pour vous. Je vous inviterais à prendre votre présentation PowerPoint, à la page 2, ainsi qu'une copie de la preuve en chef d'Hydro-Québec, document HQTD-1, document 1. Et la question porte sur l'objet de la demande qui est formulée par les demandeurs concernant... concernant ce dossier. Alors, c'est à la page 21 de 27, document HQTD-1, document 1. Alors, débutant avec la page 2 de votre présentation PowerPoint, vous nous avez indiqué hier que l'objet de la demande conjointe

des demandeurs, en trois volets, et ce sont les trois volets que vous avez bien résumés à la page 2. Par ailleurs vous dites - vous étant les demandeurs - qu'en ce qui concerne... et je lis à partir de la ligne 12, à la page 21, que :

En ce qui concerne les structures de capital, le Transporteur et le Distributeur maintiennent celles-ci au niveau actuel, soit :

Et nous voyons là la description des structures de capital actuel.

M. GILLES GAUDREAU :

R. Hum hum.

Q. [440] J'ai formulé un commentaire lors de votre contre-interrogatoire entre, et je répète ce que j'ai dit, entre l'absence de demande et le fait que la structure de capital n'est pas à l'ordre du jour...

R. Hum hum.

Q. [441] ... et l'interprétation qui semble être faite, de commentaires contenus dans le rapport de monsieur Coyne à l'effet qu'Hydro-Québec demande le maintien de la structure de capital comme si cette question faisait l'objet d'un débat devant la Régie et que la Régie était appelée à trancher de cette

question-là.

Je vous demanderais de préciser, dans les termes aussi clairs que possible, quelle est la position des demandeurs concernant la structure de capital et l'impact que cette position devrait avoir lorsque considérée par la Régie dans notre dossier?

R. Écoutez, pour Hydro-Québec, la structure de capital n'est pas... ne fait pas partie de sa demande... ce sujet-là n'est pas partie à sa demande dans le dossier. C'est une décision commerciale et qui a été prise par l'entreprise au premier... au tout début du dossier. Pour nous, le problème qui doit être réglé rapidement c'est le taux de rendement sur les capitaux propres, et c'est pour ça que nous avons voulu centrer le dossier sur cette question. Nous sommes conscients qu'ouvrir un troisième débat allait causer du travail supplémentaire. Je vois déjà les dix (10), douze (12) cartables qu'on a strictement sur le ROE. Alors, pour nous, c'était très important de centrer le débat strictement sur le ROE, le taux de rendement. Et, quant à nous, c'était l'élément qui doit être corrigé rapidement.

Q. [442] Merci.

Me ÉRIC DUNBERRY :

Alors, je n'ai pas d'autres questions, Monsieur le Président. Je vous remercie. Et je pense que ça termine la preuve en chef du Transporteur, sujet aux engagements... et du Distributeur, sujet aux engagements qui ont été formulés.

LE PRÉSIDENT :

D'accord. Merci, Maître Dunberry. Donc, il ne nous reste qu'à remercier votre panel, monsieur Trogonoski, monsieur Coyne, « tank you for your participation », monsieur Gaudreau, monsieur Verret, monsieur Hébert, encore une fois, merci pour votre participation et la Régie vous libère. Bonne fin de journée.

Là-dessus, la Régie va ajourner ses travaux à lundi prochain, neuf heures (9 h). Il y a probablement... on voit, là, que l'échéancier... le calendrier, on est peut-être un peu en retard, là. Ça fait qu'à un moment donné, j'aimerais... on vous donnera peut-être quelques précisions lundi matin à cet égard. Ou si vous avez des propositions à...

Me ÉRIC DUNBERRY :

Bien, en fait, ça tombe bien, Monsieur le Président, parce que maître Sarault et moi, nous nous parlions avant la reprise et je pense que

monsieur Hébert a également recueilli les propos de certains. Je pense que nous avons, enfin, quant à nous, conclu que nous ne terminerons pas avant très tard lundi et fort probablement mardi, la preuve. D'abord, parce que si on regarde le simple total des heures annoncées, il y a la présentation en chef de la preuve de tous les intervenants, les contre-interrogatoires pour plusieurs intervenants, évidemment pour la Régie et Hydro-Québec. Si on fait le total de ça, je pense que nous pouvons terminer le tout mardi mais que nous pourrions difficilement terminer avant mardi. Et, sur cette question-là, il y avait évidemment la question de l'argumentation. Et, pour toutes sortes de raisons, que je pourrai préciser si vous le suggérez, je pense que la chose pragmatique, simple et appropriée à faire est de procéder avec des argumentations écrites. Nous l'avons fait sur la question préliminaire, je sou mets que ça a été tout à fait reçu et efficace. C'est également la pratique de plus en plus devant bien des tribunaux administratifs et également les tribunaux en matière de régulation économique, l'Office national de l'énergie, pour ne pas le dire, souhaite de plus en plus voir ce genre d'argumentation. De façon

très concrète, je pense que si on tente de trouver quelques journées additionnelles pour tous les procureurs, la Régie, l'ensemble des personnes intéressées devant revenir, avec les agendas de tous et chacun, je pense que, malheureusement, on se retrouverait peut-être à l'année prochaine, et ce n'est certainement pas le souhait d'Hydro-Québec et de personne. Je pense que perdre le momentum ça serait vraiment dommageable de ce côté-là.

Et je vous soumetts bien respectueusement que dans un dossier où la preuve, comme celle-ci, est très technique, très volumineuse, une argumentation écrite vous sera, je pense, très utile pour faire une synthèse. Parce que, vous savez, les avocats aiment bien plaider, là, mais, en bout de piste, c'est un dossier technique où l'analyse rigoureuse de données de marché doit avoir préséance sur les effets de toge. Alors, je vous dirais qu'en bout de piste, nous préférons avoir l'occasion de vous écrire une synthèse qui va vous être utile que de se revoir en début d'année avec des représentations orales qui, de toute façon, vont requérir de votre part une analyse de la preuve et des contre-interrogatoires. Et, bien concrètement, puisqu'on ne terminera pas avant

mardi, et j'ai compris que la Régie avait d'autres engagements également, comme sans doute d'autres régisseurs également, alors, concrètement et avec l'accord de mon collègue, et je pense celui d'autres également, je pense qu'il semble y avoir un certain consensus, sans qu'on ait parlé à tout le monde, je pense qu'il y a un certain consensus à cet égard-là. Je sais que maître Turmel a été consulté également.

LE PRÉSIDENT :

D'accord. Merci, Maître Dunberry. Est-ce qu'il y a des procureurs pour les autres intervenants qui ont des commentaires, là?

Me ANDRÉ TURMEL :

Bien, écoutez, c'est sûr que là il y a une contrainte de date évidente. Si on termine la preuve mardi, personnellement, je serai de retour ici, Maître Turgeon, pour la cause... et vous aussi, effectivement, pour la cause du plan d'approvisionnement de Gaz Métro, qui est cédulée pour plusieurs jours. Alors, après ça, je pense qu'il y a peut-être d'autres dossiers qui sont à l'agenda. Alors, physiquement, je pense qu'on est un peu coincés pour des plaidoiries orales. J'aime ça plaider oralement, personnellement, avec des

notes, surtout qu'on peut échanger avec les membres de la Régie, ce qui est plus difficile à faire simplement par écrit. Mais, que voulez-vous, les contraintes de calendrier et de disponibilité sont telles que c'est un « fallback position » qui nous est presque naturellement imposé.

LE PRÉSIDENT :

Un « fallback », oui.

Me ANDRÉ TURMEL :

Merci.

LE PRÉSIDENT :

Merci, Maître Turmel.

Me ÉRIC DUNBERRY :

Effectivement, les avocats aiment toujours plaider mais, dans ce cas-ci, tout à fait, nous... jusqu'à la mi-décembre, je pense qu'il y a seulement trois, quatre jours où il n'y a pas d'audience. Alors, dans ce cas-ci, nous sommes d'accord à ce que ce soit fait par écrit. Mais, par ailleurs, à ce que ça devienne la norme, je ne pense pas qu'on en est là. Dans ce dossier-ci, je pense que ça... c'est un... le dossier qui sied bien à une argumentation écrite. Mais, ceci dit, avec un délai en conséquence pour tous. Quand je parle délai, c'est peut-être une fois que la preuve sera close, au

moins deux semaines, et on regardera le calendrier lundi, mardi, si vous voulez, mais se donner un peu de temps, là. Je vais laisser mes collègues continuer. C'est peut-être là où on va...

Me GUY SARAULT :

J'ai fait un petit oubli d'ailleurs sur la question du délai. J'appuie entièrement maître Turmel. Et j'écoutais maître Dunberry tantôt et je n'ai pas pu m'empêcher d'esquisser un sourire lorsqu'il parlait de synthèse. Sa synthèse, d'après moi, elle va être proche de deux cents (200) pages. Alors, il faudrait...

Me ÉRIC DUNBERRY :

On me prête des propos, des prétentions. Me

GUY SARAULT :

Non, mais on aimerait ça avoir un délai raisonnable pour pouvoir digérer ça avant d'écrire notre propre argumentation. Merci.

LE PRÉSIDENT :

Maître Neuman? Merci, Maître Sarault. Maître Neuman?

Me DOMINIQUE NEUMAN :

Oui, Dominique Neuman pour Stratégie énergétique et l'AQLPA. Donc, c'est les mêmes remarques, nous sommes d'accord pour plaidoirie écrite mais avec un

délai suffisant parce que nous sommes presque tous les jours en audience jusqu'à Noël, donc prévoir quelques semaines pour qu'on puisse trouver du temps pour préparer l'argumentation écrite.

LE PRÉSIDENT :

D'accord. Merci. Maître Sicard? Me

HÉLÈNE SICARD :

Je ne vais pas répéter, je veux juste dire que, comme maître Turmel et comme maître Neuman, on rentre tous dans d'autres dossiers à partir... le lendemain, et vous de même, quelques-uns des membres du banc. Alors, vous comprendrez que ce n'est pas évident de rédiger une argumentation. Parce que présenter un plan d'argumentation puis vous parler, c'est une chose, mais essayer de bien le rédiger, communiquer avec les clients et de... que tout le monde lise, quand on est ici, un dossier aussi technique, c'est triste mais il va falloir nous donner un délai raisonnable d'au moins deux semaines après le dépôt de... qu'on ait deux fins de semaine complètes pour travailler. Merci.

Me ÉRIC DUNBERRY :

Monsieur le Président, je pense que tous et chacun pouvons penser à la chose et vous faire des représentations lundi sur ce qui serait raisonnable

et réaliste en termes de délai. Je ferais deux commentaires. Le premier c'est que je ne suggère certainement pas de faire de l'argumentation écrite la norme parce que je suis un de ceux qui aime bien se retrouver devant vous pour avoir un échange ouvert et verbal. La deuxième chose, je vous dirais, c'est... on a tous travaillé très fort à l'intérieur d'un échéancier très comprimé, parce qu'on a tous compris que « time is of the essence » c'est que nous voulons tous avoir un dossier traité dans l'année deux mille treize (2013) pour, dans un monde souhaité, applicable à compter de deux mille quatorze (2014). Alors, pour faire une mauvaise analogie, c'est comme partir très rapidement pour le quatre cents mètres (400 m) et s'arrêter au trois cent cinquantième (350^e) mètre pour tranquillement aller prendre un café et se... se rendre, en douze (12) minutes, à la fin alors qu'on a couru le premier trois cent cinquante mètres (350 m) en moins de quarante (40) secondes. Alors, je pense qu'on ne devrait certainement pas perdre tout le bénéfice de ce que nous avons accompli, c'est-à-dire tous et chacun, ensemble, littéralement, travaillé de façon excessivement efficace et efficiente, pour reprendre les

expressions consacrées. Et si nous sommes... aujourd'hui c'est le premier (1^e) novembre, on a^r voulu être là où nous sommes le premier (1^e)^r novembre, je pense que sous réserve des commentaires de tous et chacun, lundi matin on devrait faire un effort pour vous livrer une argumentation écrite dans un délai qui est compatible avec ce qu'on vient de terminer, c'est-à-dire une phase, pour la preuve orale, très efficace, comprimée, où tous et chacun avons travaillé soir et matin, les week-ends. Alors, je pense qu'on devrait se donner comme objectif d'être très disciplinés puis terminer et vous livrer des argumentations écrites rapidement. Peut-être plus rapidement que ce qu'on fait habituellement mais certainement, là, dans le domaine du raisonnable, à l'intérieur, pour reprendre une autre expression, du « reasonableness range », à l'intérieur de la zone raisonnable de la borne inférieure pour qu'on puisse rapidement tous vous donner ce qui est requis pour votre délibéré au mois de novembre.

LE PRÉSIDENT :

Merci, Maître Dunberry. On reviendra là-dessus sûrement la semaine prochaine. Là-dessus la Régie va ajourner l'audience jusqu'à lundi matin, neuf

heures (9 h). Merci.

AJOURNEMENT DE L'AUDIENCE

SERMENT D'OFFICE :

Je soussigné, Claude Morin, sténographe officiel, certifie sous mon serment d'office, que les pages qui précèdent sont et contiennent la transcription exacte et fidèle des notes recueillies par moi au moyen du sténomasque, le tout conformément à la Loi.

ET J'AI SIGNE:

Sténographe officiel. 200569-7