

RÉGIE DE L'ÉNERGIE

DEMANDE CONJOINTE RELATIVE À
LA FIXATION DE TAUX DE RENDEMENT
ET DE STRUCTURES DE CAPITAL

DOSSIER : R-4156-2021 PHASE 2

RÉGISSEURS : M. JOCELIN DUMAS, président
Me LISE DUQUETTE
Mme ESTHER FALARDEAU

AUDIENCE DU 16 JUIN 2022
PAR VISIOCONFÉRENCE

VOLUME 4

CLAUDE MORIN
Sténographe officiel

COMPARUTIONS :

Me LOUIS LEGAULT
Me AMÉLIE CARDINAL
avocats de la Régie

DEMANDERESSES :

Me MARIE-PIER CLOUTIER
Me PATRICK OUELLET
avocats d'Énergir

Me ADINA GEORGESCU
avocate de Gazifère et de Intragaz

INTERVENANTS :

Me PAULE HAMELIN
avocate de l'Association des consommateurs
industriels de gaz (ACIG);

Me STEVE CADRIN
avocat de l'Association hôtellerie Québec et de
l'Association restauration Québec (AHQ-ARQ);

Me ANDRÉ TURMEL
Me GAËLLE OBADIA
avocats de la Fédération canadienne de l'entreprise
indépendante (FCEI);

Me ÉRIC McDEVITT DAVID
avocat de Option consommateurs (OC).

TABLE DES MATIÈRES

	<u>PAGE</u>
LISTE DES ENGAGEMENTS	4
PRÉLIMINAIRES	5
PREUVE DES DEMANDERESSES - PANEL 5 (suite)	
Dre BENTE VILLADSEN	
CROSS-EXAMINED BY Me PAULE HAMELIN	6
EXAMINED BY Me LOUIS LEGAULT	41
RE-EXAMINATION BY Me PATRICK OUELLET	67
VOIR-DIRE - Dr. ASA HOPKINS	
Dr. ASA HOPKINS	
CROSS-EXAMINED BY Me ADINA GEORGESCU	114
REPRÉSENTATIONS PAR Me PAULE HAMELIN	148
REPRÉSENTATIONS PAR Me ADINA GEORGESCU	160
RÉPLIQUE PAR Me PAULE HAMELIN	173
SUPPLIQUE PAR Me ADINA GEORGESCU	177
DISCUSSION	178

LISTE DES ENGAGEMENTS

PAGE

E-4 EGI: File the parameters of scenarios 1 and
2 of the CAPM update of May, 2022 65

1 L'AN DEUX MILLE VINGT-DEUX (2022), ce seizième
2 (16e) jour du mois de juin :

3

4 PRÉLIMINAIRES

5

6 LA GREFFIÈRE :

7 Protocole d'ouverture. Audience du seize (16) juin
8 deux mille vingt-deux (2022) par visioconférence.
9 Dossier R-4156-2021 Phase 2 : Demande conjointe
10 relative à la fixation de taux de rendement et de
11 structures de capital. Poursuite de l'audience.

12 LE PRÉSIDENT :

13 Bonjour. Alors, on est prêt à poursuivre avec les
14 questions de maître Hamelin.

15 Me PAULE HAMELIN :

16 Oui. Bonjour, Monsieur le Président.

17

18 PREUVE DES DEMANDERESSES - PANEL 5 (suite)

19

20 IN THE YEAR TWO THOUSAND TWENTY TWO, on this
21 sixteenth (16th) day of June, PERSONALLY CAME AND
22 APPEARED:

23

24 Dre BENTE VILLADSEN,

25

1 WHO, under the same solemn affirmation, doth depose
2 and saith as follows:

3

4 CROSS-EXAMINED BY Me PAULE HAMELIN :

5 Bonjour, Monsieur le Président, Mesdames les
6 Régisseurs.

7 Q. **[1]** Good morning, Mrs Villadsen. So, I will
8 continue my cross-examination. First of all, I want
9 to -- ous, il me manque des pages. Ah. Excuse me.
10 Okay. Sorry. My pages were mixed. So, as a start, I
11 would like to maybe discuss the... the CAPM method
12 a little bit with you this morning. I will ask that
13 we turn to your evidence BV-4.9, page 18, and it's
14 the PDF page 157. Just a second. Perfect, thank
15 you.

16 So, this is your base thirty (30) year
17 Canada yield projection of 2.3, correct?

18 R. As of the time of filing, yes.

19 Q. **[2]** Okay. And then if we go to page 158, you
20 actually used a long-term risk-free rate of two
21 point four seven (2.47), so this is essentially
22 what we understand as a partial return to normality
23 adjustment, correct?

24 R. It is. When I use... when I use my risk-free rate
25 in combination with historical market risk premium,

1 I in part return it to normality. I do not use any
2 kind of adjustment if I use a forward looking MRP.

3 Q. **[3]** So, forward, no adjustment? Okay.

4 R. Forward, no adjustment.

5 Q. **[4]** So, apart from the fact that your evidence was
6 based on June twenty twenty-one (2021) markets and
7 Dr. Booth's early spring this year, you both agree
8 that the current and even consensus projections of
9 the thirty (30) year yield are not a good basis for
10 the CAPM estimates, correct?

11 R. We agree that you need to either consider a forward
12 look... I would say you need to either consider a
13 forward looking MRP or a forward looking risk-free
14 rate, we adjust it to somewhat of normality, I
15 would agree with that. I disagree with not looking
16 to forward looking projections.

17 Q. **[5]** Okay. So, looking at your BV-4.10, I would say
18 that another area of disagreement, would be between
19 you and Dr. Booth, is the use of the appropriate
20 beta or risk positioning measure, correct?

21 R. Yes. I believe you should estimate betas over
22 the... estimate betas over the most recent three
23 years of weekly betas. Dr. Booth does not get his
24 betas this way.

25 Q. **[6]** Okay. And it would also be the fact that you're

1 using adjusted betas, correct?

2 R. These are adjusted betas, yes.

3 Q. **[7]** Okay. So, and just to understand what you refer
4 to as the Bloomberg Betas, let's go back to your
5 report when you refer to the Blume adjustment, and
6 just as a step back, just so I understand correctly
7 and for everybody. So for the CAPM method is
8 essentially the determination of your risk-free
9 rate, the beta, and the market risk premium,
10 correct? So, as far as I understand well.

11 R. Yes.

12 Q. **[8]** Okay. That's the basis, right? So, with respect
13 to the beta that you used, I understand that you
14 have used historical betas obtained from Bloomberg
15 using weekly returns over a three year historical
16 estimation.

17 R. That's correct.

18 Q. **[9]** In footnote 41 of your report, you indicate
19 this concept of Blume adjustment and we can
20 probably go to your footnote 141 -- I don't have
21 the page, the PDF page.

22 Me PATRICK OUELLET :

23 It's page fifty... 65 of the report, I don't know
24 the PDF.

25

1 Me PAULE HAMELIN :

2 Okay.

3 Q. **[10]** Yes, it's page 65, question A60.

4 R. So, essentially, you indicate that Blume adjustment
5 is:

6 ... to improve predictive accuracy
7 relative to the use of raw historical
8 betas. Betas adjusted in this manner
9 are also reported by Value Line and
10 other investment services.

11 So, with respect to the historical betas from
12 Bloomberg, I just want to understand how it works.
13 Is it correct to say that Bloomberg is a data
14 provider that has software to assist an analyst?

15 R. That's correct.

16 Q. **[11]** So, to help the exercise, what we have done is
17 that we have file a redacted version of -- I would
18 call it a beta estimate if I may say -- and it's
19 Exhibit C-ACIG-0077.

20 Alors, Madame la Greffière, si c'était
21 possible de le montrer à l'écran?

22 So, we have redacted some portion of the
23 figure since this document is included in the
24 confidential information. If I understand correctly
25 how it works, someone can input all the various

1 informations, the dates, the frequency, the
2 intervals and the adjusted beta, correct? And I
3 should say the adjusted beta weight.

4 R. Yes. You can input the date you want to estimate,
5 so you can see this is two thousand five (2005) to
6 twenty twenty-one (2021), and you to make... look
7 at what frequency you want, you look at what years
8 you want, etc. So, you can input that, yes.

9 Q. **[12]** And also, on the line "Adjusted Beta Weight",
10 this is essentially...

11 R. You can adjust that, yes.

12 Q. **[13]** Okay. And the... with respect to the Blume
13 adjustment, is it correct to say that you set the
14 beta equal to one third (1/3) the average beta of
15 one plus two third (2/3) the actual estimated beta?

16 R. That's what the Blume adjustment does, yes.

17 Q. **[14]** Okay. So, Bloomberg itself does not publish
18 the betas, correct?

19 R. Bloomberg has a default estimation method.

20 Q. **[15]** No, but at the end result here, is it correct
21 to understand that you have essentially estimated
22 the monthly returns over five years, you have
23 estimated the beta weight, so it's based on your
24 judgement that you arrive with a Bloom... what you
25 call a Bloomberg data, correct?

1 R. This here was my settings, yes.

2 Q. **[16]** And that's what you've done for all those
3 estimates that you called Bloomberg data, correct?

4 R. Yes.

5 Q. **[17]** I refer you to Exhibit EGI-11, which is -- I
6 apologize for that. So, sorry, Monsieur le
7 Président, je m'excuse de...

8 Alors, I refer to an IR that was ask by the
9 Régie with respect to the Blume adjustment, so it's
10 Exhibit... Exhibit EGI-11. We don't necessarily
11 have -- well, we can go... Madame la Greffière, à
12 la pièce EGI-11.

13 LE PRÉSIDENT :

14 Pouvez-vous répéter la cote Régie?

15 Me PAULE HAMELIN :

16 Oui. C'est la cote EGI-11.

17 LE PRÉSIDENT :

18 B-0... B-0...

19 Me PAULE HAMELIN :

20 Ah, excusez... Oui. Oui oui, tout à fait. Pardon.

21 LE PRÉSIDENT :

22 Merci.

23 Me PAULE HAMELIN :

24 Q. **[18]** And we can go probably to page... the next
25 page. We see the question that was put by the

1 Régie. The Régie asked you if there were any
2 references to the effect that the Blume adjustment
3 procedure, in fact, to support your statement that
4 Blume adjustment is a routine procedure that has
5 been approved by regulators, and you have listed
6 here decisions where it has been approve or where
7 you indicate that it was discuss or approve.

8 Am I correct to say that there, like of all
9 what you've listed essentially, sometimes we do not
10 necessarily know what was the adjusted betas
11 source, but all the sources that I have seen here
12 are essentially Value Line sources, am I correct?

13 R. That would be true for most of them. I do not
14 believe that it's true for US Federal Communication
15 Commission.

16 Q. **[19]** And what would be the adjusted betas in that
17 case?

18 R. I believe the staff of the Federal Communication
19 Commission estimate their own betas.

20 Q. **[20]** So, is it fair to say that there are no... you
21 have not refer to any references sources with
22 respect to Bloomberg betas, correct?

23 R. I have not because in the US, it's generally not
24 discussed where... where you get your betas from.
25 Most regulators simply take their betas from Value

1 Line.

2 Q. **[21]** Okay. But is it correct to say that you do not
3 have any references supporting the use of Bloomberg
4 betas, correct?

5 R. I do not have any attempt, no, it's certainly true,
6 and it's also true that most just don't say where
7 they get their betas from, they make a decision on
8 what the ROE is. So, what I listed here is the ones
9 I know of that explicitly use adjusted betas.

10 Q. **[22]** And the ones that you've listed essentially,
11 except for the US one, are referring to Value Line,
12 correct?

13 R. They do, yes.

14 Q. **[23]** So, let's turn now to the... the report of Dr.
15 Booth and his betas. I'm referring you to his
16 Appendix C, so it's Exhibit C-ACIG-0040, at page
17 22. So, in this Appendix, we see a betas from, the
18 source is Yahoo. Are you aware about the, the
19 source Yahoo, is a source data from, well Yahoo is
20 in fact Capital IQ from Standard & Poors.

21 R. They obtain their, they obtain their raw data from
22 there, yes.

23 Q. **[24]** So if we look, let's say at Fortis, Fortis at
24 page 22. We see, if we can probably enlarge a
25 little bit, Madame la Greffière, the first one, so

1 Fortis. The second column we see beta in
2 parentheses, what I think is five years Monthly. So
3 this is essentially monthly returns over a five
4 years period. That's your understanding as well?

5 R. That's what they reported in. I do not know exactly
6 how Yahoo estimates their betas.

7 Q. **[25]** Okay. So if we were to do the exercise between
8 what you have in terms of beta and doctor Booth,
9 for instance, for Fortis, it's .77, Yahoo has .09.
10 Would that be, would that be correct?

11 R. That is the numbers reported, yes.

12 Q. **[26]** I'll do briefly the, the exercise with you for
13 the other ones. If I'm looking at Emera. You have a
14 beta of 0.74. We can scroll probably, yes, perfect.
15 And Yahoo and... has a beta 0.25. Correct?

16 R. Yes.

17 Q. **[27]** Okay. If we continue with the other... One is
18 Canadian Utilities. You have a beta of 0.96 and
19 Yahoo has a beta 0.56. If we continue on page I
20 think it's 23 we can see it. So this is still
21 correct?

22 R. That what the numbers are reported, yes.

23 Q. **[28]** Okay. And TC Energy you have 1 and Yahoo has
24 0.79. This is again correct?

25 R. That's the numbers reported, yes.

1 Q. **[29]** So, I said it was a last one, but the last one
2 is Enbridge. You have 0.92 and this time Yahoo has
3 0.94. So actually in this case you use a lower beta
4 for this one. Correct? You have a... the, the
5 numbers show...

6 R. I don't see Enbridge on the screen.

7 Q. **[30]** Okay. The next one I think.

8 R. O.K.

9 Q. **[31]** So, for this one it's... your beta was lower.
10 Correct?

11 R. That's correct. I would also point out that doctor
12 Booth also estimates his own beta which are much
13 closer to my betas.

14 Q. **[32]** Okay. Otherwise, in the, in the other cases
15 that I've referred to, the Bloomberg betas are
16 higher than the one I've, I've indicated to you?

17 R. They are higher than what it is reported on these
18 Yahoo's pages. I do not know how Yahoo got to their
19 numbers.

20 Q. **[33]** Okay. If we go to page 11 of doctor Booth's
21 Appendix C. And unfortunately, we cannot
22 necessarily show this, this page with your own
23 reference to all the betas which are at page 158 of
24 the PDF. We'll try to make the comparisons.
25 Generally speaking would you agree that the

1 estimates from his Appendix C are generally lower
2 than your Bloomberg betas?

3 R. I would agree that most of the estimates are lower.

4 Q. **[34]** If I take the example of Canadian Utilities,
5 you have a beta of 0.96. Doctor Booth's estimate is
6 at 0.58, sorry with a delta of 0.38. Again this is
7 a, this is as per your testimony those... you agree
8 with those figures?

9 R. I do.

10 Q. **[35]** It's what it shows, yes, okay. And, Emera you
11 are at 0.74 and doctor Booth's estimate is at 0.28.
12 Would you agree that is a significant difference?

13 R. There is a substantial difference for entities like
14 Emera and Fortis, yes.

15 Q. **[36]** If I go to your Bloomberg betas at page 158 of
16 your report. So the report is Exhibit B-0015.
17 Perfect. And we see at column 2, your Bloomberg
18 betas. If we, we don't see an average calculation
19 but we have done the average calculation and it is
20 0.9. Do you agree?

21 R. I agree.

22 Q. **[37]** Okay. Is it fair to say that it shows a trend
23 near one?

24 R. I would say 0.9 is not one. It's below one which I
25 would expected to be. But it certainly higher than

1 doctor Booth's average of 0.74.

2 Q. **[38]** With respect to adjusted betas, is it to your
3 knowledge that the Régie has rejected its use, its
4 use in the past?

5 R. To my knowledge, that's the Régie in two thousand
6 and nine (2009) did not use adjusted betas. I don't
7 enough recall what exact language they use, but no
8 they not used adjusted betas in two thousand and
9 nine (2009).

10 Q. **[39]** I would like to refer you to decision
11 D-2009-182 that we have filed this morning as
12 Exhibit C-ACIG-79. It's at paragraph 220. Starting
13 at paragraph 220. So, at paragraph 220, the Régie
14 indicates that:

15 Establishing the beta is one of the
16 major difficulties in applying the
17 CAPM.

18 My understanding is that, at paragraph 221, and
19 I'll let you read it, but my understanding is that,
20 in that case, the expert was proposing adjusted
21 betas of 0.70. So, adjusted betas. Is it your
22 understanding as well?

23 R. That's correct.

24 Q. **[40]** And at page... paragraph 222, we see what Dr.
25 Booth had used back then, and finally at paragraph

1 224, it is mentioned that:

2 With respect to the use of adjusted
3 betas, the Régie maintains the
4 position it has taken in previous
5 decisions.

6 With footnote 86, I think that in the translated
7 version, if we scroll down we, I don't think that
8 we... oh we have the, we have the various
9 decisions. Are you aware that in those, in all of
10 those decisions, essentially, the Régie rejected
11 the use of adjusted betas? I would suggest to you.

12 R. I'm aware of some of these decisions and just so we
13 are all clear that even if we were not using
14 adjusted betas, there would still be a difference
15 between doctor Booth and myself because my own
16 adjusted beta would be very close to the adjusted
17 beta. And I showed, as I showed in my presentation,
18 it would be 0.85.

19 Q. **[41]** But you recognize that, in the past, I
20 understand your point but just so that we are
21 clear, the Régie has refused in, in a number of
22 decisions the adjusted betas. Correct?

23 R. The Régie has, in the past, not recognized the
24 adjusted betas, I agree with that.

25 Q. **[42]** An I to understand that for the ECAPM method,

1 you also use adjusted betas, correct?

2 R. That's correct.

3 Q. **[43]** Am I... I think I've heard you and I think
4 it's in your presentation talking about betas, that
5 your opinion was that long-term trends were not
6 appropriate for today cost of equity determination.
7 Is that what you've, you've said?

8 R. Yes. I believe we should rely on contemporaneous
9 information. Especially as pertains to betas in the
10 gas industry, which is changing, and therefore we
11 need to know how has it changed. The risks of gas
12 utility such has Énergir or Gazifère and Intragaz
13 has changed in recent years and therefore we need
14 to look at what does that mean for our estimates.

15 Q. **[44]** Let go, let's go to your report, B-0015, page
16 106 of the PDF. It's Figure A-3. So this relates to
17 ECAPM method. And this table relates to the Alpha
18 factor of the ECAPM method. I see that the basis
19 for the propose figures are taken from various
20 sources, I would say old, the most recent being two
21 thousand and four (2004). Do you agree with that?

22 R. That is correct. I would say that if you... well,
23 more recent studies do not explicitly estimate the
24 Alpha factor. It is also true that recent studies
25 of what we typically refer to as to Fama French

1 model, finds that the CAPM line is flatter than
2 what we theoretically believe it should be
3 indicating again that you need to do something to
4 your beta to make it flatter.

5 Q. **[45]** But I understand that there are no recent
6 studies on this, correct?

7 R. There's not because ones that academic literature
8 has settled an issue, academics cannot publish on
9 the same issue again.

10 Q. **[46]** Okay. And is it to your knowledge that the
11 same table was used by doctor Vilbert in two
12 thousand nine (2009), in the Régie's file R-3690-
13 2009?

14 R. I don't know.

15 Q. **[47]** If I was to suggest to you that it's a... it's
16 like word per word the same, the same table. Would
17 that surprise you?

18 R. Not particularly because there are no new studies
19 and therefore the materials you would rely on would
20 be the same.

21 Q. **[48]** Okay. Mister President we will file the two
22 thousand and nine (2009) table of, of ECAMP that
23 was file in, in file R-3690-2009. So, we can have
24 that in the record.

25

1 LE PRÉSIDENT :

2 Très bien, merci.

3 Me PAULE HAMELIN :

4 Q. **[49]** Is it to your knowledge that the Régie has
5 rejected the ECAPM method before?

6 R. It's my understanding that the ECAPM was not
7 accepted in the two thousand nine (2009) decision,
8 which is found in B-0166.

9 Q. **[50]** Okay. Let's go back to decision 2009-182,
10 which is C-ACIG-0079, at paragraph 200. So, you
11 referred to a two thousand and nine (2009)
12 decision, but here we are in two thousand eleven
13 (2011) and the conclusion is to the effect that the
14 Régie has ruled on the ECAPM and there is no new
15 information that would warrant a reconsideration of
16 this method. Would you agree with, well I'm reading
17 it so you... you confirm that it's a... now it's to
18 your knowledge that also in two thousand eleven
19 (2011) the Régie rejected the ECAPM, correct?

20 R. In two thousand and eleven (2011), yes, the Régie
21 did not accept the ECAPM.

22 Q. **[51]** Okay. Were you aware of this decision before
23 you drafted your report?

24 R. Yes. To the best of my information, I have an
25 obligation as an expert to present the best

1 information I possibly can to the régie and then
2 let them make a decision on the evidence.

3 Q. **[52]** Okay. But it has already made its decision in
4 at least two decisions. You still believe that it
5 was relevant to present the ECAPM method even if it
6 was rejected?

7 R. I do. I believe I should present the best
8 methodology I know of and that decision was made
9 more than a decade ago.

10 Q. **[53]** I would like now to turn to the schedules of
11 your report, it's BV-3, so it would be page 142 of
12 the PDF. And I'll walk you through just so that I
13 understand, make sure I understand the... the
14 methodology. So, if we're... we'll take as an
15 example Algonquin.

16 R. Yes.

17 Q. **[54]** And we see in the first and second columns --
18 no, the first, sorry, and the third columns --
19 common equity ratio, so in this case it's point
20 sixty-one (0.61), and with respect to the debt
21 ratio it's point thirty-eight (0.38). So...

22 R. That's right.

23 Q. **[55]** Am I to understand, and just to make sure I
24 clearly understand, when you put those figures it
25 has been essentially calculated or when you use the

1 DCF capital structure debt and equity to market
2 value ratios that we find at page 6 of... well,
3 it's your PDF, 145. We can probably go to page 145,
4 and probably scroll down a little bit. If we look
5 at the first column at the bottom, we see "Debt and
6 equity to market value ratios", the number for the
7 third line sixty fifty-seven (60.57) for the common
8 equity and debt market value ratio thirty
9 forty-eight (30.48) (sic).

10 So, when we were talking earlier about the
11 numbers point sixty-one (0.61) and point
12 thirty-eight (0.38), this is where it comes from,
13 correct?

14 R. That's correct. That was just rounded numbers
15 coming from here.

16 Q. **[56]** Okay. And we see from the title of... of this
17 page and the first column on our left that we're
18 referring to market value... market value of common
19 equity, market value of preferred shares and so on.

20 R. Yes. It's the market value of common equity, market
21 value of preferred shares and market value of debt.

22 Q. **[57]** Okay. And so, I understand that the components
23 of the capital structure are determined on the
24 basis of market value as opposed to book value?

25 R. For the purpose of determining what is the leverage

1 in all of my sample companies, yes.

2 Q. [58] And so, you just indicated that you've done
3 the same thing for all of the... of the entities
4 comprised in your sample. So, let's go now to page
5 155 of the PDF. If we can maybe... diminuer un peu,
6 Madame la Greffière. Je sais que ça va faire petit,
7 mais if it's possible to see the last column,
8 column 10.

9 So, this last column is entitled "Overall
10 Weighted After-Tax Cost of Capital". So, in an IR
11 from the Régie, and I apologize I have the... and I
12 can read it to... for the purpose of everyone, it's
13 EGI-18.3. The Régie has ask you to if... to explain
14 if the... if the methodologies used in your table
15 were essentially similar to the ATWACC method that
16 was proposed in another file, the file R-3690-2009,
17 and I will refer and read your answer. You
18 indicated :

19 Dr. Villadsen cannot be certain
20 whether the approach taken in
21 R-3690-2009 is the same as that
22 employed in B-0015, p. 196, as she
23 does not have the underlying analysis.

24 But my question to you is : would you agree that
25 the methodology used here to calculate column 10 is

1 essentially similar to the ATWACC methodology, at
2 least in terms of the formula to calculate your
3 column 10?

4 R. In terms of the formula used to calculate column 10
5 here on the multi-stage DCF methodology which is
6 what we're using at, yes this is calculating the
7 after tax weighted average cost of capital. As I
8 understand it, what is different in the docket that
9 was referenced to you, we did not look to... the
10 Régie did not look to the Hamada methodology, which
11 is the key to what I rely on. I prefer not to rely
12 on the weight of... after tax weighted average cost
13 of capital, or the overall the weighted after tax
14 cost of capital, however you want to phrase it,
15 simply because the Régie has in the past ruled that
16 they do not find that to be the best way to
17 determine it.

18 Instead, I'm suggesting that we should take
19 a look at the Hamada methodology and make sure that
20 all of our results are supported by data that comes
21 out from that methodology. That is a methodology I
22 cannot apply to a multi-stage DCF which we're
23 looking at here, so, I showed what it would be had
24 we look at the after tax weighted cost of capital.

25 Q. [59] Okay. I'm trying to understand a little bit

1 more, but just at the basis, the -- just to make
2 sure -- the formula at column 10 is essentially if
3 I was to take, and I won't do it because everybody
4 will be sleeping by then, if I was going to take
5 the ATWACC formula and input the figures that you
6 have in your table, I would arrive exactly to your
7 figures at column 10, correct?

8 R. Yes. Because that's only one after tax weighted
9 average cost of capital according to text books,
10 and it's calculate the way it's calculated here.

11 Q. **[60]** Okay. So, just before talking about the
12 question of the... of the Hamada method, let's go
13 to your DCF methodology still in your... so I
14 understand, the next step in your process. So, it's
15 BV-4.8 and it's page -- it cannot be 17, so... You
16 can go up, yes. Oh, it's page 17. Perfect. Thank
17 you.

18 So, we saw that in the previous page, the
19 average of your column 10 for instance, for the
20 example of the multi-stage DCF was five point six
21 (5.6), and we see it here in DV-4.8. Am I to
22 understand...

23 R. That's correct.

24 Q. **[61]** Okay.

25 R. Yes.

1 Q. **[62]** Am I to understand that then you're using
2 this... this number to arrive, and if we can maybe
3 put it smaller, so we can see the complete table.
4 So, you still use it in order to determine an
5 estimated return on equity, correct?

6 R. So, using the multi-stage DCF methodology which...
7 which is what is in the last line here. What I do
8 here is to show that if we assume that you pay an
9 average of five point six (5.6) for capital that
10 the utility use, which is what our sample show,
11 then if you were to assume that the customers
12 should pay the same at a different capital
13 structure namely at forty percent (40%) equity,
14 then they would have to pay cost of equity of ten
15 point five percent (10.5%). That would give them
16 the same dollar amount in terms of payments as if
17 you pay five point six (5.6) on the overall capital
18 structure.

19 Q. **[63]** Okay.

20 R. That's what the table shows.

21 Q. **[64]** Okay. And so, you... this informs your
22 judgement essentially in determining the fair ROE
23 at... at the end result?

24 R. It's an... it informs it, but it's not how I... I
25 make sure that this is not the only thing that

1 supports my recommendation, because I do not want
2 to have my recommendation being supported only by
3 the ATWACC methodology. This number here, and in
4 particular the multi-stage DCF, is within the range
5 of what I get from my Hamada methodology.

6 Q. **[65]** And again, I think you've indicated that, but
7 for the... to arrive to your ten point five (10.5),
8 since we have use the... if we go back and do the
9 reverse engineering, it was all essentially using
10 market weights, correct?

11 R. It use market weights and here we used targeted
12 equity percentage, in this case forty percent
13 (40%). My tables also show what it would be at
14 forty-six percent (46%) or at forty-three (43).

15 Q. **[66]** Okay. So, you already indicated that you were
16 informed that the Régie has rejected the ATWACC
17 method, so let's go back to the... the decision
18 D-2009-156, it's Exhibit C-ACIG-0076. And starting
19 with paragraph 215. If we can go up a little bit,
20 it's 215.

21 LA GREFFIÈRE :

22 Maître Hamelin, est-ce que je suis dans le bon
23 document? Est-ce que j'ai bien compris? Est-ce que
24 c'est la pièce 76?

25

1 PAULE HAMELIN :

2 Oui. Euh non, c'est la pièce 76 oui, la D-2009-156.

3 J'espère que c'est moi qui ai les bonnes cotes.

4 Je pense que c'est juste le paragraphe, qu'il faut

5 aller un peu plus haut, c'est le 215, vous étiez

6 dans le bon document je crois.

7 Me PATRICK OUELLET :

8 Oui, c'est la page 13 du PDF.

9 Me PAULE HAMELIN :

10 Q. **[67]** So, this was sent, or filed yesterday, so I
11 don't know if you had the opportunity of looking at
12 the translation but at paragraph 215, my
13 understanding is that the expert witness for Gaz
14 Métro, doctor Vilbert used, in this case, the
15 ATWACC method, and it was based on the cost of
16 capital and weighting of capital structures as
17 determined by the market rather than at historic
18 cost. Is it also your understanding?

19 R. That is correct.

20 Q. **[68]** Yes? O.K.

21 R. And this is a document that as been... I have
22 reviewed it... it was filed as B-0166 earlier.

23 Q. **[69]** O.K. So, looking at 215, we see that it was
24 using essentially market beta. I turn now to
25 paragraph 221 and 222 of the same decision. And

1 since you have read it, would you agree with me
2 that the Régie's position, in, in... when you look
3 that, the decision was that ATWACC modifies the
4 capital structure using market values rather than
5 book value based on historic cost?

6 R. The Régie in that decision did not appreciate the
7 ATWACC based on market value capital structure. I
8 would agree with that. And that's exactly the
9 reason why I've taken a slightly... a different
10 approach to determine what the cost of equity
11 should be using the Hamada approach in this
12 proceeding. That does not mean that we shouldn't
13 look at the methodology and see what it actually
14 gives us.

15 Q. [70] Okay. But, essentially, based on what you've
16 said just earlier, you have used also in your
17 samples, market based beta, correct?

18 R. Yes. Because that it is what financial economics
19 tells me to do.

20 Q. [71] And just so I'll be, I'll be clear in the
21 terms I'm using. When we were referring to column
22 10 so the, the overall weighted average after tax
23 cost of capital, column 10, was in fact using
24 market values rather than, than book value?

25 R. You're talking on column 10 on BV Schedule 4.7?

1 Q. [72] Yes.

2 R. Yes.

3 Q. [73] Is there a, I know that you have provided
4 the... like the theory behind the Hamada method but
5 at the basis, am I to understand that your using
6 the, as we said, the market value and than, and
7 I'll try to, to paraphrase that and, correct me if
8 I'm wrong. You then, make two types of adjustments,
9 to that, afterwards?

10 R. I'm not sure I follow you.

11 Q. [74] I'm trying to understand the Hamada method
12 and, and perhaps I'm... it's going too far for me
13 as I'm just a lawyer. But, please explain, when you
14 are essentially, based on the figure lets say, at
15 column 10, you say, this is why you used the... you
16 know that ATWACC was not, was rejected by the
17 Régie. And my understanding is this information is
18 essentially... percolates into your DCF method. And
19 you also indicate that, with respect, you haven't
20 considered technically the, the ATWACC because
21 you're using the Hamada method. Can you just
22 explain that to me?

23 R. Sure. So let me take a step back and explain what
24 the Hamada method does. We go out and we estimate
25 betas using market beta for all of the sample

1 companies we have. We do that only for companies
2 that are publicly traded. For companies that are
3 traded either in the Canadian stocks exchange or
4 the US stocks exchange. And we find that investors
5 in those markets who have paid market prices for
6 their investments have a beta of, say, 0.75. Just
7 to take a number. And say that 0.75 is estimated
8 based on all that market beta so investors expect a
9 0.75 beta when they have seventy percent (70 %)
10 equity, say. That's the average equity percent in
11 the TSX.

12 Now, if those same investors where to have
13 a hundred percent (100 %) equity. What would they
14 expect the beta to be? And, it would, you would
15 expected it to be lower.

16 So that's the first thing we do in the
17 Hamada approach. We figure out what beta would they
18 expect at a hundred percent (100 %) equity. That's
19 plausibly, say, 0.5. I'm just picking numbers here.
20 So, that's what they would expect if they have a
21 hundred percent (100 %) equity financing. Now, if
22 we now instead say, what would the expect if they
23 had fifty percent (50 %) equity instead of hundred
24 percent (100 %), instead of fifty (50). Well, they
25 would probably expect a beta that's, that was to be

1 higher than the 0.5 at a hundred percent (100 %)
2 equity, and also higher than what it was at seventy
3 percent (70 %) equity so maybe 0.85. That's what
4 they would expect.

5 Therefore, that is the beta that is
6 appropriate to use once we know what capital
7 structure we are targeting for the utilities.
8 That's the Hamada adjustment. Now, I sort of did
9 that a little bit simplified because you also, and
10 that's why I say I'm just using numbers because you
11 do have to take into account what are taxes and if
12 there is any, for example, interaction between
13 equity returns and bonds and so forth. So there's
14 many formulas for that. Which is why I used two
15 versions of it to get a range.

16 Q. [75] O.K. So, but, at the basis we were using, of
17 course, market, market beta and not book values?
18 Correct?

19 R. That's correct because investors are investing in
20 the market. And if I buy stock in say Fortis, for
21 example, I'll have to pay whatever the current
22 price for Fortis' stock is. I cannot go in and buy
23 the stock at the book value.

24 Q. [76] And, this is why I'm, I was referring to you
25 previously to two types of adjustments. When you're

1 saying what would be the investors position. Let's
2 say at one hundred percent (100 %) of equity, and
3 then, at fifty percent (50 %) of equity. This is
4 why I was referring to two levels of adjustments.
5 But, in fact, it's a judgment, there is two
6 judgment calls that you're making, or two
7 adjustments that you're making in this formula.
8 Would that be a fair comment?

9 R. So it's a two step process to do this. I would say
10 it's not a judgment call, because there's extensive
11 academic literature on this issue which I've cited
12 extensively both in my report and even more so in a
13 response to the Régie in one of the data request, I
14 think it's the data request one. So I follow those
15 methodologies and I also recognize that there is
16 probably ten different versions for the Hamada
17 approach.

18 And therefore, what I do it's I take the
19 two sort of that give me the benchmarks, the lowest
20 and the highest ROE so to speak. And then I go
21 close to the lowest of the ROE to be conservative.

22 Q. [77] And would you agree with me that, if we go
23 back, let's say twenty, twenty-five years (20-25),
24 let's, let's stop at twenty years, in twenty (20)
25 years the Régie never had to consider this

1 methodology before, correct?

2 R. I do not believe the methodology has been put to
3 the Régie before which is why I think it would be
4 good if the Régie will consider this methodology
5 and look to modern corporate finance and see what
6 they have to say about this methodology.

7 Q. **[78]** Knowing that the Régie has rejected the
8 ATWACC, why do you still using it, as a reference?

9 R. As an expert, my obligation is to provide the best
10 possible information. And I can't use the Hamada
11 approach on my discounted cashflow model.
12 Therefore, I used the ATWACC to see if I get within
13 the same range as what I do in the Hamada approach.
14 I, while I recognize the Régie has not in the past
15 accepted the After Tax Weighted Average Cost of
16 Capital methodology, I also believe it's my
17 obligation as an expert to present the best
18 evidence I know of.

19 Q. **[79]** Okay. So, if I try to summarize the various
20 approaches, you have not relied primarily on CAPM,
21 correct?

22 R. I make sure all my recommendations are supported by
23 the CAPM and by the lowest numbers I find for my
24 CAPM and by the Hamada method, yes. I do use the
25 DCF methodology also, but I do make sure that

1 everything is supported by the Capital Asset
2 Pricing Model using the Hamada approach.

3 Q. **[80]** Okay. but you have not relied primarily on
4 this method, in this...

5 R. I have not relied, I have not relied exclusively on
6 one or other method. I present multiple methods
7 because I believe you need to test your results as
8 best possible.

9 Q. **[81]** So, we understand that you've used a CAPM,
10 ECAPM, DCF.

11 R. Two versions...

12 Q. **[82]** Two versions of the... yes. The ATWACC, as we
13 understand it and the Hamada approach, correct?

14 R. The ATWACC, what you call the ATWACC approach or
15 what I like to call the weighted average cost of
16 capital, was not used for any determination factors
17 in the Capital Asset Pricing Model. It was shown,
18 it was not used.

19 Q. **[83]** For the CAPM you used the adjusted betas. And
20 we understand that in the past, the Régie rejected
21 adjusted betas? Correct?

22 R. In the past, the Régie has not adopted the adjusted
23 beta, that's correct.

24 Q. **[84]** ECAPM you use, also adjusted betas and we
25 understand that the method itself was rejected in

1 previous Régie decisions, correct?

2 R. The Régie has in the past, not relied on the ECAPM
3 and I would also say, all of my results are fully
4 supported by the CAPM. I do not... the ECAPM was
5 also slightly lower in terms of my results.

6 Q. **[85]** And for the DCF method, we understand that you
7 use estimates, that we have discussed yesterday.
8 The IBES were, there was a... the question of the
9 number of estimates and also the issue about
10 optimism bias. Correct?

11 R. That's correct. And just to be responsive here, the
12 number of estimates for the Canadian sample can be
13 found in data response number 1 to the Régie,
14 question 4. It's B-0143, PDF page 12.

15 Q. **[86]** Thank you. For ATWACC you indicated that it
16 was not part of... well, you just indicated that
17 for ATWACC you use it for, just to, as a... to, to
18 explain that it was not part of your determination.
19 Correct?

20 R. It was not part of my determination. I do not want
21 to rely on anything that's determined only by the
22 After Tax Weighted Average Cost of Capital
23 methodology because of the Régie's prior view on
24 that issue.

25 Q. **[87]** Okay. Give me just a second.

1 Me PAULE HAMELIN :

2 Monsieur le Président, ça va compléter mes
3 questions pour madame Villadsen. Thank you very
4 much, Misses Villadsen. This will be all of my
5 questions.

6 Dre BENTE VILLADSEN:

7 Thank you.

8 LE PRÉSIDENT :

9 Merci. Est-ce que l'un ou l'autre des intervenants
10 a des questions?

11 Me STEVE CADRIN :

12 Bonjour, Monsieur le Président. Nous n'aurons pas
13 de questions. Merci.

14 LE PRÉSIDENT :

15 Merci.

16 Me ÉRIC McDEVITT DAVID :

17 On n'aura pas de questions non plus.

18 LE PRÉSIDENT :

19 Très bien. Merci.

20 Me LOUIS LEGAULT :

21 Monsieur le Président, j'aurai des questions pour
22 le docteur Villadsen. Mais compte tenu de l'heure,
23 il est dix heures (10 h), je vous propose qu'on
24 prenne la pause tout de suite puis on reviendra par
25 la suite?

1 LE PRÉSIDENT :

2 Très bien. Je n'ai pas vu maître Turmel de la FCEI.

3 Je présume qu'il n'a pas de questions non plus.

4 Très bien. Donc on prend une pause.

5 Me ANDRÉ TURMEL :

6 Je m'excuse. Non, je n'ai pas de questions,

7 Monsieur le Président. Pardon. J'ai un problème

8 avec mon ordi. Vous m'entendez?

9 LE PRÉSIDENT :

10 Oui. Très bien.

11 Me ANDRÉ TURMEL :

12 Je n'ai pas de questions.

13 LE PRÉSIDENT :

14 Alors on se revoit à dix heures quinze (10 h 15).

15 Merci.

16 SUSPENSION DE L'AUDIENCE

17

18 REPRISE DE L'AUDIENCE

19 LE PRÉSIDENT :

20 Est-ce que maître Ouellet est là? Oui. Bonjour.

21 Oui. Je voudrais faire quelques vérifications avant

22 qu'on passe aux questions de la Régie. Un petit

23 suivi des engagements, les engagements numéro 2 et

24 numéro 3. Pouvez-vous nous indiquer où est-ce que

25 vous en êtes?

1 Me PATRICK OUELLET :

2 Est-ce que vous me permettez trente (30) secondes?

3 LE PRÉSIDENT :

4 Oui.

5 Me PATRICK OUELLET :

6 Je vais consulter mes collègues. Mais je pense que
7 ça s'en vient. Donc, l'engagement 2 est sur le
8 point d'être envoyé, si ce n'est déjà fait. Le 3 va
9 être envoyé aujourd'hui également.

10 LE PRÉSIDENT :

11 Très bien. Merci. Et, là, selon toute
12 vraisemblance, on aura le temps de procéder au
13 voire-dire concernant la contestation du témoin
14 expert, docteur Hopkins. Est-ce que le docteur
15 Hopkins... C'est du côté de l'ACIG. Est-ce que le
16 docteur Hopkins pourrait être disponible cet avant-
17 midi?

18 Me PAULE HAMELIN :

19 Bonjour, Monsieur le Président. Je ne sais pas si
20 on me voit.

21 LE PRÉSIDENT :

22 Oui.

23 Me PAULE HAMELIN :

24 Parce que ma galerie a changé. On est en train de
25 faire les vérifications présentement, Monsieur le

1 Président, pour s'assurer qu'il puisse être
2 disponible. Je vous reviens là-dessus.

3 LE PRÉSIDENT :

4 Très bien. Merci. Alors, on y va avec les questions
5 de la Régie, Maître Legault.

6 EXAMINED BY Me LOUIS LEGAULT :

7 Thank you, Mister Chair.

8 Q. **[88]** Good morning, Doctor Villadsen. My name is
9 Louis Legault. I'm general counsel with the Régie.
10 It's a pleasure talking with you this morning. As
11 people know, I'm -- for a reason or another -- I'm
12 being capt by the camera of the room rather than my
13 camera, well it's not much I can do. Wait a minute.

14 R. Good morning, Mr. Legault. If I look up to the
15 right, it's because I'm looking at the bigger
16 screen.

17 Q. **[89]** Okay. Well, in that case I'll work with the
18 camera I've got, so it's not a problem.

19 Me PATRICK OUELLET :

20 Maître Legault, on vous voit sur deux écrans, en
21 fait. On vous voit de proche et de loin.

22 Me LOUIS LEGAULT :

23 Oui, c'est ça. J'aurais voulu que l'écran de la
24 salle ne fonctionne pas. Je ne sais pas pourquoi.
25 Ça marchait pour Amélie l'autre jour. Ah bon.

1 capital set in this proceeding will
2 begin in 2022, I rely on the
3 forecasted yield on Canadian
4 Government Bond yields in 2022.
5 Specifically, Consensus Forecasts
6 predicts that the yield on a 10-year
7 Canadian Government Bond yield will be
8 1.9% in 2022. I then adjust this
9 forecasted yield upwards by 40 basis
10 points, which is my estimate of the
11 representative maturity premium for
12 the 30-year over the 10-year Canadian
13 Government Bond. This gives me a lower
14 bound on the risk-free rate of 2.30%.
15 Additionally, I consider a scenario
16 where the risk-free rate of interest
17 is 2.47%.

18 I will now...

19 R. I see this, yes.

20 Q. **[91]** Yes. I will now attract your attention to
21 evidence supplied by Dr. Booth, dated April eight
22 (8), twenty twenty-two (2022), which is
23 C-ACIG-0037, at page 2. Now, in that exhibit, in
24 the executive summary, at the second bullet, Dr.
25 Booth states that :

1 I base my LTC yield on the forecast
2 from the Parliamentary budget officer
3 and the Federal government's budget
4 briefing which itself was based on
5 consensus values from the private
6 sector. Consequently, I use a forecast
7 LTC Yield of 3.37%, which is still
8 below the 3.8% rate I use as a trigger
9 for changing my estimate of the
10 allowed ROE. Further it is also 1.13%
11 lower than the 4.5% I used in the 2011
12 GMI hearing.

13 Also, in your testimony yesterday, in your
14 PowerPoint presentation at slide 15, you also
15 presented what you expected was the economic risk
16 in Canada in the present economic context.

17 So, taking into account the various
18 economic, financial and geopolitical uncertainties
19 that we're going through right now, can you please
20 provide your thoughts on a likely range of
21 long-term Government of Canada Bond yields over the
22 twenty twenty twenty-four... twenty twenty-two
23 twenty twenty-four (2022-2024) horizon?

24 R. Sure. So, as I said in my presentation yesterday, I
25 believe the current twenty twenty-two (2022)

1 estimate is about twenty point four (20.4) (sic),
2 so that's not far off Dr. Booth's estimate of three
3 point three seven (3.37), that's the current issue.
4 If we look to the twenty twenty-three twenty
5 twenty-four (2023-2024) range, it's worth noting
6 that the US Federal Reserve yesterday increased
7 their federal funds rate by point seventy-five
8 percent (0.75%), that's a lot in a federal fund's
9 policy. So, that indicates that certainly in the
10 US, interest rates are increasing.

11 The Bank of Canada, and I think I said that
12 on my slide, also have indicate that they believe
13 interest rates will increase, and that's especially
14 true given the level of inflation we're currently
15 are seeing both in Canada and in the US. Generally,
16 the normal risk-free rate will increase as
17 inflation is high.

18 So, getting to your question, I believe
19 three point four (3.4) is sort of a low bond for
20 twenty twenty-two (2022), I believe we will go up
21 from there and how high it will go is going to be a
22 guess work, but I don't believe you're going to go
23 below the three point four (3.4). So, we're
24 probably going to go up towards the four point zero
25 (4.0) range or so over the next couple of years.

1 Q. [92] Okay. So, I understand now, you refer to the
2 FED, you refer to the Central Canadian Bank. Can
3 you give us your opinion or your personal views on
4 the role or the actions that the banks will be
5 taking in the near future?

6 R. So, what both banks, both Bank of Canada and the US
7 Federal Reserve, have signal that they want to try
8 to contain inflation. The way they usually do that
9 is by tightening monetary policy, so I expect they
10 will engage in much lower buying off government
11 securities, that automatically will reduce their
12 demand for such securities and thereby drive up
13 their interest rates on such securities. As price
14 goes down, the yield goes up. So, that's what I
15 expect will happen.

16 As they do that, economic activity is
17 likely... is likely to slow, how much, I don't
18 really want to speculate on that, but that's a
19 likely approach, and therefore you'll have less
20 demand in the economy and inflation will come down
21 by some amount. By how much and over what horizon
22 is a much tougher question.

23 Q. [93] Okay. So, what in your view would be an
24 increase in long-term interest rates in Canada that
25 would... you would consider unusual? And the

1 reverse or the opposite, what would be an unusual
2 drop or fall?

3 R. So, let me put that in context. So, it depends on
4 over what period of time. So, for example, in the
5 short period of a span of two days in... right
6 after COVID shut down the US economy, the yield
7 curve dropped by a hundred (100) basis point.
8 That's incredible in two days, and not seen in
9 decades.

10 So, I would say if you see a drop of a
11 hundred (100) basis points that's a lot. If you see
12 a drop, even a forty (40) to fifty (50) basis
13 points over a short period of time, that's a lot of
14 an increase or decrease. So, something like what
15 the Federal Reserve did yesterday is a lot.

16 Q. [94] And you gave as an example the... the impact
17 of the COVID situation, what in your view would
18 explain such an usual rise or fall that could
19 occur. You gave the example of the pandemic, but
20 what else could provoke such a rise or such a fall?

21 R. The most important thing that comes to mind is one
22 or two things, monetary policy which the Central
23 Bank drive. If they undertake big actions that are
24 not expected by the market, you will see a shock
25 whack in the market. The other thing that can

1 happen is that we go into, and I hope not, a
2 recession. You will see big drivers of the rises of
3 interest rates also in that case.

4 Q. [95] Okay. Thank you. Under the hypothesis that the
5 Régie would approve a ten percent (10%) rate of
6 return for the Quebec gas utilities as per your
7 recommendation, if such an unusual rise was to
8 occur within the next three years, let's say,
9 because we'd set it for three years, do you think
10 that this ten percent (10%) rate of return would
11 still be appropriate? And the same question for an
12 unusual fall or drop.

13 R. So, it might not reflect the current cost of
14 capital, so I'll take that in two steps, so... and
15 the utilities really can answer better to whether
16 they want to live with a risk of having a fix rate
17 for three years, say. But my best estimate on what
18 should happen if you have unusual circumstances,
19 that be an increase or decrease in interest rates
20 or unusual circumstances for the utilities, is that
21 they really should come before the Régie and the
22 parties should figure out what to do about this.
23 That's my number 1 position on how you handle
24 unusual circumstances. Because, it's...

25 Q. [96] So... yes. Come back to the regulator.

1 R. Yes.

2 Q. [97] Okay. I will now direct your attention to
3 Exhibit B-0015 again, your direct testimony, but
4 this time page 70, line 1 to 4. And I will read it:

5 To narrow the range of results, I
6 first look to the estimates from the
7 Canadian Utility Sample and the
8 Natural Gas Sample. Within these
9 samples, I give more weight to the
10 estimates from the ECAPM model that
11 use the Hamada methodology to adjust
12 for financial leverage.

13 The other exhibit I'm referring to is B-0143, which
14 are your answers to the Régie's IR number 1, at
15 page 52, an answer to our question 8.1. 8.1, à la
16 page 52.

17 So, we're getting there. The answer was :

18 Dr. Villadsen cannot be certain
19 whether the approach taken in
20 R-3690-2009

21 -- which is an application we talked about in
22 this... in this case --

23 is the same as that employed in
24 B-0015, p. 196 (e.g. Schedule BV-5.11)
25 as she does not have the underlying

1 analysis. However, Dr. Villadsen notes
2 that B-0015, pp. 18-19, the key
3 approach she takes to leverage is
4 based on the unlevering and relevering
5 of beta as shown in B-0015, pp.
6 199-201. As shown on p. 201

7 -- and this is the more critical --

8 for the Natural Gas Sample and in the
9 response to 6.5.1 above for the
10 Canadian sample, the Hamada approach
11 is fully supportive of Dr. Villadsen's
12 recommendation.

13 Finally, Exhibit B-00143 again, this time at page
14 96 and 97, your answers to question 16.8 :

15 The Hamada and ATWACC methodologies
16 adjust for differences in financial
17 leverage between the proxy companies'
18 market value capital structure and the
19 Plaintiffs' assumed book (authorized)
20 capital structure. Dr. Villadsen
21 relies primarily on the ROE estimates
22 derived from the Hamada adjustments
23 because the Régie in the past has been
24 critical of the ATWACC methodology.

25 Could you please confirm that the Hamada formula is

1 based on Modigliani and Miller's formulation of the
2 tax shield values for constant debt? That is when
3 the dollar amount of debt is constant over time.
4 Otherwise, please explain.

5 R. I confirm that, yes.

6 Q. **[98]** Okay. Do you think that this underlying
7 assumption is realistic for your natural gas
8 utility sample?

9 R. I think it's a good approximation.

10 Q. **[99]** Yes. Yes. Can you expand on that, why is it a
11 good approximation?

12 R. So, because I believe that while the debt amount
13 for natural gas utilities vary over time, it
14 doesn't vary to the same degree as that, for
15 example, the TSX companies which are generally
16 large and much more diverse. So, I do believe it's
17 a good, and it is true that, for example the
18 COVID-19 period did see not quite a bit of a drop
19 in the stockprice of all utilities for that
20 matter, not just natural gas utilities. But I think
21 that is somewhat of an unusual exemption, so I
22 think it's a good approximation to the way of doing
23 this, and if you were to go out and model more
24 elaborate ways, you need to know something about
25 how the debt develop over time. I am not sure that

1 you will get a whole lot of different results.

2 Q. **[100]** Okay. Would you agree that it is possible for
3 gas utilities to rebalance their capital structure,
4 so that debt capital remains at a constant
5 percentage of equity capital?

6 R. Yes, they can do that. At least, approximately.

7 Q. **[101]** I will now bring you to, again, to Exhibit
8 B-0143, your answers to the Régie's first IR, at
9 page 35, question 6.8. I will not, I will not read
10 the question per se, I'll read your answer
11 response:

12 The capital structure as measured on a
13 book value basis informs how the
14 company keep its accounting books and
15 is of relevance for determining most
16 credit metrics and hence informs Dr.
17 Villadsen's analysis of credit
18 metrics. It is the market value
19 capital structure that is relevant for
20 the purpose of estimating the cost of
21 capital as made clear in the
22 well-known textbook of professors
23 Brealey, Myers and Allen, "Principles
24 of Corporate Finance".

25 And then, you go: « 10th Edition, 2017 », and then

1 you go to a citation from that book which states
2 the following:

3 Suppose the project has the same
4 market risk as the company's existing
5 assets. In this case, the project cash
6 flows can be discounted at the *company*
7 *cost of capital*. The company cost of
8 capital is the rate of return that
9 investors required on a portfolio of
10 all of the company's outstanding debt
11 and equity. It is usually calculated
12 as an after-tax *weighted-average cost*
13 *of capital* (after-tax WACC), that is,
14 as the weighted average of the after-
15 tax cost of debt and the cost of
16 equity. The weights are the relative
17 market values of debt and equity. The
18 cost of debt is calculated after tax
19 because interest is a tax-deductible
20 expense.

21 Now, my questions related to this. Can you confirm
22 or correct our understanding of the excerpt you
23 provided from the Principles of Corporate Finance
24 book. That when considering an investment project,
25 or a capital expenditure, for a utility, the

1 minimal or critical rate of return, what is
2 otherwise known as the hurdle rate, that the
3 company must reach to cover all the costs of the
4 project, must be calculated using market values of
5 the company's shares and debt?

6 R. Yes.

7 Q. **[102]** Okay. I now bring you to another document,
8 which is a new document that we filed yesterday or
9 the day before it's Exhibit A-0051, so it's a Régie
10 exhibit. And it's an excerpt from the Investopedia
11 website. So, essentially it's from the dictionary
12 of Investopedia and the information was supplied by
13 Adam Hayes, Somer Anderson and facts were checked
14 by Yariet Perez. And it states the following:

15 "What is corporate finance?". And we can read that:

16 Corporate finance is the sub-field of
17 finance that deals with how
18 corporations address funding sources,
19 capital structuring, accounting, and
20 investment decisions.

21 And this is what I wanna bring your attention more
22 particularly to:

23 Corporate finance is often concerned
24 with maximizing shareholder value
25 through long- and short-term financial

1 planning and the implementation of
2 various strategies. Corporate finance
3 activities range from capital
4 investment to tax considerations.

5 Would you agree with the statement that to add
6 value, in other word to be accruditive, it is
7 important that each investment project yields more
8 than the ATWACC, which must takes into account
9 market values?

10 R. That would add value but in principle you can
11 accept any investment decision that yields the
12 ATWACC or the After-tax Weighted Average Capital
13 for that project. It would... company should be
14 indifferent to that. It pays for itself, it yields
15 the cost of capital for that project.

16 Q. **[103]** Now, as I just read when reading that excerpt
17 from Investopedia that, they seem to be saying that
18 this methodology using market values is thought and
19 recommended in corporate finance. Do you generally
20 agree with this definition that I just read, or is
21 there something inaccurate about it?

22 R. I generally agree with that, yes. I would say here,
23 this is a general definition so that if you are a
24 utility, you also have to be concerned about the
25 obligation to serve, and the regulator. That's

1 simply a constraint on what you can do.

2 Q. **[104]** Okay. Do you agree that in the world of
3 corporate finance, methodologies that used market
4 values are use essentially because that is how
5 value can be raise or that the value of the company
6 and its shareholders can be maximized?

7 R. I wouldn't say it's primarily because value can be
8 maximized, it's because how you can measure the
9 value.

10 Q. **[105]** Okay. And in your view, using the ATWACC or
11 the methodology that you are suggesting, does that
12 allow maximizing shareholder value?

13 R. So, if you undertake an investment that provides
14 the cost of capital to a company, you would be
15 indifferent between that project and all the
16 projects that also provide that. If you get more
17 than that, you would be maximizing value. I would
18 say again that if you are a utility you operates
19 within a lot of constraints. And you have to work
20 with those constraints.

21 Q. **[106]** And from a regulator prospective, does using
22 a methodology that, that is used essentially, I
23 mean, primarily I think to maximize shareholder
24 value, does that align with the role of the
25 regulator to ensure a balance between you know,

1 public interest, consumer protection and the fair
2 treatment of utilities?

3 R. That's what I said. I would say that if you're
4 looking at a utility there's many things you have
5 to take into account. You use the weighted average
6 cost of capital or, the cost of capital, as I
7 prefer to say it, to measure what is needed to
8 create investment. But if you are a utility, you
9 operate within a lot of constraints, here for
10 example, accounting and investment decisions.

11 Accounting and investment decisions for
12 utility had not just taken by management, you have
13 to adhere to the regulatory accounting rules. You
14 have to make prudent investments that are, in often
15 times, preapproved by the regulator. So that's a
16 lot of additional factors that need to go into this
17 if you are a utility.

18 Q. **[107]** Thank you. Another question. And I'm
19 referring to, again, B-0143, your, your answers to
20 information request number 1. It was at page 29 and
21 30. The question was 6.5 and I, I won't go on
22 reading the French question but go directly to your
23 answer:

24 Dr. Villadsen is not certain, how the
25 tables in reference (v) was compiled,

1 but refers to the confidential excel
2 sheets submitted as
3 R-4156-2021-B-0015, Exhibit BV-4 :
4 Canadian Cost of Capital model and
5 Exhibit BV-5 : U.S. Cost of Capital
6 Model, Tab 'Cap_Struct_Book.' The
7 relevant tables are pasted below.

8 Don't worry, I will not go into confidential
9 information here. I'm referring to the table Book
10 Value of Equity and Debt. Oui, c'est celui-là qui
11 est en haut, parfait, merci. So, it's the table
12 that we can see on top of that page.

13 Amongst the methodologies views in the past
14 by regulator, to the best of your knowledge, to set
15 a deemed capital structure for a utility is
16 analyzing the capital structure of the companies
17 part of the sample of comparable companies. Does
18 that appear reasonable and appropriate to you and
19 if not, why?

20 R. It would be appropriate as one of the things you
21 examined provided those companies are of
22 equivalence risk. It would not be appropriate if
23 they're not of equivalent risk. And there's a
24 second consideration that is necessarily which is
25 you need to make sure that the utilities can

1 maintain financial integrity. By that I mean, for
2 example, a solid credit rating. So that's a minimum
3 requirement.

4 And then, there's the interaction of the
5 cost of equity and the level of equity so that if
6 you approve more equity, the cost of equity goes
7 down. If you approve less, the cost of equity goes
8 up. So there's an interaction and a tradeoff here.

9 Q. **[108]** Okay. I'm referring you the that table right
10 now, which shows the capital structures calculated
11 based on book value of the eight (8) publicly
12 traded Canadian utilities that are part of your
13 Canadian sample, of comparable companies, to the
14 Québec Utilities. My understanding is that these
15 are real capital structures of publicly traded
16 companies.

17 On a closer look we notice the general
18 presence of preferred shares in the capital
19 structures of these companies, except for one,
20 Hydro One Limited. It's up to 9.5 % for Canadian
21 Utilities, 7.2 % for AltaGas, 5.9 % for Enbridge,
22 just to name these few. According to you, why do
23 you find so much preferred, why do we find so much
24 preferred shares in the capital structures of these
25 Canadian comparable companies?

1 And I'll give you a part of what I think
2 the answer is, but you can correct me if I'm wrong.
3 Could it be linked to the Canadian fiscal Regime?
4 Different from the US and that the presence of
5 preferred share in the capital structure allows
6 these companies to minimize the weighted average
7 cost of capital? What are your thoughts on that?

8 R. So, I don't think that the presence of preferred
9 necessarily allows the companies to minimized the
10 cost of capital. For the simple reason that the
11 cost of preferred is generally in between the cost
12 of debt and the cost of equity.

13 So you could probably come to the same
14 number by another mix. I do believe that... one of
15 the reasons we see that amount of preferred in
16 Canada a lot of it is historical, there's not been
17 whole lot of new issue on preferred.

18 And I should also say that these companies
19 here actually all have preferred shares outstanding
20 so we can measure what the cost is. Well let's say,
21 for the case of Énergir for example, there is no
22 preferred.

23 And the last thing I wanna say here is,
24 these preferred shares are very different because
25 some preferred shares are more like equity, and

1 some are more like debt. Depending on the exact
2 nature of them. Notably if you have a set of
3 preferred that requires the payment of dividend on
4 a regular basis, we generally come to think of them
5 as debt like, while if it's sort of discretionary
6 if you pay dividend and not, they're more equity
7 like. And then you have a company that, one I can
8 mention that I know of, is Enbridge as a whole slew
9 of preferred shares, they all have different
10 characteristics. Which make it challenging to
11 figure out what really they're doing.

12 So, I'm not sure it's that simple as simply
13 saying is used to reduce the cost of capital. I
14 think you can obtain the same results by other
15 mixes.

16 Q. **[109]** Okay. Thank you. I'm now referring to the
17 stenographer's note. The Court reports from June
18 the fourteenth. It's Exhibit A-0054, page 164. And
19 that'll be more interesting for your attorneys but,
20 but, I will read it slowly in French and, do you
21 have access to WebSwitcher?

22 R. I do not.

23 Q. **[110]** You do not?

24 R. Okay. So I will not... In that case it'll make me,
25 it'll make it very hard for me to ask the question.

1 I could try to translate, so... probably that's the
2 best thing. I'll try to slowly translate it. There
3 was a question at line 163, it says :

4 That's it. So, I was asking myself if
5 in a competition situation, because
6 the Régie must act as a proxy to
7 market, so in a situation of
8 competition would it be alright to aim
9 for an optimal structure, in this case
10 to go towards 43% of the market. I
11 don't know if you want to refer me to
12 Dr. Villadsen in this case, but it
13 would be to see what you consider in a
14 situation of competition the impact
15 would be to take away the preferred
16 shares.

17 I think I've got the gist of it. The answer was :
18 I would send the answers to the
19 experts -- so, essentially he was
20 passing the bucket to you. - We want
21 to minimize the cost of the debt for
22 our customers, so we want a capital
23 structure with a certain percentage of
24 debt that would permit us to have a
25 better quotation, credit quotation,

1 from the agencies and minimize our
2 costs.

3 Again, I think I've got the gist of it. I
4 understand that the capital structure you're
5 proposing for Énergir implies removing preferred
6 equity.

7 R. That's correct.

8 Q. **[111]** In the context of a non-regulated firm, what
9 would be the impact of replacing preferred equity
10 by common equity and debt? Would that increase the
11 weighted cost of capital of that company?

12 R. It depends in... if you do it in the appropriate
13 proportions. No, it would not change it at all.

14 Q. **[112]** Would you agree with the proposition that the
15 regulator must act as a proxy for a regulated
16 market and thus for a given credit metrics? It
17 seeks to minimize the weighted cost of capital of
18 the regulated entities. Would you agree with that
19 assumption?

20 R. I would agree with that assumption. You seek to get
21 to the lowest cost, I don't think that's one
22 capital structure that does that, but I do agree
23 with you that you should have it as low as possible
24 and still provide service and meet the fair return
25 standard.

1 Q. **[113]** Thank you. Mister Chairman, I'm heading in my
2 last question, so it shouldn't be long. I'm
3 referring you this time to Exhibit B-0350, which is
4 your PowerPoint if I'm not mistaken, at page 36.

5 R. PDF 36 or page 36?

6 Q. **[114]** PDF.

7 R. Okay.

8 Q. **[115]** It starts with CAPM/ECAPM and DCF, etc. And
9 then there's a bunch of bullets underneath.

10 R. Yes.

11 Q. **[116]** Okay. So, I will not go through the listing,
12 it's just to help you with the question that will
13 be coming shortly. The other exhibit I'd like to
14 refer you to is Exhibit B-0015, page 61, page 17 I
15 guess to... to 22, and there's an excerpt I'd like
16 to read :

17 Additionally, I consider a scenario
18 where the risk-free rate of interest
19 is 2.47%. Thus, I consider a scenario
20 where the lower bond risk-free rate of
21 2.30% is adjusted upwards by 17 basis
22 points to reflect downward pressure on
23 government bond yields or an increase
24 in the MRP. It also reflects that (as
25 discussed above in Section V) economic

1 conditions are, etc., etc.

2 My question to you is that : in your May twenty
3 twenty-two (2022) model update, that is Exhibit
4 B-0350, which we just talked about, that PowerPoint
5 at page 36 of the PDF -- the PowerPoint, sorry --
6 did you make an adjustment to the long-term
7 risk-free rate to reflect downward pressure on
8 government bond yields as described in your direct
9 testimony on page 61?

10 R. No. Because I believe that the Central Bank of
11 Canada is now no longer, don't want to do that
12 going forward.

13 Q. **[117]** Thank you. Can you just hold on a minute, I
14 just want to check something before I decide if I
15 have another question or not. Thank you.

16 Would it be possible for you, as an
17 undertaking, to file the parameters of scenario 1
18 and 2 of your CAPM, May twenty-two (22), twenty
19 twenty-two (2022) model update?

20 R. Yes.

21 Q. **[118]** So, undertaking number 4 or number 5? Number
22 4. Thank you.

23

24 E-4 EGI: File the parameters of scenarios 1 and
25 2 of the CAPM update of May, 2022.

1 Me PATRICK OUELLET :

2 I just want to make sure...

3 Me LOUIS LEGAULT :

4 And that would conclude my question, Mister
5 Chairman.

6 Me PATRICK OUELLET :

7 I just want to make sure I got... Je veux juste
8 m'assurer que j'ai eu l'engagement 4, là,
9 correctement. Donc : file parameters of scenarios 1
10 and 2 of May 2022 model?

11 Me LOUIS LEGAULT :

12 CAPM model update, yes.

13 Me PATRICK OUELLET :

14 From the PowerPoint.

15 Me LOUIS LEGAULT :

16 Well, yes.

17 Me PATRICK OUELLET :

18 Okay. I might have one question in redirect if I
19 may? Again, I will ask Dr. Villadsen to leave the
20 room that we're in because I want to discuss with
21 my clients first to see if I ask the question
22 without influencing the witness.

23 LE PRÉSIDENT :

24 Très bien. Bien, on va vérifier avant. Madame

25 Falardeau, pas de question? Maître Duquette, pas de

1 question? Alors, ça complète les questions pour la
2 Régie. Donc, je comprends que vous voulez vous
3 prévaloir d'un réinterrogatoire avec votre témoin?

4 Me PATRICK OUELLET :

5 Oui, puis sans lui dire ce que je vais... sans lui
6 dire la question que je vais lui poser, donc je
7 vais lui... je vais lui demander de sortir. Elle
8 est déjà sortie, alors deux petites minutes.

9 LE PRÉSIDENT :

10 Parfait.

11 PAUSE

12 Me PATRICK OUELLET :

13 On a... j'ai demandé, là, à ce qu'on aille chercher
14 la Dr. Villadsen, donc ce ne sera... ce ne sera pas
15 très long.

16

17 RE-EXAMINATION BY Me PATRICK OUELLET :

18 Okay. So, I'm looking for Dr. Booth's evidence,
19 Appendix C. I'm just trying to find the right...
20 the Régie quote. Si quelqu'un peut m'aider à donner
21 la bonne cote, là, je regarde... C-0040. ACIG-0040,
22 Appendix C.

23 Q. **[119]** Okay. So, do you have Exhibit... we'll share
24 that... we'll share the screen. So, Madame la
25 Greffière, Appendix C, donc ACIG-0040, page 7.

1 So, before I ask my question, I'd like the
2 witness to read, starting at the subtitle "Adjusted
3 betas". So, read... this is a part of Dr. Booth's
4 evidence, so read the rest of page 7 and perhaps
5 page 8 and let us know when you're ready.

6 R. Yes. If you could scroll down a little bit. That's
7 good. Yes, I've seen that. You can go to page 8.
8 Yes.

9 Q. **[120]** So, during your cross-examination by maître
10 Hamelin, you were questioned at length with regard
11 to adjusted betas and the Blume adjustment, do you
12 recall that part of your cross-examination?

13 R. Yes, I do.

14 Q. **[121]** Now, if I read Dr. Booth's evidence, and I'll
15 quote his report :

16 It is always necessary to adjust the
17 estimated betas, particularly recent
18 ones, since they are only estimates of
19 what happened over a particular time,
20 whereas what is needed is an estimate
21 of what is likely to happen in the
22 future. One such adjustment is
23 justified by the seminal work of
24 Marshall Blume -- so the Blume
25 adjustment -- and so on.

1 Now, my question to you is : what in your
2 understanding is the difference between your
3 opinion and that of Dr. Booth with regard to the
4 adjustments to betas.

5 R. So, in my opinion, you need to use the best
6 possible forward looking beta estimate you can
7 find. Professor Blume did this seminal paper that
8 Dr. Booth is referencing here and found that you
9 need to adjust betas according to his formula so
10 that the beta reflect the future beta. That's an
11 estimation bias in the betas as you estimate them.

12 Contrary to that what Dr. Booth does is,
13 it's not clear exactly where he gets his betas
14 from. He has all these... I looked at them also in
15 my cross-examination, and he estimates for example
16 for the Canadian sample that is 0.74, but then
17 never uses it. He says : "I looked at this beta, I
18 looked at this beta, and I looked up to ten years
19 back and then I get an average of 0.5 to 0.55 and
20 that's my range." Well, as he can't point to one
21 specific beta he's estimated, whereas I go out and
22 estimate betas and I say : "that is the beta I
23 choose", so it's very easy to critique it if that's
24 what you want to do. Booth's beta is not taken from
25 a specific point.

1 Q. **[122]** Thank you, Dr. Villadsen. Those were my
2 questions.

3 Me PATRICK OUELLET :

4 Donc, je n'ai plus de question, Monsieur le
5 Président, pour Dr. Villadsen.

6 LE PRÉSIDENT :

7 Très bien, merci. Alors, ça fait qu'on va pouvoir
8 libérer Dr. Villadsen.

9 Thank you, Dr. Villadsen. You're free now
10 to leave the Régie.

11 R. Thank you very much. It was a pleasure.

12 LE PRÉSIDENT:

13 Thank you. Alors, le vingt (20) mai dernier, on a
14 reçu de la part des demanderesses une contestation
15 quant à la qualification du statut d'expert demandé
16 par l'ACIG pour le Dr. Asa Hopkins, alors on
17 pourrait procéder au voir dire à ce sujet-là. J'ai
18 vu tantôt que Dr. Hopkins semblait présent.

19 Me PAULE HAMELIN :

20 Oui, on peut peut-être assermenter le témoin.

21 Assermentons le témoin, oui.

22 LE PRÉSIDENT :

23 Oui. Juste avant, Maître Hamelin, puisque ça se
24 déroule très bien, là, est-ce que vous pensez que
25 vos témoins pour les panels 1 et 2 pourraient être

1 disponibles cet après-midi pour qu'on commence vos
2 présentations après la pause du lunch?

3 Me PAULE HAMELIN :

4 Il y a quand même les représentations qui devront
5 être faites, Monsieur le Président, sur la question
6 de la qualification.

7 LE PRÉSIDENT :

8 Oui.

9 Me PAULE HAMELIN :

10 Ce serait peut-être difficile de commencer de notre
11 côté. Voyons peut-être comment on déroule...

12 LE PRÉSIDENT :

13 Parfait.

14 Me PAULE HAMELIN :

15 J'aurai quand même plusieurs questions. Je
16 comprends qu'il y aura un contre-interrogatoire
17 plus les plaidoiries sur la question de la
18 qualification.

19 LE PRÉSIDENT :

20 O.K. Alors, allons-y.

21

1 VOIR-DIRE - Dr. ASA HOPKINS

2

3 IN THE YEAR TWO THOUSAND TWENTY TWO, on this
4 sixteenth (16th) day of June, PERSONALLY CAME AND
5 APPEARED:

6

7 Dr. ASA HOPKINS, Vice President at Synapse Energy
8 Economics, 485 Massachusetts Avenue, suite 3,
9 Cambridge, Massachusetts, (USA);

10

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

13

14 Me PAULE HAMELIN :

15 Monsieur le Président, peut-être juste avant que je
16 commence and before I start, we have considered the
17 position of the Utilities' attorneys in this file,
18 and just to be clear, we were of the opinion that
19 essentially the notion of climate change in the
20 title of doctor Hopkins' expertise that we were
21 looking, were in fact part of the energy transition
22 experience. So, we are suggesting to modify
23 slightly his title to read "an expert in energy
24 transition in the gas industry and business risk".
25 So removing this notion as the "climate change",

1 because for us it was energy transition/climate
2 change issues. So having said that and, yes Mister
3 President?

4 LE PRÉSIDENT :

5 Non, ça va, c'est noté.

6 Me PAULE HAMELIN :

7 Parfait. So I can proceed with Mister Hopkins' voir
8 dire.

9 Q. **[123]** Good morning Mister Hopkins. For you, it's
10 late afternoon.

11 R. Afternoon yes, good day to you all.

12 Q. **[124]** So, Mister Hopkins, can you describe what was
13 your mandate in this file?

14 R. So for the purpose of my testimony, what I was
15 asked to do, was to analysis the business risk
16 facing Énergir, Gazifère and Intragaz, the three
17 gas utilities. Business risk is one component of
18 the overall risk facing the Utilities, which then
19 informs the choice of the appropriate cost of
20 capital and thus the allowed return on equity.

21 To do this I was asked to evaluate doctor
22 Brown's report. And how it fits in with the other
23 evidence in the file. And most particularly, to
24 examine the risk with respect to energy transition
25 risk, to be applied in the context of this

1 proceeding.

2 Q. **[125]** We will discuss your educational background.

3 Can you just explain what is your educational
4 background?

5 R. So I've earned three degrees in my life. The first
6 of which is a Bachelor of Science in Physics with
7 minors in both Growth and Structure of Cities and
8 Computer Science from Harverford College in
9 Harverford, Pennsylvania.

10 Q. **[126]** And have you completed your bachelor with any
11 distinctions?

12 R. Yes. I was, I was awarded the distinction of Summa
13 cumme laude, which is the highest honour. Only
14 myself and one other student in our graduating
15 class received that distinction.

16 Q. **[127]** Do you have any other graduate degree?

17 R. Yes, I have both a Master's degree and a Doctorate
18 of Philosophy in Physics. Which I earned in two
19 thousand eight (2008). The Master's degree in two
20 thousand seven (2007) and the PHD in two thousand
21 eight (2008) from the California Institute of
22 Technology.

23 Q. **[128]** And have you completed your PHD with any
24 distinctions?

25 R. Yes. I was awarded the Dean's Awards for Community

1 Service.

2 Q. **[129]** And what's that about?

3 R. So, one of the thing I did while I was completing
4 my physics work was that I also spent a good amount
5 of time, leading a Speakers Series on campus, the
6 social activities in the Speakers Series. Which we
7 brought off campus social and political issues to
8 the awareness of the students of the campus
9 community.

10 Q. **[130]** Now let's go to your professional experience
11 after your bachelor degree. Up down until your PHD.

12 R. I took the year between finishing college and
13 starting graduate school to work as a
14 Post-Baccalaureate Researcher, at Los Alamos
15 National Laboratory in Los Alamos, New Mexico, in
16 the Theoretical Division. Los Alamos is one of the
17 US Department of Energy national laboratory.

18 Q. **[131]** And have you obtained any distinctions in
19 that position?

20 R. Yes, for my work in that year I was awarded the Los
21 Alamos National Laboratory Student Distinguished
22 Performance Award.

23 Q. **[132]** What other professional educational
24 employment have you had?

25 R. I will clarify. There's a period on my CV in which

1 I have a job of being a Graduate Research Fellow
2 while I was also a PHD student. So that's how it
3 works, for PHD studies in the sciences. I was
4 employed to do the research, that then it ended up
5 to be my research for my PHD. So, I had a sort of
6 job/educational thing. That's about what that is.

7 Q. **[133]** And again have you obtained any distinctions
8 in that position?

9 R. Yes. For the first three years of my PHD, I was
10 awarded a National Science Foundation Graduate
11 Research Fellowship. Which funded, funded my
12 tuition as well as my salary in that job.

13 Q. **[134]** Do you have any other academic training?

14 R. I guess academic might be stretching it a little
15 bit but when... while I was working for the State
16 of Vermont, to which we'll get to in a little bit,
17 I did a training program for the up and coming
18 managers within the state, the state system called
19 Vermont Certified Public Manager Training. This was
20 a training learning how to work well and manage
21 staff and work strategically within state
22 government.

23 Q. **[135]** Have you attended any other training seminars
24 relating to gas industry, energy transition?

25 R. Yes. So in twenty twelve (2012), while I was

1 working for the State of Vermont, I attended a
2 summer school, a summer training which is
3 frequently colloquially referred to as Camp NARUC
4 because it's sponsored by the US National
5 Association of Regulatory Utility Commissioners, it
6 is held in Michigan State University, that was in
7 twenty twelve (2012). And I'll just mention in
8 passing here, I went back to that program in the
9 fall of twenty seventeen (2017), after I had left
10 the state service of Vermont, to teach a session in
11 that, in that program on Rate design.

12 Just to describe a little bit more what
13 camp NARUC is. It's basically a sort of intro to
14 middle level training on that everything that goes
15 on into utilities' regulation: Rate making, rate of
16 returned, rate design, supply planning, etc. etc.

17 Q. **[136]** Let's go now to your professional experience.
18 Can you describe your professional experience after
19 your PHD in two thousand and eight (2008)?

20 R. Sure. After I finished my PHD, I took a
21 Postdoctoral fellowship at Lawrence Berkeley
22 National Laboratory, that's another one of the US
23 DOE National Laboratory in Berkeley California. I
24 was in the Appliance Standards Group, doing a
25 technical and economic analysis to support the US

1 Department of Energy in its work to set energy
2 efficiency standards for appliances to be sold in
3 the United States.

4 Q. **[137]** O.K. So, the... you refer to economic
5 analysis, just so we understand what was that
6 about.

7 R. That was, basically the question that US DOE needed
8 to answer in order to set its appliances standards,
9 it's whether the propose regulation is cost
10 effective or how cost effective is it. How much
11 costs would it incur on DOE and what would the
12 benefits be. And those are, it's primarily an
13 economic calculation in energy use changes, that
14 causes changes in the energy system because it's
15 causes changes in electricity demand, it saves
16 customers money. But it often cost for the
17 hardware, so it's that kind of cost/benefit
18 tradeoff analysis.

19 Q. **[138]** And after that, what was your next
20 professional experience?

21 R. Well, I then went to the headquarters of the U.S.
22 Department of Energy. I was selected as a Science
23 and Technology Policy Fellow by an organization
24 called the American Association for the Advancement
25 of Science, AAAS. And the job that I had there in

1 that fellowship was that I was a Special Advisor to
2 the Under Secretary for Science.

3 Q. **[139]** And what were your functions?

4 R. (Inaudible) So, the primary thing that I did over
5 the course of that year was that I was the
6 Assistant Project Director for the first Quadrennial
7 Technology Review that the US DOE conducted. In
8 terms of helping to run the project, that meant
9 facilitating input from within the US DOE, from
10 national laboratories, from outside experts who ran
11 a series of public workshops bringing in
12 stakeholders, manufacturers, advocate utilities,
13 and others to provide input into our process.
14 Understanding the current state of technology
15 across pretty much the entire slot of energy
16 supply, demand, transmission, etc. We also
17 ultimately submitted and filed and publically
18 released the first US DOE Technology Review Report
19 in May twenty eleven (2011).

20 Q. **[140]** You referred to this Quadrennial Technology
21 Review, was there anything in relation to energy
22 transition and business risk analysis?

23 R. Yes, definitely. So, the US DOE at that time was
24 trying to figure out how to be most effective in
25 driving forward US federal policy which -- yes, I

1 spoke of it all the time -- but the particular
2 federal policy at that time had to do with trying
3 to figure out how to decarbonize the energy sector.
4 So we worked closely to look across DOE within a
5 robust framework again looking at supply energy
6 sort of transformation, transmission, fuel
7 switching, changes in energy demand, and really put
8 that in the context of what is DOE's most
9 appropriate role, what are the roles of all of the
10 different kind of actors, what is this transition
11 is going to mean to those actors, how can DOE be of
12 most help, what information is necessary in order
13 to enable technology investors or utilities or
14 innovators to figure out what the best business
15 course for them might be within this context, how
16 to interact with US DOE.

17 So, on the technical side of things I just
18 had my, my sort of private role. On the technical
19 side, I was the primary author of the report's
20 section on building an industrial energy
21 efficiency, which included highlighting things like
22 the potential for heat pumps to be a fuel switching
23 technology in decarbonization. So, it was really a
24 deep but wide view across the whole slot of what
25 the energy transition looks like and what that

1 might mean for a whole different range of
2 businesses, utilities included.

3 Q. **[141]** And then, after that... after the US
4 Department of Energy, what was your next
5 employment?

6 R. So, I moved to Vermont to take a position as the
7 director of Energy Policy and Planning at the
8 Public Service Department, which is an agency of
9 the Vermont State government.

10 Q. **[142]** And can you describe a little bit more what
11 was... well, just before that, sorry, to help
12 understand, what is exactly the role of the Vermont
13 Public Service Department?

14 R. Yes. Good question. So, all the states have
15 structured how -- the function vary in Vermont --
16 how they fit in the various agencies of government,
17 I'm sure it's different in Quebec, because
18 otherwise we wouldn't see this proceeding as being
19 different. So, the Public Service Department really
20 was... wears a couple of hats as a department. And
21 one of those hats is to be the public advocate in
22 utility regulatory proceedings. So, that meant that
23 this a state agency that is a sort of an automatic
24 intervener, an automatic party in all state
25 regulatory proceedings before the regulator, then

1 called the Public Services Board, now called the
2 Public Utility Commission.

3 And so, in our department we had a legal
4 division and they were sort of our legal
5 representatives bringing our...

6 Q. **[143]** Just a second, Mr. Hopkins.

7 R. Yes.

8 Q. **[144]** Sorry. I see that your pace is quite...

9 R. Sorry.

10 Q. **[145]** ... rapid, and I'm thinking of...

11 R. The interpreter or the stenographer?

12 Q. **[146]** The stenographer. So, can you just slow the
13 pace?

14 R. Yes.

15 Q. **[147]** It's the enthusiasm, but just so that he can
16 follow you.

17 R. Yes.

18 Q. **[148]** Can you just... you were saying that you
19 had... you acted as a public advocate, so sorry if
20 I interrupted you, but can you repeat your answer?

21 R. Yes. No problem. I appreciate the difficulty for
22 the stenographer. It was just such an exciting job,
23 I got to keep going at it. So, the state... as a
24 state agency, the public advocate is involved in
25 all utility regulatory proceedings before the

1 regulator, which meant that we were... In Quebec,
2 there's intervenor funding to bring folks like IGUA
3 and the other parties here into the process.
4 Vermont doesn't have intervenor funding, but does
5 have this publically funded, well relatively,
6 funded by a tax on utilities, entity whose... whose
7 job it is to represent the public in those utility
8 regulatory proceedings.

9 So, that meant that we were deeply involve
10 basically in every case before the public... before
11 the regulator. The other role that the department
12 played, and this is a role that was particularly in
13 my responsibility was also what's called the State
14 Energy Office, which means that we had... we got
15 funding from the US Department of Energy, we were
16 sort of the Governor point person on energy policy
17 development and performing a range of
18 responsibilities around working with the
19 legislature, developing policy, a little bit more I
20 think like the Ministry of Energy in Quebec. So,
21 it's sort of a combined entity.

22 I found it a fascinating place to work
23 because it meant that we could spend the whole
24 range from policy development to permanent
25 implementation through the seeing what that

1 actually looks like inside a utility regulatory
2 structure.

3 Q. [149] Thank you. Can you describe a little bit more
4 your role as a director of energy policy planning?

5 R. Sure. So, I'll start with the... Again, there is
6 these two hats for the department and I essentially
7 wore two hats. So, one was to be the head, the
8 summary staff sheet said that the director of
9 regulated utility planning shall do the following
10 things, so I was responsible for weighing in on
11 particular items on a regular... in a regulatory
12 context for evaluating certain plans and things
13 like that. So, wearing that hat I was engaged in a
14 number of different issues before the... before the
15 regulator.

16 I was also the head of the State Energy
17 Office function, which meant that I was helping to
18 design and develop programs that we might run. I
19 also had folks who were conducting the regulatory
20 oversight of the state... at the state level of all
21 the utilities' run energy efficiency programs.
22 So... yes, I was sort of wearing these two hats at
23 both policy, I did a lot of work in the
24 legislature, trying to get them to... to pass bills
25 that would further advance the state energy policy

1 and then turn around and do reports and analysis,
2 and then appear before the regulator to sort of
3 explain and show what the regulatory implementation
4 of that policy would be.

5 Q. [150] In your resume that was an exhibit of your
6 expert report C-ACIG-35, for the first portion, the
7 first hat I should say, of your function, you
8 referred to a Vermont Comprehensive Energy Plan in
9 which you were, I think you were directing this
10 initiative. Can you explain a little bit more what
11 was that about?

12 R. Sure. So, that... the legal requirement to develop
13 a Comprehensive Energy Plan and also a State
14 Electric Plan, we merged those two together on a
15 regular basis. There had been various regulatory
16 requirements that various actions, that utilities
17 might take, need to be consistent with that
18 Comprehensive Energy Plan, so that energy plan was
19 developed sort of in concert with this utility
20 regulatory role.

21 So, the twenty sixteen (2016) plan that I
22 led from start to finish really helps set the
23 state's overall approach to meeting its policy
24 objectives and try to really ground that in
25 quantitative analysis. So, with that the state had,

1 I believe it probably still has, the plan hasn't, I
2 believe, hasn't change, a goal of ninety percent
3 (90%) renewable energy by twenty fifty (2050)
4 across all sectors.

5 So, we did a bunch of analysis figuring out
6 what would that mean, how much, which kind of
7 energy would be required, how would you do that
8 given the use of fossil fuels, like heating oil and
9 propane as well as natural gas in the heating
10 sector, what do that mean for transportation, etc.
11 And I did that analysis and then took that analysis
12 out around Vermont and talk to stakeholders, held
13 public forums, both at expert meetings and focus
14 groups but also... your Tuesday afternoon in the
15 town library kind of public engagement. And put
16 that all together into a complete plan that then
17 has this regulatory weight because it has been
18 informed by all these processes.

19 Q. [151] I think that you indicated also that part of
20 your role was submitting testimony before the
21 regulator. Can you explain a little more what you
22 ha to do in that context?

23 R. Sure. So, we had an internal team of experts
24 basically the division directors and sometimes
25 other experts in particulars areas, on our staff.

1 And so, because we were basically a party to every
2 proceeding before the regulator, we would usually
3 pick the appropriate staff members, who have the
4 appropriate expertise, to testify on a particular
5 topic before the Public Utilities Commission. And
6 so, I did that a number of time, in a number of
7 different cases as you see in my resume.

8 But I want to qualify a bit. It's not like
9 my testimony in those cases is the only engagement
10 that I had with the regulatory process. The...
11 firstly there's of course helping to inform and
12 analyse and quality control the testimony submitted
13 by my colleagues. But also, you're engaging in sort
14 of... the discussions within our department about
15 what are the best public interests outcome to be
16 advocating for at a given proceeding might be. The
17 department staff represents the public interest and
18 there's lots of different potential public. As you
19 see in that docket there's different members,
20 different organizations in Quebec, different parts
21 of the public have their own representation. We had
22 to figure out to strike balances internally to
23 represent the public interest as a whole. Meaning a
24 sort of a state policy interest as well as the
25 interest of low income customers or the economic

1 development or the environment or all sort of other
2 things.

3 When I think of that it meant that we were
4 in sort of constant communication back and forth
5 with utilities, the regulatory utilities in the
6 State, because they wanted to talk about, figure
7 out whether we are going to be supportive of their
8 position on things and all that. So there's a lot
9 of informal things going on. As well as there's
10 things a little bit more formal.

11 So, just an example or two, one of the
12 items in our regulatory calendar had to do with
13 rate cases for Green Mountain Power, you may all
14 have heard of about Green Mountain Power, perhaps
15 they're a sister entity to Énergir. They are now
16 the dominant, basically the dominant utility in
17 Vermont. They had to come in for rate cases every
18 few years and had a multi-year rate plan type
19 structure in between. It has a little Vermont
20 flavour of decoupling, various patches of
21 (inaudible) costs that are addressed using the
22 forward balancing accounts. All these tools that
23 are used to address utility business risk and we
24 would work out internally positions to take and we
25 would work through those issues. It doesn't end up

1 being documented, you know, in a formal file
2 testimony. But, but, that... I was very much
3 involved in those discussions.

4 So, for example, Green Mountain Power own
5 a wind farm - and in other parts of the States --
6 there is... sometimes the wind blows better or
7 worst, sometimes there are operational issues and
8 so, the question of what happens if that facility
9 which ratepayers agreed to pay for, the regulators
10 agreed on their behalf to pay for this utility. And
11 what happens when it's not delivering what is
12 expected. Who should bare that risk? This is, you
13 know, language that we're using in this proceeding,
14 that's a supply risk.

15 So we, we would discuss the appropriate way
16 to share the resulting costs between shareholders
17 and ratepayers and negotiate back and forth with
18 the utility. In terms of largely aiming towards
19 settling an overall rate case earlier so many of
20 the issues are liquidated.

21 So, given that was also overseeing an
22 energy efficiency program, the important role of
23 decoupling, so that the utility was indifferent to
24 the amount of sales there's might be in a given
25 year, figuring out, you know, making sure that that

1 structure was maintain in place, Green Mountain
2 Power propose various new businesses that they
3 would want to get involved in as... you know above
4 the line of regulated businesses. And so we would
5 talk about the risks associated with those
6 businesses, where was an appropriate allocation
7 sharing of risks for success or failure and those
8 sorts of things.

9 And also, just sorry I'll go on for a bit,
10 but there were so many different things I did in
11 this job. Another sort of recurring responsibility
12 that I had, wearing my director regulatory utility
13 planning hat, was to review utility in a greater
14 resource plan, both electric and gas utility
15 resource plan. I don't mean to disparage my
16 predecessors but this particular part of the role
17 had not been pursued actively in the years before I
18 arrived in the role.

19 So that involved developing the processes
20 use for that kind of review. Helping utilities
21 understand our perspective with respect to say
22 power supply risk and what it means to be planning
23 for societal least costs energy portfolio.

24 The Vermont Gas Systems had never done an
25 RRP before. I called them to do that so I worked

1 with them to figure out to map the structure of an
2 electric utility RRP on to a gas utility RRP. Their
3 supply risks in terms of... the supply risk
4 essentially on behalf of customers in terms of
5 hedging their various contracts in such and so we
6 needed to check and make sure that those were being
7 evaluated using appropriate methods. Check their
8 methods for while they decide whether to expand
9 into a new service territory, balancing
10 opportunities for growth with the risk that will
11 happen if customers don't sign up or don't use as
12 much gas as you think they're going to.

13 Those are some of the bits and pieces that
14 give me exposure to... you're really looking at all
15 these different aspects of business risk from a
16 utility, not utility regulatory, I'm sorry.

17 Q. [152] Thank you and with respect to specific
18 testimony on subjects that would be relevant to
19 this hearing, do you have any examples?

20 R. There are two that I think that are more relevant
21 than others. The first has to do with a particular
22 proposal, well... There had been an approved
23 expansion of Vermont Gas Systems to carry quite a
24 large expansion of a service territory. But there
25 was cost overruns in that, in that project. So the

1 question was whether to... The cost overruns were
2 sufficient, do they require re-opening the overall
3 question whether to build the thing at all. And so,
4 I did the analysis about... This project made sense
5 before, it was cost effective when it was
6 approved, is it still cost effective? So this was
7 returning to my, you know, and building on my
8 expertise in that sort of cost benefit analysis to
9 see whether, you know, is it still consistent with
10 the Energy Policy and the general goals of the
11 State, and is it still a cost effective project.

12 So that sort of questions of when is gas
13 infrastructure appropriate to build, what type of
14 long-term capital risk is associated with building
15 something or a large expansion project like that. I
16 think it's relevant here with respect to these
17 business risks decisions.

18 Then, a little bit of further more things
19 (inaudible) there was a law that established how a
20 electric ratepayers funds could potentially be used
21 within a particular construct to support
22 electrification measures. This is the law and the
23 process has subsequently changed but, I put in
24 testimony about the fact that at that particular
25 time the way it was structured, this particular

1 part of the funds were not appropriately used for
2 that kind of electrification. But, this question of
3 heat pumps and electrification and how to support
4 them and who should pay for that, you know, that
5 aspect of the public support for energy transition
6 was just a... it was a recurring issue both in the
7 hearing room and in the State House, and in other
8 (inaudible) just across a number of years.

9 Q. [153] And you were testifying in what capacity?

10 R. So, this... the Quebec process of having sort of a
11 formal, you know, expertise statement in being
12 qualified as an expert versus an analyst whatever.
13 I haven't encountered that in any other state, and
14 surely I didn't have that in Vermont, but in almost
15 all cases, there was one exception for
16 idiosyncratic reasons. I was in effect and in the
17 extent that structure exist in Vermont, I was
18 testifying as an expert, I was a departmental
19 expert on the topics that I was testifying on.

20 Q. [154] So, you had also as part of director of
21 energy policy planing, you worked on the Vermont's
22 Total Energy Study, can you just explain briefly
23 what was that about, and in relation to this... to
24 this case?

25 R. Yes, sure. So, this is the first real detailed

1 quantitative modelling study that anybody had done
2 in Vermont, unlike really what does the energy
3 transition actually look like, how much of what, by
4 when, do you need in order to actually get to a
5 state of decarbonization by mid-century? So, this
6 was looking at policy options and different
7 technologies pathways. We hired outside consulting
8 assistants to help with the quantitative modelling
9 part, Dunsky -- that may be familiar to you all in
10 Montreal -- helped us to do a modelling and we look
11 through, and this is really the first time when we
12 really... we put numbers down to see, like, okay,
13 this is what this is going to mean for a salesman
14 in gas utility. This is what this is going to mean
15 for how much electrification is going to be
16 required. We looked at more sort of biomethane type
17 approaches and bio heating oil, bio fuel for
18 transportation, wood heating, and we also looked at
19 more electric (inaudible) pathways, and we looked
20 closely at what that... what the implication of
21 those were going to be, understand the economy of
22 the different players within the energy system, the
23 implications for the utilities, figure out how to
24 better model, the state economic impact of changes
25 in gas utility sales and all that sort of things.

1 The... this was the... in many respect sort
2 of underlying technical analysis that informed the
3 comprehensive energy planing process that we
4 conducted over... over the year after that.

5 Q. [155] So, let's turn now to your work as Vermont's
6 Total Energy... sorry. Have you... Just next step.
7 Can you describe your next role after, or if you
8 have any other things to say about Vermont and so
9 we'll then go to your role at Synapse.

10 R. Sure. There's one more thing I wanted to say about
11 Vermont, because I was thinking that in
12 anticipation of this conversation, about a case
13 where a lot of the issues that are present in this
14 case were present to Vermont although with a twist,
15 so I'll explain, and sort of show how I was engaged
16 in addressing those issues and sort of what that
17 meant and how that informs my expertise with
18 respect of the issues here.

19 So, I was in that (inaudible) from twenty
20 eleven (2011) to twenty sixteen (2016). If you look
21 at a cost curve of the following cost of solar
22 photovoltaics, you would see that they fell a lot
23 during that time period, in particular by even by
24 earlier in that time period, they were low enough
25 that if a customer could net metered their electric

1 generation, they could get a pretty good financial
2 return for their investment. And this was true
3 across the country, and so if you look at... at the
4 agenda for a NARUC meeting or a utility meeting of
5 some sort in twenty twelve (2012) or thirteen
6 (2013), you would see a lot of questions about net
7 metering, about cost shift for net metering, about
8 the utility death spiral. There were questions, you
9 know, about the competition between self-generation
10 from solar photovoltaics in particular on homes and
11 utility supplied power supply and the risk that
12 that would essentially destroy that traditional
13 electric utility business model. They sort of, you
14 know, electric utilities aren't used to dealing
15 with competitive supply on that... in that sense,
16 even competing with a distribution system. So, how
17 to manage that competition.

18 So, the point of net metering in Vermont
19 really looks like your sort of classic accidental
20 growth curve. This really was a new business risk
21 for the utilities, challenging the way that they
22 have been thinking about how the business was going
23 to be on forward. It was definitely the centre of
24 utility management's attention, there were
25 regulator proceedings on that, there were

1 legislating hearings, there were discussions
2 happening on different legislation.

3 THE STENOGRAPHER :

4 Can you go slower, please.

5 R. I'm sorry. Thank you for reminding me. So, this was
6 really similar, I think, to the energy transition
7 discussion that's happening today in terms that it
8 as become the centre of conversation.

9 So, in my role wearing both this policy
10 development hat, being... having a state policy in
11 favour of a renewable development, people wanting
12 to develop renewable, but also this business risk
13 for the utilities. You know, I was called upon by
14 legislation in my role, but we helped sculpt and
15 shape what this... what this study was going to
16 look like to help the legislature, the regulators,
17 the public, the utilities, understand what this
18 risk looks like, you know, what benefits are
19 accruing to the state because of net metering
20 policy benefits, if that utility risk worth it, how
21 should it be apportioned.

22 And so, the point of our analysis was
23 really to try to understand this risk, how big of a
24 risk is it really, on what time scale will it show
25 up, how likely is it to result in, you know, a

1 death spiral type situation for utilities.

2 So, in this context that I conducted
3 analysis of those costs and benefits of net metered
4 solar PV, cost to who and benefits to who, the...
5 we showed that at the present deployment scale net
6 metering did provide actually some net benefits to
7 the state, but as participation grew it would cause
8 increasing that cost and could result in adverse
9 outcomes if the policy didn't change.

10 So, that lead us to a process to set up a
11 new rule, a new policy for net metering. It would
12 give the regulator explicit check points every
13 couple of years to see how net metering was
14 progressing, evaluate risks, be able to inform...
15 make an inform decision about the policy. So, you
16 know, it resulted in sort of calms down, this sort
17 of analysis, essentially calms down a frantic
18 concern about the risk of net metering and turn it
19 in to a balanced process that advances policy,
20 while not leading to any sort of long-term capital
21 recovery risk, for example, for the utilities.

22 So, this process, I think it's a potential
23 interesting analog to a lot of the same issues in
24 that process came up as in, as are at issue in this
25 case and in the issue of energy transition for gas

1 utilities in general.

2 Q. [156] Mister President, I was going to start with
3 the questions on his current role, current position
4 at Synapse, but I'm mindful of time. Should I
5 continue or you prefer to have a...

6 LE PRÉSIDENT :

7 Non. Je pense que vous pouvez continuer.

8 Me PAULE HAMELIN :

9 Parfait.

10 Q. [157] So, Mr. Hopkins, now I understand that you're
11 vice-president of Synapse Energy Economics. Can you
12 explain what the firm does briefly?

13 R. Sure. We work for public interest clients across...
14 across North America to try to understand all sort
15 of ranges of energy and economic issues,
16 particularly those related to energy transition,
17 but also other ones. In some cases were supporting
18 development of testimony, actual testimony in
19 regulatory proceedings. Other times it's a report
20 to inform, inform the public or some sort of
21 policymaker.

22 Q. [158] And your specific functions at Synapse?

23 R. So, I'm a vice president, I lead all of our,
24 broadly speaking, our trust in the direction of
25 what does the decarbonization look like, in the

1 Québec language energy transition, with a
2 particular focus on what does it mean for electric
3 and gas utility regulatory in business models.
4 Recently that meant a lot of work on what the
5 future of gas utilities is from a policy and
6 regulatory and quantitative standpoint.

7 Q. [159] Can you give some examples of projects that
8 you're working on, relating to gas utilities and
9 the relevancy with this file?

10 R. Sure. There's, there's some risks I may go on for a
11 while. (inaudible) being involved in so many
12 different interesting proceedings, there's a lot I
13 can say about a lot of them. So I'll try to give
14 you a quick highlight summary and if you have
15 follow-up questions about any of them feel free.

16 So, working our way around the country
17 maybe from top right to lower left. So in
18 Massachusetts, we work for the Conservation Law
19 Foundation. They are engaged in a stakeholder
20 process in the public utilities docket twenty
21 eighty (2080). Which is exclusively a regulatory
22 proceeding about the role of local gas distribution
23 companies in the energy transition in
24 Massachusetts. Massachusetts has a twenty fifty
25 (2050) net 0 goal, that's actually a statutory

1 requirement, a legal mandate to net 0 in twenty
2 fifty (2050).

3 So we produced a report for CLF,
4 Conservation Law Foundation, early in that docket
5 because the way we understand how it's gonna work,
6 the utilities are going to have to hire consultants
7 to do a big study. So we took our expertise that
8 we've had gotten from around the country and wrote
9 a white paper or a report on what to look for in
10 the scope of that study to make sure that it was
11 really doing things well and taking all of the
12 correct kinds of things into account.

13 As that analysis has been conducted and
14 completed we've help to evaluate the work, help
15 them file comments in attached memos that we've
16 writing in their files, comments to the utilities'
17 regulators about what that, what that transition
18 looks like.

19 Just moving further down across the country
20 in New York, we worked for Natural Resources
21 Defence Council. There's a long term gas planing
22 preceding open with the regulator there, where
23 we've written a couple of white papers about the
24 importance of long term gas planing and not just
25 short time planing, the transparency of planing.

1 The planing process in New York has been quite
2 okay. And about, improvements in costs benefits
3 analysis for gas and infrastructure decision
4 making.

5 And then, more recently, a colleague and I
6 have submitted a joint testimony in Con Edison's
7 current rate case particularly with respect to
8 their plans and approach for mains replacement,
9 they have thousand of miles of cast iron mains that
10 need replacing or retired. We were helping to
11 illuminate the questions about replacement or
12 retirement for those assets.

13 I guess moving a little bit further down
14 the coast to Maryland, we work with Maryland Office
15 of People Counsel, that's the public advocate in
16 Maryland. They're concerned about what happens to
17 lowing income customers in the context of gas
18 utility energy transition. Make sure that the risk
19 of capital recovery risk, in the event of, any sort
20 of death spiral situation or what does that risk
21 look like from a standpoint of... who might be the
22 last ratepayer still on the system. You cannot
23 afford, I can't afford to let the fire get off and
24 so what are the kinds of proactive risk mitigation
25 strategies that can be implemented from a

1 regulatory standpoint and an infrastructure
2 planning standpoint to limit the risk that's passed
3 on to those low income ratepayers.

4 Next to Maryland in the District of
5 Columbia we've been engaged for a number of years,
6 almost actually, almost eighty percent (80 %) of
7 the time I've been at Synapse, I'm helping them
8 with issues around gas utility planning. It started
9 with my submitting expert testimony in the
10 proceeding in which AltaGas, a Canadian company
11 cited in the file here, was buying Washington Gas
12 Light, the gas utility in DC and the Energy Office
13 in the DC government hired, hired me as an expert
14 to testify on the question of what energy
15 transition might mean to Washington Gas Light as a
16 company. What kind of risk should AltaGas be aware
17 of as it's making its purchase. Washington DC had
18 very aggressive requirements regulation calls and
19 made them more aggressive during the course of the
20 proceeding. And so, what would that mean for the
21 risk that were facing the gas company. They did
22 that to make sure the buyer of Washington Gas
23 wouldn't be surprised when they got to deal with
24 the District and figured out that they actually had
25 very aggressive policies and that was really going

1 to change what their business model was.

2 As part of the settlement for that case,
3 AltaGas and WGL agreed to make a climate business
4 plan and file it before, before the regulators and
5 then we've been working in the follow-up
6 proceedings, we weighted that kind of business
7 plan. Evaluating it. It got his plus and minus and,
8 you know, helping to really understand and get the
9 utility to really be transparent about what its
10 plans are and what risks it faces and how they
11 propose to mitigate those risks. Because in many
12 cases our counter parties in utility risk is
13 shareholders, is ratepayers. So what are the
14 appropriate mechanisms there.

15 Jumping across the country, the Colorado
16 Energy Office asked me to write white papers on how
17 to do decision making in a utility regulatory
18 context, to advise the regulators essentially, in
19 the context of you need to make things happen fast
20 in order to get where you need to get with energy
21 transition. But at the same time, you don't have
22 really all the information. You don't know whether
23 the different programs are gonna work. You have
24 lots of parties that need to be coordinated. So how
25 do you make the decisions that you can make now

1 while explicitly holding other decisions for later
2 and coming back to them and having a sort of
3 rapidly refreshing feedback loop. What's working
4 what's not working. And how to, how to implement
5 that from a regulatory standpoint.

6 In the docket, we're helping some advocates
7 there in their proceedings regarding the future of
8 gas and gas planing issues and some more projects.

9 The last one I'll mention is San Diego. The
10 County of San Diego who has hired the University of
11 California of San Diego, who then subcontracted to
12 us, to help them developing the building portion of
13 their Regional Decarbonization Framework that,
14 particularly they wanted to have a good
15 understanding of what is going to happen with San
16 Diego Gas & Electric. The gas utility that serves
17 the County. And what the particular issues that
18 they needed to be aware of with respect to the
19 risks that company might face. And what the impact
20 of those risks might be on, on residents of the
21 County. What are the different kinds of mitigating
22 actions that the utility might take and how the
23 County can be prepared to help its municipalities
24 and its residents be prepared for what the gas
25 utility transition might look like.

1 Q. [160] There are other projects in your resume, I
2 don't think will go through all of them, but can
3 you explain based on what we have, on your roles
4 and... how you think that your experience in your
5 various professional jobs permits you to, to help
6 the Régie in this case? How do you think your
7 professional experience brings the, the request to
8 the qualifications that we're asking here as an
9 expert.

10 R. Sure. I'm largely drawing in this context on my
11 work in Vermont where we're really working closely
12 on those regulatory structures. Understanding the
13 regulatory lag in short term business utility
14 risks. And then, there's the question of the longer
15 term risk with the model of, that question of that
16 net metering analog. And then, you know, really
17 diving in on a very close level at what really
18 energy transition looks like? What does it means
19 for different players that are involved. And then,
20 in the last few years in my Synapse role, you know,
21 really having that, the ability to look across the
22 country and really in detail at particular, you
23 know, what the energy transition looks like in
24 different places, what are the impacts on different
25 utilities in different climate zones with different

1 investment plans, some still have a bunch of cast
2 iron and some don't. You know, all those sorts of
3 questions? How does the risk differ? How are they
4 the same? What are the different options for
5 mitigating those risks? As it... it may be clear
6 from the way, you know, I have been describing what
7 we are talking about, you know, I have this sort of
8 regulatory policy overlay but also really focused
9 on like practical implementation like what does it
10 actually mean? What would need to happen in order
11 for a risk to come to terms?

12 Because when you are a state policymaker,
13 you are trying to advise in a policy context. I
14 think you really need to have a good understanding
15 of what that actually looks like in implementation,
16 in practice and I think I can bring that to bear
17 here in this proceeding.

18 Q. **[161]** So since I am a little bit mindful of time, I
19 just want to look, without necessarily describing
20 them in a lot of details, when we are looking at
21 your CV in the reports section of your CV, can you
22 just indicate what would, you believe, be relevant
23 draftings that you have done on the subject that is
24 of most importance for this case?

25 A. Sure. So do I... A number of these reports are

1 related to projects that I described before, I
2 won't touch those. But I guess, looking at reports
3 actually on the first page of the list, which is
4 page 4 of the Exhibit, 6 one down is a project
5 called Rhode Island Carbon Pricing Study. That is a
6 study we did for Rhode Island. I think the most
7 relevant piece here is that we really looked at
8 what would be the drivers and relevant costs that
9 would matter to customers to decide to electrify
10 from natural gas. What would the competitive
11 position of electricity and gas have to be as
12 shaped by a carbon price in this context.

13 But more generally, in order to actually
14 change customer behaviour in terms of buying new
15 equipment. And the (inaudible) from it was, changes
16 in the price of fuel do not have a particular large
17 effect, that upfront incentives we found that would
18 have a much larger effect. So that informs my
19 thinking about the competition risk between gas and
20 electric. At least in the context of gas and
21 electric prices in Rhode Island.

22 On the next page, sort of the middle of the
23 page, there is one by Shipley, the first author is
24 Shipley, Josh Shipley, this is a white paper for
25 the regulatory assistance project, called

1 Renovating Regulation to Electrify Buildings, a
2 Guide for the Handy Regulator. And I have provided
3 general advising for this project as a whole but
4 particularly led to the development of the section
5 about line extension policy and reevaluating the
6 line extensions. Which can relate to how much
7 capital is at risk and what does that mean in that
8 context.

9 The second to last item on this reports'
10 page by Takahashi and al., is a Survey of U.S.
11 State and Local Building Decarbonization Policies
12 and Programs. So there is just, you know... further
13 work that I was involve in to gather inside
14 information about what is going on across the
15 country, in terms of different programs and
16 policies and what effects they are having.

17 On the next page, the first one, again
18 Takahashi is the lead author, Assessment of
19 National Grid's Long-Term Capacity Report. This is
20 officially a non pipeline alternative analysis
21 related to a new gas transmission line into Rhode
22 Island. Again it related to this question of
23 managing capital risk and effectively making
24 decision about gas capital investment.

25 The fourth piece here, Kallay et al. Net

1 Zero Energy Roadmap for the City of Burlington,
2 Vermont. This is the Energy Transition Roadmap for
3 the City. What is unique about Burlington is that
4 they have an objective of being net zero, not by
5 twenty-fifty (2050) but by twenty-thirty (2030),
6 and so the challenge that they face in addressing
7 stock turn over time and the extra cost they would
8 face to try to figure how to retire gas systems
9 quickly, if they are going to go on an all electric
10 route. They have Vermont Gas Systems, an Énergir
11 affiliate, servicing Burlington and the question of
12 partnership with Vermont Gas, use of renewable
13 natural gas as part of reaching that goal and what
14 does that mean about timeframe for energy
15 transition.

16 And then, I think maybe the last report
17 that I would highlight on here, like it's from the
18 bottom on that page 6 of the resume.
19 Decarbonization of Heating Energy Use in California
20 Buildings. This was an analysis of... what it says
21 it is, but particularly looked at the customer
22 economics of fuel switching with time of use rate
23 design, with a particular rate structure in
24 California for gas and for electric and what that
25 implies about state policy and other things for

1 Québec kind of competition, you know, between gas
2 and electric.

3 Q. **[162]** Have you ever been consulted for business
4 risks questions before?

5 A. Not in the context of rate of return debate like
6 this one. The... as I mentioned, my exposure to
7 this (inaudible) question is really sort of
8 practical implementation base rather than in a sort
9 of abstracts, or (inaudible) proceeding contacts.

10 So the closest, the best directly analog is
11 this question of risk in Washington DC and AltaGas,
12 in really digging into what the risks to the
13 utility are in energy transition and you know,
14 understanding those pieces but I guess... I feel
15 like, there is an aspect of business risks in the
16 Mallon work, in the Massachuset work (inaudible)
17 down the road in Newark and the (inaudible), hired
18 for my expertise in that, in that time, in that
19 area, but just not in a specific context of that
20 sort of... this particular rate of return docket,
21 risk comparison structure.

22 Q. **[163]** Would you believe that you can be of
23 assistance to the Régie as an expert in this file?

24 A. Over my career, I have provided objective analysis
25 in the public interest. That is how I view my job

1 in the world.

2 Whether that's working for the Federal
3 government, for the State of Vermont as a
4 consultant at Synapse, I'm committed to using the
5 analytics best practices, developing new approaches
6 to policy and regulatory analysis, as needs to
7 them.

8 I have been speaking briefly about the gas
9 utility business and the risks it faces in the
10 context of policies for greenhouse gas emissions
11 mitigation, in numerous contexts across the US for
12 a number of years. I believe I have the technical
13 knowledge and expertise to be of assistance to the
14 Régie in this case. As you've just asked, you know,
15 I have not filed testimony in rate of return cases
16 and business risk per se, I do believe my expertise
17 as a practical policymaker... and the problem to
18 address with utility business risk in this
19 regulatory context give me a useful perspective and
20 that perspective would be useful to the Régie in
21 evaluating Dr. Brown's report on business risk.

22 I did have the opportunity to testify
23 before the Régie before. I am pleased to have the
24 opportunity to return and testify before you again.
25 I am pleased to be able to apply my knowledge of

1 Québec energy in a regulatory context and make sure
2 that my advice is tailored to meet the Régie's
3 needs in this case.

4 Q. **[164]** Thank you, Mr. Hopkins. This concludes my
5 questions to Mr. Hopkins.

6 LE PRÉSIDENT :

7 Merci beaucoup, Maître Hamelin. Alors, on va
8 prendre la pause pour le lunch et on se retrouve à
9 treize heures dix (13 h 10). Merci.

10 Me PAULE HAMELIN :

11 Merci beaucoup.

12 R. I didn't had the chance to turn the translation on.
13 What time do we start back again?

14 Q. **[165]** At one ten (1 h 10).

15 A. One ten (1:10), O.K. Six ten (6:10) for me.

16 Alright, thank you.

17 SUSPENSION DE L'AUDIENCE

18

19 REPRISE DE L'AUDIENCE

20 LE PRÉSIDENT :

21 Nous allons poursuivre avec le contre-
22 interrogatoire des demanderesses. Je présume que
23 c'est maître Georgescu ou maître Ouellet qui vont
24 s'en charger?

25

1 Me ADINA GEORGESCU :

2 Bonjour, Monsieur le Président. Ce sera moi.

3 LE PRÉSIDENT :

4 D'accord.

5 Me ADINA GEORGESCU :

6 Ce sera moi qui va s'en charger cet après-midi.

7 Alors, bonjour... bonjour à la formation. Je vais
8 essayer d'être... d'être brève, disons.

9 CROSS-EXAMINED BY Me ADINA GEORGESCU:

10 Q. **[166]** Good afternoon, Dr. Hopkins. It's a pleasure
11 to meet you.

12 R. Now... now, it's afternoon for both of us.

13 Q. **[167]** Yes, exactly. So, my name is Adina Georgescu,
14 I am a legal counsel for Gazifère and Intragaz in
15 the current proceedings and I will be asking you
16 some questions about the testimony that you just
17 filed right before lunch on our time, but in the
18 afternoon on your time. So, I'll try to not take
19 too long, but I just wanted some clarifications on
20 some of the elements that you brought up during
21 your testimony.

22 So, I'll start by going back to your
23 professional experience, which is the first part of
24 your testimony earlier today. You were mentioning
25 that you worked for the US Department of Energy and

1 you described your experience there and what you
2 were in charge of, which included the Quadrennial
3 Review on Energy Transition for one. You also
4 described your experience there as you having
5 worked on decarbonization of the energy sector with
6 the objective of informing and developing policies.
7 Is that correct, is my understanding correct to
8 that effect?

9 R. Correct, a couple of comments there, the product of
10 the Quadrennial Technology Review, it's really a
11 technology policy document, it's about what... the
12 core purpose of the QTR, for easier speaking, is to
13 guide the Department of Energy in its development
14 of programs and policies that's within its purview.

15 The Department of Energy spends, US
16 Department of energy, at that time, spent something
17 like four billion dollars a year on energy R&D,
18 providing all sorts of interesting information to
19 the energy sector, etc. So, our purpose was to look
20 at the energy sectors as a trillion dollars plus
21 industry in the US alone. So, how do you make the
22 most out of four billion dollars...

23 Q. [168] M'hm.

24 R. ... per year of investment. What are the larger
25 leverage things to do, and in order to understand

1 that, we leverage to what purpose, we leverage to
2 the purpose of advancing energy transition. So...
3 so it's about the energy transition, but it's about
4 DOE's particular role in that transition and how
5 that relates to the role of all the other players:
6 utilities, universities, national labs, businesses
7 doing R&D, all the different players that are going
8 to end up having some sort of role in the energy
9 transition.

10 Q. **[169]** Understood. So, it is related to energy
11 transition, it is related, for instance, to
12 decarbonization, to energy efficiency, that's
13 pretty much what it's about and you were obviously
14 leading this and involved in the process of putting
15 this together.

16 R. I also want to clarify my role a little bit. I
17 don't want to take more credit than it's due. This
18 is a big project with a lot of people on it across
19 the whole Department of energy. I was helping to
20 make sure that that whole train ran on time.

21 Q. **[170]** Understood.

22 R. And bringing my particular expertise to... to sort
23 of accumulating and supervising information we were
24 bringing in from all these different sources into a
25 coherent document you can, like, pick up and wave

1 around, instead of twenty thousand (20,000) pages
2 of unuseful information.

3 Q. **[171]** Understood. So... so, your focus was on
4 keeping all of this together, but the objective
5 here was really energy transition and
6 decarbonation, that's what I'm trying to figure
7 out, what...

8 R. Yes.

9 Q. **[172]** ... what the subject matter was.

10 R. Yes.

11 Q. **[173]** Okay. Perfect. Moving on to your experience
12 with the Vermont Public Service Department. You
13 described here... you described your work as
14 developing policy, program implementation inside
15 utility, inside the utility regulatory structure,
16 you were working on energy transition and
17 decarbonization as well and energy efficiency
18 programs. Is that a good summary of the general
19 tasks that you were... you had...

20 R. Yes.

21 Q. **[174]** ... in that role?

22 R. When... You know, it's a small state and not a lot
23 of people and everybody is responsible for
24 everything in some sense, so there was a lot of
25 stuff that came across my desk in the course of the

1 five years, but everything you just mentioned there
2 was, yes, came through for sure, and probably
3 amongst the larger topics in amongst everything
4 else.

5 Q. [175] Alright. So these are... these are the, I'd
6 say, high level, these are probably the central
7 topics that you were in charge with, is that fair
8 to say?

9 R. That's fair.

10 Q. [176] Okay. Thank you. You also mentioned that in
11 that role with the Vermont Public Service
12 Department, you worked on the Vermont Comprehensive
13 Energy Plan, which was, in my understanding,
14 related to Vermont's approach in mitigating its
15 objectives of ninety percent (90%) renewable energy
16 by twenty fifty (2050). Is that... is that correct?

17 R. Yes. It was... it was about how does the energy
18 sector in Vermont contribute appropriately to
19 meeting a range of policy objectives, sort of the
20 top line of the energy policy's state is ninety
21 percent (90%) renewable by twenty fifty (2050), but
22 it was really an interagency process, we wanted to
23 make sure that we're advancing human health and we
24 were improving the environment, and it was making
25 economic sense. The state economic development

1 agency must provide, you know, energy is a sort of
2 supply (inaudible) energy in the service of... and
3 changes in the energy sector in the service of
4 outcomes policy, policy outcomes, whether that's
5 environment, health, economic development.

6 (Inaudible) whichever way you want to think about
7 it. And so, the government's energy plan looks, it
8 has to look realistically across all those policy
9 objectives, and saying how do we... how do we use
10 the various leverages that the state has, the soft
11 power and the regulatory authority, laws and
12 whatever to funding, to make change happen in the
13 direction of advancing all those policy objectives.

14 Q. [177] So...

15 Me LISE DUQUETTE :

16 I'm sorry. If I can...

17 Me ADINA GEORGESCU :

18 Yes.

19 Me LISE DUQUETTE :

20 ... just interrupt you for a second. You both talk
21 fast, really fast, so if... if I need to take
22 notes, I mean, could you cut in a half the speed to
23 which you're talking?

24 Me ADINA GEORGESCU :

25 Absolutely.

1 Me LISE DUQUETTE :

2 It would be helpful. Thank you.

3 Me ADINA GEORGESCU :

4 I apologize, Maître Duquette. We will slow... I
5 will, for one, slow down, and I imagine Dr. Hopkins
6 will try as well. So, we will... we will try to get
7 our speed to not go as quickly.

8 Q. **[178]** So, is it fair to say based on what you just
9 explained that this Vermont Comprehensive Energy
10 Plan really looks at solutions and measures that
11 could be implemented in order to achieve policy
12 objectives for energy transition and
13 decarbonization, etc? Is that a fair... a fair
14 assessment?

15 Q. **[179]** It definitely does that. It also includes a
16 grounding in information and analysis to inform the
17 reader, as so the context in which those solutions
18 or proposed actions are taking place. It's a plan,
19 it's an action plan, it has... the following entity
20 should do the following things.

21 Q. **[180]** Understood. Understood. Thank you for that.
22 I'll move now to Synapse. So, your current... your
23 current employment right now, and I understand you
24 are vice-president of the company. I also
25 understand from what you explained earlier today

1 that Synapse acts in public interest of clients, so
2 you represent them in... you represent clients for
3 the public interest in various circumstances,
4 various contexts. Is that... is that correct?

5 R. That's correct. We provide our expertise to
6 clients. I really want to... I want to make clear
7 that... that we are an analytic organization, not
8 an advocacy organization.

9 Q. **[181]** Understood.

10 R. Our clients... our clients may be advocates, but
11 our job is to provide them with the truth as we see
12 it. It's literally written in our contracts with
13 them that we control the language of what we say,
14 that we're... clients sometimes are not happy with
15 the results of our analysis and, you know, that's
16 their problem.

17 Q. **[182]** Understood.

18 R. There just might be... you said... Yes. I just want
19 to be clear about the language.

20 Q. **[183]** Understood.

21 R. We are providing our services to folks who then
22 have an advocacy position they may use our analysis
23 for.

24 Q. **[184]** Yes. The clarification is... is understood.

25 Thank you very much for that. And in the context of

1 your... of your work with Synapse, my understanding
2 is that you focus on, again, decarbonization,
3 planing and implementation of decarbonization,
4 electrification and energy efficiency measures or
5 initiatives, and I'm also looking at your resume
6 which states essentially the same... the same
7 concepts. So, is it fair to say that that is what
8 you are focused on with Synapse?

9 R. That's the primary area of my work. I contribute to
10 projects in a number different areas. résilience,
11 resource planing all sort of other pieces. But if I
12 had to describe, you know, what is my practice
13 area, it's about what you just said, pretty much.

14 Q. **[185]** Right. So, do you agree with me, having
15 looked at these, at these professional experiences
16 and I know that you've mentioned maybe one or two
17 more, but I didn't want to go back too far in time.
18 Over all, generally speaking your experience is in
19 the field, essentially, of energy transition
20 decarbonization and energy efficiency. Is that a
21 fair statement?

22 R. I definitively have an expertise in those areas but
23 also I have expertise in twenty (20) other areas.
24 But the, as it relates to all the different aspects
25 of the energy sector, utilities etc. within the

1 context of those, of those other pieces. That's,
2 that's where, that's where the focus of my effort
3 at Synapse are, it's for sure.

4 Q. **[186]** Understood. I'll move now to selected
5 projects. So, you mentioned earlier a few projects
6 that you considered has being most relevant for the
7 purposes of the current hearing, and, and I noticed
8 that they are maybe a little bit different, or
9 they're not necessarily the same as the ones that
10 are listed in your, in your resume. But I just
11 wanna go through the ones that you did mention. So
12 you mentioned CLF, and I apologize if I, I
13 mentioned these in the wrong way or if I call them
14 by the wrong name, but I had a hard time keeping up
15 with all of the information.

16 R. I'm sorry.

17 Q. **[187]** That's all right. So I'll say them as I
18 understood them and you'll correct me if I'm wrong.
19 So, for CLF, you mentioned that this was focused
20 on, again, decarbonization. A plan to meet zero
21 percent (0 %) greenhouse gas emissions by twenty
22 fifty (2050). That was the focus of, the focus of
23 that particular project. It's at a very high level
24 here.

25 R. I guess I would qualify that a little differently.

1 The state policy to meet the net zero by twenty
2 fifty (2050) is the sort of a founding question of
3 that project and the founding question of the
4 regulatory docket in Massachusetts. But the actual
5 subject of the docket, and the centre of our work
6 is: what is the role of gas utilities in that
7 context. What, what, the questions are specifically
8 about gas utilities, not about, sort of generally
9 about the energy transition. But what happens to
10 gas utilities. What are their potential future
11 business models. What risks are they facing, how
12 might those, you know, if gas, fossil gas sales
13 have to go basically to zero, what does that mean
14 in terms of depreciation rates, in terms of
15 availability of fossil fuel. What about hybrids
16 systems, what about bi-energy, HQ equivalent
17 proposal is one the thing that's being analysed
18 there. So, it's not a sort of... the underlying
19 question is not, the foundation is that question of
20 the decarbonization and the energy transition. But
21 the question at issue in the docket and our work
22 there are very much about what actually is going on
23 with the gas utilities, with their finances, with
24 the rates they're charging customers. How does that
25 compare across different scenarios, are some

1 approaches better than others. Those kind of
2 questions.

3 Q. **[188]** Understood. So, I understand that this is
4 related to specifically public utilities in the, in
5 the gas industry. But what I was trying to, to
6 clarify is whether or not this was all in the
7 context of energy transition and deep
8 decarbonization and meeting objectives that are set
9 by policy in achieving, you know, as you mentioned,
10 zero percent (0 %), you know... greenhouse gas
11 emissions by twenty fifty (2050) for instance, as
12 an example. I understand from your answer that,
13 that is the case.

14 R. That is the underling question. It's not the sort
15 of the day-to-day questions that are being
16 addressed in that project in particular. It's in
17 that context.

18 Q. **[189]** Understood. You then mentioned the project in
19 Maryland and you mentioned that it was related to
20 low income customers and energy transition and
21 electrification. It was all connected to energy
22 transition and electrification. And you mentioned
23 that it was pertaining to the implementation of
24 energy transition measures. Is that correct?

25 R. The core of that analysis in Maryland is that we

1 have financial models of each of the gas utilities
2 in Maryland. And applying those models to different
3 projectories for future sales, different potential
4 business models. You know what happens if these
5 utilities continued sort of business as usual,
6 didn't make any adjustments to how it choose to do
7 investments or its depreciation rates. And, simply
8 decided to replace fossil gas with RNG in some
9 cases to achieve their state target. What would
10 that mean in terms of rates for customers. What
11 would that mean in terms of what the rate base for
12 the utility would be, what the revenue requirement
13 would be in a given year, etc.

14 And then, you compare, contrast that with
15 the case in which the state has made out some
16 examples of electrical pathways. What happens in an
17 electrification pathway or can assets be retired
18 early and then what happens to O&N costs. If the
19 assets are retire earlier how am I to make for the
20 value of those assets to be recovered? What is this
21 doing to rates if you change the depreciation
22 because they have to go earlier? All these kinds of
23 sort of, you know, quantitative analyses of the
24 utility business in the context of this, of this
25 state policy construct.

1 Maryland now has a state law passed quite
2 recently of net zero emissions in twenty forty-five
3 (2045). So what, what... you know many of the same
4 questions as in the Massachuset case, we also have
5 model about Massachuset's utilities, a comparable
6 model.

7 But, so what is the, what actually is going
8 on in terms, you know, of how much assets are at
9 risk of stranding. What's not really Useful anymore
10 under different kinds of infrastructure decisions.
11 What about all that cas iron pipes in the ground
12 that's currently leaking. How do you deal with
13 that. It's that, it's that sort of questions that
14 we were analysing for the Maryland project.

15 Q. [190] I understood. And my understanding is that
16 essentially the exercise that you were doing was
17 with respect to the measures that could be put in
18 place in the context of energy transition. That,
19 that was the focus essentially.

20 R. Yes, I guess it sort of depends of, there's
21 different meanings of the word "measures". I'm
22 thinking of different regulatory strategies,
23 different financial strategies on behalf of
24 utility.

25 Q. [191] Yes.

1 R. Different, different kind of programs that might be
2 implemented in terms of hybrids, sort of hybrids
3 heat pumps versus all electric, versus use of RNG
4 etc. Some people sometimes, people think of measure
5 (inaudible) efficiency measure like a more
6 efficient light bulb. So, I just want to be clear
7 about common definitions of the word "measure".

8 Q. [192] Understood. I think essentially we are
9 talking about the same thing, but your answer
10 clarifies and I appreciate that. If we look at some
11 of the projects that you have in your resume, that
12 you've selected specifically and I'll go through
13 them very very quickly, I don't know if you want us
14 to put up the resume in front of you so that you
15 can have a look at the elements I will be referring
16 to? Would you like us to put it up?

17 R. Sure. I think it would probably be helpful to
18 others, I have, I have it on my screen but for the
19 twenty (20) odd people who are looking along, they
20 may appreciate if you share it, so we're looking at
21 the same thing.

22 Q. [193] Absolutely. So, Madame la Greffière, est-ce
23 qu'il serait possible de mettre à l'écran la pièce
24 C-ACIG 0030. While we wait for the resume, Mister
25 Hopkins, please again...

1 R. Slow down. When I'm in the same room as the
2 stenographer, it's a lot easier to see the pain on
3 their face.

4 Q. [194] We all need to adapt to the virtual reality
5 unfortunately. So, Madame la Greffière, si vous
6 pouviez aller à la page 2 s'il vous plaît. Vous
7 pouvez descendre encore un petit peu. We are
8 looking at selected projects. Here you mentioned
9 The Future of Gas Utilities, and just very quickly,
10 it says that you and your team:

11 Are assisting a number of clients to
12 understand the future of gas utilities
13 in the context of deep building
14 decarbonization objectives.

15 If we go to the next topic: Puerto Rico Energy
16 Bureau. It says on the second line:

17 Dr. Hopkins has led or substantially
18 contributed to the development of
19 Puerto Rico's first energy efficiency
20 and demand response regulations;

21 If we go to the next one: Massachusetts
22 Comprehensive Energy Plan. So you worked, this is
23 the last sentence:

24 He worked with Pat Knight to develop
25 an approach to modelling energy

1 transformations toward low-carbon
2 alternatives in electricity,
3 buildings, and transportation that are
4 consistent with state policy and
5 approaches while being grounded in
6 stock turnover rates and feasible
7 policies and programs.

8 The next one refers to -- this is on the second
9 line:

10 ... identify the opportunity, costs,
11 and benefits available if strategic
12 electrification is adopted as a key
13 strategy for decarbonization in New
14 York and New England.

15 So, I can go on like this for the rest of them that
16 you've listed, but essentially what I'm getting out
17 of this is that, and please tell me if you agree
18 with my assessment, my assessment is that most of
19 these projects that you're mentioning in your
20 resume have to do with energy transition, have to
21 do with renewable energy, have to do with deep
22 decarbonization. This was the focus of most of
23 these projects that you've listed in your resume
24 and that is... that is what your... your experience
25 in this... in these projects refers to or relates

1 to. Is that a fair assessment?

2 R. For most of them, yes, that's fair. The work in
3 Puerto Rico is more broadly than you described. You
4 pulled out just the efficiency and demand response
5 piece. I spent several years as the overall
6 coordinator of our work to Puerto Rico Energy
7 Bureau, due to the idiosyncrasies of Puerto Rico
8 public hiring, they have difficulty hiring staff
9 and so we served as, essentially, an extension of
10 their staff on a very wide range of measures, of
11 things. So, integrated planing resilience in a
12 context of hurricanes, other pieces are... are
13 relevant there.

14 In the context of an island that estimate
15 to hundred percent (100%) renewable electricity by
16 twenty fifty (2050), and so yes that policy context
17 exists there, I'll argue that policy context exists
18 in, some places more than other, every place in the
19 world that's a signatory to the Paris Agreement.
20 Everybody's doing their part, and so that provides
21 a necessary context for work that anybody is doing
22 in almost any jurisdiction.

23 Q. **[195]** Understood. But I'll just... I'll just state
24 my question again. It was my understanding that the
25 vast majority of the focus and your experience here

1 was related to decarbonization, planing and
2 development of measures for energy efficiency and
3 energy transition. So, I'm talking about the
4 majority, I'm not looking specifically at each
5 individual project, I'm looking at a general
6 assessment of your experience. Is that a fair
7 assessment?

8 R. That's a fair assessment of the projects that I
9 summarized here, as in keeping with my description
10 notes, my primary business area (inaudible).

11 Q. **[196]** Right, right. So, you mentioned that for some
12 of these projects that you refer to in your
13 testimony and that are... that appear also from
14 your resume, that you were called upon to provide
15 cost benefit analysis, for instance for network
16 extensions or for various types of projects. Do you
17 agree with me that for these types of analysis...
18 Well, first of all, am I correct in saying that?
19 You did mention that for some of these projects you
20 were called upon to provide cost benefit analysis,
21 for instance for network extensions.

22 R. So, I would say that a great number of my projects
23 involved cost benefit analysis in some form or
24 another. Even cases in which we're doing analysis
25 of four different scenarios, it's commonly, it

1 often boils down to what are the relative costs and
2 benefits of the different scenarios, that's
3 commonly what the clients want to know in order to
4 be able to make choice, informed choice between
5 those scenarios.

6 The one thing I would say just to clarify,
7 is that the work that I've done on... related to
8 network extension cost benefit is... the Vermont
9 cases are particular example of that Vermont Gas
10 Systems extension. But otherwise I've worked at the
11 general question of the structure around what
12 extensions or new customer services rather than
13 necessarily doing an analysis for an individual
14 extension for an individual, for an individual
15 customer, it's more about like what are the right
16 rules, what are the right parameters to use for
17 that kind of analysis rather than any sort of
18 specific analysis, doing specific gas analysis, gas
19 extension cost benefit analysis like I've been
20 involved with in the Vermont gas extension.

21 Q. [197] Understood. So, for that particular one, the
22 Vermont one, which I think you had refer to as
23 being one of the examples that would... would be
24 comparable or would be a good example for the
25 purposes of illustrating your competencies in the

1 present case, you did mention that that was related
2 to line extensions. Do you agree with me that the
3 type of cost benefit analysis you're referring to
4 are limited to that type of specific project? You
5 were doing cost analysis for instance for that
6 Vermont project, specific to that project. Do you
7 agree with me on that?

8 R. That particular projet there was... there was a
9 statutory set of criteria to use to decide whether
10 something is (sound cut) of the state, and that
11 includes.. some of them involve balancing various
12 different costs and benefits, some of which can't
13 be added or subtracted from each other, you can't
14 take the overall state economic benefit from
15 something and add or subtract it to the cost of the
16 project, its oranges and apples. So, it's a matter
17 of looking at overall costs and benefits and doing
18 a weighing exercise to... to...

19 Q. **[198]** To evaluate the project.

20 R. To evaluate the project in a statutory context. The
21 regulator is going to have to make that evaluation.

22 Q. **[199]** Right. So... so, it was project specific cost
23 analysis if I may put it that way?

24 R. In that particular one, yes.

25 Q. **[200]** Understood. You also mentioned that you were

1 called upon in certain of these files to provide
2 business risk analysis in connection with some...
3 some of these projects. Is that... is that a fair
4 statement?

5 R. Yes.

6 Q. **[201]** Again, I will... I'll address the same type
7 of question to you, for instance for the Vermont
8 example that you... that you were giving, where you
9 mentioned that you were doing business risk
10 assessment for that particular project. Do you
11 agree with me that the business risk assessment
12 that you were called upon to do was specific to
13 that project? It wasn't a general type of business
14 risk assessment, for instance, that is require for
15 a rate of return case?

16 R. In that... in that specific Vermont example I was
17 doing analysis about that specific project.

18 Q. **[202]** There were two other projects that you
19 referred to, and I just want to check my notes to
20 make sure that I'm referring to them correctly. And
21 maybe we are talking about the same one, you were
22 mentioning, and I apologize again here, I was
23 taking notes and I'm not sure if... if the way that
24 I'm going to call this is going to be the
25 appropriate way, but you mentioned specifically two

1 projects that you considered relevant for this
2 proceeding, and one of them was the cost curve of
3 solar voltaics, am I completely off track here?

4 R. I relayed... I walked you through a few years of
5 work related to net metering in Vermont and...

6 Q. **[203]** Right.

7 R. ... an evaluation of, you know, what... what that
8 has meant for the business risk and how that
9 relates to policy development, etc. For the
10 electric...

11 Q. **[204]** Right.

12 R. ... utilities in Vermont.

13 Q. **[205]** Right. So, you were mentioning here that
14 there was a question of competitive risk that had
15 to be analysed and that you were required to look
16 into new business opportunities for the utilities
17 for this specific project, is that correct?

18 R. No. I wasn't trying to... I wasn't looking at new
19 business opportunities for the utilities, that's
20 their responsibility. This was, we were trying to
21 understand a particular risk in its appropriate
22 context, evaluate what potential impact do that
23 risk is, or what the likelihood of that risk is,
24 under what circumstances might that risk come to
25 pass and evaluate whether the... the policy

1 objectives that might be served by... by continuing
2 to face that risk are worth it, whether there are
3 other pathways forward that might mitigate that
4 risk, while simultaneously advancing policy
5 objectives and you really sort of taking that...
6 taking that risk carefully, you know, analysing it
7 and seeing essentially what could be done about it
8 in order to address it to the... for the public
9 interest.

10 Q. [206] So, is it fair to say that when you were
11 called upon to look at the business risk for this
12 specific... this specific project, this was again
13 project specific analysis, it was not the general
14 type of business risk analysis at a global level
15 that is required, for instance, in order to
16 determine a rate of return?

17 R. So, I think... I think it's a directly analog to
18 the kind of analysis related to the capital
19 recovery risk that's at issue in this case. The
20 electric utilities in Vermont, generally all of
21 them, right, not any one in particular and not
22 related to specific quantitative analysis of any
23 one particular project against that over multiple
24 years as it's worked its way through. In this... in
25 this proceeding, there's a question of capital

1 recovery risk due, and to what extent that risk
2 should be accounted for in the cost of capital, in
3 this specific context of competition with
4 electricity and the energy transition and what that
5 is going to do to prices for gas, etc.

6 And this... in this Vermont context, the
7 question was very similar, it was the general
8 question of competition between self supply
9 electricity and utility supply electricity and what
10 that meant for the potential need to transition
11 aspect of how the utility does its business. And
12 again, morally also being driven forward by public
13 policy.

14 Q. [207] But...

15 R. So, yes, I think it's a... I think that analysis is
16 directly analogous to the kind of analysis
17 necessary to evaluate the business risk of a future
18 energy transition for the gas utility.

19 Q. [208] But I will ask you the question again in
20 referring specifically to the project that you were
21 looking at, this was a business risk assessment in
22 the context of a specific projet, it was not a
23 business risk assessment that was leading to the
24 determination of the rate of return?

25 R. It was not...

1 Q. **[209]** And you mentioned... Sorry, just so I
2 clarify. And you mentioned earlier that you were
3 never called upon to testify or to participate in
4 any proceeding with respect to the determination of
5 a rate of return. So, I'm... in that context, I
6 just want to clarify that the business risk
7 assessment that you were looking to do in this
8 particular project and file was related to that
9 specific project, it was not a risk... a business
10 risk assessment that is required for the
11 determination of a rate of return.

12 Me PAULE HAMELIN :

13 I will object to the way you're asking the
14 question, because I think clearly you have a
15 different perspective as to business risk, and so
16 I'll ask you to, preferably, to rephrase your
17 question, because we can get into discussing what
18 is the interpretation of business risk.

19 Me ADINA GEORGESCU :

20 We could, but I will rephrase my question instead.

21 Q. **[210]** So, I'll repeat by just mentioning again. It
22 is my understanding that the business risk
23 assessment that you conducted, specifically in this
24 project, was related to the project itself, it was
25 not... it was not related to what is required for

1 the determination of a rate of return. Is that the
2 case?

3 R. It was not used in a rate of return proceeding. The
4 type of analysis that I was conducting, the
5 expertise that I was bringing there are the same
6 type of analysis, are the same type of expertise
7 that one would use in a... in a rate of return
8 proceeding analysis of business risk.

9 Q. **[211]** So, I don't want to get obviously into the
10 details of what is the methodology to assess the
11 business risk for the determination of a rate of
12 return, that's something that's going to be part of
13 the proceedings in this file, and we'll be able to
14 make legal arguments on that, but my understanding
15 from what you just answered is that your business
16 risk assessment was not... was not per se for the
17 determination of the rate of return.

18 R. That's correct.

19 Q. **[212]** Thank you. So, just going back on... on your
20 testimony with respect to... to your testimonies,
21 so the experience that you've had in front of
22 various regulators, you mentioned that you have
23 testified a few times in front of various
24 regulators in United States. You have testified as
25 well in front of the Régie de l'énergie, but you

1 also mentioned, and I want to make sure that my
2 understanding was correct, you also mentioned that
3 you never testified in a context of a rate of
4 return case such as the one that we are in today?

5 R. That is correct.

6 Q. **[213]** I would like to bring you to your direct
7 testimony which is... Madame la greffière, la pièce
8 C-ACIG-0028, s'il vous plaît, si on pouvait la
9 mettre à l'écran. We are just going to put it up,
10 so that everybody looks at the same thing. À la
11 page 3, s'il vous plaît, Madame la greffière, 3 de
12 36, donc... la question 7.

13 So, at Q and A 7, in your direct testimony,
14 you identify the purpose of your testimony and
15 hence, your mandate for the present file. And I
16 think you mentioned that at the beginning of your
17 testimony earlier today, but just for the purposes
18 of the discussion, it says :

19 The purpose of my testimony is to
20 analyse the business risk facing
21 Énergir, Gazifère, and Intragaz.
22 Business risk is one component of the
23 overall risk facing the Utilities,
24 which informs the choice of the
25 appropriate cost of capital and thus

1 allowed return on equity.

2 So you agree with me that for the purpose of your
3 mandate, you are required to assess business risk
4 in view of the determination of the rate of return.
5 Is that correct?

6 R. Yes.

7 Q. **[214]** Give me, just give me one second, please. So
8 I think I will end my questions here. If you give
9 me just a few minutes, I would just like to consult
10 my colleagues, to see if there is anything else
11 that we would like to ask, but for the time being,
12 I have completed most of my questions. So, Monsieur
13 le Président, juste peut-être une ou deux minutes,
14 là, pour pouvoir nous consulter, puis je vous
15 reviens.

16 LE PRÉSIDENT :

17 Oui, sans problème, on vous attend.

18 Me ADINA GEORGESCU :

19 Merci.

20 PAUSE

21 Me ADINA GEORGESCU :

22 Merci. Alors, Monsieur le président, de retour, ça
23 s'est peut-être terminé un petit peu abruptement,
24 je m'en excuse, mais nous n'aurons pas de questions
25 additionnelles pour le docteur Hopkins.

1 Dr. Hopkins, thank you very much. I will
2 not have any additional questions.

3 R. Okay. Thanks.

4 Me PAULE HAMELIN :

5 J'aurais une question en réinterrogatoire, si vous
6 me le permettez.

7 LE PRÉSIDENT :

8 Oui, allez-y.

9 RE-EXAMINED BY Me PAULE HAMELIN :

10 Q. **[215]** Do you see Dr. Hopkins?

11 R. I'm here.

12 Q. **[216]** Okay. So my colleague asked you a question
13 pertaining to your experience with respect to
14 business risk analysis and referred at the Vermont,
15 as she called it, project. Can you indicate other
16 work that you have done that has a direct, as you
17 mentioned, like, that was directly analog to
18 capital risk questions?

19 R. Do you mean capital risk specifically or business
20 risk in general?

21 Q. **[217]** Business risk and the question of... as it
22 relates to this file?

23 R. I guess, first I want to clarify with the Vermont
24 projects they are related to metering. That was...
25 but you know, it is hard to distinguish what a

1 project is in the context of: well it is just your
2 job. So this was work that I was doing over the
3 course of multiple years as a state official, you
4 know, testifying before the legislature, doing
5 analysis, publishing reports, talking in public
6 workshops, regulatory workshops, etc. So it is not
7 a project in a sense of a consulting project.

8 So, you know, it informed and related to,
9 you know, that development of mitigating policy in
10 that Vermont context. So I'll set that aside and
11 tell you of other examples.

12 So, I guess, there's a range of sort of,
13 small but consequential items related to
14 mitigating, in other way, understanding and then
15 deciding how to mitigate risk, that come up in a
16 context similarly of doing that Vermont job,
17 interacting with utilities on a weekly basis,
18 nearly weekly basis at least, about the issues that
19 they are facing, and the filings that they might
20 make, the structure they might have in their next
21 rate case, about what kind of deferral accounts
22 they need to manage this or that risk. They wanted
23 to propose to do a new, a new line of business and
24 you know, we wanted to understand what the risks
25 are associated with that new line of business,

1 etc...

2 So it was like, it was a constant back and
3 forth that relate to questions in respect to a lot
4 of regulations. It's about who bares risks,
5 shareholders or ratepayers and so a lot of the back
6 and forth had the underlying question of who bears
7 different kinds of risks, which means understanding
8 those risks and putting them in the appropriate
9 context.

10 So, that's sort of a... multiple years, of
11 a sort of constant drum beat of dealing with, with
12 those kinds of issues, not in a sense of... one
13 large project that leads to a report, but in a
14 sense of simply dealing with those issues, as they
15 come up.

16 Another particular example that I would
17 draw from the last few years at Synapse, is the
18 work that we have been doing to understand the risk
19 of the utilities, particularly the gas utility in
20 Washington DC. I was hired to be an expert witness
21 in an acquisition merger proceeding of... between
22 AltaGas and WGL, with the particular question of
23 analysing what the future district policy means for
24 the business of... that AltaGas was acquiring, what
25 risks was it likely to face, what were the kinds of

1 decisions AltaGas was going to have to make, and in
2 the context of a merger proceeding the question is,
3 do you approve the merger or not.

4 Not... you know, can you qualify this as a
5 business risk and account for it in the rate of
6 return, but the question of what risks there would
7 be, how they would relate to the future of that
8 utility, what kind of circumstances might result in
9 capital recovery risks, those were issues present
10 that informed and shaped my testimony.

11 And the ongoing work there for the same
12 client around understanding, you know, the gas
13 utility was then required in response to my
14 testimony, I think, to file a business plan for how
15 they were going to adjust and mitigate their
16 business dealings, mitigate emissions from their
17 business, you know.

18 And then analysing those questions, helping
19 our client write their comments on those plans, you
20 know, what an appropriate allocation of risks is,
21 which risks are likely or unlikely to occur and in
22 which context.

23 So, yes, that is a... while the application
24 is for a merger proceeding, rather than for a rate
25 of return proceeding, the question of the future

1 risks, particularly in the Washington case, whereas
2 it relates to energy transition, capital recovery,
3 you know, which I think are our prime issues in
4 this case, so I think that is highly relevant.

5 Q. [218] Thank you, that completes my questions, Mr.
6 President.

7 LE PRÉSIDENT :

8 Merci. Pour la suite, Maître Hamelin, est-ce que
9 vous êtes prête à plaider?

10 Me PAULE HAMELIN :

11 Oui, si vous me donnez quelque temps pour que je
12 puisse juste m'assurer de déposer... j'avais
13 préparé quelque chose, alors, juste m'assurer qu'on
14 puisse déposer le plan d'argumentation.

15 LE PRÉSIDENT :

16 Oui. Bien écoutez, on va, on peut prendre la pause
17 santé tout de suite, là, puis on peut se revoir
18 à... disons, quatorze heures quinze (14 h 15).

19 Me PAULE HAMELIN :

20 Parfait.

21 LE PRÉSIDENT :

22 Très bien. Merci.

23 Me PAULE HAMELIN :

24 Merci.

25 SUSPENSION DE L'AUDIENCE

1

2 REPRISE DE L'AUDIENCE

2

3

(14 h 15)

4

LE PRÉSIDENT :

5

Rebonjour. Nous en étions donc à la plaidoirie de
6 maître Hamelin.

6

7

VOIR-DIRE

8

REPRÉSENTATIONS PAR Me PAULE HAMELIN :

9

Oui. Parfait, Monsieur le Président. Donnez-moi
10 deux petites secondes. Il y a quelqu'un qui essaie
11 de nous appeler sur une ligne en même temps. Alors,
12 je vais juste essayer de fermer, si vous me donnez
13 deux secondes, s'il vous plaît. On a déposé, je
14 pense, à l'instant un plan d'argumentation. Peut-
15 être qu'on peut le mettre à l'écran, Madame la
16 Greffière.

16

17

LE PRÉSIDENT :

18

Avez-vous la cote Régie?

19

Me PAULE HAMELIN :

20

Pas encore. Je ne vois juste que l'accusé de
21 réception pour l'instant. Mais je peux...

21

22

LE PRÉSIDENT :

23

Il est possible qu'il y ait un court délai entre...

24

Me PAULE HAMELIN :

25

Oui, tout à fait.

1 LE PRÉSIDENT :

2 ... l'avis que vous recevez et que ça se rende sur
3 le site.

4 Me PAULE HAMELIN :

5 Vous êtes rapide, mais quand même il y a des
6 limites. Naturellement, durant la période de pause,
7 j'ai essayé d'ajouter certaines informations
8 factuelles qui nous ont été données, mais ça ne
9 sera peut-être pas complet compte tenu de la
10 longueur du témoignage de monsieur Hopkins. Vous
11 m'indiquerez quand vous l'aurez, sinon si vous
12 préférez que je commence.

13 LE PRÉSIDENT :

14 Bien, écoutez, je pense que vous pouvez commencer.

15 Me PAULE HAMELIN :

16 Parfait.

17 LE PRÉSIDENT :

18 On va s'y référer par la suite.

19 Me PAULE HAMELIN :

20 O.K. Parfait. Alors, je vais tout d'abord vous dire
21 que... Naturellement, pour les fins de la
22 qualification qui est demandée devant vous, nous
23 avons tenu compte et pris en considération les
24 attentes de la Régie qui sont naturellement prévues
25 dans votre document « Attentes de la Régie

1 relatives au rôle des témoins experts ». Et
2 essentiellement, quant aux points qui sont
3 mentionnés dans ce document-là, c'est la question
4 de la pertinence. Le fait que l'on doit porter
5 assistance et la reconnaissance de l'expertise par
6 le décideur.

7 On est d'avis que nous rencontrons chacun
8 de ces critères-là et que l'expertise du docteur
9 Hopkins va permettre à la Régie de se faire une
10 tête sur justement le risque d'affaires des
11 demanderesses et en réponse au rapport du docteur
12 Brown notamment qui se réfère au rapport Aviseo.

13 Et, là, peut-être juste une parenthèse.
14 Naturellement, dans le plan d'argumentation qu'on
15 vous a envoyé, on réfère à l'ACIG, mais je
16 mentionne d'emblée que la question de la
17 qualification de l'expert docteur Hopkins est
18 importante et pertinente pour l'ensemble des
19 intervenantes au dossier puisque, comme vous le
20 savez, nous nous sommes coordonnés pour vous
21 fournir deux expertises dans ce dossier-ci, soit
22 celle du docteur Hopkins et celle du docteur Booth.

23 Au niveau de la reconnaissance de
24 l'expertise, ce que le voir-dire selon nous a
25 démontré, c'est la grande connaissance et expertise

1 du docteur Hopkins au niveau des questions de
2 domaine de transition énergétique, mais également
3 relativement au domaine de risque d'affaires, une
4 évaluation des risques d'affaires des entreprises
5 réglementées. Et, ça, c'est dans le contexte, et
6 c'est important de s'en souvenir, dans le contexte
7 de leurs opérations et environnement dans lequel
8 elles oeuvrent.

9 On a fait référence à son expertise à
10 travers des années relativement à son poste à titre
11 de Director of Energy Policy and Planning, à ce
12 qu'il a fait au niveau du Vermont Public Service
13 Department, mais également à l'égard de tous ses
14 derniers mandats qu'il a pu faire avec Synapse,
15 dont notamment, et c'est lui-même qui l'a dit, avec
16 des projets qu'il considère... des mandats qu'il
17 considère comme étant très analogues au présent
18 dossier par rapport à ce qu'il a fait au Vermont,
19 au Maryland, dans le district de Columbia, pour ne
20 nommer que ceux-là.

21 Et comme vous allez le voir de la
22 jurisprudence, l'expertise et la qualification à
23 titre d'expert... Alors, l'expertise à titre
24 d'expert, ça découle également de l'expérience et
25 des mandats exécutés au fil des années. Je pense

1 qu'on a pu démontrer la grande expérience, les
2 grandes expériences professionnelles de monsieur
3 Hopkins dans le domaine du futur des entités
4 gazières, que ce soit par les témoignages qu'il a
5 déjà rendus, les mandats qu'il a faits, les
6 articles et présentations qui justifient, selon
7 nous, la qualification qui est recherchée.

8 Si on va à la page suivante. C'est quoi le
9 but du témoignage de l'expert? Le témoignage de
10 l'expert, c'est essentiellement pour éclairer le
11 tribunal sur la question qui est plus pointue. Et,
12 ça, ça ressort de la doctrine, des attentes
13 justement de la Régie dans son document, des
14 attentes à l'égard des experts, et également au
15 niveau de la jurisprudence. C'est pour combler un
16 besoin spécifique. Et on est d'avis que le
17 témoignage du docteur Hopkins va apporter une
18 contribution pertinente à la Régie pour la décision
19 qu'elle a à rendre dans le présent dossier.

20 Il faut se souvenir que la question de la
21 transition énergétique comme risque d'affaires est
22 spécifiquement alléguée par les demanderesses dans
23 le présent dossier dans le contexte du taux de
24 rendement. Il faut se souvenir que le docteur
25 Brown, l'expertise du docteur Brown réfère

1 justement à l'analyse de la considération de
2 certains risques qu'il a identifiés, incluant les
3 risques relatifs qui auraient été identifiés
4 préalablement par Aviseo. Toute la question des
5 politiques publiques et environnementales, la
6 question du contexte énergétique, les questions de
7 concurrence ou de composition de la clientèle, ce
8 sont tous des éléments qui font partie de l'analyse
9 du risque d'affaires pour lesquels nous sommes
10 d'avis que le docteur Hopkins va être en mesure
11 d'éclairer la Régie.

12 On se souviendra aussi que le docteur Brown
13 a spécifiquement mentionné que, et c'est dans son
14 rapport aussi, que la question des risques
15 d'affaires, c'est essentiellement le Business
16 Operation and Environment. Et c'est ça que le
17 docteur Hopkins est en mesure d'offrir comme
18 analyse dans le contexte du risque d'affaires
19 allégué par les demanderesses.

20 Si on descend plus loin. Les critères
21 généralement reconnus par la jurisprudence pour
22 déterminer la qualification d'un expert, c'est
23 quand même assez similaire à ce que vous avez dans
24 votre document sur les attentes relatives aux
25 experts. Il y a la question de l'utilité de

1 l'expertise. Donc, ça revient aussi à la question
2 de l'importance de pouvoir éclairer le tribunal. La
3 qualification de l'expert et l'impartialité de
4 l'expert. Ce sont des éléments qui découlent
5 notamment de la décision de la Cour suprême dans
6 l'arrêt Mohan que vous retrouvez au paragraphe 16.
7 Et ces critères-là, vous les avez déjà repris,
8 comme on le voit au paragraphe 17 du plan
9 d'argumentation.

10 La pertinence et l'utilité de l'expertise,
11 bien, je l'ai déjà un peu mentionné. Puis peut-être
12 pour revenir à ces points-là. On est d'avis que le
13 docteur Hopkins va être en mesure d'apporter une
14 évaluation qualitative et quantitative du risque
15 d'affaires, particulièrement en lien avec la
16 transition énergétique dans le contexte du dossier
17 de l'établissement du taux de rendement. Il va être
18 en mesure également de donner, de fournir un
19 éclairage relativement à la question justement de
20 la transition énergétique dans le domaine gazier,
21 puis comment on doit évaluer ce risque d'affaires-
22 là et les autres risques d'affaires au niveau des
23 opérations des gazières.

24 Peut-être aller un peu plus bas. Au niveau
25 de la qualification de l'expert. Comme je vous l'ai

1 dit tout à l'heure, ça découle également, pas juste
2 du fait qu'une personne a été ou pas qualifiée à
3 titre d'expert par un tribunal, mais ça peut
4 découler également de l'expertise acquise au fil
5 des ans, donc de l'expérience acquise au fil des
6 ans. Naturellement, il y a comme... il y a une
7 première fois à tout. Je me souviens que j'ai déjà
8 eu à faire ce genre de débat-là dans le passé. Il
9 s'agissait de monsieur Marshall qui... ce qui était
10 plaidé, c'était qu'il n'avait jamais eu dans le
11 passé de qualification d'expert. Mais il y a une
12 première fois à tout.

13 On comprend que la qualification que le
14 docteur Hopkins a déjà eue devant la Régie, c'était
15 dans un contexte différent. Mais depuis, comme on
16 l'a vu, il y a eu une expérience qui s'est acquise
17 au fil des années à travers les différents mandats
18 qu'il a faits. De sorte que la qualification qui
19 est demandée devant vous, elle est adéquate. Et,
20 ça, vous retrouvez ça dans la décision notamment,
21 un petit peu plus loin, de Mohan.

22 Vous retrouvez ça également dans le cadre
23 de la jurisprudence dans l'arrêt... pas l'arrêt
24 mais la décision de Vidéotron. Ça peut être tiré
25 donc à la fois de l'ensemble de l'oeuvre, c'est-à-

1 dire la qualification, les qualifications
2 académiques, les expériences passées. On rajoute à
3 ça toute la question de la rédaction d'articles, la
4 présentation de rapports, les témoignages passés
5 devant les différentes instances.

6 Je reprends certains éléments de son
7 expérience un petit peu plus bas. Ah, peut-être
8 qu'on est allé trop rapidement, Madame la
9 Greffière. Peut-être un petit peu plus haut. C'est
10 ça, à partir de 29, 30, 31, j'ai essayé de
11 reprendre certains éléments. Mais j'ai rajouté
12 aussi la question des mandats spécifiques qu'il a
13 pu faire. On se souviendra ce qu'il nous a dit tout
14 à l'heure au niveau du Vermont, que c'était un
15 dossier analogue à ce qui est fait dans le présent
16 dossier relativement à la notion de risque
17 d'affaires en matière de transition énergétique et
18 l'impact que ça pouvait avoir. Au niveau du dossier
19 de Washington également. Donc, des enjeux qui sont
20 totalement similaires et analogues au présent
21 dossier.

22 À la fin du plan d'argumentation, il y a un
23 point que je voudrais également soulever à la
24 Régie. C'est la question de l'équité procédurale et
25 la notion de prudence. Naturellement, le docteur

1 Hopkins, la qualification qui est recherchée, c'est
2 en lien avec le rapport qu'il a déposé et, donc,
3 l'opportunité pour les intervenantes d'avoir un
4 expert qui vient témoigner de la question du risque
5 d'affaires lié à la transition énergétique et
6 autres risques d'affaires qui sont identifiés par
7 le docteur Brown et également par Aviseo par la
8 force des choses puisque le docteur Brown se fie au
9 rapport d'Aviseo.

10 Donc, c'est important de s'assurer de ne
11 pas affecter les droits des intervenantes quant à
12 la possibilité de pouvoir avoir une expertise en
13 réponse, une contre-expertise en réponse au docteur
14 Brown. Et ça soulève naturellement des questions
15 d'équité procédurale et de justice naturelle le
16 droit d'être valablement entendu. Et vous avez ça
17 notamment, en fonction de ce qui est indiqué, dans
18 les ouvrages de l'auteur en droit administratif
19 Patrice Garant. Donc, il ne faut pas oublier qu'on
20 doit être en mesure de pouvoir répondre à
21 l'expertise du docteur Brown.

22 Dans un contexte comme celui-là, la
23 jurisprudence est à l'effet que vous devez agir
24 avec prudence. Et je le dis de façon totalement
25 subsidiaire, parce qu'on pense vous avoir démontré

1 les grandes compétences et l'expérience du docteur
2 Hopkins et qui va être en mesure d'éclairer la
3 Régie sur les enjeux dans le présent dossier. Mais
4 si vous deviez penser que vous avez un certain
5 doute, à ce moment-là, la position, ce serait
6 d'entendre le docteur Brown, je ne dis pas ce que
7 vous devriez faire. Moi, je pense que vous devriez
8 reconnaître d'emblée et accepter la qualification
9 que l'on demande et lui permettre de témoigner à
10 titre d'expert. Mais s'il y avait un doute qui
11 demeurerait, la possibilité serait de reporter votre
12 décision sur cette question-là après avoir entendu
13 le docteur Hopkins dans le cadre donc de votre
14 décision finale. À nouveau, ce n'est qu'à titre
15 subsidiaire que je vous sou mets ce commentaire.

16 Finalement, la question de... Les
17 demanderesses vont indiquer ou vous dire, bien,
18 qu'il y a double emploi d'expert ici dans le
19 présent dossier. Alors, je vais leur retourner, je
20 vais leur retourner la balle et je vais dire, je
21 vais soulever le miroir, parce que, dans le présent
22 dossier, ils ont retenu deux experts. Quant à moi,
23 un expert sur le risque d'affaires du côté
24 opérationnel, environnemental si je peux le dire de
25 cette façon-là, et un expert qui, du point de vue

1 financier, va également regarder le risque
2 d'affaires des entreprises réglementées.

3 Alors, le docteur Villadsen vient se
4 prononcer, premièrement, elle considère l'expertise
5 du docteur Brown, mais vient se prononcer
6 clairement sur la portion risque financier des
7 demanderesses pour la détermination du taux de
8 rendement. Alors, il y a double emploi du côté des
9 demanderesses. Et ce que l'on fait, c'est, on se
10 trouve à répondre essentiellement aux rapports qui
11 nous ont été déposés. Et c'est dans ce contexte-là
12 qu'on a un expert qui vient témoigner de la
13 question du risque d'affaires tel que soumis par le
14 docteur Brown et, naturellement, le docteur Booth
15 qui vient compléter et prendre en considération
16 cette notion de risque d'affaires du docteur
17 Hopkins pour les fins de la détermination du taux
18 de rendement.

19 J'ai entendu le contre-interrogatoire de ma
20 consoeur et ce qu'elle a tenté de faire habilement,
21 soit de venir dire que, finalement, l'expertise du
22 docteur Hopkins se limite à des projets de
23 transition énergétique et leur mise en oeuvre. Et
24 je suis certaine que c'est... je mettrais, comme on
25 dit, ma main au feu que c'est ce qu'elle va tenter

1 de dire et, par la force des choses, qu'il n'a pas
2 d'expertise en matière de risque d'affaires.

3 Alors, je vous annonce tout de suite que je
4 pense que c'est une vision qui est obtuse si c'est
5 ce que l'on tente de démontrer puisque, à travers
6 les années, je pense que le docteur Hopkins a
7 démontré son expérience tant au niveau de la,
8 effectivement, de la transition énergétique, mais
9 certainement aussi dans le contexte de l'évaluation
10 du risque d'affaires des entreprises et qu'on
11 devrait s'assurer qu'il soit et que nous soyons
12 entendu sur ces questions.

13 Ça complète les représentations que j'avais
14 à vous faire.

15 LE PRÉSIDENT :

16 Merci, Maître Hamelin. Alors, on va passer à
17 l'argumentation de maître Georgescu.

18 REPRÉSENTATIONS PAR Me ADINA GEORGESCU :

19 Merci, Monsieur le Président. Alors, Madame la
20 Greffière, je crois que vous devriez également
21 avoir reçu de notre part un plan d'argumentation.
22 Malheureusement, je n'ai pas encore la cote de la
23 Régie. Je ne sais pas si vous y avez déjà accès.
24 Sinon je pourrais commencer la plaidoirie sans le
25 plan, puis nous pourrions y référer plus tard. On me

1 dit que c'est B-0354. Ceci est le cahier des
2 autorités qui a également été déposé en bloc, ce
3 que vous venez d'afficher, Madame la Greffière.

4 LE PRÉSIDENT :

5 Nous avons le cahier des autorités, mais on ne voit
6 pas le plan d'argumentation comme tel.

7 Me ADINA GEORGESCU :

8 Alors, ça se peut qu'il ne soit pas encore, qu'il
9 n'ait pas encore été traité par le greffe, Monsieur
10 le Président. On s'en excuse. Il a été déposé il y
11 a peut-être une vingtaine de minutes. Mais je vais
12 commencer mes représentations, puis on pourra
13 l'afficher...

14 LE PRÉSIDENT :

15 Oui, tout à fait.

16 Me ADINA GEORGESCU :

17 ... lorsqu'il sera disponible. Alors, tout d'abord,
18 je tiens comme commentaire préliminaire à vous
19 indiquer que l'argumentation que je vais présenter
20 est au nom des trois demandereses et non pas
21 uniquement au nom de Gazifère et d'Intragaz que je
22 représente.

23 Tout d'abord, tout comme ma consœur, nous
24 avons également regardé les attentes de la Régie de
25 l'énergie relative au rôle des témoins experts pour

1 les fins de notre examen de la qualification du
2 docteur Hopkins dans les circonstances, évidemment
3 en lecture conjointe avec l'article 30 du Règlement
4 sur la procédure de la Régie. Et comme le
5 mentionnait maître Hamelin, effectivement, ce sont
6 bien les trois mêmes critères que l'on regarde : la
7 pertinence, la nécessité de porter assistance au
8 décideur et la reconnaissance de l'expertise par le
9 décideur.

10 Et je vous soumets que, dans la présente
11 situation, les deux premiers critères, soit le
12 critère de la pertinence et de la nécessité de
13 porter assistance au décideur, ne sont pas
14 respectés. Dans le premier cas, notamment parce
15 que, et je vais vous en parler plus longuement dans
16 quelques instants, le docteur Hopkins a davantage
17 une expérience dans le domaine de la transition
18 énergétique et des mesures à mettre en place afin
19 de palier aux conséquences de la transition
20 énergétique en matière de décarbonation, en matière
21 d'efficacité énergétique et autres. Et donc, ce
22 n'est pas connexe avec l'évaluation du risque
23 d'affaires qui est requis pour les fins de la
24 détermination du taux de rendement.

25 Quant au critère de la nécessité de porter

1 assistance au décideur, je vous sou mets que, dans
2 les circonstances actuelles, les intervenants ont
3 effectivement, comme l'a mentionné maître Hamelin,
4 et elle s'attendait bien à ce que nous fassions
5 l'argument, il y a dédoublement des mandats des
6 experts puisque le docteur Booth fait également
7 l'objet d'une demande de qualification à titre
8 d'expert en risque d'affaires sans aucune
9 limitation relativement à cette qualification. On
10 ne vient pas indiquer qu'il va se prononcer sur le
11 risque d'affaires seulement sur partie. On nous
12 indique clairement que sa qualification est
13 générale et qu'il va donc pouvoir se prononcer sur
14 le risque d'affaires de façon globale. Mais je vais
15 y revenir dans quelques instants.

16 Alors, tout d'abord, pour commencer, je
17 vous sou mets que, dans le cadre du voir-dire
18 d'aujourd'hui et dans le cadre aussi du curriculum
19 vitae du docteur Hopkins, on ne remarque pas et on
20 ne peut pas identifier les compétences requises
21 pour justifier la qualification qui est demandée,
22 soit la qualification en matière de transition
23 énergétique et d'expert en risque d'affaires.

24 J'ai référé le docteur Hopkins pendant son
25 contre-interrogatoire dans le voir-dire à son

1 propre rapport dans lequel dans lequel il identifie
2 lui-même le mandat qui lui a été octroyé, qui est
3 un mandat en matière d'évaluation du risque
4 d'affaires aux fins de la détermination du taux de
5 rendement. Et il comprend que c'est bien ce qui lui
6 a été demandé de faire. Et pourtant, son curriculum
7 vitae ainsi que son témoignage dans le cadre du
8 voir-dire révèlent davantage qu'il a une expérience
9 professionnelle en matière de transition
10 énergétique, de décarbonation et d'efficacité
11 énergétique. Ce qui, malgré ce que pourraient
12 prétendre les intervenants, n'est pas un sujet
13 central à la question de l'évaluation du risque
14 d'affaires. Peut-être que c'est un élément qui
15 pourrait être accessoire dans l'évaluation.

16 Mais le docteur Hopkins a bien démontré que
17 son expérience, son expertise se concentre
18 davantage dans l'identification et l'implantation
19 de mesures visant à palier aux différents enjeux et
20 défis qui sont amenés par la transition
21 énergétique. Son expérience est clairement centrée
22 sur la planification, par exemple, en matière de
23 décarbonation profonde. On parle de mesures
24 d'efficacité énergétique dans le contexte de
25 projets et de dossiers liés aux utilités publiques,

1 que ce soit dans le domaine du gaz naturel ou dans
2 le domaine de l'électricité.

3 Et donc, son expérience est vraiment axée
4 davantage dans ce secteur plutôt que dans le
5 secteur ou sur l'aspect particulier de l'évaluation
6 du risque d'affaires, évaluation du risque
7 d'affaires pour les fins de la détermination du
8 taux de rendement, ce qui est une évaluation qui
9 doit suivre une certaine méthodologie et qui
10 requiert certaines connaissances et une expérience.
11 Et, de toute évidence, le docteur Hopkins n'a pas
12 réussi à faire la preuve qu'il détenait ces
13 compétences qui sont nécessaires pour les fins du
14 présent dossier.

15 Le docteur Hopkins a d'ailleurs lui-même
16 admis qu'il n'a jamais eu à faire l'exercice qui
17 lui est demandé dans le cadre du présent dossier
18 par le passé. Il n'a jamais été reconnu comme
19 témoin expert en matière de risque d'affaires pour
20 la détermination du taux de rendement. Il n'a même
21 jamais pris part à un dossier de taux de rendement
22 par le passé.

23 Et malgré le fait que ma consœur tente de
24 le dépeindre comme quelqu'un qui a accumulé
25 énormément d'expérience dans les divers dossiers

1 dans lesquels il a pris part en matière
2 d'évaluation de risque d'affaires ou de travaux qui
3 pourraient potentiellement être analogues ou que
4 l'on pourrait comparer à ce qui doit être fait dans
5 le présent dossier, un dossier de taux de rendement
6 est excessivement technique et requiert justement
7 que l'on puisse savoir en détail quelle est la
8 méthodologie à appliquer. Il est requis que
9 l'expert qui va être porté à conseiller la Régie
10 relativement au risque d'affaires soit quelqu'un
11 qui ait l'expérience nécessaire pour pouvoir le
12 faire. Et dans ce cas-ci, le docteur Hopkins n'a
13 pas démontré détenir cette expérience.

14 Par ailleurs, dans la mesure, puis je vous
15 soumetts que c'est notre conclusion principale, dans
16 la mesure où le mandat du docteur Hopkins dans les
17 circonstances est un mandat d'évaluation du risque
18 d'affaires pour les fins du taux de rendement et
19 que la qualification qui est demandée déborde de ce
20 cadre et que, de toute évidence, la preuve selon
21 nous révèle qu'il n'a pas les compétences
22 nécessaires pour pouvoir exécuter un mandat comme
23 celui-là, ce que nous demandons à la Régie, c'est
24 de ne pas le reconnaître comme expert ni en
25 efficacité énergétique... pardon, en transition

1 énergétique, ni en évaluation de risque d'affaires.

2 Relativement au dédoublement quant à la
3 qualification des experts dans le dossier, je vous
4 sou mets que... bon, je l'ai mentionné tantôt,
5 effectivement, les intervenants demandent la
6 qualification du docteur Booth comme expert en
7 risque d'affaires sans limitation. L'article 232 du
8 Code de procédure civile indique clairement, et
9 dans ce cas-ci, vient jouer le rôle un peu de règle
10 supplétive puisque le Règlement sur la procédure de
11 la Régie de l'énergie ne prévoit rien à cet effet.

12 Donc, l'article 232 du Code de procédure
13 civile vient nous dire que, pour une même partie,
14 on ne peut se prévaloir que d'une expertise par
15 discipline ou matière, à moins d'avoir une
16 autorisation du tribunal et de faire face à un
17 dossier particulièrement complexe.

18 Dans ce cas-ci, je vous sou mets que les
19 intervenants ont choisi de faire qualifier deux
20 experts pour la même expertise, ce qui,
21 normalement, n'est pas la règle. Sans compter
22 évidemment que, du point de vue des principes de
23 proportionnalité qu'on nous enseigne suivant
24 l'article 18 du Code de procédure civile et des
25 règles générales en matière de procédure civile, on

1 ne respecte pas donc le principe de
2 proportionnalité en ayant deux experts qui vont se
3 prononcer sur le même sujet.

4 Puis je vous réfère à cet égard-là dans le
5 plan, Madame la Greffière, je suis à la page 4, je
6 vous réfère notamment à la décision D-2015-138 dans
7 laquelle justement la Régie se prononçait sur la
8 duplication d'une grande partie d'une expertise et
9 disait que cela n'ajoute rien « à la qualité des
10 mémoires qui seront soumis par les intervenants »
11 et que, de plus, une telle « duplication ne sert
12 pas les objectifs d'efficacité et d'efficience et
13 ne permet pas de réduire les frais liés aux
14 services d'expert ». Et, pour ces motifs-là, la
15 Régie n'a pas autorisé le dépôt d'un des rapports
16 d'expert. Dans ce cas-ci, on vous demande de ne pas
17 qualifier un second expert pour la même expertise.

18 Mais laissons de côté la question
19 d'efficience et d'efficacité. Je vous ramène vers
20 un problème peut-être plus flagrant. Le fait que,
21 avoir un dédoublement dans le présent dossier sur
22 la question du risque d'affaires pose non seulement
23 le risque de contradiction, mais nous nous
24 retrouvons déjà devant une situation de
25 contradiction. Et je m'explique.

1 Et pour m'expliquer, je vais vous référer
2 au rapport du docteur Booth et à la DDR de la Régie
3 au docteur Hopkins. Madame la Greffière, je n'ai
4 pas besoin qu'on la mette à l'écran, je vais juste
5 lire les extraits. Donc, dans le rapport du docteur
6 Booth pour lequel on demande la qualification
7 d'expert en risque d'affaires, le docteur Booth
8 indique à la page 3 lignes 28 et 29 relativement au
9 risque d'affaires d'Intragaz :

10 Consequently, I have no trouble
11 Intragaz being allowed the same
12 financial parameters as Energir.

13 Et en réponse à la DDR que lui adressait la Régie,
14 le docteur Hopkins, à la pièce C-ACIG-0048 à la
15 question 1.1 puisqu'il y en avait juste une, à la
16 toute fin de la réponse relativement à Intragaz, le
17 docteur Hopkins répond :

18 Dr. Hopkins agrees with the Régie's
19 order from 2013 that Intragaz's
20 business risk is lower than Énergir's.

21 Déjà à ce stade-ci nous nous retrouvons dans une
22 situation de contradiction des opinions des deux
23 experts des intervenants quant à l'évaluation du
24 risque d'affaires d'Intragaz. Ce qui pose un
25 problème d'importance pour le présent dossier.

1 C'est pour ça qu'on vous soumet notamment
2 que le docteur Hopkins, en plus de ne pas avoir les
3 qualifications requises pour pouvoir avoir la
4 qualification d'expert en risque d'affaires, ne
5 devrait pas être reconnu à ce titre.

6 Je vous amène, Madame la Greffière, oui,
7 c'est parfait, à la page... peut-être un petit peu
8 plus haut si vous permettez, oui, paragraphe 32
9 disons, aux alentours de. Juste un instant, je vais
10 juste me resituer dans mon plan. Comme je le
11 mentionnais tantôt, le docteur Hopkins a une
12 expérience dans la planification et l'offre de
13 mesures et d'outils en efficacité énergétique, en
14 transition énergétique visant à atteindre des
15 cibles qui sont fixées par les différents paliers
16 de gouvernement en ce qui a trait aux émissions de
17 gaz à effet de serre, par exemple.

18 Dans le présent cas, dans le dossier dans
19 lequel nous nous trouvons, ce n'est pas la question
20 qui est en jeu. Et l'identification et la mise en
21 oeuvre d'outils pour atteindre des cibles fixées
22 par le gouvernement provincial ou les municipalités
23 au Québec n'est pas le point central de la
24 discussion. Bien au contraire, ce travail
25 s'effectue en parallèle et fait l'objet d'autres

1 dossiers qui sont portés devant la Régie de
2 l'énergie, notamment des projets qui sont liés au
3 développement, par exemple du programme de la
4 biénergie en ce qui concerne Énergir, du GNR, de
5 l'hydrogène vert. Et cela a été évoqué d'ailleurs
6 par les témoins tout au long de l'audience.

7 La Régie de l'énergie, compte tenu de la
8 situation, compte tenu de ce qui précède, a la
9 compétence pour rejeter une expertise non
10 pertinente, elle a cette compétence en vertu de
11 l'article 3. Et nous vous soumettons que, dans les
12 circonstances, l'expertise et le rapport du docteur
13 Hopkins n'est pas pertinent pour les fins du débat
14 et de l'examen qui doit être effectué par la Régie
15 afin de déterminer le taux de rendement des
16 gazières.

17 Et je vous réfère à une décision de la
18 Régie relativement à l'application justement de ce
19 principe selon lequel la Régie a compétence pour
20 rejeter une expertise, la décision D-2021-129. Vous
21 avez l'extrait d'ailleurs dans le plan
22 d'argumentation. Je ne vais pas m'y attarder plus
23 longuement.

24 Donc, c'est sur cette base-là, et je fais
25 suite à cette possibilité pour vous soumettre que,

1 dans les circonstances actuelles, compte tenu de ce
2 qui précède, la Régie devrait rejeter l'expertise
3 du docteur Hopkins et rejeter également sa
4 qualification à titre d'expert en risque d'affaires
5 et en transition énergétique.

6 Subsidiairement toutefois, si jamais la
7 Régie décidait de ne pas aller dans cette
8 direction, nous vous soumettons que la
9 qualification du docteur Brown (sic) devrait se
10 limiter sur le sujet pour lequel il a démontré
11 certaines compétences, c'est-à-dire en matière de
12 transition énergétique uniquement. Et il ne devrait
13 pas être autorisé à être qualifié à titre d'expert
14 en risque d'affaires.

15 LE STÉNOGRAPHE :

16 Vous avez dit « docteur Brown »?

17 Me ADINA GEORGESCU :

18 Pardon. Docteur Hopkins. Excusez-moi! Merci,
19 Monsieur le sténographe. Je prends juste un instant
20 pour réviser mes notes pour voir si je n'ai pas
21 oublié quelque chose. Ça fait généralement le tour
22 de ce que j'avais à vous faire comme
23 représentations. Donc j'ai terminé, à moins que la
24 Régie ait des questions.

25

1 LE PRÉSIDENT :

2 Il n'y aura pas de questions.

3 Me ADINA GEORGESCU :

4 Merci.

5 LE PRÉSIDENT :

6 Maître Hamelin, vous souhaitez avoir une réplique?

7 Me PAULE HAMELIN :

8 Oui, s'il vous plaît.

9 LE PRÉSIDENT :

10 Allez-y!

11 RÉPLIQUE PAR Me PAULE HAMELIN :

12 Alors quelques points en réponse à la plaidoirie de
13 ma collègue. Tout d'abord sur la question du double
14 emploi. Je pense que c'est important de rappeler
15 que les experts de la demanderesse traitent eux-
16 mêmes de la question du risque d'affaires dans
17 leurs deux rapports. C'est-à-dire le docteur Brown
18 considère le risque d'affaires sous l'angle, comme
19 il l'a dit, « Operation Business and Environment ».
20 Et je me demande si j'étais à la même audience que
21 ma collègue depuis trois jours. Mais depuis trois
22 jours, on parle des risques d'affaires liés aux
23 politiques énergétiques, les facteurs de sol, les
24 questions de concurrence entre le gaz,
25 l'électricité, les plans de résilience. Alors, tout

1 ça. Et le fait même que l'on invoque la question de
2 la transition énergétique comme justifiant un taux
3 de rendement plus élevé.

4 Alors, je tombe un peu en bas de ma chaise
5 quand on vient me dire que l'on devrait donc se
6 limiter au taux de rendement alors que ça fait
7 trois jours que les demanderesses justifient la
8 position d'un taux de rendement plus élevé à cause,
9 pas des anciens risques d'affaires comme on a
10 entendu dans le passé, c'est-à-dire la taille de
11 l'entreprise et tout ça, à cause de ce nouveau
12 risque d'affaires-là qui justifierait une telle
13 hausse.

14 Et c'est très clair que le docteur Booth
15 n'entre pas dans ces questions-là. Il ne traite pas
16 de ces enjeux-là. Le docteur Hopkins, son expertise
17 traite des points spécifiques de risque d'affaires
18 opérationnel d'une entreprise et son contexte dans
19 lequel il oeuvre pour éclairer le docteur Booth
20 quant à l'analyse financière qui devra justifier
21 d'un taux de rendement plus élevé ou pas. Et les
22 demanderesses font la même chose. D'ailleurs, on se
23 souviendra, quand on dit qu'on fait... alors on
24 pourrait rejeter à ce moment-là toutes les
25 expertises au dossier puis passer à autre chose.

1 Le docteur Brown, quand il évalue les
2 différents éléments identifiés par la firme Aviseo,
3 souvenez-vous, il va venir dire, est-ce que
4 l'entité que je considère est plus ou moins risquée
5 que mon groupe de comparables. Bien, à la base,
6 nous, on pense que, pour déterminer le taux de
7 rendement puis déterminer, est-ce qu'il y a ou pas
8 risque d'affaires, est-ce que c'est vrai que les
9 demanderesses subissent un risque d'affaires plus
10 important qui justifie une hausse de taux de
11 rendement, puis que c'est à ce point-là
12 bouleversant? Bien, c'est ce que docteur Brown fait
13 dans son analyse quand il... Et on pourra plaider
14 de la qualification et de l'expérience du docteur
15 Brown, et caetera, plus tard dans le cheminement,
16 mais clairement, cette question-là, si on parle de
17 double emploi, les demanderesses font la même
18 chose.

19 Et dans un contexte comme celui-là, dans un
20 dossier aussi complexe, quand cet enjeu-là est
21 soulevé par les demanderesses elles-mêmes
22 d'indiquer que les intervenants ne sont pas... ne
23 peuvent pas argumenter cet aspect-là, je suis un
24 peu... je suis très surprise des propos de ma
25 collègue. Très surprise également qu'on indique une

1 demande du rejet de l'expertise. D'ailleurs, ça n'a
2 jamais été annoncé. Généralement, quand on demande
3 le retrait d'une preuve, on ne le fait pas dans le
4 contexte d'une qualification d'expertise. Quand à
5 moi, ça aurait dû être annoncé auparavant.

6 Mais à tout événement, je ne pense pas
7 qu'on est dans un contexte de double emploi pour
8 les raisons que je vous ai mentionnées. Les deux
9 experts d'une... D'ailleurs, vous les avez lus les
10 rapports. Les deux experts traitent de, un, d'un
11 point de vue financier et de l'autre, je dirais,
12 opérationnel.

13 Ça complète les commentaires additionnels
14 que je voulais faire.

15 LE PRÉSIDENT :

16 Merci beaucoup, Maître Hamelin. Alors, on va
17 examiner tout ça et on vous donnera des indications
18 sur la suite demain, probablement demain avant-
19 midi.

20 Me ADINA GEORGESCU :

21 Monsieur le Président, si vous permettez.

22 LE PRÉSIDENT :

23 Oui.

24 Me ADINA GEORGESCU :

25 Nous sommes en train de considérer peut-être une

1 supplique, avec la permission de la Régie. Mais
2 avant tout, j'aimerais simplement consulter mes
3 collègues pour savoir si ce sera nécessaire.

4 LE PRÉSIDENT :

5 Oui. D'accord.

6 Me ADINA GEORGESCU :

7 Merci.

8 DISCUSSION HORS DOSSIER

9 Me ADINA GEORGESCU :

10 Rebonjour, Monsieur le Président. Merci pour votre
11 indulgence. Alors...

12 Me PAULE HAMELIN :

13 Peut-être juste avant que vous commenciez. Je
14 trouve ça juste un peu surprenant d'une supplique
15 dans un contexte d'argumentation de voir-dire.

16 LE PRÉSIDENT :

17 Alors, maître Georgescu va nous indiquer.

18 SUPPLIQUE PAR Me ADINA GEORGESCU :

19 C'est vraiment deux commentaires très, très courts,
20 Monsieur le Président. Le premier est pour vous
21 dire que c'est un lapsus de ma part, nous ne
22 demandons pas le rejet de l'expertise du docteur
23 Hopkins, mais bien de ne pas le faire qualifier
24 selon la qualification qui a été demandée. Et la
25 preuve pouvant rester au dossier à titre de preuve

1 de consultant, dont la valeur probante pourra être
2 évaluée par la Régie.

3 Et quant au commentaire de ma consœur
4 relativement à la qualification du docteur Brown,
5 il semble y avoir confusion entre le concept
6 d'utilité de l'expertise versus la qualification de
7 l'expert. Les intervenants n'ont pas contesté la
8 qualification du docteur Brown dans les temps
9 requis. Par conséquent, je considère qu'à ce stade-
10 ci, c'est un faux débat que l'on essaie de
11 soulever. Le docteur Brown est reconnu comme expert
12 compte tenu de l'absence de qualification
13 normalement... de l'absence de contestation de la
14 qualification normalement. Et, par conséquent, il
15 est juste question maintenant de l'évaluation de la
16 valeur probante par la Régie quant à son témoignage
17 et quand à son rapport d'expertise. C'est tout ce
18 que j'avais à vous partager.

19 DISCUSSION

20 LE PRÉSIDENT :

21 Merci. Alors, ça complète cette partie pour la
22 journée. Juste souligner que la réponse à
23 l'engagement numéro 2 a été déposée. Je voulais
24 vérifier du côté d'Option consommateurs si on avait
25 des questions sur les réponses qui ont été

1 fournies.

2 Me ÉRIC McDEVITT DAVID :

3 Honnêtement, je n'ai pas eu la chance d'en discuter
4 avec mon analyste. Alors, si vous permettez, je
5 vais vous revenir demain matin avec la réponse à
6 votre question. Mais à première vue, je pense qu'on
7 a eu la réponse qu'on cherchait. Mais laissez-moi
8 confirmer avant que je fasse une erreur.

9 LE PRÉSIDENT :

10 Très bien. Et on attend les engagements numéro 3 et
11 4.

12 Me PATRICK OUELLET :

13 Oui, effectivement. Ça ne devrait pas tarder. En ce
14 qui concerne le 3, certainement. La 4, ça a été
15 demandé aujourd'hui. Donc, on va travailler là-
16 dessus.

17 LE PRÉSIDENT :

18 O.K.

19 Me PAULE HAMELIN :

20 Avec votre permission, Monsieur le Président, avant
21 que vous ajourniez, j'aurais peut-être juste une
22 question d'intendance.

23 LE PRÉSIDENT :

24 Oui. Allez-y!

25

1 Me PAULE HAMELIN :

2 Demain, on commencerait avec la preuve de l'ACIG.
3 On avait annoncé madame Shahrzad qui viendrait
4 faire une courte présentation. Et je pense que,
5 dans le calendrier, vous aviez prévu... bon, il y a
6 toujours une possibilité de contre-interrogatoire,
7 mais que c'était comme, si j'avais bien compris le
8 calendrier, seulement à la fin. Donc, je voulais
9 juste m'assurer que, parce que madame, si on
10 pouvait entendre l'introduction, si je peux dire,
11 de madame Rahbar en premier lieu. Et elle serait
12 disponible au contre-interrogatoire et ensuite
13 pouvoir la libérer, si c'était possible.

14 LE PRÉSIDENT :

15 Procéder tout de suite au contre-interrogatoire
16 tout de suite après sa présentation au lieu
17 d'attendre avec monsieur Hopkins?

18 Me PAULE HAMELIN :

19 Exactement, comme on le fait généralement...

20 LE PRÉSIDENT :

21 Parfait.

22 Me PAULE HAMELIN :

23 ... pour les autres témoins avec les différents
24 panels.

25

1 LE PRÉSIDENT :

2 Oui, oui. Pas de problème.

3 Me PAULE HAMELIN :

4 Parfait.

5 LE PRÉSIDENT :

6 Très bien. Merci beaucoup à tous. Alors on se
7 revoit demain matin à neuf heures (9 h).

8 Me PAULE HAMELIN :

9 Merci.

10 Me ADINA GEORGESCU :

11 Merci beaucoup.

12 Me PATRICK OUELLET :

13 Merci. Bonne soirée.

14

15 AJOURNEMENT

16

17

18 Riopel Gagnon Larose et Associés.