NATIONAL ENERGY BOARD
OFFICE NATIONAL DE L'ÉNERGIE

Hearing Order RH-001-2014
Ordonnance d'audience RH-001-2014

TransCanada PipeLines Limited
Application for Approval of 2015 to 2030 Tolls

TransCanada PipeLines Limited
Demande d'approbation des droits pour la période de 2015 à 2030

VOLUME 5

Hearing held at
L'audience tenue à

National Energy Board
517 - 10th Avenue S.W.
Calgary, Alberta

September 15, 2014
Le 15 septembre 2014

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HEARING ORDER/ORDONNANCE D'AUDIENCE
RH-001-2014

IN THE MATTER OF TransCanada Pipelines Limited
Application for Approval of 2015 to 2030 Tolls

HEARING LOCATION/LIEU DE L'AUDIENCE

Hearing held in Calgary (Alberta), Monday, September 15, 2014
Audience tenue à Calgary (Alberta), lundi, le 15 septembre 2014

BOARD PANEL/COMITÉ D'AUDIENCE DE L'OFFICE

Roland George	Chairman/Président
Ron Wallace	Member/Membre
Jacques Gauthier	Member/Membre

APPEARANCES/COMPARUTIONS

APPLICANTS/DEMANDEURS

TransCanada PipeLines Limited
- Mr. C. Kemm Yates, Q.C.
- Mr. Bernard Pelletier
- Ms. Catharine Davis

INTERVENORS/INTERVENANTS

Alberta Northeast Gas, Limited
- Mr. David Holgate
- Ms. Allison Sears

BP Canada Energy Company ULC
- Ms. Lisa Jamieson
- Mr. James Smellie
- Ms. Rose Mary Vandergrift

Canadian Association of Petroleum Producers
- Mr. Lewis Manning

Centra Gas Manitoba Inc.
- Ms. Helga Van Iderstine
- Mr. Brent Czarnecki

Dufour Energy Commodities
- Mr. Damien Dufour

Enbridge Gas Distribution Inc.
- Mr. Ralph Fischer

Encana Corporation
- Ms. Rinde Powell

Government of Alberta - Alberta Department of Justice
- Mr. Colin King

Industrial Gas Users Association
- Ms. Rosa Twyman

Northland Power Inc.
- Mr. Ian Mondrow

INTERVENORS/INTERVENANTS

Ontario Ministry of Energy
- Ms. Elisabeth DeMarco
- Mr. Darrel Kloeze

Société en commandite Gaz Métro Limitée
- Me Eric Dunberry
- Mme Marie-Christine Hivon
- M. Patrick Cabana
- M. Dave Rhéaume

Suncor Energy Marketing Inc.
- Ms. Lara Fitzpatrick

Talisman Energy Inc.
- Mr. Greg Giesbrecht

Tenaska Marketing Canada, a division of TMV Corp.
- Mr. Tomasz Lange

Union Gas Limited
- Mr. Laurie Smith, Q.C.

National Energy Board/Office national de l'énergie
- Mr. Andrew Hudson
- Ms. Laurel Sherret

ERRATA

<u>Wednesday, September 10, 2014 - Volume 2</u>

Paragraph No.:	Should read:
1107, line 6: …from using IT as substitute for FT.	…from using IT as a substitute for FT.
1126, line 3: …alternate of substitute…	…alternate or substitute…
1128, lines 4 to 6: …own an FT contract if you truly have an incremental market well that's IT.	…own an FT contract. If you truly have an incremental market, well, that's IT.
1195, line 2: …it would probably become under a FT contract nomination and not a FT diversion nomination.	…it should probably come under an FT contract nomination and not an FT diversion nomination.
1322, lines 2 and 3: You know, we can see what's diversions, what we nominate. We can see people's signing contracts.	You know, we can see diversions, what we nominate. We can see people signing contracts.
1826, line 2: …this tolling parameters…	…these tolling parameters…
1917, line 2: …established tolls on a perspective basis…	…established tolls on a prospective basis…
1969, line 2: …the expectation is is…	…the expectation is…
2086, line 3: … that Centra's fee to Centra buys Centra…	…that Centra's fee buys Centra…

ERRATA

Friday, September 12, 2014 - Volume 4

Paragraph No.:	Should read:
3723, line 1: …fix tolling models…	…fixed tolling models…
3761, line 2: …the Regis in Quebec...	…the Régie in Quebec...
3791, line 1: **MR. REED:** …	**MR. BOWMAN:** …
3814, line 3: …to put this…	…to do this…
3839, lines 1 and 2: The more you constraint at that pricing discretion…	The more you constrain that pricing discretion…
3874, lines 1 and 2: …inhibiting a competition…	…inhibiting competition…
3913, lines 2 and 3: It's not the regulatory…	The regulatory…
3958, line 3: …IT not being available…	…FT not being available…
3959, line 3: …a lost critical…	…a loss of critical…
3974, line 3: …everything is see…	…everything we see…
3983, line 2: …recognizing that, they still…	…recognizing that. They still…
4027, line 5: …longer haul pass…	…longer haul paths…

ERRATA

Friday, September 12, 2014 - Volume 4

Paragraph No.:	Should read:
4033, line 3: …evolution and trying….	…evolution rather than trying...
4144, line 2: …longer haul pass because…	…longer haul paths because…
4195, line 3: …we switch to…	…we switch to…
4205, line 4: So you need…	So do you need…
4211, line 1: …in the 28 period...	…in the 2018 period...
4213, line 3: …changed is not.	…changed or not.
4226, line 2: …and the LTA is…	…and the LTAA is...
4254, line 2: …so some pass…	…so some paths…
4254, line 3: ….another pass they…	….and on other paths they…
4265, line 5: …all the pass over…	…all the paths over…
4296, line 1: **MS. SHERRET:** ...	**MS. HIRAK:** ...
4296, line 2: …BIR…	…IR…

ERRATA

Friday, September 12, 2014 - Volume 4

Paragraph No.:	Should read:
4299, line 3: …via intersegment transportation…	…via intrasegment transportation…
4317, line 2: …could be TVO costs.	…could be TBO costs.
4365, line 2: …post to 2020…	…post-2020…
4367, lines 2 and 3: …could involve that risk features…	…could involve risk features…
4389, line 4: …make them file with…	…make them final with…

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--- Upon commencing at 8:30 a.m./L'audience débute à 8h30

4718. **THE CHAIRMAN:** Bonjour, mesdames et messieurs. Good morning, ladies and gentlemen.

4719. Today's planning schedule. So our schedule today brings us to 4:00 p.m. We will be taking 15-minute breaks at 10:45 a.m. and 3:00 p.m., with lunch -- with a one-hour lunch at 12:30. And this is the planned schedule for the week.

4720. Any preliminary matters before we proceed with the Market Area Shippers?

4721. **MR. HOLGATE:** Yes. Good morning, Mr. Chairman, Panel Members.

4722. Actually I have to say this, Mr. Chairman, with some degree of incredulity, but given the weather last week, we were trying to book hotel rooms and we were told that the closest hotel room in Calgary for tonight and through this week is Cochrane and in the middle of that snowstorm there were 13,800 requests for hotel rooms in Calgary.

4723. So what does that tell you? I don't know.

4724. **THE CHAIRMAN:** It tells us that Calgary is a really great place to come visit and I encourage everybody to come to this great city.

4725. Okay, that's my ---

4726. **MR. HOLGATE:** Absolutely.

4727. Mr. Chairman, I have for filing this morning the opening statement of Alberta Northeast Gas Limited. I'll provide copies to the clerk for distribution to the Board and to Board staff, and the document will be uploaded this morning onto the Board's website. I've provided copies to other counsel in the room and copies will be placed at the back.

4728. If we could get an exhibit number for that?

4729. **THE CHAIRMAN:** Madame Niro?

4730. **THE REGULATORY OFFICER:** That will be C1-25. Pièce C1-25.

--- EXHIBIT NO./PIÈCE No. C1-25:

Alberta Northeast Gas, Limited - Opening Statement.

4731. **MR. HOLGATE:** Thank you.

4732. **LE PRÉSIDENT:** Oui, maître?

4733. **MR. DUNBERRY:** Bonjour, Monsieur le président, Messieurs les membres du banc. Good morning, Mr. Chairman, Members of the Panel.

4734. My name is Eric Dunberry. I'm counsel for Gaz Métro, but MAS members have asked that I take primary conduct of the presentation of this panel.

4735. However, throughout the course of this appearance, Mr. Laurie Smith, sitting to my left, the counsel for Union, may intervene as well.

4736. With your leave, I would like now to proceed with the presentation of the MAS witness panel before we have the witnesses sworn or affirmed.

4737. Starting with Ms. Malini Giridhar, Vice-President, Gas Supply and Business Development, Enbridge Gas Distribution Inc. To her left, monsieur Patrick Cabana, Vice-President, Gas Supply Procurement and Regulatory Affairs, Gaz Métro Limited Partnership.

4738. To his left, Mr. Mark Isherwood, Vice-President, Business Development, Storage and Transmission, Union Gas Limited.

4739. To his left, Mr. Robert Fleck. Mr. Fleck was Vice-President, Gas and Power Consulting, Americas for Wood Mackenzie when he prepared his report. He recently retired, but he is continuing with Wood Mackenzie on a contract basis to complete ongoing assignments including this matter.

4740. And finally, at the other opposite end, Dr. Jeff Makholm, Vice-President of National Economic Research Associates, Inc., will be testifying as well.

4741. So we can have the witnesses sworn or affirmed at this point, Mr. Chairman.

4742. **THE CHAIRMAN:** Madam Niro?

ROBERT FLECK: Sworn
MARK ISHERWOOD: Sworn
PATRICK CABANA: Assermenté
MALINI GIRIDHAR: Affirmed
JEFF MAKHOLM: Sworn

--- EXAMINATION BY/INTERROGATOIRE PAR MR. DUNBERRY:

4743. **MR. DUNBERRY:** Witness panel, I would invite each of you to take a copy of the written evidence of the Market Area Shippers contained in Exhibit C12-5, including the joint written evidence filed as Exhibit C12-5-1 to C-12-5-8, the response to information request filed as Exhibits C12-7-1 to C12-7-11, and the opening statement filed recently for which we would need an exhibit number, Madam Niro.

4744. **THE REGULATORY OFFICER:** That will be C12-10, C12-10.

--- EXHIBIT NO./PIÈCE No. C12-10:

Market Area Shippers - Opening Statement

4745. **Me DUNBERRY:** Merci.

4746. Can each of you confirm that the written evidence of the Market Area Shippers was prepared by you or under your direction and control?

4747. Monsieur Cabana?

4748. **M. CABANA:** Oui.

4749. **MR. DUNBERRY:** Ms. Giridhar?

4750. **MS. GIRIDHAR:** Yes.

4751. **MR. DUNBERRY:** Mr. Isherwood?

4752. **MR. ISHERWOOD:** Yes.

4753. **MR. DUNBERRY:** Can each of you indicate whether you have any corrections or additions to make to this written evidence?

4754. **M. CABANA:** Non.

4755. **MS. GIRIDHAR:** No.

4756. **MR. ISHERWOOD:** No.

4757. **MR. DUNBERRY:** Can each of you confirm that the written evidence filed by the Market Area Shippers in this proceeding is accurate to the best of your knowledge and belief?

4758. **M. CABANA:** Oui.

4759. **MS. GIRIDHAR:** Yes.

4760. **MR. ISHERWOOD:** Yes, it is.

4761. **MR. DUNBERRY:** Do each of you accept and adopt that written evidence as part of the evidence of the Market Area Shippers and of your respective organizations in this proceeding?

4762. **M. CABANA:** Oui.

4763. **MS. GIRIDHAR:** Yes.

4764. **MR. ISHERWOOD:** Yes.

4765. **MR. DUNBERRY:** Mr. Isherwood, you have before you a copy of the Union Gas letters filed as Exhibit C32-1, C32-2, C32-3 and C32-4 and a copy of Union's response to information request filed as Exhibit C32-5?

4766. **MR. ISHERWOOD:** I do.

4767. **MR. DUNBERRY:** Was that evidence prepared by you or under your direction and control?

4768. **MR. ISHERWOOD:** Yes, it was.

4769. **MR. DUNBERRY:** Do you have any corrections or additions to make to this evidence?

4770. **MR. ISHERWOOD:** I do not.

4771. **MR. DUNBERRY:** And is your written evidence accurate to the best of your knowledge and belief?

4772. **MR. ISHERWOOD:** Yes, it is.

4773. **MR. DUNBERRY:** Do you accept and adopt this evidence as part of the evidence of Union Gas Limited in this proceeding?

4774. **MR. ISHERWOOD:** Yes, I do.

4775. **MR. DUNBERRY:** Mr. Isherwood, you also have before you, I believe, a copy of your direct written evidence filed as Exhibit C26-10-4?

4776. **MR. ISHERWOOD:** I do.

4777. **MR. DUNBERRY:** Was that evidence prepared by you or under your direction and control?

4778. **MR. ISHERWOOD:** Yes, it was

4779. **MR. DUNBERRY:** Is it accurate to the best of your knowledge and belief?

4780. **MR. ISHERWOOD:** Yes.

4781. **MR. DUNBERRY:** Do you accept and adopt this evidence as your evidence in this proceeding?

4782. **MR. ISHERWOOD:** I do.

4783. **MR. DUNBERRY:** Monsieur Cabana, you have before you a copy of

Gaz Métro's letters filed as Exhibit C26-1, -2, -3, -4, -5, and -7, as well as a copy of Gaz Métro's response to information request filed as Exhibit C26-6?

4784. **M. CABANA:** Oui.

4785. **MR. DUNBERRY:** Was that evidence prepared by you or under your direction and control?

4786. **M. CABANA:** Oui.

4787. **MR. DUNBERRY:** Are there any corrections or additions to make to this evidence?

4788. **M. CABANA:** Non.

4789. **MR. DUNBERRY:** Is Gaz Métro's evidence accurate to the best of your knowledge and belief?

4790. **M. CABANA:** Oui.

4791. **MR. DUNBERRY:** Do you accept and adopt this evidence as part of the evidence of Gaz Métro’s in this proceeding?

4792. **M. CABANA:** Oui.

4793. **MR. DUNBERRY:** Monsieur Cabana, do you have before you a copy of your personal written direct evidence, filed as Exhibit C26-10-2?

4794. **M. CABANA:** Oui.

4795. **MR. DUNBERRY:** Was that evidence prepared by you or under your direction and control?

4796. **M. CABANA:** Oui.

4797. **MR. DUNBERRY:** Do you have any corrections or additions to make to that evidence?

4798. **M. CABANA:** Non.

4799. **MR. DUNBERRY:** Is it accurate to the best of your knowledge and belief?

4800. **M. CABANA:** Oui.

4801. **MR. DUNBERRY:** And do you accept and adopt this evidence as part of your evidence in this proceeding?

4802. **M. CABANA:** Oui.

4803. **MR. DUNBERRY:** Mrs. Giridhar, do you have before a copy of Enbridge Distribution letters filed as Exhibits C12-1, -2, -3, and -4?

4804. **MS. GIRIDHAR:** Yes.

4805. **MR. DUNBERRY:** And was that evidence prepared by you or under your direction and control?

4806. **MS. GIRIDHAR:** Yes.

4807. **MR. DUNBERRY:** Do you have any corrections or additions to make to that evidence?

4808. **MS. GIRIDHAR:** No.

4809. **MR. DUNBERRY:** Is it accurate to the best of your knowledge and belief?

4810. **MS. GIRIDHAR:** Yes.

4811. **MR. DUNBERRY:** Do you accept and adopt it as your evidence in this proceeding?

4812. **MS. GIRIDHAR:** Yes.

4813. **MR. DUNBERRY:** And finally, you have before you a copy of your personal written direct evidence filed as Exhibit C26-10-3?

4814. **MS. GIRIDHAR:** Yes.

4815. **MR. DUNBERRY:** Was it prepared by you or under your direction and control?

4816. **MS. GIRIDHAR:** Yes.

4817. **MR. DUNBERRY:** Do you have any corrections or additions to make to that evidence?

4818. **MS. GIRIDHAR:** No.

4819. **MR. DUNBERRY:** Is it accurate to the best of your knowledge and belief?

4820. **MS. GIRIDHAR:** Yes.

4821. **MR. DUNBERRY:** And do you accept and adopt this evidence as part of your evidence in this proceeding?

4822. **MS. GIRIDHAR:** Yes.

4823. **MR. DUNBERRY:** Dr. Makholm, you're a Senior Vice-President of National Economic Research Associates, known as NERA. Do you have before you a copy of your report filed as Exhibit C12-5-4, known as Appendix B to the joint written evidence of the Market Area Shippers, as well as copies of related information requests and responses filed as Exhibit C12-1 -- sorry, C12-7-1 to C12-7-11, as well as a copy of your curriculum vitae, filed as Exhibit C26-9-3?

4824. **DR. MAKHOLM:** Yes.

4825. **MR. DUNBERRY:** Was that evidence prepared by you or under your direction and control?

4826. **DR. MAKHOLM:** Yes.

4827. **MR. DUNBERRY:** Do you have any corrections or additions to make to that evidence?

4828. **DR. MAKHOLM:** One trivial correction.

4829. Page 7, line 19, the word "three" should be struck and replaced with the word "four". That's all.

4830. **MR. DUNBERRY:** Thank you.

4831. Is this evidence accurate now to the best of your knowledge and belief?

4832. **DR. MAKHOLM:** Yes.

4833. **MR. DUNBERRY:** And do you accept and adopt that evidence as part of your testimony in this proceeding?

4834. **DR. MAKHOLM:** Yes.

4835. **MR. DUNBERRY:** Members of the Board, Dr. Makholm is known to the Board, having appeared and being accepted as an expert in the past. Most recently, he was accepted by this Board as an expert in the Komie Extension Proceeding, GH-001-2012; the TransCanada restructuring proceeding, or RH-003-2011; as well as the TransCanada RH-001-2013 application for the approval of certain tariff proposals.

4836. In these circumstances, I do not propose to go through Dr. Makholm's qualifications orally, and I would simply ask the Board to accept again Dr. Makholm as an expert in respect to the matters to which his evidence relates.

4837. **THE CHAIRMAN:** He's accepted as an expert on these matters.

4838. **MR. DUNBERRY:** Thank you.

4839. Mr. Fleck, you have before you a copy of your report filed as Exhibit C12-5-5, Appendix C to the joint written evidence of the Market Area Shippers, as well as copies of related information requests and responses filed as part of Exhibits C12-7-1 to C12-7-11, as well as your curriculum vitae, filed as Exhibit C26-9-2?

4840. **MR. FLECK:** Yes.

4841. **MR. DUNBERRY:** Was that evidence prepared by you or under your direction and control?

4842. **MR. FLECK:** Yes, it was.

4843. **MR. DUNBERRY:** Do you have any corrections or additions to make to that evidence?

4844. **MR. FLECK:** No, I do not.

4845. **MR. DUNBERRY:** And is this evidence accurate to the best of your knowledge and belief?

4846. **MR. FLECK:** Yes, it is.

4847. **MR. DUNBERRY:** And do you accept and adopt that evidence as part of your testimony in this proceeding?

4848. **MR. FLECK:** Yes, I do.

4849. **MR. DUNBERRY:** Members of the Board, Mr. Fleck is also known to the Board, having appeared and being accepted as an expert in the TransCanada restructuring proceeding, RH-003-2011. His qualifications are in his curriculum vitae, filed earlier as Exhibit C26-9-2 -- that's right, -2.

4850. Unless the Board wishes to have Mr. Fleck go through his qualifications orally, I would again ask the Board to accept Mr. Fleck again in respect of the matters to which his evidence relates.

4851. **THE CHAIRMAN:** Mr. Fleck is also accepted as an expert in these matters.

4852. **MR. DUNBERRY:** Thank you.

4853. So after these numerous technical questions, Mr. Chairman, the Board -- the panel is now open for cross-examination.

4854. **THE CHAIRMAN:** Merci, maître.

4855. Mr. Holgate?

--- EXAMINATION BY/INTERROGATOIRE PAR MR. HOLGATE:

4856. **MR. HOLGATE:** Thank you, Mr. Chairman. Good morning, panel.

4857. I'm just going to direct my questions to the panel, I'll let you decide amongst yourselves who is going to answer them. I don't expect I have any questions which are going to invoke a response from either of your experts, but I guess we'll see.

4858. Can we start with the settlement? The settlement, as I understand it, requires that the parties who signed it support the settlement in regulatory proceedings; right, you'd agree with that?

4859. **MR. ISHERWOOD:** That's correct.

4860. **MR. HOLGATE:** All right.

4861. So do you feel bound by that constraint to answer my questions in a way that supports the settlement?

4862. **M. CABANA:** On va répondre -- de toute façon chaque élément du « settlement » qui a été présenté -- vous comprenez bien le français?

4863. **Me HOLGATE:** Malheureusement, non.

4864. Un instant s'il vous plait. Bon, allons.

4865. **M. CABANA:** Chaque question qui va être posée va être répondue en toute transparence et honnêteté.

4866. De toute façon, on croit que chacun des éléments qu'il y a dans le « settlement » qui a été proposé, est la meilleure solution là pour chacun des aspects qui ont été présentés.

4867. **MR. HOLGATE:** All right. So do I take that then as a yes, you do feel constrained to answer in a way that supports the settlement?

4868. **M. CABANA:** Quand vous dites « constraint » -- on supporte le « settlement » de A à Z dans chacun de ses éléments.

4869. **MR. HOLGATE:** All right. Okay. Thank you, Mr. Cabana.

4870. I never wished more that I spoke French than I do now.

--- (Laughter/Rires)

4871. **MR. HOLGATE:** Your voice, Mr. Cabana, comes out loud and clear and the volume on this device doesn't bring the translator out quite so loud. So it's very interesting left brain/right brain exercise here.

4872. **THE CHAIRMAN:** Just for a moment here, I don't know if there's a technical difficulty with the sound levels, but if our IT people could check on that.

--- (A short pause/Courte pause)

4873. **THE CHAIRMAN:** Hopefully the technical difficulties have been resolved. If not, we'll try again.

4874. **MR. HOLGATE:** I think we may be there, Mr. Chairman. This is the poster child advertisement for bilingualism training.

4875. Oh, yeah. There. Oh that's much better. Prepare for takeoff.

--- (Laughter/Rires)

4876. **MR. HOLGATE:** So gentlemen, it's my understanding that until the Enbridge/TransCanada MoU was signed settlement discussions were only between those two parties, with respect to facilities issues in the Eastern Triangle; is that correct?

4877. **MR. ISHERWOOD:** I would disagree. If you go -- Union Gas had a -- had a case in the summer of '12, before the MoU was signed, and the Parkway facilities were discussed at some length there actually, for several days.

4878. And it was clear even then that there was tension, I guess, between the MAS group and TCPL. And the OEB in that decision encouraged all parties to work together. So I would say there was discussion prior to the MoU.

4879. **MR. HOLGATE:** All right. Can you tell me how ---

4880. **M. CABANA:** Est-ce que je peux ajouter un petit commentaire juste pour préciser? Je pense que ça va aider à la compréhension d'un peu tout le monde.

4881. Des discussions, il y en a toujours eues. On est dans -- le Canada, quand même, est une industrie qui est petite même si le Canada est très grand. Entre les joueurs, des tensions c'est normal qu'il y en ait.

4882. Les tensions réelles ont débuté, je vous dirais, un mois après l'émission de la décision. À ce moment-là, ce qui a été clair c'est quand la décision a été émise, un fait très criant c'est que l'est du Canada s'est retrouvé paralysé.

4883. Ç'a été -- ç'a été l'élément déclencheur qui a fait en sorte que les différents joueurs ont dû, pour différentes raisons, trouver des façons de s'entendre ou trouver des façons de servir leurs clients.

4884. On avait, d'un côté, autant TransCanada qui se disait -- puis qui s'était fait demander par l'Office, clairement dans la décision, de protéger la viabilité du Mainline. On avait, de l'autre côté, les « shippers » dans l'est, qui s'étaient fait demander -- bien, qui devaient assurer la sécurité de l'approvisionnement. Clairement, c'est ce qui a -- c'est ce qui a emmené les discussions de façon plus détaillée.

4885. **MR. HOLGATE:** All right. Now, do I have two different answers here from the panel? I thought, Mr. Isherwood, you told me that the -- what you characterized as settlement discussions started before the NEB decision and, Mr. Cabana, you seem to be telling me that they started after?

4886. **MR. ISHERWOOD:** So then let me clarify that. Some of the discussions themselves would've started after, as Mr. Cabana has stated.

4887. All I was pointing out was there was disagreements and tension around facilities in Ontario predating that.

4888. **MR. HOLGATE:** Right. And it's actually -- the MoU with -- between Enbridge and TransCanada, did that predate the NEB decision or did it come after?

4889. **MS. GIRIDHAR**: It -- the MoU was executed at the end of January

2013, so it did predate the RH-003 decision.

4890. **MR. HOLGATE:** All right. And up to that point the discussions, as I understand it, were between Enbridge and TransCanada only; is that correct?

4891. **MS. GIRIDHAR:** As Mr. Isherwood has explained, there were a few different facilities that were the subject of discussion.

4892. The MoU was -- the intent of the MoU was to ensure efficient facilities construction in Ontario, as per the direction of the Ontario Energy Board. The Parkway facilities were contemplated as being constructed by Union Gas.

4893. Enbridge's facilities would have been the GTA project with its distribution and transmission components and TransCanada contemplated building what is now known as the King's North facility.

4894. **MR. HOLGATE:** Right. And I don't want to get too bogged down here, but it would be nice if we could keep the chronology a little bit more clear.

4895. And it seems pretty obvious to me that because the MoU was between Enbridge and TransCanada that the only two parties to those discussions were Enbridge and TransCanada; is that fair?

4896. **MS. GIRIDHAR:** It is correct that the MoU was between Enbridge and TransCanada but the MoU -- it is my recollection that the MoU referenced the Parkway facilities and so while the discussions with Union did not pertain to the specific content of the MoU there were discussions with Union Gas as well.

4897. **MR. HOLGATE:** All right. And, Mr. Isherwood, when did Union become aware that Enbridge and TransCanada were in negotiations leading up to the MoU?

4898. **MR. ISHERWOOD:** I think we were all aware that TransCanada was talking to all the parties, so. I wasn't aware of the details of the MoU, obviously, until it got signed but we were talking to TransCanada informally.

4899. Enbridge, it sounds, as you hear, is more formal but there was discussions happening with all parties.

4900. **MR. HOLGATE:** So it's -- if I have it correctly then, there were two party discussions as between TransCanada and Enbridge, and TransCanada and Union and eventually those morphed into discussions between, or among, TransCanada and all three of the LDCs; correct?

4901. **MR. ISHERWOOD:** And that was really the recommendation coming out of the hearing we had in the summer/fall of 2012.

4902. The OEB recognized that it would be in the interest of Ontario and Quebec if all four parties worked together to find the optimal facility set.

4903. **M. CABANA:** Est-ce que je peux me permettre un commentaire? Je pense que dans les questions, la façon que c'est présenté, il y a quelque chose de fondamentalement problématique.

4904. Les discussions entre Union et Enbridge sur la -- de quelle façon on peut bâtir et optimiser des installations, il y en a probablement toujours eues. Gaz Métro était pas impliqué dans ça et, à ce moment-là, qu'il y ait des tensions, ça leur appartient.

4905. Le « settlement » n'est pas une façon de construire des installations à deux endroits, n'est pas une façon de trouver de quelle façon on va bâtir, par exemple, King's North. Le « settlement » est beaucoup plus large que ça.

4906. La nécessité du « settlement » c'est vraiment -- a été clair. Puis c'est à ce moment-là que Gaz Métro s'est impliqué davantage, comme je vous l'ai précisé, un mois après l'émission de la décision où on s'est retrouvé paralysé. Puis c'était pas une question d'avoir un projet ou d'avoir deux projets. C'est l'incapacité de pouvoir avoir accès à des capacités.

4907. Ça fait qu'il y a vraiment une distinction puis je pense que dans les questions que vous posez à l'heure actuelle, vous semblez -- vous semblez prendre pour acquis que le « settlement » a été initié avant cette date-là parce que c'était -- il y avait des discussions entre certaines parties pour construire des installations.

4908. Faut faire une distinction entre le " settlement » et ces discussions-là qui ont eu lieu au préalable. C'est deux choses distinctes.

4909. **MR. HOLGATE:** That's actually what I was trying to do, Mr.

Cabana, was to distinguish those two sets of discussion. The problem I'm having is when I ask a question about the MoU I get an answer about the settlement. And when I ask a question about the settlement I get an answer about the MoU. I -- I'm -- this is a simple chronology I'm trying to establish and I thought it was pretty obvious.

4910. We have Enbridge and TransCanada, they enter into an MoU, shortly thereafter, at some point and I don't know where, those discussions became discussions that included the three LDCs and TransCanada together.

4911. And I'm assuming that that's where we should be putting the line of demarcation for pre-settlement discussions and settlement discussions; is that fair?

4912. **MR. DUNBERRY:** Un instant, Mr. Chairman. Multiple questions have been asked on this issue and I think the three witnesses have answered to the best of their abilities in discussing ongoing bilateral and multi-lateral discussions before and after the decision.

4913. My friend is summarizing their answers; their answers need not be summarized. They are given, they're, as far as I'm concerned, fairly clear, and the witnesses have indicated that these discussions were as they were discussed and described.

4914. I don't think we can go very much further on these issues because there is perhaps not the kind of chronology which is very linear, that my confrère is looking for. So I would invite him to move to the next issue.

4915. **THE CHAIRMAN:** Mr. Holgate?

4916. **MR. HOLGATE:** I thank my friend for the invitation, Mr. Chairman, but I respectfully decline because I don't think I've got an answer to my very simple question.

4917. Mr. Cabana, do you disagree with the -- the summary that I just provided?

4918. **M. CABANA:** Si on veut parler de chronologie de façon -- pour le faire de façon la plus simple possible, il y avait des discussions entre Union et Enbridge et TransCanada probablement pour construire des installations; pour essayer de faciliter puis de travailler ensemble pour construire des installations viables pour desservir les marchés avant l'émission de la décision. Ce qui est normal puis je crois qu'il y en a toujours eues à cet égard-là.

4919. Il y a une décision qui a été émise au mois de mars 2013. Quelques semaines plus tard, Gaz Métro, comme les distributeurs Ontariens, se sont fait annoncer qu'il y avait des ententes qui avaient été signées pour avoir des capacités à -- « short-haul », qui étaient pour leur être procurées puis que TransCanada n'était plus dans la position de pouvoir les desservir à cette date-là.

4920. C'est à ce moment-là précisément -- si vous voulez avoir un moment pour répondre à votre question, à quel moment est-ce que le « settlement » les discussions ont débutées? C'est à cette date-là où on s'est rendu compte qui avait un problème fondamental, puis qui avait différentes options pour le régler. Y en avait deux en fait à ce moment-là.

4921. Y avait l'option de se battre comme ce qu'on a fait durant l'été 2013, puis qui aurait été très nocif puis on s'est aperçu qui était nocif pour tout le monde. Y a des questions -- juste pour vous donner une indication, durant l'été où vous savez qu'on avait déposé une demande en fonction de la Section 71 à l'Office. L'Office avait émis une série de questions dans le cadre de ce processus-là. Des questions fondamentales avaient été énoncées à Union et à Gaz Métro à ce moment-là. Des questions comme qu'est-ce qu'on va faire avec le manque à gagner éventuellement?

4922. Gaz Métro, Union Gas, Enbridge et TransCanada ont décidé de mettre de côté les guerres à ce moment-là pour trouver une solution et répondre à ces questions-là.

4923. Fait que votre question très précise, à quel moment sur le « settlement » les discussions ont débutées, je vous dirais que c'est -- c'est au moment -- je vous dirais ce qui me vient en tête le plus précisément c'est au moment où on a reçu clairement de TransCanada une lettre nous disant qu'on ne pouvait plus avoir accès aux capacités qu'on avait besoin pour desservir nos marchés. C'est là que ça débuté.

4924. **MR. HOLGATE:** Thank you.

4925. So can one of you tell me when the discussions between TransCanada and MAS and the purpose and subject of those discussions was disclosed to the public, including other TransCanada shippers?

4926. **MS. GIRIDHAR:** While the discussions had begun, Enbridge and Union were in the midst of their facilities applications at the Ontario Energy Board and it was communicated through that process, certainly to Enbridge and Union's stakeholders that the three parties were in discussion. So that was on the public record. I'd say through the June/ July period of 2013.

4927. **MR. HOLGATE:** Okay.

4928. And would you -- would the panel agree with me that the choice not to involve others in the discussions was made solely by TransCanada and the three eastern LDCs?

4929. **M. CABANA:** Non, on peut pas -- on peut pas dire oui à cette question-là.

4930. La réalité c'est qu'à l'époque quand que les discussions -- comme je vous l'ai mentionné -- se sont envenimées à une vitesse très rapide. Ç'a été très évident pour les joueurs autour de nous, différents intervenants, notre gouvernement, qui se sont tournés vers nous en nous disant, « Écoutez, ça va pas bien à l'heure actuelle là. Y a des projets qui sont en cours, y a des industries qui peuvent souffrir. »

4931. Les gens nous ont demandé autour, trouvez une solution d'une façon ou d'un autre pour faire en sorte que la paralysie cesse. Alors c'est ce qu'on a fait. On s'est assis à la table -- autour d'une table, puis on a essayé de trouver une solution, puis on en a trouvé une.

4932. Puis ce qu'il faut réaliser c'est que les -- y a certains intervenants qui semblent penser que ç'a été un processus facile. Je vais prendre une image -- et je peux vous dire que jusqu'à la dernière journée avant de signer le ---

4933. **MR. HOLGATE:** Mr. Cabana, could we go back to the question that I asked, please?

4934. **Me DUNBERRY:** Monsieur le Président, je pense que -- Mr. Chairman, I apologize. Je pense qu'il serait approprié de laisser Monsieur Cabana terminer la réponse qu'il entendait donner à une question qui lui a été posée.

4935. Il me parait inapproprié d'interrompre le témoin en cours de réponse, alors que sa réponse est clairement en lien direct avec la question qui a été posée.

4936. **THE CHAIRMAN:** Mr. Holgate, we're finding this preamble useful and I encourage Monsieur Cabana to answer your question.

4937. **M. CABANA:** Ce qui me restait à mentionner -- puis je crois qui est important que tout le monde comprenne -- c'est que durant l'été où ces discussions-là ont eu lieu -- je prends une image, ben on a eu le couteau entre les dents jusqu'à la dernière minute où on a signé l'entente.

4938. Je dois vous dire que pour avoir été intimement -- comme les personnes ici, on a été à la table jusqu'à la dernière journée. Je crois que c'est -- même nous on voyait difficilement que avec la tension qu'il y avait entre les différents joueurs, de quelle façon on aurait pu résoudre éventuellement les problèmes.

4939. On a réussi à trouver la solution qu'on croit être la meilleure, mais ça pas été délibérément où on s'est dit, « Il faut exclure tout le monde de la discussion. » Ça vraiment pas été fait de cette façon-là.

4940. **MR. HOLGATE:** All right, Mr. Cabana. I think we're actually with that last sentence getting close to an answer.

4941. But maybe you can tell me -- well, no, no. I'm just going to repeat the question and without the preamble, I'd like you to agree with me that the choice to exclude the other shippers from the settlement negotiations was one made by TransCanada and the MAS shippers. That's how you decided to proceed with your discussions; correct?

4942. **M. CABANA:** Je vais essayer d'utiliser d'autre mots, peut-être que -- ce que j'ai déjà répété.

4943. C'est pas un choix qui a été fait. La nature des enjeux qui avaient à ce moment-là et des litiges qui faisaient rage, faisait en sorte que les quatre intervenants à la table étaient les joueurs principaux qui ont tenté de trouver une solution au problème.

4944. Quand on parle -- vous l'avez mentionné -- on l'a vu jusqu'ici, c'est une situation très complexe qui impliquait beaucoup de litiges, beaucoup -- d'un point de vue légal à plusieurs égards. La situation a fait en sorte que les quatre joueurs devaient trouver -- essayer, tenter de trouver une solution. Et par la suite, essayer de voir avec les autres intervenants si la solution proposée -- et les convaincre que c'était la meilleure solution.

4945. **MR. HOLGATE:** All right. And Mr. Cabana, then, the choice, to use your words, that TransCanada and the MAS shippers made was to have the negotiations among the four parties and then try to convince the others afterwards of the merits of the settlement. That's the choice you made; right?

4946. **MR. CABANA:** Yeah. Principalement ce qu'on a dit c'est qu'on a trouvé une solution, que la situation faisait en sorte que les quatre parties impliquées devaient trouver une solution, on en a trouvé une. Puis par la suite, y était clair dans notre tête qu'il fallait qu'on aille côtoyer et présenter notre solution aux autres parties pour leur présenter.

4947. Puis d'ailleurs on est très heureux parce qu'on peut voir quand même à la lumière de ce qui est ici -- puis je vous le dis en toute transparence -- je pense que le panel de TransCanada l'a mentionné sur le banc ici, le degré de support -- y a personne, y pas un intervenant qui aime ça des hausses de tarif. On n'aime pas ça nous non plus. Un client à la base aime pas des hausses de tarif.

4948. Ce qui faut quand même concevoir, c'est que faut considérer dans l'intérêt public ce que ça apporte puis quels sont les enjeux. Je crois que le fait qu'une majorité soit -- supporte --comme IGUA en bout de ligne -- que la majorité du marché supporte est un signe très, très clair qui a un support très grand à l'entente.

4949. **MR. ISHERWOOD:** If I could just add to that, I guess. Mr. Cabana had mentioned that there was two paths we could have taken, the settlement or litigation through various regulatory and in courts. The litigation path involved the same four parties. So it's natural that the settlement would involve the same four parties initially to work through those complex issues and develop a settlement that we could bring back to the rest of the stakeholders.

4950. **MR. HOLGATE:** All right. And does the panel agree with me that since that is the way you decided to proceed and that since you were the only four parties, you and the three LDCs and TransCanada were the only four parties at the settlement, that MAS and TransCanada should take full responsibility for the consequences of that choice?

4951. **MS. GIRIDHAR:** Completely disagree with that statement. The negotiations between the four parties had very clear principles that we were working off of. And those principles were around market access that would be open and non-discriminatory and available to all. It was around the building of efficient infrastructure as required by at least the Ontario Energy Board and surely that's in the public interest that we not have duplication of facilities and have efficient public infrastructure being both.

4952. The discussions were around toll stability, just and reasonable rates and about being inclusive. I view that as discussions that were completely aligned with the Canadian public interest and, therefore, I disagree with your conclusion.

4953. **MR. HOLGATE:** Is it because I used the word "consequences" and you would have preferred that I said, "Take the credit"?

4954. **MS. GIRIDHAR:** It's really not about taking credit or consequences. We were involved in a very complex exercise to try and provide market access in an open and non-discriminatory fashion that would benefit everybody, including the Market Area Shippers, and create a reasonable assurance of cost recovery for TransCanada as the pipeline operator that would have been good for the viability of the Mainline.

4955. So it's really not around taking credit or blame or anything like that. It's about creating an environment where the gas industry can continue to flourish and not be paralysed and face the chaos that we did at the time.

4956. **MR. HOLGATE:** All right. So if I understand your answer then, you're telling me that the MAS shippers do not feel that they should be taking full responsibility for the consequences that flow from your decision to exclude others from your settlement discussions?

4957. **M. CABANA:** Est-ce que je peux -- je pense que je vais réitérer; je veux faire un lien avec quelque chose que vous avez dit jusqu'ici, je pense, qui était très trompeur.

4958. Vous essayez de -- vous essayez de laisser la perception qu'on a exclu les différents intervenants, dont ANE. Vous avez utilisé jusqu'à présent des mots comme « done deal » quand les gens ont présenté à ANE la première fois l'entente. Puis je vous suggère que les trois personnes qui sont ici étaient à cette rencontre-là. Quand on est allé rencontrer ANE une fois qu'on avait une solution pour lui présenter la solution, c'est pas vrai que ç'a été présenté comme un « done deal ».

4959. Les discussions qui ont eu lieu au cours de ce meeting-là ont fait en sorte qu'on s'est aperçu qu'on était fondamentalement opposé sur un point en particulier, qui faisait en sorte que c'était irréconciliable probablement. Mais jamais nous nous sommes présentés, quand on a présenté la solution vers l'intervenant en disant c'est un « done deal ».

4960. On est très -- on était très ouvert à entendre quelles étaient les suggestions éventuellement mais je dois vous dire, pour utiliser mes termes, ça a dérapé de façon assez abrupte.

4961. **MR. HOLGATE:** Well, I think we might hear a little bit about that tomorrow when the ANE witnesses are on the stand, Mr. Cabana.

4962. **M. CABANA:** Mais je vous invite à me poser la question si c'est d'intérêt pour vous.

4963. **MR. HOLGATE:** Well, actually, I did ask you the question. I was waiting for you to answer it. You're apparently not going to do that. So I'm going to move on.

4964. When Enbridge cancelled the MoU with TransCanada, Enbridge was threatened with a $4.5 billion-lawsuit; correct?

4965. **MS. GIRIDHAR:** It is correct that TransCanada launched action at the Ontario Superior Court.

4966. **MR. HOLGATE:** All right. I may have missed it, but I didn't see any discussion of the MoU in your written evidence. I assumed it was kind of like the uncle who went to jail, that nobody wants to talk about when they have a family gathering.

4967. Why did you not discuss it further in your written evidence, the MAS written evidence?

4968. **MS. GIRIDHAR:** The MoU was terminated on September the 11th, 2013, and therefore was of no further use from the perspective of the settlement outcome.

4969. **MR. HOLGATE:** And Ms. Giridhar, is that the correct pronunciation of your name, Giridhar?

4970. **MS. GIRIDHAR:** It's close enough.

4971. **MR. HOLGATE:** Okay. Ms. Giridhar, that was part of the litigation that the settlement was intended to address; correct?

4972. **MS. GIRIDHAR:** It was one of the several avenues of litigation, including civil and regulatory.

4973. **MR. HOLGATE:** Right. Yes, and I wasn't trying to exclude the others, I was trying to be careful to say that it was part of the litigation. So thank you for that.

4974. But as a result of the settlement, TransCanada has given up its right to pursue that claim; correct?

4975. **MS. GIRIDHAR:** The settlement did end the -- at least, from the perspective of the MoU that was terminated, we had satisfactorily addressed the issue around the facilities that were covered off by the MoU and the market access that was being sought.

4976. **MR. HOLGATE:** All right. I'll take that as a “yes”.

4977. So would you agree with me that no one but Enbridge was responsible for giving TransCanada a $4.5-billion hammer in the settlement negotiations?

4978. Sorry, Mr. Cabana, I'm talking to an Enbridge witness, I think ---

4979. **M. CABANA:** Mais étant donné que j'ai été -- je vous rappelle qu'au début vous nous avez dit, « Je vais poser des questions au panel, à l'ensemble du panel, et ceux qui sont les plus -- qui sentent qu'ils ont une réponse à apporter de valeur ---

4980. **MR. HOLGATE:** I was just kidding.

4981. **MR. CABANA:** What?

4982. **MR. HOLGATE:** I was just kidding.

4983. **M. CABANA:** O.k.

4984. Alors, votre question est à savoir est-ce que ça concernait seulement Enbridge. Je vous dirais qu'à l'époque et je reviens à l'essentiel; ça revient toujours au fondamental. Quand on s'est dit qu'un mois ---

4985. **MR. HOLGATE:** Mr. Chairman, I'm sorry, I'm going to have to interrupt Mr. Cabana. I would like to get an answer to my question that I posed to Ms. Giridhar first, because it has to do with Enbridge.

4986. And Mr. Cabana can come in afterwards if he wishes, but I think I'm entitled to an answer to my primary question.

4987. **THE CHAIRMAN:** It seems fair.

4988. **MR. HOLGATE:** Thank you.

4989. **MS. GIRIDHAR:** Could you just repeat that question again?

4990. **MR. HOLGATE:** Sure.

4991. My question was whether you would agree with me that no one but Enbridge is responsible for giving TransCanada a $4.5-billion hammer in the settlement negotiations.

4992. **MS. GIRIDHAR:** I would disagree with that characterization completely. The issue around the MoU termination from the perspective of Enbridge had to do with the entire market. Enbridge terminated the MoU because, as a transmission service provider, which Enbridge was with the GTA project, it is required to adhere to the Ontario Energy Board's Storage and Transportation Access Rules which require open and non-discriminatory transport on any transmission pipeline operated in Ontario by a party regulated by the Ontario Energy Board.

4993. So the concern was that, as a result of the RH-003 decision, TransCanada's view was it was not willing to provide short-haul access, market access.

4994. The presumption in the MoU was that the provision of transmission service exclusively to TransCanada would result in market access for all customers. As a result of the RH-003 decision and TransCanada's unwillingness, that was not clear anymore. So Enbridge felt that it would not be able to demonstrate that it was following the Storage and Transportation Access Rule, and that was the reason why Enbridge terminated the MoU.

4995. So I would completely disagree with the characterization that Enbridge gave whatever it is that Mr. Holgate said. The reality was that market access was necessary and market access was required for Enbridge to demonstrate that the transmission access that was being provided would meet the requirements of the Ontario Energy Board.

4996. It all boiled down to ensuring that market access would be provided as a result of the facilities that were being constructed in an open and non-discriminatory manner.

4997. **MR. HOLGATE:** All right. So Enbridge negotiated with TransCanada. Enbridge signed the MoU. Enbridge committed itself to the MoU. Enbridge cancelled the MoU and was threatened with a lawsuit. And you're telling me that that, in those circumstances, Enbridge is not responsible for having given TransCanada a negotiating lever?

4998. **MS. GIRIDHAR:** I think I've already explained in my answer, the purpose of the MoU was (a) to ensure efficient building of infrastructure without duplication; the purpose of the MoU was to provide market access. A series of events resulted in that market access being in question. It certainly became extremely contentious. And as I explained, Enbridge was unable to demonstrate that it was adhering to the requirements of the Ontario Energy Board. And those were the reasons.

4999. **MR. HOLGATE:** Those were the reasons for what?

5000. **MS. GIRIDHAR:** For the termination of the MoU.

5001. **MR. HOLGATE:** All right. I wasn’t asking you about the reasons for the termination of the MoU, I was asking you about the consequences and I'm putting to you that the consequence of Enbridge terminating the MoU and the circumstances gave TransCanada what I refer to as a “$4.5 billion hammer” in the negotiations.

5002. **MS. GIRIDHAR:** I would suggest to you that there was also a Section 71 application at the NEB. There were complaint letters at the NEB. The reality is we have to move past all of the complex litigation that was occurring at the civil courts as well as the regulatory arena.

5003. The point is the market was in paralysis, market access was required and all parties at that time were using the tools available to them to address the issues that were important to them.

5004. **MR. HOLGATE:** All right. Now, I think you started your -- that last answer by saying "There was also", which I take means you were agreeing with me, but there were negotiating issues on both sides; is that what you're saying?

5005. **MS. GIRIDHAR:** I don't think I can agree to have words put in my mouth. I'm suggesting that there were issues all around, and all parties came to the table with solutions. But prior to those settlements taking effect there were certainly things that all parties were trying to achieve through the avenues that they could resort to.

5006. **MR. HOLGATE:** All right.

5007. **M. CABANA:** Je vais -- je vais me permettre d'ajouter un commentaire.

5008. **MR. HOLGATE:** Before you do that, Mr. Cabana, Mr. Chairman, I apologize, I know that were starting to get the smell of the dead horse here for these questions but I think it's important that we at least have a form of communication where there is a question and then an answer and then a speech, instead of a question and then a speech.

5009. And I am not going to leave this point, unless you direct me to move on, until I get an answer from Ms. Giridhar to my specific question. And I'm going to repeat it and I'll try and do it in a way that's as clear as possible.

5010. **MR. DUNBERRY:** Mr. Chairman, two things: One, Mr. Cabana was about to say something which I think there's an objection to allowing Mr. Cabana to respond and provide some additional information. And I would ask that the Board allow Mr. Cabana to provide that additional information.

5011. And two, this is a cross-examination. This is not the argument phase. My friend is raising an argument. He's trying to convince the panel to accept a characterization of what he considers to be a situation that he will argue next week. And next week he will take the position that a hammer was given to TransCanada.

5012. That's his argument and he's asking the panel to agree with an argument. It's not the purpose of the exercise we're doing now. It's not a question, an answer and a speech, there's no speech. My confrère is trying to have the witness accept his argument. We're not at that phase yet. It's not a speech, it's an answer.

5013. And I would invite -- not only on legal precedents, but also on simple courtesy to allow Mr. Cabana to provide his answers. If the Board feels the answer is irrelevant or is not appropriate, the Board can make that determination. But I think witnesses should be allowed to comment and provide additional information.

5014. That question was asked three times, it was answered three times. The witness is not going to argue with my colleague. It's not the time to argue.

5015. That's my submission, Mr. Chairman.

5016. **MR. HOLGATE:** Mr. Chairman, first of all I was not objecting to Mr. Cabana adding anything. What I wanted to do first was get a response from Ms. Giridhar. And Mr. Cabana I know will have something to say afterwards. I'm not trying to stop him.

--- (A short pause/Courte pause)

5017. **MR. HOLGATE:** Mr. Chairman, if I could just interrupt you for a moment.

5018. I've been discussing this with my colleague. I think I may have missed part of the answer that I got from Ms. Giridhar earlier. So I'm prepared to move on.

5019. **THE CHAIRMAN:** Well that cuts off our own discussion here.

5020. And I believe Mr. Cabana was getting ready to add a complement.

5021. **M. CABANA:** La seule chose qui est importante de rajouter à ça, c'est que la question a été posée à savoir est-ce que c'est Enbridge qui est responsable d'avoir signé des contrats? Est-ce que c'est Enbridge qui est responsable de ce qui est arrivé par la suite?

5022. Je tiens à rappeler que quand que l'entente au départ avait été faite puis que Gaz Métro était pas au courant entre Enbridge et TransCanada, c'était dans le but clair de répondre aux besoins de l'est. C'était une entente telle que -- telle que ce qui est mentionné par -- à l'OEB en Ontario où les joueurs dans ce territoire-là doivent travailler de concert pour arriver à desservir le marché, ce qui a fait en sorte que ça dérapé par la suite.

5023. Je vous rappelle -- puis je vous l'ai mentionné tantôt -- c'est à un moment donné après l'émission de la décision, TransCanada ne croyait plus qu'ils étaient dans une position où ils pouvaient desservir les marchés dans l'est sans se mettre à risque de façon importante.

5024. C'est ça qui a été la clé de tous les problèmes dans tous les litiges. Le dénominateur commun c'était ça. C'est ça qu'il fallait régler puis c'est ce qu'on essaie de régler.

5025. **MR. HOLGATE:** Thank you for that, Mr. Cabana.

5026. I take it you believe in your heart of hearts that that was responsive to my earlier question to Ms. Giridhar, do you?

5027. **MR. CABANA:** Could you repeat your question?

5028. **MR. HOLGATE:** I said I take that you believe in your heart of hearts that what you just told me was responsive to the question I asked Ms. Giridhar, do you?

5029. **MR. CABANA:** I always speak with my heart.

5030. **MR. HOLGATE:** Right. Did MAS consider that the negotiating strength of the MAS group and TransCanada were relatively equal?

5031. **M. CABANA:** Oui, on pense que c'était le cas.

5032. **MR. HOLGATE:** All right.

5033. **M. CABANA:** Puis on peut expliquer pourquoi si vous êtes intéressé.

5034. **MR. HOLGATE:** Well what I'd be -- what I would be interested in knowing, Mr. Cabana, is if one of the reasons you thought that your negotiating positions were relatively equal, was that the threat of bypass by MAS members and the threat of a Section 71 application to the Board presented a reasonable alternative with a reasonable chance of success?

5035. **M. CABANA:** C'était une des options considérées à l'époque. C'est encore -- c'est encore des options qui sont possibles puis qu'on essaie d'éviter. Quand on parle d'options qui auraient pu à l'époque -- qui étaient sur la table, y en a différentes.

5036. Construire nos propres installations pour « bypasser » en partie, c'est une option. Construire nous-mêmes un pipeline qui -- de Dawn jusqu'au Québec, malgré que les gens disent c'est un projet de deux milliards, ben je vous soumets que si -- deux milliards ça peut être rentable selon différents scénarios. Si jamais la spirale tarifaire de TransCanada on y revient, ça peut être rentable.

5037. Je vous dirais qu'une autre option qui est sur la table, vous avez entendu parler -- je pense que ç'a été populaire dans l'ouest également -- que le Québec était assis aussi sur des réserves de « shale gas ». Mais des réserves de « shale gas » là, je peux vous assurer moi que si le Québec manque de capacité de transport durant un hiver, ça va être le meilleur incitatif pour faire en sorte que le gouvernement va faire ce qu'il faut pour qu'on puisse desservir nos marchés.

5038. Alors y avait différents -- on avait différents leviers nous aussi quand on était à la table de négociations.

5039. **MR. HOLGATE:** Okay. Thank you, that's actually very responsive, Mr. Cabana.

5040. Let's leave aside for a moment the option of the Quebec pipeline and the shale gas, because I'm going to assume that that's a very long-term kind of response.

5041. But I take it you will agree with me that if you thought that the construction of bypass facilities and the connection to TransCanada was an option before, you would think that would still be an option in the event that you don't get a settlement -- sorry, get a decision from this Board that you like?

5042. **M. CABANA:** Faut comprendre que on a un devoir statutaire. C'est simplement pas une option de pas avoir les capacités pour desservir nos marchés. Ce qu'on essaie de faire à l'heure actuelle -- puis on a la solution qui fait en sorte qu'on précipitera pas le Mainline dans une spirale tarifaire. On a une solution qui fait en sorte qui est le mieux pour l'intérêt public des canadiens. Mais si jamais cette solution-là n'était pas implantée, quel autre choix on a?

5043. On peut pas juste aller vers notre régulateur et aller vers le gouvernement du Québec, nos clients là, et en leur disant, « On a essayé, désolé, l'hiver prochain il va vous manquer 20 pour cent de vos capacités de transport pour vous desservir. »

5044. On peut pas arrêter. Il faut trouver des moyens. Puis on va devoir trouver les moyens, parce que c'est ça le devoir qu'on a envers nos clients, puis envers notre clientèle, puis envers nos droits de franchise.

5045. Puis je dois vous dire quand vous parlez de « Section 71 », c'est clair que ça va en être une qui pourrait revenir sur la table très rapidement. Mais ce qui est clair également, c'est que les impacts d'un scénario comme ceux-là vont être dévastateurs pour l'ensemble du Mainline.

5046. **MR. HOLGATE:** All right.

5047. So let's move off the topic slightly. Mr. Cabana, are you familiar with the English phrase that it is easier to get forgiveness than consent?

5048. **M. CABANA:** Non, mais je comprends probablement ce que vous voulez dire avec ça là.

5049. **MR. HOLGATE:** All right.

5050. Well, the -- okay. All right.

5051. So the MAS group and TransCanada, I think we've established quite clearly, are presenting the NEB with a settlement essentially on a take it or leave it basis while at the same time telling the Board that the time constraints are so severe that there is no time for other options; fair?

5052. **M. CABANA:** Ben, je vous dirais qu'à l'heure actuelle Gaz Métro, la situation-là, il nous manque -- y a 20 pour cent de nos capacités pour desservir notre marché qui sont pas sécurisés.

5053. Ça fait un an et demi qu'on est devant notre régulateur en lui disant qu'on n'a pas de solution, que ça ici c'est la solution, puis qu'on doit avoir foi que l'Office va nous aider dans la situation.

5054. Si on arrive par la suite dans une situation où on est laissé tomber, on va devoir poursuivre toutes les options à notre portée, on peut pas. Pour nous, on a foi que ça va arriver. On a mis de côté nos problèmes en se disant que c'était la meilleure solution dans l'intérêt public, puis on a confiance en l'Office.

5055. C'est pas une option pour nous que ça -- de retourner à la table à dessin puis de se dire, « Ben, continuez d'avoir vos problèmes, prenez le risque de pas avoir de capacité dans un an. » À les convaincre que vous avez attendu -- pendant un an vous avez poursuivi la meilleure option dans l'intérêt public, puis que vous retournez au point de départ, puis que vous avez juste perdu un an pour poursuivre des autres options.

5056. Dans ma tête -- excusez-moi, mais ça peut pas arriver.

5057. **MS. GIRIDHAR:** If I may just add to that response. From Enbridge's perspective there's still things that I'd like to bring to the attention of the Board.

5058. Enbridge is also in a situation where upwards of 25 percent of the peak day requirements of the Enbridge EDA or its Ottawa area do not have capacity post-October 1, 2016. So that obviously is a very important issue to be addressed and this settlement agreement does address the issue of market access.

5059. The other point to note is that the Ontario Energy Board has approved the GTA project. It's a 2 PJ pipeline of which 800 TJs is for distribution purposes, and it would allow Enbridge -- Enbridge, it's customers, direct purchase customers as well as system gas customers, to receive 600 TJs of capacity -- short-haul capacity from both Niagara and Dawn. That is a very material change in the amount of long-haul FT contracting for the Mainline.

5060. **MR. ISHERWOOD:** If I could add the Union perspective to that as well.

5061. **MR. HOLGATE:** I'm quite sure, Mr. Isherwood, I wouldn't be able to stop you, and I'm obviously quite sure that this is an answer that the three of you have been working on for quite some time, so go ahead.

5062. **MR. ISHERWOOD:** It's not actually.

5063. **MR. DUNBERRY:** Mr. Chairman, I don't find these comments at all useful. My colleague is, for whatever reasons, putting in the transcript comments of this nature. It's not useful. It doesn't create the proper environment for a conversation or a discussion. I would ask him not to make similar comments. It's not helpful.

5064. **MR. HOLGATE:** Mr. Chairman, I'm happy to withdraw the comment. But I do want to make another one. Anybody who is listening to this -- the exchange that I've had with these witnesses this morning or who reads it in the transcript is going to have difficulty, I put it to you, finding where the answer to my question is in the responses that I'm getting.

5065. The comment that I made to Mr. Isherwood about them having worked on the responses, I'm saying that -- and if Mr. ---

5066. **MR. DUNBERRY:** Dunberry.

5067. **MR. HOLGATE:** Sorry. If Mr. Dunberry finds that it offensive it's because I am offended. I'm asking these witnesses what I thought were a simple set of questions and I've been getting speeches on the benefits of the settlement ever since.

5068. So I'm quite happy to stick to the questions if I can only get responses that are much -- that are responsive to the question and not taken as opportunities to provide the Board with a speech.

5069. **MR. DUNBERRY:** Mr. Chairman, I don't think there's any need for me to say one additional word. I think I've said, and I think the Board can clearly read between the lines. There's nothing else to be added on this side. I would invite my confrère simply to ask questions and listen to the answers.

5070. **MR. HOLGATE:** Mr. Isherwood, I don't want to cut you off, you had something you wanted to add.

5071. **MR. ISHERWOOD:** I just wanted to add my perspective on terms of access to Dawn and Niagara as well. It's a topic I've been passionate about, I've been speaking publicly about since 2010, identifying that the path between Parkway and Maple have been constrained. There's limited access to Ontario and Quebec to get back to Dawn. We've been active with open seasons, as has TransCanada.

5072. The facilities set that we're looking at building in 2015, which has been largely approved by the OEB subject to two conditions, facilitates three quarters of a PJ to move through Parkway from Dawn, a significant change in the whole dynamic of Dawn to Parkway.

5073. We've also completed 2016 open season; have signed PAs for that as well, and it will another half a PJ that would be flowing from Dawn to Parkway, so in total 1.2, 1.25 PJs in change in the market. So it's -- access is critical. It's very critical.

5074. **MR. HOLGATE:** And I don't want you to take from my questions, Mr. Isherwood that ANE disagrees with you on that point. But do you remember what question you were answering?

5075. **MR. ISHERWOOD:** I just wanted to build on the answer that Ms. Giridhar was saying in terms of the facility set for Enbridge. I wanted to give the complete picture.

5076. **MR. HOLGATE:** All right.

5077. So in your evidence you make references to the Ontario and the Quebec regulators, and I'm assuming that that's also a reference to the needs of their respective provinces; correct?

5078. **MR. ISHERWOOD:** That's correct.

5079. **MR. HOLGATE:** All right.

5080. What is the purpose of including those references in your evidence?

5081. **MR. ISHERWOOD:** I'll speak in terms of Ontario and Mr. Cabana can speak in terms of Quebec.

5082. Last summer there was an extensive hearing with the Enbridge facilities and the Union Gas facilities in which case -- in which the settlement actually was discussed at length and probably the number one issue that was discussed during that hearing. And in the end of that hearing the OEB endorsed the need for the facility sets for both Enbridge and Union Gas to facilitate access to Dawn and to bring competitive supply to Ontario, so deemed to be in the public interest of Ontario.

5083. **MS. GIRIDHAR:** Just to add something here. In terms of the benefits to the Province of Ontario, the GTA project allocated 200 TJs of the distribution capacity to the direct purchase market that serves Ontario. So this would be marketer suppliers who serve industrial customers as well as residential customers because Ontario does have a deregulated retail gas market.

5084. And as proof of the fact that the Government of Ontario would be interested in market access I'm happy to tell you that those consultations -- those stakeholder consultations have gone very well, and in short order Enbridge plans to file with the Ontario Energy Board an agreement that would allocate short-haul capacity to its direct purchase customers for the proof that market access is important not just to Enbridge and the customers it serves directly and procures on behalf of but all gas customers.

5085. **MR. HOLGATE:** My question was actually simpler than that. I just was trying to get your view on why is you find it necessary to refer to your respective regulators? And correct me if I'm wrong, but I understand -- well, no, actually I'm not going to go down that road.

5086. You must have had a purpose for putting those references in your evidence. What was that purpose?

5087. **MS. GIRIDHAR:** I would suggest that a decision by the Ontario regulator that endorses market access, that endorses diversity of supply and reliability is important to gas consumers in Ontario. And words from the Ontario Energy Board commending its regulated entities for settling this issue of market access with TransCanada would be reason enough to put it in.

5088. **MR. HOLGATE:** All right.

5089. **M. CABANA:** Si je peux ajouter pour le Québec, y a le Québec aussi dans ça. Y a eu des références au régulateur québécois.

5090. Je dirais que pour notre perspective y est important de démontrer au niveau de la preuve que la solution proposée ici a été discutée, analysée auprès de notre régulateur. Y a des intervenants qui ont posé des questions également sur l'entente. Puis là notre régulateur est arrivé à la conclusion que c'était une entente qui faisait beaucoup de sens, qui était la solution pour se sortir de nos problèmes.

5091. Puis c'est important aussi de mentionner également que quand je parlais -- on parlait des problèmes particuliers à Gaz Métro, ben on se doit nous sur une base régulière de faire un suivi à la Régie de l'énergie, qui a aussi le mandat de s'assurer avec nous qui a une sécurité d'approvisionnement et qu'on fait ce qui faut pour assurer la sécurité d'approvisionnement.

5092. C'est important de mettre au dossier que la Régie également -- de la même façon que Gaz Métro et les autres intervenants -- supportait que l'entente était la meilleure façon d'arriver à régler cette problématique-là.

5093. **MR. HOLGATE:** All right. So you made reference to the Quebec and the Ontario regulators because you thought what they -- their views would be of use to this Panel in making their decision; right?

5094. **M. CABANA:** Je crois que vous allez aimer la réponse. La simple réponse c'est oui.

5095. **MR. HOLGATE:** All right. And you realize, I'm sure, that provincial regulators consider the interests of their constituents and the National Energy Board consideration is much broader and often involves decisions that don't accord with the position of particular provinces; right, can you agree with that?

5096. **MR. ISHERWOOD:** The OEB, in their decision, recognized the role of the NEB as well, but I think it is important to note that both provincial regulators do support this element.

5097. **MR. HOLGATE:** Right. Were you in the room, Mr. Isherwood, when Ms. DeMarco was cross-examining the TransCanada panel on behalf of the Ontario Ministry of Energy?

5098. **MR. ISHERWOOD:** I believe I was.

5099. **MR. HOLGATE:** All right. And did you take from the questions that were being asked and from the information requests that the Ontario Ministry of Energy asked that the Ontario Ministry of Energy appears to be questioning TransCanada's pricing discretion?

5100. **MR. ISHERWOOD:** My understanding of the questions that Ms. DeMarco was asking was limited to pricing discretion and, later, some discussion around Energy East.

5101. **MR. HOLGATE:** All right. Did you take from what you've seen on the record from the Ontario Ministry of Energy and what you heard from Ms. DeMarco's questions that the Ontario Ministry of Energy supports the settlement in its entirety?

5102. **MR. DUNBERRY:** I would have an objection. I don't think we can ask these witnesses what is the position of the Ontario government or the Attorney General of Ontario. I think only the Ontario government can express what its position might be, and that would be probably next week.

5103. So I don't think we can ask these witnesses to speculate on what the Ontario government's position might be and they're, one, not authorized to speculate on their position, two, have no information about what their position is at this point, and three, it's an irrelevant question asked this panel. This could be asked to others at the appropriate time or it could be understood at the time of the final arguments.

5104. **THE CHAIRMAN:** Maître Dunberry, we agree with you.

5105. **MR. HOLGATE:** I'm moving on, Mr. Chairman. Thank you.

5106. Would you agree with me, gentlemen, that TransCanada took with you the position that it had discretion to determine when a project was economic and that it did just that in the case immediately after the Board's decision over your objections and indicated that it would not be building short-haul facilities in the Eastern Triangle?

5107. **MS. GIRIDHAR:** We understand that TransCanada's view after the issuance of the RH-003 decision was that it could not afford to lose the long-haul revenues that would have been lost as a result of short-haul market access.

5108. **MR. HOLGATE:** Right. And can we take from that that TransCanada was exercising its discretion to determine which facilities were economic and which ones weren't and, in that case, they determined that the facilities were not economic and they declined to proceed; fair?

5109. **M. CABANA:** Je pense pas que c'est une bonne façon de le caractériser. Vous faites -- vous faites allusion à la discrétion de TransCanada sur la façon dont ils devraient calculer puis arriver à ces conclusions-là.

5110. C'est clair qu'à l'époque si on avait poursuivi -- ce qu'on n'a pas fait -- la voie des litiges, la voie des guerres, ben on aurait probablement argumenté longuement sur la façon dont ça avait été calculé.

5111. Ce qui est important de voir c'est que le but ultime -- ça ç'a été transparent -- c'est que TransCanada s'est fait demander par la décision d'assurer et de prendre des décisions pour assurer la viabilité du Mainline.

5112. Puis dans ce contexte-là, ils étaient dans une position où ils devaient -- ils se sentaient le devoir de poursuivre toutes les alternatives pour protéger, puis amener les discussions, puis amener à des solutions pour l'avantage de tout le monde, puis pour maintenir une viabilité du Mainline.

5113. Mais si vous me dites spécifiquement que TransCanada a seulement exercé sa discrétion dans la façon dont ils ont calculé l'économique de certains projets, je suis en désaccord avec vous.

5114. **MR. HOLGATE:** I'm sorry, Mr. Cabana, I'm not sure that I followed what you told me.

5115. So my original question, I put the proposition that TransCanada, for whatever reason after the restructuring decision was issued, made the determination that the facilities that you were looking for, that the MAS group were looking for, were not economic from TransCanada's perspective.

5116. I wasn't putting any reasons or any calculation in there, I was just asking you to agree with what I thought was a very obvious proposition, that TransCanada refused to build for you because they didn't like the economics of the result.

5117. **M. CABANA:** Non, je pense que -- j'accepterai pas de me faire -- nécessairement d'utiliser les termes que vous employez.

5118. Ce que je vais vous dire c'est que TransCanada à l'époque refusait de nous donner l'accès ou de bâtir. Parce que clairement, ils nous avaient identifiés, puis je crois qu'ils percevaient qu'il y avait une menace importante pour le Mainline éventuellement s'ils bâtissaient.

5119. Fait qu'on était dans une position très difficile à l'époque. Mais je peux pas dire que c'était pour des raisons économiques qu'ils ont exercé leur discrétion. J'irai pas jusque-là.

5120. Je dirais que le simple fait -- le fait est qu'à l'époque ils n'avaient plus la volonté de nous desservir. À tout le moins aux conditions qui avaient été émises par la décision et aux tarifs qui avaient été émis par la décision à l'époque. Ça je peux vous le confirmer.

5121. **MR. HOLGATE:** Okay. Thank you, I think I understand your response now.

5122. So I want to turn now to the topic of conversion from long-haul to short-haul. And to set the stage for that I think I will ask you to agree that under the settlement all three MAS members have the right to convert some long-haul to short-haul before the term of the long-haul contract is complete. Is -- do I understand that correctly?

5123. **MS. GIRIDHAR:** First of all, the provision around long-haul and short-haul is not restricted to the MAS members. It's a provision that will be available to all shippers on the Mainline. So I'd like to clarify that.

5124. Secondly, I'd like to explain the thinking around that clause. So there were two things that ---

5125. **MR. HOLGATE:** Sorry, Ms. Giridhar --

5126. **MS. GIRIDHAR:** Sorry.

5127. **MR. HOLGATE:** -- could I have an answer to my question first, please?

5128. **MR. DUNBERRY:** Mr. Chairman, I will not repeat what I have said already. I would simply invite Ms. Giridhar to continue her answer.

5129. **MR. HOLGATE:** Well, Mr. Chairman, I'm not going to repeat what I said earlier either. I do think I'm entitled to an answer to the question.

5130. **MS. GIRIDHAR:** Yeah.

5131. **THE CHAIRMAN:** Could you just repeat your question for the witness? Maybe the witness had not heard it or --

5132. **MR. HOLGATE:** Okay. I will try again.

5133. **THE CHAIRMAN:** -- was getting to it.

5134. **MR. HOLGATE:** Yeah.

5135. My question was asking you to agree that under the settlement all three LDCs will have the right to convert some long-haul to short-haul before the term of the long-haul contract is up. And I take your qualification that in your view that will apply to all shippers. But it's a pretty simple, straightforward question.

5136. **MS. GIRIDHAR:** I was about to explain the nature of the conversion from long-haul to short-haul, Mr. Holgate.

5137. So the intent is that parties would have the ability to take short-haul service at the expiry of their long-haul contracts. And I note that at this point all long-haul contracts will terminate in 2017.

5138. The specific use of the term "conversion" really had to do with the fact that we may be in a situation where some facilities might be delayed for a short period of time because, you know, nobody can really predict exactly when a facility can come into service with the kind of permitting requirements that are -- that exist and that's what it referred to.

5139. **MR. HOLGATE:** All right. The focus of my question, what I was trying to clarify, and I think you may have done that in your answer, was whether or not the settlement permits the MAS members to shift from long-haul to short-haul during the term of an existing long-haul contract.

5140. So if you have a certain volume of long-haul under a specific contract, can you convert that volume or part of it to short-haul before that long-haul contract has run its term?

5141. **MR. ISHERWOOD:** So -- excuse me -- just to build on to Ms. Giridhar's answer. The answer is yes, there is a conversion provision for all shippers, not just MAS shippers, as Ms. Giridhar had mentioned.

5142. But I think when I read the ANE interrogatories, there may be some confusion that MAS is using that provision in 15 and 16 when we're doing our conversion from long-haul to short-haul. And just want to confirm that in all three cases we're converting contracts that are rolling year to year. And in terms of going forward, as Ms. Giridhar said, all short -- all long -- sorry, all long-haul contracts turn into rolling contracts by the end of '17. So essentially, through that period.

5143. **MR. HOLGATE:** Okay.

5144. Now, does the record of this proceeding include the amount of short-haul held by each of the MAS shippers?

5145. **MR. ISHERWOOD:** I think there is an interrogatory where all FT capacity short-haul, long-haul is listed, I believe.

5146. **MR. HOLGATE:** Okay.

5147. **MR. ISHERWOOD:** If not, it's certainly on the TransCanada web site.

5148. **MR. HOLGATE:** Okay.

5149. How much of the short-haul that's held by the ANE shippers replaced long-haul contracts whose term had ended?

5150. **MR. ISHERWOOD:** You're asking us about ANE contracts?

5151. **MR. HOLGATE:** No, I'm asking about your contracts. Did I say ANE?

5152. **MR. ISHERWOOD:** I think you did.

5153. **MR. HOLGATE:** Oh, okay. I misspoke myself. I'm talking about the MAS contracts and I'm asking you how much of what you hold today replaced long-haul contracts whose terms had ended?

5154. **MR. ISHERWOOD:** We have very little short-haul. We have some going to the EDA, but the rest of our north we have no short-haul.

5155. **MR. HOLGATE:** Right. Mr. Cabana?

5156. **MR. ISHERWOOD:** And I'll just correct that. We have STS contract with TransCanada, which are storage contracts. I don't consider those to be short-haul, they're more storage balancing.

5157. **MR. HOLGATE:** No, I'm talking specifically about ---

5158. **MR. ISHERWOOD:** FT.

5159. **MR. HOLGATE:** --- about FT, yes.

5160. **M. CABANA:** De notre perspective pour Gaz Métro, à court terme, c'est probablement 400,000 gigajoules/jour, par année. C'est seulement pour les deux premières phases. Quand on a fait référence tantôt par projet, le projet King's North est un projet qui normalement devrait octroyer à Gaz Métro environ 260,000 gigajoules/jour.

5161. On a demandé dans le « open season » de 2016 une capacité additionnelle et je vous dirais qu'à l'heure actuelle, il va y en avoir d'autres éventuellement. Ce qu'il faut comprendre, cependant, puis je n'ai pas la réponse claire à votre réponse, c'est que c'est pas nécessairement toutes les capacités qui sont reliées à l'abandon de « long-haul ».

5162. Il y a des -- on a une croissance dans notre franchise. On doit répondre à cette croissance-là. Alors, ces besoins-là qui sont identifiés à court terme répondent à du déplacement de « long-haul » vers le « short-haul » et répondent aussi à des besoins de croissance et à des besoins également où la décision avait incité les clients, qui étaient en interruptible éventuellement, à revenir et à contracter des contrats fermes. Ce qui était bon pour la viabilité du Mainline.

5163. Et on a beaucoup de ces clients-là qui sont venus vers Gaz Métro puis qui nous ont dit, « À la lumière de la dernière décision puis de la dynamique de marché, on veut revenir en contrat ferme avec vous ». Mais il faut que nous, on trouve la façon, par la suite, de se tourner vers TransCanada et de lui dire, bien, c'est bien, les effets escomptés par la décision. Mais maintenant, on a besoin des capacités pour répondre aux besoins puis augmenter les revenus pour tout le monde. Alors, ces capacités-là sont là pour ça.

5164. **MS. GIRIDHAR:** With respect to Enbridge ---

5165. **MR. HOLGATE:** Before you move on to Enbridge --

5166. **MS. GIRIDHAR:** Sorry.

5167. **MR. HOLGATE:** -- if you just give me a moment.

5168. I think, Mr. Cabana, we may be talking about different time periods again. And if -- I'm going to put my question to you again and if the answer you just gave is your response, just tell me and I'll move on. But I think -- I was actually talking about short-haul capacity that you currently hold, and I was going back to the point of when you got it.

5169. And so my question to you was how much of what you hold today replaced long-haul contracts whose terms had ended?

5170. **M. CABANA:** Je peux pas vous répondre de cette façon claire là. Si vous me dites, de quelle capacité à l'heure actuelle vous détenez en « short-haul » qui a remplacé du « long-haul »? Est-ce que c'est ça votre question?

5171. **MR. HOLGATE:** Yes, I'm asking you about Gaz Métro's existing short-haul contracts today and asking you what percentage of those contracts replaced long-haul service.

5172. **M. CABANA:** Je pourrais pas vous répondre exactement. J'assume qu'il y a une partie de ces contrats-là au fil des années qui ont été en remplacement de « long-haul » mais je pourrais pas vous donner la quantité exacte, qui ont remplacé.

5173. Parce qu'il y a une croissance quand même au fil des années. Peut-être qu'au moment où on a eu besoin de capacité additionnelle, on est allé directement à « short-haul », qu'on n'a pas nécessairement passé par -- à la fin d'un contrat « long-haul », contracté un nouveau contrat « short-haul ». Je ne pourrais pas vous donner un chiffre exact.

5174. **MR. HOLGATE:** Okay, that's fine. Thank you.

5175. Ms. Giridhar, you were going to add something for Enbridge.

5176. **MS. GIRIDHAR:** So with respect to Enbridge, we have a lot of short-haul contracts on the Union system because we're connected directly into Union at the western end of Toronto.

5177. With respect to the Mainline, we currently have a short-haul contract to the Enbridge CDA in the amount of about 150,000 GJs and about 114,000 to Ottawa. These contracts have been in place since 2006 and, similar to Mr. Cabana, I'd say there were a number of reasons, including growth of seasonal load, that would have been the reasons why we contracted for it.

5178. We last de-contacted long-haul on the TransCanada Mainline, I believe, in 2003.

5179. **MR. HOLGATE:** Okay. Thank you.

5180. **MR. ISHERWOOD:** I was just going to also add. I think we have some short-haul contracts as well going to Union CDA. So it's a CDA and EDA for us.

5181. **MR. HOLGATE:** All right. Thank you.

5182. The -- I'm going to move to another area. Now I want to talk about MAS in captivity.

5183. And the joint MAS evidence notes -- this is a quote or close to it, at least.

> *"The MAS members, and their respective 'in franchise' customers, are each captive to varying degrees to each of the NOL and EOT segments of the Mainline."*

5184. And if you wanted to turn that up it's in your evidence, Exhibit C12-5-2, PDF and paper 3 in Answer 2.

5185. But for the moment I simply want you to confirm that that's your position that the MAS members and their in-franchise customers are captive to varying degrees to each of the NOL and EOT segments?

5186. **MS. GIRIDHAR:** I am able to confirm that at this point Enbridge is -- receives service from TransCanada from over 38 interconnects and are distributed over several hundred linear kilometres. So the answer is yes, we are captive to service at this point in time.

5187. **MR. HOLGATE:** And are you captive to service on the Northern Ontario Line?

5188. **MS. GIRIDHAR:** No, my reference was to the Eastern Triangle.

5189. **MR. HOLGATE:** Right, thank you.

5190. **M. CABANA:** Pour Gaz Métro, pour le moment oui c'est -- on est captif. Y a un terme que vous avez utilisé à différents degrés. C'est toujours une question de degré la captivité.

5191. Pour l'instant, oui. Y a pas d'autres alternatives. Y a pas d'alternatives qui font qu'en trois mois, en six mois, en un an, on pourrait faire en sorte de s'approvisionner d'une autre façon.

5192. Mais comme je l'ai mentionné au départ, puis je veux que -- juste pour fin de précision, dans des situations désespérées c'est clair qu'on trouverait d'autres moyens de ne pas demeurer captif.

5193. **MR. HOLGATE:** All right but at the moment we have your answer that you are captive to the Northern Ontario Line?

5194. **M. CABANA:** Je dirais de notre côté ce qui est -- c'était clair, puis la Régie avait statué de ce côté-là -- du côté de -- du NOL -- y a -- c'est une petite partie, c'est une infime partie.

5195. Le plan puis la décision qui avait été entérinés par le régulateur Québécois, c'était éventuellement de transférer tous nos approvisionnements en

« short-haul », éventuellement.

5196. Alors quand vous parlez de captivité, je dirais que dans le cas de Gaz Métro, c'est moins grand par rapport au NOL que mes deux collègues ici.

5197. **MR. ISHERWOOD:** All right. In terms of Union Gas, looking at the map in front of us, the TCPL system, the WDA starts right at the Manitoba border. That line serves a number of our customers, a number of our communities along that line, that are resource-based, typically mining or pulp and paper.

5198. As well as the NDA is a green -- you call it oblong, I guess, it goes down to North Bay so all that is Union Gas franchise. And I would say we are captive along that.

5199. Little known fact but at Spruce, in Manitoba, there's a third-party pipeline that leaves Spruce, goes through the U.S. a little bit and into Fort Francis. So we're kind of tied into that small delivery area as well; the MDA.

5200. Then obviously in the eastern part of the province, other than Ottawa which is served by Enbridge, but the rest of the communities along -- sort of the 401 corridor, are Union Gas customers are well.

5201. **MR. HOLGATE:** All right.

5202. **MR. ISHERWOOD:** What is quite different though is Union south, which is a bigger part of our franchise, is not captive. We have the -- the benefit of having Dawn in our backyard and all the resources that brings to us.

5203. **MR. HOLGATE:** Absolutely. Now, in your evidence, and again you may want to turn this up just so you can actually see the wording, but again it's Exhibit C12-5-2, on PDF paper 3, Answer 2, and this time it's in the third paragraph.

5204. It's the first sentence in the third paragraph and it states:

> *"The Union and Gaz Métro northern franchise areas served exclusively by the NOL segment of the Mainline, have a combined peak consumption of approximately 500 TJ per day."*

5205. You see that there?

5206. **MR. ISHERWOOD:** We do.

5207. **MR. HOLGATE:** Would that be a number that we could use for the degree of captivity of Union and Gaz Métro on the Northern Ontario Line?

5208. **MR. ISHERWOOD:** In the case of Union that includes both, I'm going to call them system sales customers, which are people we're accountable for in terms of transport.

5209. And also a lot of that, or not a lot of it, but some of it is also T-service customers that have either capacity assigned to them from us or they have their own capacity, or they buy a market service. So it's a combination of our system customers and our industrial T-service customers.

5210. **MR. HOLGATE:** All right. And would it be possible for you to provide a breakdown?

5211. **MR. ISHERWOOD:** We can do that.

5212. **MR. HOLGATE:** Okay, if you would undertake to do that.

5213. **THE REGULATORY OFFICER:** And that will be Undertaking U-8. Engagement U-8.

--- UNDERTAKING NO./ENGAGEMENT No. U-8:

By MAS to provide from the 500 TJ/d[2] of the NOL segment of the Mainline a combined peak consumption, how much to Union direct sale customers and how much system gas customers; Gaz Métro to provide same.

5214. **MR. HOLGATE:** And, Mr. Chairman, so that the undertaking is clear, it's in reference to the 500 TJ per day, referred to in the Union evidence. And I believe Mr. Isherwood is going to tell me how much of that relates to Union and then he's going to break it down among Union, its direct sales customers, and T-service customers.

5215. Does that sound about right, Mr. Isherwood?

5216. **MR. ISHERWOOD:** That's correct.

5217. **MR. HOLGATE:** All right, thanks.

5218. And, Mr. Cabana, would you be prepared to do the same thing?

5219. **M. CABANA:** Aucun problème.

5220. **LE PRÉSIDENT:** Madame Niro?

5221. **MR. HOLGATE:** And, Ms. Giridhar, I won't ask you that question because ---

5222. **THE REGULATORY OFFICER:** Would that be a second undertaking or just all of one?

5223. **MR. HOLGATE:** It's -- since it's a MAS panel I'd be happy with one. I'm -- we could have two if you wish?

5224. I'm just a big fan of keeping as few exhibits as possible.

5225. **THE CHAIRMAN:** Maître?

5226. **MR. DUNBERRY:** One undertaking is appropriate, as far as we're concerned.

5227. **THE CHAIRMAN:** That would be for all three franchises?

5228. **MR. HOLGATE:** No, just for Union and Gaz Métro. Enbridge has no contracts --

5229. **THE CHAIRMAN:** Okay, thank you.

5230. **MR. HOLGATE:** -- that would fit within this question.

5231. So shifting topics then, collectively the MAS shippers represent 45 percent of Mainline FT revenue. That's your evidence, correct?

5232. **MS. GIRIDHAR:** Yes I believe that's correct.

5233. **MR. HOLGATE:** So can you tell me, in that 40 percent -- 45 percent, is it 15, 15 and 15 or is there different percentages for each of the MAS members?

5234. **MS. GIRIDHAR:** There would be different percentages. I'm just actually thinking back to a number I received from my team that says Enbridge's transportation costs on the TransCanada Mainline for 2014 would be about $440 million.

5235. And we're all of different sizes so it, I understand, would vary but I wouldn't be able to tell you the exact percentages.

5236. **MR. HOLGATE:** All right. Well, I think if you were to check your evidence, you indicate that the revenue associated with those contracts is about 880 million so that would make you about 50 percent; correct?

5237. **MS. GIRIDHAR:** Subject to check.

5238. **MR. HOLGATE:** All right. And as between Union and Gaz Métro, would you be able to provide me with which -- or what portion of that 45 percent your companies represent?

5239. **M. CABANA:** J'ai pas le chiffre exact. La dernière fois qu'on a vérifié de notre côté, Gaz Métro contribuait pour environ 18 pour cent du « revenue requirement » du Mainline.

5240. Si vous voulez faire référence à ce 45 là je peux -- on peut vérifier exactement le chiffre et la proportion de chacun des distributeurs.

5241. **MR. HOLGATE:** That would be -- that would be lovely if you would -- if you could undertake to do that.

5242. **THE REGULATORY OFFICER:** So that will be Undertaking U-9. Engagement U-9.

--- UNDERTAKING NO./ENGAGEMENT No. U-9:

By Gaz Métro to provide the details by LDCs of its share of the 45% of the Firm Commitments in their evidence.

5243. **MR. HOLGATE:** You also indicate in your evidence that you hold approximately 40 percent of the FT contracts delivering in the EO2 -- sorry, EOT, excluding deliveries to export points.

5244. And if you need a reference for that you'll find it on that same page. I think it's on the last two lines.

5245. **M. CABANA:** Bien, on voit la phrase auquel vous faites référence, oui.

5246. **MR. HOLGATE:** Actually, I can see it -- I can see it myself now. And I can also see that I misread it the first time, so.

5247. I had actually thought you had said you were excluding the export points but you were saying there including the export points. So we don't have to worry about that.

5248. Do all three MAS members have an obligation to serve?

5249. **MR. ISHERWOOD:** Yes.

5250. **MR. HOLGATE:** Is there a one or two sentence summary you can give me of what you consider to be an obligation to serve?

5251. **MS. GIRIDHAR:** So let me try. I'm trying to recall the exact language, but we do have an obligation to serve customers based on their location relative to our existing pipeline network.

5252. So on main customers, I believe we would be obliged to serve them. If they are not located in proximity, then they have feasibility guidelines that dictate whether we are obliged to serve them and, if so, you know, what contributions we may seek in order to connect them.

5253. But you know, we have franchises, and franchises require us to serve customers' need for gas service.

5254. **MR. HOLGATE:** Right. And the obligation to serve, do you consider it to be an obligation to meet the peak demand of those customers?

5255. **MS. GIRIDHAR:** Certainly.

5256. **MR. HOLGATE:** All right.

5257. **MR. ISHERWOOD:** I would say the peak firm demand.

5258. **MR. HOLGATE:** That's a good qualification, Mr. Isherwood. Thank you.

5259. So in addition to cost competitiveness, it's fair to say that you value security, diversity and reliability of supply in order to meet your obligation to serve?

5260. **MS. GIRIDHAR:** Yes.

5261. **MR. HOLGATE:** And that's how you look out for the interests of the customers you serve?

5262. **MS. GIRIDHAR:** Correct.

5263. **MR. HOLGATE:** And do you consider that the interests of ANE's LDC members, those interests in the security of supply, diversity of supply, obligation to serve to be any less important than yours?

5264. **MS. GIRIDHAR:** Well, I don't fully understand the U.S. provisions, but I would imagine they could be fairly close.

5265. **MR. HOLGATE:** All right. And do you consider the need for ANE's members to look out for the interests of their more than seven million customers is any less than your need to protect your customers?

5266. **MS. GIRIDHAR:** I would imagine that ANE would seek to serve their seven million customers, based on what you're telling me, to the best of their ability, just as we seek to serve our 2.2 million customers and over six or seven million Canadians who reside in at least Enbridge's franchise territory.

5267. **MR. ISHERWOOD:** So I would just add to that, ANE was obviously very active in converting from a supply based at Empress to a supply based at Dawn in '06, '07 and '08, so they've already had the benefit of getting access to Dawn, and have had for a number of years.

5268. And what we're proposing through the settlement is to have the same access that they have.

5269. **MR. HOLGATE:** I do understand that, Mr. Isherwood.

5270. **M. CABANA:** Et si je peux ajouter, je fais souvent référence à la pyramide de Maslow, les besoins primaires doivent être comblés avant de penser à combler les autres besoins.

5271. Je dirais que de notre perspective au Québec, la sécurité d’approvisionnement, être capable durant l’hiver de desservir nos marchés, c'est la première considération qu’on va avoir. Puis je suis tout à fait d’accord que ANE a probablement les mêmes obligations.

5272. Mais je voudrais juste souligner ici que quand deux intervenants ou quand deux groupes éventuellement -- puis on a à se poser des questions dans l’intérêt public sur vers où on devrait pencher, puis qu’est-ce qui est raisonnable puis qu’est-ce qu’il l’est pas, faut prendre en considération quel besoin primaire est en danger à l’heure actuelle à l’intérieur.

5273. Si d’un côté par exemple, que ce soit ANE ou un LDC, on parle d’une demande de hausse tarifaire, c'est une chose mais leur sécurité d’approvisionnement est pas nécessairement à risque.

5274. Si on parle de l’autre côté de groupes importants qui sont pas ici aujourd'hui, en vous disant, « Ben on est pas content d’avoir une hausse tarifaire. » On vous dit, « On est pas capable de desservir votre marché puis on manque de capacité. » Pour moi, c'est de cet aspect-là qu’il faut le considérer, la différence entre les différentes positions.

5275. **MR. HOLGATE:** And Mr. Cabana, if I understand it, one of the major issues for Quebec is a need for additional gas in order to serve economic growth. And you've made reference, I think, to a fertilizer plant and other references. You'll agree with me with that one, I'm pretty sure; right?

5276. **M. CABANA:** Oui, je dirais que le besoin -- les besoins de capacité à l’heure actuelle, c'est une combinaison de croissance; clients qui dans le passé -- avant la décision --s’appuyaient sur le marché interruptible qui veulent revenir vers du tarif ferme puis qui passent par leur -- qui passent par leur société de distribution au Québec; puis y a également des contrats où on s’était entendu qu’on était pour obtenir avant la décision, qu’on a besoin pour nos besoins primaires, pour servir notre clientèle actuelle.

5277. Fait que c'est une combinaison de ces trois facteurs.

5278. **MR. HOLGATE:** Sorry, Mr. Cabana, the quizzical look is not because I didn't understand the translation. I know when you have these headphones on, it looks quite odd, I'm quite sure.

5279. But my question for you is, do any of you on the panel know whether there are capacity constraints in the U.S. northeast that put the U.S. northeast in the same position as Quebec in terms of needing additional capacity in order to meet growth?

5280. **MR. FLECK:** There are significant capacity constraints in the New England area.

5281. **MR. HOLGATE:** Thank you.

5282. So the -- would the panel agree with me that -- and this is going back to these questions I just asked about obligation to serve and what LDCs do in order to do that if there is a commonality of interest between ANE and the MAS group in terms of ensuring that their customers can be served?

5283. **M. CABANA:** Est-ce que votre question est, est-ce qu’il y un alignement d’intérêt entre les membres de ANE et les LDC? Est-ce que c'est ça qu’on doit comprendre?

5284. **MR. HOLGATE:** No, actually, I've probably used a word that's confusing. I'm not using "commonality" in the sense of you are -- you take the same positions. I'm using "commonality" in the sense that you are trying to achieve the same goals for your customers. And I think we've actually got there already earlier.

5285. Where I was going with this, actually, was I just would like you to tell me in as plain an answer as you can why that similarity -- I'll use that -- similarity of interests and the fact that ANE represents about 7 percent of the total FT contract demand was not enough to get ANE a seat at the negotiating table for the settlement.

5286. **M. CABANA:** Je crois que la réponse on l'avait mentionné au départ quand on mentionnait la situation qui avait cours durant l'été 2013, où principalement c'était les trois distributeurs qui étaient -- qui sont assis ici, qui sont représentés ici qui avaient des enjeux très élevés d'accès à des capacités de transport, qui avaient des enjeux légaux, qui avaient des litiges avec TransCanada.

5287. À l'époque, à l'été 2013, à notre connaissance y avait pas de litiges, y avait pas d'enjeux de sécurité d'approvisionnement avec TransCanada, je dirais à notre connaissance.

5288. Ce qui faut pas mettre de côté cependant, c'est que même si ANE avait pas été à la table de négociation au départ, comme je l'ai mentionné, on s'est tourné -- une fois qu'on s'est entendu entre les quatre partenaires sur quelle était la meilleure façon de fonctionner avant d'aller couvrir et présenter cette solution-là à d'autres intervenants -- on est allé rencontrer ANE. Puis on a eu des discussions avec ANE à ce moment-là pour expliquer la solution, pour expliquer l'ouverture qu'on avait à ce moment-là, à écouter ce qu'ils avaient éventuellement.

5289. On s'est aperçu rapidement par la nature des discussions, que ça serait difficile de s'entendre.

5290. **MR. HOLGATE:** Mr. Cabana, do you recall telling Mr. Carmichael of ANE that one of the intentions under the settlement was to load as many costs on ANE as possible before they left the system?

5291. **M. CABANA:** Non, ce que -- je vous dirais que quand on est allé se présenter avec le groupe de ANE à l'époque, on a été les présenter puis je crois qu'ils étaient très sensibles -- parce que c'est des LDC aussi -- au fait que l'accès à de la sécurité au niveau des capacités était très important.

5292. On a présenté les bienfaits puis qu'on essayait d'empêcher que le Mainline éventuellement sombre dans une spirale tarifaire où tout le monde incluant ANE serait frappé de qu'est-ce qui était impossible, selon notre perspective, à partir de l'été 2013, que tout le monde maintienne ses tarifs, un montant fixe. On avait déjà passé l'étape où c'était plus possible pour personne puis tout le monde serait touché.

5293. Et je vous dirais que ce qui est l'enjeu important qui a fait en sorte que les communications sont devenues moins bonnes entre les parties à ce moment-là, c'est qu'il a été clair, de notre perspective, il y a des critères sur lesquels on s'était entendu qui sont fondamentaux au Canada, selon notre perspective. L'accès à des services équivalents à des prix équivalents, sans discrimination pour nous, était un principe fondamental qui doit demeurer et qui est reconnu par beaucoup d'intervenants.

5294. Et à l'époque, ANE, le seul angle qui était important pour eux c'était de dire est-ce que vous pouvez trouver une façon de nous isoler, de faire en sorte qu'on aurait des tarifs différents, qu'on soit pas touché, qu'on maintienne. Puis notre position était que le principe fondamental d'accès, sans discrimination pour tous les clients, à des services était fondamental puis que sur ce point-là on ne pouvait pas entacher ce principe-là.

5295. Alors, c'est là que les discussions -- c'était clair de part et d'autre que normalement ce serait difficile de s'entendre sur une solution parce que ce principe-là était, pour nous, important et devait être maintenu.

5296. **MR. HOLGATE:** All right, but I wanted to hear ---

5297. **MS. GIRIDHAR:** I'd just like to note as well ---

5298. **MR. HOLGATE:** Sorry, Ms. Giridhar, before we get on to this I want to make -- I need to be crystal clear, Mr. Cabana, that you deny that you made a statement to Mr. Carmichael that one of the intentions under the settlement was to load as many costs at the front end on ANE because you thought they were leaving the system; you're telling me you did not make that statement?

5299. **M. CABANA**: Je peux pas vous dire si j'ai pas fait ce statement-là. La réalité c'est qu'on s'est pas enregistré au moment où on était là.

5300. Je peux vous dire que, de part et d'autre, il y a eu -- probablement, il y a eu des discussions sur plusieurs heures. Alors, de la même façon que M. Carmichael ne pourrait probablement pas répéter mot pour mot tout ce qu'il a dit, ce que je peux vous expliquer c'est le fondamental.

5301. Je vous avais fait référence, quand vous discutiez avec les gens de TransCanada, sur le fait c'est un « done deal ». Ce que je vous dis c'est que ça jamais été un « done deal ». Ce qui était clair pour nous c'est que l'accès non-discriminatoire à des services, c'était immuable. On ne pouvait pas toucher à ça.

C'était important. Ç'a été reconnu par l'office dans le passé, dans ses décisions. C'est reconnu par TransCanada. C'est un principe qui était immuable.

5302. Et c'est clair que des discussions par la suite ont été plus difficiles à bien des égards, parce qu'on s'entendait pas sur ce principe fondamental là.

5303. **MR. HOLGATE:** All right.

5304. Ms. Giridhar?

5305. **MS. GIRIDHAR:** I just wanted to note that the notion of open and non-discriminatory access to capacity and non-discrimination in tolling was very, very key to us. And I'd just like to note that ANE has sought market capacity, just like the other -- you know, just like the MAS shippers and other shippers on the system will be able to under the settlement agreement.

5306. **MR. HOLGATE:** Right. So you're telling me that the toll design principles, ordinarily relied upon by this Board, were first and foremost in your mind; is that what you're telling me?

5307. **MS. GIRIDHAR:** Certainly, with respect to the idea that ANE be shielded in any way, shape, or form from what we viewed as a reasonable arrangement to ensure market access was not something that we believe is in accordance with the way NEB has ruled.

5308. **MR. HOLGATE:** My question was more in reference to your earlier response where you were talking about what I thought was toll design principles about non-discriminatory access, non-discriminatory service. That's why I was asking you whether the toll design principles, ordinarily relied upon by this Board, were, you know, at the forefront of your thoughts when you were negotiating the settlement agreement?

5309. **M. CABANA:** Ce que je vous dirais c'est que clairement on partage l'avis que normalement le Mainline a été bâti sur des principes importants, qui ont été réitérés au fil du temps.

5310. Je crois que c'est l'office également qui avait, dans le passé, reconnu également qu'avant de s'éloigner de principes qui ont été utilisés dans le passé puis qui étaient importants, il faut avoir des raisons importantes.

5311. Alors, c'est clair que pour nous le respect des principes fondamentaux sur lesquels le Mainline a été bâti, de la façon dont on opère au Canada, a toujours été -- on l'a toujours conservé en tête puis on essaie de les respecter le plus possible.

5312. Ceci étant dit, sur certains aspects, à un moment donné, la situation fait en sorte qu'on doit évoluer puis on doit s'adapter au marché également.

5313. Puis ça, ç'a été reconnu par l'office également dans sa dernière décision. C'est toujours dans le même esprit qu'on a poursuivi les négociations puis qu'on est arrivé avec une solution comme celle-là.

--- (A short pause/Courte pause)

5314. **MR. HOLGATE:** Just one last question, gentlemen and then I'm done.

5315. Would you agree with me that it is easier to come to a settlement that is adverse to someone's interest if they're not there to protect themselves?

5316. **MS. GIRIDHAR:** I wouldn't agree with that. At the end of the day, any tolling arrangement needs to be approved by the appropriate regulatory authority, the NEB in this case. And it is important to take into consideration the, you know, the interest of all customers, and that's what we sought to do in negotiating the settlement, as I had started off in response to an earlier question.

5317. The issues around market access for all, the issues around efficient infrastructure buildup, the issues around toll stability, and just and reasonable tolls were front and centre in the manner the settlement was negotiated and concluded.

5318. **M. CABANA:** Est-ce que je peux compléter?

5319. **MR. HOLGATE:** Just a moment, Mr. Cabana.

5320. I'm sorry I'm pausing, panel, because I want to make sure that you understand the question that I asked, because it was pretty simple. And we're not talking about the NEB, we're not talking about the hearing process, we're not talking about the decision-making process, we're talking about arriving at the settlement.

5321. And my question to you was is it not easier to conclude a settlement that is adverse to somebody's interests if that party is not there to protect themselves. And you're saying what to that?

5322. **M. CABANA:** Je vous dirais que s'il y avait des gens de mauvaise foi, votre réponse simplement c'est 'oui'.

5323. Sauf que je pense qu'on a fait la démonstration ici qu'il y a suffisamment de documents au dossier pour démontrer que tous les gens qui étaient là sont de bonne foi et que -- c'est dans l'intérêt de tous à l'heure actuelle. Tout le monde va en tirer des avantages.

5324. Éviter ce qui pourrait s'en venir, si cette demande n'est pas approuvée est le principal avantage et le plus grand avantage qu'on devrait conserver en tête.

5325. **MR. HOLGATE:** Okay. Thank you, Mr. Cabana.

5326. Mr. Chairman, I take it you were going to take the break at 10:30?

5327. **THE CHAIRMAN:** Close enough.

5328. **MR. HOLGATE:** Well, actually, I was just going to say that I was done and that it was timely, but if it's 10:45 then it's not quite as timely as I thought. But if it's 10:30 break time then it's very timely.

5329. **THE CHAIRMAN:** I think we'll take you up on your offer and take a break now.

5330. **MR. HOLGATE:** Okay.

5331. And thank you, panel.

--- Upon recessing at 10:28 a.m./L'audience est suspendue à 10h28
--- Upon resuming at 10:48 a.m./L'audience est reprise à 10h48

MALINI GIRIDHAR: Resumed
PATRICK CABANA: Resumed
MARK ISHERWOOD: Resumed
JEFF D. MAKHOLM: Resumed
ROBERT FLECK: Resumed

5332. **THE CHAIRMAN:** Welcome back, everybody.

5333. Just a little announcement here; the paper copy of Ruling No. 4 regarding the motions for the filing of additional evidence from Centra and TransCanada are finally available at the back.

5334. Mr. Manning?

5335. **MS. VAN IDERSTINE:** Where is he?

5336. I understand he does not have any questions, but I think he should say that himself. So ---

5337. **MR. DUNBERRY:** I can corroborate. Mr. Manning told me he had no questions as well.

5338. **THE CHAIRMAN:** Great.

5339. So next on the list is Ms. Van Iderstine.

5340. **MS. VAN IDERSTINE:** Thank you.

--- EXAMINATION BY/INTERROGATOIRE PAR MS. VAN IDERSTINE:

5341. **MS. VAN IDERSTINE:** So, panel, I am going to try not to repeat my friend's cross from this morning, but there are some areas where I'm going to go into it a little bit further so forgive me if there's a few times where it seems like I might be covering the same ground.

5342. Now -- and one of them is how we both started. So if I could get you to please turn to the joint evidence of the shippers, Exhibit C12-5-2, Exhibit 8 -- sorry -- page 8, Item F.

5343. If you have that, and you'll see this is a portion of the terms of settlement, as I understand it; is that correct?

5344. And if you want to go up to the previous page where this starts that might be helpful.

5345. So as you'll see what it says in your response to Question 7, in your jointly filed evidence was that the following was:

> *"The high level principles foundational to the Settlement were developed to meet the high level purposes and are described in the agreement as follows:"*

5346. And then if we go down to (f), which is where I had you previously, you'll note that it says:

> *"The Parties agree to file in a timely manner and support any regulatory applications required to implement the terms of this Agreement even if the Agreement is contested by third parties, including representations in front of Provincial regulators, if requested by a Party or otherwise if required."*

5347. Now, first of all, you'd agree that is a term of your settlement?

5348. **M. CABANA:** Oui, je crois que c'est le cas.

5349. **MS. VAN IDERSTINE:** And so you would all agree that this is a term of settlement that requires you to support all the terms of the settlement in this proceeding?

5350. **M. CABANA:** Ce que je peux vous mentionner ici, pourquoi cette clause-là a été mise en place. Une des difficultés à l'heure actuelle du « settlement » c'est qui a beaucoup de régulateurs, puis beaucoup d'intervenants, beaucoup de projets en même temps qui doivent se faire confiance les uns les autres pour arriver en bout de ligne à la matérialisation de cette entente-là.

5351. Autant qu'on avait à expliquer à la Régie de l'énergie pourquoi on était pas capable de se déplacer en dedans -- tel que le plan avait été prévu, pourquoi on avait pas les capacités prévues, on voulait s'assurer que TransCanada et les LDC seraient aussi du côté de la Régie pour nous aider si y avait des explications à donner.

5352. On voulait s'assurer que tout le monde était -- par la suite aussi en Ontario pour les installations qui étaient pour être bâties, pour expliquer, pour supporter l'entente. Puis on voulait s'assurer également qu'à l'Office ici, tout le monde -- du début du processus jusqu'à la fin qu'on serait tous aligné pour venir expliquer et défendre l'entente.

5353. **MS. VAN IDERSTINE:** And so that agreement required you to support the application regardless of whether information you've learned subsequent to the signing of the settlement may have changed your view of some or all of the provisions of that settlement; do I have that right?

5354. **M. CABANA:** Je crois que la -- c'est vrai qu'on a -- que d'un point de vue global on s'est entendu. Je pense qu'on a fait référence à des compromis qui avaient été octroyés de part et d'autre quand on négociait puis on essayait de trouver le juste -- le juste milieu.

5355. Alors on croit que cet équilibre-là a été atteint. Puis oui, aujourd'hui on s'est entendu également que même si c'était six mois, neuf mois plus tard, qu'on supporterait l'entente qui est là.

5356. Mais il faut ajouter à ça qu'on croit fermement que tous les éléments de l'entente qui sont là -- même à la lumière de ce qui s'est passé dans les neuf derniers mois -- sont tous nécessaires.

5357. Puis on peut passer dans le détail avec vous si jamais vous êtes -- vous avez des questions à cet égard-là pour vous expliquer pourquoi.

5358. **MS. VAN IDERSTINE:** Okay. So one of the questions I do have is that you're continuing to support this settlement, as I understand it, despite the fact that you recently had to pass on rate increases to your customers, which were, as I understand it, at least partly influenced by the pricing discretion that TransCanada has exercised in the last year or so?

5359. **MR. ISHERWOOD:** I would disagree with the premise of the question. We support pricing discretion -- clearly support pricing discretion. It's a very important part of the settlement agreement.

5360. I think from MAS's point of view, and I'll speak at Dawn primarily, being my market experience.

5361. Dawn has so many influences added, including 100 different buyers and sellers of gas on a daily basis. We have the major pipelines coming into Dawn, we have storage, we've got the take away. There are so many different variables in the market on any given day. I think it's unfair to allocate any of that to pricing discretion. It would be one of 100 or 1,000 variables on the market on any given day.

5362. **MS. VAN IDERSTINE:** Okay. So I've heard two answers to that. You said that it had no impact and you also said it would be one of many impacts, so which is it?

5363. **MR. ISHERWOOD:** The fact that Union Gas is buying gas at Dawn is an impact. The fact that BP is selling gas is an impact on the market. All these moving pieces impact and they all converge onto a price.

5364. **M. CABANA:** Est-ce que je peux ajouter pour -- à la réponse ici qui est importante?

5365. Quand on se présente envers -- quand on va se présenter à la Régie de l'énergie dans notre cas là, Gaz Métro, puis qu'on explique ce qui se passe actuellement, y est clair, très, très clair qu'on expose toujours que le « pricing discretion » qui a été octroyé par l'Office avait un but très clair selon notre perspective. C'était d'inciter les clients éventuellement à revenir vers du tarif ferme.

5366. Pis c'est ce qui a permis entre autre -- puis qui pour nous était quelque chose de -- qui a une très, très grande valeur -- on le voit, ça fonctionne. Je vous ai expliqué pour Gaz Métro beaucoup des clients à l'heure actuelle qui étaient en interruptible, reviennent vers des services fermes. Les revenus que ça génèrent quand on parle de millions de dollars, des centaines de millions de dollars, ça va avoir un impact pour diminuer les tarifs de tous les clients qui sont en ferme par la suite.

5367. Alors je pense que c'est clairement -- c'est au bénéfice de l'ensemble des intervenants et les « shippers ».

5368. **MS. VAN IDERSTINE:** So again, you're aware that a number of parties are opposed to the application and the settlement. I take it you do understand that?

5369. **M. CABANA:** Oui.

5370. **MS. VAN IDERSTINE:** And that we have brought forward, on behalf of our clients in this proceeding, and they individually have brought them forward, a number of concerns which they have identified. So you're aware of those concerns?

5371. **M. CABANA:** Oui.

5372. **MS. VAN IDERSTINE:** And despite their having raised those concerns, you continue to be bound, I take it, to the terms of the settlement regardless of what your own private assessment of those concerns might be?

5373. **MR. ISHERWOOD:** I would say we have a different opinion of those parties, in that we don't consider pricing discretion to be a negative impact on the market.

5374. **MS. VAN IDERSTINE:** I wasn't actually asking about pricing discretion I was just asking about the legitimate concerns of the parties who are opposing, and that you're aware that there are concerns of those -- that the parties have brought forward concerns to the settlement.

5375. **MR. ISHERWOOD:** Which concerns are you referring to?

5376. **MS. VAN IDERSTINE:** It doesn't matter which ones, I'm just saying they brought forward the concerns and you're aware that all of these parties have concerns about the settlement?

5377. **MR. ISHERWOOD:** Okay.

5378. **MS. VAN IDERSTINE:** And despite those concerns, regardless of whether or not you thought those concerns were legitimate or not, whether you have a -- privately may support or agree with those concerns, you are bound by the terms of the settlement to sit there and support this settlement today?

5379. **M. CABANA:** Je m'excuse, je pense que y a quelque chose dans ce que vous dites qui est problématique.

5380. Vous semblez impliquer que parce qu'on s'est entendu sur quelles étaient -- quel était l'environnement global le plus propice pour nous sortir du problème -- des problèmes importants qu'on vit, que par la suite on se présenterait devant un régulateur quand on a juré de dire la vérité puis ce qu'on pensait, puis qu'on dirait pas la vérité parce qu'on s'est entendu dans une entente qu'on était pour dire ce que l'entente disait.

5381. Je vous suggère ici que tout ce qu'on dit sur chacun des sujets, à chacune des questions qui est posée, on le dit avec -- je l'ai mentionné tantôt, j'utilise les mots « avec notre cœur », mais on donne notre opinion sur chacun de ces éléments-là.

5382. Vous faites référence au « pricing discretion ». Je pense qu'on savait avant de venir se présenter aujourd'hui qui avait certains intervenants qui avaient des éléments à soulever. Que c'était que au travers le Canada y aurait certains éléments de la -- du « settlement » qui étaient proposés qui probablement seraient problématiques pour certains des intervenants. On le savait avant d'arriver ici.

5383. Ça veut pas nécessairement dire que on se présente ici aujourd'hui puis qu'on ne croit pas que chacun de ces éléments-là doit être approuvé et est la meilleure solution.

5384. **MS. VAN IDERSTINE:** So just moving on a little bit, can you take a look at that map that's been put up on the monitor. I have to say I'm quite enchanted by the map so I'm determined to come back to it a few times.

5385. So first of all, when you look at it, you'd agree that at the point of Station 41 just outside Winnipeg that the remaining portion of the Mainline effectively looks like a circle with part of it going north over to Parkway and another part going south along the Great Lakes to Dawn, and that recognizing, of course, Great Lakes is not part of the Mainline.

5386. **MR. ISHERWOOD:** Yes.

5387. **MS. VAN IDERSTINE:** And those elements are all linked by a Union Gas pipeline; is that right?

5388. **MR. ISHERWOOD:** Correct. Between Dawn and Parkway the Union Gas facilities.

5389. **MS. VAN IDERSTINE:** And what you're asking in this application is for TransCanada to build a further facility in the EOT to allow further integration into the North American market; is that right?

5390. **MR. ISHERWOOD:** TCPL had filed a separate application to build the King's North Project --

5391. **MS. VAN IDERSTINE:** M'hm.

5392. **MR. ISHERWOOD:** -- which would link -- I'll back up a bit. Enbridge is building a pipeline from Parkway to a point in the northern part of Toronto called Albion. And then the King's North Project goes from Albion up to their Mainline system.

5393. **MS. VAN IDERSTINE:** Yes, and that -- as I said, and that would allow further integration into the North American market?

5394. **MR. ISHERWOOD:** That would allow customers to go back to both Dawn and to Niagara Chippewa.

5395. **MS. VAN IDERSTINE:** And that would allow MAS to have greater diversity of supply in the form of U.S. Shale gas?

5396. **MR. ISHERWOOD:** Just U.S. supply I would say, yes.

5397. **MS. VAN IDERSTINE:** M'hm.

5398. **MR. ISHERWOOD:** Shale gas is a big part of that.

5399. **MS. VAN IDERSTINE:** And so that you can access what you hope will be -- will continue to be cheaper gas, which might be available from Marcellus or Utica?

5400. **MR. ISHERWOOD:** Yes.

5401. **MS. VAN IDERSTINE:** And that would enable you to have more short-haul transportation as a supply source would be closer to you; is that right?

5402. **MR. ISHERWOOD:** Well, it's not just MAS. I would say it's market access for everybody, including the industrials, power companies -- power producers I should say, and including ANE who's also come forward wanting more capacity. So it's market access for the market, not just for MAS.

5403. **MS. VAN IDERSTINE:** It'll be market access for the market excluding those on the Prairie line, presumably.

5404. **MR. ISHERWOOD:** Well, you would have market access through Emerson, potentially.

5405. **M. CABANA:** Si je peux me permettre également un commentaire, quand on parle de « market access » en terme du droit fondamental d'un shipper est avec son régulateur de choisir où il va s'approvisionner, je ne crois pas que Centra a une position différente du MAS à l'heure actuelle, que c'est un droit fondamental qui doit être respecté. Je pense qu'on partage ça.

5406. À partir du moment où un LDC qui partage la même vue sur ces droits fondamentaux-là réalise que ces droits-là sont brimés ou que c'est problématique à un autre endroit, respectueusement, je crois qu'il devrait être concerné également par le fait que ce ne soit pas une situation qui perdure.

5407. **MS. VAN IDERSTINE:** So just changing the topic a little bit. I'd like to understand a little bit more about how the gas gets to Dawn. So if you can turn to Exhibit C12-7-5, it's an IR from the Ontario to MAS 1.7(b), and it's at page 33.

5408. And do you see just below the map that's up on the monitor there's a table. And so if you look at that table you'd agree that it shows different pipelines that are connected to Dawn?

5409. **MR. ISHERWOOD:** And I say the vast majority of them are connected directly, a couple of them are indirect.

5410. **MS. VAN IDERSTINE:** Okay. And if we look down to the Great Lakes Gas Transmission, that's the second item that's listed. Do you see that?

5411. **MR. ISHERWOOD:** Yes.

5412. **MS. VAN IDERSTINE:** And does Great Lakes actually connect to Dawn or does it connect at St. Clair near Dawn and then the Mainline actually connects to Dawn?

5413. **MR. ISHERWOOD:** Yeah, the short piece of pipe that goes from the international border to Dawn, it's 15 kilometres or 20 kilometres, which is a TransCanada pipeline.

5414. **MS. VAN IDERSTINE:** So on that table, when it says Great Lakes

Transmission capacity 2 Bcf that would actually be TransCanada Mainline capacity from Great Lakes to Dawn; is that right?

5415. **MR. ISHERWOOD:** That would be considered the capacity of the Great Lakes TCPL system combined to deliver into Dawn.

5416. **MS. VAN IDERSTINE:** Okay. And another way to ship to Dawn would be over the Northern Ontario Line?

5417. **MR. ISHERWOOD:** To Parkway then on our system back to Dawn, yes.

5418. **MS. VAN IDERSTINE:** Yeah. And this gas enters the Eastern Triangle from the Northern Ontario Line and then, as you've said, goes down, uses the Union system to get to Dawn.

5419. **MR. ISHERWOOD:** It would actually hit the Eastern Triangle at North Bay.

5420. **MS. VAN IDERSTINE:** Oh, sorry. Excuse me. I misspoke.

5421. But then it uses the Union system to get to Dawn?

5422. **MR. ISHERWOOD:** From Parkway to Dawn, yes.

5423. **MS. VAN IDERSTINE:** And can you tell me the capacity of this NOL and Union route to deliver gas to Dawn?

5424. **MR. ISHERWOOD:** Yeah, it would be the smallest common denominator between the TransCanada system and Union system. I'm not sure what the smallest denominator is.

5425. **MS. VAN IDERSTINE:** Would it be about 2 -- .2 Bcf per day?

5426. **MR. ISHERWOOD:** No, it's more than that.

5427. **MS. VAN IDERSTINE:** Would you agree that those two paths represent at least 20 percent of the transportation capacity to Dawn?

5428. **MR. ISHERWOOD:** I haven't done the math, but you could do the math. That table had the -- you could do it off the table, obviously.

5429. **MS. VAN IDERSTINE:** Okay. Well, subject to check, would you like to accept that as the -- approximately the transportation capacity to Dawn along those routes?

5430. **MR. ISHERWOOD:** I'm not sure I'd go with that actually, because I -- the -- for example, the Enbridge at Parkway is one directional. That's -- that Enbridge to Parkway number of 1.7 does not able to flow back to Dawn, for example. So I'd have to give a bit more thought than that.

5431. **MS. VAN IDERSTINE:** Okay. So you're thinking it might be less or more?

5432. **MR. ISHERWOOD:** I'd have to do the math. I don't know.

5433. **MS. VAN IDERSTINE:** All right. Can you do that and let me know?

5434. **MR. ISHERWOOD:** Sure. What number should I assume for the NOL and ---

5435. **MS. VAN IDERSTINE:** You can use the numbers that you've put into the answers to that undertaking and there's some further information over on the following pages.

5436. **MR. ISHERWOOD:** So then just to be clear, the undertaking is how much capacity can flow on TransCanada to Dawn?

5437. **MS. VAN IDERSTINE:** Along those two paths that we talked about.

5438. Ms. Niro, did we want to put that on?

5439. **THE REGULATORY OFFICER:** That will be Undertaking U-10, engagement U-10.

--- UNDERTAKING NO./ENGAGEMENT No. U-10:

By MAS to provide how much capacity along two TCPL paths to Dawn. How much gas can flow and what percentage of Dawn gas.

5440. **MS. VAN IDERSTINE:** Thank you very much.

5441. **MR. ISHERWOOD:** And just to finish that off, I guess and what the percentage is is really the question.

5442. **MS. VAN IDERSTINE:** Yes.

5443. And again, it's my understanding that about 10 percent of Union's total Mainline contract demand is Union to Union WDA; is that right?

5444. **MR. ISHERWOOD:** I'd have to -- I'd have to look. On long-haul, obviously?

5445. **MS. VAN IDERSTINE:** Yes.

5446. You'll let me know that as well?

5447. **MR. ISHERWOOD:** So the question was what percent of our total capacity is WDA?

5448. **MS. VAN IDERSTINE:** Yes.

5449. **MR. ISHERWOOD:** Long-haul, short-haul combined or just long-haul?

5450. **MS. VAN IDERSTINE:** Long-haul.

5451. Yes, I guess we should make that a separate undertaking.

5452. And while you're considering that, if you don't know, can you also include in that whether or not that number includes your contract demand, such as Vector and Panhandle?

5453. **MR. ISHERWOOD:** Sorry, I don't understand the question.

5454. **MS. VAN IDERSTINE:** Well, as I understand it, Union's non-Mainline contract demand, such as on Vector and Panhandle, the percentage is less than 10 percent leaving you a total percentage on the -- which is somewhat less than what we've really ---

5455. **MR. ISHERWOOD:** I think Vector would be higher than 10 percent.

5456. **MS. VAN IDERSTINE:** Okay.

5457. Well, if you look over -- this might be -- you might be able to do this one without an undertaking. If you look over to page 36?

5458. **MR. ISHERWOOD:** Okay.

5459. **MS. VAN IDERSTINE:** Response C; does that help you sort that out, including the commentary just above that?

5460. **MR. ISHERWOOD:** I think the confusion, the WCSB number includes volumes on TransCanada and Alliance.

5461. **MS. VAN IDERSTINE:** M'hm.

5462. **MR. ISHERWOOD:** And Alliance volumes flow on Vector as well. So we have Chicago flowing on Vector and some of the WCSB flows on Vector as well. So it's not -- it's not that simple.

5463. **MS. VAN IDERSTINE:** Okay.

5464. Now, the Union NDA is a little larger than the WDA; is that right?

5465. **MR. ISHERWOOD:** Correct.

5466. **THE CHAIRMAN:** Excuse me. I wasn't quite sure if there's a second undertaking?

5467. **MS. VAN IDERSTINE:** Yes, I'm sorry. I didn't -- I leapt ahead. If we can have that undertaking about the volumes or the percentage demand of your non-contract demand on the Union WDA.

5468. **MR. ISHERWOOD:** You say non-contract, what do you mean?

5469. **MS. VAN IDERSTINE:** Oh, I'm sorry. Contract demand. Excuse me. I can't read my writing. Yes. And I'm advised that it would -- we're interested in short-haul and long-haul combined.

5470. **MR. DUNBERRY:** Mr. Isherwood, may I ask you whether the undertaking is clear?

5471. **MR. ISHERWOOD:** No, it's not clear.

5472. **MR. DUNBERRY:** No, not yet.

5473. **MS. VAN IDERSTINE:** Let me try again, so I can clarify this.

5474. So could we also have Union's non-Mainline contract demands, as a percentage, including both short-haul and long-haul -- sorry, sorry.

5475. **MR. ISHERWOOD:** Maybe if I could maybe direct to Attachment to OME, Ontario Ministry of Energy, MAS-1.7(c). It gives a listing of the TCPL contracts, I believe. And it clearly shows which ones are the WDA, first total there.

5476. **MS. VAN IDERSTINE:** I'm sorry, which one did are you taking us to?

5477. **MR. ISHERWOOD:** Attachment OME to MAS, 1.7 (c), and its attachment to that.

5478. And it lists all the TransCanada contracts for both Union South and Union North, as well as all the Alliance contracts, Vector contracts. They're all listed there.

5479. I'm sorry. I don't have it as an attachment actually to an answer. The answer was OME MAS 1.7(c). It's an attachment to that question.

5480. **MS. VAN IDERSTINE:** Yes.

5481. **MR. ISHERWOOD:** I think it has its own filing number, I think, but they're all listed there.

5482. **THE CHAIRMAN:** Just for clarity on the record, is the U-10 still active?

5483. **MS. VAN IDERSTINE:** Thank you. The last one is -- the earlier undertaking still is active. The last one is not, we've satisfied that. Thank you very much for that clarification.

5484. So we can just move along then.

5485. So if second -- I was just asking you before we diverted that -- to confirm that the Union NDA is a bit larger than WDA; is that right?

5486. **MR. ISHERWOOD:** In terms of load?

5487. **MS. VAN IDERSTINE:** Yes.

5488. **MR. ISHERWOOD:** Yeah, I agree with that.

5489. **MS. VAN IDERSTINE:** And the NDA will be served largely from the EOT, once the EOT is expanded; is that right?

5490. **MR. ISHERWOOD:** I wouldn't necessarily agree with that. There'll still be some long-haul contracts. The NDA, I think, will be served both directions. And whether it's short-haul or long-haul, it's still billing determinants on the NDA, albeit there'll be some on the Prairies for the long-haul and there'll be some on the EOT for the short-haul.

5491. **MS. VAN IDERSTINE:** Would I be correct in my assumption that if segmentation were approved or if the EOT were expanded, that less than 10 percent of your contract demand would be from Empress to a captive western Mainline market?

5492. **MR. ISHERWOOD:** I'm not sure where the 10 percent came from. So I can't -- I can't agree with it.

5493. **MS. VAN IDERSTINE:** Well, it came from if we did the math on the earlier ones -- earlier undertakings, which I -- you know, obviously, I appreciate you need time to check. But if you were to do that and go through that, it would appear to us that it's about 10 percent.

5494. **MR. ISHERWOOD:** So on the weekend I looked at our -- and there was interrogatory asking us to give a forecast for our capacity post-2020, and we don't forecast that far out, but I did look at if in 2020 I wanted to continue to serve the WDA from Empress, I want to continue to serve the MDA from Empress and also Sault Ste. Marie, the SS MDA.

5495. Of the 85,000 that we have committed to TransCanada today, we'd probably keep about 60,000 of that as long-haul.

5496. **MS. VAN IDERSTINE:** Okay. And of your total capacity for use in the EOT for Union itself, what percentage would that represent?

5497. **MR. ISHERWOOD:** Going back to the attachment I asked you to look at previously, our total TCPL capacity for the north is 232,000.

5498. **MS. VAN IDERSTINE:** M'hm.

5499. **MR. ISHERWOOD:** And so we'd keep approximately 60,000 of that. That's 25 percent I guess, something like that.

5500. **MS. VAN IDERSTINE:** And does that include all of your customers or does it include both customers and additional contract demand?

5501. **MR. ISHERWOOD:** That would be our system supply customers and our bundled T-customers. So we are accountable for our bundled T-customers to provide transport to them as well. So it would be a combination of those two.

5502. **MS. VAN IDERSTINE:** Okay.

5503. **MR. ISHERWOOD:** And that -- I want to again say it's not my forecast. I don't want to see that come back at me in 2019. But reasonably speaking, that would be about where I would expect it to be.

5504. **MS. VAN IDERSTINE:** Okay. So again, in Exhibit C12-5, with that Question 7 -- let me turn to that. So C12-5.2, I don't think I was giving you the full -- page -- no I'm sorry, yeah, page 7. I'm looking at Item (a) starting on page 6 and going over onto 7 -- no, sorry, at the bottom of page 7. You know what, I've given you the wrong -- no.

5505. So it was Question 7 from your jointly filed evidence. If I haven't got Ms. Niro on the right page there, it should have been Exhibit C12-5.2, at Question 7, on page 7. There we go. Thank you.

5506. And you'll see at the answer given to the question:

> *"As signatories to the Settlement, can the MAS outline what the high level principles behind the Settlement are?"*

5507. And one of the high level principles that you had identified was that:

> *"The Mainline [...] will be segmented for tolling purposes so that the EOT rate base and cost of service are separated from the NOL and the Prairies Line rate base and cost of service;"*

5508. Now, again, that was one of your high level principles, I understand, for settlement?

5509. **MS. GIRIDHAR:** Yes, that's correct.

5510. **MS. VAN IDERSTINE:** And this would be what could be described at geographic segmentation that you're talking about?

5511. **MS. GIRIDHAR:** Yes. We were -- we have been adopting the segmentation that has already occurred from a depreciation perspective on the Mainline in the way it's been categorized. So yes, it is geographic.

5512. **MS. VAN IDERSTINE:** And was this something that eastern LDCs asked for as part of their negotiations with TransCanada?

5513. **M. CABANA:** J'amènerais une perspective différente.

5514. Le but ultime du « settlement » et de l'entente c'était de trouver une façon de ramener l'accès à des capacités -- de ramener l'intérêt pour TransCanada à servir à des tarifs raisonnables l'ensemble du marché et pour les « shippers » dans l'est d'avoir accès.

5515. Ce que vous voyez ici comme « high level principles », c'est la solution dont nous avons ensemble convenu qui était la meilleure solution pour arriver à ces fins-là à la fin. C'est pas qu'on s'est dit au départ que Gaz Métro ou ELDC ou le MAS ou TCPL avait le but de segmenter. C'est la solution qui, en regard du problème qu'on vivait, du problème qu'on avait, était la meilleure solution pour arriver en bout de ligne avec la -- pour régler le problème.

5516. **MS. VAN IDERSTINE:** Well, perhaps I can help you a little with that. I'm just going to draw your attention to -- and I'll hand it to…

5517. **MR. DUNBERRY:** Before we ask any questions, may I ask my colleague whether this document is in the record as we speak now or whether this is a new document that she wants to introduce by way of a cross-examination? Because I don't think we received this document yesterday as being relevant for this purpose.

5518. I haven't seen it. Maybe it was sent. Maybe it was not. I don't know.

5519. **MS. VAN IDERSTINE:** It was not. It is a document of -- as I understand it, of Gaz Métro which was filed in another proceeding. I did not provide it to Mr. Dunberry yesterday, and I apologize for that.

5520. It is -- what was your other question? I'm sorry, Mr. Dunberry.

5521. **MR. DUNBERRY:** Well, maybe I would simply ask if we can move to another issue or question while I look at the document and determine with my confrère, Maître Smith, whether we have an objection to the introduction of this document.

5522. So I would simply like to have a few minutes to review the document and perhaps we can discuss it later if we have or not an objection.

5523. **THE CHAIRMAN:** Is that acceptable?

5524. **MS. VAN IDERSTINE:** I can move on, but I will -- do want to come back to it, so --

5525. **THE CHAIRMAN:** Certainly.

5526. **MS. VAN IDERSTINE:** -- I'll alert them when I'm coming back to it and we'll see what they have to say.

5527. So in terms of the settlement and segmentation, segmentation was, as I understand it, important to MAS because you wanted tolling certainty and stability; is that right?

5528. **MS. GIRIDHAR:** I think it's fair to say that we had four to five things that we were trying to achieve, and as I mentioned, that was before, I guess, for market access, the efficient build-out of infrastructure, stable rates, just and reasonable rates, and reasonable assurance of cost recovery for TransCanada. So they were all considerations in the package.

5529. **MS. VAN IDERSTINE:** Yes, I appreciate they were all considerations, but segmentation itself, was the purpose of having that as part of your -- one of the items that you've included in your package because it would provide you with tolling certainty and stability?

5530. **MS. GIRIDHAR:** I can't agree with that characterization. Segmentation provides market access, and let me explain why, and I'll go through all of those reasons that I outlined.

5531. We clearly had a situation prior to RH-003 where the tolling framework resulted in annual cost increases as a result of underutilization. So we had a situation of escalating tolls.

5532. RH-003 resulted in a situation where TransCanada was not willing to serve the market in terms of where and how they wanted their capacity needs met.

5533. It was clear to us that a single framework that would achieve both of these objectives in terms of just and reasonable rates, market access and reasonable assurance of cost recovery was not possible exclusively with each of those two frameworks, but segmentation as a principle provides for the adoption of different tolling solutions in conjunction with both of those concerns, market access as well as the need to ensure just and reasonable tolls overall.

5534. It provides a reasonable assurance of cost recovery for TransCanada, so there are a number of reasons why segmentation is important, not just a toll stability and tolls in the eastern part of the system, but across the Mainline.

5535. **MS. VAN IDERSTINE:** Okay. But I was asking what about in terms of how it would affect the EOT. And I think part of your answer was that, yes, segmentation would provide you with some tolling certainty and stability; is that right?

5536. **MS. GIRIDHAR:** I think I'm saying that it provides tolling stability and toll levels across -- a reasonable assurance of just and reasonable tolls and cost recovery for TransCanada across the system, not just in the east.

5537. **MS. VAN IDERSTINE:** But you'd agree that the utilization outlooks for the EOT and the Western Mainline are quite different?

5538. **MS. GIRIDHAR:** I think it's important to understand that segmentation is really a costing framework which is a basis or a tolling parameter for future tolls.

5539. So the presumption that segmentation benefits only the east is incorrect. At this point in time, segmentation is about creating these two cost buckets that reflects the different utilizations, but different characteristics of the Western Mainline and the east.

5540. **MR. ISHERWOOD:** If I could just add to that. The features, I guess, of having the EOT segmented which actually benefits the Prairies and the NOL is just really in two regards.

5541. One is in terms of any building of new capacity in EOT. Those costs are rolled in to EOT, but they're not rolled in to the rest of the Mainline, which is an advantage and a benefit to those using Prairies and NOL.

5542. And secondly, the comments we've heard for a number of years is EOT has not been paying its full cost-of-service. And the settlement does that as well, so the EOT has now accepted the full cost of the EOT as well as through the bridging contribution some of the costs of the upstream system.

5543. But there are benefits from having the EOT segmented for both the Prairies and the NOL.

5544. **MS. VAN IDERSTINE:** So ---

5545. **M. CABANA:** Si je peux me permettre d'ajouter un fait important à tout ça? C'était notre perspective, quand on négociait et puis on essayait de mettre une solution en place, Centra et d'autres « shippers » dans l'ouest s'objectaient à payer pour des infrastructures qui seraient rajoutées dans l'est. On voit par la preuve qui est présentée à l'heure actuelle que ce semble être toujours la position.

5546. Ça fait qu'on voyait qu'éventuellement les intérêts de l'ouest et de l'est étaient de moins en moins alignés et puis on essayait de trouver une solution où on pourrait bâtir éventuellement dans l'est sans nécessairement affecter par ces coûts-là l'ouest, de l'autre côté. La segmentation s'est imposée à ce moment-là.

5547. Et fait important aussi à considérer, on voulait trouver une façon de minimiser la hausse des tarifs pour les gens dans l'ouest. On a accepté, pendant les six premières années, de 2015 à 2020, de prendre la part du lion en termes de manque à gagner. Le « bridging contribution » qui va être payé va être payé principalement par les « shippers » dans l'est.

5548. On pensait que ce serait très bien vu, surtout en considérant qu'après 2020, c'était notre position que Centra, autant que nous, avait trouvé un grand réconfort dans le fait que l'Office avait stipulé qu'elle était là pour protéger les clients, qu'elle serait là dans le futur pour protéger les clients et puis qu'il y avait une limite éventuellement à ce que TransCanada pouvait passer comme coûts à ses clients. On pensait qu'on était aligné sur ça.

5549. Ça fait que pour nous, le risque éventuel, quand on parle de risque, était plus aligné vers TransCanada et ç'a été reconnu sur le banc ici. Ç'a été fait pour les bonnes raisons, incluant les intérêts des « shippers » dans l'ouest. On essayait de réconcilier vraiment la situation et puis vos intérêts.

5550. **MS. VAN IDERSTINE:** So I sort of don't know where to start there.

5551. First of all, segmentation's not going to take effect until after 2020; is that right?

5552. **MS. GIRIDHAR:** Segmentation in the form of separation of costs into the Western Mainline and the east will take place post-2020, that is correct.

5553. **MS. VAN IDERSTINE:** So that's ---

5554. **MS. GIRIDHAR:** However -- sorry, if I might just note, the Eastern Mainline tolls between 2015 and 2020 will recover the cost to serve the Eastern Triangle, so that aspect of segmentation is being implemented in 2015.

5555. **MS. VAN IDERSTINE:** Yes, and that's that toll increase we were talking -- have been talking, the bridging contribution?

5556. **MS. GIRIDHAR:** No. The bridging contribution is distinct. The step one of TransCanada's tolling design is to raise tolls in the Eastern Triangle relative to the compliance short-haul tolls such that the Eastern Triangle volumes recover the cost to serve the Eastern Triangle.

5557. **MS. VAN IDERSTINE:** And you do understand that, despite your description of all the benefits that the Western Mainline will get from it, that Centra Gas, which is on the Western Mainline, is opposed to segmentation at this time?

5558. **MS. GIRIDHAR:** We understand based on the record in this case that that is the case. However, we have explained numerous times that segmentation is the adoption of the tolling parameter and it does not limit the manner in which tolls can be set in a just and reasonable manner.

5559. **MS. VAN IDERSTINE:** All right. So I had asked you a little while ago about whether or not segmentation was something that the -- that MAS had requested. And I'm not sure what your answer is, but before you do, I'd like to be fair to you and take you to Exhibit B14-1, and this is from page 11, and I'm taking you to the IR NEB TCPL 2.3, the 2.3(d), on page 4-4. That's the paper page, is 4 of 4.

5560. Do you see that? And about the second paragraph, in the middle of the paragraph, about the fourth line down, I think if I can read it from this distance it says:

> *"So if segmented tolling was not to be applied post-2020, TransCanada received confirmation from the LDCs that such an approach would not be acceptable to the LDCs because of the expectation of tolling certainty and stability going forward…"*

5561. Now, I -- that was a fairly clear answer given by TransCanada. I take it -- do you agree with it?

5562. **MS. GIRIDHAR:** I think it's important to note that segmentation is critical to the application and the settlement that was arrived and -- for a number of reasons.

5563. From TransCanada's perspective, we've heard Mr. Johannson say that segmentation post-2020 -- I think he used words to the effect that it's a $1 billion issue on the Western Mainline and that was better than a 5 or $6 billion issue.

5564. So certainly from TransCanada's perspective our understanding is that the cost recovery aspects and the risks associated with cost recovery were addressed through segmentation.

5565. From the perspective of the MAS shippers, segmentation allows the EOT to be able to fund the CAPP capacity increases that it needs. It allows the EOT tolls to recover the costs of the EOT. It enables market access and it does create more certainty going forward for all shippers, in terms of the cost buckets related to the service provider in the west and the east.

5566. So I couldn't accept a partial characterization such as that.

5567. **M. CABANA:** Si je peux ajouter parce que je lis le document en même temps qu'il est présenté devant nous. On est tout à fait en accord avec la phrase qui est indiquée dans la -- dans le document ici.

5568. Je pense qu'on est d'accord tout le monde qu'il faut demeurer très prudent. Parce que quand il y a eu des négociations à l'époque, puis qu'on s'est entendu sur un environnement global, il faut jamais oublier que les distributeurs -- les trois distributeurs ici ont accepté de prendre des engagements commerciaux qui vont bien au-delà de ce qui est demandé ici aujourd'hui.

5569. La façon pour nous, également, de même justifier auprès de nos régulateurs ou on peut parler dans le cas de Gaz Métro, pourquoi on a pris ces engagements-là. Ils ont compris qu'il y avait une nécessité de prendre ces engagements-là mais ils ont compris également qu'on avait accepté de prendre un fardeau supplémentaire pour le bien commun de l'ensemble des « shippers » du Mainline.

5570. Mais à partir du moment où c'est modifié de façon substantielle puis on considère que la segmentation à l'intérieur du « framework » présenté est un élément important, à partir du moment où c'est modifié, ce que TransCanada fait ressortir ici dans son document, c'est qu'il demeure toujours un risque en bout de ligne qu'une des parties qui s'est engagée, de par ces engagements commerciaux, décide de ne pas respecter ces engagements commerciaux, puis ce que ça voudrait dire en bout de ligne, ça voudrait dire revenir à la paralysie, qui est au point de départ. C'est dans cette perspective-là que cette phrase-là a été mentionnée ici dans le document.

5571. **MS. VAN IDERSTINE:** So if I understood your answer correctly, what you're saying is that if we don't accept the settlement then there's going to be litigation?

5572. **M. CABANA:** No, that's -- c'est pas exactement ce qu'on a dit. Ce qu'on mentionne c'est qu'on est vite à la prudence parce que dans le « settlement » qui a été présenté à l'heure actuelle, il est très complexe. Chacune des portions du « settlement » a été réfléchie par des gens du marché, des gens qui ont une connaissance très profonde du marché et des enjeux à ce moment-là.

5573. Et on était plusieurs équipes. On a -- ça nécessité l'apport de ces équipes-là sur des mois intenses pour arriver à trouver un environnement qui faisait la job.

5574. Ce qu'on invite ici c'est à la prudence en changeant certains aspects qui pourraient faire en sorte, même si on ne le conçoit pas au départ, qui pourraient faire en sorte en bout de ligne qu'on se retrouverait au point de départ. C'est ça qu'on essaye de mentionner.

5575. **MS. VAN IDERSTINE:** So in considering segmentation, did you consider any other way of segmenting the Mainline other than doing it geographically?

5576. **M. CABANA:** Non.

5577. **MS. GIRIDHAR:** Geographic segmentation was the manner that we discussed and adopted in the settlement for very good reasons. I think I've mentioned that the NEB has already ruled to segment depreciation along the Mainline on this basis -- on this geographic basis.

5578. It is a reflection of the manner in which the Mainline is being used. It's reflective of the billing determinants. It's reflective of the way the regionalisation of supply is occurring along the Mainline.

5579. For all of these reasons it's appropriate, we believe, that we consider geographic segmentation.

5580. **MS. VAN IDERSTINE:** So your answer to that is no, you did not consider any other ways of segmenting the Mainline?

5581. **MS. GIRIDHAR:** We concluded that this was the best way to segment the Mainline.

5582. **MS. VAN IDERSTINE:** Well, then did you consider allocating one or more of the six underused and distinct pipelines that make up the Prairie section of the Mainline and which services the EOT and segmenting it that way given that the expectation is that the EOTs will continue to use the long line -- long-haul, at least to some degree?

5583. **MS. GIRIDHAR:** I think we've heard over and over again the basic principle around no acquired rights and obligations so it is very clear that we do not identify specific pieces of infrastructure here as serving the EOT; these costs have been incurred to serve the entire market.

5584. What is important to note, is that geographic segmentation does not in and of itself mean that we cannot have just and reasonable tolls across the system. So I fail to see why we would consider associating any assets or infrastructure with specific shippers.

5585. **MS. VAN IDERSTINE:** Well with segmentation geographically being -- was doing segmentation geographically the most advantageous way of doing it from the perspective of the eastern LDCs?

5586. **MS. GIRIDHAR:** It was the most logical way of addressing all of the issues that we are facing in conjunction with the objectives we were trying to achieve.

5587. **M. CABANA:** Si je peux ajouter à ça. J'ai -- on trouvait un grand réconfort à l'époque quand on négociait puis on pensait que ça serait un grand réconfort pour tous les intervenants.

5588. D'abord, TransCanada, qui met noir sur blanc dans des documents, qui vient dire ici sur le banc, on a un -- on est à risque pour $1 milliard, particulièrement dans l'ouest.

5589. Par la suite notre perception de la segmentation n'était pas qu'on augmentait les risques pour les « shippers » dans l'ouest. Notre perception c'est qu'on avait TransCanada qui, à ce moment-là, disait je vais avoir la responsabilité, comme ce que la décision a dit d'ailleurs, pour trouver des moyens par la suite d'avoir des tarifs qui demeurent justes et raisonnables.

5590. Pour nous, pour nous qu'on soit -- je vais donner une image. Qu'il y ait deux, trois, quatre « shippers » dans l'ouest en bout de ligne passé 2020, une fois que les tarifs ont étés établis comme étant justes et raisonnables, puis sur la foi que l'Office va continuer à très bien faire sa job et va continuer de bien faire son travail et donner de la protection adéquate, à ce moment-là ou est le problème? De notre côté on le voit pas. Il y a plutôt un gain.

5591. **MS. GIRIDHAR:** So if I may -- if I may just add -- expand on that analogy, I mean, this might be helpful.

5592. If the Board were to decide that a 50-cent toll is just and reasonable for a segment of the pipeline and the utilization of the pipe would, you know, pure cost-of-service would dictate a $1toll, the existence of one shipper, let's say 100 units, paying that 50-cent toll would mean recovery of that amount. If there were two shippers it would mean recovering twice that amount. The point is that the just and reasonable toll would limit the exposure of any one shipper.

5593. The remainder, whether there are additional shippers or not, is really at the risk of the pipeline. And TransCanada has acknowledged that, that the setting of just and reasonable tolls is not a risk for Centra. It's a risk for TransCanada and they have taken that on as part of this agreement.

5594. **MR. ISHERWOOD:** If I could just add just one short sentence here but -- I think Union Gas is in a bit of a unique -- unique position in that we're a big shipper on the EOT. We're also a shipper on the NOL as well.

5595. And we're comfortable going forward with the EOT segmented knowing that we have six years to work with TransCanada and Centra and other Prairie shippers, to find the proper rate treatment going forward post-2020.

5596. I did a quick calculation and our long-haul to WDA is longer than Centra's. And our short-haul is longer but our total volume is smaller.

5597. But on a revenue basis to TCPL we're paying about the same. We're about the same size, customer to TCPL, if I look at Union Gas' NOL contribution versus Centra's. So I just want to leave some assurance that we're going to be with Centra and other stakeholders, working towards how 2020 and post-2020 look on the TCPL Mainline.

5598. **MS. GIRIDHAR:** And if I might just add to that, Enbridge as the largest LDC in Canada, just given how large its load is, has stated even on the record of the RH-003 proceeding that Enbridge intends to remain on the Western Mainline post-2020.

5599. When we look at our gas supply portfolio and the need for diversity, we look at diversity of supply but also diversity of path. So there's a lot of value for us to have gas continue to come across the northern section and down into our franchise.

5600. It gives us three -- right now we're looking at three paths of diversity, one from Dawn, one from Niagara, and another one from the North. And you know, that has a lot of value for an LDC that serves over 2.2 million customers.

5601. **MS. VAN IDERSTINE:** That was an interesting answer to my question about whether you'd consider doing it any other way than geographically.

5602. So let me go back to at least one point that came out of that. Mr. Cabana responded by saying that you were aware of the $1 billion in costs on the Western Mainline. Is that right?

5603. **M. CABANA:** Ce que j'ai mentionné c'est qu'on était ici dans la salle au moment où M. Johannson ici a mentionné -- et puis la référence à laquelle il a fait -- ce à quoi il a fait référence c'est qu'il y avait actuellement, sans « settlement » c'est un problème de 5 milliards et puis c'est un problème de 1 milliard éventuellement.

5604. Et puis je pense que les termes qu'il a utilisés ici c'était que, selon sa référence, c'est 1 milliard de « rate base » qu'il va y avoir dans l'ouest en 2020 éventuellement que TransCanada comprenait que c'était son risque.

5605. **MS. VAN IDERSTINE:** And you'd agree that pursuant to the current integrated tolling and cost allocation, that if MAS de-contracts its long haul, pursuant to -- and to pursue a more short haul, the cost of the underutilized Western Mainline are going to be borne by all the Mainline shippers tolls, including you. Is that right?

5606. **M. CABANA:** Je ne suis pas certain que j'ai entendu la question. Pourriez-vous répéter?

5607. **MS. VAN IDERSTINE:** So if the EOTD contracts, its long haul, such that they're -- you're no longer utilizing it or have a minimal utilization of the Western Mainline, then you're agreeing that the tolls on the Western Mainline are going -- may have to reflect that underutilized asset?

5608. **MS. GIRIDHAR:** I believe there is an interrogatory response from TransCanada in response to ANE -- subject to check, I think it's Number 68 -- where they outlined that the retention of integrated tolling from 2015 to 2020, and de-contracting from long haul to short haul by the eastern shippers, would result in over a 50-percent increase in the tolls across the system, including Central Manitoba with the integrated tolling mechanism.

5609. You know, in contrast, the Settlement Agreement is looking at a 12-percent impact.

5610. **MS. VAN IDERSTINE:** So what you're suggesting is that without the settlement that TransCanada will have to come back to this Board and ask for a 50-percent toll increase on the Western Mainline?

5611. **MS. GIRIDHAR:** With the retention of the existing integrated tolling framework, that was the analysis that was done.

5612. **MS. VAN IDERSTINE:** And would that be just and reasonable tolls?

5613. **MS. GIRIDHAR:** I think -- you know, we should understand that what we have here in this application is a packet solution, a series of puts, you know, from several parties, commitments, unilateral commitments from parties that are not regulated by the National Energy Board, that allow us to have a toll impact of 12-percent for Central Manitoba. Apparently, that calculates down to about 6-cents per gigajoule. And with that framework, we're able to provide non-discriminatory market access to all customers.

5614. **M. CABANA:** Si je peux ajouter ici -- si je peux ajouter, votre question est à savoir est-ce qu’en bout de ligne un problème de 2.5 milliards résulterait en des tarifs justes et raisonnables, je pense qu’on essaye tous d’éviter à avoir à se poser cette question-là. Parce qu’en bout de ligne, ce qui est clair c’est que disons que les montants sont tellement significatifs, et puis je pense que l’Office avait été claire également dans sa décision où elle disait, « Je prends pas de position à l’heure actuelle, mais éventuellement, à ce moment-là, si on atteint un niveau comme celui-là, il va y avoir des discussions sérieuses et puis on parlera du partage éventuellement et puis de quelle façon ça va avoir lieu. »

5615. Ce qu'on vous dit c'est qu'il faut éviter de se rendre là à tout prix, parce que tout le monde va en voir les effets, incluant les « shippers » dans l'ouest pour beaucoup plus qu'une hausse de 12 pourcent.

5616. **MS. VAN IDERSTINE:** So you'd agree that until now the Mainline has been treated as an integrated entity?

5617. **MS. GIRIDHAR:** Correct.

5618. **MS. VAN IDERSTINE:** And you'd agree that switching from an integrated to a segmented approach of tolling would be a major and significant change to tolling on the Mainline?

5619. **MS. GIRIDHAR:** I think I would view it as an evolution. The Board, as we've noted, has already segmented the Mainline for depreciation purposes, reflecting the utilization of the different segments.

5620. **MS. VAN IDERSTINE:** But this is a major change to how the tolling is done on the Mainline by segmenting it, isn't it?

5621. **MS. GIRIDHAR:** So segmentation will be implemented post 2020. We have six years to transition to that point, and over the next six years the application has found a way to combine segmentation for tolling purposes in the east with a transition for the Western Mainline, whereby the Eastern Mainline's picking up more than 80-percent, or approximately 80-percent of the shortfall in revenue recovery in the west.

5622. So I would say that we have over six years to transition to segmentation and what we have at this point is an evolution from the integrated tolling mechanism that exists today.

5623. **MR. ISHERWOOD:** If I could just add to that, that evolution is in parallel to the dramatic changes happening in the North American natural gas market. It was discussed last week in terms of how fundamental those changes are with Marcellus and Utica. So the system was built historically to flow gas from west to east, and the operational change in the Mainline and what the market are looking for in the Mainline is remarkably different than what its historic purpose was. So this is an evolution or a new step to a new framework.

5624. **MS. VAN IDERSTINE:** And as you've just mentioned, there are -- there have been significant major changes in the market in the last few years and it's anticipated those significant major changes are likely to continue in the market over the last few years. Is that right?

5625. **MR. ISHERWOOD:** I think change is certain.

5626. **MS. VAN IDERSTINE:** Change is certain. Is that what you said?

5627. **MR. ISHERWOOD:** Yes.

5628. **MS. VAN IDERSTINE:** So ---

5629. **MR. ISHERWOOD:** But ---

5630. **MS. VAN IDERSTINE:** --- given that uncertainty ---

5631. **M. CABANA:** Si je peux ajouter ça, quand on dit les changements sont certains, tout à fait d'accord, sauf que ce qu'on propose actuellement, quand on regarde basé sur tous les experts, ce qu'on a reçu, sur nos anticipations de ce que le marché va être, on a une très grande probabilité que ce qu'on est en train de -- le « framework » qu'on propose ici va faire la job, puis pas juste pour deux ans, pour trois ans ou pour quatre ans, va faire la job pour un futur assez éloigné.

5632. **MS. VAN IDERSTINE:** But you'll appreciate that some of the concern here is given these major and significant changes that are occurring, and what you're asking for, which is really a significant change to tolling, which you're saying is not going to happen until 2020, that wouldn't it make sense, absent the application which is contingent on a settlement, to wait until a timeframe closer to 2020 before bringing segmentation to this Board for a determination?

5633. **MS. GIRIDHAR:** If I might just respond to that question.

5634. I think -- you must understand that we have six years before segmentation is adopted from a tolling perspective for both the east and the west. It is a tolling parameter that will be adopted and it does not prevent the Board from having just and reasonable tolls in conjunction with the Western Mainline.

5635. The corollary, though, is that if we decide we are not going to do anything at this point, what we are looking at is a very high probability of what I would call market failure at the 2014 in order to have some satisfaction for Centra that they may be, you know, a different framework post 2020.

5636. I mean, I would suggest that suggesting, you know, market failure in 2014 is a necessary and sufficient condition to have just and reasonable tolls post 2020 on the Western Mainline, I mean, I have great difficulty with that logic. I think we have explained that the adoption of segmentation as a tolling parameter does not inhibit the Board in terms of setting just and reasonable tolls across the Mainline post-2020.

5637. **MS. VAN IDERSTINE:** I guess the question is simpler than that, Ms. Giridhar. Why is segmentation required at 2014 and a tolling parameter set for 2020?

5638. **M. CABANA:** Nous avons expliqué que les buts -- je ne veux pas répéter à chaque fois -- il y a une situation de crise à l'heure actuelle en 2014. On a trouvé une solution qui, normalement, répond aux besoins. J'ai expliqué au départ que selon notre perspective, les « shippers » dans l'ouest ne voulaient pas payer pour les installations dans l'est. Je pense que ç'a été réitéré au niveau de la preuve.

5639. On a expliqué que les changements fondamentaux qui arrivaient dans le marché, tout ça fait en sorte que la solution qui est proposée, incluant la segmentation, est une pièce importante pour arriver à la finalité.

5640. La finalité étant que le marché de l'est va avoir accès -- la crise va probablement se régler. TransCanada va retrouver un environnement dans lequel il va avoir la volonté de desservir ses marchés. Le futur, les incertitudes, incluant les incertitudes pour les « shippers » de l'ouest vont se calmer. Et puis ça, c'est important. Il faut que ça arrive maintenant. Ça ne peut pas attendre d'arriver dans un an. Ça ne peut pas attendre d'arriver dans un an et demi et puis la segmentation est une partie importante pour arriver à ce résultat-là final.

5641. **MS. GIRIDHAR:** If I might just, you know, add to that point. We're talking about segmentation in the context of a package. This package includes commitments by entities that are not regulated by the National Energy Board. It includes long-haul commitments. It includes staying on the Mainline until 2030.

It includes adoption of deferrals related to the Western Mainline of costs post-2020 and, you know, within the EOT.

5642. So we have to look at this package together in terms of all of the benefits that it provides, in terms of the tolls that it provides from 2015 to 2020 which, in the absence of this approach, could result in over a 50 percent increase during this period, and it provides assurance of just and reasonable tolls post-2020.

5643. **MS. VAN IDERSTINE:** Okay. You know, I can't let you get away with to keep saying it's going to be a 50 percent increase because we're talking about a 50 percent increase that would be contingent on somebody coming back to this Board and requesting that. Isn't that what we're talking about?

5644. **MS. GIRIDHAR:** Well, I think we've talked about the fact, in our opening statement, that the GTA project has been approved by the Ontario Energy Board. As part of the GTA project, the company laid out its gas supply plan, which will result in approximately 600 TJs of volumes that will be served in a manner different than long-haul, whether it's a combination of long-haul FT or discretionary, or whatever that is.

5645. So that will occur a little over a year from today, because the in-service date of the GTA project is November 1, 2015. That project is also creating the ability to have 1,200 TJs of transmission capacity.

5646. Now, granted that the ability to flow that would be subject to additional facility applications, but in the event that that got delayed, I mean, we do have a 2 PJ pipeline post-2015 that is capable of serving the market.

5647. The notion that the market can wait and nothing needs to change after today, it doesn't make any sense because we know that these changes will cause revenue impacts on the TransCanada Mainline that have to be addressed.

5648. We believe that one off ramp has already been reached. Well, we know one off ramp has already been reached, and that's with respect to the additional revenues in the TSA. We think the opposite off ramp is equally likely before 2017 because, you know, when the GTA project comes into service, you will have revenue shortfalls.

5649. **M. CABANA:** Si je peux seulement rajouter -- je l'ai dit au début ici

-- c'est pas une question qu'un jour il va y avoir une application devant l'Office pour se poser ces questions-là ou pour faire des demandes pour augmenter les tarifs. Ces questions-là ont déjà été émises le 28 août 2013 par le Board, ont été posées à Gaz Métro et à Union. Et puis les questions étaient « Quels vont être les impacts du GTA Project? Quels vont être les impacts du manque à gagner éventuellement? De quelle façon on va le récupérer? Quels vont être les impacts pour l'ensemble du Mainline. »

5650. Je vous suggère que quand ces questions-là ont été posées à l'époque, on a trouvé une solution et puis une façon d'y répondre autre que par des conflits, que par des positions adversairiales qui auraient été très nocives pour l'ensemble du marché.

5651. On vient vous présenter une solution qui répond exactement aux questions qui ont déjà été soulevées à l'été 2013.

5652. **MS. VAN IDERSTINE:** So before we got diverted I was asking about the integration system and I had a response at one point which suggested that the settlement was a package.

5653. And so if I could take you to the application, Exhibit B1-2, Adobe page 37, paper page 31, at lines 15 to 17? You'll see there under "Great Lakes Gas Transmission" there's a statement -- and I'll get to it in just a second. I just want you to confirm that this was a part -- a summary of the Mainline settlement agreement to which you collectively agreed?

5654. **MR. ISHERWOOD:** It is a provision of the settlement.

5655. **MS. VAN IDERSTINE:** And one of those provisions was that the LDCs agree that nothing in the settlement is intended to restrict TransCanada's ability to utilize firm back-haul gas transportation contracts on the GLGT transmission system for up to 500,000 gigajoules per day. Do you see that?

5656. **MR. ISHERWOOD:** Yes.

5657. **MS. VAN IDERSTINE:** And that was a term of the settlement?

5658. **MR. ISHERWOOD:** I don't think it's an exact quote, but it's a description of the term, yes.

5659. **MS. VAN IDERSTINE:** It's something that you agreed to?

5660. **MR. ISHERWOOD:** Let me -- if I can actually find the reference in the settlement agreement? I think there's...

--- (A short pause/Courte pause)

5661. **MR. ISHERWOOD:** That's correct, yes.

5662. **MS. VAN IDERSTINE:** And you're aware that -- are you aware that TransCanada then clarified in an IR that the purpose of this very large backhaul contract was to serve the EOT short-haul contracts by back-hauling from Dawn to Emerson on Great Lakes and then on the Mainline from Emerson to the NOL and ultimately to the EOT delivery points?

5663. **MR. DUNBERRY:** Mr. Chairman, I think we should refer directly to the language in the actual settlement. It's B1-3. And the actual language I think might be helpful for the question.

5664. **MS. VAN IDERSTINE:** It's interesting ---

5665. **MR. DUNBERRY:** Page 15.

--- (A short pause/Courte pause)

5666. **M. CABANA:** O.k. Est-ce que vous pourriez reposer votre question? Désolé.

5667. **MS. VAN IDERSTINE:** Well, I wasn't asking anything about this. So if -- I wasn't asking anything more about -- I understood from Mr. Dunberry he wanted you to look at that in reference to my previous question about it being part of the settlement, but I may have misunderstood.

5668. **M. CABANA:** Oui, ça fait partie de l'entente.

5669. **MS. VAN IDERSTINE:** Yeah, that's what I thought.

5670. **M. CABANA:** Oui.

5671. **MS. VAN IDERSTINE:** Okay. So then I was asking you whether you were aware of an answer TransCanada had given to Centra, which was to the effect -- to an IR that Centra had provided, which was to the effect that the purpose of the backhaul contract is to serve the EOT short-haul contracts by back-hauling gas from Dawn to Emerson on Great Lakes and then on the Mainline from Emerson to the NOL and ultimately to the EOT delivery points?

5672. **MR. ISHERWOOD:** That's correct.

5673. **MS. VAN IDERSTINE:** And so you'd agree that this would -- that it's certainly possible that Union would continue to receive gas in Union's markets in the NOL using the integrated Mainline system?

5674. **MR. ISHERWOOD:** Actually I think TCPL's point was the capacities being used to back-haul gas to Emerson and Emerson to the EOT, not the NOL.

5675. **MS. VAN IDERSTINE:** Okay. But ---

5676. **MR. ISHERWOOD:** And that would be for all -- it benefits all shippers in the EOT.

5677. **MS. VAN IDERSTINE:** Right. And so again, you'd agree then that Union's going to continue to receive gas in your markets using the integrated Mainline system?

5678. **MR. ISHERWOOD:** I think the actual cost of the back-haul contract is actually allocated to the EOT as a cost to the EOT.

5679. **MS. VAN IDERSTINE:** But the fact is you're going to be using the integrated system to get that gas into that market?

5680. **MR. ISHERWOOD:** TCPL has chosen to use that path as an economic path to get gas into the EOT.

5681. **MS. VAN IDERSTINE:** And that is part of the settlement agreement?

5682. **MR. ISHERWOOD:** It's part of the settlement agreement.

5683. **MS. VAN IDERSTINE:** So this again would be another example of the integrated operation of the Mainline in which both the Prairies line and the NOL are going to be used to create that loop which would enable TransCanada to fulfil its EOT short-haul?

--- (A short pause/Courte pause)

5684. **M. CABANA:** Si je peux me permettre, je pense que quand on parle de segmentation, je l'ai mentionné, il y a des avantages à la segmentation. On le voit clairement comme étant un « step » nécessaire pour s'adapter à la situation actuelle.

5685. Ni TCPL, ni le MAS n'a jamais mentionné que TCPL ne pourrait pas, pour le bien de l'ensemble de sa clientèle, trouver les meilleurs moyens pour minimiser les coûts et éventuellement éviter de dupliquer des infrastructures éventuellement. Ç'a toujours été un début et puis ça le demeure. De la même façon, les coûts communs sont partagés au travers les différents segments. Il y a différents facteurs.

5686. TCPL va continuer d'avoir une responsabilité pour maintenir les coûts le plus bas possible.

5687. Ce qu'on vous dit, cependant, c'est que la segmentation est nécessaire et c'était la seule façon qu'on a trouvée éventuellement de concilier les intérêts qu'on voyait de l'ouest par rapport aux intérêts de l'est. Puis ça c'est évident parce que c'est évident au travers la preuve qui a été présentée également que quand on regarde ce qui est discuté -- les commentaires qui sont faits, entre autres, par Centra, de l'autre côté où ils disent, « On n'est pas chaud à l'idée de payer pour une partie des installations. On n'est pas chaud à l'idée que TransCanada facilite le départ éventuellement de certains distributeurs vers du short-haul. »

5688. Tout ça nous démontre clairement qu'en termes d'intérêts d'un côté ou de l'autre, on a des intérêts qui sont de plus en plus divergents. La segmentation est la façon de régler cette problématique-là.

5689. **MS. VAN IDERSTINE:** So earlier in response to a question, Ms. Giridhar, you had been talking about the fact that the settlement agreement doesn't require specific outcome for the framework, but that -- and it's -- TransCanada would have to negotiate after 2020 or else return for -- return in some way to establish just and reasonable tolls post-2020 but that they would be using the framework which is established now?

5690. **MS. GIRIDHAR:** That is correct. There are four tolling parameters that will be applied.

5691. **MS. VAN IDERSTINE:** And so if the agreement -- if the Board accepts the application now, including that framework, then in 2020 would there be any ability to change the framework dependent on changing circumstances which might make that framework inapplicable or unfair to any one of the parties?

5692. **MS. GIRIDHAR:** I think if you're asking us if the Board has the jurisdiction to do so that's already been addressed as a legal question that will be responded to by the lawyers.

5693. **MS. VAN IDERSTINE:** But what is your understanding of whether or not that can be opened up?

5694. **M. CABANA:** Je pense que ma perspective c'est qu'il y a personne qui peut jamais contraindre le Board à prendre les décisions au moment opportun, basé sur la preuve, basé sur des demandes et puis basé sur l'environnement qu'il va y avoir.

5695. Avoir l'Office, aujourd'hui, qui reconnaît, disons, la validité de certains principes importants pour le futur est un pas important et on pense que ça va aider tout le monde et puis on a besoin d'avoir ce confort-là à l'heure actuelle d'une reconnaissance que ça fait du sens ce qui est présenté et également par la suite, mais jamais dans aucun cas que nos avocats vont pouvoir y répondre. Jamais dans aucun cas, je crois, personne ne va pouvoir enlever des droits qui sont reconnus et puis que le Board peut prendre les décisions qu'ils peuvent prendre.

5696. **MS. VAN IDERSTINE:** So if this Board were to accept everything that's in the application but segmentation and deferred the decision with respect to segmentation to 2020, would that be an acceptable outcome for you in this application?

5697. **M. CABANA:** Ce que je vous dirais à l'heure actuelle, puis on l'a mentionné -- je l'ai mentionné au départ -- quand on dit -- un, il y a le MAS qui parle ici. Il y a plusieurs -- les quatre participants qui ont signé l'entente ont pris des engagements commerciaux, ont pris des engagements de différentes façons.

5698. Enlever un élément important comme la segmentation est d'ouvrir une porte pour un des intervenants éventuellement pour dire, « Moi, je ne respecterai pas mes engagements commerciaux. » Et c'est très dangereux et puis ça pourrait nous ramener au point de départ.

5699. Ce qu'on a besoin aujourd'hui -- quand les « shippers dans l'est » -- je vais parler pour Gaz Métro -- quand Gaz Métro a pris les engagements commerciaux pour dire, « On ne bypassera pas éventuellement, si jamais le « shale gas » se développe au Québec, on va continuer de payer notre part des infrastructures du Mainline et puis on ne laissera pas tomber le reste du Canada pour payer ces coûts-là tous seuls jusqu'en 2030. »

5700. Ces engagements-là étaient importants de notre côté, mais on devait quand même avoir une certaine assurance qu'on prend un engagement qui est plus élevé que ce qu'on demande à beaucoup d'intervenants, mais mes deux compagnies collègues ici ont pris des engagements similaires, mais ce n'est pas ce qui est demandé à tout le monde.

5701. En contrepartie de ça, on doit avoir une certaine raisonnabilité que ce qu'on a proposé comme « framework » fait en sorte que le Board, en 2020, on a, disons, une opportunité et puis on pense que les chances sont bonnes éventuellement que ça va se matérialiser tel qu'on l'a proposé.

5702. Ceci étant dit, ça n'enlève pas les droits, ultimement, à l'Office de changer d'idée en 2020-2021 sur la base d'une preuve qui va être présentée qui va être très forte, mais on doit avoir un signal que ça fait du sens ce qui est présenté.

5703. Moi, je parle de façon concrète. Quand je vais retourner à la Régie de l'énergie et puis je vais aller leur justifier que les engagements commerciaux qu'on a pris doivent être maintenus et puis que c'est dans l'intérêt canadien qu'ils soient maintenus ces intérêts-là, il faut que je puisse lui dire que je pense qu'éventuellement, passé 2020, l'engagement qui a été pris par TransCanada d'avoir un risque supplémentaire relié à l'ouest va être reconnu. Je reviens à ça.

5704. Le risque n'est pas sur les « shippers » dans l'ouest. Le risque est sur les épaules de TransCanada. TransCanada va devoir, passé 2020, trouver les moyens de maintenir des tarifs qui sont justes et raisonnables. Ça, pour nous, est très important. Il faut qu'on puisse retourner vers notre régulateur pour maintenir ces engagements commerciaux-là avec une certitude à cet égard-là, une relative certitude. Elle n'est pas absolue. Elle ne peut jamais être absolue.

5705. **MS. VAN IDERSTINE:** So as I understood your evidence when you were being questioned by my friend, Mr. Holgate, one of your major concerns, as I understood it, is your concern with respect to getting capacity into your market; is that right?

5706. **M. CABANA:** Si je peux formuler ce que j'en comprends, c'est que vous me demandez si est-ce qu'une de mes préoccupations est à l'effet d'obtenir les sécurités d'approvisionnement pour ma franchise?

5707. **MS. VAN IDERSTINE:** Yes, that you would want to get -- my question was or my understanding of what you were answering to Mr. Holgate was that one of the driving forces behind your concerns was that -- was getting supply and capacity into your market.

5708. **M. CABANA:** Un, je vais complètement écarter « concerns ». « Concerns » est vraiment pas assez fort. Actuellement, je ne suis pas capable -- je suis responsable des approvisionnements chez Gaz Métro et de la réglementation. Je ne suis pas capable de sécuriser les besoins pour servir la clientèle actuelle. Il me manque 20 pourcent des capacités. Ça fait que c'est pas un « concern ». C'est beaucoup plus grave que ça. C'est une situation de crise.

5709. **MS. VAN IDERSTINE:** So given that crisis as you've described it, if this Board were to say we will defer the issue to segmentation to 2020 and gave you everything else you asked for, I'm having difficulty in understanding why that would not be an acceptable outcome for you?

5710. **M. CABANA:** Je peux vous le dire. Parce que ce que ça ferait éventuellement, étant donné le temps, le temps qu'on a mis, le temps que les équipes ont mis, les différents intervenants dans le dossier durant l'été pour trouver une solution viable, on croit que c'est un élément fondamental qui pourrait faire en sorte d'ouvrir la porte.

5711. Et puis quand on parle de situations de crise, on ne peut pas prendre la chance -- je parle pour ma perspective -- on ne peut pas prendre la chance de créer ou de maintenir une situation de crise actuelle en enlevant un élément important pour un problème potentiel qui pourrait arriver dans six ans où on a reconnu en plus que TCPL a reconnu sur le banc à différents endroits dans sa preuve que le risque était sur ses épaules.

5712. Je ne peux pas concevoir qu'on prendrait ce risque-là globalement de maintenir l'état dans lequel le marché de l'est est actuellement et puis qu'il va y avoir des impacts sur tout le reste du Canada.

5713. **MS. VAN IDERSTINE:** So if the Board were to agree to segmented tolling, you'd agree that MAS will continue to have access to the Western Mainline as needed post-2020, meaning you'll only pay as you go, is that it?

5714. **M. CABANA:** Non, je peux pas vous dire ça. À l'heure actuelle, Gaz Métro -- Gaz Métro, à l'heure actuelle, n'a pas accès à aucun service ferme « long-haul » ou « short-haul ». Ça c'est la situation actuelle de Gaz Métro.

5715. **MS. VAN IDERSTINE:** Okay.

5716. **M. CABANA:** Alors je peux pas vous -- il n'y a comme pas d'alternative. Le « settlement » est l'alternative qui va permettre de ramener tous les joueurs à la table pour pouvoir dire, « On va fonctionner de façon -- le marché va fonctionner de façon efficiente. »

5717. **MS. VAN IDERSTINE:** And the other parties do have that access at the moment, but after 2020, as I understand it, the other parties would only pay, basically pay as you go on that line?

5718. **MS. GIRIDHAR:** I think it's important to note that at this point there are no long-term commitments post-2017, including from Centra.

5719. So what we are looking at is setting up a framework that will allow a new post-2020 tolling regime to be visited at the appropriate time. TransCanada's talked about revenue at-risk models, models that will incent the retention of volumes on the Western Mainline. And it's entirely possible, and in fact, we expect, barring something very significant, to maintain volumes on the Western Mainline for the reasons that we've outlined before.

5720. **MS. VAN IDERSTINE:** And Ms. Giridhar, will that -- is that regardless of whether or not the TransCanada -- or this application goes forward and TransCanada builds or whether you bypass?

5721. **MS. GIRIDHAR:** I think I am talking in the context of the application and the settlement.

5722. **MR. ISHERWOOD:** I take exception to the word "bypass" as well. I think what we're trying to do is have access to the supplies that we want to have. It's no different than Centra picking between Empress to Emerson. You have choices. We want to have a choice, too. ANE wanted to have a choice. We want to have a choice. We're just trying to be treated equally to the other parties.

5723. **MS. VAN IDERSTINE:** So I'm sorry. The choice you'll get after the application though is a choice of supply basin, and that choice will not be available to Centra, will it?

5724. **MR. ISHERWOOD:** Looking -- going back to the map that you showed us, you can go back through Great Lakes and go back to Dawn and you can source gas at Dawn if you choose.

5725. **M. CABANA:** Si je peux me permettre, sur le dernier commentaire que vous venez de faire, vous dites, « Ce choix-là ne sera pas octroyé à Centra. »

5726. Juste se rappeler que Gaz Métro est le dernier au bout du pipeline. Gaz Métro a dû, pour des raisons de marché, s'approvisionner à plus de 3,000 kilomètres pendant des décennies. À l'heure actuelle on a la chance, o.k., d'avoir accès aux mêmes avantages dont Centra a bénéficié pendant des dizaines et des dizaines d'années.

5727. Nos contrats « short-haul » pour Gaz Métro vont être l'équivalent des contrats que vous avez et dont vous avez bénéficié pendant des années.

5728. Comment on peut refuser ça à des « shippers » qui sont dans l'est? On peut pas.

5729. **MS. VAN IDERSTINE:** So this would be an appropriate time for me to turn to that question that I had asked earlier about the letter and ---

5730. **THE CHAIRMAN:** Maître Dunberry?

5731. **MR. DUNBERRY:** My suggestion would be to allow our witness panel to review the document during the lunch break so that they can inform themselves of the content of that document. There might be a context that comes with that.

5732. I saw that that document was filed in another public hearing. There was probably a question coming with this. It was probably a context coming with that as well.

5733. So in terms of simple fairness, that document should have been communicated to the witness panel no later than yesterday, and in that context, it would have taken the time to review it and see what the context was at the time. So I'm simply asking the Board's permission to allow the witness panel to look at the document.

5734. It's a letter that was sent by the Chief Executive Officer of Gaz Métro, Sophie Brochu. So I'm sure Mr. Cabana would like to have a moment to look at the document before being asked questions about it.

5735. **MS. VAN IDERSTINE:** I'm absolutely content to allow them to do that. That -- I have no difficulties whatsoever on that.

5736. Just given the time now, would now be appropriate, then, to take a little bit early break or do you want me to continue into a new area at this point?

5737. **THE CHAIRMAN:** I think continuing into your new area might be appropriate at this time.

5738. **MS. VAN IDERSTINE:** It'll not surprise you that it's not entirely new.

5739. So just in terms of the usage of the Mainline, from what I understand from the forecasts that have been provided, in the 2015 to 2020 period, I understand that MAS will de-contract in the range of 800,000 gigajoules per day of long-haul capacity. Does that sound about right?

5740. **M. CABANA:** Je vais l'amener d'une perspective différente.

5741. Le plan de Gaz Métro -- je vais parler pour Gaz Métro -- le plan de Gaz Métro entériné par la Régie de l'énergie était de déplacer 100 pour cent de son « long-haul » en « short-haul » à court terme.

5742. Gaz Métro a accepté de maintenir une capacité substantielle en « long-haul » jusqu'en 2020, a convaincu son régulateur de dire, « On va maintenir une capacité en 'long-haul' pour le bien-être du pipeline dans son ensemble puis dans l'intérêt public. »

5743. Alors c'est un petit peu différent en termes de perspective.

5744. **MS. VAN IDERSTINE:** Did anybody else want to answer that question that you're intending to de-contract?

5745. And I can give you a citation if it helps you. If you look at Exhibit C12-7-5, and over to page 36.

--- (A short pause/Courte pause)

5746. **MS. VAN IDERSTINE:** Sorry. I'm having trouble with that citation.

5747. I'll come back.

5748. Yes, it's actually at C12-7-2, at page 36.

5749. Do you have that citation now? Sorry. I'll get it for you. It was C12-7-2, page 36, the answer to a Centra 16(b).

5750. So if you go back -- there we go. That's it. Top of the page. We'll start with that.

5751. So if you look at that, this is information provided by Union. And looking at that, as I understand it, using the table, in 2015 and going down to the bottom and then over to 2020, and going down to the bottom, it looks to me like you're de-contracting by about 90,000; is that right?

5752. **MR. ISHERWOOD:** That table is correct.

5753. **MS. VAN IDERSTINE:** Okay. And then the information provided by Gaz Métro is in the next table below. And it looks like in 2014 you were requiring 464,827 and you go down to 85, so that would be a de-contracting of about 380,000; would that be right?

5754. **MR. CABANA:** It's right. C'est vrai, dans le contexte que je vous avais mentionné cependant.

5755. **MS. VAN IDERSTINE:** And if we go over to the next page, we'll see the table for Enbridge. And we have Enbridge in 2015 with 655,945, and it drops to 287,845. Do you see that?

5756. **MS. GIRIDHAR:** Yes. I should just provide a little bit of context around the amount of long-haul that we're holding at this point and until 2015.

5757. This is not historically the amount of long-haul that we've held. And as a result of the RH-003 decision where Enbridge made a decision that it would not contract for STFT any more, it ended up securing long-haul.

5758. The reality, though, is that this long-haul is used to meet seasonal needs in the wintertime and would otherwise be unutilized for much of the year.

5759. I note that Centra itself used the short-haul for seasonal needs and the de-contracting of this long-haul is really associated with the GTA project making short-haul available in order to meet the seasonal needs of the franchise in an efficient manner.

5760. **MS. VAN IDERSTINE:** So the bottom line is, though, that if we add up those three amounts, we come to about 800,000 gigajoules of long-haul capacity that would no longer be being used on the Mainline?

5761. **MR. ISHERWOOD:** I should just correct the Union Gas number in that table.

5762. **MS. VAN IDERSTINE:** Yeah.

5763. **MR. ISHERWOOD:** That '15 column is right, but '15 already assumes the '15 long-haul to short-haul shift has already happened.

5764. **MS. VAN IDERSTINE:** Okay.

5765. **MR. ISHERWOOD:** So in addition to that, if you had a column 2014, it would show an additional 70,000.

5766. **MS. VAN IDERSTINE:** Okay. So we're really up to 870,000 gigajoules of long-haul that's been -- will be de-contracted over the next five years or so; is that right?

5767. **MR. ISHERWOOD:** Maybe, if the sum of those numbers is correct.

5768. **MS. VAN IDERSTINE:** Yeah. And so are you aware of any long-haul replacement shippers for that capacity in the 2015-2020 years?

5769. **MS. GIRIDHAR:** So the settlement agreement contemplates this shift, and the bridging contribution results in the EOT shippers taking on 80 percent of the resulting revenue shortfall from this and all of the changes on the Mainline.

5770. **MS. VAN IDERSTINE:** And the fact that the MAS is taking on 80 percent, as you have identified, that the remaining shippers paying 20 percent, reflects the fact that MAS is getting a benefit out of this that does not similarly accrue to the others?

5771. **M. CABANA:** Je vous dirais que y a un -- le terme est anglais -- un « flaw » fondamental dans ce que vous dites là.

5772. Je pense que le principe de « aucune obligation, aucun droit acquis » est important et reconnu par l'Office et reconnu par l'ensemble des intervenants ici. Alors, vous êtes au cœur du problème quand vous dites, « On sait que les trois distributeurs étaient pour transférer du 'long-haul', leur source d'approvisionnement vers l'est. »

5773. On sait que ça aurait créé éventuellement des problèmes significatifs sur le Mainline en termes de revenus manquants. Ce qu'on essaie d'adresser à l'heure actuelle c'est une façon éventuellement -- j'ai vu TransCanada, ils ont parlé de frais de transition -- une façon de récupérer puis d'alléger cette transition-là, pour faire en sorte que tout le monde va s'en sortir indemne, puis que le marché va continuer de fonctionner adéquatement.

5774. Mais je suis très opposé au fait de faire un lien entre ce que -- la décision que les distributeurs ont prise de laisser à la fin de leurs contrats « long-haul » de contracter et de s'approvisionner en « short-haul », et le fait que ça va créer des pertes comme étant une responsabilité quelconque.

5775. On s'est entendu sur une façon élégante, d'une façon qui était bien pour tout le monde, pour que ces coûts-là soient supportés par l'ensemble des intervenants, mais on a pris la part du lion.

5776. Mais en aucun cas ça doit être vu -- il doit y avoir un lien avec le fait que on a décidé de contracter de notre côté puis qu'on a une responsabilité quelconque par rapport à ces revenus-là qui sont manquants.

5777. **MR. ISHERWOOD:** I would just add, it's not unlike what's happened in the past as well. Whether it's marketers and producers leaving the system or whether it's Centra going between Emerson and Empress or whether it's ANE going from Western Bay Supply to Dawn Bay Supply, it's the no acquired rights principle. Having said that, we're still picking up 80 percent of the shortfall.

5778. **MS. VAN IDERSTINE:** And that's to -- because you are intending to leave the system after 2020?

5779. **MR. ISHERWOOD:** We'll still be on the TransCanada system; it would be under a different contract portfolio.

5780. **MS. VAN IDERSTINE:** Now, one of the discussions that has come up is the notion that but for this agreement or application that the MAS -- or the -- that the tolls would be even higher than they currently are or are contemplated by the application. I'm sure you recall that discussion, we've had it over and over again.

5781. So in that discussion, can you clarify for me who it is you're saying would be responsible for those tolls? Would it be the shippers or would it be -- tolls -- the cost, I should say -- who would be responsible for those costs? Would it be the shippers, having to pay out in increased tolls or would it be TransCanada, who would be left with a higher cost that are unable to obtain?

5782. **M. CABANA:** Je le sais pas si j'ai bien compris la question. Est-ce que vous me posez la question à savoir en 2020 -- 2021, s'il est reconnu sur la base de la preuve qui a un problème important, que les tarifs dans l'ouest ne sont pas justes et raisonnables, qui serait responsable de ces coûts-là?

5783. Est-ce que c'est ça la question?

5784. **MS. VAN IDERSTINE:** No, I -- clearly, it was not a very clear question.

5785. **M. CABANA:** O.k.

5786. **MS. VAN IDERSTINE:** What I meant to ask was, as I understand the position of the settling parties is that you're suggesting that there could be potentially higher tolls if MAS members were successful in either in bypassing the Mainline in the absence of the settlement?

5787. **M. CABANA:** Je vais le présenter différemment.

5788. Ce qui est certain c'est qu'on a un devoir de sécuriser nos capacités d'approvisionnement, c'est un devoir. Puis comme je vous -- j'ai fait référence à une situation de crise. Ce qu'on vous dit c'est que ce qui est proposé à l'heure actuelle est la meilleure façon de faire en sorte dans l'intérêt public que les dommages collatéraux éventuellement ne seront pas trop grands.

5789. Mais que si éventuellement on a pas une solution qui ramène la volonté de TransCanada de nous servir sans les propulser dans une spirale tarifaire, ben les options qui vont devoir être contemplées par les distributeurs dans l'est vont avoir des effets beaucoup plus nocifs sur l'ensemble.

5790. Pis qu'à ce moment-là c'est clair, si TransCanada -- si TransCanada par la suite se ramasse avec des manques à gagner importants, y va avoir des discussions éventuellement à l'Office. Puis je pense que c'était clair dans la décision qu'à ce moment-là sur la base de la preuve, l'Office sera à même de décider qui va supporter ces coûts-là et de quelle façon éventuellement.

5791. Mais je voudrais vous signaler un point de ma perspective. L'Office a été très clair dans sa décision que la responsabilité de s'assurer de la viabilité du Mainline revenait à TransCanada. Très, très clair, une ligne très claire à cet effet-là.

5792. Je vous soumets respectueusement que TransCanada a été à la -- a été au cœur de ce qui s'est passé à l'été 2013, puis a été à même de constater la nature du risque pour la viabilité du Mainline. Et TransCanada se présente avec le marché aujourd'hui pour vous dire, « Je fais ma job, je vous présente une option qui va faire en sorte qui va assurer la viabilité du Mainline. »

5793. Je vous soumets qu'il faudrait qu'on ait une oreille très attentive à ce que TransCanada soumet à l'heure actuelle avec les trois LDC.

5794. **MS. VAN IDERSTINE:** So do I understand that the bridging that Centra is asking to be -- amount that -- Centra's being asked to pay is about 12 percent, the bridging contribution that Centra is being asked to pay?

5795. **MS. GIRIDHAR:** The bridging contribution results in a 12 percent increase in tolls on the western long-haul, that's correct.

5796. **MS. VAN IDERSTINE:** And part of that argument is they should pay -- be happy to pay the increase of 12 percent, because if they don't it could be even higher?

5797. **MS. GIRIDHAR:** I think the point is that the 12 -- the settlement agreement in this application bring toll certainty and stability till 2020 and the assurance of just and reasonable tolls post-2020.

5798. **MS. VAN IDERSTINE:** And that's because you can't tell us today what those tolls might otherwise be but for the settlement?

5799. **MS. GIRIDHAR:** Which tolls?

5800. **MS. VAN IDERSTINE:** Well, you're saying that Centra should have to pay a bridging contribution or increase in tolls of 12 percent with the application, but you can't tell us what the tolls might be without the application?

5801. **MS. GIRIDHAR:** I think Mr. Cabana just explained what the scenario might be absent the settlement and the realization of market access, which we know will happen, at the very least, for Enbridge Gas Distribution and the fact that both Gaz Métro and Union will be seeking market access because they're unable to find capacity today to serve the market.

5802. **M. CABANA:** Si je peux me permettre, parce que vous nous -- la question qui est posée c'est qu'on apporte un jugement sur quel serait « l'outcome ».

5803. Moi, j'ai été à la Régie de l'énergie, j'ai témoigné aussi sur la base de ce jugement-là, que si le « settlement » n'était pas approuvé, o.k., que l'impact en termes de hausses tarifaires pour l'ensemble des intervenants, l'ensemble des « shippers », serait substantiellement plus élevé que ce qui est demandé ici dans le « settlement. »

5804. **MS. VAN IDERSTINE:** The other day we heard Mr. Johannson give evidence to the effect that they -- that TransCanada is now asking for pricing discretion to be extended only to 2020. Did you hear that evidence, are you aware of that?

5805. **MR. ISHERWOOD:** Yes, we are.

5806. **MS. VAN IDERSTINE:** And you understand, and I take it, agree that that would be a change to the terms of the settlement?

5807. **MR. ISHERWOOD:** Not a change at all.

5808. **MS. VAN IDERSTINE:** Well then how does not change the terms?

5809. **MR. ISHERWOOD:** It was -- we -- in our evidence, we had said the same thing, and TransCanada in interrogatory had said the same thing, and on the stand last week I said the same thing twice, I believe, being very consistent.

5810. **MS. VAN IDERSTINE:** So let's be absolutely clear, pricing discretion is only being extended till 2020 pursuant to this application; is that right?

5811. **MR. ISHERWOOD:** That's correct.

5812. **MS. VAN IDERSTINE:** So if this Board were again to approve all other aspects of the application, other than pricing discretion and/or decided to put a cap on pricing discretion or some other parameters around it, would that be an acceptable regulatory outcome from your perspective?

5813. **M. CABANA:** Non. On vous a expliqué très clairement que notre perspective c'est que la décision qui avait été entérinée par l'Office était un des outils qui a permis, o.k., d'éviter une situation de crise. Ça permis à -- je pense -- puis je vais parler de ma perspective à moi.

5814. J'ai été relativement surpris par la clairvoyance que le « Board » avait eue à l'époque quand ils ont donné cet outil là. Y a personne qui avait demandé cet outil là, de cette façon-là. TransCanada l'avait pas demandé non plus.

5815. Quand on voit les résultats à l'heure actuelle de ça, ça génère des centaines de millions de dollars. Moi, je le vois au Québec. Nos clients industriels qui reviennent vers nous puis qui nous disent, « On doit 'firmer up'. » Ça génère pour l'ensemble du Mainline des revenus substantiels.

5816. Pis je pense qu'on ferait une erreur quand -- on ferait une erreur en retournant en arrière. On l'a mentionné, quand on regarde ici puis que tout le monde prend des risques, le « settlement » est la meilleure façon de faire en sorte que le marché va fonctionner de façon efficiente.

5817. Ça veut pas nécessairement dire qui a plus de risques. Ça veut pas nécessairement dire que les comportements qui ont été corrigés quand cet outil là a été octroyé à TransCanada, peuvent revenir pour faire en sorte -- faut faire en sorte que ces comportements-là où le marché a commencé à être discipliné, que cette tendance-là se poursuit.

5818. Alors si vous nous demandez si ça est modifié, est-ce que ça change la perspective globale, on pense que oui. On pense que ça doit être accordé de la même façon que ce qui a été demandé. Ça ne doit pas changer l'outil.

5819. **MS. VAN IDERSTINE:** Do either of the other of you want to comment on that?

5820. **MS. GIRIDHAR:** I agree with Mr. Cabana. When you look at the fact that the one of the other tolling parameters is that the EOT is taking on the LTAA post-2020, it's certainly in our interest to ensure that TransCanada is provided the ability to maximize its revenue generation tool and the pricing discretion provides that.

5821. The pricing discretion, as part of the settlement agreement, also provides access to recourse rates in the path of the shipper's choice. That is, in our view, a significant enhancement to the pricing discretion that the Board granted in the RH-003 decision, which also had the same goal of revenue maximization. Now, it's revenue maximization with customer choice.

5822. **MR. ISHERWOOD:** And I would just confirm that Union's view is the same in that having recourse rates on the short-haul path is very important and it just enhances the overall pricing discretion.

5823. **MS. VAN IDERSTINE:** So this may be an appropriate point to take a break, with your permission, of course. I didn't really think I was going to be more than an hour this morning, so I am woefully outside of my time estimate, personal time estimate, but I don't really think that I'll be all that long after lunch, just to give you some indication of where we're going.

5824. Thank you.

5825. **THE CHAIRMAN:** Thank you.

5826. We'll break for lunch and we'll be back at 1:30.

--- Upon recessing at 12:30 p.m./L'audience est suspendue à 12h30
--- Upon resuming at 1:30 p.m./L'audience est reprise à 13h30

MALINI GIRIDHAR: Resumed
PATRICK CABANA: Sous le même serment
MARK ISHERWOOD: Resumed
JEFF D. MAKHOLM: Resumed
ROBERT FLECK: Resumed

5827. **THE CHAIRMAN:** Welcome back, everyone.

5828. Ms. Van Iderstine?

5829. **MS. VAN IDERSTINE:** Thank you. I think Mr. Dunberry has ---

5830. **MR. DUNBERRY:** Yes, Mr. Chairman, there is one fairly short preliminary matter.

5831. Before the lunch break, I referred, or my colleague referred to this August 19, 2013 letter that was provided -- a copy of which was provided earlier this morning, to which is attached a document with a revised letter of August 19, 2013 that was sent to Mr. Russ Girling by Madame Sophie Brochu, CEO of Gaz Métro.

5832. Counsel for Centra and I had a discussion after I was able to review the contents of that document, and I think we have an understanding that would resolve any procedural issues.

5833. That document refers to access and capacity-related issues and avenues to resolving these challenges and that is a relevant part of that letter for purposes of cross-examination. That letter, however, from Madame Brochu, also refers to the Energy East Project.

5834. And following discussion with counsel for Centra, we agreed that the paragraphs referring to the Energy East Project are not relevant and could be redacted from that letter. So what we will do is to provide the Board, tomorrow, with a copy showing with black boxes the sections being redacted and the redacted version of that document could then be filed officially into the record.

5835. For purposes of efficiency, I will not object to questions asked by the counsel for Centra on the section of the letter dealing with issues which have been, you know, addressed earlier today on issues and challenges with respect to access and capacity on the understanding that there won't be any questions on Energy East and that this letter will be redacted and filed officially tomorrow in its redacted version.

5836. I'll simply ask my colleague to confirm that my understanding is shared and that this is the basis to move forward.

5837. **MS. VAN IDERSTINE:** So in terms of the letter, I have no difficulties with the redactions. I will not be asking any questions relating to Energy East that arise from that letter. I do have a couple of general questions relating to Energy East, but I don't believe they'll be controversial.

5838. **THE CHAIRMAN:** Would it be easier to have an exhibit number given to this on the understanding that it's the redacted version, just so that we can refer to the same letter as redacted, though?

5839. **MR. DUNBERRY:** Yeah, we would simply suggest that that number be reserved for the redacted version that would be made available tomorrow morning.

5840. **THE CHAIRMAN:** Thank you.

5841. Madame Niro, si vous pourriez réserver un numéro pour la lettre avec les...

5842. **L'AGENTE DE RÉGLEMENTATION:** Ma compréhension c'est que la lettre va être donnée par Centra. Alors je vais lui donner un numéro pour Centra?

5843. **LE PRÉSIDENT:** Oui, réserver un numéro.

5844. **L'AGENTE DE RÉGLEMENTATION:** O.k. Ça va être le C8-18,

Exhibit C8-18.

--- EXHIBIT NO./PIÈCE No. C8-18:

Enbridge letter dated August 19, 2013 from hearing RH-001-2013 with attached redacted letter from Gaz Métro dated June 7th, 2013

5845. **LE PRÉSIDENT:** Puis ça, ça va être, pour être clair, la version rédigée -- redacted -- j'ai besoin d'un dictionnaire.

5846. **Me DUNBERRY:** Nous disons caviardé à l'occasion et les linguistes semblent être à l'aise avec le terme « caviardé ».

5847. **LE PRÉSIDENT:** Caviardé?

5848. **Me DUNBERRY:** Caviardé, sans lien avec le caviar, quoique à l'occasion ce sont les parties les plus savoureuses qui sont retirées du document.

--- (Laughter/Rires)

5849. **Me DUNBERRY:** Alors le terme « caviardé » nous convient tout à fait.

5850. **LE PRÉSIDENT:** Merci. Je viens d'apprendre quelque chose de nouveau.

--- EXAMINATION BY/INTERROGATOIRE PAR MS. VAN IDERSTINE: (Continued/Suite)

5851. **MS. VAN IDERSTINE:** And I was hoping that my cross-examination was like caviar, but I suspect it may be somewhat more like fish eggs, but anyway.

5852. So you do now have the letter that I was referring to before you, I hope, and that, as I understand it, as Mr. Dunberry has just said, was a letter authored by Madame Sophie Brochu?

5853. **M. CABANA:** Oui.

5854. **MS. VAN IDERSTINE:** And she is the President and CEO of Gaz

Métro?

5855. **M. CABANA:** Oui.

5856. **MS. VAN IDERSTINE:** And the letter was addressed to Mr. Russ Girling, President and CEO of TransCanada?

5857. **M. CABANA:** Oui.

5858. **MS. VAN IDERSTINE:** And it arose, as I understand it -- well, it was written dated June 7th, 2013, so it arose in the midst of the litigation that was ongoing between the parties?

5859. **M. CABANA:** Exactement.

5860. **MS. VAN IDERSTINE:** And could I draw your attention to page 2, second paragraph, itemized number -- the first number 2 on that second page in which Madame Brochu states:

> *"Further, [and this is in reference to discussions that we're going to be ongoing] explore the concept of segmentation business model that would allow a transitional period during which TCPL would be able to recover part of its stranded asset costs with a redesigned short-haul tariff."* (As read)

5861. Do you see that part?

5862. **M. CABANA:** Oui.

5863. **MS. VAN IDERSTINE:** And so quite clearly, at the time you began your negotiations or discussions surrounding settlement of that litigation, a concern about stranded costs was at least part of the motivation of the settlement?

5864. **M. CABANA:** Quand on parle de « stranded costs », oui. Je dirais qu'au global, quand on parlait de revenus manquants pour le Mainline c'était la principale préoccupation.

5865. **MS. VAN IDERSTINE:** And in terms of the transitional period which is being referenced in that paragraph, is that what later became the bridging contribution?

5866. **M. CABANA:** Je pense qu'il faut se remettre en contexte à quel moment cette lettre-là a été envoyée et dans quel contexte cette lettre-là a été envoyée à l'époque.

5867. Nous avons mentionné au début de la journée que, disons, la pression était très haute vis-à-vis chacune des parties à l'époque. La solution ultime n'avait pas été trouvée à l'époque. Ce qui est important d'avoir c'est de trouver un moyen d'avoir les différentes parties qui acceptent de s'asseoir autour d'une table pour discuter.

5868. Voyez cette lettre-là un peu comme une invitation pour dire, « On comprend du côté de TransCanada quelles sont les préoccupations. On a des préoccupations de notre côté et puis c'est une invitation à continuer de parler et discuter pour éviter le scénario où on continue de se battre. » Parce que c'était très clair dans notre tête que c'était le scénario favorable de s'entendre sur une avenue et d'éviter tous les litiges et puis la confrontation. Ça fait que voyez la comme une lettre -- quand vous lisez la lettre actuellement, il y a des éléments qu'on sait très clairement qui avaient été énoncés par TransCanada comme des avenues possibles et des éléments que nous avions énoncés comme des avenues possibles et puis on voulait explorer tout ça à ce moment-là.

5869. **MS. VAN IDERSTINE:** So in terms of that discussion, certainly one of the aspects that was part of that discussion was the concern of stranded assets on the Western Mainline?

5870. **M. CABANA:** Je vous dirais que ç'a toujours été référé à -- vous savez, dans la décision, c'était très clair. Il y a certains paragraphes qui parlent du risque fondamental éventuellement et puis je ne pense pas que le risque fondamental, de ma perception, a été seulement relié à du « stranded assets ».

5871. À un moment donné, ce qui a été dit dans la décision c'est que s'il manque de revenus de façon générale, spécifiquement en regard de la rentabilité des chemins reliés au « long-haul », on pourrait avoir à adresser la question du risque fondamental.

5872. Alors ce que je vous dirais, moi, c'est que ce qui était au cœur de la discussion c'est les revenus qui manqueraient au niveau du Mainline sur une base annuelle pour ne pas amener tout l'ensemble du Mainline devant le régulateur et puis créer des problèmes majeurs pour tout le monde.

5873. « Stranded assets » est probablement un élément qui était considéré, mais on n'y a pas référé spécifiquement nécessairement.

5874. **MS. VAN IDERSTINE:** So in terms of that point, I had asked you whether the traditional -- transitional period referenced there was what later became the bridging contribution and ---

5875. **M. CABANA:** Non, à l'époque, on n'avait même pas -- quand on parle de « bridging » il y avait différentes avenues qui étaient sur la table.

5876. J'ai mentionné un petit peu plus tôt que ce qui était le plus criant c'est l'accès à de la capacité. L'accès à de la capacité, on était prêt à dire, « Il peut tu y avoir des options où on ne s'entend pas sur le prix éventuellement. On va s'entendre de façon temporaire pour une période de transition temporaire pour avoir l'accès et puis par après on ira présenter nos cas à l'Office national de l'énergie, qui va pouvoir corriger éventuellement s'il y a des accords sur les prix, sur la façon de l'aborder. »

5877. Alors à l'époque, quand la lettre a été envoyée, c'était pas encore en lien avec le « bridging ». C'était en lien avec la façon de sécuriser des accès à court terme, mais d'éventuellement reporter les discussions, si on ne s'entendait par sur certains principes, à l'Office.

5878. **MS. VAN IDERSTINE:** So perhaps I could just turn you to Exhibit B7-12-05, it was a response to Centra's IRs. It's Centra IR 96-1, and it can be found at Adobe page 193 of 199. And if I can look at that middle table there, if you have that.

5879. And do you see this is just the response from TransCanada to Centra, and they've made an assumption here that if the LDCs reduce their long-haul by 75 percent, and if we look down -- do you see the column which is 75 percent or the line which says "LDC 75 percent"?

5880. So if they decrease their long-haul by 75 percent the resulting toll increase is 228 percent; is that right?

5881. **M. CABANA:** C'est ce que semble dire le tableau.

5882. **MS. VAN IDERSTINE:** And would that toll increase be a just and reasonable toll increase, in your estimation?

5883. **M. CABANA:** Ce qu'on peut mentionner à l'heure actuelle c'est ce qui est présenté. Les hausses de tarifs actuellement qui sont présentés pour la période 2015 à 2020 sont justes et raisonnables.

5884. On ne peut pas actuellement spéculer sur quelles vont être les conditions sur un dossier qui n'est pas encore déposé dans six ans, sur quelles vont être les conditions et puis qu'est-ce qui va faire en sorte que l'Office va pouvoir rendre une décision à qu'est-ce qui est juste et raisonnable à ce moment-là.

5885. Alors je ne peux pas vous dire à l'heure actuelle qu'est-ce qui va être raisonnable à l'époque. Je peux pas vous dire quelle va être la hausse éventuellement dans six ans, du côté de l'EOT non plus, je ne peux pas vous dire ça en ce moment.

5886. **MS. VAN IDERSTINE:** Now, I'd like to talk to you just a moment -- for just a moment about the potential impact of Energy East. And I don't propose to go very far into this, recognizing all of the concerns that have been raised earlier. So I'm just turning your attention to it.

5887. So first of all, do I understand that the outcome of this hearing will not end any potential litigation relating to Energy East as between TransCanada and MAS?

5888. **MS. GIRIDHAR:** That is correct. The settlement agreement explicitly states that Energy East is not part of the settlement.

5889. **MS. VAN IDERSTINE:** Which suggests to me that you may have some opposition to the Energy East proposal once it's fully explained and put out there?

5890. **M. CABANA:** Je crois qu'on va demeurer prudent du côté d'Énergie est. Je crois qu'il y a des discussions -- on entend dans les journaux qu'il y a des propositions qui sont effectuées. C'est clair qu'à l'heure actuelle c'est possible qu'on ne soit pas alignés éventuellement, mais on réserve nos droits sur la base de la preuve qui va être déposée dans ce dossier-là avant de prendre position, de lire le matériel, de lire les propositions et puis on verra à ce moment-là à prendre nos décisions qui sont adéquates.

5891. **MS. VAN IDERSTINE:** And so would the framework which you are asking for -- asking be imposed post-2020 through this application be applicable to anything arising from the Energy East Project?

5892. **M. CABANA:** La façon dont l'entente a été pensée, Energy East, normalement, ne devrait pas avoir d'impacts qui vont faire en sorte qu'il y a des modifications qui vont être apportées par la suite. On pense que c'est quelque chose qui -- il faut exclure Energy East pour l'instant. Il faut exclure tout autre projet que TransCanada pourrait avoir. C'est une façon où le marché va être efficient. C'est une façon de résoudre bien des problèmes actuels et puis on pense que le « framework » qui va être adopté va faire le travail.

5893. **MS. VAN IDERSTINE:** Thank you very much, those are my questions. Appreciate your time answering.

5894. **THE CHAIRMAN:** Thank you.

5895. I believe that it's Mr. Mondrow that is next.

--- (A short pause/Courte pause)

5896. **MR. DUNBERRY:** Mr. Chairman, we may have a preliminary matter to dispose of prior to the beginning of the cross-examination by Mr. Mondrow.

5897. Mr. Mondrow gave me just before -- actually just after the break for lunch -- a witness had left the room already -- a copy of two letters and these letters were reviewed by myself during the lunch break. The copies of these letters were not provided to the witness panel.

5898. These letters refer directly to Energy East and the position of certain MAS members with respect to Energy East in the context of a task force consultation that was initiated by TransCanada.

5899. These letters were not intended to be disclosed outside the context of the Energy East Project and the application that would be provided -- submitted with the Board.

5900. They're not -- and this is more fundamental issue -- the more fundamental issue, they're not relevant. They're not relevant because Energy East is not an issue in this application. It is excluded specifically from the settlement, it is not on the List of Issues and the Board has already rendered one decision on Energy East indicating to all intervenors that questions on issues of tolling and tolling methodologies or toll levels, for instance, were not relevant, and the Board referred to a very narrow path for these kinds of issues.

5901. When I look at these letters there are no possibilities in my mind that these would be used to be on the path. These letters are incompatible with the path that was defined.

5902. Now, Mr. Mondrow told me that these letters may or may not be used depending on the answers of the witnesses, and that he may reserve his right to use these letters if the answers were not satisfactory to him.

5903. I want to make the comment immediately before the cross-examination starts, because I don't want to be seen by not objecting to certain questions that I am comfortable in recognizing the relevance of these letters. So I don't have any objection at this point in time because these letters have not yet been offered to the Board. But Mr. Mondrow indicated that that was perhaps one of his intentions depending on how things turned out.

5904. And I want the Board and my confrère to be made on notice immediately that we will not, for all sorts of reasons discuss before, allow a cross-examination on Energy East, certainly the kind of questions that are indicated by this type of document.

5905. I understand that this matter may have been discussed with TransCanada during questions by other intervenors so maybe others will have comments at the appropriate time. But I simply wanted to be on the record with my comments initially.

5906. These letters were not provided to the witness by the way. And these letters were not provided to us in advance of -- before lunch. We would have expected that those would have been provided to us earlier, yesterday or this morning, but they were not. So they're with me and only with me at this point.

5907. Thank you.

5908. **MR. CHAIRMAN:** Mr. Mondrow?

5909. **MR. MONDROW:** Thank you, Mr. Chairman.

5910. As Mr. Dunberry notes, I have not sought to file these. I may, in fact, not seek to file them. I do apologize to the MAS group and their counsel these letters were not provided yesterday and that was my oversight. I had intended to get up early and email them this morning and that too I neglected to do. And that was my oversight.

5911. So just to clarify what Mr. Dunberry advised you of, I went to speak with counsel at the beginning of the lunch break once the witnesses had left the room, not after the lunch break. Still very late, and no issue about that. The letters are both dated August 4th. One was signed by Ms. Giridhar, one was signed by Mr. Isherwood.

5912. **MR. DUNBERRY:** I don't think it's appropriate that this ---

5913. **MR. MONDROW:** Well, sorry. No, no, I'm sorry.

5914. Mr. Chairman, I'd like to finish. He's objected to something I haven't done yet. He's characterized what I've provided to him and I'm going to correct that, with your permission.

5915. **MR. DUNBERRY:** I have not ---

5916. **MR. MONDROW:** I'd like to complete that first.

5917. **MR. DUNBERRY:** I have not identified the letters on purpose. These are simple documents that were provided to me. They were not exchanged with other parties or other intervenors. They were not provided to the Board. And I think any information on the -- because if my confrère is providing information that will allow the identification of these letters I think that would actually breach the non-disclosure obligation that was entered into during the task force discussions at consultation that these would only be used in the context of the East Energy application.

5918. **MR. MONDROW:** I'm sorry.

5919. **MR. DUNBERRY:** That's my understanding.

5920. **MR. MONDROW:** I must object to that. This letter that I'm looking at was copied, not only to the TTF members, but to the secretary of this Board, the Vice-President of Applications of the Ontario Energy Board, the Ontario Minister of Energy, the Federal Ministry of Natural Resources and its -- on its terms in the opening paragraph intended to be a public document. So I have not breached any confidences from any TTF meeting. In fact, I'm not involved in the TTF meetings.

5921. In any event, I'm not seeking to file them at the moment, Mr. Chairman. I simply wanted to correct the characterization my friend gave to the documents. His characterization is completely inaccurate.

5922. **THE CHAIRMAN:** Mr. Smith?

5923. **MR. SMITH:** Mr. Chairman, Members, from the perspective of Union Gas we strongly object to being diverted into the Energy East application and any of their related issues.

5924. For the purposes of this application there is a narrow path and that is that it was excluded from the terms of the settlement. We object to this attempt to try and through the back door get this information on the record, whether it's being accurately portrayed or not.

5925. But with great respect, the level of detail that he appears to wish to embark upon with respect to Energy East is beyond the scope of this proceeding and unreasonable.

5926. **THE CHAIRMAN:** Mr. Mondrow?

5927. **MR. MONDROW:** Thank you, Mr. Chairman.

5928. It's amazing that my friends have read my intentions and know with certainty where I'm going even when I don't. So I suggest that I proceed with my questions and obviously, they'll jump to their feet if they feel it appropriate. I do not intend to cross-examination in any depth on Energy East.

5929. And as the Board may recall, I was one of the counsel who stood up to suggest the narrow path that ultimately this Panel adopted. So I'm not really concerned about it, Mr. Chairman. I'm happy to move on. I was concerned about the characterization. I've corrected that on the record and I'd like to proceed with my questions, please.

5930. **MR. CHAIRMAN:** I felt the temptation to reread the ruling and re-describe the narrow path. If you do start wanting to use those letters though, I might want to do exactly that. And I'm sure counsel will jump up as they see their rights -- for their rights as they see fit for their clients.

5931. **MR. MONDROW:** Of course. Thank you.

--- EXAMINATION BY/INTERROGATOIRE PAR MR. MONDROW:

5932. **MR. MONDROW:** Ms. Giridhar, gentlemen, good afternoon.

5933. I want to start by asking you whether you've noticed the correlation between my presence in Calgary and the weather, which is stellar today. And could I get you to acknowledge that correlation, please.

--- (Laughter/Rires)

5934. **MR. ISHERWOOD:** No.

--- (Laughter/Rires)

5935. **MR. MONDROW:** Okay. I'm filing the letters.

--- (Laughter/Rires)

5936. **MS. GIRIDHAR:** I have some training as an economist and I know correlation doesn't mean causation, Mr. Mondrow.

--- (Laughter/Rires)

5937. **MR. MONDROW:** Synchronicity I think is the name of one of my favourite record albums, there dating myself.

5938. But in any event, Mr. Chairman, I'll move on. Thank you. I just wanted to lighten the mood.

5939. I'd like to start with the MAS opening statement, which is Exhibit

C12-10, I believe, and I'm looking at page 3. In this case the paper pages and the Adobe pages match. And I'm looking at the top of that page.

5940. And just before I get to the excerpt I wanted to start with, Ms. Giridhar and others, you referred many times today to the term "market access" and I just want to make sure that my understanding of what your -- that shorthand for is correct, which will help me in my questions and not confusing you.

5941. And I'm assuming that when you talk about market access you're referring to the desire of eastern Canadian gas consumers and their representatives, indeed the local distribution companies, to access northeastern gas -- northeastern -- North American gas supplies, mostly north, northeastern U.S. gas supplies.

5942. **MS. GIRIDHAR:** It's more generic than that. It's the ability of shippers to access supplies at the receipt points that they choose. It may or may not be North American shale gas.

5943. It's not restricted to the EOT, it's not restricted to the MAS members; it's about having access to preferred sources of supply and needed capacity.

5944. **MR. MONDROW:** All right. Well, let's work with that as we go then.

5945. Let's go to the opening statement. The first paragraph on that page 3 says:

> *"In the summer of 2013, complaints and litigation on several fronts were pursued by the various parties, which effectively paralyzed eastern markets in their efforts to secure capacity needed --"*

5946. And I emphasize the word "needed".

> *"-- to serve their franchises, to implement decisions made by their regulators, and to provide access to diversity of supply."*

5947. Just looking at the word "needed", can I replace that word "needed" with a phrase to the effect of "very strongly desired"; would that be acceptable to you?

5948. **M. CABANA:** Je vais parler pour Gaz Métro. Avant l'émission de la décision en mars 2013 ---

5949. **MR. MONDROW:** I'm sorry, Mr. Cabana, I have to change my channel. I apologize.

5950. **M. CABANA:** O.k.

5951. **MR. MONDROW:** I'm even more embarrassed than Mr. Holgate, but I think I'm okay now.

5952. **M. CABANA:** O.k. Avant l'émission de la décision en mars 2013, il y avait des ententes où Gaz Métro était pour obtenir des capacités courte-distance pour 260,000 gigajoules/jour, qui représente à peu près 25 pourcent des capacités dont on a besoin. Contractuellement, tout était fait. Les décisions avaient été prises d'abandon d'autres contrats et ça rentrait dans notre portfolio, comme ça avait toujours été fait historiquement. Le marché était efficace.

5953. La décision est apparue. Quelques semaines plus tard, on a reçu une lettre nous disant que TransCanada, à la lumière de la décision qui avait été émise, ne pouvait plus nous desservir et nous donner accès à ces chemins-là.

5954. Alors je crois que votre caractérisation de dire « désire » c'est vraiment « besoin ». Parce qu'à ce moment-là, le 260,000, si on ne trouve pas une façon -- si on ne trouvait pas une façon à ce moment-là de convaincre TransCanada de nous servir ou une alternative de notre côté, on était pour être en manque. Alors je suis obligé de dire que « désire » était très réducteur par rapport à la situation réelle.

5955. **MR. MONDROW:** Maybe I'm misunderstanding which capacity you're referring to, Mr. Cabana. If the EOT expansion facilities contemplated by the settlement agreement do not get constructed in the timeframe contemplated by the settlement agreement, is it the case that Gaz Métro will be unable to physically secure supply for its market?

5956. **M. CABANA:** C'est le cas à l'heure actuelle. J'ai mentionné ce matin qu'à l'heure actuelle, dépendamment des scénarios, il y a 20 pourcent au minimum et puis ça monte jusqu'à des pourcentages très élevés des capacités qu'on a besoin pour desservir le Québec qui ne sont pas accessibles.

5957. J'ai mentionné ici ce matin également qu'à l'heure actuelle, Gaz Métro n'avait pas accès à des services fermes en « long-haul » ou en « short-haul ». C'est un réel problème. C'est pas une question de désir. C'est une question d'urgence. C'est une question d'accès à avoir les capacités pour desservir notre marché à court-terme.

5958. **MR. MONDROW:** What happened to the capacity that you gave up when you made the switch?

5959. **M. CABANA:** De notre côté, il faut comprendre que Gaz Métro, quand on fait nos prévisions en temps normal, on fait affaire avec certains joueurs sur le marché secondaire où on a des contrats qui viennent à terme après un certain nombre d'années, qui eux font affaire avec TransCanada.

5960. On a des contrats dans notre portfolio où clairement à l'époque on avait mis fin à certains contrats « long-haul » parce qu'on avait, de notre côté, l'assurance qu'on était pour obtenir les capacités « short-haul » que TransCanada nous avait dit, « Vous allez les obtenir. » On s'était entendu à l'époque.

5961. Ce qui arrive, par la suite, comme je vous indique, une fois que la décision a été émise, TransCanada se retrouve dans une situation difficile et puis on a l'impression que donner l'accès et honorer ces ententes-là feraient en sorte de précipiter le Mainline dans une spirale tarifaire.

5962. La situation, comme je vous l'ai expliqué ce matin, il fallait qu'on trouve une solution. Mais Gaz Métro n'avait pas d'alternatives sur le marché à part se tourner vers le marché secondaire à l'époque, puis trouver d'autres chemins éventuellement qui coûtent un peu plus cher.

5963. On a trouvé des moyens à court terme. On s'est entendu à court terme le temps que l'entente éventuellement prenne effet.

5964. Mais la réalité, comme je vous l'ai mentionné ce matin, la -- y a eu du succès. Y a des -- beaucoup de clients industriels qui avaient pas besoin de capacité ferme qui sont revenus vers nous puis qui nous ont dit, « Pouvez-vous sécuriser pour nous des capacités dont on a besoin pour être desservi? »

5965. Alors nous, au fur et à mesure nos besoins continuent d'augmenter. Aujourd'hui on l'a pas cette capacité-là.

5966. Je peux pas vous dire du côté de TransCanada ce qui est arrivé avec les capacités. C'est pas moi qui contrôle de l'autre côté les capacités, puis où est-ce qu'elles vont et -- de façon détaillée.

5967. Je peux juste vous dire que l'accès pour l'instant on l'a pas.

5968. **MS. GIRIDHAR:** Mr. Mondrow, I also have a context for Enbridge in terms of why the capacity is needed. Would you like me to explain that?

5969. **MR. MONDROW:** Absolutely but I just want to make sure I'm understanding, Mr. Cabana, if you wouldn't mind.

5970. And, Mr. Cabana, am I understanding your evidence to be that if you had to go out and contract for that -- I think you said it's 20,000 GJs? Is that what you said?

5971. **M. CABANA:** À l'époque-là pour le projet -- spécifiquement pour le projet King's North, on parlait de 260,000 gigajjoules/jour.

5972. **MR. MONDROW:** Sorry. I slipped a decimal point. I do that all the time, I'm sorry.

5973. **M. CABANA:** O.k.

5974. **MR. MONDROW:** It's not intentional, 260,000 GJs a day.

5975. **M. CABANA:** O.k.

5976. **MR. MONDROW:** If you had to contract for that capacity to your franchise, it would be unavailable anywhere? Is that what -- is that -- am I understanding that correctly?

5977. **M. CABANA:** À ce moment-ci, Gaz Métro n'a pas accès, n'a pas la possibilité de contracter sur une base ferme avec des droits de renouvellement, que ce soit en « long-haul » ou en « short-haul » pour combler ses besoins. C'est la situation dans laquelle on est à l'heure actuelle.

5978. **MR. MONDROW:** And absent TransCanada's willingness to expand the short-haul system that will remain the situation?

5979. **M. CABANA:** Ben je dirais que si y a pas -- si y a pas une façon -- si on trouve pas collectivement ce qui -- ce qui représente le « settlement » à l'heure actuelle. Si collectivement on ne trouve pas la façon d'emmener TransCanada dans une prédisposition ou ils considèrent qu'ils ont une opportunité raisonnable de récupérer leurs coûts et qu'ils veulent investir, Gaz Métro, comme on l'expliquait ce matin, va devoir regarder à toutes les autres options.

5980. Investir soi-même tout -- est-ce que c'est sur certaines parties du -- des chemins qu'on a besoin avec des points d'interconnections sur TransCanada en venant se -- je vais le dire -- je vais utiliser mes mots -- en venant se battre devant l'Office pour avoir accès éventuellement? C'est une option.

5981. Est-ce que ça va devoir être bâtir nous-mêmes à partir de Dawn? Toutes les options vont être sur la table. On peut juste pas baisser les bras puis dire qu'on abandonne, puis qu'à l'heure actuelle on ne peut pas desservir notre marché.

5982. **MR. MONDROW:** I always have to wait for the translator to finish.

5983. **MR. CABANA:** That's fine.

5984. **MR. MONDROW:** That's why I look at you with a blank stare.

5985. Ms. Giridhar, I'm going to allow -- I'm going to come back to you but if you don't mind I'm still not, and maybe it's just me, 100 percent clear.

5986. Mr. Cabana, Gaz Métro held long-haul contracts from the WCSB to serve its franchise. What you seem to -- what I understand you to be telling me is when the decision was made by Gaz Métro and approved by the Régie to switch your supply portfolio to Dawn.

5987. In anticipation of that you let contracts go. You let them expire. Turned them back, whatever terminologies that -- the correct terminology, and you are physically unable to regain that capacity now.

5988. So you are without capacity unless these projects get built?

5989. **M. CABANA:** C'est une -- c'est une partie de la réponse. Une partie des capacités qu'on regarde à l'heure actuelle. C'est des contrats qu'on a, oui, auxquels on a mis fin.

5990. Y a une partie également que ce sont des contrats à l'heure actuelle où nos clients en interruptible reviennent vers nous. Ils disent -- nous, la décision contemplait justement -- puis c'est un des effets bénéfiques que la décision contemplait -- que les clients qui étaient en mode interruptible reviendraient vers des contrats fermes.

5991. Ben ils reviennent vers nous. La façon de retourner vers des contrats fermes c'est d'aller cogner à la porte de leurs distributeurs puis de lui dire, « Pouvez-vous me donner un contrat ferme où je suis assuré d'avoir les capacités dont j'ai besoin? »

5992. Puis nous actuellement, sur la base qu'on a trouvé une solution qui va ramener les bases d'un marché efficient, on les accepte pour l'instant. On leur a pas dit, « Ben on vous laisse tous seuls là avec vos problèmes. »

5993. On prend ces engagements-là, puis on dit, « On va essayer de trouver la façon -- puis on va essayer de trouver la façon auprès de TransCanada d'avoir accès à des chemins pour vous desservir. » Fait que c'est une combinaison.

5994. **MR. MONDROW:** That wasn't my question. The -- your customers that were using discretionary service had a pipeline serving them and what you -- in answer to my question, what I understood you to say, is they've since come back to us, given the occurrences in the market, including the discretionary pricing.

5995. They've said we need you to accept transportation responsibility for us. You want to firm up. I'm asking you whether it is physically impossible for you to get capacity from the WCSB or anywhere else, to fulfill your service obligations, absent the projects -- the project that TransCanada has now or will shortly propose, the King's North Project.

5996. **M. CABANA:** Je pense que j'ai donné la réponse. Je vais la répéter pour fin de clarté, pour éclaircir.

5997. TransCanada -- Gaz Métro à l'heure actuelle, est dans un état de captivité. J'ai nuancé ce matin ce que voulait dire « état de captivité. » Ça voulait pas dire que dans des cas extrêmes qu'on n'était pas pour avoir recourt à des méthodes extrêmes.

5998. Mais ce qu'on dit -- à l'heure actuelle la seule -- le seul transporteur vers qui ont peut se tourner pour desservir nos besoins, c'est TransCanada.

5999. Et TransCanada à l'heure actuelle les services qui sont offerts, sur une base ferme avec des droits de renouvellement, sont insuffisants pour les besoins actuels qu'on a.

6000. Ils sont insuffisants pour répondre aux besoins des nouveaux investisseurs étrangers qui veulent investir $1.6 milliard au Québec, mais qui se disent j'ai besoin de capacité.

6001. On n'a pas ce qui faut. TransCanada -- pour l'instant l'offre est pas sur la table.

6002. **MR. MONDROW:** All right. I'll come back to the new foreign investors. Without the new foreign investors it -- does it remain physically impossible for you to serve your franchise today?

6003. **M. CABANA:** Oui, les capacités à l'heure actuelle -- juste pour IFFCO -- IFFCO on parle de 85,000 gigajoules/jour -- même en mettant de côté les capacités d'IFFCO et le besoin spécifique à ce client-là, il nous en manque quand même un volume important.

6004. **MR. MONDROW:** And you cannot obtain it in today's market?

6005. **M. CABANA:** Non.

6006. **MR. MONDROW:** So I have to ask you, what -- you had the capacity, what happened to it?

6007. **M. CABANA:** Je peux pas vous dire ce qui est arrivé avec la capacité. Éventuellement y a tu eu une croissance puis j'ai -- on n'a pas un département chez Gaz Métro où on poursuit puis on a le détail de tout ce qui -- du Mainline dans l'EOT, exactement puis où est-ce que vont les capacités, effectivement.

6008. On peut suivre puis on peut avoir un avis éventuellement pour se dire, o.k., puis on prend des décisions prudentes pour gérer notre portfolio, qui sont toujours expliquées avec notre régulateur. Les décisions ont toujours étés jugées prudentes, puis on prend les bonnes décisions. Ce que je vous dis, c'est que depuis que la décision a été émise ça changé l'environnement.

6009. Je peux pas vous dire du côté de TransCanada qu'est-ce que -- qu'est-ce qui est disponible, qu'est-ce qu'il l'est plus.

6010. Je peux vous dire que ce que je sais, puis on fait référence, le terme anglais qu'on a utilisé c'est « TransCanada is not willing », « unwillingness to serve. ». Actuellement la situation c'est avec la décision, Gaz Métro ne réussit pas à avoir des services qui lui sont offerts pour combler ses besoins de la part de TransCanada.

6011. J'ai expliqué ce matin qu'on comprenait dans quel environnement c'était, pourquoi c'était ça. Puis qu'éventuellement si on -- si on n'adoptait pas la solution qu'on vous propose ici, les différentes alternatives et scénarios qui pourraient être poursuivis.

6012. Tout ça pour résumer -- puis ça part de là, Monsieur Mondrow, vous faites référence à désir de la part des LDC de s'approvisionner ailleurs.

6013. Je vous dirais que c'est -- c'est pas un désir, c'est un besoin. C'est un droit. C'est un droit pour n'importe quel « shipper » également de s'approvisionner, de choisir sa source.

6014. **MR. MONDROW:** Ms. Giridhar, I will come back to you. But I -- now I'm getting Mr. Holgate's frustration, Mr. Cabana, and I'm sorry but I don't need a speech about short-haul access, I don't need a speech about TransCanada's toll preferences.

6015. I asked you whether physically there's capacity and am I correct that your answer is today you cannot go out and contract for 2015 and beyond, sufficient physical capacity at any price?

6016. It doesn't exist today. You had it, you let it go. Somehow it's gone and you can't get it back. Is that your evidence?

6017. **MR. DUNBERRY:** Mr. Chairman, the expression that came to me is 'Groundhog's Day', we're again asking the witness to repeat again, and again, and again, the same answer to the same question.

6018. Comments like ‘please make no speeches’ and ‘stop making speech’ and ‘I’m now getting frustrated as Mr. Holgate was this morning’, one is not helpful.

6019. Two, Mr. Cabana is trying to give his perspective, his position. He’s giving facts. He’s answering questions. He’s extremely nuanced in his answers to make sure everybody understands what he’s trying to explain.

6020. And I don’t appreciate these kinds of comments. I don’t think they’re helpful and I would simply invite Mr. Mondrow to ask questions and be satisfied with the answer, even if the answer is not what he was expecting to obtain.

6021. **THE CHAIRMAN:** Mr. Mondrow?

6022. **MR. MONDROW:** I have nothing to say, Mr. Chairman. I’m just waiting for my answer.

6023. **M. CABANA:** Je vais -- je vais rajouter de l’information supplémentaire pour essayer de vous donner -- si votre question est à savoir est-ce que vous pensez que Gaz Métro pourrait trouver de la capacité en faisant appel au marché secondaire à peu importe le prix, il pourrait faire appel à d’autres moyens éventuellement?

6024. Je peux pas vous répondre. C'est possible. Je sais qu’actuellement on est en train -- on a été durant certaines périodes où on a été pendant des mois à essayer de trouver -- même auprès du marché secondaire -- certaines capacités à des prix qui étaient très élevés. Ça pas été facile.

6025. Ce que je vous dis à l’heure actuelle, c'est avec ce qu’on voit. Même dans le marché secondaire avec l’offre en capacité ferme, c'est pas suffisant pour répondre à nos besoins.

6026. Je sais pas comment je peux être plus clair que ça. Désolé si ça vous cause quelques problèmes.

6027. **MR. MONDROW:** No, you don’t have to apologize. Thank you.

6028. Ms. Giridhar, you wanted to add something?

6029. **MS. GIRIDHAR:** You were drawing a distinction, Mr. Mondrow, between "needed capacity" and "strongly desired", I think was the phrase you used.

6030. I just wanted to provide context for Enbridge Gas Distribution. So Enbridge's regulator has historically ruled that we should be using long-haul contracts at 100 percent load factor so that it can be fully utilized and short-haul contracts to meet the seasonal load of the franchise.

6031. You may be aware that over 90 percent of Enbridge's customers are -- use gas for heating purposes, therefore, we have a very low load factor, approximately 30 percent. Industrial load in comparison is fairly low relative to our residential and commercial.

6032. In the mid-2000s, we found that a lot of the direct purchase volumes that were flowing into the franchise which were absolutely required to meet the peak period requirements of a franchise had a fair degree of opacity around -- we didn't really know what was being used to deliver those volumes. We didn't see any firm contracts underpinning those volumes. And that became an issue in the form of a system reliability proceeding at the OEB.

6033. That issue was settled among intervenors, and the conclusion was that we would use STFT, or Short-Term Firm Transportation, as a means of meeting those seasonal needs without the attendant, you know, unutilized demand charges related to long-haul transport.

6034. As a result of the RH-003 decision, we decided that we were not going to seek STFT. We got special dispensation in terms of procuring long-haul by way of a settlement with our intervenors.

6035. What is important to note is that the anticipated unutilized demand charges for this transport were parked separately in a deferral account and so they're not included in rates, and we have to go back to our customers afterwards to seek recovery of these costs. It's intended to make sure that it conforms with the way the Board has historically ruled, that we shouldn't be forecasting unutilized demand charges with respect to our long-haul transport.

6036. I mention this merely to state that, provincially, we are expected to use a mix of, you know, of assets in our portfolio to meet base demand and seasonal demand. And this is how the Board has historically ruled.

6037. So if you ask me do I have a preference to go short-haul to meet seasonal demand, I would say no, I have a need to go short-haul to meet seasonal demand.

6038. **MR. MONDROW:** Ms. Giridhar, Enbridge's evidence in that application you were talking about, which was resolved by consensus with your customers, indicated that the exposure on STFT given the discretionary pricing was more -- it was higher, it was more expensive potentially to go that route than to use long-haul FT. Is that correct?

6039. **MS. GIRIDHAR:** Correct. And ---

6040. **MR. MONDROW:** And on that -- sorry, on that basis, the matter was put to the Board as a settlement and the Ontario Energy Board accepted that the most economic option was the long-haul FT that Enbridge had proposed; correct?

6041. **MS. GIRIDHAR:** I also note that the unutilized demand charges related to the long-haul FT were not recoverable in rates, and they will be recoverable in the future ---

6042. **MR. MONDROW:** Right. And you're ---

6043. **MS. GIRIDHAR:** --- based on the utilization.

6044. **MR. MONDROW:** --- you're in an incentive regulation period; correct?

6045. **MS. GIRIDHAR:** Correct, not with respect to gas costs.

6046. **MR. MONDROW:** No.

6047. **MS. GIRIDHAR:** That would be a completely different risk profile than what we currently have.

6048. **MR. MONDROW:** You have UDC embedded in rates already; right? You have UDC costs embedded in your approved rates now?

6049. **MS. GIRIDHAR:** Not for long-haul.

6050. **MR. MONDROW:** No, but for your transportation portfolio.

6051. **MS. GIRIDHAR:** Not for the long-haul element of the transportation portfolio.

6052. **MR. MONDROW:** And so ---

6053. **MS. GIRIDHAR:** They are parked in a deferral account. They're not in rates.

6054. **MR. MONDROW:** Right.

6055. **MR. ISHERWOOD:** Mr. Mondrow, if I could have a moment as well.

6056. **MR. MONDROW:** Please.

6057. **MR. ISHERWOOD:** I guess on the word “needed” for Union Gas, I guess, really, two point.

6058. The first is we have also had customers come back to us, industrial customers, wanting to convert from discretionary service and come back to Dawn. So for them on discretionary services today, the recourse back to Dawn is what their strong preference is and I think probably their only choice given the length of term you have to sign. And likely an industrial would pay the long-haul toll to go back to Empress.

6059. So we have a group of customers that have asked us to do that for them, the part of our 2016 bid. So I would agree, for them, it's a need.

6060. On behalf of the system supply customers in which Union Gas is buying a lot of gas for our system and supply, obviously we’re converting from long-haul to short-haul. But the OEB through our Parkway projects have recognized that the security of supply, diversity of supply of switching from long-haul to short-haul is good. It’s in the public interest for Ontario and for Union’s customers, and approved our projects on that basis.

6061. **MR. MONDROW:** And Ms. Giridhar, if this Board declines to accept the settlement agreement, do you risk supply failure in the winter of 2015?

6062. **MS. GIRIDHAR:** Let me think about that question.

6063. In terms of 2015, we now have the expectation that the GTA Project will come into service to meet the needs of the Toronto area. And we have an FT-NR arrangement for almost 150,000 gigajoules that would meet the needs of the EDA.

6064. However, post-2015, we do not have capacity to the EDA. Approximately 25 percent of the capacity needs of the Ottawa area are not currently contracted for outside of the settlement agreement and the new capacity open season that we participated in.

6065. **MR. MONDROW:** Is there capacity available to contract?

6066. **MS. GIRIDHAR:** For the EDA?

6067. **MR. MONDROW:** Yes.

6068. **MS. GIRIDHAR:** No.

6069. **MR. MONDROW:** There's no capacity available.

6070. **MS. GIRIDHAR:** No.

6071. **MR. MONDROW:** Mr. Isherwood, would Union experience supply failure in the winter of 2015 absent approval of the settlement agreement?

6072. **MR. ISHERWOOD:** We would not.

6073. **MR. MONDROW:** And beyond 2015?

6074. **MR. ISHERWOOD:** No, we would not.

6075. **MR. MONDROW:** And Mr. Cabana, your evidence is Gaz Métro would experience supply failure unless you can find gas somewhere else.

6076. **MR. CABANA:** Yeah.

6077. **MR. MONDROW:** Thank you.

6078. Then you're in big trouble, absent approval of this agreement, obviously. It's amazing that we are at this point, really.

6079. I'm sorry, Mr. Dunberry, I'll withdraw the comment. I didn't mean to be pejorative. I'm just really interested in the testimony.

6080. But I'll withdraw it, Mr. Chairman, if Mr. Dunberry has heartburn over it.

6081. In respect to IFFCO, Mr. Cabana, you've mentioned industrial interests looking for new supply. I think you're referring primarily to the IFFCO plan. They filed letters of comment in this proceeding. Is that correct?

6082. **M. CABANA:** Quand vous dites « principalement », c'est probablement l'investissement étranger qui pourrait se matérialiser au Québec le plus important de la dernière décennie, oui.

6083. **MR. MONDROW:** Right. And you speak with some wisdom and authority in respect of their current status of development.

6084. I gather that you can confirm that, but for gas supply, everything else about their project is now locked down and ready to go. Is that correct?

6085. **M. CABANA:** C'est l'œuf ou la poule. Vous savez, normalement quand qui a des projets, quand une compagnie veut investir 1.6 milliard, les banquiers avant de donner leur o.k. final veulent être sûrs qu'il va y avoir des capacités de gaz. Ils veulent être sûrs que ça va fonctionner.

6086. Alors ce que je vous dirais c'est que je fais pas partie de l'équipe de direction d'IFFCO. Mais je peux facilement imaginer -- puis ce que j'ai comme information c'est que sécuriser un approvisionnement pour pouvoir desservir cette compagnie-là, est l'étape importante à franchir pour pouvoir sécuriser les banquiers.

6087. Est-ce que à l'intérieur de l'équipe de management ils ont d'autres préoccupations? C'est pas moi qui peux vous le dire.

6088. **MR. MONDROW:** And IFFCO's asked Gaz Métro to procure that capacity on its behalf?

6089. **M. CABANA:** Oui.

6090. **MR. MONDROW:** Do you know if IFFCO has any ---

6091. **M. CABANA:** Je dois vous dire que quand on parle d'IFFCO, c'est pas seulement IFFCO. Le gouvernement du Québec, les -- tout le monde réalise à quel point ce projet-là est important pour le Québec.

6092. Alors tout le monde se tourne vers Gaz Métro à l'heure actuelle pour lui -- en nous disant, « Faites le maximum que vous pouvez faire pour pas qu'on échappe un projet comme celui-là. » Puis c'est ce qu'on essaie de faire.

6093. **MR. MONDROW:** Okay, thank you.

6094. Still on your opening statement, panel, I'm going to go to page 5 towards the bottom. It's the last paragraph that starts on the page, and it says:

> *"As a result of segmentation, Western shippers will not be responsible for new EOT investments and eastern shippers and their provincial regulators will not be deprived of their fundamental rights to choose how to supply gas needs of their respective franchises to meet their statutory responsibility towards their current and future customers."*

6095. I gather this is your evidence so you'll endorse this statement and agree with me that it's your belief each of you -- Mr. Cabana, Mr. Isherwood and Ms. Giridhar -- that you -- your companies have fundamental rights to access transportation capacity either in place or to be built by TransCanada? Is your fundamental legislative and regulatory legal rights?

6096. **MR. DUNBERRY:** Mr. Chairman, I will allow the witness panel members to provide their answers to this obviously on the understanding that they're not providing a legal opinion, and I understand that that might be an issue in the argument for Mr. Mondrow. So I'm more than happy to let the witness provide their responses to this while the legal issue might be discussed later.

6097. Thank you.

6098. **MR. ISHERWOOD:** Can you repeat the question, please?

6099. **MR. MONDROW:** Sure.

6100. **THE CHAIRMAN:** We understand your position, Mr. Dunberry.

6101. **Me DUNBERRY:** Pardon -- sorry, I ---

6102. **LE PRÉSIDENT:** Non, on comprend la ---

6103. **MR. DUNBERRY:** Thank you.

6104. **LE PRÉSIDENT:** --- la distinction que vous avez faite.

6105. **MR. DUNBERRY:** Thank you.

6106. **MR. MONDROW:** It might make it easier -- and that's fine. I appreciate that, Mr. Dunberry.

6107. Let me -- Mr. Isherwood, you asked if I could repeat the question. Maybe it's easier if I just ask you. What do you mean by "fundamental rights" in that sentence? Maybe that's more helpful.

6108. **MR. ISHERWOOD:** Fundamental right is basically having choice. Others before us have had choice in terms of going to Dawn, going to Emerson, and from our perspective open access is a fundamental principle of the settlement. Open access is a fundamental part of the settlement. And it's the core running through the entire agreement of getting open access for our customers, for other shippers outside of the EOT, ANE group for example, and it's covered by that point.

6109. **MR. MONDROW:** And this is a regulatory principle, in your view?

6110. **MR. ISHERWOOD:** I think it's a right to be able to access gas where you want to buy gas.

6111. **MR. MONDROW:** As a regulatory principle?

6112. **MR. ISHERWOOD:** I think you're getting into a legal -- a legal NIT to that point.

6113. **MR. MONDROW:** Okay. Thank you.

6114. **M. CABANA:** Est-ce que je peux apporter mon -- ma vision qui est loin d'être la vision d'un avocat probablement.

6115. Je crois que c'est enchassé dans le NEB Act puis c'est dans les objectifs. Quand je suis allé sur le site de l'office, j'ai vu une phrase très spécifique qui disait que l'office dans ses responsabilités, avait la responsabilité de s'assurer que toutes les entreprises réglementées qu'elle réglemente demeurent des « open access pipelines ».

6116. Vous pourrez poursuivre cette discussion-là éventuellement avec les avocats mais pour moi c'est fondamental.

6117. Quand vous me dites, est-ce que -- pourquoi -- de quelle façon -- qu'est-ce que ça veut dire exactement? Je vous dirais qu'à partir du moment où Gaz Métro ou un « shipper » dans l'est du Canada demande seulement d'avoir accès aux mêmes avantages que n'importe qui va avoir au travers le Canada, s'entend avec son propre régulateur provincial sur les propos, sur la raisonnabilité -- puis ça tout été débattu avec son régulateur, je verrais d'un très mauvais œil, puis je ne suis pas un avocat encore là, que quelqu'un d'autre essaie de dire, bien, c'est pas vous au Québec puis c'est pas votre régulateur non plus qui décidez où vous vous approvisionnez éventuellement.

6118. Je pense que -- je devrais répondre ma perception à cet égard-là.

6119. **MR. MONDROW:** Thank you.

6120. Ms. Giridhar, do you believe that it's a fundamental right of your company to access the gas supply that you choose?

6121. **MS. GIRIDHAR (off mic):** Again, prefacing that I don't have ---

6122. **MR. MONDROW:** Microphone.

6123. **THE CHAIRMAN:** Mic, please.

6124. **MS. GIRIDHAR:** Again, prefacing that -- that I'm not a lawyer and therefore not speaking as one. I'll put it to you that, you know, we are engaged in the act of procuring supply and transport to meet the needs of our customers.

6125. I put it to you that if I've got -- if I'm subject to the deferral of costs that I need to incur and I have no option but to incur to serve my customers then I do seek as a fundamental right the ability to choose supply such that I don't have to endure these kinds of deferrals.

6126. So to the extent that the OEB has historically ruled that long-haul must be used at 100 percent load factor and Enbridge -- Enbridge's shareholders incur risk with respect -- with respect to unutilized demand charges then Enbridge seeks for itself the ability to access that short-haul supply so it's not subjective at-risk.

6127. That's one explanation, fundamentally. I think we've laid that out in our evidence as providers of gas supply to our customers we do seek reliability, diversity, you know, competitive costs, all of those things for our supply portfolio. So in that sense as well it's important that we have access.

6128. **MR. MONDROW:** Ms. Giridhar, you've referred a couple times now to this historical approach that the OEB has taken in respect of unutilized demand charges. It's a new world, right; regulation is changing to adapt and respond to this new world. That was the premise of your facilities applications I believe; is that correct?

6129. **MS. GIRIDHAR:** Excuse me, what was the premise ---

6130. **MR. MONDROW:** The premise of your facilities applications was it's the new gas supply world now, the Mainline's changed, gas supply basins are in decline or are rising, the dynamics are changing, it's a new world, and the regulator approved your projects on that basis didn't they?

6131. **MS. GIRIDHAR:** Yes, we did provide evidence that there is gas in close proximity to the Enbridge franchise and that it provides competitive advantages to secure that supply.

6132. **MR. MONDROW:** And the MAS has filed evidence in this proceeding to underscore how gas flows and economics are changing in North America.

6133. **MS. GIRIDHAR:** That is ---

6134. **MR. MONDROW:** Have been and will continue to be.

6135. **MS. GIRIDHAR:** That is correct.

6136. **MR. MONDROW:** And so perhaps in this new world it may be an appropriate time to revisit the historical approach to UDC in Ontario?

6137. **MS. GIRIDHAR:** I'm suggesting to you that a settlement agreement drawn as recently as last November for this past winter required us, essentially, by way of that negotiation, to put these dollars into a deferral account.

6138. **MR. MONDROW:** By agreement with all of your customers?

6139. **MS. GIRIDHAR:** Excuse me?

6140. **MR. MONDROW:** By agreement of all of the customers acting in ---

6141. **MS. GIRIDHAR:** That is correct.

6142. **MR. MONDROW:** Okay.

6143. **MS. GIRIDHAR:** But -- so there will be significant challenges, and it simply makes sense to be able to procure the right kind of supply to meet seasonal demand.

6144. **M. CABANA:** Je me sens obligé d'apporter le commentaire ---

6145. **MR. MONDROW:** I'm sorry, Mr. Cabana, I meant to turn this off in between, so I apologize for interrupting you. I just want to make sure I don't miss it.

6146. Thank you.

6147. **M. CABANA:** Je me sens obligé d'apporter le commentaire que j'ai malheureusement l'impression qu'il y a des sujets qui sont débattus auprès des régulateurs provinciaux à l'heure actuelle puis qui devraient concerner Enbridge avec son régulateur ou Gaz Métro avec son régulateur, qui sont amenés ici.

6148. Je ne vois pas le lien. Excusez-moi là, je...

6149. **MR. MONDROW:** Okay. Well let's get back to the questions I was trying to ask. Thank you.

6150. We talked about fundamental protections. You also mention in that same paragraph of your opening statement -- it's quite an opening statement, I might add, which we got on Saturday I believe -- that in the RH-003-2011 decision this Board provided protections against excessive tolls.

6151. Do you recall making that statement in this piece of evidence? It's in that same paragraph. That people need not concern that the NEB -- need not be concerned that the NEB will abandon the protections it provided in ---

6152. **M. CABANA:** Oui puis on a expliqué ce matin dans quel -- dans quelle perspective, qu'est-ce que ça voulait dire éventuellement. Ce qu'on a mentionné c'est que tout le monde devrait trouver -- bien, les « shippers » devraient trouver un réconfort dans les conclusions qui ont été tirées par l'office dans sa décision.

6153. Je crois que Centra y a fait référence également dans sa preuve, qu'ils trouvent un réconfort à cet effet-là; que les tarifs ne pouvaient pas monter continuellement.

6154. **MR. MONDROW:** He's catching up.

6155. And the point of this is that you're reassuring readers that these protections provided by this Board will obtain in the future and people should take some comfort from that; correct?

6156. **M. CABANA:** Bien ce qu'on a essayé de faire c'est dire que nous, on a confiance en l'office. Ils ont fait le travail puis ils ont toujours démontré qu'ils avaient fait le travail de façon adéquate.

6157. Alors, il n'y a pas de raison pour nous de douter que ça ne sera pas fait de façon adéquate aussi dans le futur. Puis on demande aux autres intervenants d'avoir la même confiance que nous.

6158. **MR. MONDROW:** And those protections will continue to be provided by this Board?

6159. **M. CABANA:** On l'espère.

6160. **MR. MONDROW:** And in the RH-003-2011 decision you'll agree with me that the Board found that the $1.42 benchmark long-haul toll was at, quote, “the upper limit for competitive just and reasonable Mainline tolls” at least at the time of that decision? Do you recall that facet of the decision?

6161. **M. CABANA:** On se souvient très clairement, oui, de cette partie de la décision.

6162. **MR. MONDROW:** And the decision further said that tolls cannot continue to rise; correct?

6163. **M. CABANA:** Est-ce que vous pourriez répéter la dernière partie de votre question?

6164. **MR. MONDROW:** The decision also said that tolls cannot continue to rise?

6165. **MS. CABANA:** Je vous dirais que je pense qu'on passe à côté d'un élément fondamental.

6166. La décision, à l'époque, je pense que c'était très éclairé. La décision avait prévu qu'il pourrait y avoir des circonstances qui feraient en sorte que les tarifs qui avaient été établis ne pourraient pas être maintenus pour une période de cinq ans. C’était très clair. La décision fait référence à certains mécanismes « d’offramp » à ce moment-là qui pourraient faire en sorte qu’on serait aujourd’hui à rediscuter, avant 2017, de l’à propos de ces tarifs-là.

6167. Je vous suggère que c’est exactement ce qu’on fait à l’heure actuelle et que c’est exactement en ligne avec ce que la décision avait établi en mars 2013.

6168. On aurait tous souhaité éventuellement que ces tarifs-là soient maintenus, mais ce n’est pas le cas. Il y a quelque chose qui ne fonctionne pas fondamentalement et puis il faut le corriger.

6169. **MR. MONDROW:** When TransCanada applied in its review and variance application to increase its benchmark toll to $1.52 from $1.42, did Gaz Métro object to that application?

6170. **M. CABANA:** Au moment où ça avait été demandé, oui, je crois qu’on s’était objecté.

6171. **MR. MONDROW:** And Enbridge and Union similarly?

6172. **MR. ISHERWOOD:** I suspect we did.

6173. **MS. GIRIDHAR:** I suspect we did too.

6174. **MR. MONDROW:** And so what's changed since then to make a toll increase to $1.68 ultimately acceptable?

6175. **M. CABANA:** C'est très clair. Je pense qu'on a répété le message depuis ce matin. Ce qui a changé depuis ce temps-là c'est qu'on s'est fait poser des questions. J'y ai référé ce matin. Le Board nous a posé des questions quand Union et Gaz Métro ont « filé » à l'Office en vertu de la section 71. Il y a beaucoup de questions qui ont été émises par l'Office et puis il fallait qu'on y réponde.

6176. Ces questions-là étaient à l'effet « Quels vont être les impacts du GTA Project sur le Mainline? De quelle façon est-ce qu'on devrait considérer le revenue 'deficiency' qu'il va y avoir éventuellement? » Toutes les questions fondamentales qu'on essaye d'adresser aujourd'hui, les questions étaient posées par l'Office à l'été 2013.

6177. On a trouvé une solution pour y répondre à l'heure actuelle. Le marché, comme je l'ai dit, était paralysé à ce moment-là. Il fallait trouver une réponse.

6178. **MR. MONDROW:** The market was paralyzed. You've used that phrase before. What happened between the $1.52 application and now is TransCanada withheld access, that's what happened, right?

6179. **M. CABANA:** TransCanada -- je l'ai mentionné également ce matin -- TransCanada s'est fait dire clairement par l'Office, « TransCanada est responsable de s'assurer de la viabilité de son Mainline. » Je vous soumets respectueusement que TransCanada -- je ne suis pas en train d'entériner tout ce qui a été fait, la façon dont ç'a été fait.

6180. Je suis en train de vous dire que de leur perspective, ils font exactement ce que le Board leur a demandé. Je suis en train de vous dire que l'impact du côté du marché c'est qu'il y a une paralysie et puis on ne peut pas accéder aux capacités dont on a besoin.

6181. Ça fait que le fait est que ce n'est pas une question de savoir qui a tort, qui a raison. C'est une question qu'il y a une situation de crise à l'heure actuelle et puis que le « settlement » est la solution de s'en sortir élégamment pour tout le monde.

6182. **MR. MONDROW:** The crisis – sorry. The crisis situation arose as a result, rightly or wrongly, of TransCanada advising it would not facilitate connection or expansion and increased its risk to declining long-haul volumes. That was the problem created by the decision; correct?

6183. **M. CABANA:** Si je peux me permettre, j'ai lu dans le détail -- on a à peu près 5 000 pages à peu près de preuves qui ont été soumises à l'heure actuelle. J'ai vu des positions à l'heure actuelle de Centra et de ANE qui laissaient sous-entendre que si jamais il y avait un bypass qui se matérialisait dans le futur, que TransCanada devrait assumer ce risque-là et les conséquences qui en suivraient.

6184. Je vous soumets que ça ne tient pas la route. Ça ne tient juste pas la route.

6185. TransCanada essaye, à l'heure actuelle, de faire la job pour protéger la viabilité et puis je vous l'ai dit -- je vous l'ai mentionné -- c'est pas qu'on entérine tout ce qui a été fait et la façon dont ç'a été fait, du tout, mais il y a un problème réel à l'heure actuelle. Puis je ne suis pas prêt à dire que TransCanada a complètement mal agi.

6186. Je suis prêt, par exemple, à gager que si TransCanada avait donné l'accès aussi facilement aux capacités et puis qu'il s'était ramassé avec un problème de 600 millions, qu'il y aurait probablement eu un ou deux intervenants dans la salle qui auraient dit que c'est le problème de TransCanada et des « shareholders » et puis qu'ils devraient le manger eux-mêmes.

6187. On essaye d'éviter ça.

6188. **MR. MONDROW:** No, I appreciate that, and I'm also not casting aspersions on TransCanada's reaction, it's completely economically rational, but that's what caused the crisis?

6189. **M. CABANA:** Bien, je pense, comme je vous l'ai mentionné tantôt, qu'est-ce qui cause la crise, la décision a été émise et puis la décision, en bout de ligne, n'a pas créé un environnement où le principal transporteur au Canada était dans des prédispositions pour servir sa clientèle parce qu'il sentait la menace éventuellement où le Mainline -- la viabilité du Mainline pouvait être menacée.

6190. Alors vous pouvez dire, de votre perspective à vous, que c'est TransCanada. Moi, ce que je vous dis, c'est un ensemble de considérations. La décision en est un.

6191. Pour nous, j'ai mentionné ce matin, la date fatidique pour nous, où il était clair qu'il y avait un problème majeur et puis qu'il fallait qu'on l'adresse, c'est la date où on s'est fait dire clairement qu'à la lumière de la décision qui avait été émise, que TransCanada n'était plus dans une position pour nous servir.

6192. Si vous me dites que c'est TransCanada, c'est vos mots. Il y en a d'autres qui pourraient dire que la décision, en bout de ligne, c'est la décision en tant que telle. Moi, je dis qu'il y a une situation qu'il faut régler à l'heure actuelle, sans trouver un bouc émissaire ou dire de qui c'est la faute. Il y a juste une situation avec laquelle il faut qu'on compose.

6193. Ce que je sais c'est que la menace est réelle.

6194. **THE CHAIRMAN:** Mr. Mondrow, the Board finds this line of questioning not very helpful. We've heard the same question multiple times and the same answer, so I think for us the question was clear, the answer was clear.

6195. Unless you can convince us that you're going somewhere very specific with this that would useful, that would bring something new on the record, I would suggest you move on.

6196. **MR. MONDROW:** Thank you, Mr. Chairman.

6197. Mr. Cabana, when TransCanada made its economic determinations, you and your colleagues applied to this Board to -- for an order that TransCanada accept connection of a bypass facility and provide just and reasonable tolls downstream of that bypass facility. Do you recall that?

6198. **M. CABANA:** Oui, je me souviens très bien qu'on a appliqué pour une interconnexion -- un point d'interconnexion avec le Mainline pour bâtir nos propres infrastructures, oui.

6199. **MR. MONDROW:** Well, you applied to build your own infrastructure. TransCanada said they wouldn't connect you and you asked this Board to step in and resolve that situation?

6200. **M. CABANA:** On n'avait pas le choix de poursuivre toutes les alternatives à la lumière du risque qu'on encourait.

6201. **MR. MONDROW:** I'm not suggesting you didn't have a choice. I'm just asking whether that's what happened. Is that what happened, yes or no? And then you can elaborate, if you need to.

6202. **M. CABANA:** Bien, je pense que je vous avais répondu. Je vous ai dit qu'on a « filé » pour une application durant l'été en vertu de la section 71. Ç'a été fait. Et puis ce qu'on suggérait à l'époque c'était de bâtir notre propre capacité.

6203. **MR. MONDROW:** All right.

6204. Can we just finish off with your opening statement, please, under the conclusion? I just want to understand this part of this evidence.

6205. It says, and it's underlined, and I think that's your underlining:

> *"Whether or not the application is approved, the projects already approved in Ontario will generate revenue shortfalls upwards of $280 million annually beginning in a little over one year from the end of this hearing."* (As read)

6206. If that were the case, Mr. Cabana, if the scenario in your opening statement came to pass and the application was not approved and the projects proceeded and $280 million of shortfall -- revenue shortfalls were generated in one year, we would be back here in an off ramp situation, I think that's the point of the paragraph. Is that what I'm to take from this?

6207. **M. CABANA:** C'est pas seulement ça. C'est pas seulement ça. C'est -- j'ai expliqué ce matin également que quand on parle de spirale tarifaire, à partir du moment où on s'est mis le pied dedans, c'est difficile de revenir en arrière.

6208. Ce qui est mentionné ici c'est qu'on propose une application qui va faire le travail pour bien adresser le problème des coûts de transition et bien les répartir de façon équitable.

6209. Même si l'entente n'était pas actuellement -- même si leur perception c'est que certains intervenants ont l'air de croire qu'on pourrait éventuellement discuter encore pour une année, qu'on pourrait s'entendre, qu'on pourrait magiquement trouver la façon de s'entendre et puis que tout le monde supporte un deal éventuellement à venir, ce message-là ici c'est pour indiquer clairement à tous que les dommages collatéraux vont débuter et s'en viennent.

6210. Le GTA project, il est en place. Même si le « settlement » n'est pas approuvé, il va y avoir des revenus qui vont manquer sur le Mainline éventuellement et puis ça va avoir des effets dominos sur les décisions qui vont être prises au Québec sur d'autres qui vont regarder le Mainline et puis les tarifs et puis qui vont dire, « Les risques sont en croissance. Est-ce qu'on doit trouver une autre façon éventuellement de s'approvisionner? » C'est ça que ça veut dire ça.

6211. **MS. GIRIDHAR:** I think the point of the ---

6212. **MR. MONDROW:** I'm sorry, Ms. Giridhar, just a minute, and I will come back to you again, I promise.

6213. I really respect your passion, Mr. Cabana, but that's not what I asked you. What I asked you was am I to take from this paragraph that if the application is not approved and the projects proceed we will be back here in an off ramp application. Is that what this tells me?

6214. **M. CABANA:** O.k. Je vais essayer d'être clair. Je vais essayer d'être plus clair. Je peux pas vous dire à l'heure actuelle que ça va être ici avec un « off ramp ».

6215. Ce que je peux vous dire c'est que -- est-ce que ça va être une section 71? Est-ce que ça va être un projet que les différents investisseurs au Québec avec le gouvernement vont mettre de l'avant?

6216. Je ne peux pas vous dire qu'est-ce que ça va être. Ce que je peux vous dire c'est que toutes les avenues autres que ce « settlement » là vont mener à des problèmes graves puis -- puis qu'il est dans l'intérêt public d'essayer d'éviter. Ça, je peux vous le confirmer.

6217. **MR. MONDROW:** Mr. Cabana, this is your evidence. It says:

> *"This revenue shortfall alone could trigger the off-ramp established."*

6218. Isn't that what the evidence is telling me?

6219. **MR. DUNBERRY:** Mr. Chairman, again, the answer was asked twice, answered twice. Mr. Cabana is giving a very clear answer, as far as I'm concerned, but he's not giving a simple "yes" and "no" when he answers. It cannot be a simple "yes" or "no".

6220. They are complete answers with the nuance, and these answers are essentially Mr. Cabana's position and Board Members -- panel members can complete that answer.

6221. I don't think there's a point in asking the same question three, four and five times, and that is happening for the last five hours now. Mr. Cabana has been asked many, many times the same, same questions because people want different answers, but that's not the way a cross-examination is conducted.

6222. **MR. MONDROW:** Excuse me, Mr. Chairman. I'm happy to move on, but I don't need tutelage from my friend on how a cross-examination is conducted.

6223. I'll move on with Mr. Cabana. Thank you.

6224. Mr. Cabana, if the scenario set out in your evidence in your Opening Statement comes to pass and we're back here in an off-ramp situation in a year, we will be debating fundamental risk and allocation of that risk. Is that a fair assumption?

6225. **M. CABANA:** Je crois que c'est un scénario probable, oui.

6226. **MR. MONDROW:** And that's a scenario that the Board envisioned in its RH-003-2011 decision.

6227. **M. CABANA:** J'ai pas compris la décision, hein. La décision est devenue mon livre de chevet depuis mars 2013 puis, moi, l'essence de ce que je comprends de la décision c'est que le Board voulait à tout prix qu'une situation comme celle-là soit évitée. Ils ont donné des outils à TransCanada pour l'éviter. Ils ont mis une responsabilité sur les épaules de TransCanada pour l'éviter.

6228. Je pense que ce que le Board recherchait c'est pas de dire, bien y a pas de problème, on parlera de matérialisation de risque fondamental.

6229. Je pense qu'à la base, ce qu'ils veulent c'est que cette situation-là soit évitée parce qu'ils avaient compris, tout comme nous, que c'était majeur en terme d'intérêt public. C'est ce qu'on essaie de faire à l'heure actuelle.

6230. **MR. MONDROW:** Thank you.

6231. Ms. Giridhar, I think I cut you off. I don't know if there was something you still wanted to add. Please do.

6232. **MS. GIRIDHAR:** I have no recollection of what I wanted to say; I'm sorry.

6233. **MR. MONDROW:** That was my plan exactly. Thank you. Sorry about that. Next time I'll let you go and I'll make my own note for myself.

6234. Witnesses, in addition to the tolls arising from the settlement, at least for the 2015 to 2020 period, there are, of course, items excluded from the settlement you've talked about -- well, we haven't talked about those too much. We're not going to. But one of them are the abandonment costs, which have been excluded from the settlement and from the tolls presented.

6235. Is that a correct understanding?

6236. **MR. ISHERWOOD:** That's correct.

6237. **MR. MONDROW:** And so tolls will go up by that extent, at least, from the tolls proposed; correct?

6238. **MR. ISHERWOOD:** Yeah.

6239. **MR. MONDROW:** Okay. And the replacement costs -- and here I'm going to go to Energy East, Mr. Chairman. The replacement costs for the Energy East, the capacity to be removed from the Mainline, especially the -- well, the only replacement costs are in the eastern part of the system. Those are currently subject to some intense debate as among the LDCs and TransCanada, as I understand it.

6240. **M. CABANA:** Quand vous dites que c'est le sujet de débat éventuellement, je pense que j'ai mentionné d'emblée qu'on va attendre -- il y a différentes perspectives, différentes vues.

6241. La seule chose que je peux vous dire je pense qui serait -- qu'il faudrait rajouter au dossier, il y a quelqu'un qui avait posé la question au panel de TransCanada, est-ce que dans toutes les perspectives, Energy East pourrait -- va diminuer les tarifs? Puis la réponse a été 'oui'. Je vous dirais simplement qu'à l'heure actuelle, on ne le sait pas.

6242. On attend de voir quel va être le dossier déposé, dans quelle forme le dossier va être déposé. Puis à ce moment-là, on pourra tirer les conclusions mais on ne le sait pas à l'heure actuelle.

6243. **MR. MONDROW:** Mr. Isherwood, is it your expectation that the tolls will be lowered in the Eastern Triangle as a result of Energy East and the associated projects?

6244. **MR. DUNBERRY:** I don't know, Mr. Chairman, if we have now just crossed that line. I think you've already ruled on toll levels and toll methodologies.

6245. I think the Board has already dealt with the kind of questions that we're now embarking on, and I would simply -- I would simply suggest that -- the expression in French is "chose jugée". I think this has been decided and I think the Board has already indicated that it is not relevant for this Board in the context of this application to hear evidence of the nature that is now being sought.

6246. **THE CHAIRMAN:** Earlier, Mr. Mondrow, I was starting to feel the need to maybe repeat the ruling. At this stage, maybe I will.

6247. If the question relates to toll levels and tolling methodologies of these future projects, that is specifically excluded from this hearing as indicated in the list of issues.

6248. **MR. MONDROW:** Thank you, Mr. Chairman.

6249. So I've been talking to the witnesses -- trying to talk to the witnesses about what started as $1.42 upper limit of competitive just and reasonable tolls is now $1.68 upper limit of competitive just and reasonable tolls. There will be abandonment costs on top.

6250. And I was asking Mr. Isherwood if he thinks that the Energy East and associated projects would lead to further increases in the EOT tolls. That was going to be my question.

6251. If the Panel finds that unhelpful -- and that was it, just directionally. I'm not going to go into what those are or the magnitude or the calculations. If that's unhelpful, then I'll take your guidance.

6252. **THE CHAIRMAN:** Mr. Yates.

6253. **MR. YATES:** Excuse me, Mr. Chairman. As the precipitator of the original ruling and as the Applicant here, I thought I should speak to this briefly at least.

6254. The ruling that you gave earlier was that the impacts at a general level on elements of this application are potentially relevant. And that was the narrow path that you allowed Ms. DeMarco to go down.

6255. My suggestion to you here is that what might happen in respect of applications that are not yet before the Board and will not be -- will be determined by the Board in a separate proceeding is not relevant to what you are to decide in this case, so my respectful submission is that these types of questions fall outside the narrow path that you established in your ruling.

6256. **THE CHAIRMAN:** If you could give us a few minutes.

--- (A short pause/Courte pause)

6257. **THE CHAIRMAN:** Mr. Mondrow, I did not need a few minutes.

6258. **MR. MONDROW:** Sorry, Mr. Chair.

6259. **THE CHAIRMAN:** It is clear that on something that hasn't even been applied for yet, it is difficult for anybody to know what implications that that project might have. So simply based on that, I think we will ask you to move on.

6260. **MR. MONDROW:** I'm sorry, Mr. Chairman, if I could just have one minute.

--- (A short pause/Courte pause)

6261. **MR. MONDROW:** Mr. Chairman, I've been trying to explore, perhaps rather ineffectively, the potential scenarios were the Board to not approve the application as filed.

6262. I had posed to the witness at the time that my friends stood to object a question about the directional impacts that Mr. Isherwood expects for what's currently proposed as the Energy East Group of Projects.

6263. I acknowledge your direction, sir, and with great respect, I am nonetheless going to refer to the letter that Mr. Dunberry raised earlier by way of a "preliminary matter", which I said I would perhaps need to come back to and perhaps not.

6264. It is a letter dated August 4th, 2014 ---

6265. **MR. DUNBERRY:** Mr. Chairman, I announced an objection. I invited my confrère to not refer to the letters. I also invited him not to try to introduce these letters into the record.

6266. I think he is now on that path, and I would now submit that we have a formal objection to any reference to this correspondence because we feel, and I think that our position has been reinforced by your very recent ruling on Energy East a few seconds ago that, although Mr. Mondrow is presenting this with great respect, I think that the issue has been discussed and disposed of.

6267. And I believe that my objection at this point in time following our recent discussion and considering as well the comments made by Mr. Yates that, at this point, having a discussion with respect to a project that does not legally exist in the sense that it’s not yet been filed in the context of a formal application before this Board can only create evidence that may not be helpful, will not be helpful because it's not reliable in the sense that it's pure speculation.

6268. On top of that, the fact that this information would come from letters which are essentially produced in the context of a consultation by the task force in relation to the Energy East Project I think adds to this -- to my objection.

6269. And again, Mr. Smith is reminding me of something I've said earlier. Energy East is specifically excluded from the settlement and, therefore, from the application. And it's not on the List of Issues.

6270. So when you add all these elements, it's extremely difficult to find any relevance in any questions except the very narrow path that has been discussed earlier and we're obviously not on that path at this point.

6271. **THE CHAIRMAN:** Thank you, sir. You answered -- Mr. Smith, you answered one of the questions I wanted to check to see if -- of all the projects named that are part of the settlement, if Energy East was in there. And you've reminded me that they were not.

6272. Without the reference to the content of the letters themselves, could you -- do you have any response to ---

6273. **MR. MONDROW:** I would like to make a response and then, subject to the Panel's direction, I will obviously proceed without the letter if that's your direction.

6274. The response I'd like to make is -- sorry; I was just taking one more note -- is threefold. The first is, this is a 16-year proposal. It's rife with reference to projects not yet before the Board. Indeed, it refers to projects not even conceived yet.

6275. Secondly, again, my friend has mischaracterized this letter. I have been very careful and it, on its very terms, in Mr. Isherwood's own hand, says there is no expectation this letter will be kept in confidence. So that's mischaracterization, and that's inappropriate. Perhaps my friend didn't read the letter, but he should before he makes submissions on its content.

6276. Third, in my submission, the Applicant can't choose which future projects you can think about and which future projects you can't think about simply by excluding them in the settlement agreement. That's an inappropriate selection of context.

6277. Your responsibility, with great respect, is to consider the evidence before you that impacts on the application. It's not -- it doesn't lie in the

Applicant's mouth or the mouth of its supporting like-minded party to dictate to you what we've written into our application you can refer to even if not yet filed, 2016 projects, 2017 projects, and what we haven't written in and we're going to keep you from thinking about. That's inappropriate.

6278. I said at the outset when this topic arose with Ms. DeMarco's cross-examination that I respect the Board's attempt to walk the line between looking at the application before it on the one hand and being cognizant of other factors which the Applicants and the supporting parties have themselves raised without going down a rabbit hole of toll calculations on an application not even before you.

6279. That's a balance. That's not a wall, as my friend, Mr. Dunberry, would have you think of it. And with great respect, I think it would be contrary to the public interest not to consider a project just because the settlement agreement says it's excluded.

6280. Sorry, the existence of the project and the directional impact which, as Mr. Yates points out, your ruling contemplated, in my submission.

6281. Thank you, sir.

6282. **THE CHAIRMAN:** Maître Dunberry?

6283. **MR. DUNBERRY:** I think I will allow Mr. Yates to go first and perhaps have the last word, if I may.

6284. **THE CHAIRMAN:** Certainly.

6285. Mr. Yates?

6286. **MR. YATES:** The only point which I want to make, Mr. Chairman and Members, is one that I made before, which is that the critical aspect is relevance. And in my respectful submission, anything that is Energy East specific is not relevant to what you have to decide here.

6287. We are dealing with potential applications that will potentially be filed that will be subject to Board decisions in respect of those applications. In my respectful submission, to speculate about that and what a speculative result of an application that has yet to be filed is quintessentially irrelevant to what you have to decide.

6288. **MR. DUNBERRY:** One last and very short word. I feel that Mr. Mondrow has raised your earlier decisions in appeal, essentially. You've already rendered two rulings, I would say, on the relevance issue and Mr. Mondrow is simply asking you to reconsider your previous decisions. I don't think that would be appropriate at this point, one.

6289. Two, I think we're trying again and again to create a link between the Energy East Project and other projects and the settlement, and that link has been specifically excluded by the agreement itself and also by the List of Issues rendered by the Board.

6290. And on the last point, I'm not going to engage into a debate with respect to the proper interpretation of a letter which I read during the lunch break, but there is clear language here that could be subject to interpretation as to the proper forum for disclosure of this letter. And I could fall in the trap that my colleague is trying me to fall in, which is to start reading extracts of that letter, but I will not do that.

6291. I will simply say to my colleague that there is language in this letter that would open a discussion on the proper forum for its disclosure, and that is the first paragraph, Mr. Mondrow.

6292. So on that note, I will not add anything further.

6293. **THE CHAIRMAN:** Merci, maître.

6294. We will take a few seconds here.

--- (A short pause/Courte pause)

6295. **THE CHAIRMAN:** We've heard and re-heard this -- basically the same arguments on this same issue, and we agree with Maître Dunberry, that it is not the intention to turn this into a Part III application review.

6296. We've given a narrow path defined by the List of Issues and our previous ruling, and discussing Energy East we do not consider material to what we have to decide here in this contested application, which is based on a contested settlement. And that contested settlement does not include any mention and, in fact, specifically excludes Energy East from that settlement.

6297. So we do not consider further questions on Energy East in the manner that you were proposing to be relevant in this case.

6298. So we will take a break at this time and we will come back once the temperature of the room cools down a bit.

6299. **MR. MONDROW:** Thank you, Mr. Chairman.

--- Upon recessing at 2:57 p.m./L'audience est suspendue à 14h57
--- Upon resuming at 3:13 p.m./L'audience est reprise à 15h13

MALINI GIRIDHAR: Resumed
PATRICK CABANA: Sous le même serment
MARK ISHERWOOD: Resumed
JEFF D. MAKHOLM: Resumed
ROBERT FLECK: Resumed

6300. **THE CHAIRMAN:** Mr. Mondrow.

--- EXAMINATION BY/INTERROGATOIRE PAR MR. MONDROW: (Continued/Suite)

6301. **MR. MONDROW:** Thank you, Mr. Chairman.

6302. Ms. Giridhar, I just want to spend a few minutes and make sure that we are *ad idem* on what the OEB said and didn't say about the Settlement Agreement, and I think this is captured in your evidence.

6303. You might want to -- if you do want to refer to it, you can refer to the excerpt at Exhibit C12-5-2, which is your joint evidence, and I think the excerpts in question are centered around Adobe page 24, which is also paper page 24 of that exhibit, in the centre of the page.

6304. But just before turning to the quote I want to take you to, as I recall, the OEB determined that on a "final net basis" the costs/benefits of northeastern shale gas supply to Ontario were somewhat uncertain. Would you accept that characterization?

6305. I'm not reading from the document at this point. I'm just asking if you would accept that recollection of the OEB's decision.

6306. **MR. ISHERWOOD:** I could answer that, starting.

6307. When the OEB looked at the landed gas cost savings on the Union side, there was a lot of different evidence in terms of basis and pipeline costs, upstream costs, and I think there was a lot of confusion around the evidence. So the Board's conclusion on the Union case was, even without gas supply savings, it was still in the public interest because of security of supply and reliability of supply and getting access to a competitive basin. But that was the Union Gas case.

6308. **MR. MONDROW:** Fair enough. And indeed, the Board went on to note that the diversity itself would have a tendency to lower gas costs from what they otherwise might be.

6309. **MR. ISHERWOOD:** That's correct.

6310. **MR. MONDROW:** But in respect of whether gas cost savings, landed gas cost savings had been made out, the Board found that the evidence was equivocal on that point. Is that fair?

6311. **MR. ISHERWOOD:** I think the words I used at the first -- less certain, I think, was the words I used.

6312. **MR. MONDROW:** Okay, less certain.

6313. **MS. GIRIDHAR:** My recollection, and I don't have it in front of me, was that with respect to Enbridge Gas Distribution's portfolio that I don't believe they came to the conclusion that the benefits were uncertain. I thought they found benefits, landed cost benefits.

6314. **MR. MONDROW:** They did? Okay, I'll have to verify that. That's not my recollection, but you may well be right.

6315. I do want to look at what the Board did not decide in respect of the Settlement Agreement in particular, and for that I will take to the reference in Exhibit C12-5-2. And it's the third paragraph that you've excerpted from the OEB's decision. After talking about and complimenting the LDCs and

TransCanada for reaching an agreement, they add the following:

> *"At the same time, this Board must remain cognizant of the limitations surrounding its own responsibilities. The NEB has the jurisdiction to approve, or reject, the Settlement Agreement and any of its specific elements. It would therefore not be appropriate for the Board to determine whether the Settlement Agreement should be approved…."*

6316. So you'll agree with me, I hope, Ms. Giridhar, that the OEB talked in general terms about its view of what the Settlement Agreement might accomplish for Ontario, but specifically declined to opine on whether it should be approved or not.

6317. **MS. GIRIDHAR:** That's what it says.

6318. **MR. MONDROW:** Okay. And indeed, the excerpt indicates that the Board went on to note that the cost consequences for Ontario of the Settlement Agreement, if it's approved -- if the Settlement Agreement is approved by the National Energy Board, are for review at a later date in a subsequent proceeding. So they made no -- the OEB made no finding in respect of the appropriateness of the cost consequences of the settlement for Ontario. Is that fair?

6319. **MS. GIRIDHAR:** What we had before the Ontario Energy Board was a facilities application for facilities. It was not a tolls hearing. And what was indicated was that toll changes would be considered in a tolls application and/or a quarterly rate adjustment mechanism, which is what we do every quarter to change tolls.

6320. So I believe the reference there was to the fact that this was facilities and that there was a tolls application that would come after.

6321. **MR. MONDROW:** All right. But the Board made no finding on the appropriateness of the cost consequences for -- of the Settlement Agreement for Ontario ratepayers; right?

6322. **MS. GIRIDHAR:** I don't believe it was sought or appropriate in the facilities application.

6323. **MR. MONDROW:** That's fine. So you agree with me, no finding was made.

6324. **MS. GIRIDHAR:** Correct.

6325. **MR. MONDROW:** Thank you.

6326. **MR. ISHERWOOD:** But I would say they have approved the facilities that ---

6327. **MS. GIRIDHAR:** Yes.

6328. **MR. ISHERWOOD:** --- result in those costs.

6329. **MR. MONDROW:** They have approved the facilities and the cost consequences of the facilities. This talks about the cost consequences of the Settlement Agreement.

6330. **MR. ISHERWOOD:** But those facilities, essentially, are result -- facilities result because a settlement is approved, so they're all interlinked again.

6331. **MR. MONDROW:** Except the tolls costs arising from the Settlement Agreement have not been approved for prudence by the OEB.

6332. **MR. ISHERWOOD:** They've not been approved by the OEB, but the facilities that drive those costs have. And the Board has seen the tolls, representatives of the tolls, on at least two occasions.

6333. **MR. MONDROW:** And have not approved those tolls.

6334. **MR. ISHERWOOD:** They're not -- they ---

6335. **MR. MONDROW:** Sorry, they have not approved recovery of the costs associated -- the Ontario LDC costs associated with those tolls.

6336. **MR. ISHERWOOD:** As Ms. Giridhar noted, it's not appropriate to even ask for those costs until they're incurred. We're ---

6337. **MR. MONDROW:** We're in violent agreement, Mr. Isherwood.

6338. **MR. ISHERWOOD:** --- several years away.

6339. **MR. MONDROW:** We're in violent agreement.

6340. **MR. ISHERWOOD:** All right.

6341. **MR. MONDROW:** I'm simply asking you to confirm that the OEB has not approved the toll consequences of the Settlement Agreement for recovery by Ontario's LDCs; correct?

6342. **MS. GIRIDHAR:** They were not sought, and yes, they were not approved.

6343. **MR. MONDROW:** Thank you very much.

6344. Mr. Isherwood, in your opening statement, you also noted -- and I can take you to it if you wish -- that Union remains -- and you had some discussion earlier about this with Ms. Van Iderstine. Union remains a captive shipper on the Prairies Line and the NOL and, therefore, you have a vested interest in the long-term viability of both the Prairies Line and the NOL.

6345. And you related earlier that you have customers in certain portions of your franchise that rely on those facilities.

6346. Those customers on the NOL that you serve, are they going to see -- and I'm not clear on your evidence on this. Are they going to see diversity benefits from the eastern expansions and the facilitation of supply from Dawn and, if so, could you just explain how that gas is going to get from Marcellus up to the NOL because I may be missing something there?

6347. **MR. ISHERWOOD:** So Union's plans in terms of a conversion from long-haul to short-haul, the best economics we have is in the EDA. So those customers are going first in '15, primarily, and a little bit of the NDA is going in 2015 as well, a small portion. And our bid for 2016 capacity on TCPL is more to convert the long-haul to short-haul in the NDA.

6348. But I should also mention that we have industrials in the NDA and EDA that want to come back to Dawn as well, and I suspect your client may also have interest at some point in coming back to Dawn rather than to Empress.

6349. So with some, it's all about having access. It's open access, and it's for anybody in the WDA, NDA or the Eastern Triangle to have access to Dawn.

6350. **MR. MONDROW:** Okay, sorry. I'm talking about the Union Gas NDA ---

6351. **MR. ISHERWOOD:** Yeah.

6352. **MR. MONDROW:** --- which, according to this map here, is north and west of North Bay.

6353. **MR. ISHERWOOD:** Yes.

6354. **MR. MONDROW:** Am I looking at the right bubble?

6355. **MR. ISHERWOOD:** Yeah.

6356. **MR. MONDROW:** And so is there going to be flow from Dawn to Parkway and then up to Albion, on to the Mainline and then up Northwest back into the NDA ---

6357. **MR. ISHERWOOD:** That's correct.

6358. **MR. MONDROW:** --- for Marcellus Gas?

6359. **MR. ISHERWOOD:** Yeah.

6360. **MR. MONDROW:** And does that occur now?

6361. **MR. ISHERWOOD:** No.

6362. **MR. MONDROW:** And so there'll be a future application for that?

6363. **MR. ISHERWOOD:** A future application in terms of which?

6364. **MR. MONDROW:** For approval of the rates for that service?

6365. **MR. ISHERWOOD:** You'll have to ask TransCanada that question, but that's basically already established.

6366. **MR. MONDROW:** You're right.

6367. **MR. ISHERWOOD:** There's tolls today that go from Parkway to the NDA.

6368. **MR. MONDROW:** I probably shouldn't talk about future applications anyway. It's okay. Thanks.

6369. But it's your understanding that there will be flow so that the diversity of the Marcellus supply will creep back into the NOL. That's your anticipation, that that'll happen at some point during the ---

6370. **MR. ISHERWOOD:** November 1, 2016 is my -- sorry, November 1, '15 is my expectation.

6371. **MR. MONDROW:** Okay, that's great. I hadn't realized that. That's great. Thank you. I'll leave it at that.

6372. I want to go back to the opening statement for a minute with you folks. It's -- that's Exhibit C12-10, and I better take you to these quotes.

6373. If we could look at page 5, paper and Adobe, and let me just find the quote for you. It was right after the reference I just had for my question, Mr. Isherwood.

6374. So it's in the second full paragraph under the heading "Segmentation", and I'm starting with the second sentence. It says:...

> *"Union fully expects that the Prairies Line and NOL toll set by the Board will remain just and reasonable post-2020. Though no shipper has signed contracts extending past 2020, Union's expected use of the Prairies Line and NOL is likely--"*

6375. Excuse me.

> *"--likely to approximately equal..."*

6376. There is a word missing here.

> *"…Union's expected use of the Prairies Line and NOL is likely to approximately equal to that of Centra."*

6377. So I'm interested in the words "likely to approximately equal". Is this a commitment on Union's part or just a prognostication?

6378. **MR. ISHERWOOD:** I actually covered that this morning in cross but there'd be ---

6379. **MR. MONDROW:** That's ---

6380. **MR. ISHERWOORD:** Sorry?

6381. **MR. MONDROW:** I'll let you finish.

6382. **MR. ISHERWOOD:** Okay. There'd been a lot of discussion in terms of there's no commitments beyond 2020.

6383. And I would agree that Union Gas has no commitments beyond 2020, neither does Centra, neither does ANE. There's no commitments on the Mainline past 2020.

6384. But what I did and I shared this morning, was looking at our long-haul commitments, the 85,000 a day that we have committed within the settlement, if I was to make a decision in 2020 what would be a reasonable number I would look at and it added up to around 60,000 a day.

6385. And that's primarily serving the WDA, the southwest -- oh sorry, the Sault Ste. Marie delivery area and the MDA.

6386. **MR. MONDROW:** But that's not a term of the settlement agreement?

6387. **MR. ISHERWOOD:** It's not a term of the settlement and -- but my point -- my point is, the comfort I'm trying to give Centra is they're not alone. Union Gas will have -- my expectation is Union Gas will have a revenue obligation to TCPL in 2021, approximately equal to what Centra's revenue obligation is to TCPL in 2021.

6388. **MR. MONDROW:** And why wouldn't you put that in the settlement?

6389. **MR. ISHERWOOD:** I don't need to. I don't need to make any obligations.

6390. **MR. MONDROW:** Sorry. I ---

6391. **MR. ISHERWOOD:** Sorry, Mr. Cabana is helping me with the answer here.

6392. So the -- as I mentioned and what's obvious from the map, Union Gas is captive along that path anyways.

6393. The question is how much of our capacity is short-haul, how much of our capacity is long-haul. And as I explained this morning, my expectation is of the 85,000, 60,000 are their votes.

6394. And I think I even premised that this morning, don't show me a transcript in 19 -- 2019 saying I promised 60,000 a day but that would be my expectation. That would be a reasonable number Union Gas should choose in 2021.

6395. **MR. MONDROW:** Well, should the Board count on that? Should this Board count on it?

6396. **MR. ISHERWOOD:** The Board should count on it no more than they are counting on Centra's commitment, or ANE's commitment or Northern Power's commitment.

6397. **MR. MONDROW:** They're not parties to the settlement agreement. Should this Board count on your commitment or not?

6398. **MR. ISHERWOOD:** You can count on my commitment of being on the Mainline until 2030.

6399. **MR. MONDROW:** But not a specific number?

6400. **MR. ISHERWOOD:** I didn't put the number out there to offer comfort to TransCanada in terms of revenue; I put the number out there to offer comfort to Centra.

6401. A lot of their evidence, a lot of their interrogatories' answers were -- I got the sense they're feeling alone in terms of supporting the Prairies and my point is -- and I think Ms. Giridhar made the same point this morning as well, we will be likely long-term shippers on the same path.

6402. **MR. MONDROW:** And Ms. Giridhar ---

6403. **M. CABANA:** Est-ce que je peux ajouter un commentaire?

6404. **M. MONDROW:** Oui.

6405. **M. CABANA:** Il y a un point qui a été fait ---

6406. **MR. MONDROW:** Sorry -- sorry.

6407. **M. CABANA:** --- à l'effet que ---

6408. **MR. MONDROW:** Sorry, I thought I was ready.

6409. **M. CABANA:** O.k.

6410. **MR. MONDROW:** But I'm not. I was. Sorry, Mr. Cabana.

6411. **M. CABANA:** Il y a une phrase qui a été dite, puis je voulais juste, pour fins de clarté, apporter le point.

6412. Les trois LDC ici ont pris un engagement commercial de maintenir et d'utiliser le Mainline jusqu'en 2030. C'est vrai que c'est -- il y a probablement pas personne qui a des contrats qui vont jusqu'en 2030 sur le Mainline.

6413. Il ne faut quand même pas oublier qu'à l'intérieur du « settlement » -- puis c'est pas demandé aux autres -- les trois partenaires ici se sont engagés à utiliser pour 95 pourcent de leurs besoins le Mainline.

6414. Ça fait que si vous considérez que c'est un -- moi, je considère que c'est un « commitment ».

6415. **MR. MONDROW:** When you referred to the Mainline in that context, that's the EOT, right?

6416. **M. CABANA:** C'est bien -- oui, le "commitment" c'est d'utiliser le

Mainline. Ça veut dire que ça peut être le EOT. C'est pas spécifique au EOT. C'est le Mainline, les infrastructures du Mainline.

6417. **MR. MONDROW:** Sorry, let's be ---

6418. **MS. GIRIDHAR:** Mr. Mondrow, if I might just add to that.

6419. **MR. MONDROW:** Well, no. Sorry. One minute. Let's be really clear here, Mr. Cabana, because I heard this this morning and I was going to ask this of the panel as well.

6420. I'm talking to Mr. Isherwood and I'm going to talk to Ms. Giridhar about long-haul. I'm not going to talk to you about long-haul because I know your position on long-haul.

6421. So the commitment to the Mainline is not the same as a commitment to long-haul; correct?

6422. **M. CABANA:** On s'entend, sauf que ce que je vous ai mentionné ici c'est qu'il y a une précision. Mon collègue ici a mentionné qu'il n'y avait pas de « commitment », d'engagement, envers les termes exacts. Il n'y avait pas d'engagements envers le Mainline après 2020. La précision que je vous apporte ici c'est qu'il y a des engagements de la part des trois partenaires ici envers le Mainline après 2020, qui s'extentionnent jusqu'en 2030. Une question de précision.

6423. **MR. MONDROW:** We're both ---

6424. **MR. ISHERWOOD:** Just to make sure my record is clean here as well. We definitely have commitments of long-haul until the end of 2020.

6425. And my musings around what it would be in 2021 is simply a reflection of how much of my commitment in the NOL would be long-haul or short-haul. We're still on the Mainline.

6426. **MS. GIRIDHAR:** Mr. Mondrow, I would suggest to you that the -- it's somewhat academic to talk about a commitment to the EOT as being distinct from a commitment to the Mainline.

6427. This settlement agreement and this application is a means of ensuring the viability of the Mainline. Absent the settlement agreement, and let's say absent segmentation, you know, the fact that we're committing up to 2030 has very important implications for the Mainline as a whole.

6428. We talked about the fact that the departure of any one shipper, any one of the three shippers, would have implications for the remaining shippers.

6429. Mr. Cabana talked about the fact that by 2030 there could shale gas that's commercially produced in Quebec that would allow them to get off the Mainline.

6430. I suggest to you we cannot really parse what would occur prior to 2020 and post-2020 and separate out an EOT commitment from a long-haul commitment. This is a commitment to ensure the viability of the Mainline and that's how we should look at it.

6431. **MR. MONDROW:** Thanks, Ms. Giridhar.

6432. But, so that I can be clear and we will leave this for argument, you -- Enbridge goes on after the passage I read to Mr. Isherwood and says:

> *"Enbridge has also indicated its expectation that it will maintain long-haul path capacity to provide diversity of path and supply."*

6433. But there is no capacity number commitment embedded in that statement; correct, past 2020?

6434. **MS. GIRIDHAR:** That is correct with respect to long-haul.

6435. **MR. MONDROW:** All right. With respect to long-haul, yes.

6436. And so if I can take you to Exhibit B7-12 which are TransCanada's responses to Centra, I believe. And I'm looking at Adobe page 193 which is TransCanada's response to Centra interrogatory 96. I'm looking at page 2 of 3.

6437. A little earlier you had some discussion with Ms. Van Iderstine about toll impacts of long-haul to short-haul shift and I believe you were looking at the years 2015 through 2020. And the charts on this page look at the years 2021 to 2030.

6438. And I wanted to ask each of you, Mr. Isherwood and Ms. Giridhar, what should I tell Northland they should plan on in respect of how much capacity will we -- be retained by each of your companies on long-haul transportation?

6439. Can you tell me whether it's 50, 75 or 100 percent reduction post-2020 or do they just have to wait and see?

6440. **MS. GIRIDHAR:** I think you can tell Northland Power that they should expect just and reasonable tolls post-2020 within the settlement framework.

6441. **MR. MONDROW:** And by just and reasonable do you mean TransCanada's formulation of just and reasonable which means as long as someone will pay the toll it's just and reasonable?

6442. **MS. GIRIDHAR:** I can answer.

6443. I would suggest to you, Mr. Mondrow, that the NEB will ensure just and reasonable tolls.

6444. **MR. MONDROW:** All right. Do you want to try to define what that means or are we going to leave that for another day?

6445. **MR. DUNBERRY:** Mr. Chairman, there are dozens of decisions defining with facts and in circumstances what is just and reasonable. I don't think we should ask the witnesses to provide in abstract a definition which is in part a legal concept and in part an economic concept.

6446. So I think we can perhaps move to the next question as opposed to seeking admissions as to what would be a reasonable toll in 2020 and beyond.

6447. **MR. MONDROW:** That's fine, Mr. Chairman, I didn't actually raise the phrase, it was the witness but I'm happy to move on.

6448. Mr. Isherwood, can I give Northland some indication of where on this spectrum Union is going to fall, in respect of the post-2020 period? What kind of percentage increases they might want to get ready for?

6449. **MR. ISHERWOOD:** As I understand, Northland's contracts they also have renewal provisions coming up on their contracts as well so they will have choices to make.

6450. And no one is asking Northland to make commitments today beyond 2017. And I think my answer has been pretty clear in terms of post-2020. I think it makes reasonable sense to have some capacity. I gave those numbers but I'm not going to make a commitment.

6451. **MR. MONDROW:** Fair enough. I will tell them. Thank you.

6452. And finally, Mr. Giridhar, I just wanted to see if I can understand some portion of your earlier testimony on segmentation without revisiting it all obviously.

6453. It's my understanding that segmentation post-2020 will isolate the EOT tolls from Western Mainline costs and vice versa; they'll isolate Western Mainline tolls from EOT costs. Is that your understanding of segmentation post-2020?

6454. **MS. GIRIDHAR:** May I just add a sentence to the response that I provided previously? I just wanted to say in the context of what you should tell Northland Power with respect to utilization and so on that you should tell your customer, your client that they can expect the tolls to be lower as a result of the settlement than in the absence of the settlement. So that's just kind of referring back to the previous question.

6455. **MR. MONDROW:** But hold on; so ---

6456. **MS. GIRIDHAR:** With ---

6457. **MR. MONDROW:** If that's the end of that point, I'd like to just take you up on that point.

6458. **MS. GIRIDHAR:** Okay.

6459. **MR. MONDROW:** And then we'll come back to my last question.

6460. **MS. GIRIDHAR:** Correct.

6461. **MR. MONDROW:** So on that point, lower than they otherwise would be, does that assume that TransCanada bears some fundamental risk or not?

6462. **MS. GIRIDHAR:** That, just as you -- that is in the context where you don't have these unilateral commercial commitments from the three largest shippers on the Mainline. That is in the context where we don't commit to retaining long-haul till 2020 and the use of the Mainline until 2030, and no bypass, et cetera.

6463. So the reality is that these commercial commitments from the three largest shippers that are not required of any other shipper on the Mainline has benefits for all of them.

6464. **MR. MONDROW:** Right. And it is presumably in the context that this Board decides, at some point in the future, that $1.42 is no longer the upper end of reasonable and tolls can continue to rise; right?

6465. **MS. GIRIDHAR:** It certainly is reflective of the protections that the Board offered in the RH-003 decision with respect to just and reasonable tolls, yes.

6466. **MR. MONDROW:** Well, no, sorry -- right. So I can tell Northland that if those protections continue, it can be confident that with the settlement their tolls will be lower than without it?

6467. **MS. GIRIDHAR:** That's correct.

6468. **MR. MONDROW:** And if the settlement is not approved, then those protections remain in place can they not be equally as confident? Don't the protections say $1.42 is the top end of the range and tolls can't go any higher? Isn't that what the decision said?

6469. **M. CABANA:** Je peux seulement donner ma perspective, hein? Je pense que -- c'est pas nécessairement nous qui tenions le crayon au moment d'écrire la décision.

6470. Je vais donner ma perspective à moi. C'est dans tous les scénarios possibles. Je l'ai mentionné également ce matin, les tarifs seraient plus élevés si l'entente n'était pas adoptée.

6471. Vous faites référence au risque fondamental de TCPL et à sa matérialisation. Puis on a eu beaucoup de discussions à l'époque pour savoir qu'est-ce que ça veut dire le risque fondamental s'il se matérialise.

6472. Je ne pense pas que le Board a dit qu'automatiquement s'il y avait matérialisation du risque fondamental que TransCanada serait seule à supporter tous les coûts.

6473. Prenez -- TransCanada parle d'un risque de -- parle d'un possible manque à gagner de $2.5 milliards, 2.5 milliards, je pense pas qu'il est dans l'intérêt de personne de mettre en faillite un Mainline en lui disant c'est tes actionnaires qui vont supporter 2.5 milliards.

6474. Posez la question à moi, c'est probablement que si ça arrivait, il y aurait une partie peut-être qui serait supportée par les actionnaires. Mais sans contredit, les « shippers » dans l'ensemble auraient également une hausse impressionnante de leurs tarifs.

6475. Ceci étant dit, on spécule. On ne sait pas encore mais vous avez posé la question.

6476. **MS. GIRIDHAR:** I think I might just like to add that you know IGUA, in its letter has stated that they would prefer the settlement and the absence of the chaos and paralysis that characterized much of this past year and, in fact, as it continues today.

6477. So an academic question about whether you might still have just and reasonable tolls absent your commitments has to be viewed in the context of what happens in the intervening period. Are we back to chaos? Are we back to paralysis? Do shippers, including Northland Power, not have access or certainty of access as a consequence? These are all important questions.

6478. **MR. MONDROW:** They're very important questions and indeed the LDC complaint put to the Board resolution of those questions, but we know that that was never determined because it's -- it was subsumed in a settlement; right? So that question was never answered.

6479. **MS. GIRIDHAR:** The benefit of the settlement is that it gives us a path forward.

6480. **MR. MONDROW:** Oh, I understand that.

6481. **MS. GIRIDHAR:** An orderly path forward.

6482. **MR. MONDROW:** That's one path forward. There are other paths forward.

6483. Mr. Cabana, you talked about other paths earlier today. There are other paths forward; right?

6484. **MS. GIRIDHAR:** I'm suggesting they wouldn't be orderly.

6485. **MR. MONDROW:** These -- you may be -- you may feel this is the best path forward and maybe it is, but my job is to explore that a little bit.

6486. So this is one path forward. There are other paths forward.

6487. And Ms. Giridhar, you're not purporting to tell me what tolls will be. Certainly, that's a matter that the Board will decide in the future one way or the other; right?

6488. **MS. GIRIDHAR:** That is correct.

6489. **MR. MONDROW:** Okay. Mr. Cabana, this Board will decide what tolls are, not you; right?

6490. **M. CABANA:** On s'entend là-dessus, sauf que vous avez posé la question selon notre perspective; qu'est-ce que je dois dire à mon client par rapport à après 2020? De quoi vont avoir l'air les tarifs.

6491. Vous avez posé la question et on y a répondu. On a dit ce matin très clairement que l'office avait tous les -- on conçoit l'office a tous les droits et l'office va décider éventuellement des tarifs qui sont justes et raisonnables par la suite.

6492. On a simplement répondu à une question que vous avez posée, Monsieur.

6493. **MR. MONDROW:** Actually, what I asked is the state of long-haul, but one relates to the other.

6494. Ms. Giridhar, back to segmentation. I think I interrupted you. I believe I had asked you whether segmentation post-2020 is a principal means that the EOT costs -- sorry, the EOT tolls are isolated from the Western Mainline costs and vice versa, the Western Mainline tolls are isolated from the Eastern Mainline costs?

6495. **MS. GIRIDHAR:** Correct, with the enhancement that the Western Mainline will not be paying any portion of Eastern Mainline costs, as early as 2015 under the settlement.

6496. **MR. MONDROW:** Okay. But post-2020, whether that cost isolation is true or not, you also said, I think, is very much dependent on what this Board finds, in 2019 for 2020 and beyond, is just and reasonable; right?

6497. **MS. GIRIDHAR:** We are seeking that as a tolling parameter that be approved. I think the point that was made is that the Board has the freedom to set just and reasonable tolls in any tolls application. So that would be the case in 2020.

6498. **MR. MONDROW:** So what's the value of approving a 2020 parameter now, if the Board has the authority to set tolls in any other way it feels as appropriate?

6499. **MS. GIRIDHAR:** I think it's important to provide some assurance in terms of the settlement agreement. At the end of the day, there are unilateral commercial commitments that are being made by the three largest LDCs.

6500. The package is a tightly crafted set of commitments, of outcomes and a balance of, you know, in terms of market access and risk. And it is important from that perspective to provide an endorsement of the tolling parameters that we have sought.

6501. **MR. MONDROW:** All right. Subject to determination otherwise in 2020?

6502. **MS. GIRIDHAR:** I think we've made it clear that the Board is not limited.

6503. **M. CABANA:** Ce qui avait été -- la même question avait été posée ce matin. La perspective qu'on avait donnée ce matin c'était que le Board pouvait, sur la base de la preuve qu'ils vont recevoir à ce moment-là, prendre la décision qui s'imposait. De notre perspective à nous, ce qui est important c'est de recevoir un signal, de la part de l'office, positif que ce qu'on présente fait du sens.

6504. Mais on a toujours reconnu que l'office va être libre de prendre ses décisions par la suite mais on doit avoir ce signal-là positif. Je repasserai pas par tous les messages que j'ai envoyés à cet effet-là ce matin mais j'avais fait référence à la discussion une fois qu'on va avoir une décision qu'on va devoir avoir de notre côté avec nos propres régulateurs par rapport aux engagements commerciaux.

6505. Quand ils vont nous poser la question -- est-ce que, à partir de 2020, est-ce que vous avez reçu un certain signal que les probabilités sont bonnes, que ça va être segmenté puis que ça va faire du sens, si les hypothèses qu'on voit aujourd'hui se matérialisent. Il faut qu'on puisse répondre à ça.

6506. **MR. MONDROW:** And I think TransCanada's witnesses acknowledge this, but I'm not sure that you folks have; clearly, there will be lots of changes, much of it unpredictable, between now and 2020. Would you agree with that, in respect of gas supply, the health of the Mainline, alternative supply routes, alternative supply basins, customer demand?

6507. **M. CABANA:** Ce que je -- ma perspective à moi, on a dit ce matin que, oui, les changements et je pense que mon collègue ici l'a mentionné, des changements il va toujours y en avoir.

6508. On a cependant mentionné qu'à l'heure actuelle, on avait une vue très claire que tout ce qu'on voyait comme changement à l'horizon, que l'information qu'on a s'imprimait, o.k. On avait -- il y avait une probabilité très forte que le "framework" qu'on propose ici serait maintenu, serait applicable puis permettrait d'avoir un marché efficient.

6509. **MR. MONDROW:** Ms. Giridhar, isolation of the EOT tolls from the Western Mainline costs also means isolation from any Western Mainline stranded costs post-2020; correct?

6510. **MS. GIRIDHAR:** I think TransCanada has been very clear in terms of what it sees as being associated with the Western Mainline in terms of the risk. So yes, the expectation is that the Eastern Mainline would not be taking on any costs with the Western Mainline, that's the principle.

6511. **MR. MONDROW:** And given the LDCs' commitments and the settlement agreement, that's an important principle; right?

6512. **MS. GIRIDHAR:** It is an important principle, yes.

6513. **MR. MONDROW:** Mr. Isherwood, it's an important principle?

6514. **MR. ISHERWOOD:** Yes, it is.

6515. **MR. MONDROW:** Mr. Cabana?

6516. **M. CABANA:** Oui.

6517. **MR. MONDROW:** And that principle -- the corollary of that principle is that the exposure of Western Mainline shippers under segmentation is heightened from what it might otherwise be?

6518. **MS. GIRIDHAR:** I don't believe that you can draw that conclusion. We've talked about the fact that TransCanada has acknowledged that it has the potential risk of cost disallowances if it's not able to make it work and, ultimately, we're looking at the protection in terms of just and reasonable tolls from the Board.

6519. **MR. MONDROW:** Okay. But to the extent that the EOT shippers, short-haul shippers will -- EOT shippers will be isolated from those risks, to the extent they exist and to the extent that TransCanada refuses to bear a billion dollars of loss, that risk will fall on the Western Mainline shippers subject to the Board's rulings otherwise, right?

6520. The corollary of isolating you from risk is meaning -- is that the risk lands somewhere else, TransCanada and the Western Mainline shippers, by definition, isn't that true? And maybe that's appropriate but that's the result.

6521. **M. CABANA:** Je pense que j'avais -- on avait apporté également notre vue par rapport à ça.

6522. Ce qu'on mentionnait c'est que ce que le « settlement » propose à l'heure actuelle -- puis je suis d'accord avec vous que les risques ça disparait pas, on les répartit différemment éventuellement -- quand y a eu les négociations on est parti du principe de qui a aucune obligation, nos droits acquis éventuellement.

6523. On s'est entendu pour trouver une façon où les « shippers » dans l'est supporteraient initialement une partie des frais de transition tout de même élevés. Pour permettre entre autre aux « shippers » dans l'ouest de contenir les hausses tarifaires à des niveaux qui sont le plus minimal possible. Pour permettre aux « shippers » dans l'ouest éventuellement de pas avoir à payer pour les infrastructures qui vont être bâties dans l'est éventuellement.

6524. Pis dans le cours de nos négociations, TransCanada -- et non pas les « shippers » dans l'ouest -- TransCanada a accepté à ce moment-là, dans ce contexte-là de dire, « Moi, je vais noir sur blanc admettre que je vais avoir un défi après 2020, puis que je vais accepter la décision qui a été octroyée par l'Office, qui a une protection pour les 'shippers'. »

6525. Puis on mentionnait ce matin -- y a un exemple qui a été donné pour dire qu'on soit deux ou qu'on soit trois à payer un tarif qui est raisonnable dans l'ouest, le tarif va être le tarif raisonnable.

6526. La différence ça va être à TransCanada de trouver des façons créatives à proposer à ce moment-là pour pouvoir récupérer ces coûts-là puis de convaincre le « Board » que c'est adéquat.

6527. **MR. MONDROW:** Unless ---

6528. **M. CABANA:** Et je ---

6529. **MR. MONDROW:** -- unless they can negotiate another settlement. But I guess we'll have to wait and see.

6530. Mr. Chairman, thank you very much.

6531. Thank you, panel.

6532. **THE CHAIRMAN:** Thank you.

6533. Looking at the clock we're just about at the end. So I think we'll come to the end of today's proceeding and we'll reconvene tomorrow morning at 8:30 with the continuation of the cross-examination of the Market Area Shippers.

6534. Everybody have a good evening.

--- Upon adjourning at 3:46 p.m./L’audience est ajournée à 15h46