

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 4 NOVEMBRE 2013

VOLUME 6

CLAUDE MORIN
Sténographe officiel

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Me JEAN-FRANÇOIS OUIMETTE
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DEMANDERESSE :

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Me MARIE-CHRISTINE HIVON
procureurs d'Hydro-Québec Transport (HQT) et
HydroQuébec Distribution (HQD);

INTERVENANTS :

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Me DENIS FALARDEAU
procureur de Association coopérative d'économie
familiale de Québec (ACEFQ);

Me GUY SARAULT
procureur de Association québécoise des
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Me GENEVIÈVE PAQUET :
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Me ÉRIC DAVID
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Me FRANKLIN S. GERTLER
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Me DOMINIQUE NEUMAN
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québécoise de lutte contre la pollution
atmosphérique (SÉ/AQLPA);

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

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L'AN DEUX MILLE TREIZE, ce quatrième (4e) jour du mois
de novembre :

PRÉLIMINAIRES

LA GREFFIÈRE :

Protocole d'ouverture. Audience du quatre (4)
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.

Je demanderais 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 :

Bon matin, mesdames et messieurs. J'espère que vous
avez passé une belle fin de semaine. Donc, il n'y a

pas de remarques de la part des procureurs, des intervenants? Non. Merci. Bon matin, Maître Sarault. Vous êtes prêt à débiter?

Me GUY SARAULT :

Oui.

LE PRÉSIDENT :

Allons-y!

PREUVE DE AQCIE/CIFQ

Me GUY SARAULT :

Bon matin, Monsieur le Président, messieurs les régisseurs. Alors, on a les témoins de l'AQCIE et du CIFQ ce matin. Il s'agit essentiellement de deux témoins que la Régie connaît déjà très bien. Donc, monsieur... je devrais peut-être dire maître, parce qu'il est avocat également, maître Olivier Charest, à titre d'analyste et économiste pour l'AQCIE et le CIFQ, qui va témoigner sur le profil de risque d'Hydro-Québec Distribution et TransÉnergie, et le docteur Laurence Booth à titre de témoin expert sur le coût en capital incluant évidemment le taux de rendement sur l'avoir propre. Alors, avant évidemment d'aller plus loin, je vais demander à madame la greffière d'assermenter nos témoins.

L'an deux mille treize (2013), ce quatrième (4e) jour
du mois de novembre, ONT COMPARU :

OLIVIER CHAREST, avocat, analyste en énergie, ayant une
place d'affaires au 470, avenue Villeneuve,
Outremont (Québec);

LAURENCE BOOTH, professor finance, CIT Chair in
Structured Finance University of Toronto, ayant une
place d'affaires au 105, St George street, Toronto
(Ontario);

LESQUELS, après avoir fait une affirmation
solennelle, déposent et disent :

INTERROGÉS PAR Me GUY SARAULT :

Q. [1] Je vais commencer avec vous, Monsieur Charest.
Nous avons déjà déposé comme pièce C-AQCIE-0022
votre preuve écrite sur le profil de risque
d'Hydro-Québec Distribution et de TransÉnergie.
Alors, vous reconnaissez être l'auteur de ce
document?

M. OLIVIER CHAREST :

R. Oui.

Q. [2] Et vous l'adoptez comme preuve dans le présent

dossier?

R. Oui. J'aurais peut-être juste une petite correction très mineure à apporter.

Q. [3] Oui.

R. À la page 32, c'est le paragraphe, le premier paragraphe en gras en haut.

Nous sommes d'accord avec le fait que
la présence d'actifs réglementés...

« De production ». Donc, il manquait les mots « de production » à cette phrase.

Q. [4] Donc, à l'exception de cette correction à la page 32 de votre preuve écrite, est-ce que vous adoptez ce document comme constituant votre, comme partie intégrante de votre preuve dans le présent dossier?

R. Oui.

Q. [5] Excellent! Et je pense que, pour les fins de ce matin, vous avez préparé une présentation Power Point?

R. Oui.

Q. [6] Auquel viennent s'ajouter deux documents séparés. Alors, commençons par la présentation elle-même, qui est un document que nous avons déjà circulé, un document de vingt et une (21) pages intitulé « Hydro-Québec Distribution et

TransÉnergie : Profils de risque » daté d'octobre
deux mille treize (2013). Vous avez ça devant vous?

R. Oui.

Q. [7] Et je vois qu'il est affiché à l'écran. Alors,
vous êtes l'auteur de ce document que vous allez
nous présenter dans quelques minutes?

R. Oui.

Q. [8] Alors, on pourra le coter en temps et lieu
après. Vous voulez le coter après, avant?

Me ÉRIC DUNBERRY :

Pendant...

Me GUY SARAULT :

C'est très important.

Me ÉRIC DUNBERRY :

Une petite technicalité, Monsieur le Président,
avant de déposer le document en preuve, on va
l'entendre le présenter pour voir...

Me GUY SARAULT :

Je sais que c'est votre façon de faire les choses. Ça
va devenir la mienne.

Me ÉRIC DUNBERRY :

La plupart des gens fonctionnent comme ça, Maître
Sarault.

(9 H 10)

Me GUY SARAULT :

Peut-être que je suis à part des autres. Alors il va y avoir deux autres documents mais on va attendre, évidemment, que vous les présentiez avant de les coter et on y reviendra tantôt.

Q. [9] Now, Dr. Booth, we have already filed an expert report on your behalf on the cost of capital of Hydro-Québec Transmission and Hydro-Québec Distribution in this case, it was filed as Exhibit C-AQCIE-0023. Do you acknowledge being the author of this document?

Dr. LAURENCE D. BOOTH :

A. Yes.

Q. [10] And do you have any corrections to bring to your expert report?

A. Yes, I have one substantive correction, and that's on page 52, line 12.

Q. [11] Yes.

A. It should read,

... plus my Operation Twist adjustment of
0.35%...

not 0.80%,

... which moves my...

Q. [12] Sorry, I didn't get that?

A. Line 12?

Q. [13] Yes.

A. ... which moves my mid-point to 5.85%.

Q. [14] So it's zero thirty-five (0.35)?

A. And five point eight five (5.85).

Q. [15] Is this the only correction?

A. There's some typographical changes, but the only other one of any significance is on page 75, where I spelled Jamie Dimon's name incorrectly; on line 3, it should be "Dimon", with one m and not two m's.

Q. [16] Any other corrections?

A. Not that I'm aware of.

Q. [17] Okay. In addition to your, the text of your main report, filed as C-AQCIE-0023, I believe there are appendices, Appendices A to E inclusive, which have been filed as C-AQCIE-0024 to C-AQCIE-0028 respectively in the same order. Do you acknowledge being the author of these five documents?

A. I do.

Q. [18] And are there corrections to be made to these documents?

A. Not that I'm aware of.

Q. [19] And you adopt them as your evidence in this case?

A. Yes, I do.

Q. [20] And there will also be a PowerPoint presentation, that we will assign an exhibit number to later on as per the expectations of my confrere. So... je pense qu'on est prêt à commencer. Monsieur Charest, vous avez une présentation à faire, mais même si la Régie vous connaît un peu et même si Hydro-Québec vous connaît un peu, j'apprécierais que, quand même, vous nous résumiez votre formation académique et votre expérience pertinente pour les enjeux dont vous allez traiter durant votre témoignage.

M. OLIVIER CHAREST :

R. Donc je suis, comme vous l'avez dit tout à l'heure, avocat. J'ai aussi une maîtrise en science économique. Et depuis deux mille huit (2008), en fait j'ai commencé ma carrière en deux mille huit (2008) comme stagiaire dans un cabinet d'avocats. J'ai déjà touché à des dossiers de la Régie cette année-là. Et quand j'ai quitté en deux mille onze (2011) je me suis concentré presque exclusivement, à partir de ce moment-là, sur des dossiers de la Régie. Mais plus à titre d'analyste économique que, finalement, de junior dans un cabinet d'avocats. J'ai aussi collaboré comme avocat en droit de l'environnement. Et je continue à collaborer pour

un petit cabinet de droit de l'environnement.

Q. [21] Alors évidemment vous témoignez à titre d'analyste pour le compte de l'AQCIE et du CIFQ sur le profil de risque de TransÉnergie et de HydroQuébec Distribution.

R. C'est effectivement le chapeau que je porte aujourd'hui.

Q. [22] O.K. Alors sans plus tarder, je vous invite à faire votre présentation, qui consiste en la présentation Power Point plus deux documents additionnels séparés que vous désirez ajouter à votre présentation.

R. Merci. Bien je vais présumer évidemment que vous avez lu mon mémoire et je ne vais pas m'éterniser, là, sur les points techniques. La présentation d'aujourd'hui, en fait, je vais peut-être faire un court contexte, là, de pourquoi nous sommes ici aujourd'hui. Je crois que ça a été dit à quelques reprises, mais je voulais juste le réitérer. Et par après, bien je vais reprendre les différentes sections du mémoire de l'AQCIE-CIFQ. Donc profil de risque, évolution du risque depuis les premières décision tarifaires. Une comparaison avec Gaz Métro et finalement quelques mots sur l'analyse qui a été faite par Hydro-Québec et ses experts.

Pourquoi sommes-nous ici? Bien je pense qu'il y a plusieurs personnes qui ont répondu à cette question-là la semaine passée. Mais c'est quand même important, c'est un élément de contexte qui est très important. Il y a des trop-perçus importants dans les... au niveau du rendement du Distributeur et du Transporteur depuis deux mille huit (2008). En fait, en deux mille neuf (2009) donc c'était la deuxième année où on avait un trop-perçu. Il y a eu quelques commentaires dans le dossier tarifaire qui a suivi, un commentaire de la Régie.

En deux mille dix (2010), là, c'était... c'était très, très fort, on parlait de cent soixante-dix millions (170 M) chez le Distributeur et à peu près quatre-vingt quelques millions chez le Transporteur. Ce qui a fait réagir plusieurs intervenants. Nous avons, avec l'AQCIE-CIFQ déposé, là, des... un mémoire tant dans le dossier du Transporteur que du Distributeur.

Et c'est suite au dépôt de ce genre de mémoire, il y a eu une DDR de la Régie, DDR numéro 2. Et en réponse à ces DDR, Hydro-Québec avait accepté, bon, ce que nous on qualifiait à l'époque de fermeture réglementaire, mais finalement qui

était un mécanisme de traitement des écarts de rendement. Donc ils avaient accepté de déposer une proposition dans ce sens, dans leur prochain dossier tarifaire. Mais à la condition que l'on revoie aussi leur taux de rendement autorisé. Et je reviendrai un peu plus tard sur ça, mais c'est quand même quelque chose qui nous a toujours apparu un peu... un peu étrange comme lien finalement. Incidemment dans sa décision D-2012-24, la Régie a pris acte, là, de cet engagement-là.

Ce qu'on constate par la suite, c'est qu'évidemment les trop-perçus continuent. Donc un graphique avec lequel vous êtes familier, je pense, c'est celui de la diapositive numéro 4. La seule différence c'est qu'on a ajouté une ligne pointillée en rouge à l'année deux mille huit (2008) pour démontrer finalement qu'avant deux mille huit (2008), bien globalement on a des manques à gagner. On a des trop-perçus. Je n'irais pas jusqu'à dire qu'ils s'annulent exactement, mais je pense que ça s'annule plus ou moins.

À partir de deux mille huit (2008), ce qu'on constate c'est vraiment des écarts significatifs qui vont toujours dans le même sens. Et c'est vrai tant pour Hydro-Québec TransÉnergie

que pour Hydro-Québec Distribution. Hydro-Québec Distribution, par contre, si on regarde la période avant deux mille huit (2008), bien là effectivement les manques à gagner semblent l'emporter sur les trop-perçus. Mais c'est vraiment - je n'aime pas utiliser ce mot-là - mais c'est vraiment ce qu'on appelle un peu un changement de paradigme, là. On passe vraiment d'une situation où, bon, des mauvaises, des bonnes années s'annulent. Et finalement pouf! Tout d'un coup, on se retrouve avec systématiquement trop-perçu, trop-perçu, trop-perçu, trop-perçu, trop-perçu.

Je suis bien évidemment au niveau global et il y a plusieurs nuances à apporter quant aux différents écarts individuels qui viennent créer cet écart-là. Parce que comme vous le savez, le trop-perçu global c'est l'addition et la soustraction de tous les différents écarts sur toutes les différentes rubriques.

C'est quand même impressionnant de voir qu'à partir de deux mille huit (2008) on a des écarts aussi significatifs et qui vont toujours dans le même sens.

Donc pour reprendre finalement avec le mémoire que l'AQCIE-CIFQ a déposé, peut-être juste

rapidement la notion de risque. Donc c'est la possibilité de ne pas récupérer le capital investi avec un rendement raisonnable. Ce que ça implique finalement, il y a peut-être deux dimensions à ce risque-là. Il y a un dimension à court terme et à plus long terme.

(9 h 19)

Pourquoi la distinction entre les deux? À court terme finalement, et considérant qu'Hydro-Québec a des dossiers tarifaires à peu près à chaque année, le risque c'est pour une année donnée donc, on prévoit les tarifs pour une année, on prévoit les revenus pour une année, on prévoit les coûts que finalement ces prévisions ne s'avèrent pas.

Comme il n'y a pas de rétroactivité dans les tarifs, dans la mesure où il n'y a pas de compte d'écart pour compenser les différents écarts, bien ça va se refléter sur le rendement de cette année-là.

Les comptes d'écart peuvent nous aider à lutter contre les écarts de court terme mais pas nécessairement contre les écarts de long terme et c'est là, je pense, qu'il y a une distinction importante à faire; à long terme, le risque finalement c'est que les actifs perdent de leur

valeur.

La valeur d'un service ou d'un actif est donnée finalement par le marché, par les clients qui vont vouloir utiliser cet actif-là. S'il valait que les clients ne valorisent plus suffisamment les actifs en question, que ce soit la totalité du réseau ou une partie de celui-ci, les actifs pourraient être désalloués. Il pourrait y avoir, ce qu'on appelle, une spirale de la mort comme on a vu chez TransCanada Pipelines.

Évidemment, à notre avis, ce genre de scénario-là est très peu probable, voire quasi inexistant pour les prochaines années chez Hydro-Québec. Hydro-Québec TransÉnergie Distribution ont un profil de risques similaires. Ça je pense qu'à peu près tous les intervenants reconnaissent, et Hydro-Québec aussi, reconnaissent cela. Hydro-Québec Distribution est un peu plus risquée. C'est surtout un risque au niveau des revenus.

Je vais repasser juste très rapidement sur certains éléments du risque de long terme. Donc, quand je disais que, bon, une partie des actifs pourrait se retrouver à être inutile, soulignons par contre que dans la Loi sur la Régie de l'énergie, il y a une présomption finalement, je

devrais même dire que les actifs sont réputés être prudemment acquis et utiles, ce sont les actifs qui étaient existants avant l'entrée en vigueur du projet de loi 116, donc en deux mille (2000), deux mille un (2001).

Donc, pour ces actifs-là, on ne voit pas vraiment de risque. Tel que mentionné, la spirale de la mort qui a été menaçante dans le cas de TransCanada Pipelines ne semble pas non plus être ici un risque auquel feraient face Hydro-Québec Distribution ou TransÉnergie.

Plus spécifiquement Hydro-Québec Distribution, pourquoi est-ce que la valeur de son service va toujours demeurer? Bien, au-delà de l'exploitation d'un réseau de distribution, il y a aussi la matière première donc l'électron finalement qui est vendu et, oui, il y a peut-être les contrats post-patrimoniaux qui coûtent très, très cher, mais d'une manière générale, le contrat patrimonial agit comme un facteur qui permet de mitiger le risque, c'est-à-dire que, à très long terme, Hydro-Québec Distribution, tant que le tarif patrimonial sera en vigueur, bien, elle va pouvoir bénéficier d'un accès à de l'électricité à très bas coût.

Au niveau de TransÉnergie, c'est un peu différent. Donc TransÉnergie, le service qu'elle offre finalement, c'est de transporter l'électron du point A au point B. Il y a beaucoup de ces électrons qui sont situés dans le nord du Québec, au Labrador, et finalement, le réseau de TransÉnergie permet d'amener ces électrons de ses barrages vers les centres de consommation qu'ils soient au Québec ou même à l'extérieur, et encore là, on ne voit pas vraiment pourquoi cette situation-là devrait changer dans les années à venir.

À court terme, on se retrouve en réglementation de coûts de service, comme je vous disais, des dossiers très fréquents. Il y a aussi un facteur, je pense, qui a été reconnu par plusieurs régulateurs et qui est mentionné par plusieurs intervenants. C'est la fameuse asymétrie d'information. Donc, essentiellement Hydro-Québec est une gigantesque compagnie, vingt mille (20 000) quelques employés, un chiffre d'affaires faramineux, et évidemment, ils connaissent beaucoup mieux leur compagnie, leur entreprise, que nous la connaissons nous-mêmes. Ce n'est pas par manque de volonté; je pense que tous les intervenants, je

pense que la Régie fait un travail assez impressionnant pour essayer, à chaque année, de bien estimer et de bien évaluer la justesse des prévisions d'Hydro-Québec mais malheureusement, nous n'avons pas accès à la même information qu'eux.

Oui il existe des processus d'accès à l'information. Donc, il y a des demandes de renseignements qui sont posées, les témoins peuvent être contre-interrogés mais on ne peut jamais aller assez loin avec ces moyens-là. Donc, c'est quelque chose finalement qui facilite. C'est une pré-condition qui permet finalement des prévisions conservatrices. Il ne devrait pas nécessairement y avoir des prévisions conservatrices mais disons que cet élément-là facilite, c'est un système qui permet finalement ce genre de prévisions-là.

La pré-autorisation des investissements, donc la plupart des investissements sont autorisés, le cas échéant, par la Régie avant que la plupart des dépenses ne soient effectuées et, bien ce qui permet de rassurer finalement le Transporteur et le Distributeur que leur argent ne sera pas, bon, enfin, pourra être récupéré.

Très rapidement aussi, on constate que le

gouvernement est intervenu, et non seulement le gouvernement, en fait l'Assemblée nationale aussi, donc les différentes branches de l'état sont intervenues au cours des dernières années pour finalement protéger le rendement d'Hydro-Québec.

Et je pense que le meilleur exemple, c'est le fameux projet de loi 25, qui a été adopté l'été passé, qui faisait suite à un décret du gouvernement qui tentait d'inclure une charge, je pense que c'est à peu près trente millions (30 M\$) dans le budget, mais charge qui finalement n'était ni plus ni moins qu'une bonification du rendement et donc, ce pouvoir-là finalement qui avait, que le gouvernement a tenté d'utiliser, qui a été refusé par la Régie, est venu s'inscrire dans la loi carrément à titre de mesure transitoire. Et là, quand on passera un véritable mécanisme incitatif, ce pouvoir-là va tomber mais dans l'intervalle, ce pouvoir-là existe et permet au gouvernement finalement de venir bonifier son rendement si jamais il l'entend.

(9 H 24)

Et enfin, bien, il y a plusieurs comptes d'écarts, et je ne ferai pas le tour, les comptes d'écarts au niveau du revenu protègent de manière

importante. Je soulignerais aussi le « pass-on » au niveau des coûts du Distributeur et peut-être aussi le compte d'écarts sur les coûts de retraite.

Il a été question souvent au cours de ces audiences de prévisions conservatrices. Je ne me rappelle pas si j'ai utilisé ce terme-là dans notre mémoire, mais on a beaucoup parlé de biais, de coussin, de tampon. Essentiellement, c'est le résultat de ces prévisions-là. Donc, c'est ce que l'on constate. On constate qu'il y a -je vais utiliser un autre mot- un « buffer », il y a une forme de protection à même les prévisions qui fait en sorte que, avant de voir son rendement affecté négativement, c'est-à-dire de tomber en dessous du rendement autorisé, bien, il y a certains coûts qui peuvent absorber des coûts imprévus finalement. Donc, il y a dans les tarifs certaines rubriques de coûts dans les revenus requis qui permettent finalement, qui sont peut-être un peu trop, un peu surestimés qui permettent d'absorber des chocs en réel et qui font en sorte de protéger le Distributeur contre un manque à gagner.

Une question qu'on peut se poser : Est-ce qu'il y a une intention de la part d'Hydro-Québec de véritablement gonfler, d'aller chercher plus que

son rendement autorisé? Je vous dirais que ce n'est pas nécessaire de démontrer ça. Je pense qu'il y a suffisamment d'éléments ici qui nous démontrent que les prévisions sont conservatrices. On n'a peut-être pas besoin d'aller chercher des intentions à ce niveau-là.

Cela étant dit, si on avait justement une preuve d'intention d'Hydro-Québec, bien, je pense que ça pourrait uniquement renforcer la conclusion à laquelle certaines personnes arrivent comme quoi il y a effectivement des prévisions conservatrices.

Je suis à la diapositive numéro 10. J'ai voulu, puis en fait ce graphique se retrouve dans notre mémoire, j'ai voulu juste illustrer finalement quel était ce coussin ou ce tampon ou ce biais. Donc, c'est essentiellement la moyenne des trop-perçus. Je crois l'avoir calculée uniquement sur deux mille huit, deux mille douze (2008-2012), parce que, ici, l'année deux mille treize (2013), ce ne sont que les résultats prévisionnels. Mais c'est la moyenne des trop-perçus, finalement.

Dans le cas du Distributeur, on parle d'une surestimation d'à peu près trois, trois point cinq points de pourcentage, donc à peu près cinquante pour cent (50 %) de son rendement autorisé. C'est

ça le coussin. Et ça fait en sorte que, bien, si jamais il y a des imprévus, puis on a eu un très bel exemple en deux mille douze (2012) avec la charge du BEIÉ, si jamais il y a un imprévu, le Distributeur est en mesure de faire face à cet imprévu-là. Si vous me permettez l'expression, il peut couper dans le gras, et finalement quand même réaliser son rendement autorisé.

Le contre-exemple, évidemment, ce serait une situation où il n'y a pas de tel coussin. Et, bien, c'est la ligne bleue que vous voyez en bas. Donc, on aurait des bonnes années et des mauvaises années. C'est ça. Bon. L'exemple du BEIÉ, je pense, qu'il a été abondamment cité. Le Distributeur part son année avec cinquante-deux millions (52 M\$) en moins selon ses prévisions. Bon. Ça s'avère être trente-sept millions (37 M\$) finalement. Mais il part quand même avec un certain déficit, si on veut, parce qu'il n'a pas tenu compte de la charge relative au BEIÉ dans ses revenus requis.

Il a utilisé plusieurs moyens, dont certains, on peut en fait se questionner sur leur légitimité, l'abandon, le report de projet, le fait de diminuer les services du PGEÉ. D'une manière générale, par contre, le Distributeur a quand même

démontré qu'il était capable de faire face à des coûts imprévus.

Comme je vous disais, c'est difficile de démontrer vraiment une intention de se servir d'écarts, de se servir de prévisions conservatrices pour aller chercher une bonification au revenu. Je vous dirais, par contre, et c'est le lien que je faisais au début de ma présentation. Ça nous a toujours paru étrange que le Distributeur fasse le lien entre un rendement autorisé qui était trop bas, et l'existence de trop-perçus.

Et si on se rappelle, en deux mille onze (2011), oui, en deux mille onze (2011), en décembre deux mille onze (2011), le neuf (9) décembre en fait, lors de l'audience, la présidente d'alors d'Hydro-Québec Distribution avait fait la déclaration suivante, c'était en réponse à une question de la Régie qui demandait finalement, est-ce qu'un mécanisme de traitement des écarts global, mais provisionnel, provisoire dont les modalités seraient à déterminer plus tard, est-ce que ce serait quelque chose d'acceptable? Et voici ce qu'a répondu la présidente :

Alors, j'entends votre question très, très bien, mais ma réponse est la

suiivante. Il faut régler ce décrochage-là de taux de rendement autorisé avant de limiter par le haut le taux de rendement du Distributeur. Il faut régler les deux questions, puis on est prêt à le faire. On a travaillé là-dessus, mais ce serait dangereux dans une année comme celle-là de simplement faire, de traiter de l'excès sans traiter du problème qui est très important pour nous. Parce qu'un distributeur qui ne fait pas un rendement suffisant, c'est problématique pour la Régie aussi.

Évidemment, peut-être que d'autres personnes vont voir quelque chose de différent ici, mais le message que nous percevons en lisant ces lignes, c'est: bien écoutez on a besoin des écarts prévisionnels pour aller chercher un trop-perçu pour compenser ce qui, selon nous, est un taux de rendement autorisé insuffisant. À notre avis, ce n'est peut-être pas valide comme argument et ça semble démontrer qu'il y a peut-être, on fait peut-être exprès de faire des prévisions conservatrices. Encore une fois, comme je vous dis, ce n'est pas

nécessaire de démontrer qu'il y a une véritable intention. Je pense que les chiffres parlent d'eux-mêmes et on peut voir vraiment au cours des dernières années, finalement, des trop-perçus faramineux. Ce n'est qu'une explication mais il y a peut-être beaucoup d'autres explications à ces trop-perçus.

J'aurais justement un dernier commentaire à faire à ce sujet et je n'ai pas de diapositives là-dessus mais j'ai préparé deux documents que maître Sarault va vous distribuer, je pense ou... Ah! Super.

Donc comme ils n'ont pas de cote, je vais y aller avec une description. Un des documents, dans un des documents j'ai colligé les informations sur une rubrique particulière de coûts qui s'intitule la taxe sur les services publics. Donc j'ai colligé les informations de deux mille cinq (2005) jusqu'à deux mille douze (2012). La prévision en début de dossier est finalement le résultat réel. L'autre document, en fait, c'est un extrait de la preuve d'Hydro-Québec Distribution. Je pense que c'est la première année où cette taxe sur les services publics était présentée à la Régie et vous avez juste une petite description qui vous explique le

fonctionnement de cette taxe-là. Peut-être que je peux commencer par ce document-là, en fait, à la page 4 donc du document HQD-8, Document 11...

Me ÉRIC DUNBERRY :

Q. [23] Maître... Un instant Maître Charest. Monsieur le Président, juste pour bien qu'on se comprenne, est-ce que ces informations-là sont quelque part en preuve pour que je puisse aller vérifier ou il s'agit d'une preuve additionnelle et des données nouvelles que vous introduisez ce matin, Maître Charest?

R. Ce n'est pas dans le mémoire que nous avons déposé, effectivement.

Q. [24] Donc c'est de la preuve nouvelle que vous déposez ce matin?

R. Oui.

Q. [25] Et l'autre document, c'est la même chose? Ce n'est pas un extrait, je comprends que c'est une pièce déposée dans une autre affaire en deux mille quatre (2004) mais je comprends qu'elle n'est pas au dossier non plus.

R. Effectivement.

Q. [26] Bon. Monsieur le Président, écoutez, encore une fois on veut faire preuve de souplesse. Je vais formuler à ce moment-ci une objection que je vous

demanderais de prendre sous réserve. À la pause ou à l'heure du lunch j'obtiendrai de mes clients davantage d'information sur cette preuve additionnelle. Les règles sont bien claires, la Régie les a toujours fait respecter, c'est-à-dire que les éléments de preuve additionnels ne peuvent pas être introduits à cette étape-ci, c'est-à-dire qu'on suit bien tous les mêmes règles en déposant nos mémoires et nos éléments de preuve. Des engagements sont souscrits lorsque des demandes additionnelles sont faites mais ici on nous offre une nouvelle preuve.

Alors, encore une fois, je ne m'objecterai pas formellement, je vais aller aux nouvelles pour savoir de quoi il s'agit exactement mais je vous reviendrai peut-être avec une objection davantage articulée. Merci.

LE PRÉSIDENT :

Maître Sarault?

Me GUY SARAULT :

Q. [27] Alors je prends bonne note que mon confrère d'abord demande à ce que ça soit pris sous réserve donc on va pouvoir à tout le moins entendre monsieur Charest là-dessus mais je vous dirai qu'à mon point de vue l'intention derrière cette règle

c'est d'éviter de prendre l'autre partie par surprise et qu'elle soit prise au dépourvu et qu'elle ne soit pas en mesure vraiment de répondre adéquatement au complément de preuve qui est apporté.

Dans ce cas-ci, je vais le demander immédiatement à monsieur Charest, l'origine des informations qui sont dans ces deux documents, est-ce qu'il n'est pas exact que ça provient des dossiers d'Hydro-Québec elle-même?

R. Oui.

Q. [28] Donc il s'agit d'informations que Hydro-Québec a elle-même colligées dans le cadre de d'autres dossiers et qu'on vient ici simplement ajouter à titre d'explication et de complément de preuve pour faire valoir un point. Alors ce n'est pas de l'information avec laquelle Hydro-Québec n'est pas familière, c'est de l'information qu'elle connaît pertinemment pour en être elle-même l'auteur dans d'autres dossiers.

Alors je pense que dans les circonstances, Hydro-Québec n'est pas prise au dépourvu, c'est de l'information qu'elle connaît très bien, qu'elle peut valider, qu'elle peut transquestionner, et cetera. Alors il n'y a pas de préjudice.

Me ÉRIC DUNBERRY :

Alors Monsieur le Président, je n'ai pas l'intention de plaider l'objection que j'ai annoncé ne pas plaider immédiatement si ce n'est pour dire deux choses. D'abord si l'intention est de ne pas prendre le confrère par surprise, il aurait été sans doute utile de nous communiquer vendredi l'intention de déposer une preuve additionnelle ou durant le week-end au plus tard parce que ce n'est pas le genre de chose qui se décide ce matin vers neuf heures moins cinq (08 h 55) d'une part et, d'autre part, de faire un lien entre une preuve déposée par Hydro-Québec en deux mille quatre (2004) et un dossier en deux mille treize (2013) pour ensuite faire présumer que nous avons une conscience et une connaissance acquise et immédiate de dossiers qui remontent à dix (10) ans. C'est de faire un lien qui me paraît un peu déraisonnable. Cela dit, je vous reviendrai avec une position formelle, Monsieur le Président.

LE PRÉSIDENT :

Merci Maître Dunberry. Monsieur Charest, vous pouvez poursuivre avec...

R. Merci. Donc comme j'indiquais, on voit à la page 4 du document issu du dossier R-3541-2004 que le

calcul de la charge de la taxe sur les services publics est assez simple. Il y a une première tranche jusqu'à sept cent cinquante millions (750 M) qui est attribuée au Distributeur en fonction de la valeur nette de ses actifs assujettis par rapport à la valeur nette des actifs totaux assujettis d'Hydro-Québec. Donc il y a une première tranche de sept cent cinquante millions (750 M) qui est répartie entre les différentes branches d'Hydro-Québec.

(9 h 35)

Hydro-Québec Distribution reçoit sa partie de cette tranche-là et doit payer un taux déterminé. Par après, bien on prend tout le reste, là de la valeur nette de ces actifs qui sont assujettis. Et on a un deuxième taux. Donc c'est deux taux finalement. C'est point vingt pour cent (0,20 %), point cinquante-cinq pour cent (0,55 %). C'est très simple. J'ai fait une vérification la semaine passée et ce taux-là... ces deux taux-là semblent encore être en vigueur. Je ne crois pas qu'ils aient changés. Si jamais ils ont changé au cours des années, j'invite quelqu'un à me l'indiquer. Ça ne semble pas être le cas.

Donc c'est un calcul qui devrait être fort

simple. Il n'y a pas beaucoup beaucoup d'imprévus. Les imprévus, en fait, devraient être liés aux mises en service qui ne sont pas effectuées. J'ai pas pu constater qu'il y avait vraiment de corrélation entre les deux. Et ce que je constate - et là je vous amène à l'autre document - on peut commencer par Hydro-Québec Distribution.

Donc on constate vraiment systématiquement une surestimation de ce montant-là. C'est un montant qui devrait être facile à déterminer. Je vous dirais que dans l'absolu l'écart n'est pas significatif. On parle, je pense, d'une moyenne d'environ un million (1 M) par année. Sur un... bon, pour moi, un million (1 M) c'est beaucoup. Mais je veux dire pour Hydro-Québec c'est évidemment... c'est infime, là comparé à leurs revenus requis.

Mais c'est quand même surprenant que systématiquement année après année on ait vraiment un écart qui, en termes relatif, atteint deux (2 %), trois pour cent (3 %). Je veux dire c'est non négligeable, là. C'est un deux (2 %), trois pour cent (3 %) d'écart qui va toujours dans le même sens en moyenne.

Si on tombe chez Hydro-Québec TransÉnergie,

vous allez voir, il y a... c'est à peu près le même scénario, sauf pour l'année deux mille huit. Ce qui est très étrange, en fait - puis j'ai vérifié et les données semblent valides - donc pour deux mille huit (2008) ce qu'on constate c'est que la charge réelle a été de dix millions (10 M) supérieure, à peu près quinze pour cent (15 %) supérieure à ce qu'elle était pour les années antérieures. Puis elle est redescendue après. Peut-être qu'Hydro-Québec TransÉnergie n'avait pas payé l'entièreté de ses taxes des années passées, puis elle a eu à payer des taxes supplémentaires cette année-là. Je ne le sais pas. J'ai vu aucune explication pour ça.

Mais si on fait exception de cet élément-là, généralement on constate ici encore qu'il y a des écarts. Et ces écarts-là en fait sont de trois pour cent (3 %), si on prend l'ensemble des années - sauf deux mille six (2006) pour laquelle il n'y a pas eu de dossier tarifaire - et de presque cinq pour cent (5 %) si on fait exception, là, de deux mille huit (2008) qui a été vraiment une année exceptionnelle.

Fait qu'encore une fois, c'est pas des montants qui sont significatifs, si on compare à l'ensemble du rendement puis du revenu requis

d'Hydro-Québec. Mais ça démontre certainement, là, qu'il n'y a pas des prévisions qui sont faites de manière, si on veut, à ce qu'il y ait des bonnes années et des mauvaises années, là. Je veux dire, c'est très, très clair ici que l'on fait des prévisions conservatrices.

C'est un exemple parmi tant d'autres. Et évidemment on constate aussi que ça pré-date deux mille huit (2008). Donc c'est pas... ici c'est peut-être... c'est peut-être pas le meilleur exemple comme quoi il y a eu un changement de paradigme en deux mille huit (2008). Je vous dirais qu'en deux mille huit (2008) c'est quelque chose qui s'est peut-être généralisé à l'ensemble, là, des différentes rubriques.

Je vais revenir à ma présentation principale. Et, bon, je termine sur ce point. Encore une fois, c'est très difficile de venir démontrer une intention. Mais je ne pense pas que ça soit requis. Je pense que les chiffres parlent d'eux mêmes et témoignent à l'effet qu'il y a un biais, il y a un coussin. Et que ce billet, ce coussin-là viennent protéger Hydro-Québec contre des... contre des mauvais rendements.

Est-ce qu'il va être là l'an prochain?

Peut-être pas. Peut-être pas. Peut-être que l'an prochain il vont arriver pile dessus, peut-être qu'ils vont se tromper. Ils vont se retrouver en situation de manque à gagner. Mais selon le... l'historique passé, le « track record », si on veut, j'aurais tendance à croire que c'est une situation qui va... qui va se perpétuer.

Conclusion générale, donc, sur l'ensemble des profils de risque. Hydro-Québec fait face à un risque assez faible. Hydro-Québec TransÉnergie encore plus faible.

En ce qui a trait à l'évolution du risque depuis les premières décisions tarifaires. En fait juste pour vous montrer le point de départ. J'ai pigé deux extraits, là, des premières décisions tarifaires. Et je vais les lire, donc. À la page 136 de la décision D-2002-95 :

Hydro-Québec a admis en audience, à propos du risque d'affaires de TransÉnergie, que celui-ci était significativement inférieur à celui des autres compagnies de service public d'énergie.

En ce qui a trait à Hydro-Québec Distribution, c'est la décision D-2003-93, page 51 :

La Régie considère que les risques d'affaires du Distributeur sont inférieurs à ceux des compagnies gazières et électriques comparables et dont les taux de capitalisation sont, selon la preuve, de l'ordre de 35 % à 45 %.

C'est notre point de départ. On part avec quelque chose qui est bas, voire même très bas.

De quelle manière est-ce que ça a évolué depuis deux mille deux? Je vous dirais que le principal changement que l'on constate c'est la maturité réglementaire. D'ailleurs, je ne me rappelle plus si c'était la Régie ou Hydro-Québec qui indiquait, il y a dix ans, que c'était peut-être un certain facteur de risque finalement d'être à son premier dossier tarifaire.

Et bien ce n'est plus le cas aujourd'hui. Aujourd'hui on a dix ans sous la cravate, on a dix ans d'expérience chez le Distributeur. Et je pense neuf ans d'expérience chez TransÉnergie. C'est une expérience qui est très importante. C'est une expérience qui leur a permis de peut-être prévoir certains... et de compenser pour certains risques. Il y a eu plusieurs comptes d'écart qui ont été

adoptés. Un compte de nivellement pour les aléas climatiques, qui a été adopté je pense en deux mille cinq (2005) ou deux mille six (2006). Donc peu de temps après la première décision sur le rendement et sur le risque d'Hydro-Québec Distribution.

Les aléas climatiques sont très importants. Et là, dans le mémoire je fais allusion je pense à un montant de deux cent soixante millions (260 M). Puis je n'étais pas certain si c'était le montant brut ou le montant net. Mais ce sont des écarts qui sont très, très, très importants.

(9 h 41)

Et donc des écarts qui étaient présents en deux mille trois (2003), qui ne le sont plus aujourd'hui. Mais ça, ça nous démontre que le niveau de risque a diminué par rapport à deux mille trois (2003), à ce niveau-là.

Même chose au niveau du Transporteur. Au niveau du Transporteur en deux mille trois (2003), les revenus de point à point - qui, bon an mal an, représentent peut-être dix (10 %), douze (12 %) pour cent, là, des revenus requis - les revenus de point à point étaient un risque important et la Régie l'a même mentionné. J'ai une citation dans

mon mémoire : « Elle voyait là un risque significatif ou important. »

Et bien encore une fois, ce risque est disparu. Il y a un compte d'écart qui vient... qui vient enlever ce risque. Donc ces différents comptes d'écart, c'est vraiment ça qui nous permet de dire : bien pour le risque de court terme, la situation est supérieure maintenant, il y a une amélioration de la situation du Distributeur et du Transporteur face au risque.

Évidemment aussi, on n'avait pas encore l'expérience des biais en deux mille trois (2003). Je vous dirais que c'est une expérience plutôt récente. Et c'est un autre élément, là, qui permet de démontrer que le risque a diminué. Au niveau du risque à long terme, je n'ai pas vraiment vu, là, de changements dans le profil de risque d'Hydro-Québec.

Très rapidement : pourquoi Gaz Métro? Pourquoi parler de Gaz Métro? La Régie a reconnu un taux de... en fait a déterminé un taux de huit virgule quatre-vingt-dix (8,90), je pense, il y a deux ans et quelques mois. Et ce taux a été reconduit par la suite. Évidemment, c'est vraiment juste un point de référence. Mais quand on nous

arrive et on nous dit : Hydro-Québec Distribution et TransÉnergie devraient avoir neuf point vingt pour cent (9,20 %) et qu'on sait qu'Hydro... que Gaz Métro a reçu huit point quatre-vingt-dix

(8,90 %), et qu'on...

En tout cas personnellement je considère que Gaz Métro se fait un risque supérieur à celui d'Hydro-Québec TransÉnergie et celui d'Hydro-Québec Distribution. J'ai de la difficulté à réconcilier ça avec le fait qu'on demande neuf point deux point cent (9,2 %) ici.

Je vais terminer avec quelques commentaires sur l'analyse de risque d'Hydro-Québec. En fait, surtout sur l'analyse de risque qui a été faite par Concentric. Je vous dirais que cette analyse de risque est très séduisante. À la première lecture, à la deuxième lecture on passe à travers et on dit : ouais, c'est vrai, O.K., ça a l'air... ça a l'air d'être des comparables. Donc les proxy américains, tout semble bien.

Je pense qu'il faut lire en détail cette analyse-là pour se rendre finalement qu'il y a certaines failles et qu'on ne peut pas, logiquement, tirer les conclusions auxquelles on arrive. En fait, peut-être qu'on peut, mais il

manque de l'information pour le lecteur. Peut-être que dans leur analyse, messieurs Coyne et Trogonoski ont effectivement considéré plusieurs autres facteurs et qu'ils n'ont pas indiqué ces facteurs à leur analyse.

Mais quand on lit cette analyse - et là je parle principalement, là, des... de l'annexe A, donc les pages A-1 à A-21, ainsi que les pages, je pense 41 à 50, là, de leur rapport - à leur face même, ces sections-là ne semblent pas corroborer les conclusions auxquelles ils arrivent.

Une omission qui me semblait assez importante c'est la suivante : puis je viens de vous parler, là, du risque au niveau des revenus. C'est un des risques qui est comparé. Donc le « volume/demand risk ». Est-ce que la demande va être suffisante pour qu'on aille chercher les revenus qu'on a estimé être les revenus requis en début d'année?

Et si on regarde l'économie générale du rapport, en fait de l'analyse de risque, on cherche à comparer un groupe de proxy, donc un groupe de comparables américain où il y a à la fois des distributeurs et des transporteurs d'électricité. En fait, c'est un « holding » dans lequel il y a

aussi d'autres compagnies. Mais on nous dit c'est principalement des distributeurs et des transporteurs d'électricité.

Et ce qu'on nous dit c'est : ce groupe-là, en moyenne, est comparable à la fois à Hydro-Québec Distribution, à la fois à Hydro-Québec TransÉnergie. Donc essentiellement on compare un transporteur d'électricité à un groupe où il y a aussi des distributeurs d'électricité.

On se sert de cette analyse-là, notamment lorsqu'on vient valider le bêta qui est utilisé dans la formule du MEAF, là, du CAPM en anglais. On prend le zéro virgule cinquante-neuf (0,59), puis là bien c'est un... c'est un bêta qui a été ajusté. Il y a eu... on a eu des éléments de réponse, là, la semaine passée. Mais le zéro virgule cinquante-neuf (0,59), c'est le bêta moyen de ce groupe. Et ce groupe est composé de transporteurs et de distributeurs.

Donc on s'attendrait à ce que pour arriver à cette conclusion-là, que l'on compare chacun du Transporteur et du Distributeur à l'ensemble du groupe. Au niveau du risque des revenus, c'est pas ça qui est fait. Au niveau du risque des revenus, on compare le Distributeur aux autres

distributeurs. Puis on compare différents mécanismes de protection. Donc on compare un mécanisme de nivellement pour les aléas climatiques chez le Distributeur à certains mécanismes, par exemple chez des comparables canadiens qui permettent, là, de mitiger les impacts d'une mauvaise prévision au niveau des... de l'efficacité énergétique.

(9 h 46)

Mais au niveau du Transporteur, le Transporteur n'est pas comparé à l'ensemble du groupe. Au niveau du Transporteur, il y a deux pages où, finalement, on compare le Transporteur aux autres transporteurs. Mais on ne peut pas faire ça si l'objectif de notre analyse, c'est de comparer Hydro-Québec TransÉnergie avec l'ensemble du groupe. Je veux dire, si on veut utiliser le bêta de l'ensemble du groupe, il faudrait à tout le moins que, sur les différents facteurs de risque, il y ait une comparaison avec l'ensemble du groupe, pas avec une sous-partie du groupe.

Donc, c'est le genre de faille que l'on trouve dans ce rapport. Par ailleurs, à mon avis, il y aurait lieu de parler davantage du risque auquel font face ces entreprises que des mesures de

protection.

Pour donner un bon exemple, le compte de « pass-on », puis là on va rester uniquement chez Hydro-Québec, Hydro-Québec en deux mille trois (2003) versus Hydro-Québec en deux mille treize (2013). Le compte de « pass-on » n'existait pas en deux mille trois (2003). Le compte de « pass-on » est apparu, je ne sais pas, en deux mille cinq (2005), deux mille six (2006), donc après la première décision. Est-ce que le fait qu'on a ajouté un compte de « pass-on » signifie que le risque a diminué? Pas nécessairement. Parce que le compte de « pass-on » vient surtout gérer des risques au niveau du postpatrimonial.

Donc, il n'y avait pas nécessairement tant de risque que ça en deux mille trois (2003). Il y a un risque qui est apparu par après. Mais il y a une mesure de protection qui est apparue par après. Donc, si on regarde uniquement des mesures de protection et non pas le risque inhérent, si on veut, on ne va peut-être pas arriver aux bonnes conclusions.

Et au niveau de l'analyse de risque de long terme que fait Concentric, je pense que c'est particulièrement problématique. Au niveau du risque

de long terme, comme je vous expliquais tout à l'heure, les comptes d'écart ne sont pas vraiment un élément dont on doit tenir compte. Même s'il y a des comptes d'écart, ça se pourrait que la valeur du service diminue. Ça se pourrait qu'il y ait une forme de « by-pass ».

Je n'ai pas fait une analyse du risque des différents proxies américains. Je ne peux pas vous dire si le risque d'Hydro-Québec est nécessairement supérieur ou inférieur, je ne connais pas ces entreprises-là. Je fais juste vous dire, finalement, qu'il y a plusieurs lacunes, et en voici deux.

Une autre lacune qui m'apparaissait intéressante, en fait, on reconnaît que la réglementation incitative, donc sous PBR ou « incentive regulation », peut être plus risquée que la réglementation coût de service. Mais cet élément-là n'est pas repris dans la conclusion générale. La conclusion générale à laquelle on arrive, c'est, il n'y a pas vraiment de facteurs de risque de différence. Sauf que, dans un cas, on a de la production réglementée, ce qu'on n'a pas chez Hydro-Québec. Donc, Hydro-Québec est peut-être moins risquée à ce niveau-là.

Et, par ailleurs, il y a un risque financier plus grand chez Hydro-Québec. Mais, ou par le ton de la différence entre le risque long terme, ce n'est pas repris dans cette conclusion-là, le cadre réglementaire coût de service versus mécanisme incitatif, ce n'est pas repris. Le fait que le Transporteur n'ait pas été comparé à l'ensemble du groupe, mais uniquement un sous-groupe de transporteurs, ce n'est pas repris.

Et peut-être un dernier exemple au niveau de la protection d'Hydro-Québec contre le risque associé au revenu. Comme je vous disais, on compare des pommes avec des oranges. Donc, Hydro-Québec Distribution est protégée contre le risque climatique. Risque climatique qui lui est propre d'ailleurs, parce qu'on ne peut pas s'attendre à ce que le risque climatique soit le même partout. Je pense que c'est un risque qui est particulier au Québec. Et on fait des comparaisons avec le fait que d'autres distributeurs ont des mécanismes de protection contre les mesures d'efficacité énergétique qui auraient été imprévues. Donc, c'est des ventes perdues, finalement, en raison de l'efficacité énergétique.

Ce n'est pas le genre de comparaison qu'on

peut faire. Je pense qu'il faudrait regarder à la base quel est le risque auquel chaque entreprise fait face et comparer ces risques-là et, après ça, voir comment les mesures de protection permettent de mitiger ces risques-là. Juste se concentrer sur les mesures de protection alors que le risque inhérent peut être très différent. Ça ne nous apprend pas grand-chose.

Peut-être juste avant de conclure, je sais que j'ai déjà mis ma dernière diapositive, et vous avez hâte que je termine, mais on nous a souvent dit qu'Hydro-Québec était unique. Je pense que, dans plusieurs dossiers auxquels j'ai assisté, on a dit souvent qu'Hydro-Québec était unique, mais je pense que, justement, c'est peut-être un cas aussi où Hydro-Québec est unique, il y a un profil de risque qui lui est peut-être particulier. Bien, voilà, c'est les comparaisons que l'on fait avec les comparables américains et canadiens nous semblent peut-être un peu douteuses à ce niveau-là. Merci beaucoup.

Me GUY SARAULT :

Q. [29] Alors, ceci conclut votre témoignage en chef, Monsieur Charest?

R. Oui.

Q. [30] Alors, maintenant que nous avons passé à travers les nouveaux documents, il serait peut-être bon de leur apporter une cote. D'abord la présentation PowerPoint. Ce serait rendu à quelle cote, Madame la greffière?

LA GREFFIÈRE :
C-AQCIE/CIFQ-0033.

C-AQCIE/CIFQ-0033 : Présentation PowerPoint
Hydro-Québec
Distribution et
TransÉnergie : Profils
de risque

Me GUY SARAULT :
Et les deux autres documents pour fins d'identification, sous réserve de l'objection de maître Dunberry, qui était sur le point de se lever pour le confirmer. Alors, le premier document, ce sera l'extrait de la pièce HQD-8, Document 11, pages 3 et 4 du dossier R-3541-2004.

LA GREFFIÈRE :
Ce sera 0034. Puis l'autre, le calcul, les taxes sur les services publics, ce serait 0035.

sténographiques pour l'extraction des passages relatifs à ces deux documents. Alors, ces deux choses vont ensemble. Merci.

LE PRÉSIDENT :

Bien noté, Maître Dunberry. Me

GUY SARAULT :

Q. [31] Alors ceci nous amène maintenant au Dr. Booth. Alors, Dr. Booth, I believe that we are now ready to hear your presentation on the fair return of the capital structure for HQD and HQT. Thank you.

Dr. LAURENCE D. BOOTH :

A. Good morning. Good morning. I noticed on the overheads that some of them don't line up exactly the way I intended because of the different printout. So, let's hopefully, that doesn't make a significant impact. Okay, the three questions that the Régie should be considering...

LE PRÉSIDENT :

Excuse me Dr. Booth... Here. Let me... Maître Dunberry, non, Maître Sarault, on n'a pas reconnu l'expertise hein, formellement du Dr. Booth?

Me GUY SARAULT :

On l'avant demandé par écrit. Ça a été accepté par Hydro-Québec. Alors oui, on peut le faire reconnaître formellement, oui. Mais je ne pense pas

que c'est un débat.

Me ÉRIC DUNBERRY :

On peut le demander après le témoignage. LE

PRÉSIDENT :

Ah! Après?

Me ÉRIC DUNBERRY :

Non, à la blague. C'est à la blague, Monsieur le
Président. Il n'y a aucune objection.

Me GUY SARAULT :

Alors, ça a été... Là il y a eu un échange écrit
là-dessus. On peut le faire verbalement si vous
voulez. Je ne pense pas que ça cause problème. LE

PRÉSIDENT :

D'accord. Bon, l'expertise demandée pour le
Dr. Booth, là, c'est expert sur la question du taux de
rendement.

Me GUY SARAULT :

Bien en fait, je l'ai précisé dans la lettre que
j'ai adressée à la Régie, là. C'était expert pour
les matières que nous avons annoncées à son égard,
dans certains paragraphes de notre demande
d'intervention que j'ai identifiés et reproduits
dans ma lettre de couverture, pour éviter toute
ambiguïté.

LE PRÉSIDENT :

Bon, o.k. Effectivement, j'ai la lettre du sept (7) août. Il y a effectivement « témoin expert sur la question du taux de rendement » et vous faites référence « expertise pour les fins relatées aux paragraphes 16 et 17 de la demande d'intervention ».

Me GUY SARAULT :

Exactement.

LE PRÉSIDENT :

D'accord. Bon. On va prendre ça comme base d'expertise et, je m'excuse Monsieur Booth. Me

GUY SARAULT :

Pas de problème. Merci. You can carry on. Dr.

LAURENCE D. BOOTH :

- A. In terms of formalities, I also accept my information request answers as being valid. I wasn't asked about that in terms of my evidence.
- Q. [32] That's right. My mistake, Dr. Booth, and I apologize. We have filed your answers to the information request submitted by the Régie to you as exhibit C-AQCIE-0032. So do you confirm being the author of those responses and do you adopt them as your evidence in this case?
- A. I do.

Q. [33] And I apologize for this omission. Thank you.

A. Okay, the three questions, any changes in business risk in terms of HQT and HTD since two thousand and two (2002) and two thousand and three (2003) when the Régie last reviewed them, what is a fair and reasonable ROE for both of them, given the common equity ratios adjusted for their differential risk. And in particular, I appeared before the Régie earlier this year in an Intragaz hearing and it's basically the same year and a significant amount of my evidence is the same. So the question is, what has changed since earlier this year? And then finally, should HQT and HQD be put on a formula ROE similar to that used by the Régie for Gazifère and Gaz Métro. Has the time come basically to go back to an automatic formula?

So, in terms of the business risk, my colleague, Mr. Charest, took the lead on this but essentially when we look at the risk, risk means the probability of incurring harm. That's the standard definition in the dictionary, and in finance harm means losing money.

And this has got to short run in the long-run dimension, short runs is return on capital, the right return, the profit that you get from your

investment and in this respect, Moody's puts twenty-five percent (25%) weight in their credit analysis on the ability to earn the ROE, and then there's qualitative factors but ultimately, the qualitative factors have to show up in terms of quantitative, the ability to earn the ROE.

And then secondly, there is a long-run return of capital and in current period with relatively low ROE's, relatively low interest rates, the long-run return of capital is what's important. When ratio returns were really very high fifteen (15), twenty (20) years ago, because of high inflation, then, the return of capital was not so important because the rate of returns was so high.

10 h 00

But when we look at the return of capital, it's essentially the ability to recover the investment in the rate base, which depends upon the viability of the commodity being transported, this of necessity is more of a qualitative assessment than the short run return on capital.

Why is business risk important? Well it's important because Dr. Coyne has made statements in his evidence about the financial risk premium

relative to US utilities and the fact that he is not asking for financial risk premium to offset what he admits is the absence of generation for HQT and HQD. So if there is no need for financial risk premium, then it means that there is a need for some sort of reduction as a result of the lack of generation risk.

So when we look at this, my colleague has looked at this in a lot more detail than I have. All I do here is present the answer to a question the Régie asked, which was the degree of over-earning by HQT and HQD which amounts to almost a billion dollars in the last five-six years. So a significant over-earning, main problems with most utilities is the operation and maintenance expenses included in the forecast revenue requirement generally underspent by a lot of utilities as a result they tend to over-earn. In this case, there's also a question of depreciation, changes in economic useful lives and changes in assets being brought into the right place. There is supposedly an improvement in forecasting techniques that will remove some of this and then, as my, Mr. Charest referred to, the maturing of the regulatory process and the introduction of new deferral accounts.

But essentially there is no indication of any material short run risk. If risk is the probability of incurring harm, at least in the last five years HQD and HQT have not incurred any harm whatsoever. They have significantly over earned.

Now in terms of long run risk, electricity, we have to recognize, has two main uses. One is space heating and the other is lights and computers and all of the other standard things that, and as well as industrial use, the standard things that an energy source uses.

Now two years ago when I was, or a year ago, I was here talking about Gaz Métro's risk. The Gaz Métro space heating is almost the total game in a sense that gas is used extensively for space heating as well as some other uses in terms of gas co-generation and other things. But space heating is very important for gas. This was some information put together by Fortis Energy Inc. in a hearing before the BCUC almost a year ago and two things are important: we've got the four major, biggest provinces in Canada and the red bars indicate the cost of electricity for space heating, a hundred (100) gigajoules a year and what is clear is that electricity is lower cost in Quebec than

Ontario, Alberta and British Columbia. And British Columbia, BC Hydro generates a huge amount of its electricity from hydro. But first of all electricity is a low cost source of power in electricity which shouldn't be news to anybody. And secondly is that gas is relatively more expensive in Quebec. Mainly point to point transportation cost adds to the cost of gas.

So when we look at this, the discussion in British Columbia was essentially that Alberta and Ontario were the low cost gas companies and then FEI, former BC Gas, and the riskiest gas company was Gaz Métro, simply because the incidence of competition from electricity for space heating in Quebec is so intense. And when we look at Gaz Métro's rate of return decided by the Régie, the Régie added an 0 point three percent (0.3%) risk premium for Gaz Métro to get to the eight point nine percent (8.9%). So the benchmark rate of return the Régie felt was eight point six percent (8.6%). If you subtract the 0 point three percent (0.3%) risk premium for Gaz Métro, which indicates the relatively high risk for Gaz Métro and which the obvious, obvious to that is essentially the low risk of electricity in this province.

So that's the long run competitive position of electricity when we look at Hydro-Québec Transportation and Distribution, a demonstrated ability to earn the allowed ROE, a protective regulatory environment that is getting more protected with more deferral accounts as the regulatory process matures. Some of the dams backstopping the system, being depreciated over a hundred (100) years, so it's not as if there is any problems in the underlying commodity that is being distributed, and the underlying commodity is extremely competitive, both in space heating as well as all of the normal markets where electricity is monopolistic.

(10 h 5)

So electricity transportation is usually regarded as the lowest-risk utility asset. The second one is distribution, electricity distribution is regarded as being a little bit risky mainly because there's some variability introduced in the rate structure in terms of demand charges versus revenue charges. So that's the view, my view at least of Hydro-Québec transportation and distribution.

Now in terms of why this is important, it's

not important because I'm proposing a difference in capital structure to that requested by HQT and HQD, my standard recommendation for electricity distribution is thirty-five percent (35%), and my standard recommendation for transmission is thirty percent (30%). I've long argued that transmission is the lowest-risk asset and deserves a thirty percent (30%) common equity ratio, and distribution is marginally riskier because of bad debts and because of the toll structure.

Now the question is, what does this mean? Well, what it means is that Hydro-Québec recognizes that transmission is less risky than distribution. They're asking for a higher common equity ratio for distribution, but they're asking for exactly the same rate of return. This is the standard in Canada that we adjust for risk in terms of the common equity ratio, and then we allocate essentially the same rate of return.

Now there are some boards that also add a premium to the ROE, but the Alberta Utilities Commission, which HQ references, does this, the National Energy Board does this, and the Ontario Energy Board does this, they look at the utilities, they assess their risks, and the lower-risk utility

gets a lower common equity ratio to offset its business risk, and then they get exactly the same rate of return.

What this means is, there's no need to add a financial risk premium simply because a utility is being deemed with a lower common equity ratio. The point being that the lower common equity ratio is being deemed because of its lower risk, such that the overall risk is exactly the same. So this is the standard practice in Canada.

Why it's relevant here is, I don't think that there's any reason to even think about making a financial leverage or a financial risk adjustment because of the low common equity ratios for HydroQuébec Transportation and Distribution.

Now Dr. Coyne referred to the hot tub that we were participating in before the Enbridge Gas hearing last year. This was called because Enbridge Gas Distribution requested an increase in its common equity ratio from thirty-six percent (36%) to forty (40%) to forty-two percent (42%), largely on the basis not of a significant increase in business risk but on the basis of comparison with U.S. utilities.

And Dr. Coyne argued that this was required

to meet the fair return standard. And this was the decision of the Ontario Energy Board -- I'm not going to read the whole passage in, but the interpretation of the Board's policy is incorrect. The Board states explicitly in the cost of capital report that,

The current policy on capital structure continues to be appropriate and a capital structure would only be reviewed if there was a significant change in the risk of the specific company.

That's something that I've been recommending for at least the last fifteen to twenty years, that specific capital structures be set in the right hearing of the utility in terms of an analysis of its business risk.

Me GUY SARAULT :

Q. [34] If I may interrupt you here, and I apologize, since, you know, these decisions were discussed during my cross-examination of Dr. Coyne, as you may remember, and Me Dunberry asked me to file a copy of these decisions. This first one for Enbridge, Decision EB-2011-0354, I've brought two hard copies with me, one that I can give to the Me

Dunberry, and one that I can give to the greffière, and we will file an electronic copy with the electronic system.

And perhaps, as we are talking about decisions that are referred to in Dr. Booth's expert report, we might as well file the two others as well that were referred to -- one concerns Union by the OEB, and the other is by the BCUC. So what exhibit number could we assign to the decision of the Ontario Energy Board EB-2011-0354?

LA GREFFIÈRE :

C-AQCIE-CIFQ-0036, for the first one. Me

GUY SARAULT :

Thank you.

C-AQCIE-CIFQ-0036 :

Ontario Energy Board
Decision No. EB-2011-
0354

The second one is another decision of the Ontario Energy Board, for Union Gas, it's EB-2011-0210, and that would be C-AQCIE?

LA GREFFIÈRE :

0037.

R-3842-2013
4 novembre 2013

PANEL AQCIE/CIFQ
Interrogatoire
Me Guy Sarault

- 66 -

Me GUY SARAULT :

Thank you.

C-AQCIE-CIFQ-0037 :

Ontario Energy Board
Decision No. EB-2011-
0210

And the third one is a decision of the British Columbia Utilities Commission on Generic Cost of Capital Proceeding, it's a decision dated May ten (10), two thousand and thirteen (2013), and I suppose that will be 0038?

LA GREFFIÈRE :

Yes.

Me GUY SARAULT :

Thank you.

C-AQCIE-CIFQ-0038 :

British Columbia
Utilities Commission
Decision on Generic
Cost of Capital
Proceeding, dated May
10, 2013

(10 H 10)

Me ÉRIC DUNBERRY :

Monsieur le Président, évidemment, ce sont des décisions donc c'est de la jurisprudence, il n'est pas nécessaire de coter en pièce de la jurisprudence, mon confrère peut y référer en tout temps dans son argumentation. Alors s'il les produit, il a peut-être, il y a peut-être une question ici que je devrais poser, mais évidemment, ce n'est pas parce que ces documents sont produits, s'agissant de la jurisprudence, que les éléments factuels repris dans ces décisions-là deviennent en preuve dans notre dossier.

Alors si l'intention était de mettre en preuve des déclarations faites par le docteur Booth dans d'autres dossiers et repris dans cette décision, évidemment, on ne dépose pas en preuve des déclarations faites dans d'autres dossiers. Normalement, la jurisprudence, on l'utilise en tout temps, alors on n'a pas besoin de la coter comme telle.

Alors sous réserve de ce commentaire, je n'ai pas de difficulté à ce qu'on leur donne un numéro, mais je n'ai pas l'intention de coter toutes les jurisprudences de la Régie que nous

allons utiliser aux fins de l'argumentation qui suivra.

Me GUY SARAULT :

La raison pour laquelle j'ai pris la peine de le faire ce matin, c'est parce que ça avait été expressément demandé au cours de mon contre-interrogatoire du docteur Coyne. On m'avait dit que ce n'était pas suffisant de confronter le témoin à simplement à des extraits de décisions sans avoir la décision complète, alors je voulais éviter, évacuer toute ambiguïté sur ces questions-là à l'égard des trois décisions en question.

LE PRÉSIDENT :

Merci, Maître Sarault. Votre témoin peut... Dr.

LAURENCE D. BOOTH :

A. So the decision of the Board on the common equity ratio reads there,

The Board concludes there has been no significant increase in Enbridge's business and/or financial risk since 2007. Accordingly, the Board finds Enbridge's equity ratio to remain at 36% and that a full fair return standard analysis is not required.

Now if there is no need for a financial risk

adjustment, then the question comes into generation. And the Régie asked me questions about how do I rank generation risk, and the answer to that in a nutshell is that it's incredibly difficult, because it depends upon the type of generation and the mix.

Hydro, I would generally argue, is the least risk form of generation than coal, gas co-generation, nuclear, solar, wind, biomass. It's difficult to rank those last ones, but all of those forms of generation have got a different risk profile. It then also depends very much on how that mix of generation fits in with an integrated utility. And the question is, are they base load or are they peaking, and what's going to happen in terms of dispatch of a particular type of electricity.

And I forwarded to counsel for cross-examination an article from The Economist, simply because in Europe, green energy is causing serious problems amongst the utilities because green energy essentially comes on at zero cost when the wind happens to be strong, and the sun happens to be strong, and this means that if zero cost energy comes on, something else has to be taken off, and

it depends what's taken off.

In Germany, what's been taken off essentially are coal or in some cases nuclear plants, or they're been selling power at negative prices, because all of this green energy has come on and, displacing other energy that is being produced. And this is causing real problems as green energy is approaching twenty to twenty-two percent (20-22%) of the generating capacity. And I was just struck by a comment of one of the CFO of one of the major German utilities, who said, "Conventional power generation quite frankly is a business unit fighting for its economic survival."

So when we come to make assessments, Dr. Coyne suggested no point four zero percent (0.40%), I have no reason to dispute that as an estimate in terms of the rates of return in the United States, but as things develop, there are significant problems in the generation side of the business, so if anything, I would suggest that no point four percent (0.40%) is probably a low estimate of the cost of, or the risk assessment for generation in states in the United States that are facing similar dispatch problems in terms of green energy. Green energy causes a lot of problems for many utilities.

So that's all I have to say in terms of the business risk. In terms of the fair return on equity, this comes out of the capital market, that's the definition of Mr. Justice Lamont, and so we looked at the capital market for signals in terms of the fair ROE. And to do that, we used two standard models -- the Risk Premium model, and as I've said before the Régie before, why I like it is that generally, you can't do serious problems, or serious errors with the risk premium models, they measure the risk value of money, the time value of money, and sometimes, if correctly implemented, the tax value of money, which are the three basic building blocks of finance.

(10 h 15)

The Discounted Cash Flow model, on the other hand, tries to reverse engineer and predict what the investor is actually trying to do, based upon forecast and the stream of cash flows that the investor faces. They should give exactly the same answer and practice, they rarely do. Whenever you have two ways of estimating the same thing you end up with problems. I put some emphasis on the capital asset pricing model but as I point out, this is really a risk premium model, not so much a

capital asset pricing model because we can assess how useful discounted cash flow and risk premium models are simply by looking at the market as a whole where the beta by definition is equal to one.

So we look at the required rate of return as the time value of money and the overall risk premium. In terms of the discounted cash flow, we can do the same thing, we can look at the dividends yield on the market, the overall market index, then we can add the long run growth rate. This is appropriate for the market as a whole because a lot of the risks average out when we look at the overall portfolio of securities.

The Discounted Cash Flow Model in academic circles it's called the Gordon Growth Model after my late colleague Myron Gordon who developed it specifically to look at utilities. And in fact, he used it in an AT&T case, I think it was in nineteen sixty-one (1961). It's appropriate for utilities in a market as a whole because the growth rate is relatively stable. It is not appropriate for the typical company in a capital market where we tend to use the capital asset pricing model or risk premium models. So it's not enough to just sort of do a constant growth analysis of all of the stocks

on the Toronto Stock Exchange or all the stocks on the S&P 500. The assumptions simply don't match for the vast bulk of the stocks on the Toronto Stock Exchange. So any estimate of the DCF using those types of firms would not use the constant growth model.

But anyway, for the market as a whole, we can look at these two, we can set the beta equal to one and just look at the market risk premium. We can look at a long run growth rate, a real growth plus the contemporaneous inflation rate to get a nominal growth rate. I use three point five percent (3.5%) as a proxy for a long run market risk premium and a three point five percent (3.5%) for the long run growth rate. We can then calculate every month what the DCF rate of return for the market would be using the current dividends yield, the contemporaneous inflation rate and the long run growth rate and we could do the same looking at the long term Canada bonds yield plus a long run risk premium. And we can subtract the risk premium for the DCF model to get an estimate of how different are these estimates that we use, sort of simple basic assumptions.

And going back to nineteen fifty-six

(1956), so that's fifty-six (56) years of capital market history with monthly estimates, then we can see there are significant deviations in these two models and I have been doing this for the last two or three years because people have been saying "Well, the DCF is currently better than the CAPM." The question is why? What's going on? How can we explain why the deviations between fair rate of return estimates? And we can see, for example, in the nineteen seventies (1970s) the DCF gave huge estimates relative to the risk premium. The answer for that was simply that the DCF had huge rates of inflation. That was a period when the rate of inflation in Canada hit over twelve percent (12%). So the result was the real rates, real interest rates were in fact negative during the nineteen seventies (1970s). The rate of inflation exceeded the normal interest rate. And then since the rate of inflation has come down, we've had periods of very significant high real interest rates in Canada. And then we can see this has gradually gone away for the last couple of years, the DCF has been offering higher estimates than the risk premium model again mainly because we got very low real interest rates.

So when we look at this, it's not enough to say "Well, currently we should use the DCF." The question is: Why? And I started out testifying quite a significant period again ago. I used to use DCF and risk premium and I put equal weight on both of them, fifty percent (50%) on each. And it was only the decline in pure regulated utilities in Canada that made it difficult to apply the DCF model to Canadian utilities. So that was what I started looking at these models. So the question is: We've got significantly low real interest rates now, which buys down risk premium models and means that the DCF estimate are giving high rates of return. So the question is really: How can we use risk premium models in the current environment to get consistent results and better estimates to the fair rate of return.

Understatement of the long Canada bonds rate. I came before the Régie in Intragaz when Operation Twist was in its full format. This is also called quantitative easing 3. It's called Twist because it's the objective of the Federal Reserve to twist the shape of the yield curve which is the lower long term interest rates relative to short term interest rates. It tried this in

nineteen sixty-one (1961) and it's been trying it again for the last two years. Essentially, the lower long term interest rates, particularly in the mortgage market without refinancing of US mortgages so that people don't lose their homes and so the banks don't lose a ton of money in write-offs on their mortgage portfolios. What does it mean?

Eighty-five billion dollars (\$85 G) a month in purchases of government bonds and mortgage-backed securities to lower interest rates and as a result of that, money has left the United States. Some of the money has come into Canada because it is a triple A (AAA) rated issuer as the government and the Bank of Canada pointed out, and interest rates have decreased in Canada as a result of this sovereign money coming into Canada.

(10 h 20)

We can see that again, in May of this year, when the governor of the Federal Reserve, Bernanke, Ben Bernanke, indicated a road map to reduce quantitative easing free. He said that the purchases would end when the U.S. unemployment rate dropped around seven percent (7%) and he's back tracked a little bit on that because a lot of the drop of the unemployment rate in the United States

has come from people leaving the work force rather than increased employment. So the story pay more attention to the participation rate in the United States, who's actually participating in the labour force.

And the second step comes when the Federal Fund's rate, the U.S. equivalent of the overnight rate, will be start to reduce when the unemployment rate gets us down to six point five percent (6.5%). An old stimulus essentially will be removed once the U.S. unemployment rate gets down to what we call is NAIRU, or non-accelerating inflation rate of unemployment. That's the natural rate of unemployment. So this ease road maps that the FED laid out in May, and immediately the market suddenly got spooked. All of a sudden, they started saying well, interest rates are gonna go up. Now we know when they're gonna go up and we can see this very clearly.

This is the path that long-term bond use in Canada since January two thousand and three (2003). We can see that the rates were still around the four percent (4%) mark for several years and then, we can see they started dropping significantly after operation Twist, and in May of this year,

where that black vertical line is, that indicates when Governor Bernanke made his comments about operation Twist and the gradual tapering of the purchases in the bond market, and interest rates dramatically jumped up as investors realized the low interest rates would not continue for a long period of time.

So how did this have an impact? Well operation Twist is an effort in the bond market, it affects bond markets and we can see, as I'll be showing the Régie for at least the last ten (10) years, the impact of the business cycle in the spreads between double A (AA), single A and triple B (BBB) rated debt, relative to the government of Canada debt, and we can see the huge spike during the financial crisis two thousand and eight (2008), two thousand and nine (2009), and interest rates and spreads particularly, have come down since then and we can see the last two years as being to continue in decline and spreads since two thousand and nine (2009) and two thousand eleven (2011) in Gaz Métro decisions.

So the spreads at the moment, the last time I looked at them, were a hundred and sixty-six (166) basis points, one point six six percent

(1.66%), versus I think it was over a hundred and eighty-five (185) when I prepared the Intravest testimony. They're gradually coming down as the markets revert to normal and as particularly the markets look at the end of quantitative easing.

However, we're not here to assess the fair rate of return on HQ, HQ's debt, we're here to assess the risk and the fair rate of return on equity. And equity and debts are two different instruments. In particular, the interest on debt is fully taxable, whereas the dividends on preferred shares get the dividend tax credit. So preferred shares and high dividend paying utility shares acquaint essentially Canadian retail product because they get the dividend tax credit. If we invest in United States or any other utility shares, we do not get the dividend tax credit. And if Americans invest in Canadian utility shares, they do not get the dividend tax credit. Only Canadians get the dividend tax credit from utility shares and it lowers our tax rate buying those instruments and it acts to segment the equity market and preferred shares from international bond market impacts.

This, I suggested in Intragaz, resulted in

a eighty (80) basis points estimate of the operation Twist adjustment. And we can see that simply by looking at the spread between preferred share yields and bond yields, government bond yields, and A yields and bond yields. So the orangeline is the A spread, which is relatively constant, it's come down a little bit but hasn't changed that much because bonds have gone, corporate bonds have moved up and down with the government of Canada bonds.

On the other hand, preferred shares have not moved up and down with bond yields and we can see this, the purple line is sort of going up and down until operation Twist went into effect. And then it jumped up and there's a significantly higher spread. And what that means is simply that when the government bond yield went down, the yields on preferred shares didn't go down very much because ordinary investors in equity shares didn't react to operation Twist the way the bond market reacted to operation Twist.

And again, the vertical line there indicates the drop off in that spread after May of this year when Governor Bernanke made his comments. And again, it simply indicates the bond yield went

up where preferred share yields didn't change very much.

(10 h 25)

So just to make this a little bit clearer, and this is not a matter of judgement, this is a matter of just looking at yields in the capital market, and we can see the spreads between the preferred shares spread and the A spread were basically hovering around zero until the summer of two thousand and eleven (2011), when they started popping up to this eighty (80) basis point spread that I used for Operation Twist in the Intragas hearing.

And then since May, that spread has come down dramatically. In fact, it almost, well, it did, it dropped to twenty (20) basis points about a month ago, until other governors of the Federal Reserve started to say, "Well, Operation Twist isn't going to end any time soon, quantitative easings actually, we've over-judged the impact of Operation Twist." And as a result, it's popped up a little bit to thirty-five (35) basis points.

So this, as I said, it's not a matter of judgement, it's a question of knowing where to look in the capital market to see the right sort of

information. And I was making an assessment of eighty (80) basis points based upon these spreads a year ago, in the Intragas hearing; now I would say it's more like thirty-five (35) basis points, the impact of Operation Twist has simply diminished in the capital market, and I would very much hope that it disappears completely, as I've talked about, some time in the next six months.

Now how does this impact the actual rates of return. This is the Régie's decision in Gaz Métro 2009, I'll reproduce it simply because it's a very clear exposition of how the rate of return was determined, most regulators do not have the clarity that the Régie has. But we can see the risk-free rate, the market risk premium, the benchmark Beta, and we can see the adjustment for Gaz Métro's higher risk -- twenty-five to thirty-five (25 - 35) basis points -- and then issue costs.

And if you take the Gaz Métro risk premium out, you're obviously significantly lower, seven point three to eight point one (7.3 - 8.1), and then the adjustment to take into account are the models and adjustments which take into account the effect of the financial crisis. And in the 2010 hearing into Gazifère, I suggested a credit-spread

adjustment that takes into account the effect of the financial crisis, and now I'm suggesting, as I did in Intragas, that we look at the preferred shares spread to make an adjustment in terms of other things that are going on.

So the changes since two thousand and nine (2009), in terms of the risk-free rate, Dr. Coyne seemed to think that my three point six percent (3.6%) was judgement; it is not judgement, it comes directly from the Consensus Economics forecasts, their ten-year rate is three point one percent (3.1%) for September two thousand and fourteen (2014), and they add the ten to thirty (10 - 30) spread in exactly the same way as every regulator has done it in Canada, to get three point six percent (3.6%).

And then I also used the RBC forecast, where the average for two thousand and fourteen (2014), the test year, is three point six percent (3.6%) as well. I'll come back to this RBC forecast later on to talk about the difference between the U.S. and Canada, but note Dr. Coyne uses the Consensus Economics, but his is for two thousand and thirteen (2013) and two thousand and eighteen (2018), he is not recommending, or doesn't seem to

be basing that on data for the test year two thousand and fourteen (2014). My recommendation is based upon the Consensus Economics forecast for two thousand and fourteen (2014), Dr. Coyne's is not.

So that's the risk-free rate. The market risk premium, and here I would say, I don't normally like to criticize other witnesses, but Dr. Coyne criticizes my estimates on the basis that he says their judgement; they're not judgement. As I say, they're judgement constrained by fact, or by the historic record. My historic Canadian and U.S. data supports a five to six percent (5 - 6%) market risk premium and indicates the lower risk premium in Canada and the United States, to the tune of one point three one percent (1.31%) using the actual point estimates.

Dr. Coyne's historic market risk premium, five point three eight to six point six percent (5.38 - 6.6%), he has Canada one point two two percent (1.22%) less than the U.S. The fact is, when you look at the historic data, there's no, nothing you can do to escape the fact that historically, risk premiums in Canada have been significantly lower than they have in the United States.

Incidentally, his estimate is an estimate based upon what he calls "bond income returns", not total returns. Consistency means that you subtract total bond returns from total equity returns, that's the standard way I've estimated risk premiums, not subtracting just the income component of a bond return from the equity return. So that's inconsistent, and it means his estimates are slightly low.

(10 h 30)

In terms of the forward-looking risk premiums that Dr. Coyne uses, he looks to the constant growth for all the firms in the S&P 500 and the TSX to come up with a risk premium of six point one four to eight point five five (6.14 - 8.55); again, Canada is two point four one percent (2.41%) less than the United States. As I've indicated, I don't know anybody that would look at a constant growth model for every firm in the S&P 500, or in particular every firm in the TSX.

The use of the constant growth model is simply totally inappropriate for all firms. It's appropriate only for firms that match the underlying assumption that they pay dividends and they've got a long run constant growth rate. Most

firms do not have a constant long run expected growth rate in earnings. We can see that simply by looking at the average earnings of these S&P 500 firms at ten point three nine percent (10.39%) in the US versus a forecast four point nine six percent (4.96%) growth rate in GDP. It is absolutely impossible for firms to grow their earnings at ten point three nine percent (10.39%) when GDP is forecast to grow at four point nine six percent (4.96%).

The difference in Canada is not quite as great. In Canada the long run growth rate average is out for all of these firms at seven point one nine percent (7.19%) versus four point zero four percent (4.04%) in GDP but this is just a classic example of, first of all, optimism on the part of analysts and, secondly, the fact that the constant growth model doesn't work. You have to taper it for a lot of these firms to long run GDP growth rate or use other models.

And finally Fernandez's two thousand and thirteen (2013) survey came out, it was after Dr. Coyne filed his testimony, but Canada, the average market risk premium for the respondents was five point four percent (5.4%), in the US it was

five point seven percent (5.7%). So this isn't one person responding, this is over six thousand (6,000) people responding, professors of finance, professors of economics, financial analysts working for financial firms, analysts working for non financials. So over all it's difficult to escape five (5) to six percent (6%) for the market risk premium.

One interesting feature of Fernandez's latest survey is he actually estimates the market rate of return, so market respondents were asked to estimate what's the overall fair rate of return on the market, seven point four percent (7.4%) in Canada, eight percent (8%) in the United States, which again confirms a lower overall rate of return in Canada than in the United States. TD Economics does this every couple of years and TD looks at the long run compound or geometric growth rate so we need an adjustment to get that to arithmetic returns similar to what we allocate for regulated utilities. So their projection as at about this time last year was two percent for cash and these were over a ten (10) year period, three percent (3%) for bonds and seven percent (7%) for equities and they use seven percent (7%) across the border.

So making an adjustment to arithmetic returns moves the market risk premium between the five (5) to six percent (6%).

Finally, something different that I have done in my testimony for the last six months is the fact that ultimately we shouldn't lose sight of the fact that the fair rate of return comes out of the profitability of corporations. If corporations don't earn any money, you don't get any money in the stock market. The more profitable firms generate high rates of return. Ultimately, the rate of return in the stock market comes from the rate of return earned in the real sector of the economy. And this goes back actually to John Maynard Keynes about seventy (70) years ago. Jack Bogle founded Vanguard Mutual Funds and Index Funds. This comes from a presentation that he gave at the University of Toronto a year ago and he just looks at eleven (11) decades of returns on the US stock market and he divides it up into what he calls "investment return versus a speculative return". The speculative return is the difference between what you might expect from the dividends yield and earnings growth, and he looked at the next five years actual earnings growth, not the forecast but

the actual earnings growth, and that works out to eight point eight percent (8.8%) in the United States, and then his own average over this eleven (11) decades naught point three percent (0.3%) for what he calls a speculative return which is the change in what Keynes called "the valuation basis", the change in the price of inflation, the speculation that causes the stock market to go up twenty percent (20%) in a year when underlying profitability doesn't change very much.

Overall, the market return was nine point nine percent (9.9%) over eleven (11) decades of US stock market return. And the return coming from the investors was about eight point eight percent (8.8%) based upon expectations and it's about the same in Canada. I think I had it at nine point three percent (9.3%) for the real rate of return earned by corporate Canada. So that benchmarks everything. You cannot expect a low risk utility, or investors cannot expect a low risk utility to earn more than the stock market as a whole. And the stock market as a whole... TD Economics is looking at seven percent (7%) plus a little bit of an adjustment, the survey of six thousand (6,000) participants by Fernandez is looking at seven point

four (7.4) to eight percent (8%), Jack Bogle, founder of the Vanguard Mutual Funds, historic returns about nine point one percent (9.1%), so that sort of benchmarks, and you're looking at some numbers south of less than eight (8) to nine percent (9%) for a regulated utility.

(10 h 36)

Now in terms of the relative risk, we constantly have discussions about betas. Betas just measure what actually happened over a five-year period. And this again came out of the BCUC hearing. The commission asked questions about the price earnings ratio, the valuation of the TSX as a whole versus utilities. And you can see that the utilities, the valuation's gone up for the last three to four years. The reason for that is utilities, heavy dividend sensitive stocks, that what we call defensive stocks because they got such large dividend yields, and they result in a low-interest rate environment, they're extremely valuable and their prices have gone up, whereas the price earnings valuable for the market as a whole has gone down.

Maureen Howe who was the utility analyst at RBC Dominion Securities mentioned this in an

industry comment back ten (10) years ago during the tech wreck that equities, the utilities behaved like equities in an up market but in a down market, the interest protection stops from going down, in which she argued that they looked a lot like convertible securities, upside, potential, downside, very little risk.

So that's the assessment of why Betas are the way that they are for the last five years. Betas for Canada were about point 5 (0.5) for regulated utilities, up to the beginning of this decade. This decade has been remarkably unusual. We have had two huge stock market crashes. We had a huge tech wreck in the early two thousands (2000) when two of our biggest stocks in Canada, Nortel and JDS Uniphase collapsed and took the stock market with them, and we've now had the financial crisis coming out of the United States.

During that period, the Betas estimate what actually happened during that period and what happened during that period was the utilities demonstrated their extremely low risk because they got this interest protection that, when the interest rates go down because of the stock market crash, they're protected as utility investors

because they're dividend rich. So that's what explains what goes on in terms of Betas. I persistently use point four five (0.45), point five five (0.55) for my range for Betas. Why? Because I hope that we don't get yet another huge stock market crash of the size that we've had in two thousand and eight (2008), nine (2009) and in two thousand and two (2002) and three (2003) with the tech wreck. Now, are my Betas a matter of judgment? They're not a matter of judgment. I calculate my Betas in a conventional way and I contrast them with those produced by the Royal Bank of Canada. Those are a fact available for clients but I put them next to RBC just to see if there are any significant differences. I also, for the Canadian stocks, look at them right through the Google, and the Google ones, anybody in this room can just do a little search on Google, and they'll come up with the Betas for Google.

They just indicate that generally of their low risk. Are they exactly the same? No, they're not. Because some people estimate them on monthly Betas, some are weekly Betas, some are over five years, some over three years, but what they unambiguously demonstrate is the obvious, that

during the financial crisis and for the last five years, utilities have been defensive investments that have not reacted up and down with the stock market as a whole. And this is where I apologize the formattings got messed up when I sent my file, but I usually point six percent (6%) as a risk-free rate, Betas consistently use point four five (0.45) to point five five (0.55) as a long-run Betas estimate, the market risk-free is about five to six percent (5-6%) based upon the historic data and the utility risk premium has turned a quarter (0.25%) to three point three percent (3.3%). And that's backed up on analysis I did of the discounted cashflow risk premium estimates for U.S. utilities. I then add a zero point five percent (0.5%) issue costs - I'm well aware that the Régie is using a zero point three percent (0.3%) for Gaz Métro. I've used a zero point five percent (0.5%) for the last ten years and this was essentially because we used to get into big cross-examinations on issue costs and essentially it was an area that, for a few basis points, it wasn't worth the arguing about between utility witnesses and consumer witnesses. So I've been using zero point five percent (0.5%) and most boards have accepted that.

The CAPM I always say is between six point three five (6.35) and seven point four (7.4) and when I say CAPM, I mean the CAPM is conventionally used, using the Beta coefficient, long-run risk premiums and the full cost risk-free rate. I then make two adjustments for all the models. Since two thousand and ten (2010), I've recommended the Régie use a credit spread adjustment and with spreads at the moment about sixty (60), seventy (70) basis points above normal, that uses zero point three percent (0.3%), which is down from what I recommended for Intragaz, and now I'm recommending, and I have been for the last two years, an adjustment because of operation Twist, because of the actions of what RBC echoes the global policy makers in depressing interest rates. I don't think that has affected the equity market the way it appears to be, if you just look at the long of Canada bond yields.

And in this respect, I will point out that before the Régie, I think, in a Gaz Métro hearing in the nineteen nineties (1990's), I was still using a risk premium over preferreds model, because the best way I've estimated a fair rate of return for utility is a risk premium not over long Canada

bonds but over simili tax preferred shares. I only stopped doing that because it was based upon a sample of Telcos, and those Telcos ceased to be rate-of-return regulated as a result of opening up of long distance and consolidation within the industry.

(10 h 42)

In this respect, any recommendation can be expressed as a risk-free rate plus a risk premium. The fact that I expressed my recommendation in that way does not mean to say that my testimony is solely based upon the Capital Asset Pricing Model, it most definitely is not, and any superficial examination of my appendices will indicate the amount of discounted cash flow testimony and evidence that I present that informs my judgement as to what is a fair rate of return.

Comparisons with Dr. Coyne. Dr. Coyne uses a risk-free rate of four point two three percent (4.23%), that is not for the test year, that's a long-run rate of return, I don't think that's appropriate. He uses a Beta of point five nine (0.59), it's an adjusted Beta. I don't think there's a big difference between me and him on that, I show that in fact if you use the actual

Beta at the moment and adjust it to one (1,0) -- which I don't recommend -- but you get the low end of my range, and if you adjust, take the highest Beta, which is the TransCanada Beta, and adjust that, then you get point five five (0.55). I would regard point five nine (0.59) as being high, but it's not that high.

The market risk premium, Dr. Coyne uses six point six seven (6.67%), I would say that is clearly high, it's outside of the range, the historic range, it's outside the range the market participants use, and I don't think that's... that's reasonable.

Overall, his CAPM of eight point four seven percent (8.47%), I would say that Dr. Coyne's recommendations at nine point two percent (9.2%) are only one point seven percent (1.7%) higher than mine. And that's quite remarkable; usually, differences are much greater than one point seven percent (1.7%), I've come up against and testified in hearings where utilities had put forward estimates of at least three (3%), four percent (4%) higher than my recommendations. So Dr. Coyne's recommendation is not ridiculously high compared to that put forward by other utility witnesses.

I would call attention to the adjustment for other models, I could not work out of his testimony where that point seven five percent (0.75%) came from, and I've got a question mark there -- is that just there to get to the DCF estimate, where he says he puts primary weight on DCF estimates for U.S. utilities?

Two final questions, current capital market conditions or anything special in the capital markets. Canada slowed down in mid-two thousand and twelve (2012). When I was putting testimony there, I was relying upon the Bank of Canada forecast and the comments of the Governor of the Bank of Canada that we were almost back to full employment. You can see the capacity utilization, that dropped off a little bit over the last two quarters. So we're basically slowed for the last two quarters, mainly in response to the problems in the Euro zone and, to some extent, China and commodity prices in the United States, so that our export demand has been off. So that's a little bit slow.

The Bank of Canada's Financial Conditions Index still indicates loose financial conditions. This is a summary of all of the indicators, the volatility index, the spreads, the behaviour of

bank-share prices, as an estimate of trying to get a handle on all of these factors that affect the conditions in the capital market and in one number. And that still indicates loose conditions in Canada, there's no tightness in Canadian capital markets that indicates a need for an adjustment.

The Bank of Canada Survey, Senior Loan Officers in Canada, and this is the survey both in terms of the spreads, the actual fees that they charge for loans, plus the interest rates, and that indicates it's a little bit below normal, so the conditions are still a bit easy. But basically again, no indication of tight conditions in the loan market.

Finally, I looked at the overall amount of financial activity in Canada. This is the issue, net new issues of bonds and equities as a percentage of gross domestic product. If the conditions were tight, they wouldn't be issuing new equities and new bonds. And we can see, for example in two thousand and eight (2008), the dark blue line goes severely negative, as firms were shut out of the bond market, and they just didn't issue new securities, they basically refunded their debt coming due with, other than with bond issues. But

the amount of financial activity continues in a robust manner in the capital markets.

So the conclusion, easy financial market conditions continue, long markets are, is still easier than normal, lots of debt market activity. The spreads are the only concern in the capital market, and that's mainly as the result of loose monetary policy and the impact of the United States spilling over into Canada. But I see no other adjustments that are needed, except for the credit spread adjustment I've been making and an adjustment for the impact of Operation Twist. Two thousand and seven (2007) the Gaz Métro hearing, the Régie reviewed the formula, two thousand and ten-two thousand eleven (2010-2011) accepted my fifty percent (50%) adjustment for credit spread seventy-five percent (75%) adjustment for long Canada yields.

(10 h 47)

My recommendation at the current point time is exactly the same excepts not to except the current long Canada forecast. Even at three point six percent (3.6%), it's still below what I would regard as an equilibrium interest rate. And when I refer to equilibrium, I mean all of our pricing

formulas are based of ordinary individuals making risk return trade-offs. Their trading off the risk involving the equity market and the return relative to the bond market. Currently, that is not what is happening and it hasn't happened for the last eighteen (18) months because the bond market is being determined, as I said, by what RBC calls the "global policy maker". So I would recommend the introduction of an ROE formula subject to a minimum rate of return on the long Canada bond three point nine five percent (3.95%), three point six (3.6) plus thirty five percent for QE3 or Operation Twist. So I would not recommend any adjustment to long Canada's until the long Canada bonds yield gets closer to what I would regard as a normal range given the stage and the business cycle.

How does this adjust? Three years ago when Ms. McShane and I looked at an ROE formula, she backtested against the NAB formula. I've done exactly the same here and I've added Booth 1 and Booth 2. These are simply adjustments for the credit spread adjustment which is in the purple line and the green line puts the floor. So whereas the NAB formula would have a stand of seven point five percent (7.5%), the adjustment I recommended

to the Régie three years ago would have us a little bit higher, but it didn't take into account the unprecedented trillion dollar a year bond buying by the US Federal Reserve. So now with my floor, it would basically keep, plugging in numbers into the NAB formula, it would keep the fair return at eight point six one (8.61%) which just, by coincidence, happens to be the Gaz Métro recommended ROE minus the thirty (30) basis points risk premium that the Régie has added.

So how to implement this? I used the generic spreads because they're the only ones that go back all the way to nineteen ninety-four (1994). I would not recommend the Régie do that. I would recommend consistency with regulation both by the BCUC, the OEB and the Régie itself which is to use exactly the same formula for Gazifère and Gaz Métro, the Bloomberg 30-year A utility bonds yield, CANSIM V39056 in implementing an identical form except for a floor. The only difference is that my generic spread of one point six six percent (1.66%) translates into a utility spread of one point four percent (1.4%). And the reason for that is simply that utility A bonds yield is slightly less risky than generic A bonds yields and the long Canada 30-

year yield has got a higher yield than the generic long term bond yield and the result of this compresses the spread slightly. So if the Régie decides to implement my recommendation, I would recommend that whatever ROE they decide, they start off with a utility spread of one point four four, one point four zero percent (1.40%) and they do not implement a change in the ROE until the long Canada bond yield gets about three point nine five percent (3.95%).

Finally, comments on the United States. I shouldn't have to say that Canada is not the United States but I will, Canada is not the United States. Canadian capital markets are not US capital markets. Anyone who has followed the wrangling in Congress over the last two months, and I would say anyone, this includes the head of the IMF, the head of almost every major rating agency and policy maker around the world, has been struck by the problems in the United States, actually deciding to increase and allow them to borrow money for programmes that Congress has already approved. That's startling. It surely is knocking some growth off the US GDP. It was exactly this wrangling that two years ago caused S&P to downgrade the United

States to AA High. It's exactly this wrangling that has prevented any significant continuation of fiscal stimulus in the United States and resulted instead in fiscal drag and forced the Federal Reserve into Quantitative Easing 3. The Fed would not have had to spend a trillion dollars buying bonds if Congress had acted responsibly and approved a budget and not cut spending in the middle of recovery from a recession.

(10 h 53)

So where the epicentre or cause to the global crisis were not Canada, it was the United States, so trying to say that conditions in Canada are the same than the conditions in the United States, to me, I find that startling. The objective data for this is in the newspaper. It's not in my testimony, it's not in Dr. Coyne's testimony, it's in the newspaper. Everyone in this room can look at interest rates in the US and the interest rates in Canada. And this I just repeated the RBC forecast. The three interest rates that I've reproduced to save space at the overnight rate, the short-term rate, that's the policy rate by the Bank of Canada, the Federal Funds of the policy rate by the U.S. federal reserve. The ten-year rate, which Dr. Coyne

focuses on and the long-term rate. If we look at the overnight rate, obviously C is the overnight rate in Canada increasing in the third quarter of next year, and then increasing to one point two five (1.25) and then one point five (1.5). This merely is going back to what was forecast two years ago when the governor of the Bank of Canada forecast the interest rates were going to increase and that's basically been on hold for the last two years. But we're going to be seeing an increase in the overnight rate in Canada.

The long-term rate? Currently, it's three point zero seven percent (3.07%) at the end of the third quarter in Canada, and is forecast to increase to three point seven five percent (3.75%). That again is lower than it was two years ago. Two years ago, it was before we were in the middle of two thousand and eleven (2011) and obviously it was forecast at four point five five percent (4.55%) but the long Canada rate is forecast to be three point seven five percent (3.75%) by the end of two thousand and fourteen (2014).

So essentially, short-term rates, one and a half (1.5), long-term rates, three point seven five (3.75). We look at that spread between the long

rate and the short rate is indicative of where we are in the business cycle. If we look at the United States, what's startling, first of all is the Federal Funds rate is not forecast to change and the reason for that is nobody sees the U.S. unemployment rate dropping down to six point five percent (6.5%) over the next fifteen (15) months, but long-term rates are forecast to increase because the forecasting tapering of quantitative easing Operation Twist and as a result, when that billion dollars (\$1 G) a year is taken off the purchasing in the bond market, prices obviously go up, I'm sorry, prices go down and yields go up and as a result, obviously it's forecasting four point three five percent (4.35%) in the United States.

The spread between the long and the short rate reveals where we are in the business cycle. In the United States, even in two thousand and fourteen (2014), we got a spread of four point two percent (4.2%), basically double that in Canada. The fact that the short rates are higher in Canada and the long rates are lower than in the United States means that arithmetically, they have to be the same somewhere in the year to come. So, it's actually true that around about the nine-year mark,

they're approximately the same in the U.S. and Canada. However, we do not look at one interest rate. We look at the yield curve, the whole structure of interest rates to get an assessment of whether financial conditions in two countries are similar. And what is absolutely clear from the capital markets is that interest rates, short-term rates are increasing in Canada, long-term interest rates are still significantly lower than those in the United States. And they're forecast to be sixty (60) basis points lower at the end of two thousand and fourteen (2014). At the moment, they're sixtytwo (62) basis points. There is a clear difference in the cost of capital between the U.S. and Canada. Sixty (60) basis points based upon the interest rates and it was equivalent to sixty (60) basis points based upon the fair rate of return estimates coming from the survey.

Have Canada and the U.S. equal growth spans recovered from the recession? Absolutely not. We recovered all of our jobs lost in the recession three years ago. In Canada, it was a short chart recession. By September two thousand and ten (2010), and this is from DBRS, we'd fully recovered all of the jobs loss. The U.S., in contrast, was

constantly talking the jobless recession, jobless recovery, and the U.S. is still having problems recovering its jobs. So, that is reflected in the monetary policy and everything that is going on in the United States.

A trend to view U.S. data. Moody's suppose twenty-five percent (25%) basis on regulation, twenty-five percent (25%) of the ability to earn ROE. Only forty percent (40%) on the actual financials to ratios, and I repeat the reference from Moody's in two thousand and seven (2007) and is characteristic of the U.S., the ability to recover costs and annual returns is less and subject to less to public and sometimes political scrutiny. That may have changed. I haven't had time to read the September two thousand and thirteen (2013) report by Moody's. Moody's may be looking to change the ratings of the U.S. utilities based upon a perception of improving the regulating environment but the fact is, when we look at utilities, this comes directly from the AUS utility reports I've provided to the Régie in answer to the question 4.1. It's got the S&P and the Moody's bond rating. Not of a sample of pure electric utilities but from AUS's survey of all the U.S. pure electric

utilities they follow.

And I noticed that in Dr. Coyne's presentation, he was drawing comparisons between holding companies and the regulated utilities. That's entirely appropriate. It's appropriate because the estimates, first of all, we're regulating a utility, which is why I look at Newfoundland Power and Nova Scotia Power, but the estimates that we get to apply to those utilities come from holding companies. They do not come from the operating companies because most of the operating companies have long since been taken over by other companies, simply because they got stable cash flows and are a good basis for a... or a holding company. Having said that, AUS gives the regulated electricity revenues and we run down these, and we look for example El Paso Electric, a hundred percent (100%), IDACORP., a hundred percent (100%), Pinnacle West, a hundred percent (100%), PNM Resources, a hundred percent (100%), Portland General Electric, a hundred percent (100%), Westar Energy, a hundred percent (100%), these are AUS utilities where a hundred percent (100%) of the revenues come from regulated electricity sales, and yet none of these, as far as I'm aware, are in Dr.

Coyne's samples.

So I put this up just to indicate, this is the data that's in the AUS utility samples, you look at them and you see overwhelmingly they're BBB-rated utilities; and then when you look at the common equity ratios, average forty-six percent (46%), common equity return, nine percent (9%), common equity ratios tend to be higher in the United States, so allowed returns tend to be higher in the United States. Some of these are even a hundred percent (100%) regulated electricity, and yet their bond rating to a BBB. And the reason for that is, the markets perceive these as being high-risk. I can't think of any logical reason why, with higher common equity ratios and higher returns, pure electric utility companies in the U.S. would otherwise be given low bond ratings.

Financial ratios, as I indicated, U.S. utilities tend to have higher common equity, higher allowed ROEs and inferior bond ratings. Only forty percent (40%) of the ratings on Moody's is based upon financial ratios, fifty percent (50%) essentially on impact of regulation. More protective regulation in Canada means higher bond ratings with weaker financial ratios. And that's

what we see across the board for the Canadian regulated sector.

And in particular, I don't see any reason to make a financial risk adjustment going from the higher common equity ratios of U.S. utilities to the lower common equity ratios in Canada. It's already been deemed by the regulators that have taken into account the differences in the business risk.

Finally, looking at these utilities, I looked at these, as I said, because I'm comparing them to the regulated entity, and the question here is, what adjustment do you have to make from a holding company whose shares are traded in the market, and we're looking at the dividend yields, and the forecasts, and the Betas for these holding companies, and we're applying them to regulated utilities. And what is actually clear is, regulated utilities are lower risk than the holding companies.

And when I looked at this for NSPI and NP, because they've got ten (10) years of data, the lowest risk of these holding companies, which happens to be the companies that Dr. Coyne picked, Southern and First Energy, I think it was... sorry,

no, NextEra, and he did a good job of picking the lower-risk utilities, but these are exceptions in the U.S. market.

The companies that he picked for Canada were the whole of the Canadian market; when we look at the whole of the U.S. market, there are a lot of risky utilities out there. And what I did here was just highlight all of the rates of return they actually earned that were less than eight percent (8%), because I assumed that no U.S. regulator had allowed eight percent (8%).

And we can see just visually, there's a lot of red dots there, there's a lot of red numbers indicating low and sometimes negative rates of return, and in particular the S&P data, they put zero (0) in when it's a negative rate of return. This is what U.S. investors think about when they think about utilities, they think about utilities that can and have earned negative and low rates of return.

So, and this is the holding company data that's the basis of Discounted Cash Flow and Risk Premium estimates. I presented similar testimony to this before the Newfoundland Power hearing before the Newfoundland Board of Commissioners,

The Board finds that the evidence demonstrates that the Canadian utility data is inadequate to complete a Discounted Cash Flow analysis and in the particular circumstances it may be informative to look to data from the United States.

And incidentally, I look to data from the United States, but the question is, do you take that data and take it into Canada without making any adjustments? I don't believe you can. As to how this data is to be used,

... the Board accepts the evidence about Dr. Booth and Mr. MacDonald that there are differences in the U.S. and Canadian experience that justify an adjustment to the Discounted Cash Flow results. Dr. Booth suggests an adjustment of 100 basis points, Mr. MacDonald makes a 72 basis point adjustment, the BC Utilities Commission has found the U.S. data should be adjusted by between 50 and 100 basis points, the Board finds an adjustment of 50 to 100 basis points

is appropriate at this time.

If the Régie were to make a similar decision, Dr. Coyne's nine point two percent (9.2%) would mathematically become eight point two (8.2%) to eight point seven percent (8.7%), and if you make a forty (40) basis points adjustment for generation risk, you're down at seven point eight (7.8%) to eight point three percent (8.3%). I think personally that's still an over-estimate, but that at least gets Dr. Coyne and I into similar ground.

Me GUY SARAULT :

Q. [35] So this completes your evidence in chief, Dr. Booth?

A. I can talk for another half an hour, if you want, but my voice is going.

Me GUY SARAULT :

Thank you. So the witnesses are available for cross-examination.

LE PRÉSIDENT :

O.K., donc la Régie va d'abord prendre une pause de quinze minutes, de retour à onze heures vingt

(11 h 20).

SUSPENSION DE L'AUDIENCE

REPRISE DE L'AUDIENCE

(11 h 22)

n'y a pas d'autres intervenants dans la salle... Me

ÉRIC DUNBERRY :

Je m'excuse, je l'avais présumé, mais je ne l'avais pas vérifié.

LE PRÉSIDENT :

O.K., j'aimerais juste le vérifier, parce qu'il y a des intervenants qui nous ont donné des temps de contre-interrogatoire. Est-ce qu'il y a des intervenants dans la salle, Maître Sicard?

CONTRE-INTERROGÉS PAR Me HÉLÈNE SICARD :

Bonjour. Hélène Sicard, pour l'Union des consommateurs. Good morning.

Q. [36] Dr. Booth, I have one question for you. In your presentation at page 4, you give us the history of earnings, which is, of Hydro-Québec, which is basically the base rate of return, plus whatever earning they got above that, correct?

Dr. LAURENCE D. BOOTH :

A. Correct.

Q. [37] Okay. Now your recommendation, as I understand it, is seven point five (7.5) rate of return for base rate of return or rate of return, for Hydro-Québec?

A. Base rate of return, the allowed rate of return, and I assume the Régie will put in place deferral

accounts so that the utility on average earns his allowed rate of return, but does not consistently over or underrun that allowed rate of return.

Q. [38] Okay. Well, my question was just to make it clear it's basically the same as I had for the expert of Hydro-Québec -- when you say, when you recommend seven point five (7.5), have you taken into consideration the sharing mechanism that is proposed by HQ in the present case?

A. No. That doesn't affect the risk of the utility, and it shouldn't affect the fair ROE.

Q. [39] Okay. Thank you.

A. I hope Mr. Dunberry is going to be as efficient.

Me HÉLÈNE SICARD :

Merci.

LE PRÉSIDENT :

Merci, Maître Sicard. Maître... maître Neuman, pour Stratégie énergétique et l'Association québécoise de la lutte contre la pollution atmosphérique?

CONTRE-INTERROGÉS PAR Me DOMINIQUE NEUMAN :

Je vous remercie. Donc, Dominique Neuman, pour SÉ/AQLPA. Bonjour, Monsieur le Président. Messieurs les régisseurs. Bonjour, messieurs. J'aurais des questions à la fois pour monsieur Charest et monsieur Booth.

Q. [40] First of all, Mr. Booth, do you have an English version of Mr. Charest's report?

Dr. LAURENCE D. BOOTH :

A. No.

Q. [41] You don't have, okay. So I'll... so maybe you will need to put your headphones because I will read the French text in the report, and the translation will be done live... The translation will be done live.

In Mr. Charest's report, I refer first to paragraph 2 of Mr. Charest's report, who says... qui dit, en français :

2. La notion de risque, dans le contexte d'une entreprise réglementée de service public, porte essentiellement sur la possibilité de ne pas réaliser un rendement raisonnable sur les capitaux propres investis.

Donc monsieur Charest fait référence à la notion de « rendement raisonnable », et précise, à différents paragraphes, les paragraphes 26, 33, 62 et 111, je vais vous lire le paragraphe 111, que c'est la possibilité de ne pas réaliser le rendement qui a été autorisé. C'est ça, il indique :

111. Tel que mentionné, à court terme, le risque d'affaires consiste essentiellement à ne pas réaliser le rendement autorisé par la Régie pour une période donnée.

Cette définition donnée par monsieur Charest est un peu, est faite un peu en critique à la notion de risque telle que définie par messieurs Coyne et Trogonoski, qui simplement disent à trois sortes de risques, le risque d'affaires, le risque financier et le risque réglementaire.

Ma question à monsieur Booth, c'est : est-ce que vous partagez la définition du risque telle que donnée par monsieur Charest dans son rapport? Dr. LAURENCE D. BOOTH :

A. Yes. The business risk, financial risk and regulatory risk all affect the ability of the utility to earn its allowed ROE, so we can't sort of, so what I do is look at the sum impact of all of the underlying risk factors. And in particular, I don't regard regulation as a risk; regulation is there generally to protect the utility, not to put the utility at risk. But the net result is, we look at the ROE relative to the allowed ROE as a measure of the ability of the utility to earn its ROE,

which ultimately determines whether or not it's at risk of losing money, which is the definition of risk.

Q. [42] Losing money, but more than just losing money, but not obtaining the authorized level of, the authorized return on equity?

A. That's correct. But that's what I regard as losing money, if you're allowed to earn six percent (6%) and you only earn two percent (2%), you've lost four percent (4%) -- that's risk.

Q. [43] Mes prochaines questions seront à monsieur Charest, mais je vais revenir plus tard à monsieur Booth dans... un peu plus tard.

(11 h 29)

Monsieur Charest, je vous référerai à la fois au paragraphe 5 et aux paragraphes 115 et 120 de votre rapport, le rapport qui, incidemment pour les notes, c'est la pièce C-AQCIE/CIFQ-0022. Donc, au paragraphe 5, vous affirmez que :

Tant qu'une masse critique de clients demeure, l'entreprise réglementée arrivera à toucher son rendement autorisé; mais si les tarifs devenaient trop élevés par rapport à la valeur qu'accordent les clients au

service, le rendement de l'entité (et même le capital investi) pourrait être affecté.

Donc, ce paragraphe 5 introduit la notion d'un seuil critique. Donc, si je comprends bien, tant qu'on est en bas de ce seuil critique, même si l'entreprise a des problèmes, c'est-à-dire que ses coûts augmentent, ses clients diminuent, même si l'entreprise a des problèmes et tant que le seuil critique n'est pas atteint, bien, annuellement, les tarifs vont augmenter, puis les clients qui restent vont payer un tarif de plus en plus élevé jusqu'à ce qu'on atteigne le seuil critique ou l'équilibre est brisé, et on n'est plus capable de continuer d'augmenter les tarifs des clients qui restent et, à un moment donné, on arrive à un point où on n'est plus capable de récupérer ce qui serait le revenu requis en plus du rendement sur l'avoir propre.

C'est ce que je comprends du paragraphe 5? C'est ce que je dois comprendre du paragraphe 5?

R. Oui, bien, je vais peut-être le préciser. Le paragraphe 5 en fait, c'est la suite du paragraphe 4, donc juste pour situer le contexte, on parle du risque à long terme. Évidemment, ça ne porte pas sur le risque à court terme. Le risque à long

terme, et je pense, c'est à peu près ça que vous exprimiez, dans la mesure où les coûts... dans la mesure où le coût de service augmente de telle façon qu'il ne soit plus économique, c'est-à-dire que la valeur que les clients accorderaient et qu'une masse critique de clients accorderait au service serait inférieure à ce coût-là, bien, dans cette optique-là, oui, c'est à ce moment-là qu'on peut tomber dans une espèce de spirale funeste, spirale de la mort, c'est la réalisation du risque à long terme.

Q. [44] C'est ça. Donc, il arrive un seuil où on entre dans cette spirale que vous me mentionnez.

J'attirerais votre attention au paragraphe 115, et je veux être sûr de bien comprendre que ce paragraphe 115 est écrit dans le même esprit. La deuxième phrase de ce paragraphe 115 indique :

Par ailleurs, pour la plupart, ces éléments n'entraînent pas nécessairement une hausse du niveau de risque de l'entreprise réglementée, mais plutôt une hausse de ses coûts, lesquels sont assumés par les clients.

Est-ce que je dois comprendre correctement que c'est oui, mais jusqu'à un certain niveau, c'est-à-

dire qu'il y a un certain niveau où ça ne marche plus, où l'équilibre se brise et on n'est plus capable de récupérer cette hausse de coûts continuellement auprès des clients, parce que ceux-ci sont... il y aura une masse critique de clients qui n'accepteront plus de payer la hausse de coût, c'est bien cela?

R. Oui. C'est peut-être pas le seul facteur en fait. Je veux dire, les coûts, c'est un facteur. La valeur du service, c'est un autre. La valeur du service peut être affectée par les coûts correspondants des concurrents. Donc, je ne sais pas si le gaz subit la même forme d'augmentation de ses coûts sur la même période. Bien, peut-être qu'il n'y a pas nécessairement une perte de compétitivité et il n'y a peut-être pas non plus une matérialisation du risque à long terme. Donc, oui, ça peut être un élément, mais ce n'est pas le seul.

Q. [45] C'est ça. Et ça, tant qu'on n'arrive pas au seuil critique où on entre dans la spirale, la spirale de la mort, comme vous l'appellez?

R. Bien, le risque ne se matérialise pas tant qu'on n'entre pas dans cette spirale-là. Est-ce que si, aujourd'hui, je ne suis pas dans une spirale, mais

que je le suis demain, bien, il y a peut-être un risque aujourd'hui. Même s'il ne s'est pas encore matérialisé, le risque demeure quand même présent.

Q. [46] C'est bien que vous mentionnez ça. C'était une question suivante que j'allais vous poser. Donc, je vais arriver à ça. Mais avant ça, je vais juste terminer avec le paragraphe 120 auquel j'ai référé tout à l'heure, où là, quand on parlait des aléas d'une baisse de la demande. Donc, la deuxième phrase de ce paragraphe 120 se lit comme suit :

En effet, à chaque cause tarifaire, HQD peut rétablir le niveau de ses tarifs en fonction de nouvelles prévisions des ventes, lui permettant ainsi d'aller récupérer auprès d'autres clients le manque à gagner créé par une baisse de la demande industrielle.

Et vous ajoutez :

Ce risque est donc bien limité...

Mais là encore, il est bien limité tant qu'on n'entre pas dans... tant qu'on ne dépasse pas le seuil critique. Est-ce que c'est comme ça que je dois le comprendre?

(11 h 34)

R. Bien, effectivement, en tout cas juste pour être certain, risque de court terme c'est pour une année donnée le fait de ne pas... en fait c'est la probabilité ou la possibilité de ne pas récupérer les revenus qui correspondent aux coûts de cette année-là, et incluant le rendement.

Ici, par ailleurs, ce à quoi je fais allusion c'est justement le fait que de cause tarifaire en cause tarifaire, on peut réajuster. Et effectivement on pourra réajuster jusqu'à ce qu'on atteigne cette masse critique. Et rendu là, bien là c'est la matérialisation du risque de long terme, finalement.

Q. [47] Donc, en rapport avec cette notion de point critique, j'ai préparé deux petits schémas. Deux figures et je vais vous demander laquelle des deux correspond le mieux à votre vision? Donc, je dépose ces deux schémas pour les fins de l'interrogatoire.

Donc, les deux figures représentent la situation d'une entreprise d'une utilité qui va mal. Donc ses coûts augmentent, son nombre de clients baisse avec le temps. Et chaque année ça continue. Et il y a un certain point qui est au milieu, qui est au milieu de la courbe, qui est le point où on perd la masse critique des clients.

Donc, le point... le point charnière que vous avez mentionné.

La question est de savoir comment est-ce qu'on devrait prendre en compte cette évolution du risque, du risque d'affaires de l'entreprise, aux fins de la méthode d'établissement du revenu sur l'avoir propre? C'est-à-dire tant qu'on n'est pas arrivé au point critique, est-ce qu'on devrait considérer que le risque dont il faut tenir compte reste le même? Et tout d'un coup, arrivé au point critique, là, tout d'un coup il y a une hausse soudaine du risque qu'on devrait prendre en compte dans le... dans la méthode.

Ou est-ce qu'au contraire on devrait prendre en compte de façon linéaire l'accroissement du risque, en ce sens que quand on est... quand on est à minuit moins le quart (23 h 45) avant l'atteinte du point critique, que le risque effectivement a augmenté par rapport à ce qu'il était de nombreuses années auparavant?

R. Ce que je vous dirais, à ce niveau je commencerais par indiquer le fait que l'analyse de risque long terme - et je crois que le docteur Booth a traité de ce sujet-là - l'analyse de risque long terme ce n'est pas nécessairement une analyse quantitative,

là. C'est assez difficile de venir quantifier des incréments d'augmentation de risque.

Si j'avais à décrire un peu ma vision du risque à long terme et un petit peu dans l'angle selon lequel vous... vous considérez cette question, on se place aujourd'hui et on regarde dans un horizon donné. Je ne sais pas si c'est vingt (20), trente (30), quarante (40), cinquante (50), cent (100) ans, deux cents (200) ans. Il y a un élément d'horizon qui avait été mentionné par docteur Booth, c'est le fait que la durée de vie utile de plusieurs actifs du producteur - et qui contribue à la rentabilité finalement, à la valeur du service offert - la plupart de ces actifs-là ou beaucoup de ces actifs-là ont une durée de vie de cent (100) ans.

Pour moi, cent (100) ans c'est du long terme. Donc, est-ce qu'à long terme - peut-être pas d'ici cent (100) ans - mais est-ce que dans vingt (20), trente (30), quarante (40) ans, est-ce qu'on voit une perte de cette valeur-là? Non. Est-ce que c'est différent d'il y a dix (10) ans? Je ne vois pas non plus. Il y a peut-être un degré de granularité auquel je ne me suis pas attaché. Mais ce n'est pas... comment je pourrais dire... Mon

appréciation du risque de long terme n'est pas spécifique à ce niveau-là.

Q. [48] C'était pas tout à fait cette question que je vous ai posée. Disons, je parle d'augmentation de coûts qui arrive graduellement, supposons qu'il y a différentes situations qui font que pour toutes sortes de raisons ça coûte de plus en plus cher par kilowatts-heure ou par mégawatts de transport. De livrer le service.

Et que, en tout cas - on va prendre HQD - et que dans le cas de HQD, que le nombre de clients diminue pour toutes sortes de raisons, peut-être qui peuvent ou non être reliées au fait que ça coûte de plus en plus cher. Ou qui peuvent être reliées à toutes sortes de facteurs.

Donc, il y a une situation où, graduellement, des situations arrivent. Des situations telle que celle que vous avez décrite au paragraphe que j'ai ci... aux deux paragraphes que j'ai cités tout à l'heure, qui étaient 115 et 120, c'est-à-dire. Il y a différents coûts qui s'accumulent, ça coûte de plus en plus cher.

(11 H 40)

Donc, est-ce que pendant que ces coûts augmentent ou pendant que cette baisse de clientèle

survient, est-ce qu'on doit considérer que le risque dont il est... le risque d'affaires dont il doit être tenu compte à l'intérieur de la méthode d'établissement du retour sur l'équité, que, est-ce qu'on doit considérer que ce risque s'accroît, même si on est loin, même si... mais on s'en rapproche, mais même si on l'a pas encore atteint, le seuil critique où le régulateur n'est plus capable ou Hydro-Québec n'est plus capable d'ajuster continuellement ses tarifs à la hausse pour aller chercher ce qu'il lui manque?

R. Je vais essayer de résumer votre question, et par un exemple. Si, en deux mille trois (2003), les coûts d'Hydro-Québec étaient à un certain niveau et, en deux mille treize (2013), ils sont à un niveau supérieur, est-ce que, entre ces deux périodes, est-ce qu'on peut penser que le risque de long terme a augmenté?

Q. [49] Oui, c'est ça. Même si ce n'est pas en deux mille treize (2013) qu'on atteint le seuil critique, mais supposons que si ça continue comme ça, quelques années plus tard, on va l'atteindre, mais on ne l'a pas encore atteint.

R. Oui. Je vous dirais, je présume que vous posez cette question-là toutes choses étant égales par

ailleurs.

Q. [50] Oui.

R. Oui, parce que ce n'était pas dit dans votre question. Toutes choses étant égales par ailleurs, donc si le prix des concurrents reste le même, si la demande reste la même, si tout le reste reste identique et Hydro-Québec a une augmentation, ça pourrait se refléter sur son risque à long terme. De quelle manière? Bien, là, tout va dépendre encore une fois, je veux dire, est-ce que... et je n'ai pas d'échelle, parce que, comme je vous dis, ce n'est pas quelque chose que j'arrive à quantifier, est-ce que le risque était à, je ne sais pas, moi, zéro point deux sur une échelle de dix, et se retrouve à zéro point trois sur une échelle de dix, ça se pourrait très bien. Mais je veux dire, ce n'est pas de cette manière que j'ai conduit mon analyse de risque à long terme.

Q. [51] Je passe à un sujet différent. Au paragraphe 25 de votre rapport, Monsieur Charest. Excusez-moi! Le sténographe demande de coter la pièce que j'ai déposée tout à l'heure.

LA GREFFIÈRE :

La cote, ça va être C-SÉ/AQLPA-0021.

C-SÉ/AQLPA-0021 : Figure 1 et Figure 2 - Risque
d'affaires

(11 h 42)

Dr. LAURENCE D. BOOTH :

- A. Can I, before you move on, can I on that exchange?
When we are talking about long run risk, it's generally not a gradual change. It tends to be a structural change in technology that suddenly makes one particular product uncompetitive. So for example the TransCanada Mainline is the only example we've got at the moment of a structural change that's caused real problems in the debt spiral and that's because instead of being a point to point pipeline distributing gas from western Canada, suddenly we've got shale gas coming in from Pennsylvania that basically disrupts the distribution of gas from western Canada. So all of a sudden the load drops off the TransCanada Mainline, which it has been doing for the last couple of years. They can't re-balance the rates and as a result the tolls become uncompetitive and more people drop off the system.

Now that is a peculiarity of regulation. Normally, a competitive firm faced with a new

competition they drop prices in order to compete. And what would happen is that the market value of the firm would drop and they get a high rate of return on the lower market value which is basic financial theory. However, in regulated utilities, we keep the rate base constant and we apply a high rate of return to the rate base so the result is that the riskier utility you charge higher prices which results in this debt spiral. And that's the problem faced by the National Energy Board last year in a major hearing and the solution they adopted was basically to allow a high rate of return but allow a lot of flexibility for the utility to basically extract as much as you can from the residual monopoly part of the utility so you change other factors to try and recover the rate base.

Now making parallels with electricity, the big risk for any distribution and transportation system is some structural changes so it means that the commodity is no longer going to be distributed or transmitted over those fat wires and those thin wires. The only situation that could result in that is locally distributed generation equivalent to the Marcellus Shale gas displacing western Canada gas.

Something would have to happen where there is local generation electricity displaces the incredibly competitive electricity that is coming down from James Bay and Churchill and everywhere else. That is not on the horizon. If you probably remember, I think it's fifteen (15), twenty (20) years ago, there was all this discussion, these people had cold fusion in a test tube and people suddenly said "Wow, all of a sudden this could jeopardize electricity." It turned out to be a total sham. Unless somebody comes up with some model for distributing electricity generation, nobody, as far as I am aware of, knows it exists. There is no, in the current state of mind, possibility of a structural change suddenly stranding all the distribution and the transmission axis, particularly in Quebec where the competitive advantage of electricity is so great.

(11 h 45)

Q. [52] Je reviens à vous, Monsieur Charest, mais suite aux précisions que monsieur Booth a apportées. Mais ma question ne portait pas sur le fait qu'on atteigne le point critique. Ma question c'est que lorsqu'on n'est pas en situation où on a atteint le point critique, est-ce que l'on doit

tenir compte des... de l'accroissement progressif de certaines situations, hausses de coûts, baisses de revenus? Est-ce qu'on doit considérer cet accroissement progressif de situation comme étant des facteurs de risque d'affaires dont il faut tenir compte aux fins de la méthodologie d'établissement du retour sur l'équité?

M. OLIVIER CHAREST :

R. Bien, vous parliez d'accroissement, donc l'accroissement c'est un changement entre une situation et une autre.

Q. [53] Oui.

R. Donc, je présume que votre question vise à quantifier le changement au niveau du profil de risque...

Q. [54] Oui, oui.

R. ... entre un temps 1 et un temps 2.

Q. [55] Oui.

R. Bon. Bien, je partage le point de vue de docteur Booth. Ce n'est pas des changements graduels comme des augmentations de coûts de deux (2 %), trois (3 %), quatre pour cent (4 %) par année qui vont faire ça. Je pense qu'un jour, on peut regarder en arrière puis dire : sur une période de vingt (20) ans, il y a eu une augmentation de cent quatre-

vingt-dix-huit pour cent (198 %) de nos coûts. Et ça, effectivement, ça va avoir un impact.

Mais de jour en jour ou d'année en année, on ne peut pas voir ça. Et l'étude sommaire que j'ai faite de la question ne m'indique pas que l'augmentation des coûts depuis deux mille trois (2003), ni pour Hydro-Québec Distribution ni pour Hydro-Québec TransÉnergie, ne met en péril leurs... leurs activités à long terme.

Q. [56] Alors je voulais vous interroger d'abord sur un autre paragraphe. Mais en rapport avec ça, je vais passer tout de suite au paragraphe 59 de votre rapport, Monsieur Charest. Vous y lisez... vous y écrivez :

Du côté industriel, on constate certes un repli dans la demande en électricité depuis quelques années. Or, même si le tarif L n'est plus parmi les tarifs industriels les plus concurrentiels, il serait étonnant de voir une part importante de ces industries plier soudainement bagages, considérant les importants capitaux qu'ils ont investis dans leurs usines québécoises. La perte de clients au

tarif L se fait plutôt par attrition, à la marge, lorsque vient le temps de renouveler les investissements; ce qui n'arrive pas en même temps pour tous.

Dans une situation hypothétique où un grand client industriel cesserait ses activités au Québec, mais qu'on n'arrive toujours pas au point critique que vous avez mentionné au début de votre rapport, est-ce que cette situation qui serait quand même assez majeure - la perte d'un grand client industriel ça aurait des effets sur les coûts d'approvisionnement sur lesquels il y a un compte de frais reportés, mais ça amènerait une certaine hausse, ça amènerait une certaine hausse tarifaire pour les clients qui restent - est-ce que c'est quelque chose qui, selon vous, est un facteur d'accroissement de risque d'affaires dont il faut tenir compte aux fins de la méthodologie de détermination du retour sur l'équité? Ou est-ce qu'au contraire on n'a pas à tenir compte de cela tant qu'on est encore en mesure, les clients restants sont encore en mesure d'absorber la hausse qui découle de cette situation?

R. Voulez-vous que l'on discute du cas d'Alcoa, de leur annonce ou...?

- Q. [57] J'ai parlé d'un cas hypothétique, on n'a pas besoin de parler d'un cas précis.
- R. Je pense que tout dépendrait de l'impact sur les tarifs, du niveau de compétitivité. Encore une fois, il y a une série de facteurs. Donc, oui, en théorie, selon votre question effectivement, la perte peut-être pas d'un client, mais d'une très grande classe de clients pourrait avoir un impact sur le niveau de risque. Est-ce que ça implique la matérialisation d'une spirale de la mort? Je ne pense pas. Et j'ai peut-être pas fait une analyse...
- Q. [58] Ma question n'est pas si se matérialise une situation de spirale de la mort. Ma question c'est justement : si l'on n'est pas encore dans la situation de spirale de la mort, est-ce que - malgré le fait qu'on ne soit pas dans la spirale de la mort - est-ce qu'une situation comme ça, la perte d'un très grand client, est un facteur qui, selon vous, accroîtrait le risque dont il faut tenir compte? Ou au contraire, on n'en tient pas compte tant que n'arrive pas le jour où on entre dans la spirale de la mort?
- R. Mais évidemment tout dépend de la taille de ce client-là, de la marge bénéficiaire qu'Hydro-Québec

va chercher sur ses... sur les ventes réalisées.
Encore une fois, on pourrait peut-être se rabattre
au cas qui a été discuté dans les journaux ces
dernières semaines, il ne s'est pas matérialisé
encore.

Je crois - et j'y vais de mémoire, là - je crois
qu'on parle d'à peu près treize térawatts-
heure (13 Twh) ce qui, en fait c'est le plus gros
client d'Hydro-Québec, si je ne me trompe pas. Est-ce que
la perte de ce client-là a un impact sur le niveau de
risque à long terme? Possiblement. Je
pense que tout peut avoir un petit impact. Mais
encore une fois, on ne se préoccupe pas
nécessairement des... des impacts mineurs.

Si on regarde d'une manière plus
spécifique, treize térawatts-heure (13 Twh), je ne
sais pas si on peut avoir une estimation de quels
sont les revenus que ça rapporte, si on enlève
finalement l'électricité patrimoniale qui ne sera
pas consommée, on regarde uniquement cette marge
bénéficiaire-là. C'est ça qui doit être absorbé par
les autres clients. C'est peut-être pas énorme, là,
on parle peut-être d'un impact sur le tarif de un
pour cent (1 %), deux pour cent (2 %). Est-ce que
ça, ça peut affecter le risque de long terme? Je ne

pense pas. Ce n'est pas une... ce n'est pas un...
Ce n'est pas une... un changement majeur comme ce à
quoi faisait référence tout à l'heure docteur
Booth. Évidemment c'est des chiffres que je lance
en l'air comme ça. Je n'ai pas de données
factuelles, là. C'est juste un exemple théorique.

Q. [59] Donc, est-ce que je comprends correctement -
pour reprendre les deux schémas que j'ai déposés
tout à l'heure - vous... votre vision se rapproche
davantage de la première figure qui se trouve
reproduite sur cette feuille, c'est-à-dire que tant
qu'on n'atteint pas le seuil critique, tant que
les... les hausses de coûts, baisses de revenus
sont absorbables par les clients qui restent, qu'on
ne... qu'il n'y a pas d'augmentation substantielle
à prendre en compte dans le risque d'affaires aux
fins de l'établissement du retour sur l'équité?

R. Je n'ai pas une compréhension exacte, là, de vos
graphiques. Mais je vais essayer de répondre à
votre question quand même. Selon ma compréhension,
quand on fait une analyse de risque à long terme,
on regarde un horizon qui est devant nous. C'est
pas un horizon défini, là. C'est pas exactement
cinquante-cinq (55) ans et huit mois. On regarde un
horizon et est-ce qu'à l'intérieur de cet horizon-

là on voit potentiellement quelque chose qui pourrait nuire au rendement, enfin à la possibilité de récupérer le rendement raisonnable ou autorisé. Ce qui est à peu près la même chose, finalement, une fois que la Régie a accepté que le rendement proposé, donc le rendement autorisé était raisonnable.

Essentiellement, à l'intérieur de cet horizon-là est-ce qu'on voit quelque chose? Et moi je vous dis non. Je ne vois rien qui... qui me porte à croire, là, qu'on puisse éventuellement entrer dans ce genre de situation de spirale de la mort.

Q. [60] Puis là encore, c'était pas... Ma question c'était pas si on entre dans la spirale de la mort, mais si on... il faut tenir compte de l'accroissement du risque avant la spirale de la mort.

Me ÉRIC DUNBERRY :

Monsieur le Président, je n'ai pas de statut particulier autre que de représenter Hydro-Québec et de voir le temps filer. Alors la question a été posée et répondue à plusieurs reprises avec et sans graphique. On peut peut-être passer au prochain sujet.

Me DOMINIQUE NEUMAN :

Q. [61] D'accord. Je note que monsieur... monsieur Charest a fait un signe de la tête, non. En réponse à la dernière question.

R. Non, non. Non, je n'ai pas fait de signe qui indiquait non. J'ai eu un spasme peut-être, là, mais je ne me mêle pas de votre...

Q. [62] Alors simplement une...

(11 h 55)

Dr LAURENCE D. BOOTH :

A. Perhaps I could just amplify that. Long before the TransCanada hearing last year, where the issue of the debt spiral did come up for the TransCanada Mainline, the NEB started increasing the common equity ratio for TransCanada to reflect its increased business risk in two thousand and one (2001). It increased it from thirty percent (30%) to thirty-three percent (33%) common equity then, I think it was two thousand and five (2005) to thirty-six percent (36%) and then effectively forty percent (40%) in two thousand and eight (2008) and then, in the two thousand eleven-twelve (2011-12) hearing, it went to try to find all the measures so the NEB certainly correctly forecast an increase in business risk and increase the common equity ratio

that would reflect that risk.

There is a huge number of tools the regulator has got to protect the utility. An example that is not sort of long term but a sudden loss equivalent to your first picture was Pacific Northern Gas which lost sixty (60) to seventy percent (70%) of its load, and Pacific Northern Gas is a gas distributor in northwest British Columbia, when two plants closed down, Skeena and Methanex, and they were the overwhelming bulk of the demand on the pipeline distributor. And then the BCUC took measures to try and protect PNG quite successfully. So it's a question of once these... First of all, you do take into account the business risk ahead of time and then, secondly, once the risks arise, unique to utilities, the regulator will step in to try and protect the utility.

Q. [63] Je vous remercie. My next line of question is for you Mr. Booth, I will ask my questions in English. I refer to schedules 5 and 6 in your report which is numbered C-AQCIE-CIFQ-0023.

A. Yes.

Q. [64] Dr. Booth, would you agree with me that the fact that utility has an obligation to serve may affect its business risk?

A. It can, it depends on the context. Some utilities do not have an obligation to serve because, or provide electricity, for example, because there is competition amongst resellers of electricity or gas, so the obligation of serving those cases may not have much of an impact. Obviously, when you are dealing with a province-wide monopoly then an obligation to serve almost is redundant. So it depends on the context.

Q. [65] Among the various utilities that are listed in schedules 5 and 6, do you know which ones have an obligation to serve?

A. No, I don't.

Q. [66] Is it an information that you are able to obtain or that would be relatively complicated to verify? Is it an information that you may easily be able to obtain?

A. No, I couldn't. I rely generally on the ability of the utility earned... and broad ROE, and broad financial data. I do not look into the specifics of regulation the way that Dr. Coyne, for example, has. So I wouldn't know which of these and I wouldn't even know where to start trying to find out which of them do have an obligation to serve.

Q. [67] Nevertheless, in general, are you aware that

there may be some difference in the rate of returns that characterize those utilities in the list that may have an obligation to serve versus those that do not have an obligation to serve.

A. I do not know if there is a difference. If there is a difference, I would not regard it as being material. Not relative to the other factors, risk factors faced by the utility.

Q. [68] Okay. That's all my questions. Thank you very much.

LE PRÉSIDENT :

Merci, Maître Neuman. Donc il n'y a pas d'autres personnes dans intervenants autre que Hydro-Québec qui veulent procéder au contre-interrogatoire donc, sur ce, la Régie va prendre la pause dîner.

Me ÉRIC DUNBERRY :

Monsieur le Président, au risque de me rendre impopulaire, je pose la question si, compte tenu du temps qui passe et du travail qui nous reste entre maintenant et demain trois heures (15 h 00), il est dans le domaine du possible de considérer de travailler ce soit un peu plus tard à une heure raisonnable mais néanmoins dépassant trois heures (15 h 00). Je le laisse à la discrétion du tribunal, ce sont de longues journées, mais demain

c'est la dernière et je sais qu'il y a d'autres intervenants qui ont une preuve donc il y a quand même encore un certain nombre de travail, un certain nombre d'intervenants et du travail à faire alors nous sommes disponibles tant et aussi longtemps que le banc voudra bien nous entendre.

LE PRÉSIDENT :

D'accord. On prend note de votre commentaire. Pause dîner, de retour à treize heures (13 h 00).

REPRISE DE L'AUDIENCE

(13 h 04)

LE PRÉSIDENT :

Rebonjour, messieurs. Pour ce qui est de l'horaire, Maître Dunberry?

Me ÉRIC DUNBERRY :

Oui?

LE PRÉSIDENT :

La Régie va siéger aujourd'hui jusqu'à quatre heures (4 h), alors seize heures (16 h).

CONTRE-INTERROGÉS PAR Me ÉRIC DUNBERRY :

Parfait. Merci beaucoup. Monsieur le Président, Dr. Booth, Monsieur Charest. We will now be proceeding with your cross-examination. I have one first question for Dr. Booth, and then a few questions

for monsieur Charest.

Q. [69] Dr. Booth, we see on the first page, and actually on every page of your report, the logo of, I assume, the Rothman School of Management, is that correct?

Dr. LAURENCE D. BOOTH :

A. On the presentation?

Q. [70] Yes.

A. It's University of Toronto.

Q. [71] Okay. And the views, and just so that there's no ambiguity here, the views and opinions that are expressed in your evidence in chief as well as in your oral evidence are your views, they're not views endorsed by the University of Toronto or the Rothman School of Management, is that correct?

A. Absolutely correct, they're my views as a professor of Finance at those institutions.

(13 h 05)

Q. [72] Monsieur Charest, vous avez présenté brièvement votre feuille de route professionnelle au tout début de votre présentation, j'aimerais obtenir certaines précisions si vous me le permettez. Je comprends que vous agissez aujourd'hui en qualité d'analyste pour l'AQCIE et le Conseil de l'industrie forestière du Québec, et

ce depuis... En fait, vous êtes... en fait
aujourd'hui vous êtes là pour ces deux
associations. Correct?

M. OLIVIER CHAREST :

R. C'est exact.

Q. [73] Et vous agissez en qualité d'analyste pour ces
entités depuis, j'ai compris, deux mille onze
(2011)?

R. Oui.

Q. [74] Depuis quel mois en deux mille onze (2011)?

R. Je vous dirais le mois de juin à peu près, là.

Q. [75] Deux mille onze (2011).

R. Oui.

Q. [76] Et est-ce que vous êtes un employé à temps
plein de l'une ou de l'autre de ces associations,
ou agissez-vous comme prestataire de services
professionnels sur une base contractuelle?

R. Sur une base contractuelle, oui.

Q. [77] Si je comprends, il n'y a pas présentement sur
ce panel de membres permanents ou d'employés de
l'une ou de l'autre de ces deux associations. Et je
présume donc que vous êtes autorisé aujourd'hui à
rendre témoignage au nom de ces deux associations.
Correct?

R. Écoutez...

Me GUY SARAULT :

Écoutez, ce sont des analystes. Les experts font des recommandations et il m'appartiendra en plaidoirie de dire ce qu'on fait des recommandations qui émanent de notre analyste ou de notre expert. Alors il n'est pas question ici, là, de commencer à mesurer les degrés d'autorité ou etc. de ces gens-là qui sont essentiellement des prestataires de services.

Me ÉRIC DUNBERRY :

Q. [78] Monsieur Charest, je présume que vous êtes autorisé par vos clients, les deux associations, à rendre témoignage aujourd'hui en leur nom?

R. En leur nom, je ne sais pas. Moi j'ai reçu le mandat d'analyser le risque d'Hydro-Québec, de regarder la preuve aussi qui a été soumise par Hydro-Québec et de donner mon opinion sur cette preuve-là et c'est ça que je fais aujourd'hui.

Q. [79] Et le contenu de votre rapport et de la preuve écrite que vous avez déposée est un contenu qui a été soumis aux associations et endossé par elles?

R. La preuve a été soumise aux associations, oui. Je ne sais pas s'il y a eu un processus formel, là, d'approbation.

Me GUY SARAULT :

Je voudrais revenir encore avec ça, là. Je l'ai dit, je le répète, il m'appartiendra à moi, en tant que procureur des deux intervenants en question, de dire ce que nous faisons à l'égard des recommandations et des opinions formulées dans les rapports de monsieur Charest et du docteur Booth. Me

ÉRIC DUNBERRY :

Monsieur le Président, c'est des questions introductives tout simplement pour être en mesure de compléter la présentation qui a été faite ce matin. Je comprends qu'il n'y a aucun représentant des associations sur ce panel, donc j'ai deux analystes externes consultants retenus sur une base contractuelle. Je voulais simplement m'en assurer.

Q. [80] Alors j'ai compris de votre présentation, Monsieur Charest, que vous étiez l'auteur du mémoire qui a été déposé en preuve par l'AQCIE et la CIFQ, correct?

R. C'est exact.

Q. [81] Et que donc, j'en déduis que les opinions exprimées dans ce mémoire sont vos opinions personnelles?

R. Oui.

Q. [82] Et que l'analyse contenue dans ce mémoire est

votre analyse personnelle?

R. Oui. Je vous ne cacherai pas que je me suis... je me suis inspiré de ce qui a été écrit à ce sujet-là à différents endroits. Mais j'endosse tout ce qui est écrit à l'intérieur de ce mémoire.

Q. [83] Vous dites que vous vous êtes inspiré à plusieurs endroits. En consultant votre rapport, j'ai trouvé très peu de notes de bas de page et de références. Il y en a quelques-unes, effectivement, mais il n'y en a pas beaucoup. Seriez-vous en mesure de nous faire parvenir la liste de vos sources d'inspiration que vous avez consultées aux fins de la préparation de votre analyse?

R. Oui. Ça ne sera peut-être pas une liste exhaustive parce que je ne peux pas, de mémoire, vous nommer tous les documents. Mais je peux certainement retracer les plus pertinents.

Q. [84] Alors par voie d'engagement, Madame la Greffière, je vous invite à noter l'engagement de l'AQCIE et de la CIFQ et de monsieur Charest de nous faire parvenir la liste la plus complète possible des documents qu'il aurait consultés aux fins de la préparation de son analyse.

LA GREFFIÈRE :

C'est l'engagement numéro 1 pour l'AQCIE-CIFQ.

E-1 (AQCIE-CIFQ) : Faire parvenir la liste la plus complète possible des documents consultés par M. Charest aux fins de la préparation de son analyse

Me ÉRIC DUNBERRY :

Q. [85] Merci. Monsieur Charest, je comprends que vous avez une formation en économie?

R. C'est exact.

Q. [86] Et cette formation a été acquise au niveau de la maîtrise à l'Université de Montréal?

R. Oui. Pour plus de précisions j'ai suivi des cours, ce qu'on appelle la propédeutique, là, donc les cours essentiels du bac. sur une année et ce qui m'a permis d'accéder directement à la maîtrise l'année suivante.

Q. [87] Et en quelle année avez-vous obtenu votre diplomation?

R. Deux mille huit (2008).

Q. [88] J'ai compris que vos études du bac., à l'origine, étaient des études au niveau... en fait de la faculté de droit de l'Université de Montréal également?

R. C'est exact. En fait, pas « également » parce que c'est pas à la faculté de droit que j'ai obtenu ma

maîtrise en science économique. C'est à l'Université de Montréal aussi, mais au département de science économique, à la faculté d'Arts et sciences.

Q. [89] Et en quelle année avez-vous terminé vos études en droit?

R. J'ai complété mon bac. en deux mille cinq (2005) et j'ai complété ma formation au Barreau la même année.

Q. [90] Et vous êtes membre du Barreau depuis quelle année?

R. Deux mille huit (2008).

Q. [91] Et je comprends que suite à votre admission au Barreau vous vous êtes joint au cabinet de maître Turmel, Fasken Martineau, c'est exact?

R. Oui, en fait j'ai effectué mon stage à ce cabinet. Et au mois de décembre deux mille huit (2008) j'ai été assermenté et j'ai... on m'a promu, si on veut, au poste d'avocat.

(13 h 10)

Q. [92] Et c'était donc votre premier emploi en qualité de juriste, d'avocat?

R. J'ai travaillé comme étudiant chez Fasken et effectivement mon expérience en tant qu'étudiant chez Fasken était ma première expérience

professionnelle en tant que juriste.

Q. [93] Oui. La question et le mot avocat impliquent nécessairement que vous étiez membres du Barreau. Alors en qualité d'avocat, donc membre du Barreau c'était votre premier emploi.

R. Effectivement.

Q. [94] Je comprends que présentement vous travaillez comme avocat pour le cabinet juridique Sodavex?

R. C'est... c'est un peu complexe. Je collabore avec Sodavex. Si on parle en termes économiques, j'ai mes propres clients et il m'arrive de collaborer aussi avec Sodavex dans certains dossiers.

Q. [95] Êtes-vous un avocat membre de ce cabinet, Monsieur Charest?

R. Tout...

Q. [96] C'est ce qui apparaît sur le site web du cabinet.

R. J'ai un domicile professionnel chez Sodavex et comme je vous dis, il m'est arrivé de travailler dans les dossiers de Sodavex. Est-ce que je suis membre? Je ne sais pas. Je n'utiliserais peut-être pas ce qualificatif-là. Mais je peux répondre aux questions correspondant à mon affiliation à ce cabinet-là si c'est pertinent.

Q. [97] Et présentement, vous êtes consultant en votre

nom?

R. Vous voulez savoir si j'exerce mes activités à titre personnel ou à travers une société?

Q. [98] Vous êtes un consultant, vous rendez des services professionnels en qualité d'économiste, si je comprends bien. Alors je veux savoir si en cette qualité vous agissez en votre nom? Ou à l'intérieur d'une société?

R. Mes activités d'analyste en énergie se font à travers une entreprise qui a été... je ne peux pas dire incorporée, c'est pas le bon mot... qui a été... qui a été créée plus tôt cette année.

Q. [99] Et le nom?

R. Consultant Régulas inc.

Q. [100] Est-ce que j'ai raison de déduire de notre échange que vous n'avez jamais occupé de poste de gestion au sein d'une entreprise réglementée?

R. C'est exact.

Q. [101] Et ai-je raison également que vous n'avez jamais été appelé à préparer des budgets prévisionnels pour l'exploitation d'une entreprise réglementée?

R. C'est exact.

Q. [102] Et que vous n'avez jamais occupé à temps plein un poste d'économiste au sein d'une

entreprise réglementée?

R. C'est exact.

Q. [103] Ni au sein d'aucune entreprise en fait. À titre d'employé.

R. Euh... C'est difficile à définir. La fonction que j'occupe aujourd'hui, dans plusieurs discussions j'ai essayé de résumer qu'est-ce que je faisais. Je pense que le meilleur qualificatif c'est : analyste en énergie. Il va de soi que mes connaissances en tant qu'économiste ou en fait ma formation d'économiste m'aide à ce sujet-là. Est-ce que ça me qualifie pour être économiste? Oui, peut-être. Je ne suis par contre pas employé de la société par laquelle j'exerce mes activités.

Q. [104] Avez-vous déjà témoigné devant des tribunaux administratifs ou judiciaires en qualité d'expert en matière économique?

R. Non.

Q. [105] Et je comprends que vous ne redemandez pas ici la reconnaissance d'un statut d'expert.

R. Non. Ça n'a pas été demandé.

Q. [106] Est-ce que j'ai raison également de croire que vous n'avez jamais réalisé et présenté comme témoin une évaluation formelle d'un taux de rendement raisonnable pour une entreprise

réglementée?

R. Je n'ai... je n'ai pas cette expérience-là, effectivement.

Q. [107] Et est-ce que j'ai raison également de conclure que vous n'avez jamais réalisé et présenté comme témoin une évaluation comparative du risque d'une entreprise réglementée à un groupe de référence d'autres entreprises réglementées?

R. Même réponse.

Q. [108] C'est non?

R. C'est non.

Q. [109] Et vous n'avez non plus jamais été mandaté par un client pour définir des critères de sélection afin de constituer des groupes de référence aux fins d'établir un taux de rendement raisonnable?

R. Euh... Non.

Q. [110] Et votre formation, essentiellement, est au niveau de la maîtrise en matière économique. Avez-vous déposé un mémoire de maîtrise, Monsieur Charest?

R. Non. J'ai... on pouvait soit déposer un mémoire ou un rapport de recherche. J'ai choisi l'option rapport de recherche.

Q. [111] Et est-ce que j'ai raison de croire que votre

rapport de recherche ne portait aucunement sur des questions de la nature de celles dont la Régie est saisie dans le cadre de la présente audience?

R. Effectiv...

Q. [112] On parle ici de rendement raisonnable, d'évaluation.

R. Non, c'est ça. Mon rapport de recherche portait sur les flots de capital humain entre le Québec et le reste du Canada, ce qui est assez loin de notre enjeu aujourd'hui.

Q. [113] Je vous remercie. Et ce travail d'analyste en qualité d'économiste au sein des deux associations, vous avez dit il date de juin deux mille onze (2011), donc un peu moins, un peu plus de deux ans.

R. C'est exact.

Q. [114] Et combien de mandats avez-vous reçu de ces associations-là? Est-ce que c'est un mandat continu ou ce sont des mandats pointus et spécifiques?

R. Écoutez, j'ai travaillé... Je vais répondre à la première de vos deux questions. J'ai travaillé dans... je dirais à peu près... et les dossiers dans lesquels je travaille en ce moment, peut-être huit à dix dossiers pour Hydro-Québec. Peut-être un peu moins. Peut-être huit dossiers, quelque chose comme ça. J'ai par ailleurs aussi travaillé dans

des dossiers de Gaz Métropolitain pour d'autres groupes qui ne sont ni l'AQCIE ni le CIFQ.

(13 h 14)

J'ai aussi fourni des services d'analyste en énergie à un certain nombre de clients. Et, évidemment, je ne peux pas mentionner, pour des raisons de confidentialité, ces clients-là. Mais ça fait un peu le tour de mes activités en tant qu'analyste économiste en énergie.

Q. [115] Et je comprends que vous avez également une pratique en droit depuis votre admission au Barreau qui se poursuit?

R. Qui se poursuit. Je dois dire, par contre, dans la dernière année, j'ai été très occupé par les dossiers de la Régie. Donc, j'ai peu pratiqué le droit dans la dernière année.

Q. [116] J'aimerais vous référer au rapport de monsieur Booth à l'annexe E de son rapport à la page 13. C'est à la page 13 de son rapport à l'annexe E, le titre 5. Monsieur Booth dit ceci :

I have discussed the business risk of HQD and HQT with Olivier Charest, reviewed the fling (sic) -filing- information and previous testimony by Dr. El-Ramly (R34-1-98) and Drs.

Kryzanoski and Roberts [...].

Je comprends donc que vous avez eu des discussions avec monsieur Booth, Monsieur Charest?

R. Oui.

Q. [117] Et je comprends de son témoignage que monsieur Booth a utilisé le contenu de ces discussions pour appuyer son analyse et sa recommandation d'un taux de rendement raisonnable? C'est votre compréhension?

R. Il faudrait lui demander à lui pour confirmer, mais nous avons effectivement discuté, et je présume qu'il s'est inspiré de ces discussions pour les fins de son rapport.

Q. [118] Et lors de ces discussions-là, est-ce que je dois comprendre, et vous étiez présent, que le docteur Booth acceptait vos constats et conclusions?

R. Pas nécessairement. Je crois... Il y a eu différents échanges. Et les premiers échanges datent du mois de juin, si je me rappelle bien. Nous avons discuté de manière informelle tant du risque actuel que de l'évolution de ce risque depuis deux mille trois (2003), deux mille deux (2002) en fait pour le Transporteur. Et je ne pense pas qu'il y ait eu de divergence d'opinion en ce

qui a trait à ce risque.

Q. [119] Est-ce que vous avez communiqué à monsieur Booth une copie de votre rapport avant le quinze (15) octobre deux mille treize (2013)?

R. Non.

Q. [120] Je présume qu'il n'a donc pas pris connaissance de votre rapport écrit avant de déposer sa propre expertise, correct?

R. Il n'a pas pris connaissance de mon rapport écrit avant d'avoir écrit sa propre expertise, et je ne sais pas s'il en a pris connaissance non plus depuis.

Q. [121] Est-ce qu'il a été traduit à votre connaissance?

R. Non.

(13 h 18)

Dr. LAURENCE D. BOOTH :

A. To amplify that, Mr. Dunberry, he sent me a three-page, he says not a summary but a synopsis of his analysis of the business risk, and that would have been some time in September... October, so there was communication from Mr. Charest to myself.

Q. [122] And this synopsis, Mr. Booth, was in English?

A. It was in English.

Q. [123] Okay. I would ask you to provide us with a

copy of the synopsis that was used for purposes of your report. So that would be... l'engagement suivant, Madame la greffière?

LA GREFFIÈRE :

Oui, l'engagement numéro 2. Me

ÉRIC DUNBERRY :

2, alors de nous fournir copie du synopsis communiqué par monsieur Charest à monsieur Booth aux fins de la préparation de son rapport du quinze (15) octobre deux mille treize (2013).

E-2 (AQCIE-CIFQ): Fournir copie du synopsis
communiqué par M. O. Charest au
Dr L.D. Booth aux fins de la
préparation du rapport de ce
dernier en date du 15 octobre
2013 (demandé par HQT-HQD)

Q. [124] Mr. Booth, I would have a few basic questions that I'm sure you and I will not have too much difficulty agreeing upon, I hope at least. My first question concerns your essential recommendation, which is to recommend, in fact you judge that a seven point five (7.5) ROE would satisfy the fair return standard for Hydro-Québec

Distribution and Hydro-Québec TransEnergy, is that correct?

A. That's correct.

Q. [125] Now you refer to an number of decisions in your report, may I assume that you have read all these decisions?

A. I've read the relevant parts of those decisions, I wouldn't say I've read all of those decisions, the decisions deal with a multitude of factors that come up in any hearing, some of which are not relevant for the things that I'm interested in.

Q. [126] Okay. I'd like to refer you -- and I actually gave you a binder containing a few decisions -- I'd like to refer you to Tab 14; this is a decision that was rendered recently by the Régie in the Gazifère case, I understand that you have appeared and testified in that case, Mr. Booth?

A. That's correct, the 2010 case?

Q. [127] Yes. Now if you look at paragraphs 34 and 35, I can essentially translate this in a few lines, where essentially, the Régie is considering that the fair return standard is a proper standard to be applied to establish a fair return. I assume that you would agree that the determination of a fair ROE for HQT and HQD must satisfy the fair return

standard, as defined by the Régie in this decision in paragraphs 35 and 34?

A. I... the fair return standard is that laid down by Mr. Justice Lamont, these are three elements of the fair return standard, so there's always a discussion whether these are separate or whether they're all sort of just parts of the same definition. So these are interpretation of the basic definition provided by the Supreme Court of Canada.

Q. [128] But we're in Quebec today, and we're before the Régie, and therefore, I would simply ask you whether the Régie is appropriately or incorrectly referring to these three standards as the basis for the determination of a fair ROE in this jurisdiction for these applicants?

A. That's correct, I say these are just different size of looking at the same definition of a fair rate of return.

Q. [129] Now would you agree that a return that does not satisfy the fair return standard is unreasonable?

A. Yes, that's a tautology, yes, that's correct.

Q. [130] Okay. And in order to be reasonable a return as to satisfy the first criteria, which is the

comparable investment standard, would you agree with that as well?

A. That's correct, correct in terms of applying the net rate base of the utility to other securities of equivalent risk, not in terms of applying it to the book value of other investments.

Q. [131] Now in the comparable investments standard, Mr. Booth, we find the word "comparable", would you agree with me that the application of the comparable investments standard requires a comparison of the return allowed to a given utility and the return allowed to other utilities of similar or like risk?

A. No, in the sense, I'll qualify that, in the sense that the definition of a fair rate of return is what we refer to as an opportunity cost, which is what else will you do with the money. And the definition of a fair rate of return comes out of the Northwestern Utilities decision, in the sense of what else would you do with the money. So it's a risk adjusted discount rate, a risk adjusted fair rate of return determined in the capital market. It is not necessarily a comparison of another regulated rate of return.

(13 h 24)

Q. [132] Mr. Booth, I would ask you to take your headset, I will read something to you and I will ask you a question going back to paragraph 34 and the fact that we don't agree on the fair return standard may be quite relevant in this so...

Me GUY SARAULT :

Juste une question de clarification. La décision qui est à l'onglet 14 est la dernière décision pour Gazifère dans la 3840-2013. Sauf erreur de ma part, il n'y a pas eu de témoignages d'experts là-dedans. Je pense que le Dr. Booth, quand on lui a demandé s'il avait participé aux procédures qui ont mené à cette décision, pensait qu'il référerait à celle de deux mille dix (2010) qui a donné lieu à la D-2010-147 à laquelle il y est fait référence. Je ne sais pas si je devrais demander à Dr. Booth, mais je pense qu'il n'y a pas eu de témoins, Maître Dunberry, dans votre dernière décision à l'onglet 14. C'est simplement...

Me ÉRIC DUNBERRY :

Je ne sais pas ce que ça change, mais on va rapidement...

Me GUY SARAULT :

Non, non, mais c'est important, là.

Me ÉRIC DUNBERRY :

Q. [133] Dr. Booth, would you please take a copy, we'll just proceed differently. Tab 10, Dr. Booth, could you please take tab 10, this is decision D-2009-156, Gaz Métro decision for rate case two thousand nine (2009). Did you participate and testify in that case Mr. Booth?

A. Yes, I did.

Q. [134] Okay. Could you please take a copy of the decision and go at page 44, paragraph 173.

A. I see it.

Q. [135] Okay. Alors paragraph 173, in this case, and the title of that section is the legal framework for the determination of a rate of return, I just translated the title for section 4.5.1. And the Board says,

Selon ces trois critères, pour être raisonnable, un taux de rendement sur le capital doit :

être comparable à celui que rapporterait le capital investi dans une autre entreprise présentant un risque analogue (critère de l'investissement comparable);

I have a very, very simple question for you Mr.

Booth. Do you agree, yes or no, to take the expression of my colleague, maître Sarault, last week, do you agree that this is a proper definition of the comparable investment standard?

A. Yes. It's taking the capital, as I said, of the net rate base of a utility and applying it to be invested in another enterprise. That capital is taken from one enterprise and invested at the market value of another enterprise. It is not invested at the book value of another enterprise. Only that entity can invest at the book value. And that's recognized in the Northwestern Utilities decision that's in paragraph 172. It's also recognized by the National Energy Board. So the distinction, I agree with that phrase as it is, but it's not complete.

Q. [136] Would you please take a copy of Mr. Coyne's report and we will go exactly where you want to be, that is in the Northwestern decision, pages 17 and 18. I will read these definitions to you and I will ask you whether you are in agreement with the Supreme Court of Canada and the Supreme Court of the United States. Pages 17 and 18 of Mr. Coyne's report. Do you have a copy of Mr. Coyne's report?

A. I do.

Q. [137] Thank you.

A. What page was that again?

Q. [138] 17 and 18.

A. Yes.

Q. [139] At the bottom of page 18 there is a reference to the National Energy Board decision RH-1-2008 and there is a definition of the comparable investment standard which read in English,

Be comparable to the return available from the application of the invested capital to other enterprises of like risk;

Can we agree that this is a definition of the comparable investment standard with which you are comfortable?

A. That's correct, referring specifically to application, which is taking the money and invest it in... What else can you do? It satisfies the opportunity cost standard.

Q. [140] And I will refer you to the Northwestern Utilities definition on page 17 cited by Dr. Coyne. And I read,

By a fair return is meant that the company will be allowed as large a return on the capital invested in its

enterprise (which will be net to the company) as it would receive if it were investing the same amount in other securities possessing an attractiveness, stability and certainty equal to that of the company's enterprise.

Would you agree with this definition of the fair return standard including the reference to the attractiveness, stability and certainty equal to that of that company's enterprise?

A. Yes. I would define, I would say that that is the complete statement because it refers to taking the capital and investing it into other securities, which is the application investment to another enterprise. Buying a security it's not investing in the rate base because that's not possible. Now investing in other securities of equivalent risk, which is the opportunity cost standard.

(13 h 29)

Q. [141] Would you agree that one of the reasons that some experts, and maybe you don't, but that some experts define proxy groups as for purposes of applying the comparable investment standard?

A. I looked at proxy groups as well, Mr. Dunberry. I

looked extensively at proxy groups.

Q. [142] So would you agree that the use of proxy group is a way of applying the comparable investment standard?

A. As long as you're looking at the market value of those securities and you're actually looking at what is possible and not what is impossible.

Q. [143] So the answer is yes, Mr. Booth?

A. As long as it's possible and as long as it satisfies your opportunity cost criteria, and you take into account the differences in risk and comparability referred to by Mr. Justice Lamont, the answer is yes.

Q. [144] Thank you. I'd like now to say a few things with you concerning the stand-alone statement. Last summer, you made opening statements before the National Energy Board and you said the following, tab 2 of your materials, Mr. Booth,

In RH-R-1-2002 (Chapter 5, page 25)
TransCanada defined the stand-alone principle as:

And I quote,

Under the stand-alone principle, a utility is regulated as if the provision of the regulated service

were the only activity in which the company was engaged. The cost of providing utility service and rates for provision of that service are to reflect only the expenses, capital costs, risks and required returns associated with the provision of regulated service.

The Board then accepted the stand-alone principle as a fundamental concept of utility regulation. This is the basis of my own testimony and my understanding of the position of CAPP and in fact, most utilities, regulators and interveners that I have been involved with; as the Board said it is fundamental to utility regulation.

Do you stand by that statement you made in September two thousand twelve (2012) concerning the stand-alone principle?

A. Absolutely. The utility, the customer should only pay the direct cost attributable to the provision of service, what they would get if, in fact, it was an independent stand-alone utility.

Q. [145] So you agree that the stand-alone principle

must be applied in the context of the determination of a ROE?

A. For an independent utility, yes.

Q. [146] And you would agree that this stand-alone principle should apply to Hydro-Québec for the determination of a fair return on equity in this case?

A. I have accepted the stand-alone principle as the Régie as indicated and I was asked to determine on a stand-alone basis. Do I accept that Hydro-Québec is in fact stand-alone? No, I don't. For my recommendation isn't based upon stand-alone.

Q. [147] So let me clear, let me rephrase my question. For purposes of this Board, for purposes of determining a fair ROE on its common equity, you and I agree that the Board, this Board in this case should comply with the stand-alone principle?

A. My testimony has been to provide, was based upon the assumption of a fair rate of return to a stand-alone utility and that's the basis of my recommendation for HQT and HQD. I did not go into whether or not I do generally believe that it's a stand-alone utility. But my recommendations are consistent with what the Régie has decided in the past that it should be based upon a stand-alone

utility.

Q. [148] And it should be based on a stand-alone principle obviously regardless of ownership?

A. That's a little bit more difficult. I had based, as I said, my testimony on the fact that I'm treating this as a stand-alone utility. Do I believe that it actually is a stand-alone utility and that that is what should be done? That's a question I wasn't asked to look at. And you might guess that my answer would be no.

Q. [149] You were not asked to apply the stand-alone principle?

A. No, I was asked to apply the stand-alone principle and I was asked to present testimony consistent with the Régie's decision ten (10) years ago. I was not asked, for example, this is a government owned institution, traded like the old Hydro Ontario or New Brunswick Power or any other sort of provincially owned electric utility. I was asked instead to treat it as a stand-alone.

Q. [150] And that's what you did. That's what ...

A. That's exactly what I did.

Q. [151] Okay. And you still believe today, before this Board, that stand-alone principle is a fundamental principle to utility regulation?

A. Exactly. I mean, that's... exactly. And that's an eco... I mean, specifically, the only qualification that I would make in the sense of privately owned institutions and it's that, to prevent utilities as part of a holding company passing on to the utility costs that shouldn't be passed onto to the rate parts.

Q. [152] Tab 8, Mr. Booth, another decision of the Board, I would simply ask you to confirm whether we agree on a different on a different principle. This is a decision that was rendered by the Régie in the context of an ROE decision for Hydro-Québec. If you go to page 70, the first paragraph deals with the stand-alone principle, and you will notice that the Régie accepted the recommendation of those witnesses appearing at that time that the principle, third line,

... le principe fondamental du coût
d'opportunité de marché des
capitaux...

s'appliquait.

This is what you said earlier in your response, correct?

A. That's correct.

Q. [153] Okay.

Q. [154] And I did review this evidence filed by Drs. Kryzanowski and Roberts in preparing my own testimony.

Q. [155] And you're inviting the Board to maintain this approach in this case in two thousand thirteen (2013)?

A. No, I didn't say that. I said that I prepared my testimony consistent with the past decision of the Régie as to stand-alone, I didn't say that that's what I would recommend. I wasn't asked to make a recommendation.

Q. [156] The following paragraph says the following, Mr. Booth,

La Régie est d'avis...

and I would invite you to read with me but with your headset,

La Régie est d'avis que le taux de rendement accordé au Distributeur doit lui permettre d'assurer et de maintenir sa capacité d'attirer les fonds à des conditions raisonnables, comme s'il était une entreprise indépendante. Selon ce principe, le taux de rendement doit être équivalent à ceux qui sont offerts par les titres

comparables en termes de risques.

Would you agree with that statement?

A. Sorry, I'm...

Q. [157] Would you agree with that statement I just read?

A. That's the basis on which I prepared my testimony, yes.

Q. [158] Now the previous paragraph refers to, and I would read this so that you have a complete translation,

La Régie accepte la recommandation des Drs Morin, Kryzanowski et Roberts, reconnus comme experts sur le taux de rendement, à savoir que l'évaluation du coût des capitaux propres sur base présumée doit reposer sur le principe fondamental du coût d'opportunité de marché des capitaux propres. La Régie avait d'ailleurs déjà adopté ce principe pour le Transporteur dans la décision D-2002-95. Le respect de ce principe permet d'établir un taux de rendement sur l'avoir propre pour le Distributeur qui soit indépendant du statut corporatif de l'entreprise.

Would you agree with this statement of the Board dealing in this case with the notion of opportunity cost?

A. Yes, as I said, the legal definition of the opportunity cost is what else will you do with the money, that's the basic definition in economics.

And that's the definition the Régie adopted in the decision of the stand-alone, and that was the basis of my recommendations.

Q. [159] And obviously, Mr. Booth, this opportunity cost is assessed in the perspective of an investor?

A. That's correct.

Q. [160] And you will be agreeing with me that since we are considering the year two thousand and four (2004), this perspective of the investor is necessarily a forward-looking estimate?

A. That's correct, that was the basis of the Supreme Court of Canada's decision, because it was a change in the conditions in the capital market that prompted the Supreme Court of Canada to make the decision on what constitutes a fair rate of return. It comes out of the capital market, it's an opportunity cost.

Q. [161] I would now invite you to go back to Tab 10, Decision D-2009-156, paragraph 194. In that

decision, Mr. Booth, the Board said the following,

[194] Enfin, comme mentionné dans l'affaire Hope, « c'est la résultante de l'exercice réglementaire qui doit rencontrer la norme de rendement raisonnable et non pas la méthode ». À cet égard, les tribunaux américains ont reconnu la grande latitude et la discrétion des organismes de régulation dans la détermination de la meilleure méthode pour arriver à fixer un rendement raisonnable sur la base de tarification.

[195] Le fait que la méthode fondée sur une formule d'ajustement automatique ou toute autre approche suggérée par les experts des parties devant elle puisse ou pas être contestée n'a pas une importance déterminante. C'est le résultat qui compte, comme le mentionnait d'ailleurs la Cour suprême américaine dans Hope, « it is the result reached, not the method employed, which is controlling... »

And you can read the rest of this paragraph.

I take it here, Mr. Booth, that you and I will agree with the statement of the Board and of the Supreme Court of both the Canadian and the United States that it is the results that count, not the method used?

A. Absolutely. Ultimately, the return has to be fair.

How the regulator arrives at that fair return doesn't matter as much as the output, the outcome.

Q. [162] And that statement is broad enough to include adjustment formulas as well?

A. I would think so, yes.

Q. [163] Now in the Gazifère and Gaz Métro decision, and you refer to this in your report, you will recall that the Régie suspended the application of the Gazifère formula because it felt that it produced an unreasonably low ROE of seven point ninety-four (7.94) on a equity ratio of forty percent (40%), do you recall that fact, Mr. Booth?

(13 h 40)

A. I wasn't aware of the numbers but I was aware that the formula had been suspended, yes.

Q. [164] I will ask you, so that we have a clear record to go back to tab number 14. I apologize for all of this but you will see we will save a lot of

time later. If you go to paragraph 38 of that decision, page 13. So I'm there at tab 14, page 13, paragraph 38.

Par ailleurs, la Régie note que l'application de la FAA pour Gazifère produirait un taux de rendement de 7,94% alors que, par sa décision D-2013-036, elle a accordé à Gaz Métro un taux de rendement de 8,90%. Ce taux a été reconduit pour l'année 2014 par la décision D-2014-085. Or, ces deux distributeurs présentent des risques analogues. Par conséquent, l'application de la FAA pour déterminer le taux de rendement de Gazifère ne permet pas de satisfaire au critère de l'investissement comparable, soit un des trois critères énoncés précédemment permettant de juger si un taux de rendement autorisé sur l'avoir propre de l'actionnaire est raisonnable.

Pour ces motifs, la Régie juge qu'il y a lieu de suspendre l'application de la FAA pour l'année témoin 2014.

You recall this Mr. Booth? So the result that was produced by this adjustment formula was inconsistent with the fair return standard and for this reason the Board suspended its application. Would you agree that this was a correct decision by the Board?

A. I would have to go and look at what I would have recommended for Gazifère at that point in time, but I think I probably would have recommended the same seven point five percent (7.5%) ROE that I am recommending now. So I would say the seven point nine four percent (7.94%) probably, without going through the... I think I added a risk premium to Gazifère over my benchmark ROE.

Q. [165] Mr. Booth, I am not asking this. I'm asking the policy perspective, the regulatory position. As an expert, would you agree that if a board comes to the conclusion that the result produced by a formula violates the comparable investment standard, the board is then justified, from a regulatory perspective, to suspend the application of a formula because it violates the comparable investment standard. So I take it...

A. That, obviously, yes.

Q. [166] Okay. Now, you are aware that the same result

took place for Gaz Métro that the Régie suspended the application for the year two thousand thirteen (2013) and eventually for the year two thousand fourteen (2014) of the Gaz Métro formula for various similar reasons that is it was too low, correct?

A. That's correct. In those instances, essentially I would guess, a similar decision made by the National Energy Board when it suspended its ROE formula.

Q. [167] So you will agree that a board, including the Régie, is justified to reject a formula or suspend its application, if it comes to the conclusions that it is either defective or produce unreasonably low result in violation of the fair return standard, correct?

A. Of course. The ROE formulas are just a short cut. They are an attempt to minimize repetitive ROE hearing and basically give a rate or a way of determining the rate of return on an annual basis that is judged to be fair and reasonable. If we end up with market circumstances that are dramatically different and the result of the formula does not give a fair and reasonable ROE, then a company, the board, or interveners, are allowed to intervene and

say "The result is not fair." We don't want to hear it.

Q. [168] And the board, obviously, from a policy perspective again, the board obviously is not bound by a formula. It has the discretion to obviously set aside the formula and determine a fair ROE in a given set of circumstances.

A. Well, not just discretion. I would say it has a legal responsibility to do that.

Q. [169] Now, in your report, Mr. Booth, you say on page 57 that the current formula for Hydro-Québec is defective. So this is on page 57 of your report, line 4, and I read... The question is: Would you recommend the use of an ROE adjustment mechanism for HQT and HQD?

Yes. The defects with the existing ROE formula are three fold:

And then you discuss these three defects. So, as a starting point, I understand that you find the current existing, that I call the implicit existing formula, to be defective, correct?

A. Correct. Those are the three points that I think would improve the quality of the formula.

Q. [170] Now one of the problems with the formula, and you explain that, same page, lines 9 and 10, is

that, and you say,

Most agree that fair and reasonable ROEs do not vary one to one with the long Canada bond yield even in normal market circumstances.

So one of the three defects is the fact that you have an elasticity ratio of one between the ROE and the changes in the long Canada bond yield, correct?

A. That's correct. As far as I'm aware, only one regulator, other regulators use a one to one relationship, and that was the BCUC in the nineteen nineties (1990's) when they felt that the major factor driving the ROE was the expected rate of inflation and the risk premium in the long Canada bond yield. They subsequently moved to seventy-five percent (75%) when that risk premium for the long Canada bond had disappeared and then that amounted to fifty percent (50%) and the last hearing that came out, the decision came out six months or so ago.

Q. [171] Now, if we continue reading, we see that the second defect that you identify on page 58, lines 7, 8 and 9, is the fact there is no second term to this existing adjustment formula to reflect corporate spread changes, correct?

A. That's correct.

Q. [172] Okay. Would you agree that these are structural defects affecting the design, the very design of this existing adjustment formula?

A. That's correct. I testified before the Régie in two thousand and ten (2010) that, although I didn't think that this was, made a material difference over the full business cycle, because the average spread obviously that reaches out to average, it does make the fair ROE more sensitive to the business cycle, and I agree with the fifty percent (50%) adjustment to changes in the spreads and that subsequently have been adopted by the Ontario Energy Board, the Régie itself and the BCUC.

Q. [173] Thank you. Page 4, Mr. Booth, lines 23 to 25. So page 4 of your report, you say the following, and I quote,

While such over-earning may have been "acceptable" in the context of allowed ROEs that were below those allowed for other Canadian utilities, it is not acceptable once those allowed ROEs are rebased to a fair level.

I take from that that you agree with the proposition that the allowed ROE for HQD and HQT

under this currently existing adjustment formula have not been at a fair level, to use your words?

A. I would say related to those other utilities. My understanding at the moment is the ROE used in this formula is six point two percent (6.2%), I recommend seven point five percent (7.5%). So by definition, I don't think the allowed ROE at the moment is a fair return.

Q. [174] So both, for HQT and HQD, and you're right, the resulting ROE is for HQT six point one two six (6.126%) and for HQD, six point two five zero (6.250%) based on a risk-free rate that was established for purposes of tariffs cases, but you would agree that these numbers are by definition unreasonably low?

A. I wouldn't say by definition...

Q. [175] By reference to your own recommendation.

A. By reference to my own recommendation, I would say they're too low.

Q. [176] And therefore they're not consistent with a fair return standard?

A. I would not regard them as consistent with the fair return standard but that's not my decision to make.

Q. [177] Page 69 of your report, Mr. Booth, lines 6 to 9. This is... I'll let you go there. This is

something you say as well in a section dealing with an ROE formula,

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 the 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.

The values, you refer to the values established in this hearing. I assume that these values would be one rebased ROE, correct?

A. Correct.

Q. [178] The second one would be an appropriate risk-free rate for two thousand fourteen (2014), correct?

A. Correct.

Q. [179] And the third value would be an appropriate credit spread for two thousand fourteen (2014)?

A. That's correct.

Q. [180] Now you understand that the formula that you

recommend for HQT and HQD would be different than the one currently yet suspended, but currently technically in effect for Gazifère and Gaz Métro as a result of the introduction of a floor for the long Canada bond yield, correct, of three ninetyfive percent (3.95%) as you suggest?

A. That's correct. As I indicated, in two thousand and ten (2010), nobody could think that the United States would end up buying almost two trillion dollars (\$2 T) worth of bonds every year.

Q. [181] So these three entities would not have the same formula. They would have different formulas?

A. That's correct. I hate to suggest it but...

Q. [182] That's what you do.

A. No, no, no, no. Are you going to let me finish Mr. Dunberry? I was going, about to say, I'd hate to suggest it but if the Régie does put Gazifère and Gaz Métro back onto an automatic adjustment formula, I would strongly recommend that it be consistent with whatever it decides for HQT and HQD in this hearing.

Q. [183] Now, the three ninety-five percent (3.95%) Mr. Booth, is the sum of the risk-free rate that you designed for the CAPM plus your credit spread adjustment of thirty-five (35) points? So that...

Dr. LAURENCE D. BOOTH :

A. ... the Operation Twist adjustment.

Q. [184] Alright so the floor for your formula is in fact the sum of your risk-free rate and your spread adjustment for the CAPM, which is three point six (3.6) plus point thirty-five (0.35) equals three point ninety-five (3.95)?

A. That's correct, it's, the forecast rate of three point six percent (3.6%) is getting very close to what I would regard as the minimum long Canada rate consistent with the business cycle, which I put at three point eight (3.8), so add in the Operation Twist adjustment, I think the more reasonable estimate of the true long Canada yield at the moment is three point nine five percent (3.95%).

Q. [185] Mr. Booth, Tab 11, paragraph 243, that would be page 60 of the decision, Mr. Booth. And it is said in French, and this is the Board,

[243] Cependant, il est aussi admis par tous les experts qu'aucun modèle ne peut, à lui seul, représenter correctement les attentes des investisseurs dans toutes les circonstances et dans toutes les phases des cycles économiques et

financiers. En conséquence, la Régie juge nécessaire de prendre en considération les résultats produits par le modèle AFM, malgré les faiblesses mentionnées plus haut.

Mr. Booth, the AFM reference refers to a DCF, correct?

A. Correct.

Q. [186] And what the Board is suggesting here is that, it is reasonable and in fact necessary, to use the word, to use multiple methods. I assume you agree with that statement from a policy and regulatory perspective?

A. As long as those methods are correct methods, yes.

Q. [187] In this case...

A. I use multiple methods myself, but they're all firmly based upon financial theory.

Q. [188] And in this case, the Board, and this was not too long ago, in fact it was a decision by monsieur Boulianne and a decision by monsieur Turgeon, that the Bench ruled, in November two thousand eleven (2011), that it was reasonable and necessary to take into account the results of a DCF in this case...

A. I would say so, I spent a considerable amount of

time the last few years sort of looking at DCF and risk premium estimates, and I would probably agree with that assessment, as in fact the National Energy Board agreed with my assessment and my analysis of the difference between DCF and risk premium models at the moment.

Q. [189] Would you also agree that it is now an established practice before Canadian regulators... It is an established practice before Canadian regulators for them to consider multiple methods to arrive at a fair return on equity, as the Régie has said, none of these methods can correctly represent the investors' expectation in all business and economic cycles?

A. I would say it's always been an established practice, Mr. Dunberry, I mean, as I mentioned, I used to have four methods for estimating the fair rate of return, two Discounted Cash Flow models, one CAPM, and one risk premium over preferred shares. So it's a question, so conceptually, DCF and risk premium should give the same numbers, but when there are substantial changes in the economy, sometimes, one will overestimate and the other will underestimate. And it's quite clear the last two years in particular, the risk premium models have

underestimated the fair rate of return.

Q. [190] Now not only is it an established practice, and you suggested that it has always been, and that's good, but I would also submit to you, sir, that boards across Canada now expect parties to come to them with multiple methods and multiple sources of data to allow them to proceed to a fair determination of a return of equity. Would you agree with that statement?

A. No, I can't say what boards expect, all I can say is that I personally believe that DCF and risk premium are acceptable methods for estimating a fair rate of return. I've always believed that. But at certain periods, it's been impracticable to use DCF estimates. And currently, I look at DCF estimates from companies in the United States, I look at DCF estimates on the market as a whole, and I think they're very useful as checks and to inform my judgement in terms of the fair rate of return. Whether or not every board in Canada expects that, that's something I can't comment on.

Q. [191] Mr. Booth, I think you spent a few days in...

A. The hot tub with Mr. Coyne, yes.

Q. [192] No, this was...

A. Okay, I was trying to guess where you were going,

Mr. Dunberry...

Q. [193] We're going far, we're going to BC. You were there, I was there, Mr. Coyne was not there I believe...

A. This is another rumour that starts.

Me ÉRIC DUNBERRY :

Il devrait y avoir deux documents normalement, j'espère qu'ils sont joints sinon...

A. Thank you.

Me ÉRIC DUNBERRY :

Vous devriez avoir deux documents, messieurs, au total six; s'il en manque...

(13 h 56)

Q. [194] So Mr. Coyne was there as well so we have a full team here. Vous n'avez pas de copie pour le greffe?

LA GREFFIÈRE :

C'est ça. Merci.

Me ÉRIC DUNBERRY:

Q. [195] So Mr. Booth, this is going not that far ago, May ten (10) two thousand thirteen (2013), a few months ago. This was a generic cost of capital proceeding in British Columbia before the British Columbia Utilities Commission and there was a discussion on principles here with respect to a few

key issues that we're considering. So on page 55, and this is the introductory question that was raised by the Board recently under section 5.1, key issues. So let me read this and then I have a few questions for you.

The Commission Panel is of the view that an important consideration in this proceeding is the determination of a return that provides investors with the opportunity cost of their investments.

So far so good, we agree with this.

A. Absolutely.

Q. [196] The Brattle report recognizes and elaborates on this fundamental principle:

And they say,

[The cost of capital] is Defined as the expected rate of return in capital markets on alternative investments of equivalent risk, it is the expected rate of return investors require based on the risk-return alternatives available in competitive capital markets. Stated differently, the cost

of capital is a type of opportunity cost.

So far so good, we also agree with this general statement?

A. I would qualify in equilibrium the expected rate of return but other than that that's a unequivocal, I would accept that.

Q. [197] Okay. So let's continue. The Board says then
However, even if one accepts the concept of the opportunity cost as a foundation of a Return on Equity determination, a remaining challenge is that risk and expected return of the relevant 'alternative investments of equivalent risk' are in the eyes of investors who have access to well functioning capital markets. These expectations are not directly observable to Panel members or to parties in this proceeding who provide evidence for the Panel to consider. Instead, estimates of investors' expectations are based on data that are interpreted through models of competitive capital markets. The Panel

finds an observation offered in the
Brattle Report to be instructive:

And I quote,

It is useful to recognize explicitly
at the outset that models are
imperfect. All are simplifications of
reality and this is especially true of
financial models. Simplification,
however, is also what makes them
useful. By filtering out various
complexities, a model can illuminate
the underlying relationships and
structures that are otherwise
obscured.

Would you agree with that additional quote, Mr.
Booth?

A. Yes, I will.

Q. [198] Okay. Then the Board... And we can read this
but not to take too much time, the Board considers
the four types of models it was presented. It was
presented with DCF models, with CAPM, with ERP and
with CE models. And then, it discusses their
relative use and, on page 56, the panel concludes,
just before section 5.2

The Panel finds that the two most

compelling frameworks for assessing the cost of equity are the DCF model and the CAPM. These models have well understood theoretical bases and explicitly recognize the opportunity cost of capital. Accordingly, these two models are given equal weight in determining the allowed ROE.

And you can read the rest if you want.

A. That's correct. I would... As I said that's...

Q. [199] Would you agree with that statement of the BCUC?

A. I would agree with the statement in the sense that's what the BCUC said and they explicitly rejected models that are not founded on basic financial theories...

Q. [200] No...

A. ... such as comparable earnings and the equity risk premium that they mentioned.

Q. [201] Mr. Booth, I'm not asking...

A. Hold on, hold on. And, as I said earlier, I used to put fifty percent (50%) on my weight on DCF and fifty percent (50%) on risk premium.

Q. [202] What did you just... Sorry. What did you just say?

A. I used to put fifty percent (50%) of my weight on DCF and fifty percent (50%) on risk premium.

Q. [203] But in this case you did not use a fifty percent-fifty percent (50%-50%) apportionment between DCF and the CAPM, right?

A. In this case, I put... My conclusions were drawn from both my DCF evidence and my risk premium evidence.

Q. [204] Okay.

A. The estimate of the market risk premium directly comes out of my discussion of a discounted cash flow model added to the overall market return and my risk premium, normal risk premium is in parts supported by my DCF analysis of Standard & Poor's 500 US utilities.

Q. [205] But my question to you, Mr. Booth, is very simple. I'm not asking you whether you agree that the Board said that. I'm asking you whether, as an expert, today, in this market, whether it is appropriate as the Board did in this case, where you testified, that both the DCF and the CAPM are to be used with equal weight.

A. Well, in that case...

Q. [206] Would you agree with that?

A. Well, in that case I would say no. I think the

basic weight should be on the risk premium model. The DCF model, unfortunately, we don't have good data in Canada to do a DCF model estimate drawn from Canadian utilities. And that's what the Board of Commissioners in Newfoundland and Labrador decided as well. So as long as you can make appropriate adjustments to US evidence or British evidence or German evidence, then estimates anywhere in the world can be used. But you would like to look directly at Canadian utilities.

(14 h 03)

And I stopped putting significant weight on DCF when the Telcos, we used to have six rated return regulated telecommunication companies that, when long distance was opened up, they ceased to be rated return regulated. So, my DCF's estimates disappeared for that reason and then we lost a lot of other private regulated utilities like Maritime Electric and then we lost some in Canadian utilities. We ceased to get good estimates, the DCF estimates for Canadian utilities. Conceptually, absolutely correct. Fifty percent (50%) weight on both of them before you do an analysis to assess which one is giving you reasonable estimates at any point in time, but it is very difficult to do a DCF

on Canadian utilities.

Q. [207] Mr. Booth, could you please take a copy of this extract from your book. This is your second edition. Again, I apologize for not having purchased the most recent edition, but I am sure, after checking it on the internet, that you won't find any differences in the language. Could you please go to your page...

A. It's allowed in my testimony Mr. Dunberry.

Q. [208] ... 265. You have a full section on DCF and DDM, so, I just want to make sure that we have understood your answer...

A. Yes.

Q. [209] ... correctly. So, there is a discussion here on the limitations of the DDM. Will you agree, for purposes of discussion, that a DDM is the same as a DCF for purposes of our discussion today?

A. That's correct. The dividend discount model encompasses a variety of models but, essentially investors discount dividends. The DCF is a much more general model discounting cash flows rather than discounting dividends. So DCF is a generic phrase referring to valuing bonds, valuing equities, valuing companies. You value it in cash flows. The dividend discount model is specific to

valuing equity securities where you're valuing the dividend flows.

Q. [210] Okay. So let's read what you wrote to your students. I believe it's a text book you use for teaching:

Although the DDM provides significant insight into the factors that affect the valuation of common shares, it is based on several assumptions that are not met by a large number of firms, especially in Canada. In particular, it is best suited for companies that (1) pay dividends based on a stable dividend payout history that they want to maintain in the future, and (2) are growing at a steady and sustainable rate. As such, the DDM works reasonably well for large corporations in mature industries with stable profits and an established dividend policy. In Canada, the banks and utility companies fit this profile, while in the United States, there are numerous NYSE-listed companies of this nature.

Would this summarize appropriately your views?

A. It's incorrect. It's why I've said in the presentation, you can't apply the constant growth version to the dividend discount model to the whole of the Canadian market or the whole U.S. market. The vast bulk of the stock tend to satisfy the assumptions.

Q. [211] But you would be comfortable using a DCF for Canadian utilities?

A. Some of the utility companies, pure utility companies, yes. I would suggest that all of them you could probably look at a mirror and for the closest to the possibly Velaney or Verizon as being close to pure utilities.

Q. [212] And would you agree that, even in the United States, utilities are not growth companies?

A. Exactly. Whenever we look at a stock, we look at the price of the stock and you can break it out into the present value of existing earnings and then the residuals, what we call the present value of the growth opportunities. As long as the present value of the growth opportunities is a minimal, you can apply the DCF model. And the way you buy stock, so you look at stocks where the present value of the growth opportunities are huge, it's impossible

to apply the constant growth model.

Q. [213] And this is why you say on slide 11 that the DCF is appropriate for stable companies such as utilities.

A. That's exactly right. And it's why, for example, as I explained earlier, that I used to apply the DCF model to a sample of six telephone companies in Canada and I stopped doing that when we ceased to have pure utilities in Canada, or not very many of them. And it's only relatively recently that a mirror has emerged as a pure utility in the sense that they privatized Nova Scotia Power and Fortis is growing from being Newfoundland Power to be a major diversified utility company in Canada.

Q. [214] Mr. Booth, next topic is the use of U.S. data. You... Je vais les coter toutes ensemble à la toute fin. Mr. Booth, the topic now is the use of U.S. data. You understand and I think you referred to that fact that, for purposes of establishing its market risk premium, its MRP, this Régie has, for many many years now, used both Canadian and U.S. data according to a weighted average or a ratio that has evolved with time.

(14 h 09)

A. That's correct, and implicitly, that's what I do.

Q. [215] Now do you recall what was the original weighted average that this Régie used back then, as we say?

A. This would be speculation, but I seem to remember twenty-five/seventy-five (25/75), but...

Q. [216] Close enough, eighty/twenty (80/20).

A. Okay, fine.

Q. [217] Do you need a reference?

A. No, I don't, but I'll accept eighty/twenty (80/20).

Q. [218] Okay, I will give it to you anyway, it's Decision D-99-011, pages 45 and 46, the Board decided that a eighty percent (80%) Canadian, twenty percent (20%) U.S. data was appropriate to establish a market risk premium. Do you know why they felt it was appropriate to have a weighted average of both Canadian and U.S. data, do you recall?

A. I can't remember that decision, but why I've gone to looking more at the U.S. is because of the removal of the farm property rule in RRSPs, pension funds, which has resulted in the Canadian equity market being, resulting in more flows to the United States. Previously, we had a lot of trapped capital in Canada that kept the equity rate of return relatively low.

Q. [219] Now are you aware that this weighted average, eighty/twenty (80/20), evolved with time to later become a sixty/forty percent (60/40%) weighted average, sixty percent (60%) Canadian data, forty percent (40%) U.S. data, were you aware of that evolution?

A. I wasn't aware of that, but in order to get to fifty/fifty (50/50), I wouldn't, it doesn't surprise me.

Q. [220] Okay, so again, if you bear, and trust me, the reference for your review is Decision D-99-150, page 10. And would you... let's go there, just so we're comfortable; it's Tab 10.

Me GUY SARAULT :

D-99...

Me ÉRIC DUNBERRY :

It's not Tab 10, it's Tab 7, page 10 -- sorry.

Q. [221] So Tab 7, D-99-150, if you to page 10, the Board said the following, third paragraph,

À la lumière de la preuve de SCGM, deux constats s'imposent. En premier lieu, l'intégration du marché nord-américain s'est fortement intensifié récemment et cette tendance devrait se poursuivre au cours des prochaines

années, compte tenu du phénomène de
globalisation des marchés.

And then, there's a second reference, that you can read,
or I can read it for translation,

En second lieu, il s'avère que le taux
de la prime de risque recommandé par
l'expert de l'ACIG, soit 4,5 %...

Would that be you, Mr. Booth, do you recall...

anyway, sorry,

... tient compte du fait que la prime
de risque du marché américain est
supérieure à celle du marché canadien.
En outre, sur la base des études
soumises par le Dr. Waters, SCGM
démontre en contre-preuve que le taux
de la prime de risque recommandé par
l'ACIG peut être obtenu en accordant
une pondération très proche de celle
utilisée par l'expert de SCGM.

Dans le présent dossier et à la
suite de l'analyse de la preuve, la
Régie retient comme juste et
raisonnable une pondération de 60/40
des études canadiennes et américaines
aux fins de la détermination de la

prime de risque du marché. La Régie révisé donc le taux de la prime de risque du marché de SCGM à 6,5 % pour l'année 1998-1999.

Would you agree that the main reason for this increased use and reliance on U.S. data was this continuous integration of North American markets, as the Board indicated in its decision, would that make sense?

A. That would certainly make sense.

Q. [222] Okay.

A. There's actually no question that markets are more integrated than they were ten-twenty (10-20) years ago.

Q. [223] Now when you came back in two thousand nine (2009), on behalf of l'ACIG, there was a discussion on the same issue, and would you recall that in that decision, the Board went further and established a new weighted average ratio of fifty percent/fifty percent (50%/50%) again on the basis of a continuous integration of financial markets, would you recall that?

A. I don't recall that, but I'll accept that.

Q. [224] Okay. So looking at this evolution, would you agree that, over the time, over the years, the

Régie has been open and has continuously received and integrated in its analysis more U.S. data?

A. In terms of the market risk premium, yes.

Q. [225] Okay.

A. And my Appendix B, I go into this in some detail, that the removal of the barriers to holding capital in Canada is more likely the rates of return in Canada will increase. And the other significant factor is the Canada is not a AAA-rated country, and our long-term Canada bond yields are below those in the United States.

Q. [226] Now Mr. Booth...

A. Whereas at this time, long Canada bond yields were higher than the United States. So I look at my historic evidence, and I think the historic market risk premium underestimates that going forward, and in part that's based upon looking at the U.S. evidence.

Q. [227] Now you will agree that there's absolutely no reason why this Board, the Régie, should depart from its established practice and rely on U.S. data to establish market risk premium?

A. I used U.S. evidence to look at the market risk premium, it's an alternative evolution of the risk return trade-off in a similar sort of economy. So

that's useful. There is a report by Crédit Suisse that looks at the risk return trade-off for about fifty (50) or sixty (60) or so countries around the world. It's another evolution, another set of statistics that allows us to confirm our judgement as to what is a reasonable risk return trade-off. And it's not just the United States, we're now looking at the U.K., we're looking at Germany, Italy, France, lots of countries.

(14 h 12)

Q. [228] Mr. Booth, if it's appropriate for the Régie to rely on U.S. data to establish the risk premium, would it not also be reasonable for the Régie to rely on U.S. data to establish other variables, such as the Beta value for instance?

A. No, it isn't. When you look at the market risk premium, you're looking at the overall risk return trade-off in the capital market, and you're trying to sort of assess is this market risk premium reasonable? When you look at other utilities, you're basically assuming that the underlying risk in a different economy is exactly the same in terms of the Beta of the relative risk.

So the overall market risk premium may be reasonable, I'm willing to accept that, I'm willing

to look at that to inform my judgement as to what the risk return trade-off is in Canada, but I'm not prepared at the moment to accept the U.S. utilities have got the same risk profile as Canadian utilities have...

Q. [229] I understand...

A. ... not when the estimates are so dramatically different.

(14 h 14)

Q. [230] Mr. Booth, I understand your response, but let me ask the professor of Finance -- would you agree with me that conceptually, in light of the level of integration of financial markets in North America, that conceptually, the use of appropriately selected U.S. proxies can be useful to establish a rate of return, and I underline 'an appropriately selected group of U.S. proxies', conceptually, for the same reason that reliance on U.S. data is valid for market risk premium, the same logic, would it not apply conceptually for the use of a proxy group that, if properly selected, can inform the Régie on risk profiles and returns, reasonable returns on equity?

A. No, I would say again that when we're looking at the risk return trade-off, we're looking at the

experience over eighty (80) to a hundred (100) years, which is, the Crédit Suisse goes back to nineteen hundred (1900). So that looking at the behaviour of individuals in the capital markets between equities and bonds and treasury bills, that is information on an aggregate level of the risk return trade-off, I wouldn't use that data at any particular point in time, you have to make an assessment of what is the stage of the capital market.

If you look at the U.S. economy and you can make correct adjustments in terms of interest rates and the relative risk of U.S. utilities and the differences, then you can look at that data and make appropriate adjustments. As I've indicated, the Board of Commissioners in Newfoundland and the BCUC both regarded an adjustment of a fifty (50) to a hundred (100) basis points from U.S. estimates as being reasonable.

Q. [231] So your answer is...

A. Another way of saying that is, the straight estimates from the U.S. are not reasonable.

Q. [232] So your answer is yes, with the proper adjustments?

A. Well, that's always the answer. As I said, you can

take estimates from Australia and if you make the proper adjustments, you can come up with a fair estimate of the opportunity cost.

Q. [233] Okay.

A. And I'm not denigrating Australia but, I mean, basically anywhere you can look at a set of estimates and once you understand what drives them, the underlying economics, you can make them appropriate for any institution. That's essentially what Beta does.

Q. [234] Now is it your view that it is impossible to establish a group of low-risk U.S. utilities comparable to Canadian utilities?

A. No, I would, no, that's a very good question, Mr. Dunberry. I would say that it's always possible to look at a whole population in the United States, probably sixty (60) to eighty (80) utilities, and find a few utilities on certain criteria who are equivalent risk at a current point in time. But you're comparing a sample from the United States with a population in Canada, and that is always seductive, and it's also possibly unreasonable. It's... because when you look at the United States, if you're looking at a sample of the whole population, you've got to understand why is this

sample so low-risk, and is this currently low-risk sample going to revert to the population characteristics, or is it going to continue to be low-risk?

So it's possible that there's a utility that is regulated in the same way as is common in Canada and protects a utility, and that its risk characteristics are similar to that in Canada. The question is -- is that likely to continue? We have lots of history in Canada of protective regulation going on for a long period of time.

Q. [235] Well, I fail to understand...

A. I don't know what's going to happen in the U.S.

Q. [236] But, Mr. Booth, I mean, the entire exercise is to seize a moment in time, establish a proxy group and make a determination at a moment in time, and if these companies evolve in time to become different entities, well obviously, two years ago... two years from now, the proxy group may be different. But would you agree, conceptually, that it is possible, I know you've not done that in your analysis, but that it is conceptually possible to extract from the universe of U.S. utilities low-risk utilities that, at a moment in time, can...

A. No, that is misleading, because it's like looking

at a...

Me GUY SARAULT :

Excusez-moi. I believe that this question has been asked and responded to very clearly. And I think, you know, my understanding is that Dr. Booth tells him, "If you want to use U.S. proxies, you have to make adjustments." It's very clear. It's very clear.

Me ÉRIC DUNBERRY :

It's a different question, Monsieur le Président, la question, c'est, l'hypothèse de départ de monsieur Booth, c'est de dire que quel que soit le choix des entités américaines, elles seront toujours plus à risque et donc il faudra toujours réduire, par un ajustement, le niveau de rendement. Ma question est bien différente : est-ce qu'il est possible, selon lui, d'établir, à un moment dans le temps, à partir de l'univers des sociétés américaines, un échantillon, un « proxy group », comparable en termes de risque, qui ne requiert pas d'ajustements parce qu'il est comparable en termes de risque.

Q. [237] So, Mr. Booth, you heard my second question, which was the first question, which is whether you believe that it is possible or physically

impossible, at a given point in time, to establish, out of the universe of U.S. utilities, a proxy group that has a risk profile comparable to a Canadian utility, and therefore be used for purposes of determining an ROE without an adjustment on the basis that no matter what you do, they're riskier?

(14 h 20)

- A. I would say that if you are looking at the relative risk, it is always possible to find a company with the same risk profile as a Canadian company. So if you want to sort of look at a Canadian company with a beta of say point three (.3), it's possible to find a US company with a beta of point three (.3). The problem is you've got to think about what we call measurement error. You've got things that go up and you've got things that go down. If you are consistently picking the things that go down to compare to the population in Canada, next period, what was down in the US may be up and one that was up is done. You can always find these ones that are down and compare them to Canada. But you are comparing a sample with a population, a universe. And that brings up the problem that how do American investors perceive these companies? Do they look at

companies that are currently low risk and say "Well, obviously, they are going to stay low risk when in fact the population is perceived to be a lot riskier." My answer to that is probably no.

And even if the relative risk is perceived to be the same, then I say it was only part of the adjustment. What is the objective adjustment is the US interest rates, long term interest rates on which we base risk premium models and everything else, a sixty (60) basis points higher in the US. And the observed market risk premium in the US is higher than it is in Canada. So even if you sort of say "Well, okay, these utilities have got the same beta." you then face the problem that the market risk premium historically has been higher in the US and market interest rates are clearly higher in the US. So you still have to make adjustments. Even if the risk profile is the same.

Q. [238] Mr. Booth, I would like to take a copy again of your book, extract of your book, page 107 of this document. We're in section 4.2, titled "A Framework for Financial Analysis", subtitle "Return on Equity (ROE) and the Dupont System". If you look at page 111, you say the following in interpreting ratios for ROEs.

A single ratio on its own provides little information. To judge whether a given ratio is 'good' or 'bad' requires some basis for comparison. Two bases are commonly used for comparison:

The company's historical ratios, or the trend in its ratios

and b,

Comparable companies—for this purpose, we can use a similar company or use industry average ratios

And then you have a discussion that starts just before the table, you refer to Tim Hortons and you say

So how does Tim Hortons compare with the competition? Ideally, we would compare Tim Hortons with other Canadian fast-service food and coffee franchise company of similar size and market presence, or even an industry average comprising several similar Canadian firms. Certainly, this would be a viable approach if we were comparing the Canadian banks because they are so similar. However, no other

companies compare to Tim Hortons very well along several dimensions such as size, product offerings, and nationwide market presence. Therefore, we have chosen the well-known U.S. companies, McDonald's Corporation and Starbucks Corporation, which have similar market presence as Tim Hortons in the markets in which Tim Hortons operates. Both companies represent major competitors for Tim Hortons, even though they offer differentiated versions of the Tim Hortons' product lines. McDonald's offers a wider variety of fast-food products, and Starbucks offers a 'higher-end' version of Tim Hortons' product but a narrower numbers of food offerings. Obviously, these are differences among the companies, but they represent reasonable benchmarks.

Do you find it so unreasonable for Dr. Coyne to have used Starbucks and McDonald's in order to define proxy groups for purposes of establishing an ROE when, according to your textbook, this is an

approach that is viable which is comparing, you know, companies across to determine whether there is a viable comparison to be made. And I know...

A. First of all, Mr. Dunberry...

Q. [239] ... we're not discussing coffee and donuts here but...

A. That would actually go down very well at the moment but the point, Mr. Dunberry, is this has got nothing to do with the fair rate of return or estimating the cost of capital. It's an analysis showing the profitability of companies and how to use the Dupont method to analyse just the profitability of companies. In fact, any company you can break out the return on equity as is shown on page 109. Its return on equity, its turnover ratio, its profit margin and its leverage ratio. And we illustrate that with McDonald's and Starbucks because, as we say, "There are no Canadian companies for looking at a suitable comparison." We do not go through and say, and use those to estimate the cost of capital because these are competitive companies. They're not having the capital structure deemed by a regulatory authority and they're not having their business risk controlled and protected by a regulator. So this is

a reasonable analysis of looking at or apply basic tools of financial analysis. This is nothing to do with determining the fair rate of return or looking at the impact of regulation and business risk.

Q. [240] Mr. Booth, I would like now to ask you a few quick questions. I understood from Mr. Charest's testimony that you and him discussed the content of his risk analysis, correct?

(14 h 25)

A. That's correct.

Q. [241] And you were provided with a three-page synopsis but you have not been provided with a copy of his full analysis, correct?

A. He gave me three pages but, I'm sorry, I was mistaken this that was a synopsis, I thought it was a summary. And he did provide me with a copy of his testimony and a copy of his presentation.

Q. [242] But that was after filing your report?

A. I think so, yes.

Q. [243] Yes. Now, I understand reading your report that you personally, you did not perform a separate analysis of HQT and HQD risk profiles and rely on what you were provided by Mr. Charest, correct?

A. Well, I did look at the business risk in my appendix A but I did it from six thousand (6,000)

feet, looking at the basic return. Do they make their allowed rate return and what is the long-run risk in terms of the competition with gaz relative to other provinces.

Q. [244] And I also...

A. So I did to a risk analysis but I didn't go into the nuts and bolts that Mr. Charest went into.

Q. [245] And I also understand that you did not perform a separate comparative risk analysis between HQT and HQD on one end, and a number of U.S. or Canadian proxy groups for purposes of determining whether they're comparable and from there, establishing a fair ROE. You did not provide...

A. No, that's not necessary. The practice in Canada is to look at the change in the business risk to assess the capital structure and the capital structure equalizes the overall risk and then you apply generic ROE. And the focus of his hearing was the appropriate generic ROE to apply to both HQT and HQD.

Q. [246] Others have also presented evidence or will tomorrow present evidence on risk analysis. Le RNCREQ, l'Union des consommateurs et l'ACEFO. I understand that you were not provided with

translations of their evidence on risk analysis
either?

A. That's correct. I have no statement whatsoever on
their evidence.

Q. [247] Page 52 of your report, we're finally ending
our preliminary questions and are now focusing on
your recommended ROE, Mr. Booth. Seven point five
(7.5) is your magic number?

A. Seven point five (7.5) seems to be my magic number
for the last two years because of the impact of
Operation Twist.

Q. [248] So if we go to your report...

LE PRÉSIDENT :

Maître Dunberry. On a prévu terminer à seize heures (16
h 00). Il est présentement quatorze heures
trente (14h30). Est-ce que ce serait le moment
approprié pour faire une petite pause?

Me ÉRIC DUNBERRY :

Tout à fait, Monsieur le Président. J'aurais pu
l'offrir. Tout à fait.

LE PRÉSIDENT :

Quinze (15) minutes. De retour à trois heures moins vingt
(14h40).

SUSPENSION DE L'AUDIENCE

REPRISE DE L'AUDIENCE

Me ÉRIC DUNBERRY :

Rebonjour Monsieur le Président, Messieurs les membres du panel, Mr. Booth?

Q. [249] I would invite you to meet me, page 52 of your report. Your summary table for your recommended utility, benchmark utility ROE. So, if we read this section, we understand that it is your opinion that for both HQT and HQD, an ROE between seven (7%) and eight point o five percent (8.05%) is in the range of a reasonable ROE for the year two thousand fourteen (2014). Is that correct?

A. Correct.

Q. [250] And your recommended seven point five (7.5%) is in fact, and as you say on line 15, it is the rounded mid-point between seven (7%) and eight point o five (8.05%)?

A. Correct.

Q. [251] Now, this is the equivalent of a risk premium, if we do the math, of two point seventy-five (2.75) which would be seven point five (7.5) minus three point six (3.6), minus point three (0.3), minus point thirty-five (0.35), minus point five (0.5), would be two point seventy-five (2.75)

which is your risk premium. Is that correct?

A. How much did you estimate the risk premium answer?

Q. [252] Two point seventy-five (2.75) which is mid-point between two point twenty-five (2.25) and three point thirty (3.30).

A. Yes, I mean, the actual estimate is seven point five (7.5), minus the full cost of long Canada rate at three point six (3.6), we're usually counting long Canada rate of three percent (3%) as a full point five percent (0.5%) risk premium.

(14 h 48)

Q. [253] Okay. If the risk premium is two point seventy-five (2.75) and looking at your evidence and perhaps looking as well at some of your previous evidence, I concluded that this mathematically corresponds to a Beta value of point five (0.5) applied to a market risk premium of five point five (5.5), so five point five (5.5) times point five (0.5), which is half, is two point seventy-five (2.75), right?

A. That's right, the market, the long-run or the average market risk premium is five to six percent (5-6%), and I've got a Beta of four point five (4.5) to five point five five (5.55) so...

Q. [254] Okay.

A. ... the mid-point Beta is point five (0.5), the mid-point of the market risk premium is five point five percent (5.5%).

Q. [255] And these are the values that you've used, essentially?

A. Those are the values I've used, yes.

Q. [256] Okay. Now let me start with the end, the flotation costs. You I think have said, and you will confirm, that the Régie has never, I think, and I think I'm right but I may be wrong, but I think that the Régie has never allowed fifty (50) points in flotation costs to Gaz Métro or other entities under its jurisdiction. Would you agree with that position?

A. That's correct.

Q. [257] Okay. And I think you know, in what of the IRs, a question was asked, and I think you learned at that point, or knew before, that in the case of HQT and HQD, the Régie did not allow flotation costs in two thousand two (2002) and in two thousand three (2003), and it was discussed in these decisions and at the end, the Régie decided that it was not to allow flotation costs for these two entities, correct?

A. My understanding is, I asked monsieur Charest that

and I was told they didn't ask for flotation costs, or at least one of them did not ask for flotation costs. But I'll accept that they were not allowed flotation costs in the fair ROE.

Q. [258] I'm not suggesting they did not ask, nor am I suggesting that they were prevented legally or otherwise, I'm simply suggesting to you that in the last decisions, going back then twelve (12) years ago, they were not allowed flotations costs, as a matter of fact.

A. Okay, I'll accept that.

Q. [259] Alright. Now I understand that it is your recommendation today that flotation costs should be allowed to both HQT and HQD on the basis of the stand-alone principle, is that correct?

A. That's correct. If it was a private utility, then it would obviously have to have some element of flotation costs in access in the market, and generally, we would want its stock price to be book value so that when it sells the stock to raise capital, then it would net out book value, and there won't be dilution in terms of the return on equity.

Q. [260] Okay. And your recommended flotation costs of fifty (50) points is what you have recommended

across the country for many years, I'm told,
correct?

A. Yes, I can't remember when I moved to fifty (50) basis points, I used to be at thirty (30) to thirty-five (35) basis points, and then moved to fifty (50) basis points to avoid cross-examination basically, it was within a reasonable range.

Q. [261] Okay, so that will shorten your cross-examination today as well.

A. Well, I don't know about that.

Q. [262] Now contrary to the Régie's practice in recent decisions, you do not propose a low-end and a high-end flotation cost, you don't have a thirty (30) to forty (40) point range as the Régie established for Gaz Métro for instance, you use fifty (50) for both your low-end and your high-end estimate, when you offer both a low-end and a high-end estimate, you use fifty (50) points in both, call them both high-end and low-end estimates, correct?

A. Correct.

Q. [263] Okay. Now if the Régie were to deny any flotation costs to Hydro-Québec, for whatever reason, your recommended range for a reasonable ROE would therefore mathematically become six point

five (6.5) to seven point five (7.5), correct?

A. That's correct, seven percent (7%).

Q. [264] Six point five percent (6.5%) to seven point five percent (7.5%).

A. With a mid point of seven percent (7%).

Q. [265] Okay. Now in the absence of any flotation costs, would you seriously take the position before the Board that a seven percent (7%), or let me start with six point five (6.5), because the range would be from six point five (6.5) to seven point five (7.5), now would you seriously take the position before the Régie that in the absence of any flotation costs, as some intervenors are suggesting, the Board would be consistent with the fair return standard in allowing only six point five percent (6.5%) to both HQT and HQD?

A. I would say that the Board, or the Régie, has approved, I don't know whether it approved the six point two percent (6.2%) at the moment but it certainly approved allowed ROEs at approximately that level, so presumably, the Régie has found those rates to be fair and reasonable in the past. I would say at the moment, six point five percent (6.5%) would not be my recommendation for a fair rate of return but six point five percent (6.5%),

it's certainly within a reasonable range if we are in fact estimating the rate of return as an expected rate of return, an opportunity cost in a capital market.

(15 h 54)

Q. [266] Okay. That is difficult for me to follow because you are taking the position, and we said that earlier, that the kind of return generated by the implicit formula, which is in the six to five based on data which is old, and you see me coming, if you update all this you will find different numbers. You said earlier that these were unfair, these were unreasonably low and they were unreasonably low because they were too low, based on your assessment of the fair return standard and your own determination of seven point five (7.5). Now you said fifteen (15) seconds ago that a six point five (6.5) ROE would still be reasonable. How can you reconcile on one end your statement half an hour ago that those range of returns would be unreasonable, and your statement now, which I take is a serious statement, that six point five (6.5) would be a reasonable rate of return notwithstanding your recommendation of seven point five (7.5).

A. Correct. I mean my range at the moment is seven (7) to eight percent (8%) with a seven point five percent (7.5%) midpoint as a recommendation. I would accept seven percent (7%) as a reasonable ROE, I would accept eight percent (8%) as a reasonable ROE. My midpoint I recommended is seven point five percent (7.5%).

If the Régie accepts everything in my recommendation but decides not to allow flotation costs, and accepts the lower end of my range at six point five percent (6.5%) as fair, then I can understand why it would come to that conclusion. It would not be my recommendation. I think flotation costs are part of the fair return standard to act as a standard on utility. So it's not my recommendation but if the Régie accepted everything that was in my recommendation and then reduced fifty (50) basis point for flotation costs, I can understand why they would arrive at that decision.

Q. [267] Now, Mr. Booth...

A. It's not one I would recommend.

Q. [268] Mr. Booth, you said, unless you want to change that statement, you said a moment ago that the current implicit adjustment formula was defective three different ways, correct?

A. Correct.

Q. [269] And these were structural defects, correct?

A. That's correct.

Q. [270] Alright. If you bear with me and accept that, today, according to the October consensus Economics forecast that is widely used, the ten (10) year bond yield is two point nine percent (10.9%), the ten (10) to thirty (30) year bond spread is point nine three percent (.93%)... point four nine three percent (.493%) for an estimated thirty (30) year risk free rate of three point three nine three (3.393%). Now if you have the implicit formula fixed premium that has been in effect for ten (10) years, you reach, for HQT, a rate of six point six seven (6.67) and, for HQD, a rate of six point seven nine three percent (6.793%).

Now you said that this formula was defective three different ways, structural defects. If applied today, using your approach, it would generate ROEs in excess of six point five percent (6.5%) by, you know, three hundred (300) points. Not three hundred (300) points, point...

A. Thirty (30) points.

Q. [271] ... Yes, thirty (30) points. Now how can you, on one hand, say that an ROE produced by a formula

that is defective three different ways is unreasonable at six point seven nine three percent (6.793%), the formula being defective, and you would state seriously before this Board that six point five (6.5) would be a reasonable ROE. I just don't understand the logic in your approach.

A. I didn't say it was a reasonable ROE. I said seven (7) to eight percent (8%) was my reasonable range and my recommendation is seven point five percent (7.5%). And I said if the Régie decided to disallowing flotation costs and accept the bottom of my range at six point five percent (6.5%), I think I said I would accept that. That's the Régie's decision and I would accept that. Now in terms of the formula...

Q. [272] You know, the simple... Yes...

A. ... I would reiterate: it is not the formula that I would recommend. I would recommend a seventy-five percent (75%) adjustment along Canada rate yield forecast, I would recommend a fifty percent (50%) adjustment to spreads and I would recommend that it not go into place unless the long Canada bonds yield forecast was about three point nine five percent (3.95%). That is my recommended formula. I think a one to one adjustment is not an appropriate

formula. And it hasn't been accepted, in my understanding, by any other regulatory body in Canada and hasn't been accepted by the Régie in Gazifère and Gaz Métro.

(15 h 00)

Q. [273] Now, Mr. Booth, is this not a simple answer that your CAPM is so low that you need a very big number for flotation costs to justify it because if we remove the fifty (50) point flotation costs that you use for the low end and the high end knowing very well that nobody pays fifty (50) points for the flotation cost, it simply underlines that your CAPM is extremely low because, as I said, if you remove the flotation cost, you end up with what you seriously try to defend before all of us now, that a six point five percent (6.5%) is a reasonable ROE for HQT and nobody has suggested this until you did a moment ago.

A. Mr. Dunberry, you're putting words into my mouth that I did not say. I did not say that I regarded six point five percent (6.5%) as fair and reasonable. I said that my range is seven (7%) to eight percent (8%) and if the Régie disallowed in, and issue the cost and accept below into my range, I will accept that as reasonable but it's not my

recommendation. And as for the fifty (50) basis points, as you might not be aware of, in using fifty (50) basis points, for at least the last ten (10) years, when my right of return recommendations have been a lot higher. So it's not as if I'm increasing my flotation cost, because I think my risk premium estimates are low, that's actually not correct. My issue cost of fifty (50) basis points have been there for a significant period of time because I don't think it's a material to be subject to cross-examination. The difference between me and other witnesses generally has been very, very low in terms of issue costs.

Q. [274] Mr. Booth, I'd like now to talk about your risk-free rate. I think it's page 22 of your report. Now, on page 22, lines 15 and 16 in bold, the character, you state that for two thousand fourteen (2014), RBC's average yield forecast is three point six (3.6) and you take this as the base for your risk premium model. Is that correct?

A. That's correct.

Q. [275] Now, this is based on RBC's forecast, average forecast, for year two thousand fourteen (2014)?

A. That's correct. It's a coordinate forecast and it's, also as I mentioned ahead, it's essentially

the consensus forecast as well.

Q. [276] I was looking in your evidence for both things, both the September two thousand thirteen (2013) consensus forecast and the RBC forecast, and I see you've reproduced certain numbers in your report. But do we have somewhere in your evidence, as an exhibit, the consensus forecast for two thousand thirteen (2013) and the RBC forecast for two thousand fourteen (2014)?

A. The RBC forecast is on page 21.

Q. [277] No, I know. But the document, the source document. This is a reproduction of numbers taken from a document I assume?

A. That's true. It's publicly available. So, if you just do a search for financial markets monthly, October the fourth (4th), two thousand and thirteen^h (2013), it's a public document.

Q. [278] And the two thousand thirteen (2013), September consensus forecast, is this part of your evidence, Mr. Booth?

A. It's referenced in my testimony, yes.

Q. [279] Yes, but is it part of your evidence? Did you file the forecast itself, the consensus, the document, the source document?

A. No, I've never filed the source document.

Q. [280] Okay. Now, you say in your presentation, that it generates, if you use the consensus forecast, a risk-free rate of three point six (3.6).

A. That's correct.

Q. [281] And do we see that number in your report on page 21?

A. No. I got there the ten-year forecast three point one (3.1) for Canada, three point three (3.3) for the U.S. and then as the yield is spread to go from the tenth (10_t) to the thirty-year (30) bond. And^h I've got the spreads for the tenth (10_t) to the^h thirty-year (30) bond in...

Q. [282] But it's not in your report. I'm just trying to find the data, Mr. Booth.

A. Well, the yield spread is on schedule 2 where it has the long-term bond yield at three point one five (3.15) and the ten at two point five nine (2.59), so that's a fifty-five (55) basis points spread on schedule 1, and the ...

Q. [283] I'm sorry, I'm just look for schedule 1 now. Yes.

A. But if you look on schedule 1, you'll see the long-term Canada rate is three point one five (3.15) at the time that I put this together, and the ten years is two point five nine (2.59), so the

difference at the time that I put the testimony together was fifty-five (55) basis points, and the consensus forecast was for three point one (3.1). So that basically takes it to three point six five (3.65) for September.

Q. [284] And the three point six (3.6) for RBC is the average of the four numbers that we have for one, two, three and four of...

A. Yes, this is an approximation. I think the actual average is a couple of basis points difference.

Q. [285] Yes. So you've rounded this to three point six (3.6)?

(15 h 05)

A. Mr. Dunberry, you can make these estimates to ten decimal places if you want, but the real world doesn't behave like that.

Q. [286] Now are you suggesting here now that the Régie should rely on RBC's forecast, or are you simply using RBC this year and the Régie should fall back on its established practice of using the Consensus Economics forecast?

A. No, I am providing my recommendation of a fair ROE, and my recommendation of a fair ROE is based upon my perception of the forecast long Canada bond yield for the test year. And that judgement is

based upon my analysis of the Bank of Canada, the Consensus, and RBC, and I've been using RBC for probably ten (10) years, it happens to be a very comprehensive forecast. The Régie can rely upon its own sources if it disagrees with my assessment of the Consensus forecast and other forecasters.

Q. [287] Okay.

A. This is my recommendation.

Q. [288] No, I thought that you would find it more reliable to rely on something which is a composite view of twelve (12) or thirteen (13) forecasters as opposed to one financial institution?

A. That's possible.

Q. [289] Okay. Operation Twist. Page 2 of your report, Mr. Booth. Again, here, you indicate that you judge a thirty-five (35) point adjustment to be appropriate in the current financial and economic environment?

A. That's correct.

Q. [290] Okay. Now, as I think you said earlier, if you add this three point six percent (3.6%) risk-free rate to your point thirty-five (0.35) corporate adjustment, we find the minimum long Canada yield bond forecast that you apply for, that you use for your adjustment formula, which is three

point ninety-five (3.95), that's the source...

A. That's correct.

Q. [291] Okay. So... I'm sorry, the thirty-five (35) points is your Operation Twist adjustment?

A. That's correct.

Q. [292] Okay.

A. It's looking at the equity market...

Q. [293] Yes.

A. ... realized and the equity market doesn't behave one to one with the one market...

Q. [294] Okay, so that's why... so I read in your report all this, and I concluded -- tell me if I'm wrong -- that "notionally", your Operation Twist adjustment of thirty-five (35) points is an adjustment to the risk-free rate, given the current historical and financial environment?

A. That's correct. The forecast I'm using is three point six percent (3.6%), but I'm looking at other information of the capital market to make an adjustment to my estimates.

Q. [295] Yes. And we know that in the Intragas case, and in other cases as well across the country, I think you said, in two thousand twelve (2012), you used a different value of eighty (80) points for your Operation Twist?

A. Correct, that was eight (80) basis points, until the Fed laid out its road map this past May.

Q. [296] Yes.

A. And we've seen a substantial increase in interest rates since then.

Q. [297] Okay.

A. So the need for the adjustment is rapidly going away.

Q. [298] And the difference between eighty (80) points and thirty-five (35) points is the result of your own personal review of the data that we see in your presentation and this is your judgement?

A. Personal review, it's looking at the objective statistics looking at the yield on the preferred shares, the yield on A bonds, and the yield on long Canada's. So it's judgement in looking at those numbers and saying it's point eight (0.8), but I could have added up all the numbers and saying, objectively, it's point seven and nine three three three (0.79333), but I don't think that's value.

Q. [299] Now in Mr. Coyne's presentation, if you have a copy, I'd like to refer you to page 4 of that PowerPoint presentation...

A. Yes.

Q. [300] Now Mr. Coyne said the following, and this is

the first bullet,

Bond yields in Canada and the U.S.
have bottomed, and are now moving
upward

You will agree with that statement, Mr. Booth?

A. That's correct, ever since May two thousand and thirteen (2013), the markets have realized that quantitative easing 3 is actually closer to the end than it is the beginning.

Q. [301] Now the second bullet says that :

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

Would you agree that your Operation Twist adjustment is a form of invitation to regulators to take a longer view on risk-free rates that are now moving upward?

A. No. I would say, as in fact I've indicated, it is not a long-run view of the risk-free rate, what it is is an adjustment to the current risk-free rate to reflect the actions of the Federal Reserve at the moment. I do not, I don't think I have a long-run forecast of the risk-free rate, except to point out that if you use five percent (5%) which was about the time in two thousand six (2006) before

the financial crisis blew up and at the time when all the adjustment models were regarded as being reasonable, then if that has taken its long run risk free rate, then you get a fair rate of return out of the adjustment formula which I have used to back up my long run fix rate estimate. But my estimate is actually an estimate at a current point in time, taking out the impact of the Federal Reserve. It's not a long run forecast of the risk free rate.

Q. [302] But that thirty-five (35) point is an adjustment upward?

A. Well, that's right because...

Q. [303] Okay.

A. ... the action of buying...

Q. [304] Yes.

A. ... a billion dollars worth of US government bonds...

Q. [305] Yes.

A. ... basically pushes up the price.

Q. [306] Yes.

A. And pushes down the yield.

Q. [307] Yes. And bond yields rates and interest rates are going upward as well?

A. Well, at the current point in time the Fed has said

that they're going to continue with the bond buying, but to paraphrase Winston Churchill "We're close to the end and we are at the beginning." And certainly the Quantitative Easing 3 is basically going to be finished within the next six to nine months.

Q. [308] Okay. Now... I'm going to ask you now a few questions on your market risk premium. To start with, on page 75 of your report, you refer to the Moody's report.

Q. [309] 75. Now we see here that you refer to the two thousand five (2005) Moody's report.

A. Yes.

Q. [310] We see this in the second half of page 75.

A. Yes.

Q. [311] On page 76 you refer, I believe, to the August two thousand nine (2009) Moody's report.

A. That's correct.

Q. [312] Now, I think in your PowerPoint presentation or in your oral statement today you referred to an additional report that was released, I believe, this year in September two thousand thirteen (2013), and Mr. Coyne refers to that report.

A. That's correct.

Q. [313] Okay. Now, again I read your evidence and I

did not find any quotes or any analysis of the content of the two thousand thirteen (2013) Moody's report. Is that possible?

A. Oh! That's absolutely certain, I haven't had a chance to review the report. I haven't seen the report yet.

Q. [314] Now, when you filed your report on October fifteen (15), Mr. Booth, were you aware of the existence of this new Moody's two thousand thirteen (2013) report?

A. No, I wasn't.

Q. [315] You were not?

A. If I was aware I would have read it and I would have referenced it.

Q. [316] Okay. Now if we look at page...

A. I should say that I hadn't read a copy of it, I hadn't seen it at that point.

Q. [317] Well, we'll read your answers... We'll read your answers, Mr. Booth. I just want to refer you to your report, page 77, last couple of lines. You said

I understand...

This is lines 18 to 20. You said,

I understand that Moody's is reviewing this policy and it may be re-rating US

utilities that are in jurisdictions that are more like Canada, but the historic record will reflect the historic risk.

It appears that you were aware of the existence of a new report.

A. That's correct. That's why I said I understand. It didn't...

Q. [318] Now...

A. And when I say I understand, I was aware that Dr. Coyne was, I can't remember whether it came from an information response.

Q. [319] Yes.

A. But I was aware that there was this document but I hadn't read it and I hadn't had time to look at it and incorporate it into my testimony.

Q. [320] Now, well, that was perhaps my next question. Why... Instead of relying on outdated reports and make conclusions which we now know have been at least nuanced by the two thousand thirteen (2013) Moody's report in a fairly significant way, I would add, why did you simply not, instead of producing a report based on outdated, unreliable or at least incomplete information, why did you not get a copy of that report and read it before filing your

evidence?

A. Because I didn't have time to do that and I didn't have the time to get a copy of the paper.

Q. [321] Do you know when the Moody's report was made available?

A. Apparently it was September.

Q. [322] Yes. Did you try to obtain a copy?

A. No, I didn't. I was doing other things. And in the short period of time between putting the testimony together there was no chance to get a copy. Generally, I do not have access to Moody's, generally I get this material as a result of information requests. And the time available in this hearing is compressed and it's not possible, it wasn't possible for me to even look at it. And I still haven't looked at it.

Q. [323] Now, when you say that you understand that Moody's may be re-rating US utilities, how did you know that?

A. Because that was the thinking of one of Dr. Coyne's documents that he indicated that they were going to be possibly upgrading them by one notch.

Q. [324] Do you think that Mr. Coyne referred to the Moody's report in its April two thousand thirteen (2013) evidence?

A. I'm not aware of that. All I know is the reference to the September Moody's report.

(15 h 15)

Q. [325] Mr. Booth, is it possible that this Moody's report was actually filed by Dr. Coyne before you filed your own report on October fifteen (15)? It was already part of the evidence by the time you filed your report?

A. That's possible.

Q. [326] And I guess you...

A. There are many moving parts to putting a testimony together, Mr. Dunberry, in a short period of time.

Q. [327] Now you read Mr. Coyne's presentation and you also on page 4, or 5... Actually, it's 7, the comment made by Moody's on the comparability of U.S. utility regulation. Do you find this information relevant at all Mr. Booth?

A. I think that is relevant. It's relevant that Moody's is re-evaluating the effect of regulatory protection in the United States and that some regulators are moving closer to Canada. That's relevant if you're going to be looking at the degree of regulatory protection and how the ratings are determined. And it may be that Moody's re-writes a large number of U.S. utilities.

Q. [328] Mr. Booth, I'd like now you to take a copy of the document I gave you, tab 1 this time I believe, the information... or it's tab 2, or it's tab 1. It's actually tab 1. Now, as you have indicated many times during your examination, I understand that you've been quite busy over the years and as we can see here, on table 1, this is a summary of your evidence before the Régie over the last many years, actually since your first appearance, I believe 2007-116 and, if you go to the next table, we see the same kind of summary for your evidence-in-chief delivered in various other jurisdictions.

A. My first appearance before the Régie I think was in nineteen ninety-nine (1999) in a Gaz Métro hearing.

Q. [329] Yes, I think you're right. Actually I have a copy of that decision...

A. Well, I think I subsequently, with my colleague, late colleague, Michael Brook, so I appeared in a TransÉnergie hearing in two thousand and two (2002).

Q. [330] So you're right. But this, I guess, are the most recent and perhaps most relevant. But I will get a copy of the D-99 decision if it's not already there. I think you appeared with Dr. Morin at the time. Now, if you look at the evidence that you

have delivered in Québec, would you agree, and again, I have copies of all the decision with me. So if you feel to... they're all here. So if you feel that you need to go back, you can. Now, based on my review of the evidence before the Régie, it appears that each time you appeared, you relied on what you present as your CAPM, as the method to assess the ROE, is that correct?

A. I rely upon risk premium and as I've indicated, you can always express any recommendation as a risk-free rate and a risk premium regardless of how you estimate the parameters to go into that recommendation.

Q. [331] Now, your market risk premium, since two thousand seven (2007), or two thousand eight (2008), has always been between five (5%) and six percent (6%) for the reasons you explained today I assume. Correct?

A. Yes. I think my risk premium has changed. It was five percent (5%) based upon the historic information and it changed probably as a result of Dr. Fernandez's survey. And I think I originally came before the Régie and I said five percent (5%) and then, I think I called a margin of error based upon the adjustment for the survey responses, and

then I incorporated that directly into my estimates.

Q. [332] Okay, then again...

A. I think it's in two thousand and seven (2007).

Q. [333] Again, I understand what you're saying but numbers speak for themselves sometimes and we see that since two thousand eight (2008), your MRP has always been between five (5%) and six (6%) and for three years, for a number of years, it was five point five (5.5%) and you recently moved to a range and a point estimate. But, we agree on that, correct?

A. That's correct. The historic evidence hasn't changed very much year to year.

Q. [334] Okay. That would be a next question whether you should be looking forward as opposed to backward but we'll wait for that. Now, your Beta value has always been between again, point forty-five (0.45) and point fifty-five (0.55), correct?

A. That's correct.

Q. [335] Okay.

A. Particularly during this period, since two thousand and seven (2007).

Q. [336] And as you said earlier, your flotation costs have always been fifty (50) points. There's no low

and/or high end, there's just this bigger number of fifty (50) points, correct?

A. Well, I dispute it's a bigger number because most utility witnesses come well over. A hundred (100) basis points.

Q. [337] Well, let's say it's a big number for Québec.

A. Well, you can say that. I wouldn't say that.

Q. [338] Okay. Now, again, looking at the evidence, and the suggested ROE in the last column is the addition of your simple or classic CAPM analysis that you've performed, would you agree again that, while we can find in your evidence references to DCF's and that you qualify those as reasonableness checks that in fact, you have never adjusted, up or down, your CAPM result to account for a DCF analysis, the suggested ROEs are always the result of RF plus B times MRP plus 50, if you add that, you always end up, except after two thousand ten (2010) when you have your additional adjustments, and we see this appearing in 2010-147, where you had some additional risk premium, your A-spread of twenty-five (25) to forty (40) points appeared in the 2011-182 case, and again in the Intragas case, we had your forty (40) point A-spread adjustment. Would you agree with my qualification that you have

never adjusted up or down your CAPM results based on this information that we have now before us?

(15 h 21)

A. No, I would not. The... if, I mean, clearly, the Operation Twist adjustment and the credit spread adjustment are adjustments to the CAPM, and clearly, my market risk premium adjustment has changed. Within that, you're absolutely correct, the fifty (50) basis points has basically been exactly the same, and the Beta coefficient I regard as point four five (0.45) to point five five (0.55) for the reasons I gave in my presentation this morning, that the historic was around point five (0.5) and so we ended up with this decade where utilities have really demonstrated their low-risk nature, and as a result the Betas are.

Q. [339] But, Mr. Booth, you said, twenty seconds ago, that your Operation Twist adjustment is an adjustment to the risk-free rate, correct?

A. That's right, it's an adjustment for other models, it's an adjustment for other things that are going on. If I was...

Q. [340] It's an adjustment for the risk-free rate, that's how you present it?

A. If I was going to do a simple CAPM analysis, as

I've done here, as I call it a simple CAPM analysis, you just use the forecast long Canada rate, you use the Beta, and you use the market risk premium, and you come up with estimates that I don't regard as being reasonable, for the reasons that I give. So I look to other evidence, I look at the Discounted Cash Flow, I look at Operation Twist, I look at credit markets, for my judgement added to a proper fair ROE estimate.

Q. [341] Mr. Booth, did you not say, a few minutes ago, that your Operation Twist adjustment is an adjustment to the risk-free rate which has been recognized by the Board as necessary to account for historically low interest rates?

(15 h 24)

Me GUY SARAULT :

Je pense que maître Dunberry, on est un peu en train d'induire le témoin en erreur. C'est vrai qu'il a dit tantôt que l'opération Twist était un ajustement au « risk free rate », mais ce qu'il vient de dire c'est qu'il a apporté des ajustements à son CAPM. Le CAPM c'est l'ensemble de l'exercice qui comprend le « risk free rate », alors on est en train d'induire le témoin en erreur, dire « Vous vous contredisez » alors qu'on le cite

incorrectement.

Me ÉRIC DUNBERRY:

Q. [342] Mr. Booth, I would like to refer you because someone else asked you the same question, I believe, I would like to refer you to a decision that was rendered in Newfoundland some not long time ago.

Me GUY SARAULT :

Quel onglet?

Me ÉRIC DUNBERRY:

It's not in the book, I just gave it to you. Me

GUY SARAULT :

O.K.

Me ÉRIC DUNBERRY:

Q. [343] Now Mr. Booth, this is a decision to which you...

Me GUY SARAULT :

Un petit instant, je ne l'ai pas.

Me ÉRIC DUNBERRY :

Q. [344] J'en ai distribué. J'en ai vingt (20). Ça disparaît rapidement.

Me GUY SARAULT :

O.K.

Me ÉRIC DUNBERRY :

En voilà une.

Me GUY SARAULT :

Merci beaucoup.

Me ÉRIC DUNBERRY :

Q. [345] Je vais augmenter, Monsieur le Président, je suis désolé, je vais augmenter à trente (30) parce que... Mr. Booth this is a decision to which you refer in your PowerPoint presentation. It's actually on the last page, that's why it was delivered to me this morning and if you look at page 25, sorry, it's not page 25, it's page 22. Now, if you look at the risk free rate, second paragraph,

Dr. Booth also forecasts the long-term Canada bond yield to be about 3.0% but determines a base adjusted long-term bond yield of 3.8%. He believes that the forecast long-term Canada bond yield is well below any equilibrium yield since it is only 1.0% above the forecast inflation rate and that it would result in a negative real yield for a typical taxable investor. Dr. Booth states that he regards any long-term Government of Canada bond yield below 3.8% as indicating abnormal

capital market conditions and not reflective of a risk vs return trade off by ordinary investors. He explains that the forecast low long-term bond yield reflects an action the actions of global policy makers and central banks and should not directly influence the fair rate of return for Newfoundland Power. Dr. Booth adjusts the long-term Canada bond yield upward by 80 basis points which he estimates is the approximate impact on the United States Operation Twist on the Canadian bond market.

Now this is what you said to me a moment ago, this is what you said in Newfoundland, your Operation Twist adjustment is an adjustment to the risk free rate and is not an adjustment to take into account other models and, for that, I would refer you to your presentation this morning where you tried hard to make this. Page 27, Monsieur le Président, of the PowerPoint presentation of Mr. Booth, of his PowerPoint presentation this morning.

A. I do have a copy, yes.

Q. [346] Now, Mr. Booth, while elsewhere, and in your

own report, and I can quote you again, you took the view that your Operation Twist adjustment was an adjustment for the risk free rate in your CAPM. You're now trying to spin it differently, you are now trying to spin this before this Board as an adjustment for other models because you are heavily criticized for not making adjustments to other models, so you've taken the decision to present your Operation Twist adjustment not as an adjustment to the risk free rate but as an adjustment to account for other models because this is one thing you want to try to convince us you are doing.

A. That is totally incorrect Mr. Dunberry.

Q. [347] I am not...

A. It's a completely inappropriate reading of my testimony. And if you look at my testimony, you see that I go to the capital asset pricing model, starting on page 29 when I talk about risk premium models, I go to the capital asset pricing model and I go through and discuss the alleged drawbacks of the capital asset pricing model, I talk about the support for the capital asset pricing model and on page 34, I derive my simple capital asset pricing model estimates. Those are the estimates that would

be consistent with an application of the capital asset pricing model used in the current long Canada yield forecast using the risk premium model and using the market risk premium and using the Beta coefficient.

That is the same capital asset pricing model estimate. Six point three five (6.35%) to seven point four percent (7.4%). If you then read the subtitle, it says, do you use this simple CAPM estimate for your recommendation? And I then go on to spend the next, let's see how many pages, I talk about the Régie's standards, I talk about the evidence on credit spreads and why that required a credit spread adjustment during the financial crisis, which leads to the credit spread adjustment. I then go through on page 39 I think it is, to refer why is this credit spread adjusted CAPM an underestimate at the moment? I then go through to talk about the relevance of taxes, the preferred share market and I go through and talk about the impact of Operation Twist.

Q. [348] Now...

A. So the logic - no, just to correct your misstatement because it was quite an important misstatement because I know where you're going with

this and the fact is, my simple CAPM estimate is six point three five (6.35%) to seven point four (7.4%), I then make an adjustment for two other models. I make, and it's very clear in my evidence in which this is developed. And it's developed in an identical manner to the way in which I presented it before the Régie this morning. So to imply that I'm trying to do something that I'm not trying to do, really is not appropriate.

Q. [349] Now...

A. When you read my... No, hold on. When you read my testimony, you will see where those adjustments come from. They come from the credit spread adjustment and they come from the Operation Twist. It is absolutely correct to the Operation Twist adjustment is an adjustment to the long Canada yield in order to get it to what I would regard as a more equilibrium yield. It is not a simple application of the capital asset pricing model. It's looking at other models in order to make an adjustment to the capital asset pricing model. So, it's preferably appropriate to put it in. Where isn't the narrative of my evidence as an adjustment for other models).

In two thousand and nine (2009) I think it

was, or two thousand and seven (2007) before the Régie, I did an adjustment for other models based upon the two factor models that I presented at that time. That was part of my evidence at that time, an adjustment for other models. In this time, I'm looking at adjustment based upon quite obvious features in the capital market to adjust my CAPM estimate.

Q. [350] Page 44 of your report, Mr. Booth, you take the following position. Page 44, lines 9 to 11,

With the current 3.60% forecast long Canada yield, the addition of my 0.35% Operation Twist adjustment means an effective long Canada yield, absent Twist, of 3.95% or a 0.15% increase over my forecast for Intragas.

A. That's correct.

Q. [351] Is that...

A. That's exactly what I'm saying. I do not accept the kind of long-term forecast of the long Canada bond yield as being an equilibrium interest rate. I would not base any risk premium on that which is why I go through the CAPM and then I make adjustments, these two adjustments that I've made consistently for the last two years.

Q. [352] Now, you're aware, Mr. Booth, that this Régie, that you have often quoted in your report, makes an adjustment for the risk-free rate, the corporate bonds, other models and, in the case of Gaz Métro, a higher relative risk. These are four different adjustments.

A. That's correct.

Q. [353] The adjustment for other models and the adjustment that the Régie has made in the Intragas case for a BCF model, we saw the quote a moment ago. Would you agree with that?

A. I agree that's what the Régie did and if my memory serves me correct, when I presented a two factor model to the Régie, the Régie talked about that as well.

Q. [354] Correct. So is it not a very simple fact that your Operation Twist adjustment is an adjustment to the risk-free rate which is too low, your A spread adjustment is an adjustment to the market risk premium, which is too low, and for your DCF, and we look at page 52, we don't see any addition or subtraction of numbers for your DCF, there is no adjustment. You make no adjustment for your DCF results. You make an adjustment for the Operation Twist, for the market spread but you don't make an

adjustment for your DCF because, look at page 52 and tell me where is the adjustment?

A. The adjustment for the Operation Twist comes out of my analysis of the discounted cashflow model based upon the market return, using DCF, and based upon the risk premium model. So that's what caused me to look at the adjustment for other models so the market risk premium is also informed by my long run return on the capital market that's included in the appendix that deals with where I come, where I get my market risk premium estimate from.

Q. [355] Do you contest my statement that your corporate spread adjustment is an adjustment to the market premium?

A. Yes, it's never, it was never, I mean, the market risk premium is, the market risk premium is a long run relationship between equity and bond returns. What I, the market, what the credit spread adjustment does is turn the fair rate of return into something conditional on the state of the capital market. You can take that and put it into the market risk premium if you want, and it does go in there, as I've indicated, in the analysis, I think it was of the TD securities, you can put it in the market risk premium. But there's a

difference in historic market risk premium estimates, which I've got in Appendix B, and making a more conditional... in the capital market.

Q. [356] Now let's go back to the Newfoundland decision, because you there again took a position which is not consistent, I submit to you, with what you're telling us today. Page 25 of that decision, which is again very recent, you express the following, and this is on page 25 of the decision,

The experts recommend a range of market premium of 5.5% to 8.0% for the capital asset pricing model. Mr. MacDonald [...]

and then, third line,

[...] Dr. Booth agrees that the market risk premium is approximately 5.5% but adds a credit spread premium of 80 basis points for an effective market risk premium of 6.3%.

Now do you contest this characterization of what you...

A. Absolutely, it's not correct. First of all, I've never added a credit spread adjustment of eighty (80) basis points, I think they're referring to the Operation Twist adjustment...

Q. [357] No.

A. ... so never have I testified for a credit spread adjustment of eighty (80) basis points.

Q. [358] I think what they're doing is exactly what the Régie is doing, it's applying the Beta to your market risk premium, eighty (80) basis points times your Beta of point five (0.5), which gives five... forty (40) points.

A. I have not... well, they might be doing that, but that has nothing to do with what I testified, I certainly didn't testify for a credit spread adjustment of eighty (80) basis points, and there's nothing in this to indicate that's what the Newfoundland Board of Commissioners did. Now I think they simply misrepresented...

Q. [359] Misunderstood you?

A. No, I think they just, somebody just wrote this up, and instead of saying "Operation Twist", they said "credit market premium". And if you take the Operation Twist adjustment of eighty (80) basis points, then it makes sense that five point five percent (5.5%) is a market risk premium under normal markets, if the interest rates are eighty (80) basis points lower than they should be, then adding the two together gives six point three

percent (6.3%). And I think I testified before the National Energy Board to that effect as well.

Q. [360] Now while we're...

A. So this is totally wrong, Mr. Dunberry, I'm afraid. Sometimes...

Q. [361] You mean the decision that I read is an improper characterization of your evidence?

A. It is an improper characterization, I have never used...

Q. [362] We have the actual evidence that you delivered, Mr. Booth.

A. Okay, good, I did not use a credit spread premium of eighty (80) basis points. Because that would imply a hundred and sixty (160) basis point spread on the bond yields, above the normal spread of a hundred (100), which would mean that at that point in time, A-bond yields were two hundred and sixty-five (265) more than long Canada, and that was not the case a year ago.

Q. [363] Let's continue our review of your evidence, Mr. Booth, and we'll come back to this tomorrow morning. Well, actually, before tomorrow morning. If you look at the next page, Mr. Booth, we have the summary of your evidence across... now this goes back to your presentation of evidence in

Ontario in two thousand seven (2007) and eight (2008), up to the last decision that we have on the record there, it's the Newfoundland decision.

A. What page are we on, Mr. Dunberry?

Q. [364] We're on page, Table 2, pages 1, 2 and 3, there are three pages for Table 2. Now when we look at this table again, Mr. Booth, we find that, for instance, for your Beta value elsewhere than in Quebec, you have used point five (0.5) very consistently until two thousand ten (2010), where you moved to a range of point forty-five (0.45) to point fifty-five (0.55), and this is the range you've maintained all these years, correct?

A. That's correct, point five (0.5) is in the middle of the range of point four five (0.45) to point five five (0.55).

Q. [365] That's right. Now for your market risk premium, again, we find that your value has always been between five (5.0) and six (6.0) all those years?

A. That's correct. Originally, it was five percent (5.0%), and I started increasing it to a range of five to six percent (5.0-6.0%), with a mid point of five point five (5.5).

Q. [366] Alright. And for your flotation costs, again,

fifty (50) points elsewhere, that has always been your recommendation?

A. That's correct.

Q. [367] And you've also introduced, as we can see here, in two thousand twelve (2012), your Operation Twist adjustment, under the column "Risk Free Rates", in Newfoundland in two thousand twelve (2012), you introduced a three percent (3.0%) plus point 0 eight percent (0.08%), that is your O.T., Operation Twist, for two thousand twelve (2012), and you suggested that for two thousand thirteen (2013), it could be three point five (3.5), plus point 0 eight (0.08), do you recall that?

A. I recall the three percent (3.0%) plus point eight (0.8), I don't recall...

Q. [368] This is your standard Operation Twist eighty (80) points, correct?

A. Well, it was a standard operation, eighty (80) basis... Oh! I think that was because that was for two test years, two thousand twelve (2012) and two thousand and thirteen (2013).

Q. [369] Yes. And you've also introduced your A-spread, or your corporate spread adjustment, in Alberta and in Newfoundland, and we see this as a forty (40) point adjustment, and there is this

eighty (80) points, and I think the confusion is that the application of your Beta value, it's eighty (80) points times the Beta value, as the Régie has done in its own decision. So it is probably a forty (40) adjustment, forty (40) point adjustment when it's factored by the Beta values and that was the point we were discussing. But my question...

(15 h 40)

A. I don't think that's correct. I think they just use the eighty (80) basis point for Operation Twist because that's what we talked about. We didn't talk about beta or adjusting credit spreads. This is something you are implying in the decision. And unless I see something in the transcript or something in the decision, I don't think that interpretation is correct.

Q. [370] Yes. Now my suggestion to you, Mr. Booth, again, is that if we go through all these cases, at the end of the day, the recommended ROE is always the simple addition of your CAPM variables. It is always the simple addition of your CAPM variables plus, more recently, an adjustment to the risk free rate that you call Operation Twist and an adjustment to the market risk premium that you call

a credit spread adjustment. Would you agree with that?

Because we can do the math.

A. Yes.

Q. [371] But if you get your calculator out, you will always end up with your recommended ROE as being exactly the application of your CAPM with these two adjustments starting in two thousand eleven (2011).

A. I would say that's, in terms of my testimony, the last five years I've said, in fact, the last fifteen (15) years, I've said repeatedly that the differences in the risk, business risk, between different utilities in Canada should be adjusted in the common equity ratio. And as a result, once you get the common equity ratio to adjust for differences in risk, you should then allow a generic ROE. So while you are looking at this and saying "Well, they're all the same." that's absolutely correct because we're looking at a benchmark ROE for a generic utility with a business risk of the utilities set within the capital structure. So that's absolutely correct.

Q. [372] So...

A. Secondly, in terms of the capital asset pricing model, the, as I've said repeatedly, I do DCF analysis on the market, I do CCF analysis in

regulated utilities in the United States, I've got a whole appendix on that and that analysis goes in to inform my judgement of what is reasonable or not. If I'd found something substantially different, then I would have had to do four other analysis and think about an adjustment to the models. That is what happened when I did my DCF analysis two and a half year ago...

Q. [373] Yes.

A. ... and I decided that the Operation Twist required an adjustment in terms of the market. And then exactly the same when I looked at credit spread adjustments, that was an adjustment to the fair ROE to make it more sensitive to the business cycle.

Q. [374] Are you now suggesting that your credits spread adjustment is the result of a DCF analysis?

A. No, no, I didn't say that. I said I'll look at other things. You seem to want to pigeonhole things into "This is entirely CAPM". It is not. My judgement is not entirely CAPM. My judgement is informed by the discounted cash flow, by my understanding of economic conditions, by the CAPM, by the analysis of Keynes and Bogle in terms of the investment rate of return and the speculative rate of return. All of these factors go into my

assessment of what is a fair rate of return.

Q. [375] Now...

A. I cannot see anything that causes me to deviate from a five (5) to six percent (6%) market risk premium as a long run risk premium. The relative risk of the utility, point four five (.45) to point five five (.55), regardless of how much DCF analysis or other analysis I do in other markets, what I can see is that in order to make the estimates more sensitive to the business cycle and to take out the impact of Operation Twist, we have to make two further adjustments for other models. And that's exactly what's in my testimony.

Q. [376] Mr. Booth, I would like you to take a copy of the document appearing at tab... Oui, oui, je reviens. Tab 3. This is a presentation you made, Mr. Booth, some time ago, "Utility Regulation: The view of an Intervener Expert". This is you, I assume. The intervener expert is you?

A. They were asking what's the view of an intervener when they look at this.

Q. [377] Is it a fact that you always intervene on behalf of consumer groups? We see this from table 1 and 2.

A. No, I also represent...

Q. [378] For consumers.

A. I also represent the board in many cases, before the Nova Scotia Utilities Review Board, I represented the Board. And I've represented board witnesses elsewhere.

Q. [379] When you look at table 1 and 2, if you back to tab 1...

A. If Hydro-Québec wants to hire me to present testimony, I am perfectly willing to do that.

Q. [380] If you look at table 1 and table 2, Mr. Booth.

A. Yes.

Q. [381] We have a list of the sponsors. That's why you call yourself and intervener's expert. If we look at the list of sponsors.

A. No, this was not... Let's correct this.

Q. [382] Okay. That's just what I want.

A. RBC Dominion Securities asked me to come in and explain what interveners were doing in rate hearings and what they were looking at in terms of the fair ROE for utilities. So I was asked by RBC's financial analysts to come in and give a presentation to their corporate clients which is exactly what I did.

(15 h 46)

Q. [383] Now...

A. Why that start... why it's startled, an intervener expert.

Q. [384] When did you deliver this presentation?

A. I can't remember. I think it was June, during the depth of the financial crisis in, I think it's in two thousand and nine (2009), summer two thousand and nine (2009)?

Q. [385] Okay.

A. But you know better than I do.

Q. [386] No. In the middle the crisis... Could you turn to page 27, there's a little tab because the pages are not numbered so, Messieurs les Régisseurs, there's a little tab. You have done in this presentation what you call a quick and dirty, which is your quick and dirty CAPM. You see this on page 27? There's no number but there's a page there that starts with "quick and dirty CAPM".

A. Probably Mr. Dunberry, you've referred to this before, so I know it's here somewhere.

Q. [387] It's somewhere... There it is.

A. Yes, I have this.

Q. [388] Yes, okay. So, I'm looking at your very detailed comprehensive financial analysis for which you've been retained, and then I look at what you

delivered as a "quick and dirty CAPM" to a number of invited guests, and when I look at this, I look, at the end of the day, your "quick and dirty CAPM" is very much identical to your highly sophisticated detailed CAPM following what you call a financial and market outlook analysis.

At the end of the day, you recommend the exact same number, which is seven point five percent (7.5%) and you essentially use the same variables that you've been using across Canada for many, many years now, except for the long Canada forecast which you now adjust with an Operation Twist to get it back to four point five (4.5%), which is the number you've been using for so many years, and we find that your "quick and dirty CAPM" is what we have today in front of us, the seven point five (7.5%) recommended ROE. Now, do you, I understand that in your report, you do a complete detailed financial outlook, but at the end of the day, it doesn't change anything in your recommendation. You do the analysis but you come up exactly with the same number across the country, from Vancouver to Newfoundland, across two financial crisis, from two thousand seven (2007) to two thousand thirteen (2013). Could you explain

that to us?

A. Exactly. I thought I just did. The point of this is always to look at what a generic or benchmark ROE is. And I recommend that the utilities business risk effect is capital structure and the result is they can reward a generic ROE. So, the ROE should be exactly the same. It should be exactly the same for the BCUC utilities, it should be exactly the same for Newfoundland Power, it should be exactly the same for benchmark utility, and then the business risk analysis adjust for the differences.

Q. [389] So when people hire...

A. Let, let me finish.

Q. [390] Yes, please, go ahead.

A. So when we look at HQT and HQD, it's a common equity ratios of thirty (30%) and thirty-five percent (35%) that adjust for the differences in risk. Why are such adjustments are made, which are standard recommendations that I make? They can get a generic ROE. It's not surprising at all that the ROE is exactly the same which is what it should be.

Q. [391] So Mr. Booth, what we have today in front of us is your generic ROE or your "quick and dirty ROE". This is what we have today, correct?

A. You have my generic ROE and you have my business

risk assessment and I accept the recommendations for thirty (30%) and thirty-five percent (35%) which...

Q. [392] Now...

A. ... means that the fact that HQ is a lower-risk utility is reflected in the common equity ratios.

Q. [393] Now Mr. Booth, we saw a moment ago that you did not perform a risk analysis, that you relied on Mr. Charest's risk analysis.

A. No, I said I was informed by Mr. Charest. I always have said that I looked at the ability to earn the ROE as part of the short run risk of the return on capital, and I looked at the competitiveness of electricity in Québec versus other provinces to assess the return of capital.

Q. [394] So, Mr. Booth, when you...

Me GUY SARAULT :

Un petit instant s'il vous plaît. Me

ÉRIC DUNBERRY :

Oui.

(15 h 49)

Me GUY SARAULT :

Encore une fois, je pense qu'on induit le témoin en erreur quant à ce qu'il a dit dans ses réponses. Je pense qu'il a précisé qu'il avait un « Appendix »

de son rapport qui traite précisément du risque à un niveau plus élevé que celui du rapport de monsieur Olivier Charest. Alors quand il dit qu'il n'a fait aucune analyse de risque, c'est tout à fait faux.

Me ÉRIC DUNBERRY :

Q. [395] Now, Mr. Booth, you made...

Me GUY SARAULT :

Maître Dunberry, je vous serais gré de faire attention.

Me ÉRIC DUNBERRY :

Les transcriptions parlent d'elles-mêmes, Maître Sarault.

Q. [396] Mr. Booth, I would now ask you to take a second presentation that you also delivered, this time to CAMPUT in two thousand eleven (2011). This is a second presentation, it is without page numbers again, I apologize, I may... hopefully, I put some stickers, if not, I apologize.

It's... if you turn the page, you will eventually arrive, well, this one is easy, it's almost at the... well, no, it's not... it's one... the title is, "Summary of a Fair ROE." So this was two years after, if I understand, in two thousand eleven (2011), and then we have your fair ROE

across the country, we have the same four point five (4.5) yield, we have the same five (5.0) to six (6.0) market risk premium, we have the same point forty-five (0.45) to point fifty-five (0.55) Beta value, and we have the same flotation costs, for your overall fair ROE about seven point five (7.5).

Now I understand that this is your generic ROE, Mr. Booth, is that correct?

A. That's correct.

Q. [397] Okay. Now when someone hires you to deliver evidence, they know that your position is that across Canada, all utilities should ask the exact same ROE, which is a generic ROE, and that adjustment to risk should be made with capital structures, right?

A. That's what I've been recommending for the last twenty (20) years, correct.

Q. [398] Okay. So in a case like ours, where there is no discussion, because it's not on the agenda, about the capital structure, it's just a ROE, there is no discussion in this case about capital structure, what you have delivered to the Board here is your generic ROE that you've been delivering everywhere else, correct?

A. Well, subject to the caveat, as I mentioned, I always recommend thirty percent (30%) transmission, thirty-five percent (35%) distribution, and I look to the risk of HQT and HQD in terms of the short and the long-run risk, and that confirmed that these are very low-risk utilities, and those common equity ratios are appropriate.

Q. [399] Now tell me, what is the point of providing the Board with a very detailed, what you call a financial and economic outlook, with all sorts of charts, and we saw this morning all sorts of charts, if, at the end of the day, you end up always with the same CAPM, which is your personal view of where Canadian utilities should be, which is between seven (7.0) and eight (8.0)?

A. No, that's not correct, Mr. Dunberry. The analysis of the financial and economic outlook is required, because the legal definition of the fair rate of return stems from changed conditions in the capital market. If you do not consider those things, you're not matching the requirement in Canada for what is the fair rate of return.

So I would say, first of all, that's necessary, it's not sufficient, you have to look at what the recommendations are, and then work out

whether those were fair recommendations. My recommendation is seven point five percent (7.5%) because I'm making an Operation Twist adjustment, which is clearly evident in the spreads on the preferred and the As, and because I'm making a credit spread adjustment; that was not evident in two thousand and nine (2009) when I did a presentation to RBC, and it wasn't evident in the CAMPUT 2011.

And actually, Mr. Dunberry, if you'd looked at my... and this, incidentally, was, CAMPUT asked me to give the... the expert ROE analysis; there's a simple ROE analysis, and I was asked to give the expert one...

Q. [400] Now...

A. Hold on, and I gave it in two thousand and twelve (2012) and two thousand and thirteen (2013). And you might be surprised to find that I recommended seven point five percent (7.5%) as the ROE for two thousand and twelve (2012) and two thousand and thirteen (2013). And if you want, I can send you the updated...

Q. [401] Would you agree, Mr. Booth, that when we appear before a court or a board, the question is to do something fair, based on evidence, based on

interventions, based on the conditions of the market at the time of the hearing, now what's the purpose of all of this exercise of presenting evidence, updating information, filing six thousand (6,000) pages of financial data and market data, if, at the end of the day, what you consider fair is very easy, it's your personal view that it should be between seven (7.0) and eight (8.0)...

A. Well, first of all...

Q. [402] ... do you use the word "fair" as in fair return standard?

(15 h 55)

A. I used the return here as fair return standard.

Q. [403] Okay.

A. And secondly, it's not my opinion, Mr. Dunberry, it's based upon the facts in terms of the evidence market risk premium. It's based upon the factual basis in terms of what TD Economics, RBC and thousands of analysts have said it is a reasonable market risk premium and a reasonable rate of return.

I look at these things and the Régie, like any board, wants to look at judgement but it wants to look at judgement constrained by the facts. Now the facts are the overall return on the market is

about nine percent (9%) which means the fair rate return for the utility is less than nine percent (9%) because it's a low risk utility. I provide all of that evidence and I do it for two reasons. First of all, Mr. Dunberry, you're lawyer. You know very well that any decision has to be based upon the evidence before the Board so it's a question of is there evidentiary basis for the decision. And I provided the evidence.

This was brought home to me in an Ontario Energy Board hearing in the mid-nineteen nineties (1990s) where my late colleague and I filed testimony for, I think it was Union Gas, and then because the Enbridge Gas, as it then was Consumer Gas, hearing was about three months later, we attached the Union Gas testimony as an appendix and we got shellacked by the utility for saying "We're Enbridge, we're not Union Gas." and basically we were told we had to re-file all of our evidence all over again because you cannot just file simplified return.

The board has to make the decision based upon the evidence in front of it. That's what I've been told repeatedly by lawyers. If you ask me how difficult this is, I would have to say this is not

very difficult. Apart from being cross-examined, it's absolutely clear what the market long term interest rate is, it's absolutely clear what the market risk premium is, and the fact that we're dealing with low risk utilities. This is something that my undergraduates do in a very short period of time. This is not a difficult problem. And it is a quick and dirty, the quick and dirty happens to be correct. Okay?

Q. [404] That answers my final submission, Mr. Booth.

A. Well, fine. This is not... Look, I deal with a lot of difficult financial problems involving difficult issues. This is not one of them.

Q. [405] Now, at the end of that prognosis, and I think you've been on a mission for a while now. At the end of your Power presentation...

A. Well, that's because you have been saying things that are clearly incorrect.

Q. [406] At the end of our presentation, you said the following to CAMPUT, so CAMPUT is, you know, all the regulators

All along...

And this is your last conclusion.

All along can we have widely divergent ROEs for similar risk utilities in

Canada.

Would you consider that, you know, Enbridge, Union, Newfoundland, Labrador, BC Hydro, Hydro-Québec, they're all the same risk across Canada?

A. That is clearly the objective of the regulator. I mean, clearly, when you look at, I mean, come back to the infamous hot tub, I mean, I was involved with Union Gas and Enbridge Gas hearings and the specific objective of those hearings was to set the capital structure based upon the business risk so they could see a generic ROE. The Utilities Commission considered this in two thousand four (2004), again in two thousand nine (2009), two thousand eleven (2011), I think, and I think they're actually looking at it yet again.

Q. [407] Now, last question, Mr. Booth.

A. So this is the standard approach in Canada, Mr. Dunberry...

Q. [408] Well...

A. ... which is to assess the business risk, the capital structure to offset that business risk and give a generic ROE.

Q. [409] You are now in Quebec, Mr. Booth, and we have our own case law in Quebec. Could you take table 1, table 2 and table 3. Now, from two thousand eight

(2008) to two thousand thirteen (2013), this is my last question, you would agree that we went through one of the worst financial crisis since the Great Depression, I think you wrote that in your report, would you agree?

A. Absolutely. The United States still hasn't really recovered from the Great Depressionn.

Q. [410] Yes. Now when you look at your final recommended ROE, it's more or less the same, right? It's always seven point five (7.5), seven point five (7.5), seven point seventy-five (7.75). It's always between seven (7) and eight (8), notwithstanding the fact that we went through two major financial crises, would you consider the second one being the European debt?

A. I consider that really there's three crises, Mr. Dunberry. The first one was the subprime crisis causing the stock market crash in the United States which went around the world.

Q. [411] And when was that? That was two o eight (2008), two o nine (2009).

A. That was October two thousand and eight (2008), the market bottomed out in March two thousand and nine (2009). So there was a stock market crash, which was the first drop.

The second drop was the real economic crisis that followed from the collapse in business confidence and the collapse in house prices and equity prices in the United States. That led to the recession, particularly in the United States.

The third leg was the sovereign risk crisis because the drop in tax revenues, particularly for the European countries, meant that they ran deficits and the debt increases a percentage of the GDP, which meant that for the countries that were part of the euro, they couldn't just print more euros in order to bail themselves out of the financial crisis.

Q. [412] And would you say that all these crises impacted the North American financial markets?

A. Yes, I would say that it's quite clearly...

Q. [413] Okay.

A. ... the euro crisis has delayed the recovery and the United States, I mean, we export a lot to the United States and two years ago we thought we were recovering and when I say "we", the Bank of Canada thought we fully recovering and by now we'd be back to full employment. The failure of the United States to basically sort out its budget problems has delayed the recovery in the United States and,

as a result, we are basically plateauing, we're not quite at full employment yet, there's still some space to grow in Canada.

Q. [414] Thank you Mr. Booth. Monsieur le Président, il est quatre heures (16 h 00), nous avons eu une journée remplie. Nous serons de retour demain à neuf heures (9 h), ou avant si vous le souhaitez.
(16 h 01)

LE PRÉSIDENT :

Peut-être avant. En fait, on a pensé à huit heures trente (8 h 30) pour demain matin.

Me ÉRIC DUNBERRY :

Nous serons là.

LE PRÉSIDENT :

Vous serez là. Maître Sicard. Me

HÉLÈNE SICARD :

Deux petites choses. Si maître Dunberry pouvait peut-être nous donner une indication combien de temps il en a encore demain matin. Et la deuxième chose, j'ai remarqué que bien qu'il ait vingt (20) copies, de la façon comme il les distribue à ses clients, puis les intervenants n'en ont pas, il nous l'a dit, mais s'assurer que s'il doit déposer des documents demain que les intervenants puissent avoir des copies et non pas les consulter dans deux

jours quand elles seront sur le SDÉ. Mais pendant le contre-interrogatoire, ce serait apprécié.

Merci.

Me ÉRIC DUNBERRY :

Nous serons armés de papier demain, Monsieur le Président. Je vais déposer les quelques documents que j'ai utilisés, si vous me permettez, ou je peux le faire demain, parce que je vois l'heure avancer. LE PRÉSIDENT :

Et vous prévoyez combien de temps demain? Me

ÉRIC DUNBERRY :

J'ai un interrogatoire qui va se poursuivre probablement pendant... j'avais annoncé trois heures, trois heures trente, là. J'en ai encore pour une heure et demie, deux heures maximum. Je dirais que j'en ai encore pour un certain temps. LE PRÉSIDENT : D'accord. Demain matin huit heures trente (8 h 30). Me

ÉRIC DUNBERRY :

Et j'ai des questions pour monsieur Charest, je dois dire. Donc, il faut revenir un peu à ça. LE PRÉSIDENT :

D'accord. Donc, la Régie va suspendre ses audiences jusqu'à demain matin huit heures trente (8 h 30).
Merci.

R-3842-2013
4 novembre 2013

PANEL AQCIE/CIFQ
Contre-interrogatoire
Me Éric Dunberry
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AJOURNEMENT

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