



TOWN OF COLLINGWOOD

JUDICIAL INQUIRY

Before:

Associate Chief Justice Frank Marrocco

Held at:

Collingwood Town Hall

Council Chambers

97 Hurontario Street

Collingwood, Ontario

May 3rd, 2019

1 APPEARANCES

2

3 Kate McGrann ) Inquiry Counsel

4 John Mather ) Associate Inquiry

5 ) Counsel

6

7 Michael Watson (np) ) Alectra Utilities

8 Belina Bain ) Corporation

9

10 (No Counsel) ) For Paul Bonwick

11

12 George Marron ) For Sandra Cooper

13

14 (No Counsel) ) For Timothy Fryer

15

16 Frederick Chenoweth ) For Edwin Houghton

17

18 William McDowell (np) ) For Town of Collingwood

19 Ryan Breedon )

20 Andrea Wheeler )

21

22 Patrick Gajos (np) ) For Collus PowerStream

23 ) Corporation

24

25 Norm Emblem ) For KPMG

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1 --- Upon commencing at 10:01 a.m.

2

3 THE HONOURABLE FRANK MARROCCO: Mr.  
4 Chadwick...?

5 MR. IAN CHADWICK: Thank you.

6 THE HONOURABLE FRANK MARROCCO: I  
7 think we were going to hear -- continue with Mr.  
8 Chadwick.

9 MR. IAN CHADWICK: Correct, Your  
10 Honour.

11 MR. RYAN BREEDON: So, Your Honour,  
12 while the witness is coming up, I think we broke that  
13 Mr. McDowell had not yet finished his cross-  
14 examination. He's ill today, so I'm here in his  
15 place, but we have no further questions for this  
16 witness.

17 THE HONOURABLE FRANK MARROCCO: Thank  
18 you.

19

20 IAN CHADWICK, Previously Affirmed

21

22 MR. FREDERICK CHENOWETH: I believe I  
23 would be the next examiner, Your Honour.

24 THE HONOURABLE FRANK MARROCCO: Go  
25 ahead, Mr. Chenoweth.

1 MR. FREDERICK CHENOWETH: Yes. Thank  
2 you very much.

3

4 CROSS-EXAMINATION BY MR. FREDERICK CHENOWETH:

5 MR. FREDERICK CHENOWETH: Mr.  
6 Chadwick, good morning.

7 MR. IAN CHADWICK: Good morning.

8 MR. FREDERICK CHENOWETH: Very good.  
9 This was -- in 2010, it was your first term of -- of  
10 Council?

11 MR. IAN CHADWICK: No, sir. My first  
12 term began in 2003.

13 MR. FREDERICK CHENOWETH: Very good.  
14 So that you would have had occasion to come to know Ed  
15 Houghton as a -- as a Councillor and as a staff person  
16 in the Town, I take it, as a result of your becoming a  
17 Councillor in 2003?

18 MR. IAN CHADWICK: Well, sir, I  
19 actually got to know Mr. Houghton through my role in  
20 the media, because I interviewed him a few times as  
21 the head of the Utility or as the head of Public  
22 Works. And as a reporter, and later, the editor of  
23 the paper. you got to know all of the department  
24 heads.

25 MR. FREDERICK CHENOWETH: I'm sure.

1 And -- and that would have -- that media process of  
2 yours, I think you indicated in your previous evidence  
3 that you'd been twelve (12) years with the media and  
4 eight (8) years with the Enterprise Bulletin?

5 MR. IAN CHADWICK: Yes, sir.

6 MR. FREDERICK CHENOWETH: And when  
7 would the Enterprise Bulletin activity have started?

8 MR. IAN CHADWICK: 1991, I believe, or  
9 late 1990.

10 MR. FREDERICK CHENOWETH: All right.  
11 So that you had had interaction with Ed Houghton since  
12 -- as a journalist since 1991?

13 MR. IAN CHADWICK: Roughly from about  
14 that time. I can't remember the exact date I first  
15 met him.

16 MR. FREDERICK CHENOWETH: Very good.  
17 And as a Councillor, from the first time you entered  
18 Council, which I think you indicated was 2003?

19 MR. IAN CHADWICK: Yes, sir.

20 MR. FREDERICK CHENOWETH: Very good.  
21 And did you become aware, either as a journalist or as  
22 a Councillor, that Mr. Houghton had been granted the  
23 Order of Collingwood?

24 MR. IAN CHADWICK: I -- I believe so,  
25 sir. I couldn't remember what -- I can't remember

1 offhand what date that was, but I recall -- he's  
2 received numerous Provincial awards, as well as local  
3 ones.

4 MR. FREDERICK CHENOWETH: All right.  
5 And a number of those awards were for contributions to  
6 the community of Collingwood, as I understand it?

7 MR. IAN CHADWICK: Yes, sir. That's  
8 what the Order of Collingwood is for.

9 MR. FREDERICK CHENOWETH: Indeed. And  
10 otherwise, some of them would have been in the  
11 electrical distribution industry?

12 MR. IAN CHADWICK: Yes, sir. I  
13 understand he's won several awards in that area as  
14 well.

15 MR. FREDERICK CHENOWETH: Thank you.  
16 By the time you got to the Council that you were on  
17 commencing in late 2010, can you tell me what your  
18 understanding was of the reputation of Mr. Houghton at  
19 the commencement of that Council?

20 MR. IAN CHADWICK: Well, Mr. Houghton  
21 was very well respected throughout both the electrical  
22 sector -- the electrical industry sector, and the --  
23 the water utility sector as well, and I believe he's  
24 also won awards in the water sector as well.

25 MR. FREDERICK CHENOWETH: Good. Thank



1 you. Now, we had some questions yesterday with  
2 respect to Mr. Houghton becoming the CAO in April of -  
3 - of 2012.

4 MR. IAN CHADWICK: M-hm.

5 MR. FREDERICK CHENOWETH: And you  
6 would have been a Councillor at that time?

7 MR. IAN CHADWICK: Yes, I was.

8 MR. FREDERICK CHENOWETH: And I had a  
9 sense from the evidence I heard yesterday that with  
10 Mr. -- or with Ms. Wingrove having been terminated  
11 promptly from her position, that obtaining a CAO was -  
12 - was an urgent and time-sensitive problem for the  
13 Council of -- of Collingwood?

14 MR. IAN CHADWICK: Yes, sir, it would  
15 have been.

16 MR. FREDERICK CHENOWETH: All right.  
17 And as I understand it, Mr. Houghton eventually agreed  
18 to step in as CAO?

19 MR. IAN CHADWICK: Yes, sir.  
20 Normally, the process of hiring the CAO -- and I've  
21 gone through this a couple of times as a Councillor --  
22 not only -- the process takes three (3) to six (6)  
23 months to find somebody, and to get them to go through  
24 the interviews, and to get them to -- to move to  
25 Collingwood. So in the interim, often times, somebody

1 is brought in to fill in during that process.

2 MR. FREDERICK CHENOWETH: All right.

3 And I take it Mr. Houghton filled in?

4 MR. IAN CHADWICK: Yes, sir. He did.

5 MR. FREDERICK CHENOWETH: And were you  
6 aware that Mr. Houghton initially said that he would  
7 not take on the job, and was, in fact, reticent to  
8 take on the job?

9 MR. IAN CHADWICK: I did not know he  
10 was unwilling to take on the job until I read some of  
11 the -- the documents and heard some of the testimony,  
12 but I know that during the time, when it was proposed,  
13 I actually met with Mr. Houghton and discussed with  
14 him the position, and I knew that he had some  
15 reservations about it at the time, and Council's  
16 relationship, and I discussed my reservations with  
17 them as well.

18 MR. FREDERICK CHENOWETH: Very well.  
19 And when he took on the role, he took it on for a  
20 period of three (3) months?

21 MR. IAN CHADWICK: Yes, sir. It was  
22 originally for a shorter -- a short-term duration.

23 MR. FREDERICK CHENOWETH: Yes. And  
24 would you have become aware that he wasn't paid for  
25 this role?

1 MR. IAN CHADWICK: Yes, sir, I was.

2 MR. FREDERICK CHENOWETH: All right.

3 And the salary that the previous CAO received, I had a  
4 sense from the evidence I've heard, was in excess of  
5 two hundred thousand dollars (\$200,000)?

6 MR. IAN CHADWICK: I believe that's  
7 correct, yes.

8 MR. FREDERICK CHENOWETH: All right.  
9 And Mr. Houghton received no additional salary for  
10 taking on this responsibility?

11 MR. IAN CHADWICK: Not that I'm aware  
12 of, no.

13 MR. FREDERICK CHENOWETH: All right.  
14 I had a sense, and -- and you can tell me whether I'm  
15 right or wrong on this, that Mr. Houghton took on this  
16 task out of a commitment to Collingwood, and wishing  
17 to serve the best interests of Collingwood when they  
18 were in a little bit of a tight spot

19 Would that be fair?

20 MR. IAN CHADWICK: Yes, sir. I'd  
21 agree. I always believed that Mr. Houghton had the  
22 best interests of Collingwood at heart.

23 MR. FREDERICK CHENOWETH: So that --  
24 that view that he had the best interests of  
25 Collingwood at heart goes beyond his, I would say,

1 selfless act in taking on the role of CAO in April of  
2 2011, and you're -- you you're saying that in a  
3 broader sense, that your observations from the time  
4 you observed him as a journalist and the time you --  
5 that you would observe him as a staff when you were a  
6 Councillor, was that he appeared on an ongoing basis  
7 to have the best interests of Collingwood at heart?

8 MR. IAN CHADWICK: Yes, sir. I would  
9 agree with that.

10 MR. FREDERICK CHENOWETH: Very good.  
11 Thank you.

12 MR. IAN CHADWICK: But if I might make  
13 a correction, it was April 2012. I believe you said  
14 2011.

15 MR. FREDERICK CHENOWETH: Good. Thank  
16 you. It was April 2012, you're correct.

17 Now you may or may not have a memory of  
18 this, but I'm taking you to the Council meeting of the  
19 27th of June that you would have attended, in which  
20 you would have become aware at that time that the sale  
21 of Collus was becoming -- was being considered by  
22 Council. This was the first of a number of Council  
23 meetings, the first of I think six (6) Council  
24 meetings that dealt with the Collus issue.

25 Do you remember that meeting?

1                   MR. IAN CHADWICK:    I remember it  
2 somewhat, yes.

3                   MR. FREDERICK CHENOWETH:   All right.  
4 I may be stretching your memory, but -- and I -- I  
5 fortunately don't think I have to take you to a  
6 document because it's not set out in a document, but  
7 there was some discussions about next steps and one  
8 (1) of the next steps was the formation of the STT  
9 team.

10                   Do you remember that the formation of  
11 the STT team was discussed at that June 27th meeting?

12                   MR. IAN CHADWICK:    Yes, I do.

13                   MR. FREDERICK CHENOWETH:   And it may  
14 be of some assistance if you could tell the Inquiry,  
15 and maybe you don't recall, if you could tell the  
16 Inquiry whether you recall that Rick Lloyd was  
17 directed to be on the STT team at that June 27th  
18 meeting.

19                   MR. IAN CHADWICK:    I recall that --  
20 that Mr. Lloyd, as well as former Mayor Cooper were  
21 both directed to be part of that team. I believe the  
22 team was being put together by the Collus Board with  
23 some of its members as well, but they were the only  
24 two (2) members of Council that I can recall that  
25 were directed.

1 MR. FREDERICK CHENOWETH: Very good.

2 So in fact the mayor and the deputy mayor were put on  
3 the STT team?

4 MR. IAN CHADWICK: Yes.

5 MR. FREDERICK CHENOWETH: And I take  
6 it that Council was content at that meeting with the  
7 nature of the STT team?

8 MR. IAN CHADWICK: Yes, sir. I don't  
9 recall anybody disagreeing with it or raising any  
10 concerns about it.

11 MR. FREDERICK CHENOWETH: All right.  
12 And I asked Mr. Lloyd about this yesterday, but I take  
13 it that the Council was in the practice from time to  
14 time of forming subcommittees that would take on  
15 particular tasks?

16 MR. IAN CHADWICK: Yes, sir. That's  
17 historically been the case in Collingwood.

18 MR. FREDERICK CHENOWETH: Right. And  
19 did you review the formation of the STT team as one  
20 (1) of those historic subcommittees that was tasked  
21 with moving a particular matter forward?

22 MR. IAN CHADWICK: Yes, sir.  
23 Traditionally those committees, and I actually served  
24 on the Affordable Housing Task Force several years  
25 ago, which was created by Council, don't have any

1 voting or any authority to make any -- any decisions,  
2 but just simply to gather information presented to  
3 Council for further decisions, is my understanding of  
4 it.

5 MR. FREDERICK CHENOWETH: All right,  
6 very well.

7 So you saw nothing unusual about the  
8 formation of the STT team at this time?

9 MR. IAN CHADWICK: No, sir.

10 MR. FREDERICK CHENOWETH: All right.  
11 Take you for a moment -- you indicated that in your  
12 last evidence that you don't recall seeing the options  
13 reviewed at any time, the options that were being  
14 considered by the STT team.

15 MR. IAN CHADWICK: No, sir, I don't  
16 recall that the S -- that the team ever presented the  
17 options to Council before the discussion of the -- the  
18 RFP.

19 MR. FREDERICK CHENOWETH: All right.  
20 May I take you for a moment to the June 27th minutes,  
21 which is BLG00002590001?

22

23 (BRIEF PAUSE)

24

25 MR. FREDERICK CHENOWETH: If we could

1 go down to the slides, and I hope I have the number  
2 for the slides. Continue down.

3

4 (BRIEF PAUSE)

5

6 MR. FREDERICK CHENOWETH: It may be  
7 that I don't have the number for the slides and it's  
8 the slides that I wish to refer to.

9 MS. KATE MCGRANN: I believe that the  
10 number for the slide is CPS4397.

11

12 CONTINUED BY MR. FREDERICK CHENOWETH:

13 MR. FREDERICK CHENOWETH: Very good.  
14 Could we pull that up, please? Thank you.

15

16 (BRIEF PAUSE)

17

18 MR. FREDERICK CHENOWETH: And if we  
19 could go down to Slide Number 17.

20

21 (BRIEF PAUSE)

22

23 MR. FREDERICK CHENOWETH: I note that  
24 you were at this meeting obviously, sir.

25 MR. IAN CHADWICK: Yes, sir.



1 MR. FREDERICK CHENOWETH: All right.

2 And do you recall if there was a slide presentation at  
3 that meeting?

4 MR. IAN CHADWICK: Yes, sir.

5 MR. FREDERICK CHENOWETH: All right.

6 And it's been the evidence of a number of the parties  
7 that -- that the slides -- and in fact this document  
8 is marked as an exhibit -- and it would appear that  
9 the -- that the slides do show a discussion with  
10 respect to the various options that were being  
11 recommended at that time.

12 And I've taken you to Slide Number 17.  
13 If your memory now refreshed and do you now remember  
14 that the status quo option was presented in this slide  
15 to Council in this in camera meeting?

16 MR. IAN CHADWICK: Yes, sir.

17 MR. FREDERICK CHENOWETH: Right. So  
18 at the very least the status quo option was discussed  
19 with -- with Council at that time?

20 MR. IAN CHADWICK: Yes, sir.

21 MR. FREDERICK CHENOWETH: Thank you.

22 And if we could look at Slide 19.

23

24 (BRIEF PAUSE)

25

1                   MR. FREDERICK CHENOWETH:   And I take  
2 it at that time -- this may assist your memory, that  
3 clearly at the meeting of June 27th that you attended,  
4 this slide was the source of the discussion of a  
5 partial sale option.

6                   MR. IAN CHADWICK:    Yes, sir.

7                   MR. FREDERICK CHENOWETH:   Right. And  
8 I take it -- does that refresh your memory, that that  
9 option was reviewed with Council and you were there on  
10 the 27th of June?

11                  MR. IAN CHADWICK:    Yes, sir.

12                  MR. FREDERICK CHENOWETH:   Right. And  
13 I -- I take it the reality is that -- that the  
14 strategic partnership that was eventually concluded as  
15 the process is a sale of some of the shares of Collus,  
16 i.e., a sale of 50 percent of the shares of Collus,  
17 correct?

18                  MR. IAN CHADWICK:    Yes, sir, and I do  
19 recall that there were discussions about the selling  
20 more than 50 percent. There was a great reluctance to  
21 lose control over local rates and service.

22                  MR. FREDERICK CHENOWETH:   Yes.

23                  MR. IAN CHADWICK:    And that there was  
24 no willingness to sell more than 50 percent.

25                  MR. FREDERICK CHENOWETH:   All right.

1 And I suppose -- I guess my point really is that the  
2 partial -- that the eventual result, i.e., the sale of  
3 50 percent of Collus shares, is in fact one (1) of the  
4 partial sale options.

5 MR. IAN CHADWICK: Yes, sir.

6 MR. FREDERICK CHENOWETH: All right.

7 So the partial sale options included a sale of a  
8 minority interest, it included a sale of more than 50  
9 percent, and it would have included the sale of 50  
10 percent, in the partial sale option.

11 MR. IAN CHADWICK: Yes, sir.

12 MR. FREDERICK CHENOWETH: Right. And  
13 it's clear that there was a sense that, I think you  
14 just told me this, that the Council was not interested  
15 in selling more than 50 percent and losing some  
16 control.

17 MR. IAN CHADWICK: That's correct.

18 MR. FREDERICK CHENOWETH: All right.

19 And as I understand it, and maybe you can assist me  
20 with this, was there a general view at Council that  
21 Council was not simply looking for an investor and  
22 wanted in fact to strengthen their Collus power  
23 distribution operation as a result of the outcome of  
24 this process?

25 MR. IAN CHADWICK: Yes, sir. As well

1 as I can remember from that particular date that long  
2 ago, there were discussions about efficiencies of  
3 scale working with another company. There were  
4 discussions about certain services, there were  
5 discussions about working cooperatively in the  
6 corporate culture.

7 MR. FREDERICK CHENOWETH: All right.  
8 Would it be fair to say that Council's purpose was  
9 more than to simply obtain an investor and cash; they  
10 had things like scale and strategic strength that they  
11 were looking for in a partner?

12 MR. IAN CHADWICK: Yes, sir. I do not  
13 recall if cash was particularly an issue in those  
14 discussions.

15 MR. FREDERICK CHENOWETH: Is it fair  
16 to say that the -- the nature of the party that Collus  
17 would team with was a greater concern than the cash?

18 MR. IAN CHADWICK: Yes, sir, much  
19 greater.

20 MR. FREDERICK CHENOWETH: Thank you.  
21 Just to go to another topic for a moment, I'm  
22 interested in the minutes of the various in camera  
23 meetings that were had at Council.

24 I had a sense that the in camera  
25 minutes were approved at a later time, as were all

1 minutes of Council.

2 MR. IAN CHADWICK: Yes, sir.  
3 Sometimes the in camera minutes would be bundled  
4 together so it's -- you'd approve several at a time,  
5 which could be a month or perhaps two (2) months or  
6 even longer after the particular meeting.

7 MR. FREDERICK CHENOWETH: Right. So  
8 that they were -- they weren't sort of like Council  
9 meetings where -- or Council minutes where they were  
10 approved at the next Council meeting, they might get  
11 bundled together and not approved for some substantial  
12 period of time?

13 MR. IAN CHADWICK: Yes, sir, as I  
14 recall they were only -- they were also approved in  
15 camera, not in public.

16 MR. FREDERICK CHENOWETH: That makes  
17 sense.

18 And I take it that in camera minutes  
19 that were approved, and you may or may not recall  
20 this, I expect some evidence to come forward that  
21 suggests that the in camera minutes were included in a  
22 package at in camera meetings, and that you got your  
23 in camera meeting package at the in camera meeting.

24 MR. IAN CHADWICK: Yes, sir, that's my  
25 recollection.

1 MR. FREDERICK CHENOWETH: All right.  
2 So your opportunity to review those minutes would not  
3 be like Council minutes that you got three (3) or four  
4 (4) days before, they would have been presented to you  
5 at the very time and at the very meeting that you're  
6 required to approve them?

7 MR. IAN CHADWICK: Yes, sir. They may  
8 have been put in the Council mailboxes, perhaps, the  
9 day of the -- of the meeting, for people to pick up.

10 But I -- I recall them being  
11 distributed at -- at the in camera meetings as well.

12 MR. FREDERICK CHENOWETH: All right.  
13 So your memory is they were distributed at the in camera  
14 meetings and/or put in the mailbox on the day of the  
15 in camera meeting?

16 MR. IAN CHADWICK: Yes, sir.

17 MR. FREDERICK CHENOWETH: In any of  
18 that it's -- it's clear that your opportunity to  
19 review in camera minutes was really significantly less  
20 than your opportunity to review regular Council  
21 minutes?

22 MR. IAN CHADWICK: Yes, sir.

23 MR. FREDERICK CHENOWETH: All right.  
24 And you indicate that they were sometimes reviewed a  
25 substantial period of time later.

1 MR. IAN CHADWICK: Yes, sir.

2 MR. FREDERICK CHENOWETH: All right.

3 I expect to -- to hear evidence through the course of  
4 this hearing that suggests that the June 27th in  
5 camera minutes were not approved until three (3)  
6 months later, being September 26th, 2011. Would that  
7 surprise you?

8 MR. IAN CHADWICK: No, sir.

9 MR. FREDERICK CHENOWETH: All right.

10 And it wouldn't surprise you, I take it, because  
11 you've just told me that it's often the case that in  
12 camera minutes are not reviewed until a substantial  
13 time later.

14 MR. IAN CHADWICK: That's correct.

15 MR. FREDERICK CHENOWETH: So that with  
16 respect to in camera minutes, your opportunity to  
17 review them was different and significantly less than  
18 your opportunity to review regular Council minutes.

19 MR. IAN CHADWICK: That's correct.

20 MR. FREDERICK CHENOWETH: And it was  
21 often at a time distant from the actual in camera  
22 meeting, which they allegedly evidenced, correct?

23 MR. IAN CHADWICK: That's correct.

24 MR. FREDERICK CHENOWETH: All right.

25 I'm going to resist the urge to take

1 you through the various meetings of -- of Council that  
2 you had the opportunity to attend. But as I  
3 understand the evidence to date, it would appear that  
4 there was six (6) meetings of Council at which the  
5 Collus potential sale was discussed, is that your  
6 memory?

7 MR. IAN CHADWICK: I can remember  
8 distinctly four (4) of them.

9 MR. FREDERICK CHENOWETH: All right.

10 THE HONOURABLE FRANK MARROCCO: Mr. --  
11 Mr. Chenoweth, as -- as far as I'm hearing so far, I  
12 don't think anyone has taken issue with the accuracy  
13 of the minutes, so if the minutes reflect six (6)  
14 rather than four (4), unless somebody suggests those  
15 minutes are in error, then I'm assuming the minutes  
16 are correct.

17 MR. FREDERICK CHENOWETH: The minutes  
18 would appear to be correct, Your Honour, and there is,  
19 in fact, six (6) Council meetings that took place.

20

21 CONTINUED BY MR. FREDERICK CHENOWETH:

22 MR. FREDERICK CHENOWETH: And you were  
23 an attendee at all of the Council meetings that dealt  
24 with this Collus matter, with the exception of the  
25 December 5th meeting, correct?



1 MR. IAN CHADWICK: Yes, sir.

2 MR. FREDERICK CHENOWETH: All right.

3 So that -- and you would have been aware of the -- of  
4 the efforts of others who were involved in this and  
5 not just the six (6) meetings of Council that took  
6 place?

7 MR. IAN CHADWICK: I'm a little unsure  
8 of which you mean -- did you mean the strategic  
9 planning team?

10 MR. FREDERICK CHENOWETH: Well, that's  
11 -- that's -- that's certainly one (1) of them. You  
12 would've been aware of the efforts of the strategic  
13 task team with respect to this matter.

14 MR. IAN CHADWICK: I was aware that  
15 they were working on it. They did not provide  
16 information directly to Council about it and we were  
17 not kept up to date, but I was aware that they were  
18 working on it, yes.

19 MR. FREDERICK CHENOWETH: All right,  
20 thank you.

21 And you would've been aware that --  
22 that the process had the benefit of -- of the wisdom  
23 of Dean Muncaster and Mr. McFadden.

24 MR. IAN CHADWICK: Yes, sir.

25 MR. FREDERICK CHENOWETH: All right.

1 And what was your general view, and we've heard some  
2 evidence with respect to this already, but what was  
3 your general view of the business acumen of -- of Dean  
4 Muncaster?

5 MR. IAN CHADWICK: As I recall Dean  
6 Muncaster was highly respected throughout Ontario in  
7 the business community.

8 I believe it was Canadian Tire that was  
9 his business, he was well known as a -- as a business  
10 person. I didn't know him personally, except for his  
11 role as -- in Collus. But he got many accolades and -  
12 - and with his passing many -- many of Ontario's  
13 business people came out and made those accolades.

14 MR. FREDERICK CHENOWETH: So you would  
15 take it as a plus, I take it, that Dean Muncaster was  
16 involved in this process?

17 MR. IAN CHADWICK: Oh, very much, sir.

18 MR. FREDERICK CHENOWETH: And you were  
19 comforted by the fact that he was involved?

20 MR. IAN CHADWICK: Yes, sir.

21 MR. FREDERICK CHENOWETH: And did you  
22 know something of the background of David McFadden at  
23 the time that this process was underway?

24 MR. IAN CHADWICK: The only thing I  
25 can recall was that I believe he was involved in

1 creating one (1) of the provincial documents, perhaps  
2 a long-term energy plan. It's been a few years since  
3 I've been involved in that, but I believe he was  
4 involved with the provincial energy policies.

5 MR. FREDERICK CHENOWETH: All right.  
6 And did you understand, and -- and you may not, but  
7 did you understand that he was a -- a -- a highly  
8 regarded and respected lawyer in the electrical  
9 distribution industry?

10 MR. IAN CHADWICK: I've heard that, I  
11 can't say exactly when I heard that, but I'd heard he  
12 had a high level of respect.

13 THE HONOURABLE FRANK MARROCCO: Mr.  
14 Chenoweth, as I think you know and others know, I  
15 practiced law with Mr. McFadden for a considerable  
16 period of time.

17 MR. FREDERICK CHENOWETH: Yes, Your  
18 Honour.

19 THE HONOURABLE FRANK MARROCCO: His  
20 expertise in the energy area is well known to me.

21 MR. FREDERICK CHENOWETH: All right.

22 THE HONOURABLE FRANK MARROCCO: In  
23 fact, I think I've known him -- the only person I've  
24 probably known longer than him of all the people here  
25 is probably Mr. Marron. But in any event.

1 CONTINUED BY MR. FREDERICK CHENOWETH:

2 MR. FREDERICK CHENOWETH: All right.

3 In any event, I -- I take it that you  
4 would've had an understanding that with Dean McFadden,  
5 or David McFadden involved and with Dean Muncaster  
6 involved that you -- the process had the benefit of  
7 two (2) solid individuals and trusted individuals?

8 MR. IAN CHADWICK: Yes, sir.

9 MR. FREDERICK CHENOWETH: In addition  
10 to those two (2) individuals we've spoken of the  
11 involvement of the STT team, we've spoken of the --  
12 the meetings, the six (6) Council meetings that --  
13 that Council was involved in this matter, you would've  
14 been aware that KPMG was also involved in this matter  
15 as well.

16 MR. IAN CHADWICK: Yes, sir.

17 MR. FREDERICK CHENOWETH: And -- and  
18 was giving advice to -- to the STT team and to the  
19 Collus Board.

20 MR. IAN CHADWICK: Yes, sir.

21 MR. FREDERICK CHENOWETH: And you  
22 would've been aware that there was a number of lawyers  
23 involved?

24 MR. IAN CHADWICK: Yes, sir.

25 MR. FREDERICK CHENOWETH: And in fact

1 at one (1) of the Council meetings, Ron Clark attended  
2 and provided details with respect to the -- to the  
3 eventual documents that were going to be executed,  
4 i.e., the share purchase agreement and the unanimous  
5 shareholders agreement?

6 MR. IAN CHADWICK: Yes, sir.

7 MR. FREDERICK CHENOWETH: All right.  
8 Are you able to -- to give me your thoughts that you  
9 would have had as a Council member during the years  
10 2010, 2011, and 2012, or let's just make it '11 and  
11 '12, 2011 and 2012?

12 Could you give me your thoughts as to  
13 your regard for the process that was undertaken here  
14 given what we've described?

15 MR. IAN CHADWICK: I believe the  
16 process was the correct one. And I believe the  
17 process was the appropriate one. We had been warned  
18 that the Provincial Governments, all three (3) parties  
19 in the upcoming election, were looking at reducing the  
20 number of LDCs and that it was better to look at our  
21 options while it was still a seller's market as  
22 opposed to a buyer's market and before anything might  
23 be legislated to -- to force amalgamations of -- of  
24 LDCs.

25 I believe the process was appropriate

1 because it involved a large number of people with a  
2 great amount of expertise to bring forward the options  
3 for a decision for Council.

4 MR. FREDERICK CHENOWETH: Very good.  
5 So you were comfortable with the process as a  
6 councillor?

7 MR. IAN CHADWICK: Yes, sir.

8 MR. FREDERICK CHENOWETH: And can you  
9 -- do you have a sense as to the result that was  
10 achieved by that process? Do you have any thoughts as  
11 to whether the partnership that was eventually  
12 developed with PowerStream was a good result?

13 MR. IAN CHADWICK: Yes, sir, I believe  
14 it was a good decision for the Town and for Collus.

15 MR. FREDERICK CHENOWETH: You mention  
16 in your time line some reviews with respect to -- to  
17 the results that were achieved by making PowerStream a  
18 partner.

19 In particular, I'd like you to -- I'd  
20 like to refer you to a third-party review of the  
21 Collus PowerStream strategic partnership that appears  
22 to have been created by an organization called Council  
23 Asset. And it appears to have been created eighteen  
24 (18) months after the partnership began.

25 And, in particular, if you could bring

1 up document number TOC048547.

2

3 (BRIEF PAUSE)

4

5 MR. FREDERICK CHENOWETH: And I'd  
6 like, first of all, to turn to page 4 of that report.  
7 And this is the executive summary with respect to  
8 that. And the first title is, "Background."

9 The purpose of this report -- at the  
10 very top in the first bullet:

11 "The purpose of this report is to  
12 have Council asset review in  
13 practical terms the benefits and  
14 successes that Collus Power has been  
15 able to experience since a strategic  
16 partnership with PowerStream in July  
17 2012."

18 And going next to -- to the lower part  
19 of that page under, "Benefits and successes of the  
20 strategic partnership," item 1, there appears to be a  
21 section that talks about complementary visions,  
22 mission, and values. Take a second to review that, if  
23 you would, please.

24

25 (BRIEF PAUSE)

1                   MR. FREDERICK CHENOWETH:   Was it your  
2   sense as a councillor in your observation of Collus  
3   and PowerStream as partners -- for the eighteen (18)  
4   months after July of 2012, was it your observation  
5   that they in fact did have cont -- complimentary  
6   vision, mission, and values?

7                   MR. IAN CHADWICK:    Yes, sir.

8                   MR. FREDERICK CHENOWETH:   All right.  
9   Number 2 item is that platform to leverage scale.  
10   Take a moment to review that, if you would, please.

11

12                                   (BRIEF PAUSE)

13

14                   MR. FREDERICK CHENOWETH:   The section  
15   talks about the benefits of the platform that was  
16   created by the Collus and PowerStream partnership.  
17   Would you agree with the assessment that this platform  
18   improved the opportunities for scale and leverage over  
19   and above what Collus would otherwise have had?

20                   MR. IAN CHADWICK:    Yes, sir, I would.

21                   MR. FREDERICK CHENOWETH:   So you would  
22   agree with point 2 in the executive summary?

23                   MR. IAN CHADWICK:    Yes, I do.

24                   MR. FREDERICK CHENOWETH:   Thank you.

25   Point 3 was:



1 "Complementary geographic coverage  
2 and potential future diversity."

3 Read that, if you would, please.

4

5 (BRIEF PAUSE)

6

7 MR. FREDERICK CHENOWETH: Do you agree  
8 with the assertion at item number 3, that the  
9 complementary geographical coverage was a useful  
10 element of the partnership with PowerStream?

11 MR. IAN CHADWICK: I have to -- I  
12 would assume it would be. I am not aware of any  
13 details of them pursuing it, but I would assume that  
14 that was one (1) of the -- the decisions, one (1) of  
15 the factors in the decision to partner.

16 MR. FREDERICK CHENOWETH: Right. So  
17 this would have been an element that would have been  
18 part of the decision and apparently was part of the  
19 positive results that were occasioned by this  
20 partnership?

21 MR. IAN CHADWICK: Yes, sir.

22 MR. FREDERICK CHENOWETH: All right.  
23 I don't -- if you'd just take a moment to review the  
24 remainders of the items. I don't think I need to take  
25 you in detail through each one (1) of them. But if

1 you would look at item 4 to 9 which are on page 5 and  
2 page 6 of this document. If you'd take an opportunity  
3 to read those.

4 THE HONOURABLE FRANK MARROCCO: It may  
5 take -- it may take Mr. Chadwick a minute to read it,  
6 so --

7 MR. FREDERICK CHENOWETH: I  
8 understand.

9 THE HONOURABLE FRANK MARROCCO: -- so  
10 why don't we -- you read it. We'll stand down for  
11 five (5) minutes. Let us know when you've completed  
12 reading it.

13 MR. IAN CHADWICK: Thank you.

14 MR. FREDERICK CHENOWETH: Very good.  
15 Thank you.

16

17 --- Upon recessing at 10:38 a.m.

18 --- Upon resuming at 10:41 a.m.

19

20 CONTINUED BY MR. FREDERICK CHENOWETH:

21 MR. FREDERICK CHENOWETH:

22 Mr. Chadwick, I take it you've had an opportunity to  
23 review the executive summary as set out in the Council  
24 document?

25 MR. IAN CHADWICK: Yes, I have.

1 MR. FREDERICK CHENOWETH: All right.

2 And we -- I think you were reviewing items 5 to 9 --

3 or 4 to 9 actually in that document.

4 MR. IAN CHADWICK: Yes, sir.

5 MR. FREDERICK CHENOWETH: And that --

6 would you agree -- as a councillor observing Collus

7 and PowerStream partnership in that 18 months, would

8 you agree with the assessment set out in items 4 to 9

9 of that executive summary?

10 MR. IAN CHADWICK: Yes, sir. And I

11 did have an opportunity, if I -- if I may, to speak to

12 Collus PowerStream staff during that period about the

13 results of the partnership and got very similarly

14 positive reports back from them.

15 MR. FREDERICK CHENOWETH: So the

16 Collus staff was -- was pleased with the opportunities

17 that the partnership presented?

18 MR. IAN CHADWICK: Those I spoke to,

19 yes.

20 MR. FREDERICK CHENOWETH: I wonder if

21 that third-party review, Your Honour, might be marked

22 as an exhibit in this proceeding.

23 THE HONOURABLE FRANK MARROCCO: Yes.

24 MR. FREDERICK CHENOWETH: Thank you

25 very much.

1 CONTINUED BY MR. FREDERICK CHENOWETH:

2 MR. FREDERICK CHENOWETH: Now, we  
3 spoke at some length about the process, and you  
4 indicated that -- that you thought the process that  
5 was gone through with respect to the eventual  
6 strategic partnership was the right process --

7 MR. IAN CHADWICK: Yes, sir.

8 MR. FREDERICK CHENOWETH: -- with the  
9 right result.

10 MR. IAN CHADWICK: Yes, sir.

11 MR. FREDERICK CHENOWETH: All right.  
12 And did you have occasion to review or to follow the  
13 process that Council went through with respect to the  
14 sale of 100 percent of the shares to EPCOR?

15 THE HONOURABLE FRANK MARROCCO: Just a  
16 minute. Before we get -- I don't want to get in --  
17 that's beyond my terms of reference.

18 MR. FREDERICK CHENOWETH: Well, Your  
19 Honour, it would be my submission that it would be  
20 difficult for this Commission to assess the  
21 appropriateness of the process that was gone through  
22 in the sale of the Collus shares without understanding  
23 other processes that took place in the town,  
24 particularly extremely similar processes, being the  
25 sale of a hundred percent of the Collus PowerStream

1 shares that took place to EPCOR some years later.

2 THE HONOURABLE FRANK MARROCCO: I  
3 understand what you're saying, but I don't tend to get  
4 into the process that dealt with the sale of a  
5 hundred percent of the company. I'm prepared to  
6 receive evidence that a hundred percent sale took  
7 place, what they sold it for.

8 But it's not my -- it's not my mandate  
9 to review that process, and if I get into that  
10 process, it will greatly expand this Inquiry, and --  
11 and I don't intend to do that.

12 MR. FREDERICK CHENOWETH: Right. Just  
13 to press you somewhat with respect to that matter,  
14 Your Honour, it would seem to me to be a very useful  
15 tool to consider contrasting the process that was used  
16 in that matter with the process that was used in  
17 the -- in the sale of the Collus shares on this  
18 occasion, as one surely has to consider all of the  
19 circumstances in order to get some -- some sense of  
20 the surrounding circumstances to make a proper  
21 judgment as to the appropriateness of the process of  
22 the sale of 50 percent of these shares.

23 THE HONOURABLE FRANK MARROCCO: I  
24 value your observations considerably but no.

25 MR. FREDERICK CHENOWETH: Very good,

1 Your Honour.

2

3 CONTINUED BY MR. FREDERICK CHENOWETH:

4 MR. FREDERICK CHENOWETH: I understand  
5 that -- that you prepared a timeline with respect to  
6 these matters.

7 MR. IAN CHADWICK: Yes, sir.

8 MR. FREDERICK CHENOWETH: All right.  
9 And when was that timeline prepared?

10 MR. IAN CHADWICK: It was prepared  
11 last year for the Inquiry. Originally, it was put  
12 together, I believe, about a year before that for a  
13 blog post.

14 MR. FREDERICK CHENOWETH: All right.  
15 And could you pull up that timeline if you would,  
16 please. It's -- it's document number CJI10832.

17

18 (BRIEF PAUSE)

19

20 MR. FREDERICK CHENOWETH: Yeah, yeah.  
21 I'm told by Inquiry counsel that this is the final  
22 version of this document that's now pulled up, and the  
23 document number with respect to that is CJI --  
24 one (1), two (2), three (3), four (4), five (5) -- it  
25 looks like zeros, maybe it's six (6) zeros

1 and two (2) -- six (6) zeros two (2): CJI0000002.

2 Is this the final timeline that you  
3 prepared with respect to this matter?

4 MR. IAN CHADWICK: I believe it is,  
5 sir. Yes.

6 MR. FREDERICK CHENOWETH: Very good.  
7 And when was that final timeline prepared?

8 MR. IAN CHADWICK: There were a couple  
9 of corrections made to the document sources this  
10 spring, and I can't give you the exact date. But they  
11 were just -- because some of the material from the  
12 enterprise bulletin was no longer available online.

13 MR. FREDERICK CHENOWETH: And I take  
14 it that you prepared it for the purposes of assisting  
15 the Commission with respect to the times that various  
16 events occurred in the sale of 50 percent of the  
17 Collus shares?

18 MR. IAN CHADWICK: Yes, sir.

19 MR. FREDERICK CHENOWETH: All right.  
20 And I understand that in addition, the timeline  
21 contains some of your comments that are consistent  
22 with the comments you've made here in the witness box  
23 today with respect to the quality of the process?

24 MR. IAN CHADWICK: Yes, sir.

25 MR. FREDERICK CHENOWETH: May I ask

1 that this document be marked as the next exhibit?

2 THE HONOURABLE FRANK MARROCCO: Well,  
3 I'm -- Mr. Chadwick's participation or participatory  
4 rights were -- were restricted to preparing and filing  
5 the timeline. I'm prepared to receive it as an  
6 exhibit, but you should understand that I view it more  
7 as a submission than an item of documentary evidence.

8 MR. FREDERICK CHENOWETH: Your Honour,  
9 I don't think that's an unfair assessment, and I think  
10 that's correct. However, that being the case, I think  
11 this gentleman's opinions, particularly given his  
12 proximity to the events that occurred, are -- are  
13 valuable and should be before this Commission.

14 THE HONOURABLE FRANK MARROCCO: I  
15 don't disagree with that, and, as I say, I'm prepared  
16 to receive it as an exhibit. But just -- just so that  
17 people understand, I see it more in the nature of a  
18 submission.

19 And certainly much of the evidence  
20 Mr. Chadwick has given has been his assessment of what  
21 took place, and I'm quite -- there's no reluctance to  
22 receive that. But just so that we're clear about what  
23 this document is in my mind, at least, at this point.

24 MR. FREDERICK CHENOWETH: Thank you,  
25 Your Honour. Your comments are useful. Thank you.



1

2 CONTINUED BY MR. FREDERICK CHENOWETH:

3

MR. FREDERICK CHENOWETH: Mr. McDowell  
4 in his cross-examination of you, sir, took you to  
5 Justice Cunningham's decision with respect to some  
6 matters that arose in the Mississauga Inquiry.

7

MR. IAN CHADWICK: Yes, sir.

8

MR. FREDERICK CHENOWETH: Had you ever  
9 had occasion -- prior to Mr. McDowell referring you to  
10 those matters in your cross-examination, had you ever  
11 at earlier times reviewed or had occasion to be  
12 referred to that particular decision?

13

MR. IAN CHADWICK: I recall seeing  
14 news media reports about the decision. I don't recall  
15 seeing the decision in its entirety at any point. And  
16 those, I believe, were all post -- after the time I  
17 was on Council, so it would be after the 2014  
18 election. That's my recollection.

19

MR. FREDERICK CHENOWETH: Right. So  
20 you don't -- you don't believe that you would have  
21 been familiar with the documents or the contents of  
22 that document during the course of your time on  
23 Council between 2010 and 2014.

24

MR. IAN CHADWICK: No, sir.

25

MR. FREDERICK CHENOWETH: All right.

1 And I was interested. You were -- I think I heard  
2 from others -- educated generally at the beginning of  
3 every Council session with respect to your  
4 responsibilities as a councillor.

5 MR. IAN CHADWICK: To a certain  
6 degree. The amount of education would depend partly  
7 on the Council, partly on the available staff, and the  
8 schedules of all those people involved.

9 MR. FREDERICK CHENOWETH: All right.  
10 And I think the Ontario Association of Municipal  
11 Councils was one (1) of the parties that provided you  
12 with education with respect to your responsibilities?

13 MR. IAN CHADWICK: For me, I took the  
14 course in -- in basic civics, if you would like to  
15 call it, back in 2003. I don't recall them being  
16 involved in any of the training after that.

17 MR. FREDERICK CHENOWETH: With respect  
18 to the training that you received, did it also involve  
19 training with respect to conflicts?

20 MR. IAN CHADWICK: Briefly, yes. They  
21 would all -- there would be a short -- short time -- a  
22 very short time in some cases -- given to that  
23 training.

24 MR. FREDERICK CHENOWETH: All right.  
25 So you regarded the training with respect to conflicts

1 as limited.

2 MR. IAN CHADWICK: Yes, sir.

3 MR. FREDERICK CHENOWETH: All right.

4 I'm interested in understanding the orientation of  
5 that training.

6 Was the Municipal Conflict of Interest  
7 Act a matter that would have been discussed during the  
8 conflicts training?

9 MR. IAN CHADWICK: Yes, sir.

10 MR. FREDERICK CHENOWETH: All right.

11 And you tell me, would be fair to say that the focus  
12 of the conflicts training that you received as a  
13 councillor -- the focus was on the Municipal Conflict  
14 of Interest Act?

15 MR. IAN CHADWICK: Yes, sir.

16 MR. FREDERICK CHENOWETH: Good. Your  
17 Honour, I think those are all questions I have of this  
18 witness.

19 THE HONOURABLE FRANK MARROCCO: Thank  
20 you.

21 MR. FREDERICK CHENOWETH: Thank you.

22 THE HONOURABLE FRANK MARROCCO:

23 Just before we have the next questioner, when they --  
24 when you were given some instruction about conflicts,  
25 apart from the Municipal Conflict of Interest Act,

1 were you referred to anything else?

2 MR. IAN CHADWICK: Not that I recall,  
3 Sir.

4 THE HONOURABLE FRANK MARROCCO: And  
5 the people instructing you, did you have any sense of  
6 what their background was or who they were?

7 MR. IAN CHADWICK: I believe that we  
8 were given some of that by one (1) of the Town's legal  
9 firm, and I say for sure. I suspect it might've been  
10 Mr. Longo, but I -- I honestly don't recall if that  
11 was him or not.

12 THE HONOURABLE FRANK MARROCCO: All  
13 right.

14 MR. IAN CHADWICK: And I believe  
15 otherwise, it would have been either the clerk or the  
16 CAO. And at the - the AMO training, I believe it was  
17 just one (1) of their instructors. I don't believe  
18 they -- I can't recall that they had any legal  
19 background.

20 THE HONOURABLE FRANK MARROCCO: Thank  
21 you.

22 MR. FREDERICK CHENOWETH: So just a  
23 question that follows from that, Your Honour.

24 THE HONOURABLE FRANK MARROCCO:  
25 Certainly.

1

2 CONTINUED BY MR. FREDERICK CHENOWETH:

3 MR. FREDERICK CHENOWETH: And I think  
4 this really just confirms the evidence. So it's your,  
5 at this time, vague memory that Mr. Longo may have  
6 been one (1) of those that instructed people with  
7 respect to their responsibilities and with respect to  
8 conflicts.

9 MR. IAN CHADWICK: Yes, sir. I  
10 believe he may have been.

11 MR. FREDERICK CHENOWETH: Yes. Thank  
12 you very much. Those are my questions.

13 THE HONOURABLE FRANK MARROCCO: Who's  
14 cross-examining next?

15 MR. GEORGE MARRON: I'll indicate I  
16 have no questions. Thank you.

17 THE HONOURABLE FRANK MARROCCO: Thank  
18 you, Mr. Marron.

19 MS. BELINDA BAIN: Going next, Your  
20 Honour?

21 THE HONOURABLE FRANK MARROCCO: Yes.  
22 I -- well, I think you're all supposed to decide on  
23 your order. So if absent --

24 MS. BELINDA BAIN: All in agreement?

25 THE HONOURABLE FRANK MARROCCO: --

1 absent an agreement --

2 MS. BELINDA BAIN: Okay. Excellent.

3 THE HONOURABLE FRANK MARROCCO: -- I  
4 would impose myself on the process. But this doesn't  
5 seem necessary.

6 MR. FREDERICK CHENOWETH: This is  
7 the -- this appears to be the regular course of the  
8 agreement, and I think it's satisfactory to all  
9 counsel, as I understand it, and to all participants.

10 THE HONOURABLE FRANK MARROCCO: Thank  
11 you.

12 MR. FREDERICK CHENOWETH: Thank you.

13 MS. BELINDA BAIN: Thank you,  
14 Mr. Chenoweth.

15

16 CROSS-EXAMINATION BY MS. BELINDA BAIN:

17 MS. BELINDA BAIN: Good morning,  
18 Mr. Chadwick. My name is Belinda Bain. I'm one (1)  
19 of the lawyers for Alectra Utility Corporation,  
20 previously PowerStream. I have only a few questions  
21 for you this morning.

22 You told us earlier in your evidence  
23 that you provided media monitoring services to  
24 Compenso Communications --

25 MR. IAN CHADWICK: Yes.

1 MS. BELINDA BAIN: -- in 2011 and  
2 2012; is that right.

3 MR. IAN CHADWICK: Yes.

4 MS. BELINDA BAIN: And those services  
5 included scanning online resources --

6 MR. IAN CHADWICK: Yes.

7 MS. BELINDA BAIN: -- for stories and  
8 articles dealing with energy and electricity issues,  
9 correct?

10 MR. IAN CHADWICK: That's correct.

11 MS. BELINDA BAIN: So that essentially  
12 involved you scanning the Internet for relevant  
13 articles and stories, and you would then email them to  
14 Mr. Bonwick on a weekly basis; is that right?

15 MR. IAN CHADWICK: That's correct.

16 MS. BELINDA BAIN: And in doing that,  
17 you would simply attach the relevant stories and  
18 articles to a brief covering email to Mr. Bonwick,  
19 correct?

20 MR. IAN CHADWICK: That's correct.

21 MS. BELINDA BAIN: Over the course --

22 MR. IAN CHADWICK: If I may --

23 MS. BELINDA BAIN: Please, expand.

24 MR. IAN CHADWICK: -- generally what I  
25 would include would be the headline and the first

1 paragraph or two (2) with the link to the website where  
2 it came from.

3 MS. BELINDA BAIN: Fair. And over the  
4 course of that retainer, you never dealt with anyone  
5 at PowerStream directly, did you?

6 MR. IAN CHADWICK: No, I did not.

7 MS. BELINDA BAIN: You didn't email  
8 anyone at PowerStream, did you?

9 MR. IAN CHADWICK: No, I did not.

10 MS. BELINDA BAIN: You didn't speak  
11 to, for example, Brian Bentz, the CEO of PowerStream?

12 MR. IAN CHADWICK: No, I didn't.

13 MS. BELINDA BAIN: You never spoke to  
14 Dennis Nolan of PowerStream?

15 MR. IAN CHADWICK: No, I did not.

16 MS. BELINDA BAIN: Not John Glicksman?

17 MR. IAN CHADWICK: No.

18 MS. BELINDA BAIN: And not Eric Fagen?

19 MR. IAN CHADWICK: No.

20 MS. BELINDA BAIN: And you didn't  
21 speak to anyone at PowerStream.

22 MR. IAN CHADWICK: No one at all.

23 MS. BELINDA BAIN: And you certainly  
24 didn't contract directly with PowerStream, did you?

25 MR. IAN CHADWICK: No, I -- no, I did



1 not.

2 MS. BELINDA BAIN: We've heard today  
3 that you were present at the January 23, 2012 Council  
4 meeting where the Council members voted in favour of  
5 the proposed share purchase by PowerStream, correct?

6 MR. IAN CHADWICK: That's correct.

7 MS. BELINDA BAIN: Could we pull up  
8 ALE1644?

9

10 (BRIEF PAUSE)

11

12 MS. BELINDA BAIN: So, Mr. Chadwick,  
13 do you recognize this as a copy of the staff report  
14 which was delivered at the January 23rd, 2012 Council  
15 meeting?

16 MR. IAN CHADWICK: Yes, it appears to  
17 be.

18 MS. BELINDA BAIN: Can we scroll down,  
19 please, to the second page?

20

21 (BRIEF PAUSE)

22

23 MS. BELINDA BAIN: So there are a  
24 number of bullet points here. The first paragraph of  
25 bullet points starts off:

1 "After examining several options, a  
2 strategic partnership option was  
3 chosen for several reasons."

4 We've gone through these reasons. I  
5 don't purport to have you go through all of them  
6 again.

7 The second paragraph down -- if we  
8 could scroll down a bit -- is headed:

9 "The share purchase agreement and  
10 shareholders agreement address the  
11 requirements of the strategic  
12 partner relationship, including..."

13 And then a number of bullet points.

14 I'm interested in the second one (1)  
15 down:

16 "Provision of strategic and  
17 specialized resources to Collingwood  
18 Utility Services through service  
19 agreements."

20 Now, we've heard about this in a  
21 general sense but not much yet in the way of  
22 specifics. At the time of the transaction,  
23 PowerStream was obviously a much larger LDC than --  
24 than Collus Power, wasn't it?

25 MR. IAN CHADWICK: Yes, it was.

1 MS. BELINDA BAIN: And it had a number  
2 of resources that it could bring to the table and to  
3 the people of Collingwood, correct?

4 MR. IAN CHADWICK: That's correct.

5 MS. BELINDA BAIN: And did you  
6 understand that one (1) of the resources that  
7 PowerStream brought to Collingwood included a 24/7  
8 monitoring centre?

9 MR. IAN CHADWICK: Yes, I do.

10 MS. BELINDA BAIN: And that would  
11 greatly improve outage response times for the people  
12 of Collingwood, correct?

13 MR. IAN CHADWICK: Correct.

14 MS. BELINDA BAIN: And PowerStream  
15 also brought access to engineering and construction  
16 expertise, right?

17 MR. IAN CHADWICK: I understand that,  
18 yes.

19 MS. BELINDA BAIN: Okay. And a much  
20 better call centre that would greatly improve customer  
21 service, correct?

22 MR. IAN CHADWICK: I understand that,  
23 too. Yes.

24 MS. BELINDA BAIN: Looking at the  
25 fourth pair -- bullet down here:

1 "Continued and enhanced support for  
2 the interests of the communities we  
3 serve and our employees."

4 Do you see that?

5 MR. IAN CHADWICK: I do.

6 MS. BELINDA BAIN: Is it your  
7 understanding, Mr. Chadwick, that PowerStream was  
8 supportive of no involuntary layoffs from Collus Power  
9 if the partnership were to go forward?

10 MR. IAN CHADWICK: I believe that's  
11 correct, yes.

12 MS. BELINDA BAIN: And did you  
13 understand that PowerStream would provide training and  
14 education opportunities for Collus Power employees?

15 MR. IAN CHADWICK: Yes, I do  
16 understand that.

17 MS. BELINDA BAIN: Thank you.

18 The next bullet down reads "Continued  
19 and substantial presence in the communities we serve."

20 Do you see that?

21 MR. IAN CHADWICK: Yes, I do.

22 MS. BELINDA BAIN: Now, the strategic  
23 partnership meant that Collus Power stayed put in its  
24 old building on Stewart Road, right here in  
25 Collingwood, correct?

1 MR. IAN CHADWICK: That's correct,  
2 yes.

3 MS. BELINDA BAIN: And it would be  
4 useful for members of Collingwood to have the easy  
5 access to its utility right here in town, correct?

6 MR. IAN CHADWICK: That's correct.

7 MS. BELINDA BAIN: Finally, the last  
8 bullet reads:

9 "Continued focus on maintaining and  
10 enhancing the competitive  
11 distribution rate and cost structure  
12 of Collingwood Utility Services  
13 Corp."

14 Do you see that?

15 MR. IAN CHADWICK: I do.

16 MS. BELINDA BAIN: And I take it that  
17 you understood that a strategic partnership with  
18 PowerStream would keep rates down for the city --  
19 citizens of Collingwood?

20 MR. IAN CHADWICK: Yes, I do.

21 MS. BELINDA BAIN: And that's a good  
22 thing for the Town?

23 MR. IAN CHADWICK: Very much so.

24 MS. BELINDA BAIN: And the people of  
25 the Town?

1 MR. IAN CHADWICK: Yes.

2 MS. BELINDA BAIN: Can we please go to  
3 ALE50215.

4 This is a May 2010 article from the  
5 Canadian Business Journal, dealing with the  
6 Collingwood Utilities Services. You cited this  
7 article in the timeline that you prepared for this  
8 inquiry, correct?

9 MR. IAN CHADWICK: Yes.

10 MS. BELINDA BAIN: Your Honour, could  
11 we have this marked as the next exhibit?

12 THE HONOURABLE FRANK MARROCCO: Yes.

13 MS. BELINDA BAIN: Towards the bottom  
14 of the first page, if we could scroll down, under the  
15 bolded heading "Community owned means keeping the  
16 public informed", the article states:

17 "Collus is a community-owned utility  
18 which affords Collingwood and its  
19 regional residence several benefits.  
20 The first is Collus's ability to  
21 control their own prices, which  
22 means they are some of the lowest in  
23 Ontario. In doing so, Collus is  
24 committed to the local community,  
25 including the advancement of

1 community goals, the local  
2 environment, and citizens ability to  
3 have a voice in utility decisions."

4 Do you see that?

5 MR. IAN CHADWICK: I do.

6 MS. BELINDA BAIN: And would you agree  
7 that in 2010 Collus was committing to -- committed to  
8 ensuring that Collingwood residents had the ability to  
9 control their own prices?

10 MR. IAN CHADWICK: Yes, I do.

11 MS. BELINDA BAIN: And also to have a  
12 voice in utility decisions?

13 MR. IAN CHADWICK: Yes, I do.

14 MS. BELINDA BAIN: Thank you.

15 Can we bring back up, please, CJI2, and  
16 I'm not going to count the zero.

17 And if -- when we get there if you can  
18 scroll to page 17, please. Down a little bit, and a  
19 bit more.

20 So on page 17 of the timeline, Mr.  
21 Chadwick, you discuss the November 22nd, 2011  
22 community meeting.

23 MR. IAN CHADWICK: M-hm.

24 MS. BELINDA BAIN: And in particular,  
25 you note Collus, Council and the SPTT, which I take to

1 be the strategic task team we've been talking about,  
2 held an open public information session at the Leisure  
3 Time Centre, explaining the process, explaining what  
4 had been done to date and why, and asking for public  
5 comment and questions.

6                   The presentation included the contents  
7 and wording of the RFP sent to the potential partners,  
8 the list of choices, the reasons a partnership worked  
9 better, and the weighting of the decision process.  
10 The SPTT members were introduced to the public and a  
11 slide presentation covered the options. The current  
12 politic -- political climate around LDCs and the  
13 reasons for the choice of the strategic partnership.

14                   If you could just scroll down a little  
15 bit.

16                   Roughly two hundred (200) people  
17 attended, and you note other members have been  
18 reported, four (4) people from the audience asked  
19 questions, no one at that meeting publicly opposed the  
20 sale of 50 percent of the Utility, and there were no  
21 letters to the editor or editorials in the local media  
22 afterwards opposing it.

23                   It's your recollection Mr. -- you were  
24 at the November 22nd meeting?

25                   MR. IAN CHADWICK: Yes, I was.



1 MS. BELINDA BAIN: And -- and you  
2 remember that meeting?

3 MR. IAN CHADWICK: I do.

4 MS. BELINDA BAIN: And to the best of  
5 your recollection there were are approximately 200  
6 people present at that meeting?

7 MR. IAN CHADWICK: I -- I'm guessing  
8 at the number. I recall that there were quite a few  
9 people in the audience, and we usually do a quick scan  
10 trying to count the number by seats by the number of  
11 rows. That's my recollection, going back several  
12 years.

13 As I -- as I noted, other numbers have  
14 been reported, there may have been less. I doubt  
15 there were more though.

16 MS. BELINDA BAIN: Okay, but -- but  
17 certainly in your recollection it was -- it was a full  
18 room?

19 MR. IAN CHADWICK: It was -- there  
20 were quite a few people there.

21 MS. BELINDA BAIN: Thank you. Could  
22 we go now, please to ALE40924.0001. It's the 2013  
23 annual report of Collus Power that I'm looking for.  
24 There it is.

25 Mr. Chadwick, do you recognize this as

1 a copy that the 2013 Collus PowerStream Annual Report?

2 MR. IAN CHADWICK: Yes, I do.

3 MS. BELINDA BAIN: And you cite this  
4 in the timeline that you prepared for the inquiry?

5 MR. IAN CHADWICK: Yes, I do.

6 MS. BELINDA BAIN: And you reviewed it  
7 for purposes of -- of preparing that timeline?

8 MR. IAN CHADWICK: Yes, I believe it  
9 was also provided to Council at the time.

10 MS. BELINDA BAIN: Thank you. Your  
11 Honour, can we mark this as the next exhibit?

12 THE HONOURABLE FRANK MARROCCO: Yes.

13

14 CONTINUED BY MS. BELINDA BAIN:

15 MS. BELINDA BAIN: Thank you.

16 So this report sets out the financial  
17 results of the first year of -- the first full year of  
18 the strategic partnership, correct?

19 MR. IAN CHADWICK: That's correct.

20 MS. BELINDA BAIN: Collus PowerStream  
21 being the outcome of the strategic partnership,  
22 correct?

23 MR. IAN CHADWICK: Yes.

24 MS. BELINDA BAIN: And the strategic  
25 partnership achieved significant success in its first

1 year?

2 MR. IAN CHADWICK: I believe so, yes.

3 MS. BELINDA BAIN: Okay. Can we  
4 scroll down to page 2, please. Well, slides 2, it  
5 might be. Keep going. That's it, thank you. So  
6 we'll have to scroll down in a little bit, but so --  
7 this slide is entitled 2013 At A Glance and it sets  
8 out achievements of the strategic partnership in its  
9 first year as -- as Collus Power.

10 Is that your understanding, sir?

11 MR. IAN CHADWICK: Yes.

12 MS. BELINDA BAIN: Okay. And if we  
13 could scroll just to the bottom of this slide, I'm  
14 interested in the second bullet from the bottom there,  
15 Collus PowerStream customer survey results in a  
16 utility pulse report card of a -- and I understand,  
17 sir, that that means that there were very favourable  
18 reviews in terms of customer service brought by the  
19 strategic partnership Collus PowerStream, correct?

20 MR. IAN CHADWICK: I understand that  
21 too, yes.

22 MS. BELINDA BAIN: Thank you.

23 Could we scroll onto the next slide,  
24 which is a continuation of the achievements from 2013  
25 towards the bottom. The second from the bottom deals

1 with a third party review.

2 I understand that to be the console  
3 report that Mr. Chenoweth took you through previously?

4 MR. IAN CHADWICK: Yes, I believe  
5 that's correct.

6 MS. BELINDA BAIN: Okay, and we don't  
7 need to go through that again.

8 The next point down, first ever regular  
9 annual cash dividend of \$367,000 paid to shareholders,  
10 do you see that?

11 MR. IAN CHADWICK: Yes, I do.

12 MS. BELINDA BAIN: And is it your  
13 understanding that there was a cash dividend paid in  
14 and 2013 of \$367,000?

15 MR. IAN CHADWICK: Yes.

16 MS. BELINDA BAIN: And that's the  
17 first time that the Collingwood utility had paid a  
18 dividend, correct?

19 MR. IAN CHADWICK: I believe that's  
20 correct, yes.

21 MS. BELINDA BAIN: And certainly the  
22 Town was one (1) of the shareholders of Collus  
23 PowerStream?

24 MR. IAN CHADWICK: Yes.

25 MS. BELINDA BAIN: And so the town

1 benefitted from the payment of that dividend?

2 MR. IAN CHADWICK: It did.

3 MS. BELINDA BAIN: Thank you.

4 If we could scroll down, please, to  
5 slide 6.

6 So this is a message in the annual  
7 report from co-chair David McFadden. And of course,  
8 we've spoken a lot about Mr. McFadden, he was on the  
9 Board of Collus Power and then became the co-chair of  
10 the new entity, Collus PowerStream, correct?

11 MR. IAN CHADWICK: That's correct,  
12 yes.

13 MS. BELINDA BAIN: If we could scroll  
14 down a little bit more, please.

15 So in his message in the 2013 Annual  
16 Report Mr. McFadden notes:

17 "In addition to PowerStream's  
18 contribution at the Board level, our  
19 company has benefitted greatly from  
20 services provided by PowerStream in  
21 such areas as conservation and  
22 demand management, training,  
23 regulatory compliance, and the  
24 provision of a 24/7 control room  
25 capability."

1 Do you see that?

2 MR. IAN CHADWICK: I do.

3 MS. BELINDA BAIN: And that's  
4 essentially Mr. McFadden acknowledging the benefits  
5 which PowerStream brought to the table and brought to  
6 Collingwood, correct?

7 MR. IAN CHADWICK: Thank you. Can we  
8 go now please to BLG134\_0001?

9 This is an article called Debunking the  
10 Collus Myths. I believe that you're the author of  
11 this article?

12 MR. IAN CHADWICK: Yes, I am.

13 MS. BELINDA BAIN: Your Honour, can we  
14 mark this, please, as the next exhibit?

15 THE HONOURABLE FRANK MARROCCO: Well,  
16 if -- this is Mr. Chadwick's article and he's  
17 testifying, can he not just testify as to these  
18 things?

19 MS. BELINDA BAIN: Well, it is itself  
20 a stand-alone document, Your Honour, I can explore  
21 with him the timing and -- and genesis of it if --

22 THE HONOURABLE FRANK MARROCCO: I'll  
23 receive it. But I -- I view it, really, as Mr.  
24 Chadwick's view. That's the way I'll approach the  
25 document.

1 MS. BELINDA BAIN: Thank you, Your  
2 Honour.

3

4 CONTINUED BY MS. BELINDA BAIN:

5 MS. BELINDA BAIN: Mr. Chadwick, could  
6 you tell us when you wrote this article?

7 MR. IAN CHADWICK: 2015 o 2016. I'm  
8 sorry, I don't have the date in front of me.

9 MS. BELINDA BAIN: And -- and why did  
10 you write it?

11 MR. IAN CHADWICK: There was a lot of  
12 -- of misinformation going around in Town on social  
13 media, etc. about the previous sale that Council had  
14 gone through and about the current sale going on.

15 There had been -- there were reports  
16 that I considered to be incorrect about how they --  
17 they covered that -- that sale process.

18 MS. BELINDA BAIN: Understood. Did  
19 you publish this article?

20 MR. IAN CHADWICK: It was published in  
21 a blog.

22 MS. BELINDA BAIN: Okay, thank you.  
23 Can we please scroll down to the final paragraph?

24 And -- and sorry, just to follow up on  
25 that, I understand that you have a personal blog,

1 ianchadwick.com?

2 MR. IAN CHADWICK: Yes, I do.

3 MS. BELINDA BAIN: And is that the  
4 blog that this article was published on?

5 MR. IAN CHADWICK: Yes, yes it was.

6 MS. BELINDA BAIN: Thank you.

7 Was it published anywhere else?

8 MR. IAN CHADWICK: Not that I know of.

9 MS. BELINDA BAIN: Okay, thank you.

10 Can we scroll down a little further, please.

11 So in the final paragraph of this  
12 article you write:

13 "It was a good deal, well-crafted,  
14 legal, open, transparent, good for  
15 the Town, overseen by the top  
16 consultants, lawyers and experts in  
17 the industry. It brought us a  
18 terrific community partner who has  
19 lived up to every commitment and  
20 promise made during the process. It  
21 paid for new recreational  
22 facilities, and much of the Hume  
23 Street revitalization. Council  
24 should be celebrating the  
25 partnership."



1                   You wrote that then. Do you still  
2 agree with that statement today?

3                   MR. IAN CHADWICK: Very much so.

4                   MS. BELINDA BAIN: And you think that  
5 the Town got a good deal through it's partnership with  
6 PowerStream?

7                   MR. IAN CHADWICK: I do, yes.

8                   MS. BELINDA BAIN: And you think that  
9 PowerStream brought valuable expertise in the LDC  
10 industry to Collingwood?

11                  MR. IAN CHADWICK: Yes, I do.

12                  MS. BELINDA BAIN: And PowerStream  
13 was, in your words, a terrific community partner, is  
14 that right?

15                  MR. IAN CHADWICK: Yes.

16                  MS. BELINDA BAIN: Thank you, those  
17 are all my questions.

18                  THE HONOURABLE FRANK MARROCCO: Well,  
19 I'll -- I'll take the morning break. Ten (10)  
20 minutes.

21

22 --- Upon recessing at 11:14 a.m.

23 --- Upon resuming at 11:24 a.m.

24

25                  THE HONOURABLE FRANK MARROCCO:

1 Fryer...?

2

3 CROSS-EXAMINATION BY MR. TIM FRYER:

4 MR. TIM FRYER: Thank you, Justice  
5 Marrocco. Hello, Mr. Chadwick.

6 MR. IAN CHADWICK: Mr. Fryer.

7 MR. TIM FRYER: To begin with, I would  
8 -- I'd like to examine an item that appears to differ  
9 from some of your evidence in the time line. So I was  
10 going to look at paragraph number 176.

11 I think you'll be familiar with this.  
12 This is the details of the May 30th, 2011, Council  
13 meeting. And a presentation was made that included  
14 the 2010 Collus audited financial statements and the  
15 2011 to '13 business plan forecast of status quo  
16 operations.

17 This transcript of the meetings shows I  
18 outlined that these reports provided the required  
19 annual analysis that is cited in the Collus  
20 shareholder's direction. Would you agree with that?

21 MR. IAN CHADWICK: Excuse me one (1)  
22 second. If I can -- just give me a second to read it.

23 MR. TIM FRYER: Run through it.

24 MR. IAN CHADWICK: I believe that  
25 material was provided to Council, yes.

1                   MR. TIM FRYER:    Thank you.  Then if we  
2   could just scroll down to 180.  And this is just to  
3   take a quick look at it.  It -- it's some detail.  It  
4   goes into two (2) pages.  And it's actually Mr.  
5   Houghton's thoughts on -- on memories of the -- of the  
6   meeting.

7                   So it's not meant for questioning, it  
8   was just to -- to review it just so you've seen it.

9                   MR. IAN CHADWICK:   M-hm.

10                  MR. TIM FRYER:    And then we'll go to  
11   number 209.

12                  THE HONOURABLE FRANK MARROCCO:   Well,  
13   has -- did -- did you want Mr. Chadwick to read that  
14   paragraph now or just -- are you familiar with the  
15   paragraph, Mr. Chadwick?

16                  MR. IAN CHADWICK:   Yes, I am.  Thank  
17   you.

18                  THE HONOURABLE FRANK MARROCCO:   Go  
19   ahead, Mr. Fryer.

20                  MR. TIM FRYER:    Thank you very much.  
21   And that's -- I -- I just wanted to make sure he had  
22   seen it.

23

24   CONTINUED BY MR. TIM FRYER:

25                  MR. TIM FRYER:    So 209.

1 (BRIEF PAUSE)

2

3 MR. TIM FRYER: And this, again, is  
4 the -- we ma -- heard many times about the June 27th  
5 meeting. So this is the -- KMP presented their  
6 valuation work to date and put forth an analysis of  
7 three (3) options over and above the status quo  
8 summary received a month before, the majority and  
9 minorities share sale and full sale were discussed.

10 The outcome of that singular discussion  
11 was a decision to narrowly focus on one (1) option,  
12 one (1) described as a strategic partnership for up to  
13 50 percent of Collus shares.

14 Would you agree with that?

15 MR. IAN CHADWICK: I believe that was  
16 correct, yes.

17 MR. TIM FRYER: Thank you. So my  
18 question is, why, when considering a decision about  
19 the unexpected sale of the most valuable municipal  
20 asset, would Council decide not to investigate if  
21 there was other types of interest in the electricity  
22 marketplace?

23 Since it apparently was still a  
24 seller's market, there may have been a 25 to 30  
25 million offer like the EPCOR transaction. That would

1 have been the proactive and prudent thing to do,  
2 especially to provide assurance to your taxpayers that  
3 all options had been considered.

4 I'd like your thoughts on that.

5 MR. IAN CHADWICK: I can only speak  
6 for myself, Mr. Fryer, but I was certainly reluctant  
7 to -- first of all, to sell a hundred percent of any  
8 public utility. I still would be were I in Council  
9 today.

10 There was discussion around the table  
11 about not losing control of services and rates which  
12 generally was felt would happen if we sold more than  
13 50 percent. That's my recollection of it.

14 MR. TIM FRYER: Okay. Thank you. Had  
15 your campaign platform that term outline this concept?

16 MR. IAN CHADWICK: No. I -- the  
17 campaign took place in 2010. This is somewhat close  
18 to a year later that this had been brought up, so  
19 nobody could have foreseen it because it wasn't even  
20 brought to Council as a possibility until May of 2011.

21 MR. TIM FRYER: Thank you. Did it  
22 relate at all to your platform perhaps there was a  
23 goal of reducing municipal debt levels?

24 MR. IAN CHADWICK: Not specifically,  
25 no. Reducing municipal debt levels, I believe, is on

1 the radar of every candidate, and I believe it's  
2 pretty much a standard plank in everybody's platform.

3 MR. TIM FRYER: Okay. Thank you. In  
4 conjunction with this review then, another aspect that  
5 I wanted to explore regarding your evidence is related  
6 to the information provided to Council during final  
7 stages of approving the share sale transaction with  
8 PowerStream.

9 So I wanted to bring up  
10 ALE0005133.0002, and we'd look at slide 18.

11 THE HONOURABLE FRANK MARROCCO: While  
12 they're doing that, Mr. Fryer, I just have a question  
13 arising out of what you asked about. The -- was there  
14 a provision in the final documents that one (1)  
15 shareholder could buy out the other?

16 MR. IAN CHADWICK: Yes, sir, I believe  
17 there what was called the shotgun clause, that if one  
18 (1) -- once I wanted to sell, the other one (1) had  
19 the opportunity to buy that share.

20 THE HONOURABLE FRANK MARROCCO: Could  
21 -- could one (1) side compel the sale?

22 MR. IAN CHADWICK: I don't -- I -- I  
23 don't recall that there was any discussion about  
24 compelling a selling.

25 THE HONOURABLE FRANK MARROCCO: All

1 right. Thank you. Go ahead, Mr. Fryer.

2 MR. TIM FRYER: Did -- did you read my  
3 notes ahead of time?

4 THE HONOURABLE FRANK MARROCCO: No,  
5 Mr. Fryer, I don't.

6 MR. TIM FRYER: Okay.

7 THE HONOURABLE FRANK MARROCCO:

8 Although I'm sure they would have been worth --

9 MR. TIM FRYER: Well, it's a -- it's a  
10 little bit ahead, but --

11 THE HONOURABLE FRANK MARROCCO: I'm  
12 sure they would have been worth the time, but -- but,  
13 no, I didn't.

14 MR. TIM FRYER: Actually, if you just  
15 put the -- the three (3) bullets on the screen, you'll  
16 see -- I jokingly referred to the first bullet that  
17 I'm going to come to, but you're ahead of me.

18

19 CONTINUED BY MR. TIM FRYER:

20 MR. TIM FRYER: So I -- I wanted to  
21 talk about the third bullet. And, again, this is from  
22 the December 5th in camera meeting --

23 MR. IAN CHADWICK: M-hm.

24 MR. TIM FRYER: -- 2011. So I wanted  
25 to first consider with you the third bullet point

1 content.

2 MR. IAN CHADWICK: If I may. I was  
3 not at that meeting. That was the meeting at which I  
4 declared a conflict of interest, so I cannot talk  
5 about any of the bullet points on this with any  
6 accuracy because I didn't see them.

7 MR. TIM FRYER: Okay.

8 MR. IAN CHADWICK: I wasn't part -- I  
9 didn't partake in that decision.

10 MR. TIM FRYER: Yeah, I -- I assumed,  
11 since you participated in the January 23rd vote for  
12 sale of -- of -- that you would have covered this  
13 background because, at that point in time, you didn't  
14 have...

15 But I think I can still ask you the  
16 questions. I think, with your familiarity and -- and  
17 particular circumstances, some of it'll be applicable;  
18 if -- if not, then we'll just skip through it.

19 MR. IAN CHADWICK: Okay.

20 MR. TIM FRYER: So the first part that  
21 I had asked about -- and I actually asked Mr. Lloyd  
22 about this yesterday, so we know the answer, so I'll  
23 just cover it with you.

24 It does say in the middle there that  
25 the Town could set aside a portion of the proceeds for



1 future growth of Collus. And he explained that none  
2 was -- were set aside.

3 So I'm thinking you can answer my  
4 question of why no proceeds were put aside if it was  
5 one (1) of the suggestions that could happen due to  
6 the 60:40 fully leveraging.

7 MR. IAN CHADWICK: Sorry, I was  
8 unaware of that suggestion. And as I recall the  
9 process, we put the money aside, and then asked for  
10 public input on how we should spend it. And we got  
11 considerable amount of public input. And I'm sure  
12 that will come -- come up in the next part of the --  
13 the inquiry.

14 MR. TIM FRYER: Okay. So because you  
15 didn't review this before, again, if -- if you -- if  
16 you feel like you can't answer it, then you can just  
17 tell me, but I was going to refer to the fact that it  
18 said as another option that PowerStream will be there.

19 And I had said this yesterday to Mr.  
20 Lloyd, that if PowerStream did put equity in, that  
21 would change your 50:50 relationship. And -- and I  
22 was asking the question, would it?

23 MR. IAN CHADWICK: Sorry, I was not --  
24 as I said, I wasn't part of that and I -- I was not  
25 part of those discussions.

1                   MR. TIM FRYER:    Okay.   So I think then  
2 what we'll do is -- the main reason I was reviewing  
3 these contents of the detail is because it appears  
4 that there wasn't a business plan contemplated during  
5 the process that showed how the growth strategy was  
6 ever going to be achieved.

7                   Can you recall if there was a Council-  
8 approved business plan outlining expectations on  
9 regional growth at some point in time?

10                  MR. IAN CHADWICK:   I recall that the  
11 business plan was presented by Collus in May of 2011.  
12 I don't recall specifically if it talked about  
13 regional expansion. But I do know that regional  
14 expansion had been discussed periodically over the  
15 years, but I couldn't say exactly when.

16                  MR. TIM FRYER:    Okay.   So I had  
17 mentioned in my information about the May 30th meeting  
18 that that was just on status quo, that business plan  
19 was just status quo. And that's where the differs are  
20 for your -- your evidence in your timeline.

21                  So -- just to follow, here, so.   So --  
22 so in leaving the review topic, to the best of your  
23 knowledge, as the counel -- Council initiative of  
24 becoming an equal partner with the larger entity  
25 PowerStream finalized on January 23rd -- 23rd, 2012,

1 these critically important aspects put forward in this  
2 bullet hadn't been further explored?

3 So you've already responded, "Correct,"  
4 to that?

5 MR. IAN CHADWICK: Yes.

6 MR. TIM FRYER: Okay. So I wanted to  
7 -- I will come back to that slide, but I wanted to  
8 just quickly look at paragraph number 527.

9

10 (BRIEF PAUSE)

11

12 MR. TIM FRYER: So this is the one (1)  
13 -- and -- and it -- it appears to indicate you had  
14 plans for growth, but that didn't include, at least  
15 when the decision was made, a funding strategy.

16 Is that correct?

17 MR. IAN CHADWICK: I'm sorry, you --  
18 could you cli -- could you say that again? I --

19 MR. TIM FRYER: Well, this -- this  
20 indicates that you were contemplating -- we could  
21 bring up the email, but I know you're familiar with  
22 email. It's -- it's up to you. You were  
23 contemplating about growth strategy. And all I'm  
24 saying -- but there wasn't a funding strategy that  
25 you're aware of?

1                   MR. IAN CHADWICK:    Sorry, what -- what  
2   -- funding strategy -- sorry, Tim, I don't quite  
3   understand.   Which funding strategy?   For the growth  
4   of Collus, do you mean?

5                   MR. TIM FRYER:     As a regional concept.

6                   MR. IAN CHADWICK:   I -- I was unaware  
7   of any at the time.

8                   MR. TIM FRYER:     Okay, thank you.   So  
9   if we could just go back to the other slide.

10

11                                       (BRIEF PAUSE)

12

13                   MR. TIM FRYER:     And I was going to  
14   look at the first bullet that Justice Marrocco was  
15   asking about earlier.   So this is -- is what you  
16   mentioned to the -- to the judge about the shotgun  
17   clause.

18                   And I wasn't going to refer to what's  
19   there in the -- in the bullet, but I think it is  
20   important to put out there that it does speak to the  
21   views on liquid -- liquidity is exactly that of ours,  
22   and specifically, David McFadden's.

23                   So if we could bring up ALE0003296,  
24   which is the Unanimous Shareholder Agreement, and I  
25   was going to bring up page 23.

1 (BRIEF PAUSE)

2

3 MR. TIM FRYER: And show article 9,  
4 which is the buy/sell provisions. I wasn't going to  
5 have you read through this. I -- I -- my question is  
6 more of a general nature. But if we go to -- go to  
7 part B, I wanted to consider it in part B that it  
8 refers to twenty (20) days.

9 And I'll just say that as I said, not  
10 going into depth, here -- that'll be for future  
11 witnesses -- but looking at clause 9.2, I wanted to  
12 consider the twenty (20) day reference.

13 That is the time period either party  
14 would need to adhere to. So I was going to ask what  
15 your thoughts are on this timeline for a Council to  
16 complete a buy or sell transaction.

17 MR. IAN CHADWICK: I'm afraid first of  
18 all, I did not see the -- the agreement at the time,  
19 so I was unaware of all the conditions in it. It was  
20 described in general terms only to us.

21 Twenty (20) days, I think Councils are  
22 fairly mature and able to make a -- a decision. I  
23 think -- I'm assuming that ahead of time that would be  
24 brought forward as something that will be coming.

25 For example, the sale this year,

1 everybody knew about it -- sorry, not this year, a --  
2 a previous term. The -- it was in the media. It was  
3 -- it was talked about in Town. Everybody knew that  
4 there was a sale coming, and the final twenty (20)  
5 days are not probably the only information time that  
6 they had for it.

7 But it didn't come up, so I can't  
8 really speak upon what happened, because it didn't  
9 come up in the past. I can only give you supposition.

10 MR. TIM FRYER: Yes.

11 MR. IAN CHADWICK: I wouldn't have had  
12 a problem with twenty (20) days, assuming we had all  
13 the experts, and the people giving us the right  
14 advice, legal and otherwise, financial, and that sort  
15 of thing.

16 MR. TIM FRYER: So you feel it could  
17 be turned around in twenty (20) days, if necessary?

18 MR. IAN CHADWICK: It's only  
19 guesswork. I -- I don't know what information would  
20 be provided. Assuming it was all provided in time,  
21 yes.

22 MR. TIM FRYER: Okay. Fair enough.  
23 Upon reviewing this provision, and the other terms of  
24 the Unanimous Shareholder Agreement, there were many  
25 implications, and it brought uncertainty to the

1   forefront for last Council, anyway, who then decided  
2   steps had to minimize that uncertainty.

3                   The steps taken had to be handled in a  
4   sensitive manner because of clause 9. So again, just  
5   looking at 9.1 and the -- and the in the various terms  
6   that are there, it's quite clear that it's fairly  
7   extensive, and that it'd be very confidential and very  
8   sensitive. So all I'm saying is that if you were  
9   going to act on this, it would have to be done in a  
10  sensitive manner. Would you agree?

11                  MR. IAN CHADWICK:   'Sensitive' does  
12  not mean 'secretive'.

13                  MR. TIM FRYER:    Thank you.

14                  MR. IAN CHADWICK:   And I believe that  
15  it was done as a secretive and somewhat deceptive  
16  process the last time.

17                  MR. TIM FRYER:    The result, though, is  
18  that we all know an extremely successful Transaction  
19  working within the restrictions imposed by this clause  
20  was completed with EPCOR?

21                  MR. IAN CHADWICK:   That's not my  
22  definition of successful. Someone who --

23                  MR. TIM FRYER:    Okay.

24                  MR. IAN CHADWICK:   -- a hundred  
25  percent of a public asset is, to my mind, never

1 successful.

2 MR. TIM FRYER: So we have a  
3 difference of opinion.

4 So moving back to the first slide, if I  
5 could, again, please.

6

7 (BRIEF PAUSE)

8

9 MR. TIM FRYER: And you'll look at the  
10 second bullet point.

11

12 (BRIEF PAUSE)

13

14 MR. TIM FRYER: So this note's about  
15 the consideration of the services company, Collus  
16 Solutions, being dissolved. As was noted earlier,  
17 this back in December 2011, so you may not recall  
18 this, but Council -- this is when Council was being  
19 brought up to date on this consideration.

20 As well, for at least six (6) months  
21 prior, there were ongoing internal discussions with  
22 Collus audit committee about this, which obviously had  
23 major impact in regards to completing the renewal  
24 process of the affiliated companies' shared service  
25 agreements.



1                   Would you agree with that?

2                   MR. IAN CHADWICK:    I was not privy to  
3 any of those discussions. They were all done in  
4 Collus. And as I've said before, I did not see this  
5 slide, and I was not part of that discussion.

6                   MR. TIM FRYER:    Okay. Some of the  
7 evidence in this matter is contained in the document,  
8 but we won't be getting into that now. The  
9 examination of that in further evidence, such as which  
10 staff had responsibility relating to it, will be  
11 reviewed with later witnesses.

12                   I wanted to review this particular area  
13 with you, though, because of the evidence you had  
14 presented, to see if you recall that there was the  
15 possibility of impacts from the Unanimous Shareholders  
16 Agreement, specifically section 9, and the final  
17 decisions regarding the service company, which will be  
18 done in order to -- for the most part, to comply to  
19 new accounting principles on the future provision of  
20 shared services.

21                   Did you feel there was going to be an  
22 impact because of those two (2) things?

23                   MR. IAN CHADWICK:    On shared services?

24                   MR. TIM FRYER:    Yes.

25                   MR. IAN CHADWICK:    I'm -- I'm sorry, I

1 -- I don't know. I -- as I said, I wasn't part of the  
2 discussion. I wasn't part of the decision.

3 MR. TIM FRYER: Okay. And as a final  
4 comment about shared services, it has also been  
5 suggested during this proceeding that the decision to  
6 have the share sale of the holding company take place,  
7 that this caused difficulties with maintaining shared  
8 services.

9 It appears, though, that most of the  
10 difficulties had to do with the ever-growing  
11 discontent between Collus and the Town governing  
12 bodies, and their associated senior staff.

13 Would you agree?

14 MR. IAN CHADWICK: In my experience on  
15 Council, there was no disagreement between Collus and  
16 the Town over shared services. They seemed to be  
17 working very well, and it was only when we put in a  
18 new -- an interim CAO that suddenly a problem seemed  
19 to occur.

20 MR. TIM FRYER: And then through the  
21 next Council as well?

22 MR. IAN CHADWICK: And I wasn't part  
23 of that Council, so I cannot speak to their  
24 discussions.

25 MR. TIM FRYER: Okay.

1 MR. FREDERICK CHENOWETH: So, Your  
2 Honour, I'm -- I'm a little lost, as I frequently am,  
3 with respect to this matter. Is he talking about CAO  
4 Mr. Houghton, or is he talking about a later CAO,  
5 being Mr. Brown? I'm uncertain.

6 THE HONOURABLE FRANK MARROCCO: Well -  
7 - well, be -- Mr. Fryer, before you ask another  
8 question, which CAO were you talking about?

9 MR. IAN CHADWICK: The CAO -- the  
10 interim CAO John Brown.

11 THE HONOURABLE FRANK MARROCCO: Now,  
12 Mr. Chenoweth --

13 MR. TIM FRYER: And sorry, Mr.  
14 Chenoweth --

15 MR. FREDERICK CHENOWETH: That's  
16 helpful.

17 MR. TIM FRYER: -- sorry, that -- I --  
18 I didn't catch that myself, that they're -- we're  
19 talking about two (2) CAO situations.

20 THE HONOURABLE FRANK MARROCCO: Just  
21 direct your questions to the witness. We're not  
22 having a conversation this way, but we've now  
23 clarified which CAO we're talking about.

24

25 CONTINUED BY MR. TIM FRYER:

1                   MR. TIM FRYER:    Yeah.   So although you  
2 weren't on the new Council, I believe that the  
3 decision of the Collus Board in early 2015 to deny  
4 Council's request for additional municipal Council  
5 representation was another major factor in the growing  
6 discontent between the two (2)bodies.

7                   MR. IAN CHADWICK:   I was not at that  
8 meeting, and I was not part of the Collus Board or  
9 part of Council.   So I can't really speak to the  
10 details of that decision.

11                  MR. TIM FRYER:    Okay.   So I'm going to  
12 move over to another area.   And if I could bring up  
13 CPS0005635?

14

15                                   (BRIEF PAUSE)

16

17                  MR. TIM FRYER:    Justice Marrocco, I'll  
18 just mention, these are 2015 emails, but it's  
19 applicable to the 2011 valuation.   That's why I'm  
20 bringing them up.

21                  THE HONOURABLE FRANK MARROCCO:    Fine.

22

23 CONTINUED BY MR. TIM FRYER:

24                  MR. TIM FRYER:    And the first one, if  
25 I could just show at the bottom, it's an email from

1 Jonathan Erling to Ed. I wasn't looking for a  
2 question about the content. It was just to show  
3 you -- and show you the -- the responding one (1)  
4 that's three (3) days later, which is a follow-up one.

5

6 THE HONOURABLE FRANK MARROCCO:

7 What -- well, just a second. Have you had a chance to  
8 read it?

9 MR. IAN CHADWICK: I have, yes. Thank  
10 you, Your Honour.

11 THE HONOURABLE FRANK MARROCCO: All  
12 right. Yeah. Okay.

13

14 CONTINUED BY MR. TIM FRYER:

15 MR. TIM FRYER: And as I said, I  
16 wasn't going to ask you a question specifically about  
17 this one. As I said, the email to the follow-up note  
18 to Mr. Houghton -- and it's just for background -- but  
19 I noted the three-day differential and that the time  
20 factor on this is to 10:25, I believe. I -- I don't  
21 see the time on it. So -- anyway, so if we could go  
22 on to CPS0005646.

23

24 (BRIEF PAUSE)

25

1                   MR. TIM FRYER:    And the body of the  
2 email is kind of in the middle there, right there.  
3 And I believe, Mr. Chadwick, you'd be familiar with  
4 this one (1) because it is in your timeline. It was  
5 used in your timeline?

6                   MR. IAN CHADWICK:   It's in the time --  
7 timeline, yes.

8                   MR. TIM FRYER:    So I just want to make  
9 sure because there's three (3) different versions of  
10 this email thread, and I'm still trying to sort that  
11 out. So you've read through that.

12                   I didn't bring up the actual timeline  
13 to look at this because I found the use of emphasis in  
14 it to be extremely poor taste. As you attested to in  
15 your testimony the other day, you can relate to the  
16 concern of a considerable amount of abuse from a local  
17 blog.

18                   Reviewing this particular email ahead  
19 of the next one, which I would like to ask you  
20 about -- so if you'll note the time on this one (1) as  
21 being 2:18. And if just scroll down, there's no  
22 thread to it. So if -- if we could look at  
23 CPS0005638?

24

25

(BRIEF PAUSE)

1 MR. TIM FRYER: And we'll just go to  
2 the bottom part of the email. Just up a little bit.  
3 Yeah, perfect.

4 So you'll see this as -- it shows it --  
5 it's sent earlier that day by Pam Hogg at 10:07 a.m.,  
6 and I'll give you a little time read through it, but  
7 it shows it's a request for the valuation report?

8 MR. IAN CHADWICK: M-hm. Yes.

9 MR. TIM FRYER: So if we just scroll  
10 up to Mr. Rockx's response and just a little higher.

11 You'll see this response was at  
12 12:10 p.m., and I'll let you read through it.

13 MR. IAN CHADWICK: Yes.

14 MR. TIM FRYER: So this appears to be  
15 Mr. Rockx's original response to the question asked,  
16 and the email thread shows the -- the question that  
17 was asked. Were you aware of this email thread when  
18 you decided to utilize the 2:18 p.m. updated version,  
19 which we just saw in the previous document in your  
20 timeline?

21 MR. IAN CHADWICK: I don't recall.

22 I --

23 MR. TIM FRYER: Okay.

24 MR. IAN CHADWICK: -- the emails that  
25 I got were all material that was submitted to the

1 judicial Inquiry. I don't recall -- there were quite  
2 a lot of them.

3 MR. TIM FRYER: Okay. So I expected  
4 you may have investigated if there -- if there was  
5 different versions. So you're saying that there  
6 weren't different versions that you are aware of?

7 MR. IAN CHADWICK: I don't recall  
8 seeing different versions.

9 MR. TIM FRYER: Yes. Thank you. So  
10 you wouldn't have known about this discrepancy in  
11 wording and the area that you used emphasis on in your  
12 timeline. So I'll sort through that later with the  
13 KPMG representatives then.

14 If we could look at the timeline,  
15 CJI0000002, and I'm very close to winding down, Your  
16 Honour. And it's page 42.

17

18 (BRIEF PAUSE)

19

20 MR. TIM FRYER: So just a little bit  
21 further. Right there is perfect. So you'll see the  
22 reference to September 30th, 2013?

23 MR. IAN CHADWICK: Yes.

24 MR. TIM FRYER: Okay. So this is  
25 dated September 30th, 2013. So just for



1 clarification, my retirement was actually  
2 September 30th, 2012, and I don't believe my imposed  
3 six (6) week leave cost almost \$78,000 to cover my  
4 workload. So perhaps this note is regarding the cost  
5 incurred over the year after my retirement?

6 MR. IAN CHADWICK: I'm sorry,  
7 Mr. Fryer. I don't know all the detail of it. I just  
8 took it from the -- as it's noted at the bottom in the  
9 footnote: "Collus PowerStream Energy Probe responses  
10 as to what the costs were."

11 MR. TIM FRYER: Okay.

12 MR. IAN CHADWICK: That was a response  
13 that was made to Energy Probe. So I -- I don't have  
14 any other details about it, and I'm sorry if I've  
15 mistaken your retirement date.

16 MR. TIM FRYER: Okay. Thank you.  
17 Were you aware that I had an agreement with Collus for  
18 that 12-month period to be available to provide  
19 services when required?

20 MR. IAN CHADWICK: No, Sir. I'm not  
21 aware of any personal relationships or agreements.

22 MR. TIM FRYER: Okay. In spite of my  
23 checking periodically, they decided not to take  
24 advantage of the no-cost agreement, completely outside  
25 of my control. So as a shareholder at the time, is

1 that something you think should have been done?

2 MR. IAN CHADWICK: I -- I can't answer  
3 that, Tim. I'm sorry. It's -- you're asking me what  
4 would -- what I would do now about information that --  
5 that was going around six (6) years ago? I'm sorry.  
6 I don't know.

7 MR. TIM FRYER: Okay. So I -- not my  
8 final question 'cause I do have one (1) because of  
9 some cross-examination. But --

10 MR. IAN CHADWICK: May I add -- may I  
11 add, by the way, that personnel relations, personnel  
12 agreements -- and it just basically personnel matters  
13 within Collus and then later within Collus PowerStream  
14 were not brought to Council at any time. They were  
15 dealt with by the Collus Board because the Collus  
16 Board -- the Collus PowerStream Board, I should say,  
17 would be the -- the deciding body.

18 MR. TIM FRYER: So they were  
19 confidential.

20 MR. IAN CHADWICK: Yes.

21 MR. TIM FRYER: As would be somebody  
22 on medical leave.

23 MR. IAN CHADWICK: I assume so, yes.

24 MR. TIM FRYER: Thank you. So during  
25 your 16-month -- or the 16-month sale transaction

1 process and relating to it in the years following,  
2 have you ever asked me a question to get my opinion or  
3 input?

4 MR. IAN CHADWICK: I don't recall I  
5 have. No.

6 MR. TIM FRYER: Thank you. So earlier  
7 you spoke about the first time Collingwood was paid a  
8 dividend.

9 MR. IAN CHADWICK: Yes.

10 MR. TIM FRYER: I'd like to just  
11 clarify through you that previous to 2010/'14 Council,  
12 the earnings generated were kept inside Collus  
13 operations as further investment rather than remove  
14 cash for other municipal purposes.

15 MR. IAN CHADWICK: I believe that's  
16 correct. Yes.

17 MR. TIM FRYER: Okay. Thank you.  
18 These are all my questions, Sir.

19

20 CROSS-EXAMINATION BY MR. PAUL BONWICK:

21 MR. PAUL BONWICK: Good morning,  
22 Mr. Chadwick.

23 MR. IAN CHADWICK: Good morning.

24 MR. PAUL BONWICK: Just as a result of  
25 some of the cross-examination, I thought I would

1 address a couple of issues that have come up prior to  
2 getting into the other issues that I would like to  
3 raise with you.

4 MR. IAN CHADWICK: Okay.

5 MR. PAUL BONWICK: Firstly, there's  
6 been some discussion related to what was described as  
7 a shotgun clause and more accurately described through  
8 the court documents as a buy-sell provision.

9 MR. IAN CHADWICK: M-hm.

10 MR. PAUL BONWICK: Would it seem  
11 reasonable to you in any agreement -- any partnership  
12 agreement -- that there should be a buy-sell provision  
13 based on unknown extenuating circumstances that may  
14 arise?

15 MR. IAN CHADWICK: Yes, it seem --  
16 seems perfectly logic, especially when you're  
17 involving a public asset.

18 MR. PAUL BONWICK: Would it seem  
19 reasonable to you that there are a lot of extenuating  
20 circumstances that could affect LDCs moving forward?  
21 More specifically, provincial legislation that may  
22 create an environment where, in fact, one (1) party or  
23 the other may choose not to participate moving  
24 forward, and as a result would want to exercise a buy-  
25 sell provision, would that seem reasonable to you?

1                   MR. IAN CHADWICK:    It seems  
2 reasonable, yes.

3                   MR. PAUL BONWICK:    Could you imagine  
4 any scenario where you're entering into agreement and  
5 there is no option for an exit strategy?

6                   MR. IAN CHADWICK:    Personally no.  If  
7 I was buying or selling a house, I would assume that  
8 there would be some sort of next strategy.  If I'm  
9 buying an airline ticket, there's -- usually you have  
10 insurance to make sure if something happens.  So I  
11 would assume that you'd have some sort of an exit  
12 strategy in a buy-sell agreement.

13                  MR. PAUL BONWICK:    Thank you.  There's  
14 been some discussion about developing or lack of  
15 developing a regional growth strategy as it relates to  
16 putting aside funds in order to accommodate that  
17 strategy.  You're familiar with that?

18                  MR. IAN CHADWICK:    Yes, I am.

19                  MR. PAUL BONWICK:    Would you comment  
20 on how you might go about developing a plan to  
21 accommodate future growth strategy, when in fact, you  
22 don't know what the conditions of that potential  
23 partnership buy-in might look like?

24                  MR. IAN CHADWICK:    I -- I'm sorry.  I  
25 don't -- I don't even think that's possible.  I think

1 you have to have a lot more information about the --  
 2 the working partnership. You have to have more  
 3 information about the potential for -- for expansion.  
 4 All of those areas are already serviced by LDCs. You  
 5 know, who's looking to sell; who's looking to change  
 6 their structure. I don't think you can do it ahead of  
 7 time. I think you'd have to do it after you've gained  
 8 some experience.

9 MR. PAUL BONWICK: Is it reasonable  
 10 to suggest that each and every opportunity for  
 11 expansion would be unique in that particular  
 12 relationship with another LDC?

13 MR. IAN CHADWICK: No. It -- my  
 14 understanding, having spent a bit more time at it  
 15 than -- subsequently than I -- than I did prior to it.  
 16 I understand that each one (1) is -- is dealt with  
 17 individually, and it depends upon a lot of  
 18 criterion -- criteria set out by the Ontario Energy  
 19 Board, by Energy Probe, and, of course, by each  
 20 municipality, each LDC.

21 MR. PAUL BONWICK: Your -- would you  
 22 be familiar with the exercise that was commenced on  
 23 Wasaga Beach during the last term of Council. It was  
 24 respecting the potential sale of their LDC.

25 MR. IAN CHADWICK: It was somewhat

1 familiar -- talking to some people who attended to it  
2 and talking to -- or reading the media stories online,  
3 yes.

4 MR. PAUL BONWICK: Is it fair to say  
5 it was somewhat contentious?

6 MR. IAN CHADWICK: Contentious would  
7 be a very good for it, yes.

8 MR. PAUL BONWICK: Potentially one (1)  
9 of the most hot-button issues they had to deal with --

10 MR. IAN CHADWICK: Yes.

11 MR. PAUL BONWICK: -- during their  
12 last term of Council. But I -- I draw that to your  
13 attention simply because, hypothetically, if Collus  
14 PowerStream was to engage with Wasaga Beach in terms  
15 of the potential sale of their LDC, it could take on  
16 any number of different scenarios, whether it was  
17 buying the entire LDC, whether the Wasaga Beach LDC  
18 was wanting to become a full partner in Collus  
19 PowerStream, with -- it could take on any number of  
20 different scenarios in terms of what that might look  
21 like.

22 MR. IAN CHADWICK: That is correct.

23 MR. PAUL BONWICK: And so I would  
24 submit -- and if you're agreeing with me -- that it  
25 would be incredibly difficult to plan on what that

1 might look like until you're actually sitting at the  
2 table and discussing how that transaction might  
3 unfold.

4 MR. IAN CHADWICK: I agree, yes.

5 MR. PAUL BONWICK: Thank you. During  
6 your 20-year career -- and I was -- I apologize if I'm  
7 narrowing it or broadening it, you identified that you  
8 were a journalist, an editor; that you worked for a  
9 regional newspaper, as well as a considerable amount  
10 of time for the National News Agency --

11 MR. IAN CHADWICK: Yes.

12 MR. PAUL BONWICK: -- to use that word  
13 lightly -- CBC.

14 MR. IAN CHADWICK: Yes. I was the  
15 reporting editor for The Enterprise-Bulletin. I --  
16 local correspondent for CBC Radio, and I also --  
17 excuse me -- did the -- an interview on Rogers cable  
18 TV for their politically-speaking show.

19 MR. PAUL BONWICK: Would it be fair to  
20 say that you took your responsibilities as a  
21 journalist very seriously, especially relating to  
22 maintaining a very high ethical standard as it relates  
23 to information you're reporting, information gathering  
24 at the end of the day and simply your responsibilities  
25 as a journalist?



1                   MR. IAN CHADWICK:    I like to believe  
2   so, yes.

3                   MR. PAUL BONWICK:    Is it reasonable to  
4   assume, based on the fact that you were elected on  
5   three (3) occasions --

6                   MR. IAN CHADWICK:    Three (3).

7                   MR. PAUL BONWICK:    On three (3)  
8   occasions.    That you took that same level of  
9   responsibility in your job as a municipal councillor?

10                  MR. IAN CHADWICK:    Yes, I also like to  
11   believe that.

12                  MR. PAUL BONWICK:    Thank you.    Could I  
13   call on Document CJ111120, please?   There's a couple  
14   of zeros in there.   Sorry, my apologies, CJ --  
15   CJI0011121.

16

17                                       (BRIEF PAUSE)

18

19                  MR. PAUL BONWICK:    Do you recall the  
20   document that's up on the screen?

21                  MR. IAN CHADWICK:    Not specifically,  
22   but I recognize the format.

23                  MR. PAUL BONWICK:    If I may ask, could  
24   we scroll down?

25

1 (BRIEF PAUSE)

2

3

4 MR. PAUL BONWICK: Not for the  
5 purposes of reading but just to give a -- a flavour  
6 towards what it actually is as a document.

7

8 (BRIEF PAUSE)

9

10 MR. PAUL BONWICK: Thank you. That's  
11 -- that's good. Could you go to CJI0011128?

12

13 (BRIEF PAUSE)

14

15 MR. PAUL BONWICK: Please scroll down.

16

17 (BRIEF PAUSE)

18

19 MR. PAUL BONWICK: Again, thank you.  
20 I think you kind of got to -- unless somebody wants to  
21 read in detail, I think we've got a general  
22 understanding of -- do you recognize --

23 MR. IAN CHADWICK: Yes.

24 MR. PAUL BONWICK: -- that format in  
25 that document?

1 MR. IAN CHADWICK: Yes. Those are the  
2 -- the news wire scans that I provided to you.

3 MR. PAUL BONWICK: Did you provide  
4 those to me on a weekly basis?

5 MR. IAN CHADWICK: Yes, I did.

6 MR. PAUL BONWICK: Are you aware of  
7 the distribution list that I had in terms of me  
8 communicating that out to arguably seventy (70)  
9 different parties and potentially more on a weekly  
10 basis?

11 MR. IAN CHADWICK: No, I'm not.

12 MR. PAUL BONWICK: Are you aware of my  
13 involvement -- our engagement with Upper Lakes Marine  
14 and Industrial?

15 MR. IAN CHADWICK: Sorry, could you  
16 say that again?

17 MR. PAUL BONWICK: Are you familiar --  
18 are you aware of the fact that I was engaged with  
19 Upper Lakes Marine and Industrial, my company?

20 MR. IAN CHADWICK: I -- I don't know  
21 the name, I'm sorry.

22 MR. PAUL BONWICK: Are you aware of  
23 the fact that I was engaged with Allied Marine and  
24 Industrial?

25 MR. IAN CHADWICK: No, I'm not sure

1 about that name either.

2 MR. PAUL BONWICK: Were you aware --

3 THE HONOURABLE FRANK MARROCCO: Mr.

4 Bonwick, what was that name, Allied?

5 MR. PAUL BONWICK: Allied Marine and  
6 Industrial.

7

8 CONTINUED BY MR. PAUL BONWICK:

9 MR. PAUL BONWICK: Are you aware of  
10 the fact that I was engaged and provided services to  
11 Port Arthur Dry Docks, or Shipyards?

12 MR. IAN CHADWICK: I don't recall  
13 that, I'm sorry.

14 MR. PAUL BONWICK: Dry Docks -- Port  
15 Arthur dry docks, or shipyards actually is the...

16 Are you familiar with the term "The  
17 Ring of Fire"?

18 MR. IAN CHADWICK: Oh yes, very much  
19 so.

20 MR. PAUL BONWICK: Are you aware of  
21 the fact that it's arguably one (1) of the largest  
22 mining opportunities identified by the Canadian and  
23 provincial government in terms of future opportunity?

24 MR. IAN CHADWICK: Yes, I am.

25 MR. PAUL BONWICK: Did you at any time

1 feel that you were in the employ of Upper Lakes Marine  
2 and Industrial, Allied Marine and Industrial, Port  
3 Arthur Shipyards?

4 MR. IAN CHADWICK: No, I wasn't -- I  
5 was not.

6 MR. PAUL BONWICK: Or any of the other  
7 sixty (60) or so companies that I would email on a  
8 regular weekly basis?

9 MR. IAN CHADWICK: No, I was not.

10 MR. PAUL BONWICK: Could I bring up  
11 CJI0011120?

12

13 (BRIEF PAUSE)

14

15 MR. PAUL BONWICK: Again, I think  
16 you've got it all there, but if it's --

17 Do you recognize the document on the  
18 screen?

19 MR. IAN CHADWICK: Yes, I do.

20 MR. PAUL BONWICK: Is that amount the  
21 amount as per agreement, \$700 for the month?

22 MR. IAN CHADWICK: That's correct,  
23 yes.

24 MR. PAUL BONWICK: So based on my  
25 calculation, you were paid \$166.67 a week?

1                   MR. IAN CHADWICK:   That's correct,  
2   yes.

3                   MR. PAUL BONWICK:   And you provided my  
4   company, for the purposes of me providing any service  
5   to a multitude of companies, that service for \$166.67  
6   a week.   Was that --

7                   MR. IAN CHADWICK:   That's correct,  
8   yes.

9                   MR. PAUL BONWICK:   Thank you.   There's  
10   been some cross-examination related to the services  
11   that you were providing to my company, and I'd like to  
12   move to the services you provided specific to our work  
13   with First Nation communities within the Atlantic  
14   region.

15

16                                   (BRIEF PAUSE)

17

18                   MR. PAUL BONWICK:   Is it your opinion  
19   that First Nation communities generally speaking, not  
20   all of course, but First Nation communities generally  
21   speaking, require assistance or education related to  
22   communications or developing successful communications  
23   strategy in a manner that delivers a message to  
24   political levels, as well as the general public?

25                   MR. IAN CHADWICK:   Yes, certainly some

1 do.

2 MR. PAUL BONWICK: In your opinion,  
3 would it be reasonable to state that many First  
4 Nations have a high degree of mistrust in relationship  
5 to government and media?

6 MR. IAN CHADWICK: Only judging by  
7 what I've read in the media or online, I would suggest  
8 that is very likely.

9 MR. PAUL BONWICK: Do you recall the  
10 services we provided, I think to a large extent you,  
11 thank you very much, provided to members of the  
12 Atlantic Assembly some time ago?

13 MR. IAN CHADWICK: Yes. I created and  
14 presented a workshop on media relations that went over  
15 a two-day period in Moncton, New Brunswick.

16 MR. PAUL BONWICK: Based on what  
17 you've read and your personal experiences within the  
18 First Nation community and the lack of trust they have  
19 in government and media, I'd like you to comment on  
20 your personal experience in terms of what Atlantic  
21 leaders felt in terms of the relationship they had  
22 with me, both elected officials and staff?

23 MR. IAN CHADWICK: In my experience  
24 and when I saw, especially in those -- those -- the  
25 weekend in Moncton, it was very positive and very

1 respectful.

2 MR. PAUL BONWICK: You'll also be  
3 aware of the fact, and there's been some comment about  
4 Gemba Environmental Services, you'll also be aware of  
5 the fact of course that Gemba Environmental Services  
6 provided training to the Atlantic Assembly of First  
7 Nations.

8 MR. IAN CHADWICK: M-hm, yes.

9 MR. PAUL BONWICK: And you'll also, I  
10 assume, remember that that training that we provided,  
11 and again not me, more Mr. Fisher provided, was  
12 specific to how they assess and manage their fuel  
13 storage systems.

14 MR. IAN CHADWICK: I personally don't  
15 recall that but I'll accept that.

16 MR. PAUL BONWICK: So in both  
17 instances, the intention that I brought to the table  
18 was rather than provide them consulting services to do  
19 the assessments or manage their media training, the  
20 intention was simply to train them so that they could  
21 do it on their own. I think of the story where you  
22 give a man a fish and you feed him for a day and you  
23 teach a man to fish and you feed him for life.

24 Is it reasonable to say that that was a  
25 more appropriate level of engagement within the First



1 Nation communities?

2 MR. IAN CHADWICK: I believe what was  
3 presented at that time was -- was a method to give  
4 them the tools to do it on their own, yes.

5 MR. PAUL BONWICK: I only touch on it  
6 because it's come up in terms of the services you've  
7 provided, but I -- it leads me to the more important  
8 issue.

9 When you were involved in the decision-  
10 making regarding the potential for a 50 percent sale,  
11 the support of a 50 percent share sale, and  
12 subsequently the approval or vote on the 50 percent  
13 sale to PowerStream, did your work in New Brunswick in  
14 any way impact the choice you made to vote on a  
15 particular matter, more specifically the sale of 50  
16 percent of the shares to PowerStream?

17 MR. IAN CHADWICK: No, it did not. It  
18 happened many months before anything even came to  
19 Council.

20 MR. PAUL BONWICK: Did the service you  
21 were providing to my company in terms of collecting  
22 news clippings from across the country specific to the  
23 mining and energy sector, in any way affect your  
24 decision to sell 50 percent of the shares of Collus?

25 MR. IAN CHADWICK: No, it did not.

1 And just to clarify, I did not partake in the  
2 decision. I par -- I only partook in the decision to  
3 send out the RFP, to go through a process and send out  
4 the RFP. I did not participate in the decision to  
5 choose either PowerStream or the strategic  
6 partnership.

7 MR. PAUL BONWICK: My apologies. I  
8 think it would also be useful for the Inquiry and His  
9 Honour to understand the sharing of emails and the  
10 access to emails, and I ask this to you because in my  
11 mind you're sort of a resident expert as a -- as a  
12 journalist.

13 Is it safe to assume that any municipal  
14 emails are accessible through Freedom of Information  
15 request?

16 MR. IAN CHADWICK: Well, generally,  
17 yes, the -- there may be some redaction for personnel  
18 or personal information. Anything -- I've always  
19 believed, and it's my understanding, that anything  
20 sent to all of Council or to all of staff or, you  
21 know, to the department heads and copied to all of  
22 Council is a public document.

23 MR. PAUL BONWICK: So to take that a  
24 step further, whether it's Deputy Mayor Lloyd,  
25 Councillor Lloyd, Councillor Chadwick, Councillor

1 West, if they're sending emails to staff or to other  
2 councillors, whatever the case might be, unless it's  
3 redacted for personnel or legal reasons, and it would  
4 have to be identified as such, anybody from the public  
5 can get access to those documents. Is that fair?

6 MR. IAN CHADWICK: That's fair. And  
7 my time on Council, especially the last term, there  
8 were people in the community filing Freedom of  
9 Information Act requests quite frequently to gain  
10 those -- those emails.

11 MR. PAUL BONWICK: Thank you. Are you  
12 familiar with a non-disclosure agreement?

13 MR. IAN CHADWICK: Yes, I am.

14 MR. PAUL BONWICK: And what is your  
15 understanding of a non-disclosure agreement?

16 MR. IAN CHADWICK: I think you'd have  
17 to be a little bit more specific about that because  
18 there are non-disclosure agreements for all sorts of  
19 things.

20 But, generally, it's so that the two  
21 (2) parties do not share information with the public  
22 until such a time as a public announcement is made, if  
23 that's --

24 MR. PAUL BONWICK: A fair  
25 interpretation. Would it make sense that in fact you

1 cannot only share information with the general public,  
2 but in fact you can't share it with other parties,  
3 competitors?

4 MR. IAN CHADWICK: That would be  
5 correct, yes.

6 MR. PAUL BONWICK: And so would it  
7 make sense that if I -- when I engage -- which is  
8 standard business practice, engage with any client and  
9 sign non-disclosure agreements, that I would not be in  
10 a position to share that information with you or  
11 anybody else as it relates to the services I provide?

12 MR. IAN CHADWICK: That would be  
13 correct, yes.

14 MR. PAUL BONWICK: Thank you. I think  
15 a question that should have been asked of you some  
16 time ago, but I'll put it to you right now. At any  
17 time throughout your nine (9) or ten (10) or eleven  
18 (11) years on municipal Council did you ever feel that  
19 I acted inappropriately towards you in terms of  
20 requesting confidential information, asking you to  
21 vote in a particular direction, leveraging you in any  
22 way at all related to Town business?

23 MR. IAN CHADWICK: No, you did not.  
24 And, frankly, I do not recall us having any specific  
25 conversation about any specific issue or any direction

1 about Council.

2 MR. PAUL BONWICK: It would be  
3 interesting, I think, for His Honour to note, as well  
4 as those in attendance and viewing at home, how much  
5 engagement have we had since you -- since we no longer  
6 were engaged in a professional capacity?

7 MR. IAN CHADWICK: I -- I'd say none,  
8 but I think we actually met at Loblaws once somewhere  
9 between the tomatoes and the mushrooms.

10 MR. PAUL BONWICK: Small town.

11 MR. IAN CHADWICK: But -- but, no, we  
12 have not had any other engagement. We haven't had any  
13 social relationships. We haven't met or talked.

14 MR. PAUL BONWICK: I think  
15 specifically to the matters before the judicial  
16 inquiry right now, have we had any discussions? Have  
17 I asked you to say anything or do anything or --

18 MR. IAN CHADWICK: No, you have not.

19 MR. PAUL BONWICK: Thank you. I want  
20 to go to -- again, as a qualidi -- qualified resident  
21 expert in social media which is far beyond me, we're  
22 talking about Freedom of Information and the various  
23 access.

24 MR. IAN CHADWICK: M-hm.

25 MR. PAUL BONWICK: You spoke about the

1 year following the close of the sale. And if I  
2 understood you properly, you thought that the  
3 partnership that had been struck was moving forward  
4 and extremely successful?

5 MR. IAN CHADWICK: Yes. That's my  
6 belief, yes.

7 MR. PAUL BONWICK: Is it in your  
8 opinion that social media has the ability to drive a  
9 narrative or construct a false narrative within  
10 society and whether it's here in Collingwood, the  
11 Province of Ontario, Government of Canada, or anything  
12 internationally, for that matter?

13 MR. IAN CHADWICK: I -- I think that's  
14 probably one (1) of the major issues right now in  
15 politics worldwide. And right now, there's a question  
16 whether or not social media's actually destroying  
17 democracy.

18 MR. PAUL BONWICK: Have you -- in your  
19 experience, had you witnessed any environment -- and,  
20 again, you -- you follow this pretty closely. Have  
21 you ever experienced an environment where the social  
22 media, the blogging, was so caustic, so negative in  
23 terms of driving a specific narrative than that which  
24 happened in Collingwood?

25 MR. IAN CHADWICK: Not on a local

1 basis. I think locally, that it -- it certainly was  
2 unprecedented. But I would suggest that, if you look  
3 at them worldwide, you pretty much find that's the --  
4 the tone of the dialogue these days.

5

6 (BRIEF PAUSE)

7

8 MR. PAUL BONWICK: I'd like to close  
9 out with a question that I've put to the other  
10 witnesses. Based on what I've heard from you, and I'd  
11 like you to confirm this, did you feel that the  
12 process leading up to and the eventual sale of the 50  
13 percent shares in Collus was a robust, transparent,  
14 and publically engaging process?

15 MR. IAN CHADWICK: Yes, very much so.

16 MR. PAUL BONWICK: Is it your opinion  
17 -- and I'll reflect back on the integrity you bring to  
18 Council, your integrity as a journalist for twenty  
19 (20) some years.

20 Is it your opinion that the best  
21 possible decision was made for the ratepayers and the  
22 residents of Collingwood?

23 MR. IAN CHADWICK: Yes, I do.

24 MR. PAUL BONWICK: Thank you. That  
25 concludes my comments.

1 THE HONOURABLE FRANK MARROCCO: Re-  
2 direct...?

3

4 RE-DIRECT EXAMINATION BY MS. KATE MCGRANN:

5 MS. KATE MCGRANN: Mr. Chadwick, My  
6 Friend Ms. Bain in cross-examination asked you some  
7 questions about whether you had had any direct  
8 communication with individuals at PowerStream.

9 And I believe that your evidence was,  
10 no?

11 MR. IAN CHADWICK: Yes.

12 MS. KATE MCGRANN: Look at paragraph  
13 262 of the Foundation Document, please.

14

15 (BRIEF PAUSE)

16

17 MS. KATE MCGRANN: Paragraph 262  
18 describes a PowerStream copy of invoice 731 from  
19 Compenso that included handwritten notes --  
20 handwritten notes, and then transcribed here, and I'd  
21 like to walk through them with you. If we could  
22 scroll down so we could look at them all, please.

23 In the right-hand column we see it  
24 says:

25 "Ian Chadwick does contract work for



1 him, journalist by profession, sits  
2 on Collingwood Town's Council, views  
3 himself as a sounding board on  
4 Council. He sold his UPS store."

5 On the left-hand side you see notes  
6 that say:

7 "I suggest we're not comfortable  
8 with it. Use this service until the  
9 RFP October 5th. Continue to employ  
10 him creates a conflict."

11 Was this information ever brought to  
12 your attention?

13 MR. IAN CHADWICK: No, it was not.

14 MS. KATE MCGRANN: Did you continue to  
15 provide services to Compenso after October 5th of  
16 2011?

17 MR. IAN CHADWICK: Yes, I did.

18

19 (BRIEF PAUSE)

20

21 MS. KATE MCGRANN: In your cross-  
22 examine by Mr. Chenoweth, he asked you some questions  
23 about whether you had spoken to Mr. Houghton before he  
24 agreed to take on the role of acting CAO of the Town?

25 MR. IAN CHADWICK: Yes.

1 MS. KATE MCGRANN: And I believe that  
2 you said that you had discussions with Mr. Houghton  
3 about his reservations and your own?

4 MR. IAN CHADWICK: Yes.

5 MS. KATE MCGRANN: What were your  
6 reservations?

7 MR. IAN CHADWICK: My reservations  
8 were several areas. One (1) is just simply optics.  
9 It -- having somebody come from -- internally to come  
10 and do it as opposed to bringing somebody in from the  
11 outside, which had been the traditional practice,  
12 would be subject to community talk as it had been when  
13 we promoted Gord Norris, previously clerk to CAO, a  
14 similar kind of talk.

15 Also, it was about whether or not he  
16 could do the job in the municipal setting because,  
17 although he had been involved in -- as a CEO of -- of  
18 Collus, whether or not he could transfer those skills  
19 over to the CAO position and whether or not he'd have  
20 the support from staff.

21 MS. KATE MCGRANN: And you mentioned  
22 concerns about the optics of appointing Mr. Houghton  
23 leading to community talk. What was your concern  
24 about the community talk?

25 MR. IAN CHADWICK: Well, when -- when

1 Council -- and I was on Council at the time. When  
2 Council replaced CAO Jay Currier with Gord Norris, who  
3 had been the clerk at the time, in to CAO, there was  
4 fairly traditional typical small-town talk about  
5 promoting from within and that -- that you're --  
6 you're -- it's helping somebody, new staff, as opposed  
7 to bringing in the best person, et cetera.

8                   There's a lot of -- it's a small town.  
9 There's a lot of coffee shop talk about these things.  
10 Nowadays, of course, it's on social media. It's  
11 probably more than coffee talk -- coffee table talk in  
12 those days.

13                   MS. KATE MCGRANN: What are the  
14 implications of those kinds of discussions? Why do  
15 they concern you?

16                   MR. IAN CHADWICK: Well, how it  
17 appears to the community is always important, and  
18 trying to get the pulse of the community, trying to  
19 find out how they feel about things. And if they're  
20 not comfortable, it then sheds questions about the  
21 credibility or the confidence of the person involved,  
22 so they have to play their best game in order to be  
23 able to win the community's confidence.

24                   MS. KATE MCGRANN: Turn to document  
25 TOC485476.

1 (BRIEF PAUSE)

2

3 MS. KATE MCGRANN: This is a copy of  
4 the Council report that my friend, Ms. Bain, brought  
5 you to. And I assume that you reference this document  
6 in your time line?

7 MR. IAN CHADWICK: Yes.

8 MS. KATE MCGRANN: In what context did  
9 you receive a copy of this document?

10 MR. IAN CHADWICK: I believe the  
11 document was -- was put online. I'm sorry, I can't  
12 remember the exact source of it. I do know that when  
13 it was being done, that I had talked about -- about it  
14 with some of the staff at the utility. I knew it was  
15 ongoing.

16 And when they got the results, they  
17 were rather proud and pleased to be able to tell me  
18 some of the results. I don't remember the exact date  
19 that I received a copy of it though.

20 MS. KATE MCGRANN: And you don't  
21 remember who you received it from?

22 MR. IAN CHADWICK: No, not offhand,  
23 sorry.

24 MS. KATE MCGRANN: Look at slide 2 of  
25 this document, please.

1 (BRIEF PAUSE)

2

3 MS. KATE MCGRANN: I'd like to look at  
4 the first bullet point which says:

5 "The purpose of this report is to  
6 have Consol Asset review, in  
7 practical terms, the benefits and  
8 successes that Collus PowerStream  
9 has been able to experience since  
10 its strategic partnership with  
11 PowerStream in July 2012."

12 Do you see that?

13 MR. IAN CHADWICK: Yes, I do.

14 MS. KATE MCGRANN: Do you see that  
15 Council has explained what the purpose of the report  
16 is?

17 MR. IAN CHADWICK: Yes.

18 MS. KATE MCGRANN: Would you agree  
19 with me that the purpose of this report is not to  
20 assess whether the partnership was successful?

21 MR. IAN CHADWICK: I think that's a  
22 question of semantics, yes.

23 MS. KATE MCGRANN: Is says that the  
24 purpose --

25 MR. IAN CHADWICK: And it's open to

1 interpretation, I would think, but...

2 MS. KATE MCGRANN: Well, let's just  
3 look at the language of it. It says, "The purpose is  
4 to review the benefits and successes." Do you see  
5 that?

6 MR. IAN CHADWICK: Yes.

7 MS. KATE MCGRANN: Do you have any  
8 additional information about the purpose of this  
9 report?

10 MR. IAN CHADWICK: No. I got it. I  
11 saw what -- what you see here.

12 MS. KATE MCGRANN: Okay, let's --  
13 we're currently on slide 4, on the bottom of the page.  
14 Can we look at slide 2, please? On the paragraph  
15 headed, "Third Party Reliance" It says:

16 "This report has been prepared in  
17 accordance with the terms agreed to  
18 with CPC and is not to be used for  
19 any other purpose. Other than our  
20 responsibility to CPC, neither  
21 Consol Asset nor any member or  
22 employee of Consol Asset undertakes  
23 responsibility arising in any way  
24 from reliance placed by a third  
25 party on this report."

1                   It goes on to say:

2                   "Any reliance placed is that party's  
3                   sole responsibility. We understand  
4                   that this report may be released  
5                   into the public domain. Third  
6                   parties who access this report are  
7                   not a party to the engagement list  
8                   with CPC and, accordingly, may not  
9                   place reliance on this report."

10                  It goes, and I'm not going to read the  
11 rest of it to you. The part that I'm interested in is  
12 in the first sentence where it says:

13                  "This report has been prepared in  
14                  accordance with the terms agreed to  
15                  with CPC and is not to be used for  
16                  any other purpose."

17                  Did you have the opportunity to review  
18 the terms referred to in that sentence?

19                  MR. IAN CHADWICK: I didn't pay any  
20 specific attention to it, no.

21                  MS. KATE MCGRANN: Have you received a  
22 copy of the terms referred to in that sentence?

23                  MR. IAN CHADWICK: No, I'd never seen  
24 them.

25                  MS. KATE MCGRANN: The last question I

1 have for you is about your time line. So if we could  
2 --

3 MR. IAN CHADWICK: Yes.

4 MS. KATE MCGRANN: If we could look at  
5 CJI2, please.

6

7 (BRIEF PAUSE)

8

9 MS. KATE MCGRANN: Can we look at the  
10 bottom of page 2 of this document? All the way to the  
11 bottom, please.

12 Mr. Chadwick, this is the most recent  
13 copy that I believe that the inquiry has of your time  
14 line. It's dated September 27th, 2018.

15 MR. IAN CHADWICK: Yes.

16 MS. KATE MCGRANN: In your evidence,  
17 you referenced providing additional information in the  
18 spring. I would like to make sure that we have the  
19 copy that you are referring to.

20 MR. IAN CHADWICK: Yes.

21 MS. KATE MCGRANN: Is this the copy  
22 that you were referring to?

23 MR. IAN CHADWICK: I believe another 0  
24 copy was sent this spring. And I will have to go back  
25 and check my email records because there was a request



1 for me to update some of the information this spring,  
2 which I did, and I sent it in, but I don't know if it  
3 was received or not, I'm sorry. I will check.

4 MS. KATE MCGRANN: And --

5 MR. IAN CHADWICK: It's only a change  
6 of, I believe, two (2), perhaps three (3), references  
7 to Enterprise bulletin stories.

8 MS. KATE MCGRANN: My understanding is  
9 that we received a number of documents that you've  
10 identified as source documents?

11 MR. IAN CHADWICK: Yes, that's  
12 correct.

13 MS. KATE MCGRANN: Those have been  
14 disclosed. I don't believe we received an updated  
15 copy, so we can take this conversation offline. But  
16 if you could take a look and get back to us, that  
17 would be appreciated.

18 MR. IAN CHADWICK: I will do it this  
19 afternoon.

20 MS. KATE MCGRANN: Those are my  
21 questions. Thank you.

22 THE HONOURABLE FRANK MARROCCO: Tha --  
23 thank you. The next witness -- thank you, Mr.  
24 Chadwick.

25 MR. IAN CHADWICK: Thank you.

1 (WITNESS STANDS DOWN)

2

3 THE HONOURABLE FRANK MARROCCO: The  
4 next witness is...?

5 MR. JOHN MATHER: The next witness is  
6 Jonathan Erling.

7 THE HONOURABLE FRANK MARROCCO: Is he  
8 here?

9 MR. JOHN MATHER: Yes, he is.

10 THE HONOURABLE FRANK MARROCCO: All  
11 right. Well, we'll stand down for a minute. And then  
12 we'll get started. We'll -- we'll sit until -- until  
13 1:00. And then we'll break for lunch, just so you  
14 know.

15

16 --- Upon recessing at 12:26 p.m.

17 --- Upon resuming at 12:30 p.m.

18

19 JONATHAN MICHAEL ERLING, SWORN

20

21 EXAMINATION IN-CHIEF BY MR. JOHN MATHER:

22 MR. JOHN MATHER: Good afternoon, Mr.  
23 Erling.

24 MR. JONATHAN ERLING: Good afternoon.

25 MR. JOHN MATHER: It's my

1 understanding that you are a managing director at  
2 KPMG, is that correct?

3 MR. JONATHAN ERLING: My current title  
4 is actually Executive Director.

5 MR. JOHN MATHER: Okay, and in 2011  
6 was your title Managing Director?

7 MR. JONATHAN ERLING: It -- it was.

8 MR. JOHN MATHER: Can you explained to  
9 the inquiry what your role was as a managing director  
10 at KPMG in 2011?

11 MR. JONATHAN ERLING: So I -- I've --  
12 within KPMG I am in the advisory practice, so I  
13 provide consulting services.

14 And most of those services are focused  
15 on the energy sector and regulated utilities.

16 MR. JOHN MATHER: Can you just give us  
17 maybe an overview of the sort of advisory services you  
18 would provide to clients in that sector?

19 MR. JONATHAN ERLING: So certainly we  
20 have helped many utilities in Ontario with  
21 restructuring processes in connection with the reform  
22 of the electricity sector that began in 1998.

23 I also, from time to time, do cost  
24 allocation work for utilities or look at business  
25 options and what would be the benefits of

1 restructuring their operations or, for example, to  
2 look for cost saving opportunities.

3 I would also do financial projections  
4 for a variety of projects, generation type projects or  
5 combined heat and power that -- that type of thing.

6 MR. JOHN MATHER: And have you  
7 consulted on the sales -- on the sale of any LDCs or  
8 other utilities?

9 MR. JONATHAN ERLING: Yes, I have.

10 You know, John Herhalt and I in the  
11 early period, around the year 2000 advised a number of  
12 utilities on issues associated with restructuring,  
13 including decisions on whether to sell an interest in  
14 a utility or to retain ownership.

15 MR. JOHN MATHER: And as part of that  
16 work, have you been involved in any RFPs for LDCs or  
17 other utilities?

18 MR. JONATHAN ERLING: I have. I think  
19 a -- a number of other utilities that I don't call the  
20 specific utilities, but yes.

21 MR. JOHN MATHER: Yes. And prior to  
22 the valuation and options analysis work that was done  
23 for Collus in 2011, what work had you done in relation  
24 to the Collus companies?

25 MR. JONATHAN ERLING: So, around the

1 year 2000 there was a process run by Collus at that  
2 time to investigate decisions on the future of the  
3 utility and it was done in collaboration with -- with  
4 a task force that included representatives from the  
5 Town.

6 And it was a relatively extensive  
7 process in terms of educating the members of the  
8 participating panel on developments in the industry  
9 and, you know, what some of the options were and --  
10 and then making a decision at that time to -- to  
11 retain Collus.

12 MR. JOHN MATHER: And are you talking  
13 about the process whereby it -- municipalities were  
14 required to make their -- make LDCs into OBCA  
15 corporations?

16 MR. JONATHAN ERLING: Yes, that's  
17 correct. At the time, utilities needed to transform  
18 themselves from utility commissions into a share  
19 capital corporation. And in addition to, you know,  
20 the shareholder, the City as shareholders or the Town  
21 as shareholders, as the case may be, you know, not  
22 only did they have to make a decision as to whether  
23 they would retain ownership of the utility or look to  
24 sell it or potentially amalgamate with other  
25 utilities, you know, they also had to make decisions

1 about financial structure and dividend policies and  
2 whether or not they would be interested in entering,  
3 for example, competitive lines of business and setting  
4 up related corporations to enter into those types of  
5 competitive lines of business.

6 MR. JOHN MATHER: So then it's my  
7 understanding that you and Mr. Herhalt consulted with  
8 Collingwood on that process for the Collus companies?

9 MR. JONATHAN ERLING: When you say  
10 "Collingwood", the Town of Collingwood?

11 MR. JOHN MATHER: Yes.

12 MR. JONATHAN ERLING: My recollection  
13 was that there was at least one (1) or two (2) -- two  
14 (2) members of Council on the task force that was set  
15 up. I think the Mayor was a member and maybe a town  
16 Council member but I -- I don't recall the specific  
17 list of individuals.

18 MR. JOHN MATHER: So between that work  
19 and the options and value and -- the valuation and  
20 options analysis work in 2011, did you do any other  
21 consulting or work for the Collus companies?

22 MR. JONATHAN ERLING: I did not.

23 MR. JOHN MATHER: And then how did you  
24 become involved in the preparation of the value and  
25 options analysis in 2011?

1 MR. JONATHAN ERLING: So John Herhalt  
2 called me up and indicated that he had received a call  
3 from Ed Houghton, who was interested in, I think,  
4 doing a refresh of our work in the year 2000 period  
5 or, you know, looking again at -- at potential future  
6 strategies for Collus.

7 You know, there had been a significant  
8 amount of time had elapsed since the first study or  
9 process and, you know, the industry had evolved  
10 somewhat. And so I think Ed thought that -- or at  
11 least as relayed to me by John, Ed thought that, you  
12 know, it was probably time for the Town to -- to look  
13 again at -- at the decisions it had been making.

14 MR. JOHN MATHER: And what was your  
15 role to be in this review?

16 MR. JONATHAN ERLING: So my role  
17 really would be to provide a perspective, I mean  
18 within the KPMG group I probably focused more than  
19 others on the energy sector and developments in the  
20 utility sector.

21 So my role was to really review the  
22 environment from a market business perspective,  
23 whereas, for example, John Rockx provides specialized  
24 valuations expertise.

25 MR. JOHN MATHER: And Mr. Rockx is

1 also with KPMG?

2 MR. JONATHAN ERLING: Correct.

3 MR. JOHN MATHER: And when you were  
4 brought into this project, who did you understand the  
5 client to be?

6 MR. JONATHAN ERLING: The direct  
7 client was going to be the utility and that they would  
8 sign the engagement letter and, you know, we would  
9 invoice them for the fees. But my understanding that  
10 we were going to be working for -- the work was being  
11 done on behalf both of Collus and its shareholder, the  
12 Town of Collingwood.

13 MR. JOHN MATHER: Okay, so you said  
14 that Coll -- you understood the utilities, so I assume  
15 that was Collus Power?

16 MR. JONATHAN ERLING: Correct.

17 MR. JOHN MATHER: Was their direct  
18 client, but the -- so did you understand the Town of  
19 Collingwood to be a client?

20 MR. JONATHAN ERLING: Yes.

21 MR. JOHN MATHER: And you mentioned an  
22 engagement letter, is it fair to say that is where the  
23 scope of KPMG's work is set out?

24 MR. JONATHAN ERLING: Yes, it is.

25 MR. JOHN MATHER: And do you recall



1 who drafted the engagement letter?

2 MR. JONATHAN ERLING: I did.

3 MR. JOHN MATHER: So if we could go to  
4 paragraph 148 of the Foundation Document.

5 So this paragraph discusses an internal  
6 KPMG email thread in which you to and Mr. Rockx are  
7 discussing a draft engagement letter at this point in  
8 time. And if you see down at the bottom of the date  
9 of this email chain is February 14th, 2011.

10 MR. JONATHAN ERLING: Yes.

11 MR. JOHN MATHER: And it appears that  
12 you have sent Mr. Rockx a draft engagement letter and  
13 you've asked him to provide some revisions to a  
14 particular part of it.

15 And you say -- and your specific  
16 request was to reword the section on indicative  
17 valuation, observing that Mr. Rockx probably has a  
18 better sense of what we can get away with. Do you see  
19 that?

20 MR. JONATHAN ERLING: I do.

21 MR. JOHN MATHER: Do you recall this  
22 email thread?

23 MR. JONATHAN ERLING: Vaguely.

24 MR. JOHN MATHER: Do you recall what  
25 you meant when you said that Mr. Rockx probably had a

1 better sense of what we can get away with?

2 MR. JONATHAN ERLING: Yes. I -- and --  
3 - and really the context for this was that -- and it's  
4 indicated, for example, in the lines that are crossed  
5 out at the bottom of the paragraph which I will read:

6 "Because there have been a few  
7 recent transactions in the sector,  
8 these estimates of value will be  
9 subject to significant uncertainty."

10 And I think that points to a very  
11 important context for this review, is that, you know,  
12 there had been a lull in transactions in the Ontario  
13 LDC sector in the years prior to us undertaking this  
14 review, which was in 2011. I don't think there had  
15 been any significant transactions in the year or two  
16 (2) prior.

17 And, you know, much as one can do  
18 calculations of the value of the Utility based on a  
19 discounted cash flow approach, which is -- which is  
20 analyzing the future cash flows of the Utility and  
21 discounting them back to today and saying what should  
22 they be worth to an owner at a certain discount rate,  
23 there always is in the calculations, uncertainty as to  
24 what the appropriate discount rate to use is and what  
25 assumptions about terminal value to use at the end of

1 the cash flow period, and particularly the, you know,  
2 the ratio of the terminal value of the Utility to the  
3 rate base of the Utility.

4 And that particular number is very  
5 dependent on buyer interest at the moment in time, and  
6 we had seen in the past, some periods in which buyers  
7 appear to pay quite high premiums to purchase  
8 utilities, and we weren't sure that those premiums  
9 would still be available in the marketplace.

10 So what we wanted to flag in this  
11 discussion, in my original language, was to say, you  
12 know, much as we can do some very precise calculations  
13 about, you know, the future cash flows, we're not  
14 actually sure how that will translate to a purchase  
15 price if somebody is going to buy the Utility in the  
16 absence of knowing buyer behaviour in -- in making  
17 offers, and because of the absence of recent  
18 transactions, in our mind it wasn't -- you know, we --  
19 we couldn't really be very precise.

20 MR. JOHN MATHER: So I just want to  
21 break some of that down.

22 MR. JONATHAN ERLING: Sure.

23 MR. JOHN MATHER: So -- and -- and  
24 starting by backing up. So looking at the first  
25 sentence in this paragraph:

1 "We will prepare a" --

2 -- and then it's changed but

3 essentially:

4 "We will prepare an analysis of the  
5 potential sale of the value of  
6 Collus."

7 So as a starting point, one (1) of the  
8 things KPMG was going to do was provide an analysis of  
9 Collus' potential sale value.

10 MR. JONATHAN ERLING: Correct.

11 MR. JOHN MATHER: And then from what I  
12 understand you are saying is, you had identified that,  
13 because there had been few recent transactions in the  
14 LDC space, that was going to lead to significant  
15 uncertainty for the reasons you've just explained.

16 MR. JONATHAN ERLING: Correct.

17 MR. JOHN MATHER: And I take it then  
18 you were looking to -- for Mr. Rockx to assist you in  
19 how to communicate that to Collus?

20 MR. JONATHAN ERLING: Yes.

21 MR. JOHN MATHER: Certainly. Happy  
22 to be amongst the people who are speaking too loud.

23 And again just -- I think confirming  
24 what you said here. So what we're looking at is --  
25 the words that are struck out are the original words

1 you drafted?

2 MR. JONATHAN ERLING: I think so.

3 MR. JOHN MATHER: Do you have any  
4 reason to believe they're not your words?

5 MR. JONATHAN ERLING: No.

6 MR. JOHN MATHER: Okay. And the words  
7 that are underlined, do you understand those to be the  
8 words that Mr. Rockx has inserted?

9 MR. JONATHAN ERLING: Well, I assume  
10 so because if it was a -- you know, done as a review  
11 function -- sorry, as in a revision function within  
12 Word, you know, it usually underlines the changes that  
13 people are making, and I'm not sure -- is this from an  
14 email he -- or is it from a Word document? I guess  
15 it's from an email.

16 MR. JOHN MATHER: Why don't we first  
17 open KPM563, which is the documents cited, the email  
18 cited here.

19

20 (BRIEF PAUSE)

21

22 MR. JOHN MATHER: So if you look at  
23 this email chain, Mr. Erling, you see that the  
24 original email in the chain is from you to Mr. Rockx  
25 on February 14th, 2011, and it looks at the language

1 we said before.

2 Can I leave it to you to reword the  
3 section on indicative valuation? You probably have a  
4 better sense of what we can get away with. Do you see  
5 that?

6 MR. JONATHAN ERLING: Yes.

7 MR. JOHN MATHER: And then we have Mr.  
8 Rockx sending you an email back, saying:

9 "Here are a few suggested changes."

10 Do you see that?

11 MR. JONATHAN ERLING: I do. So it  
12 looks like, based on this, that -- that those changes  
13 underlined were added by him,

14 MR. JOHN MATHER: Okay, excellent. So  
15 if we could go back to the Foundation Document,  
16 paragraph 148?

17

18 (BRIEF PAUSE)

19

20 MR. JOHN MATHER: So going back to --  
21 so going back to the changes Mr. Rockx had made, he  
22 takes out your language regarding there had been a few  
23 recent transactions in the sector, and about that  
24 meaning estimates of value would be subject to  
25 significant uncertainty. And he writes --

1 "The valuation" --

2 He writes -- adds first a clause,

3 "As well a review of management's

4 multi-year projections of for

5 Collus."

6 And then he says:

7 "The valuation analysis can be used

8 to assess the financial merits of

9 the various ownership options, i.e.,

10 sell, retain, merger, for the

11 Utility."

12 And we'll get to it but this is the  
13 language that ends up in the final retainer letter.

14 MR. JONATHAN ERLING: Okay.

15 MR. JOHN MATHER: Did what Mr. Rockx  
16 do here address what you were looking for when you  
17 said you might have a better sense of what we can get  
18 away with?

19 MR. JONATHAN ERLING: Well, I don't  
20 remember what my exact intent at the time was. For  
21 his changes -- I would say his change -- I don't have  
22 -- I don't disagree with his changes.

23 MR. JOHN MATHER: What do you mean by  
24 you don't disagree with his changes?

25 MR. JONATHAN ERLING: I think they are

1 reasonable additions. I think he's pointing out that  
2 we would do -- you know, we would look in some -- you  
3 know, we would look at their multi-year pipe --  
4 financial projections, because those are important  
5 inputs to our financial analysis when John Rockx does  
6 his discounted cash flow analysis, and -- and I think  
7 he's also pointing out that, you know, the rationale  
8 for the exercise is to provide a value or an  
9 indicative value that can be used so that somebody in  
10 making a decision on to sell or retain or merge can  
11 say, okay, if they sell it, you know, what's a  
12 potential indication of a price that might be received  
13 in the marketplace.

14 MR. JOHN MATHER: And again I just  
15 want to understand your view. Do you think this was  
16 sending or -- or expressing the same information that  
17 you had been trying to express in the words that are  
18 struck out?

19 MR. JONATHAN ERLING: I think it  
20 actually -- I think if you read it, it's actually  
21 expressing somewhat different thoughts. So it appears  
22 that, you know, we're kind of reducing the focus on  
23 the uncertainty.

24 MR. JOHN MATHER: Do -- do -- did you  
25 ever explain to anyone at Collus or the Town that



1 there had been few -- few recent transactions in the  
2 sector and that that meant estimates of value would be  
3 subject to significant uncertainty?

4 MR. JONATHAN ERLING: I didn't have  
5 any direct discussions with the Town. The idea that  
6 there had been few transactions is in our engagement  
7 letter, as I understand it.

8 MR. JOHN MATHER: And -- and we'll  
9 come to that and -- and we can see it. So in the  
10 engagement letter you believe the fact that there's  
11 been few transactions is referenced.

12 Do you recall having any other  
13 conversations with anyone at Collus about the fact --  
14 or sorry, not the fact, but about your view that any  
15 estimate of value would be subject to significant  
16 uncertainty?

17 MR. JONATHAN ERLING: I don't recall  
18 if I had a conversation with Ed on that specific item.

19 MR. JOHN MATHER: And you said Ed.  
20 Anyone else at Collus?

21 MR. JONATHAN ERLING: Ed or Tim. And  
22 I don't think I ever had telephone conversations with  
23 anyone other than Ed or Tim, and certainly not with  
24 the Town.

25 MR. JOHN MATHER: Okay. And another

1 change that is made in this portion of the retainer  
2 letter says "We will prepare," and you had originally  
3 said "a high level analysis," and Mr. Rockx has  
4 changed this to an analis -- "an analysis."

5 So if you're looking at the first  
6 sentence on paragraph 1 -- that's quoted in paragraph  
7 148.

8 First question, what did you mean when  
9 you included the qualifier, "high level" to the word  
10 "analysis"?

11 MR. JONATHAN ERLING: It was just  
12 flagging in my mind the uncertainty.

13 MR. JOHN MATHER: So it relates to the  
14 language you had below?

15 MR. JONATHAN ERLING: Yeah.

16 MR. JOHN MATHER: In your view, how  
17 does it affect the meaning of this section of the  
18 retainer letter to remove the words -- the qualifier  
19 "high level"?

20 MR. JONATHAN ERLING: Sorry, could --  
21 could you repeat the question?

22 MR. JOHN MATHER: So the word "high  
23 level" -- Mr. Rockx suggests removing the "high" --  
24 the word "high level," and I just wanted to understand  
25 how you believe that affects the meaning of what's

1 being expressed here?

2 MR. JONATHAN ERLING: It would reduce  
3 the -- the qualification of what we're doing, the  
4 implied qualification, the word -- to take out the  
5 word "high-level."

6

7 (BRIEF PAUSE)

8

9 MR. JOHN MATHER: So the question I  
10 asked you was whether or not you ever explained to  
11 anyone at Collus that a -- the estimates of value  
12 would be subject to significant uncertainty, and you  
13 said you -- you didn't believe so.

14 Do you know if anyone else at KPMG  
15 expressed that to anyone at Collus?

16 MR. JONATHAN ERLING: I don't know.

17 MR. JOHN MATHER: So if we could go to  
18 KPM600.

19

20 (BRIEF PAUSE)

21

22 MR. JOHN MATHER: and if we could just  
23 scroll through the document, just so Mr. Erling can  
24 see the full document to the signature page at the  
25 end.

1                   We can go a little quicker. I don't --  
2 I'm not going to ask him to read it right now. I just  
3 want him to get a sense of the document.

4

5                               (BRIEF PAUSE)

6

7                   MR. JOHN MATHER: Keep going. I just  
8 want to give a full view of the document.

9

10                              (BRIEF PAUSE)

11

12                   MR. JOHN MATHER: So Mr. Erling, I  
13 just want to confirm, is this the engagement letter  
14 for the valuation and options analysis?

15                   MR. JONATHAN ERLING: Yes, it is.

16                   MR. JOHN MATHER: And if we could  
17 scroll back up to the top, and then go down to where  
18 it sets out scope of work.

19                   So in this section of the letter, it  
20 says, "During our work," the "our" being KPMG, "We  
21 will undertake the following tasks."

22                   And the first task contemplates that  
23 KPMG:

24                               "Will meet with senior management at  
25 Collus to review the current

1 business and financial plans of the  
2 Utility. During this meeting, we  
3 will explore the current financial  
4 and operating status of the Utility  
5 and identify any issues that may  
6 impact on the Utility's value to the  
7 Town, either in a sale transaction  
8 or a standalone entity."

9 I'm going to ask you more about that --  
10 that element of your scope of work in a moment.

11 If we go down to the second bullet  
12 point, we see that this -- this is the -- the bullet  
13 point that we saw you and Mr. Erling (sic) drafting.

14 MR. JONATHAN ERLING: Mr. Rockx.

15 MR. JOHN MATHER: Sorry, Mr. Rockx.  
16 You're Mr. Erling. Thank you. We saw you drafting,  
17 and we can see that it maintained the language that  
18 Mr. Rockx had suggested?

19 MR. JONATHAN ERLING: Yes. So I think  
20 I said that it -- it does not specifically reference  
21 that there had been few recent transactions. I think  
22 there still is quite a bit of language that flags that  
23 this is not going to be a precise valuation --  
24 specifically the sentence:

25 "This will not be a formal

1 valuation, but rather an indicative  
2 view of the potential value of the  
3 Utility and a sale transaction."

4 I think the words in that phrase  
5 reasonably flag to a reader that this isn't going to  
6 be precise, but it can be useful for business  
7 decision-making purposes.

8 MR. JOHN MATHER: Okay. What's the  
9 difference between a formal valuation and -- and an  
10 dic -- and -- and an indicative view of potential  
11 value?

12 MR. JONATHAN ERLING: I will preface  
13 my answer with -- to that question to say I am not a  
14 valuator, and I don't think that there is a formal  
15 definition of what a formal valuation is versus an  
16 indicative view. You know, I don't think that that is  
17 accepted language in the valuation community that  
18 speaks to a particular type of valuation.

19 In our valuation report, there's a  
20 mention of three (3) levels of a valuation report, a  
21 comprehensive estimate, and a calculation, and those  
22 are actual formal terms used by the Institute of  
23 Evaluators. John Rockx would be in a better position  
24 to differentiate between the three (3) levels in terms  
25 of how you might characterize them.

1                   MR. JOHN MATHER:   Understood.   And I'm  
2   -- what I want to understand is, as the drafter of the  
3   letter, and as a member of the KPMG team, what you  
4   understood the difference -- the difference to be  
5   between a formal valuation and this indicative view of  
6   potential value that you were proposing to provide to  
7   Collus.

8                   MR. JONATHAN ERLING:   I think the view  
9   was that it would tend to be more of the nature of an  
10   estimate -- sorry, the nature of a calculation as  
11   defined by the Institute, rather than a comprehensive  
12   or an estimate, and also that we would probably do the  
13   less detailed analysis of the projections that had  
14   been prepared by management.

15                   I think in the valuation process  
16   typically, it -- it's not only about doing  
17   calculations of discounted cash flow, which is a  
18   mechanical exercise in some sense, although it does  
19   involve making some judgements as to appropriate  
20   discount rates, but it also involves some due  
21   diligence into the projections that are being used as  
22   inputs, and the degree of due diligence will vary  
23   depending on the nature of the -- the valuation  
24   report.

25                   So to say not a formal valuation, but

1 an indicative view, suggests on the spectrum, it's a  
2 less detailed.

3 MR. JOHN MATHER: And because it's  
4 less detailed, would it be fair to say that it's  
5 subject to more uncertainty?

6 MR. JONATHAN ERLING: It would be fair  
7 to say that. I -- I think ultimately, much as one  
8 could refine the valuation by refining the cash flow  
9 projections and maybe -- maybe become -- in our view,  
10 more reasonable or more precise.

11 Ultimately, probably the real source of  
12 uncertainty in this context was what was somebody  
13 willing to pay for a Utility or a given set of  
14 projected cash flows, and that was a market test, or  
15 it was up to buyers. And ultimately, you really only  
16 find that out through a RFP process.

17 MR. JOHN MATHER: And so I understand  
18 what you're saying there is, you don't know what it's  
19 going to sell for until you find out what people are  
20 willing -- actually willing to pay for it?

21 MR. JONATHAN ERLING: Exactly.

22 MR. JOHN MATHER: But I -- I just want  
23 to confirm that it is -- that in terms of -- so this  
24 is a -- an estimate. You could -- there would be more  
25 certainty in the estimate of a formal valuation than



1 an indicative view of the potential value?

2 MR. JONATHAN ERLING: Yes. I don't  
3 think there would be a lot more certainty because you  
4 can never really address, however much work you do,  
5 the uncertainty as to what a buyer might pay, and the  
6 decisions they will make. And that's -- you have to  
7 kind of get into their mind. And in -- in the absence  
8 of recent transactions, it's -- it's hard to have a  
9 clear view of that.

10 MR. JOHN MATHER: And so you already  
11 mentioned that Mr. Rockx was a certified business  
12 valuator. And it's my understanding that he was  
13 primarily responsible for this component of the work.

14 Is that fair?

15 MR. JONATHAN ERLING: Correct. I -- I  
16 leave that stuff to him.

17 MR. JOHN MATHER: Okay. And then if  
18 we go down to the next bullet point under scope of  
19 work, scroll down, please. The next bullet point is:

20 "We will also prepare a summary of  
21 the advantages and disadvantages of  
22 various ownership options from the  
23 perspective of the Town, of the  
24 Utility ratepayers, and local  
25 ratepayers. This summary will take

1                   into account both financial and  
2                   qualitative issues. It will address  
3                   the implications for a local  
4                   distribution Utility, of broader  
5                   developments in the electricity  
6                   sector, including the desire for a  
7                   smart grid and incentives for  
8                   renewable power generation."

9                   Do you see that?

10                  MR. JONATHAN ERLING: I do.

11                  MR. JOHN MATHER: And I just want to  
12 confirm, it's my understanding that it was this  
13 component that you were primarily responsible for?

14                  MR. JONATHAN ERLING: Yes.

15                  MR. JOHN MATHER: And then the fourth  
16 point contemplates that KPMG is going to prepare a  
17 PowerPoint style report. And then the final point  
18 that the KPMG will provide a presentation of that  
19 report to relevant stakeholders?

20                  MR. JONATHAN ERLING: That's correct.

21                  MR. JOHN MATHER: And so is this -- as  
22 you understood it in February 2011, the entirety of  
23 the scope of work that KPMG had been retained to do?

24                  MR. JONATHAN ERLING: Yes.

25                  MR. JOHN MATHER: So -- and we can

1 actually scroll up to the -- up in the letter again.  
2 So I said I would come back to the first bullet point,  
3 if we can scroll down a bit about meetings with senior  
4 management at Collus to review the current business  
5 and financial plans of the Utility.

6 Do you recall how many meetings you had  
7 with senior management at Collus?

8 MR. JONATHAN ERLING: We had one (1)  
9 actual meeting on site, at least I did, and it was a  
10 few weeks after the start of the engagement. So we  
11 started the engagement. Rather than having a meeting,  
12 we had a phone call and then exchanged some, you know,  
13 files. They sent us some files, and we started to  
14 review the files.

15 But we did that remotely, and then we  
16 had one (1) meeting, you know, because of the travel  
17 distance. I think we tended more to rely on the phone  
18 calls, rather than in person meetings.

19 MR. JOHN MATHER: Okay. So if we  
20 could go to paragraph -- actually, Your Honour, I'm  
21 noting the time, and I'm about to move to --

22 THE HONOURABLE FRANK MARROCCO: Well,  
23 we'll -- we'll take the lunch break; 2:15.

24

25 --- Upon recessing at 1:01 p.m.

1 --- Upon resuming at 2:15 p.m.

2

3 CONTINUED BY MR. JOHN MATHER:

4 MR. JOHN MATHER: So if we can turn up  
5 paragraph 150 of the Foundation Document.

6

7 (BRIEF PAUSE)

8

9 MR. JOHN MATHER: So, Mr. Erling, if  
10 you look at paragraphs 150 and 151, we see they  
11 contemplate a kick-off meeting for March 11th, 2011.  
12 It appears that Mr. Houghton was contemplating having  
13 Mr. Muncaster and Mr. Fryer attend the meeting but in  
14 paragraph 151 it looks like it was just -- it might  
15 have been just Mr. Houghton and Mr. Fryer on the call.

16 To start, do you recall participating  
17 in a kick-off meeting on March 11, 2011?

18 MR. JONATHAN ERLING: I certainly  
19 recall participating in a kick-off call. I don't  
20 recall whether or not it occurred on March 11th,  
21 although I could check my time sheet to see.

22 MR. JOHN MATHER: Did you participate  
23 in any other kick-off calls?

24 MR. JONATHAN ERLING: I don't  
25 remember.

1 MR. JOHN MATHER: And do you remember  
2 who was present for the kick-off call?

3 MR. JONATHAN ERLING: I don't  
4 remember. Certainly, Ed would have been on the call.  
5 I don't recall if -- if -- if Tim was on the call but  
6 it wouldn't surprise me if he was.

7 MR. JOHN MATHER: Do you know if Mr.  
8 Muncaster was on the call?

9 MR. JONATHAN ERLING: I don't  
10 remember.

11 MR. JOHN MATHER: During the kick-off  
12 call, do you recall what either Mr. Houghton or Mr.  
13 Fryer said to you about what Collus was hoping to  
14 achieve with the valuation and options analysis.

15 MR. JONATHAN ERLING: I don't remember  
16 them specifically talking about what they were trying  
17 to achieve other than, you know, what I had initially  
18 indicated earlier today, you know, they felt it was  
19 time to do a review of the Town's ownership position  
20 in the Utility and, you know, the valuation was to be  
21 done as part of that exercise.

22 MR. JOHN MATHER: What else do you  
23 recall about the kick-off call?

24 MR. JONATHAN ERLING: I don't recall  
25 very much about the kickoff call. I know that I have

1 provided some notes that I think were probably from  
2 the kickoff call, and I transcribed them at the  
3 request of Council. But I don't really recollect much  
4 of the conversation, although some of the points in  
5 it, I do recollect.

6 MR. JOHN MATHER: Okay. And I  
7 just -- I want to make sure I understand what you're  
8 talking about. If we could scroll down to  
9 paragraph 157.

10 MR. JONATHAN ERLING: Yes.

11 MR. JOHN MATHER: Just wait for it to  
12 come up on the screen.

13 MR. JONATHAN ERLING: Okay.

14 MR. JOHN MATHER: It's -- this  
15 paragraph references some notes that you made, and it  
16 dates them just generally as the spring of 2011, then  
17 we see the transcription in the document. Are these  
18 the notes you were referring to?

19 MR. JONATHAN ERLING: Yes.

20 MR. JOHN MATHER: Okay. So we'll come  
21 back to those in a moment.

22 MR. JONATHAN ERLING: And I -- I  
23 should clarify, I was never quite -- I have the notes.  
24 I wasn't sure whether they were part of the call, or  
25 they were the subsequent meeting that we had with

1 Dean Muncaster and Ed on May the 12th. The notes  
2 could have been from the meeting.

3 It's certainly the entry that says  
4 "Tim opposed to being sold" suggest that Tim wasn't  
5 part of that conversation. So that could be the  
6 May 12th meeting, or it could be the March phone  
7 conversation. But that would also then apply that --  
8 that Tim was not part of the March phone conversation,  
9 but I don't know.

10 MR. JOHN MATHER: So fair to say,  
11 these are notes you took of the conversation you had  
12 with Mr. Houghton?

13 MR. JONATHAN ERLING: Correct.

14 MR. JOHN MATHER: And they may have  
15 been from the March 11th kickoff call, or they may  
16 have been from the May 12th meeting you had in person?

17 MR. JONATHAN ERLING: Correct.

18 MR. JOHN MATHER: Did you ever speak  
19 with Mr. Houghton separate and apart from the kickoff  
20 call in the May 12th meeting?

21 MR. JONATHAN ERLING: It's possible.  
22 I don't want to say I didn't. I don't recall having  
23 another call with Ed after that first call and then  
24 the subsequent meeting, but I don't -- I can't for  
25 sure say one (1) way or the other.

1                   MR. FREDERICK CHENOWETH:    Your Honour,  
2   I wonder if my friend could assist me.  I'm wondering  
3   whether there was other people in the call.  It may be  
4   significant to other people in the call; there's other  
5   people in the meeting.  Mr. Houghton and Mr. Muncaster  
6   were there.

7                   It might be useful to learn more about  
8   whether the notes reflect what Ed said or what others  
9   said or what the situation is, and this witness could  
10  tell us.

11                  MR. JONATHAN ERLING:    I'm pretty sure  
12  it --

13                  THE HONOURABLE FRANK MARROCCO:  
14  Somebody -- just a minute.

15                  MR. JONATHAN ERLING:    Sorry.

16                  THE HONOURABLE FRANK MARROCCO:    You  
17  can ask those, you know, questions when your turn  
18  comes.

19                  MR. FREDERICK CHENOWETH:    I could.  
20  Sure.

21

22  CONTINUED BY MR. JOHN MATHER:

23                  MR. JOHN MATHER:    Mr. Erling, I take  
24  it that if -- when you look at these notes, do you  
25  remember when you took them if it was based on a



1 conversation with only Mr. Houghton present or if  
2 there were others present?

3 MR. JONATHAN ERLING: I don't -- I  
4 can't -- I can't remember whether it's just a  
5 conversation with Ed or whether others were present.  
6 I mean, if it was a phone conversation, I don't  
7 remember.

8 MR. JOHN MATHER: Okay. So -- sorry,  
9 I don't mean to cut you off.

10 MR. JONATHAN ERLING: No, that's fine.

11 MR. JOHN MATHER: And we'll come back  
12 to these in a moment. But for now, if we could go to  
13 paragraph 152?

14 MR. JONATHAN ERLING: Okay.

15

16 (BRIEF PAUSE)

17

18 MR. JOHN MATHER: So this is  
19 referencing an email between yourself and Mr. Rockx.  
20 The date is March 23rd, 2011, so between the kickoff  
21 call and what I understand to be an in-person meeting  
22 on May 12th.

23 And you write Mr. Rockx -- you forward  
24 Mr. Rockx some benchmarking reports and -- and then  
25 you write Collus does -- doesn't rank well.

1                   Do you remember sending Mr. Rockx an  
2 email containing benchmarking reports?

3                   MR. JONATHAN ERLING:    Vaguely.

4                   MR. JOHN MATHER:     What is a  
5 benchmarking report?

6                   MR. JONATHAN ERLING:    So at the  
7 time -- and I think that the -- the Ontario Energy  
8 Board would do an analysis of all of the utilities in  
9 Ontario, and it's essentially an analysis of their  
10 operating costs compared to various predictor  
11 variables, such as the number of customers they serve,  
12 the service area, territory size, the number of lined  
13 kilometres of overhead wire that they have, and maybe  
14 their energy consumption, and their demand peaks.

15                   And -- and it would use those predictor  
16 variables to estimate, you know, expected costs for  
17 utility, and then it would compare actual costs to the  
18 expected costs. And it would then, based on this  
19 analysis, put utilities into a number of categories  
20 and use those categories to differentiate among  
21 utilities in the setting of productivity targets going  
22 forward.

23                   MR. JOHN MATHER:     So I -- I take it  
24 then when you say Collus doesn't rank well, what you  
25 meant is in terms of productivity as compared to other

1 LDCs?

2 MR. JONATHAN ERLING: Correct.

3 MR. JOHN MATHER: Okay. And Mr. Rockx  
4 responded, Not surprised. Do you know what he meant  
5 by that?

6 MR. JONATHAN ERLING: I do not.

7 MR. JOHN MATHER: So if we could turn  
8 up KPM884.

9 MR. JONATHAN ERLING: Actually, maybe  
10 just as a supplementary to that single word answer, I  
11 think it's worth -- worthwhile context noting that,  
12 you know, there's a fair amount of disagreement about  
13 the accuracy and value of the benchmarking reports.

14 And you know, there's various  
15 statistical experts get hired and debate models for  
16 evaluating utility performance. And, you know, for  
17 any given utility, it's hard to know whether, you  
18 know, a perceived higher cost or whether higher costs  
19 are actually the result of, you know, poor performance  
20 or other factors that haven't been taken into account  
21 in the modelling work.

22 So, you know, I don't know if I regard  
23 the benchmarking studies as a hundred percent  
24 reliable.

25 MR. JOHN MATHER: Understood. Okay.

1 So if we could go to KPM884.

2

3 (BRIEF PAUSE)

4

5 MR. JOHN MATHER: And then if we can  
6 scroll down to the original email -- sorry -- scroll  
7 up.

8 So the first email in this chain is an  
9 email from you to Mr. Fryer and Mr. Houghton, dated  
10 April 25th, 2011. And you're requesting some -- you  
11 have some questions for them, and you're seeking some  
12 clarification.

13 And then if we scroll up, we see that  
14 Mr. Fryer provides you with responses on May 9th,  
15 2011, and -- sorry if we scroll down again -- his  
16 responses appear to be in red.

17 I'm going to ask you about some of the  
18 questions and responses --

19 MR. JONATHAN ERLING: Sure.

20 MR. JOHN MATHER: -- in a moment. But  
21 I want to scroll up in the email chain, and we see  
22 that you forward Mr. Fryer's responses to Mr. Rockx  
23 and Mr. Herhalt. And you say:

24 "I don't think Tim Fryer is on board  
25 with the study. Perhaps I'll

1 suggest a call with Ed and Tim  
2 together."

3 Do you remember sending this email?

4 MR. JONATHAN ERLING: Vaguely, but --  
5 vaguely. Certainly when I see it, it looks familiar.  
6 I'll say that.

7 MR. JOHN MATHER: Do you recall what  
8 you meant when you said, "I don't think Tim fryer is  
9 on board with the study"?

10 MR. JONATHAN ERLING: I don't remember  
11 exactly. I know -- I think if you look at the email  
12 below. I think, you know, there's some evidence that,  
13 you know, Tim is questioning why are we asking for  
14 certain things and -- and indicating that he's -- you  
15 know, it's -- you know, it would take some effort to  
16 respond some of the questions, and that there are  
17 other activities that are going on at the Utility that  
18 are taking his time and that, you know, he was having  
19 some difficulty juggling the various demands on his  
20 time.

21 That may have fed into an impression  
22 that, you know, he didn't think this was a -- as  
23 worthwhile an exercise or as necessary as some of the  
24 other things that he had on his plate, you know, in  
25 the way that managers often are faced with multiple

1 priorities.

2 MR. JOHN MATHER: Fair enough. And  
3 we'll look at some of those answers in a moment, like  
4 I said.

5 Other than the responses you -- the  
6 answers to the email questions you had below, was  
7 there anything else that led you to form that  
8 impression?

9 MR. JONATHAN ERLING: Not that I  
10 remember.

11 MR. JOHN MATHER: Did you ever speak  
12 with Mr. Fryer directly about whether or not he was in  
13 favour of the valuation on -- on board with completing  
14 the valuation?

15 MR. JONATHAN ERLING: I don't recall.

16 MR. JOHN MATHER: The email  
17 contemplates -- you used -- doesn't contemplate. You  
18 suggest a call with Mr. Houghton and Mr. Fryer.

19 Do you know if that call ever happened?

20 MR. JONATHAN ERLING: I don't recall  
21 if a call happened. I think, you know, subsequent to  
22 this email there -- and it was probably subsequent to  
23 this email, there was, you know, I think a  
24 conversation between Ed and John Herhalt directly and,  
25 you know, Ed I think kind of suggested that it would

1 be good to get together in person to discuss the scope  
2 of our work and the underlying assumptions.

3                   You know, we had started the process  
4 with a telephone call and telephone calls are never as  
5 effective as an in-person meeting, and, you know,  
6 have -- having spent some time going through materials  
7 that had been forwarded us -- to us by management, you  
8 know, it was probably an appropriate time to have a --  
9 an in-person meeting.

10                   MR. JOHN MATHER:   And I just want to  
11 clarify, did you think Ed's suggestion was in part  
12 motivated by some of the concerns you had seen with  
13 Mr. Fryer?

14                   MR. JONATHAN ERLING:   I have no idea.

15                   MR. JOHN MATHER:   Okay. I just wanted  
16 to understand why you tied -- I asked you if Ed and --  
17 if you ever had a call with Ed or Tim and then you  
18 said you -- I believe you said you weren't sure, but  
19 you -- you then talked then talked about a meeting,  
20 that -- that Ed suggested a meeting in person.

21                   I just want to understand how those two  
22 (2) things related in your mind.

23                   MR. JONATHAN ERLING:   I -- I didn't --  
24 I don't know that I made an assessment of how they  
25 tied together. It wouldn't surprise me if, you know,

1 Tim -- I mean, it wouldn't surprise me if, you know,  
2 Tim and I had a discussion about, you know, why are we  
3 doing this valuation given that it's resulting in a  
4 lot of, you know, additional work.

5 And we were probably asking more  
6 questions than was necessary, given the context, but,  
7 you know, the tendency at the beginning of an  
8 engagement is often to ask a lot of questions because  
9 you don't know what you don't know and you -- you want  
10 to find out as much as you can, and then you kind of  
11 narrow down the scope to focus on what you think is  
12 important in that circumstance.

13 MR. JOHN MATHER: So if we could go  
14 back to paragraph 157.

15

16 (BRIEF PAUSE)

17

18 MR. JOHN MATHER: These are the notes  
19 we were looking at earlier.

20 MR. JONATHAN ERLING: Yes.

21 MR. JOHN MATHER: And I understand  
22 that you don't recall what time you made these notes  
23 and who was present, but we do see that you -- we do  
24 see that Mr. Fryer appears to be discussed in these  
25 notes.



1                   And I was wondering, is it possible  
2   that you did have a conversation with Mr. Houghton  
3   after you sent that email to Mr. Rockx and Mr. Herhalt  
4   about Mr. Fryer?

5                   MR. JONATHAN ERLING:   Is it possible?  
6   It's unlikely. I mean, I don't think that my response  
7   -- it's possible, but I don't recall. I mean, I don't  
8   think my -- my -- the result of, you know, Tim  
9   indicating that some materials were going to be  
10   difficulty or time -- time -- timely -- taking time to  
11   provide was -- induced me to call Ed. I -- I don't  
12   think -- I don't think there's a relationship.

13                  MR. JOHN MATHER:    So you have no  
14   recollection of that?

15                  MR. JONATHAN ERLING:   No.

16                  MR. JOHN MATHER:    Okay. So I do -- so  
17   we can move on from these notes. I want to ask you a  
18   few questions about some of the things in them.

19                  MR. JONATHAN ERLING:   Yes.

20                  MR. JOHN MATHER:    So the first point  
21   in your notes is, "Tim opposed to being sold."

22                         Do you remember what that note was  
23   about?

24                  MR. JONATHAN ERLING:   I'm pretty sure  
25   that it would -- Ed had come out and said Tim is

1 opposed to being sold. You know, that's why I wrote  
2 it down. It's not something I would have surmised or  
3 concluded. These are primarily kind of me  
4 transcribing what I think I was being told by Ed  
5 during a conversation.

6 MR. JOHN MATHER: Right. And --

7 MR. JONATHAN ERLING: And -- and, you  
8 know, like, a lot of the context at that time was, Ed  
9 and -- and Tim, as I understood it, were both kind of  
10 nearing the end of their careers. You know, they were  
11 going to be going to be eligible for retirement soon.  
12 That's my recollection.

13 And -- and as -- as is the case with  
14 many utilities, because Tim and Ed were the brains of  
15 the organization and kind of had -- you know, the  
16 management decision-makers -- and there's a reference,  
17 for example, to Darius. I know that he was another  
18 personnel, you know, of long-standing who was  
19 effective in the engineering role, and, you know, he  
20 had retired, and so I -- I -- you know, know the  
21 concern that Ed had was, you know, the Utility is  
22 facing a succession issue and, therefore, it's  
23 probably an appropriate time to think about a new  
24 direction.

25 MR. JOHN MATHER: And as you're

1 reading your notes and -- and -- are you recalling Ed  
2 telling you this or are you surmising based off  
3 reading the notes?

4 MR. JONATHAN ERLING: I kind of can  
5 remember Ed talking about these points.

6 MR. JOHN MATHER: Okay. And do you  
7 remember -- I'm going -- I'm just trying to help place  
8 the origin of the notes, whether this was on a phone  
9 call or a meeting in person.

10 MR. JONATHAN ERLING: I -- I'm not  
11 sure. My -- my suspicion is that they are a telephone  
12 call, partly because they're fairly detailed notes and  
13 I tend to take more detailed notes on telephone calls  
14 than in-person meetings because you don't have to look  
15 somebody in the eye every three (3) minutes to kind of  
16 maintain rapport; you can just kind of beaver away.

17 So usually I take -- make more detailed  
18 notes on telephone conversations. That leads me to  
19 conclude this is probably from a telephone  
20 conversation, but I'm not 100 percent sure.

21 MR. JOHN MATHER: Do you recall what  
22 led to the note, "We are painted into a corner"?

23 MR. JONATHAN ERLING: I think it -- I  
24 think it was a combination of the succession issues  
25 that I referred to and -- and maybe, you know, there

1 is also an element of the industry is getting more  
2 difficult, you know, that the Ontario Energy Board is  
3 being more demanding in terms of information that it  
4 requires, and this is putting a greater workload on  
5 management. You know, you have new billing rules, so  
6 you have to adjust your billing and collection system.  
7 And I think is the sort of evolution of demands from  
8 the regulators, is kind of causing management at the  
9 time to say, you know, what was sustainable in the  
10 post-2000 period may no longer be sustainable in the  
11 future as, you know, the demands within the industry  
12 ratchet up.

13                   And, you know, it's sometimes easier  
14 for large utilities to address these types of demands  
15 because it -- you know, they have more personnel. You  
16 know, they have greater depth in their management team  
17 and -- and, you know, a billing change probably takes  
18 the same amount of effort for Collingwood as it does  
19 for a much larger utility, but they have a much  
20 smaller pool of people to -- to draw from in -- in  
21 dedicating resources to make that change.

22                   MR. JOHN MATHER:   And then one (1)  
23 more question about these notes.

24                   "Tim Fryer - he is scrambling."

25                   Do you remember what that was about?

1                   MR. JONATHAN ERLING:    I think that was  
2 to do with -- there are demands on Tim as the CFO. You  
3 know, Tim was the detail guy in the organization and,  
4 you know, probably did a lot of the work in terms of  
5 putting together rate applications and worrying about  
6 the financial statements, and I think that, you know,  
7 in particular -- you know, it would be Tim's area  
8 where there would be many new requirements coming down  
9 the road from the Ontario Energy Board and that would  
10 put extra effort or work burden on -- on Tim.

11                  MR. JOHN MATHER:    It sounds to me from  
12 your answer that you're perhaps surmising about what  
13 this is about.

14                  Do you remember Ed saying those things  
15 specifically to you?

16                  MR. JONATHAN ERLING:   In terms of the  
17 interpretation of Tim, He is scrambling?

18                  MR. JOHN MATHER:    Yeah.   Yeah.

19                  MR. JONATHAN ERLING:   I'm pretty sure  
20 that Ed kind of talked about those types of things  
21 when talking about the workload on Tim.

22                  MR. JOHN MATHER:    Okay.   So if we  
23 could go back to KPM884.

24

25                                   (BRIEF PAUSE)

1                   MR. JOHN MATHER:   And then if we could  
2 scroll down to the -- the main email. Yes, that one  
3 (1). So this was Mr. Erling's email we were looking  
4 at earlier that -- where you sent Mr. Houghton and Mr.  
5 Fryer some questions and sought some clarification,  
6 and the responses from Mr. Fryer are in red.

7                   MR. JONATHAN ERLING:   Yeah.

8                   MR. JOHN MATHER:   And just --

9                   MR. JONATHAN ERLING:   Okay.

10                  MR. JOHN MATHER:   -- before I forget,  
11 if we could mark this document as an exhibit?

12                  THE HONOURABLE FRANK MARROCCO:   Yes.

13

14 CONTINUED BY MR. JOHN MATHER:

15                  MR. JOHN MATHER:   So if you look sort  
16 of mid -- near the bottom of the -- the first page  
17 there's a sentence that starts, "Overall, we still."  
18 Do you see that? It's right down --

19                  MR. JONATHAN ERLING:   Oh, yes. Yes.

20                  MR. JOHN MATHER:   Yeah.

21                  MR. JONATHAN ERLING:   Yes, I do see  
22 that, yes.

23                  MR. JOHN MATHER:   All right. So you  
24 had written:

25                               "Overall, we still don't have a

1 clear picture of the financial  
2 tracks -- transactions that occur  
3 among Collus, the Collingwood Public  
4 Utility Board, and the Town and any  
5 of the operating profits that are  
6 associated with these transactions."

7 And then you say:

8 "For example, the summary sheet  
9 outlining cash and in kind services  
10 to the Town does -- doesn't tie with  
11 the numbers shown in the financial  
12 statements. How do we reconcile?"

13 What are you talking about in this part  
14 of the email?

15 MR. JONATHAN ERLING: Well, we just --  
16 we -- we didn't see a link between numbers in the  
17 financial statement and some other numbers that we got  
18 in the summary sheet outlining cash and in kind  
19 reserves.

20 I don't recall this -- the -- what the  
21 specific issue was. But, you know, often times, when  
22 you look into the financial position of a utility, you  
23 -- you know, you look at a number on a financial  
24 statement and you say, okay, how does that compare or  
25 tie to other evidence that we have and that it -- you

1 know, we couldn't see the link. That -- that was all  
2 that was indicating.

3 MR. JOHN MATHER: So, in this case,  
4 what are you trying to find the link of? Like, what -  
5 - what's the subject matter that you're -- you're  
6 dealing with?

7 MR. JONATHAN ERLING: Transactions  
8 between the utility and -- and the Town and how that  
9 would impact the -- the utility's financial position.  
10 So, you know, our -- our understanding was that the  
11 utility provided some services to the Town and,  
12 therefore, you know, it's incurring costs, you know,  
13 on behalf of the Town.

14 You know, we would expect there might  
15 be some revenue shown coming back or, any way, maybe  
16 an offset to their expenses to reflect the fact that -  
17 - that some expenses are being picked up by the Town  
18 rather than by the utility's ratepayer.

19 So it really just went to the question,  
20 if you took the utility outside of the Town through a  
21 transaction, what impact would it have on the cost  
22 profile of the utility and, therefore, potentially,  
23 its market value.

24 MR. JOHN MATHER: I just want to make  
25 sure I understand this. I think what you're referring



1 to is something that is -- is -- has been called the  
2 shared services. Is that -- does that ring a bell to  
3 you?

4 MR. JONATHAN ERLING: Ye -- yes.

5 MR. JOHN MATHER: And so the notion  
6 is, is that the utility was providing certain services  
7 to the Town and you were trying to determine whether  
8 the Town provided either payment for those service --  
9 services or something else in kind?

10 MR. JONATHAN ERLING: Yes. So I think  
11 maybe an important distinction though is that when we  
12 talk about the utility, there was, of course, the LDC,  
13 the local distribution company, that was the wires  
14 company. And then there was the separate shared  
15 services entity. Now, I don't recall what the  
16 specific -- exact names of the two (2) entities are,  
17 but there were a number of corporations, of course.

18 So there was the LDC, or the wires  
19 company. And then there was the shared services  
20 entity. And there may have been a holding company, I  
21 think, on top of both of them, or maybe the shared  
22 services entity was the holding company. I -- I don't  
23 remember.

24 So, in part, it was transactions  
25 between whatever entity was providing services to the

1 -- and -- and which may have been Collus, the shared  
2 services entity, and transactions between the shared  
3 services entity and Collus, the LDC.

4 MR. JOHN MATHER: So I'm -- I'm just  
5 trying to boil -- boil this down the best -- as best I  
6 can.

7 MR. JONATHAN ERLING: Yeah.

8 MR. JOHN MATHER: The Collus entities  
9 are sharing -- you know, are -- are sharing services  
10 amongst themselves?

11 MR. JONATHAN ERLING: Yes.

12 MR. JOHN MATHER: They are also  
13 sharing services with the Town?

14 MR. JONATHAN ERLING: Yes.

15 MR. JOHN MATHER: The effect of those  
16 shared services will -- or the quantum will affect the  
17 value of Collus Power. Is that fair?

18 MR. JONATHAN ERLING: Potentially,  
19 yes. I mean, and, of course, the -- the impact on the  
20 value depends on who's purchasing it and what changes  
21 res -- result to that -- those relationships.

22 And I think, ultimately, we concluded  
23 that it was -- it was hard to -- I think we concluded  
24 as a result of some of these back and forth questions  
25 and the subsequent meeting with Ed, that maybe it was

1 simpler to just assume that things -- that there would  
 2 be no net impact on the financial position of the  
 3 Corporation of -- of a change or that we wouldn't take  
 4 that impact into account because it was hard, at that  
 5 point in time, to go through the exercise of  
 6 calculating an impact without knowing the structure of  
 7 an ultimate transaction and who the buyer was and what  
 8 they were interested in, you know, which arrangements  
 9 they were interested in -- in continuing.

10 I mean, it's certainly not out of the  
 11 question that somebody could purchase the utility and  
 12 still provide services to the Town. It -- it might be  
 13 unusual for that to happen, but it's not out of the  
 14 question.

15 So I think we concluded after some back  
 16 and forth discussion that we wouldn't try to  
 17 disentangle that and we would make the valuation  
 18 contingent upon, you know, no impact and that each  
 19 buyer would have to -- you know, each potential buyer  
 20 would have to make their own assessment of that issue.

21 MR. JOHN MATHER: Again, so I just  
 22 want to make sure I understand here. So it was  
 23 identified that the nature of the shared services  
 24 would have an impact on a potential future transaction  
 25 but, at this point in time, that wasn't analyzed

1 because there wasn't enough known about what that  
2 transaction would be in order to determine the impact?

3 MR. JONATHAN ERLING: Correct.

4 MR. JOHN MATHER: Is that... So we  
5 see that Tim's response to your request about -- or  
6 inquiry about how you re -- reconcile these shared  
7 services is:

8 "There are only a couple of the  
9 amounts on the summary sheet that  
10 tie directly to the FS.  
11 I didn't think this was going to be  
12 such an in-depth analysis. My  
13 understanding from Ed was this was  
14 just going to be a general overview.  
15 It would take a great deal of my  
16 time to go through this in detail."

17 Do you see that?

18 MR. JONATHAN ERLING: Yeah, I do.

19 MR. JOHN MATHER: So I take it from  
20 Tim's answer here and your answer to my earlier  
21 question, the information you sought here you never  
22 received?

23 MR. JONATHAN ERLING: Correct.

24 MR. JOHN MATHER: So if we can scroll  
25 down some further -- a bit further, sorry. So if we

1 look -- and I appreciate it's maybe difficult to find  
2 yourself in this email, but there's a sentence that  
3 starts, "By implication, I think we need to get an  
4 assessment."

5 MR. JONATHAN ERLING: Where is that?

6 MR. JOHN MATHER: So it's be -- if you  
7 see there's an answer in red that says, "Two hundred  
8 thousand (200,000) for" --

9 MR. JONATHAN ERLING: Okay. Yeah, I  
10 got it.

11 MR. JOHN MATHER: Yeah. And then  
12 beneath that. Okay. So it says:

13 "By implication, I think we need to  
14 get an assessment of the additional  
15 costs in water and/or at the Town if  
16 the LDC was sold separately -- sorry  
17 -- sold and operated independently.  
18 However, we will have to rely on you  
19 for making this assessment given our  
20 lack of direct knowledge or your  
21 operations. Can you put some  
22 thought into this?"

23 MR. JONATHAN ERLING: Yes.

24 MR. JOHN MATHER: Why did you want to  
25 know more? Why did you want this information?

1                   MR. JONATHAN ERLING:   Well, I -- it  
2 goes to the -- the point. If -- if the Town of  
3 Collingwood sold Collus and a new purchaser came in  
4 and purchased the whole thing, and -- and then we're -  
5 - we're not interested in providing services to the  
6 water utility, and that potential would have cost  
7 implications for the water utility, and it would cause  
8 -- could potentially cau -- cause its costs to  
9 increase. So that would be kind of a diseconomy  
10 (phonetic) from a transaction.

11                   So I think my thinking at the time was  
12 oh, you know, I got concerned about that and I said,  
13 you know, if we -- if we want to do an analysis of a  
14 potential transaction, we have to think through all  
15 these issues and I think I -- you know, I kinda later  
16 concluded, you know, in conversation with others, that  
17 it wasn't possible to do that analysis part because we  
18 didn't know what the new circumstances might be, and  
19 to my earlier point, we didn't know whether somebody  
20 might be willing to continue the arrangement in which  
21 there were shared services.

22                   And you know, it was hard to get the  
23 information to figure out how much cost would  
24 increase.

25                   You would have to almost go through an

1 exercise of -- of getting into the operations of the  
2 utility and deciding who does what and, you know, how  
3 much workload do they, you know, how much of their  
4 time is occupied with this element of their workload  
5 and, you know, or that task. And that was just more  
6 of a detailed operational analysis than was really  
7 envisioned as part of this scope, which is why we  
8 backed away from trying to do that.

9 I mean, we've done analyses of  
10 potential merger or transactions in other  
11 circumstances, and you have to go through on a  
12 department by department basis and have discussions  
13 with line personnel and -- and you know, go through  
14 the details of making an assessment of -- of what a  
15 transaction could potentially mean on the structure of  
16 the organization and how it operates.

17 MR. JOHN MATHER: So again, I -- I  
18 take it this is an instance again where you see  
19 there's going to be -- there may be a potential impact  
20 to the water in a transaction where the utility is  
21 sold, but at this point in time you -- it was  
22 determined that you cannot do that assessment without  
23 more information about what the transaction would look  
24 like?

25 MR. JONATHAN ERLING: Yes. And -- and

1 certainly, you know, I think -- you know, I -- I would  
2 think that one (1) of the elements that might impact a  
3 decision-maker in this circumstance would be if you  
4 continue an ownership share, as the City, you know,  
5 you continue to own part of the utility, you may be in  
6 a better position to have these types of shared  
7 service arrangements continued because you can -- you  
8 continue to have an equity interest in the  
9 corporation, and hence, input into its decision-  
10 making.

11                   So, I mean, that's my kind of read of  
12 the situation. I'm not su -- you know, I don't know  
13 what motivated people's decisions, but it -- it would  
14 seem logical to me that, you know, this was one (1) of  
15 the factors that would suggest that -- that a partial  
16 sale might be one (1) thing you would look at.

17                   MR. JOHN MATHER: Okay. But again,  
18 you hadn't completed that -- you never completed the  
19 analysis you were -- you were looking at here.

20                   MR. JONATHAN ERLING: No, we -- you  
21 know, we decided that we'd make an assumption that  
22 there wasn't going to be a cost impact from a  
23 transaction on these arrangements.

24                   MR. JOHN MATHER: And so you see after  
25 you make the -- raise this question, Mr. Fryer



1 responds as noted above:

2 "I do not have planned any time to  
3 go over this in depth. We are just  
4 about to go live on the MDMR  
5 production system and I will need --  
6 need to prioritize my time on this."

7 MR. JONATHAN ERLING: Correct.

8 MR. JOHN MATHER: So I take it you  
9 didn't receive the information that you had requested  
10 here?

11 MR. JONATHAN ERLING: I don't think  
12 that I did.

13 MR. JOHN MATHER: So in both instances  
14 we've looked at where you've identified a potential  
15 impact on shared services, either with the Town or  
16 with water or other entities, had you been provided  
17 the information you requested would you have been  
18 able, at least, to begin the analysis of the potential  
19 impact of either a whole or partial sale of -- of the  
20 utility?

21 MR. JONATHAN ERLING: I -- I think we  
22 would still have had to do quite a bit of work, I  
23 think we would've -- you know we might've gotten some  
24 information, financial information on the deemed value  
25 of transactions.

1                   You know, my guess is that we would've  
2 had to, you know, had interviews with people that, you  
3 know, this is not a large utility. You know, there's  
4 probably lots of activities, you know, there's --  
5 people fulfil many roles, you know, many people -- a  
6 given person will -- will fulfil many hats or wear  
7 many hats in the organization.

8                   That's just the nature of small  
9 organizations, people do lots of different things  
10 because there's not many people about and -- and  
11 disentangling people's workloads probably would've  
12 taken a bit of time and their workloads probably were  
13 not that well documented that we could have just  
14 gotten some information and presto come up with a  
15 pretty good analysis of the -- the cost impact,  
16 particularly again given that the cost impact depends  
17 on what changes you make to the organization in  
18 consequence, and you know, that's speculative.

19                   So I don't think -- you know, I think  
20 probably it was a reasonable decision to kind of  
21 exclude that.

22                   MR. JOHN MATHER:    So when you're  
23 having these conversations about whether or not to  
24 include this analysis or whether it's possible to get  
25 enough information to complete the analysis who -- who

1 are you having these conversations with?

2 MR. JONATHAN ERLING: Myself, perhaps,  
3 I'm just think -- you know, and to -- you know,  
4 potentially John Rockx, potentially John Herhalt, I  
5 don't remember any specific conversations along those  
6 lines. But kind of my own reflection, internal  
7 discussions amongst the team.

8 MR. JOHN MATHER: Did you share these  
9 considerations with Mr. Houghton or Mr. Fryer?

10 MR. JONATHAN ERLING: I don't recall.

11 MR. JOHN MATHER: Do you recall if you  
12 shared these considerations with anyone at the Town?

13 MR. JONATHAN ERLING: I didn't have  
14 any direct discussions with persons at the Town.

15 MR. JOHN MATHER: Okay.

16 MR. JONATHAN ERLING: We may have had  
17 these kinds of discussions, for example, at the  
18 meeting on May 12th, which was when Ed and Dean  
19 Muncaster were there and I probably opened it by  
20 saying, you know, we were thinking of doing -- trying  
21 to do this and do an analysis of -- of, you know, the  
22 impact of changing the shared service arrangements  
23 and, you know, the conclusion of the discussion was  
24 let's just assume that for the purposes of what we  
25 were trying to do, which was to get an indicative

1 value of the utility, these sorts of factors would be  
2 an adjustment because they would be an adjustment to  
3 operating costs, but I don't know that they would  
4 change fundamentally the -- the approximate value of  
5 the utility.

6 MR. JOHN MATHER: So it sounds like  
7 you're recalling you had this discussion at a meeting  
8 with Mr. Muncaster and Mr. Houghton. Is -- do I have  
9 that correct?

10 MR. JONATHAN ERLING: I don't know  
11 that I recall that, but I'm -- I -- I can't imagine it  
12 wasn't part of the discussion, just because of when  
13 that meeting occurred and it was all -- after all of  
14 this back and forth on this issue.

15 So I'd be surprised if it did not  
16 happen, we didn't have some discussion of that at the  
17 meeting.

18 MR. JOHN MATHER: Do you recall at  
19 that meeting, and again specific recollection, whether  
20 Mr. Muncaster or Mr. Houghton said anything to you  
21 about the shared services and what role they should  
22 play in your work?

23 MR. JONATHAN ERLING: I don't  
24 remember.

25 MR. JOHN MATHER: Okay. Do you recall

1 if it was you or someone from KPMG who had suggested  
2 we don't need to or we won't be able to complete this  
3 analysis at this stage, or if it was someone from  
4 Collus who said you don't need to worry about this  
5 analysis at this stage, or something else?

6 MR. JONATHAN ERLING: I -- I just -- I  
7 don't remember. I mean it was a -- I actually do not  
8 remember the discussion that occurred very much at the  
9 May 12th meeting.

10 It -- it was many years ago. I  
11 remember being impressed meeting Dean Muncaster and I  
12 -- I don't recall very much about the meeting.

13 MR. JOHN MATHER: So if we could  
14 scroll down this e-mail, I just have -- keep going  
15 down to the bottom.

16 So at the end of this e-mail, and just  
17 to put us in time, this is before the meeting you were  
18 discussing in May, you said to Mr. Houghton and Mr.  
19 Fryer:

20 "Perhaps we could schedule a call  
21 later in the week to touch base on  
22 these items. Alternatively, would  
23 it make sense to schedule a meeting  
24 in person?"

25 And you responded, as noted, I expect

1 the next -- sorry, you didn't respond. Mr. Fryer  
2 responded:

3 "As noted, I expect the next few  
4 weeks to be excessively hectic, so  
5 I'm hoping I have provided some  
6 information that you can apply."

7 Do you remember reading that response  
8 from Mr. Fryer?

9 MR. JONATHAN ERLING: Vaguely.

10 MR. JOHN MATHER: And --

11 MR. JONATHAN ERLING: I think -- I  
12 think that -- probably that response was to say -- I  
13 think I interpreted that response to mean that there  
14 wasn't going to be a lot more information available in  
15 the -- you know, in the way that, you know, maybe  
16 there wasn't the documentation of workloads or  
17 transfer prices that you -- you might hope for or, you  
18 know, in an ideal world have.

19 And you know, it -- it -- you know, I  
20 think his response here suggests that he wasn't eager  
21 to have either a meeting or a call.

22 And so that's what I would have  
23 interpreted his response to mean. That -- that kind  
24 of we had the information that we were going to get  
25 easily, that's how I -- I interpreted that response.

1                   MR. JOHN MATHER:    Did that response  
2 prompt in any way the comment you make when you  
3 forward this email chain to Mr. Herhalt and Mr. Rockx,  
4 and say you're not sure if Mr. Fryer's onboard?

5                   MR. JONATHAN ERLING:   I'm sure it did.  
6 I'm sure it was a factor in that characterization.

7                   MR. JOHN MATHER:    Have you -- at this  
8 point in time, had you undertaken similar valuations  
9 and options analysis for other LDCs?

10                  MR. JONATHAN ERLING:   Well, I don't  
11 typically do the valuations.   John Herhalt -- sorry,  
12 John Rockx does the valuations.   We certainly had done  
13 options analysis for utilities.   I think the  
14 distinguishing feature of Collus is that it included a  
15 water utility.

16                  At the time of the restructuring of the  
17 interior electricity sector in 2000, I think there  
18 were only three (3) or four (4) utilities out of three  
19 hundred (300) in Ontario that also included a water  
20 utility, Sault Ste. Marie, Peterborough, Windsor  
21 Utilities, and Collingwood.   So it was a unique  
22 structure.   It was one (1) of the few remaining joint  
23 water and electricity utilities, and so there weren't  
24 many instances of this -- this type of shared service  
25 arrangement.

1 I'm not familiar -- I was never  
2 familiar in depth with Peterborough. I know that  
3 EnWin had also set up a -- a similar -- EnWin, which  
4 is Windsor Utilities Commission -- had set up a  
5 similar structure in the sense that they had a -- set  
6 up an entity that would provide services -- management  
7 type services to both the water and, LDC and that  
8 required them to have more companies in their  
9 corporate structure to facilitate that type of shared  
10 service arrangement.

11 So your -- to your question is, had we  
12 kind of considered this issue of joint services -- I  
13 think that was your question -- no, I hadn't really  
14 thought about that in terms of an options analysis.

15 MR. JOHN MATHER: And actually, that -  
16 - that wasn't my question, although that information  
17 was -- was helpful. My question was: had you  
18 undertake -- had you been involved with similar  
19 options analysis and valuations for other LDCs?

20 I understand from your answer something  
21 that made Collus unique was that water was still  
22 within the -- within the corporate structure. Is that  
23 right?

24 MR. JONATHAN ERLING: Correct.

25 MR. JOHN MATHER: Other than that, had



1 you con -- other than that unique element, had you  
2 undertaken similar options analysis evaluations for  
3 other LDCs?

4 MR. JONATHAN ERLING: Yes.

5 MR. JOHN MATHER: And had you been  
6 involved in other valuations of other LDCs?

7 MR. JONATHAN ERLING: Yes.

8 MR. JOHN MATHER: And was the  
9 information that you were seeking in this email the  
10 sort of information you would expect to receive based  
11 on your prior experience?

12

13 (BRIEF PAUSE)

14

15 MR. JONATHAN ERLING: I don't know  
16 that I'm close enough to the valuations work to have  
17 an opinion on that. I would refer that question to  
18 John Rockx.

19 MR. JOHN MATHER: Okay.

20 MR. JONATHAN ERLING: I mean, I -- I  
21 think the other thing you have to take into account  
22 is, you know, the scale of we -- we -- we're -- we  
23 work with diff -- utilities of very different scales,  
24 you -- you know, that some utilities are much bigger.  
25 They tend to have more formalized arrangements. Some

1 utilities are smaller.

2 And -- and Collus would be, you know,  
3 not the smallest, but it's -- it's not one (1) of the  
4 bigger utilities in -- in the Province, you know,  
5 versus EnWin Utilities, which is a much larger  
6 utility, or Windsor -- Windsor Utilities Commission.

7 MR. JOHN MATHER: Now if we could go  
8 to KPM --

9 THE HONOURABLE FRANK MARROCCO: Just -  
10 - just before you do that, I -- I'm just trying to  
11 understand shared services shared amongst what  
12 entities?

13 MR. JONATHAN ERLING: Typically, a  
14 water utility and an electric utility. That would --  
15 so, for example, Windsor Utilities Commission set up a  
16 shared services entity. I think it's called EnWin.

17 THE HONOURABLE FRANK MARROCCO: I -- I  
18 --

19 MR. JONATHAN ERLING: And --

20 THE HONOURABLE FRANK MARROCCO: -- I'm  
21 not interested in --

22 MR. JONATHAN ERLING: -- okay.

23 THE HONOURABLE FRANK MARROCCO: --  
24 what it's called. I -- I was just trying to -- these  
25 -- these are services then shared between the water

1 utility and the electrical --

2 MR. JONATHAN ERLING: Yes.

3 THE HONOURABLE FRANK MARROCCO: -- the  
4 -- the water and the electrical utility?

5 MR. JONATHAN ERLING: Yes. Sir, you  
6 might envision, like --

7 THE HONOURABLE FRANK MARROCCO: So  
8 would these services be provided by people?

9 MR. JONATHAN ERLING: Yes.

10 THE HONOURABLE FRANK MARROCCO: So  
11 would you ask the people what percentage of the time  
12 do you spend on water, and what percentage of the time  
13 do you spend on electrical?

14 MR. JONATHAN ERLING: That would be  
15 certainly one (1) thing you would do. Now there's  
16 maybe certain things that they do that would be kind  
17 of common activities. You know, if you think about  
18 you may have a shared services entity provides billing  
19 services for both the water utility and the LDC. And  
20 at some point in time that shared services entity may  
21 need to upgrade its billing system, and that upgraded  
22 billing system will serve both utilities.

23 So when they're working on upgrading  
24 the billing system, that's really a common cost. It's  
25 -- it's not specifically for the water utility, it's

1 not specifically for electric utility, it's to upgrade  
2 a service that will then be used to support both.

3 So in -- in that case the allocation of  
4 costs between the two (2) lines of business may involve  
5 some judgement, and it may be, in some respects,  
6 arbitrary.

7 THE HONOURABLE FRANK MARROCCO: So you  
8 portion those costs between the two?

9 MR. JONATHAN ERLING: You would have  
10 to go through an apportionment process, correct.

11 But --

12 THE HONOURABLE FRANK MARROCCO: But is  
13 that really much of a process or do -- or do you just  
14 make a decision about how you're going to apportion  
15 them? How much of a process would it really be?

16 MR. JONATHAN ERLING: I understand. I  
17 -- I don't think -- I don't think it's a conceptually  
18 different -- difficult thing to do. And -- and  
19 certainly at the granular level, when you go through  
20 and analyze activity by -- activity or a person by  
21 person, it's not difficult. It just, you know, it  
22 takes a bit of effort.

23 Now, the other thing I would point out,  
24 I just want to make clear here, is that when you have  
25 a structure that's providing shared services and

1 you're, you know, you have to allocate costs, that's  
2 just a cost allocation exercise, you have a certain  
3 pool of costs, who do you apportion them to, who do  
4 you charge them to?

5 I mean, what we're talking about here  
6 is slightly different, it's saying, okay, if you no  
7 longer had a shared services entity and you had to  
8 create separate stand-alone entities, how would you go  
9 about it and what would you do, and would they each  
10 buy, you know, you would give the old one (1) billing  
11 system to one (1) entity and you knew -- you know, the  
12 other entity would go out and buy a new one.

13 If it -- if -- if one (1) of the  
14 entities gets absorbed by a large utility as part of a  
15 purchase and sale transaction, the buyer may bring  
16 capabilities and just extend the scope of the  
17 activities already be -- being provided at its own  
18 utility.

19 And the sense that if you are purchased  
20 by another utility and they have a billing system,  
21 well they can just add additional customers. Well,  
22 that's oversimplifying, but they can migrate the  
23 customer base of the purchased utility into their  
24 system and maybe there's not a lot of incremental  
25 costs.

1                   So it's -- partly it's an exercise and  
2   how do you fairly apportion costs, but it's also an  
3   exercise of how would you restructure the operations  
4   and -- if you were going to change the structure and  
5   maybe what would happen -- I think one (1) of the  
6   things that we started to think about in terms of the  
7   water utility was if you no longer could have Collus  
8   as -- as shared service entity, maybe the logical  
9   thing to do would be therefore to, you know,  
10   consolidate some services between the Town and the  
11   water utility.

12                   You know, the Town would provide some  
13   services, the water utility, rather than Collus  
14   providing services to the water utility.

15                   So as you -- we started to get into it  
16   and think about the -- there are a lot of different  
17   scenarios we could look at and it might depend on the  
18   nature of the transaction and the nature of the  
19   purchaser.

20                   That -- that's all I was trying to --

21                   THE HONOURABLE FRANK MARROCCO:   Thank  
22   you.

23

24   CONTINUED BY MR. JOHN MATHER:

25                   MR. JOHN MATHER:   If we could go to

1 KMP917. And if we could scroll down. And scroll  
2 down. Okay, that's what I want.

3 So we see this is a -- starts as an e-  
4 mail chain between Mr. Herhalt and Mr. Erling. Sorry,  
5 Mr. Houghton. Thank you very much. And if we could  
6 scroll up.

7 And so we see that they are discussing  
8 the ongoing work that is -- that KPMG is doing for the  
9 valuation, the options analysis, and Mr. Herhalt,  
10 scroll up, says, you know:

11 "I will give you a call tomorrow  
12 after your time. I don't think  
13 things have gone off the rails.  
14 Some of Jonathan's queries are  
15 related to the part of the  
16 assignment that was to explore other  
17 potential options and the  
18 quantitative and qualitative pros  
19 and cons."

20 So it looks like they're discussing  
21 some of the questions you may have had.

22 And then we'll come back to that, but  
23 if we scroll up further, we see that you then email  
24 Mr. Rockx about the email chain between Mr. Herhalt  
25 and Mr. Houghton.

1                   So I take it that -- did Mr. Herhalt  
2 blind copy you on the email?

3                   MR. JONATHAN ERLING:     Sorry. When you  
4 say "blind copy" -- well, I guess he forwarded -- it  
5 looks like he forwarded his response to Ed to me.

6                   MR. JOHN MATHER:     Right. So -- so in  
7 any event, Mr. Herhalt had sent you the email chain  
8 between him and Mr. Houghton.

9                   MR. JONATHAN ERLING:     Yes. So I  
10 probably became aware that Ed had had a conversation  
11 with John as a result of seeing that email. So Ed had  
12 probably gotten a little impatient 'cause, you know,  
13 sometimes when I get into an engagement, I maybe try  
14 to get into too much detail, and, you know, it's the  
15 nature of engagements. You ask more questions at the  
16 beginning than less because you don't know what you  
17 don't know. And so you try to find out as much as you  
18 can, and then think about what the appropriate scope  
19 should be in the circumstances. I --

20                  MR. JOHN MATHER:     And -- sorry. I  
21 didn't mean to cut you off.

22                  MR. JONATHAN ERLING:     No. I -- so Ed  
23 probably got a little frustrated and maybe Tim did,  
24 too, because we were asking a lot of questions, and,  
25 you know, that's -- they have other things to worry



1 about than satisfying us in terms of answering our  
2 questions, and I understand that.

3 MR. JOHN MATHER: Fair enough. And my  
4 question to start was -- I just wanted understand --  
5 it looks like you received a copy of Mr. Herhalt and  
6 Mr. Houghton's email chain. Is that --

7 MR. JONATHAN ERLING: Yes.

8 MR. JOHN MATHER: Okay. So if we  
9 scroll down, we see that Mr. Herhalt writes to  
10 Mr. Houghton:

11 "My suggestion is that we first  
12 focus on getting the valuation done  
13 and clear up any information and  
14 questions on that. For the other  
15 options and pros and cons piece,  
16 let's talk about the high-level  
17 approach to that and some of the  
18 parameters so we don't go into too  
19 much detail."

20 MR. JONATHAN ERLING: Yeah. And I  
21 think I would characterize the "high-level" is we  
22 weren't going to try to quantify the potential value  
23 of -- or the potential costs of losing the joint  
24 provision of services on a shared service basis,  
25 partly to reflect the fact, as I noted earlier, when

1 you started to think about it, it was hard to really  
2 do an analysis without knowing the nature of the  
3 buyer; what decisions were going to be made on how you  
4 might restructure things; and doing a much more  
5 detailed operational analysis.

6                   So I think in the context, it was  
7 probably reasonable to just say we're not going to  
8 consider it as part of this initial evaluation if  
9 you -- you know, and if you want to go further, you  
10 can make your own assessment and the buyer can make  
11 their assessment of the potential implications of the  
12 shared service arrangements, depending on what they  
13 were thinking about in terms of structuring a  
14 transaction.

15                   MR. JOHN MATHER:    Right. And you --  
16 you walked us through that.

17                   MR. JONATHAN ERLING:   Yes.

18                   MR. JOHN MATHER:    Other than that  
19 piece of analysis that it -- it was determined would  
20 not be complete, is there anything else that was not  
21 done in order to make the options analysis a  
22 high-level analysis, as opposed to what you might've  
23 been contemplating?

24                   MR. JONATHAN ERLING:   Well, I don't  
25 remember any other specific inclusion -- exclusions,

1 but that doesn't -- I -- I can't say for sure there  
2 weren't other things that we didn't do. I just don't  
3 remember any others things that we didn't do.

4 MR. JOHN MATHER: And similarly,  
5 Mr. Herhalt says that, let's talk about the high-level  
6 approach to that and some of the parameters so we  
7 don't go into too much detail. I take it from your  
8 answer, some of the detail might relate to the shared  
9 services analysis which we spoke about.

10 MR. JONATHAN ERLING: Yes, absolutely.  
11 That was probably the key issue.

12 MR. JOHN MATHER: Was there anything  
13 else that would fall under the "too much detail"  
14 bucket?

15 MR. JONATHAN ERLING: Not that I  
16 remember. I mean, I -- I remember that the -- the  
17 shared service arrangements and the -- you know, the  
18 inter-company transactions were my major question at  
19 the time.

20 MR. JOHN MATHER: Right. So if we  
21 could scroll up. So we see you emailing Mr. Rockx  
22 about the email chain below, and you say to Mr. Rockx:  
23 "Can't we just give them 1.3 times  
24 book value multiple and be done with  
25 it?"

1 MR. JONATHAN ERLING: Yes.

2 MR. JOHN MATHER: What did you mean by  
3 that?

4 MR. JONATHAN ERLING: Well, in  
5 doing -- so what I meant by that was that -- so what  
6 John Rockx typically does when he does an evaluation  
7 is he will do a -- he'll do a -- a number of different  
8 methodologies. I think he's laid them out in his  
9 report.

10 But typically he'll do what's called a  
11 discounted cash flow analysis, and so he'll -- he'll,  
12 you know, do five (5) or ten (10) years projection of  
13 dividends and earnings of the utility. And at the end  
14 of the period -- and then -- so you have a forecast of  
15 cash flows for a period of time, and you can discount  
16 those cash flows at a discount rate. And it will come  
17 up with a present value, and that will tell you the  
18 value of those cash flows, and it's an -- you know, a  
19 major contributor to the value of the enterprise.

20 At the end of the period of the --  
21 projection period of ten (10) years, you know, you  
22 have a -- what -- what I called earlier a terminal  
23 value which is the ending value of the utility. And  
24 you're not going to continue your projections of cash  
25 flows into the future, you know, in perpetuity because

1 you don't have the basis of making very long-term  
2 projections.

3                   So you have to, at the end of the  
4 ten (10) year period, come up with an idea of what is  
5 the utility worth then? And you'll do, typically,  
6 some kind of estimate based on a -- a multiple  
7 approach. You'll look at, you know, a multiple of  
8 value compared to rate base, which is the invested  
9 capital in the utility, or you'll look at a multiple  
10 to value of the cash flows in that terminal year. And  
11 so you use a multiple approach to come up with the  
12 terminal value, and then -- then you can complete your  
13 DCF.

14                   You've got the cash flows over the  
15 first ten (10) years, and then you have the terminal  
16 value at the end, which is kind of what -- you know,  
17 you could think about the terminal value as if, okay,  
18 you kept the utility for ten (10) years, and then you  
19 sold it. Well, the terminal value represents what you  
20 would sell it for.

21                   So, you know, both of those will  
22 contribute to today's value in -- you know, in finance  
23 terms from the utility. Sometimes when you want to do  
24 something more streamlined or more quickly, you  
25 would -- rather than do the projection of cash flows

1 into the future, you would just say, what's the value  
2 of the utility today as -- as a ratio of the invested  
3 capital today?

4 So you don't bother doing the cash flow  
5 analysis over the next ten (10) years and poking and  
6 prodding at the utility management's cash projections.  
7 You just look at the invested capital today and then  
8 apply a multiple, which I am suggesting here at 1.3.

9 And it's kind of a -- you know, when  
10 you're looking at options and you don't have a lot of  
11 time, it's a -- a rule of thumb to come up with a --  
12 I'll use the words quick and dirty, but that's not the  
13 right connotations. It's a -- you know, a rough  
14 initial estimate of -- of value.

15 And you can do that in the utility --  
16 and -- and people often look at utility transactions  
17 to say what's the ratio of book value -- sorry -- of  
18 ratio of enterprise value on the sale transaction to  
19 the -- to the book value of assets? And, you know,  
20 it's -- you know, people look at that multiple all the  
21 time because it's an easy and quick metric.

22 And the reason that it's useful in the  
23 utility's sphere is that the rates that you earn based  
24 on the utility regulation process are based on your  
25 invested capital. You know, rates are set to allow

1 you the opportunity to earn a certain percentage  
2 return on -- on your invested capital. So the value  
3 of a utility is traditionally very proportional to,  
4 you know, the starting invested -- the starting  
5 quantum of invested capital.

6                   The reason that you would want to maybe  
7 look at a cash flow projection and make it a lot more  
8 complicated to do the evaluation is that, you know,  
9 there are other things than just starting invested  
10 capital that influenced the -- the value to a buyer.  
11 It's how quickly the utility is growing, and therefore  
12 how quickly profits are growing.

13                   You know, you might do an assessment  
14 of, can you take operating costs out of the utility as  
15 a buyer, and that will also increase your profits  
16 because there is some lag in the rate-setting process.  
17 And, in general, operating costs are passed through,  
18 but in the short term, they are not. And, therefore,  
19 in the short-term, as a buyer, if you can make  
20 significant cost reductions in the operations of the  
21 utility, that can increase the value of that utility  
22 to you.

23                   MR. JOHN MATHER: It sounds from all  
24 of that that you -- that your suggestion to Mr. Rockx  
25 -- I think you said a quick and easy -- you know,

1 here's a quick -- is this a quick and easy way we  
2 could determine the value --

3 MR. JONATHAN ERLING: Yes, exactly.

4 MR. JOHN MATHER: -- as a --

5 MR. JONATHAN ERLING: I mean, if -- if  
6 you want to know -- you know, if you're making a  
7 decision as to sell or -- or retain and you want to  
8 have a number in mind as to what can you think you can  
9 sell it for, to do a multiple of rate bases is not a  
10 bad way of doing it, and it's sometimes the approach  
11 we've used in -- in very high level analyses where  
12 somebody just wants to know, you know, am I going to  
13 get \$10 million of the utility or am I going to get 15  
14 million, you know.

15 I don't need to know whether it's 11.35  
16 versus 11.89. I just want to know is it 10 million or  
17 is it 15 million, an order of magnitude type estimate  
18 as to how much cash would potentially be achieved by  
19 selling the utility.

20 MR. JOHN MATHER: And do you know if  
21 Mr. Rockx took that approach or took a different  
22 approach?

23 MR. JONATHAN ERLING: Well, he  
24 certainly didn't do anything as simplistic as just  
25 take a one point three (1.3) book value multiple. You



1 know, I'm not the valuations guy, so I always, you  
2 know, kid John Rockx about, you know, the nature of  
3 valuations and say, you know, you can just take a  
4 multiple of ra -- rate base, and you've got your  
5 value, you don't need to do all this fancy analysis  
6 about discount rates. But John Rockx properly ignores  
7 me and does a proper valuation.

8 MR. JOHN MATHER: Okay. So if we  
9 could turn up paragraph 159 of the Foundation  
10 Document.

11 MR. JONATHAN ERLING: Yes.

12 MR. JOHN MATHER: Sorry, we'll just  
13 wait for it to come up on the screen, as well. So  
14 this paragraph contemplates a meeting with Mr.  
15 Houghton on May 12th, 2011, which I think you've  
16 already spoken to us about.

17 I believe you said you recalled Mr.  
18 Muncaster was there. Do you remember if anyone else  
19 was in attendance at the meeting?

20 MR. JONATHAN ERLING: I am pretty sure  
21 it was only Ed and -- and Dean Muncaster. I thought  
22 Tim might have been there. But I looked back at some  
23 emails, and, you know, there was an email from Tim  
24 saying, I'm going to be out of town, I can't be there.

25 I think I suggested, well, should we

1 postpone the meeting. I suggested that to somebody.

2 And then, no, the thought was we would proceed just in  
3 terms of -- because timing was an issue.

4 MR. JOHN MATHER: And now, you've  
5 already said that you don't have a strong recollection  
6 of that meeting, but what do you recall about it?

7 MR. JONATHAN ERLING: I -- I don't  
8 really recall very much. I just recall seeing --  
9 meeting Dean Muncaster in the flesh. I mean, he was a  
10 famous business personality.

11 I recall kind of -- what I do recall is  
12 that, you know, Ed was mollied, I think, that we were  
13 going to proceed and not get caught up into some  
14 unnecessary detail. I think we kind of went away with  
15 the agreement that, you know, we would take a certain  
16 approach to the valuation, one (1) of which was to not  
17 look at the specific dollar impact of a potential loss  
18 of synergy.

19 And then -- and then I wouldn't try to  
20 quantify a dollar value of that for the Town in the  
21 options analysis.

22 MR. JOHN MATHER: You said that you --  
23 you had the impression that Ed was mollified by the  
24 decision not to do the shared services analysis.

25 Do you remember what for -- what led

1 you to form that impression?

2

3 (BRIEF PAUSE)

4

5 MR. JONATHAN ERLING: Well, I just --  
6 I remember the tone of the meeting was positive at the  
7 end, so that's -- that's kind of what I remember. I  
8 don't know what adduced me to -- to conclude that.

9 MR. JOHN MATHER: Was it anything that  
10 Ed said at the meeting?

11 MR. JONATHAN ERLING: Oh, I -- I don't  
12 remember.

13 MR. JOHN MATHER: Moving now to  
14 paragraph 1 -- sorry, pull up KPM926.

15

16 (BRIEF PAUSE)

17

18 MR. JOHN MATHER: So this is an email  
19 that was sent. It appears to be in advance of the  
20 meeting because you're reporting on, it looks like, a  
21 conversation you had with Mr. Houghton about what the  
22 focus of the discussion of the meeting would be.

23 And you say, once --

24 "The focus of our discussion to --  
25 today on what need -- on what we

1                   needed to complete the val -- what  
2                   we needed to complete the valuation,  
3                   first priority.

4                   And then, once we have what we need  
5                   for that, we'll explore with them  
6                   the depth he is looking for in the  
7                   alternative options and other  
8                   analysis of both qual --  
9                   quantitative and qualitative. My  
10                  sense is he wants that piece at a  
11                  pretty high level."

12                 Looking at this email, do you recall  
13                 what Mr. Houghton said about the depth he was looking  
14                 for in the alternative options and other analysis at  
15                 the meeting?

16                 MR. JONATHAN ERLING:    No.

17                 MR. JOHN MATHER:     So if we can go to  
18                 paragraph 159 of the Foundation Document. So this is  
19                 the paragraph we were previously looking at. And if  
20                 you look midway through the paragraph, it says:

21                         "The following day, Mr. Erling  
22                         advised Mr. Herhalt that he thought  
23                         the meeting went okay."

24                 Do you remember what you meant by that?

25                 MR. JONATHAN ERLING:    Well, okay. I

1 usually tend to be a little understated. I don't say  
2 the meeting went great. I'm not that sort of person.  
3 I think it -- I think that probably meant I thought it  
4 went well, the -- when I said it went okay. I didn't  
5 want to kind of over commit to how well the meeting  
6 went, so I probably just said, oh, it went okay.

7 MR. JOHN MATHER: And then you say:

8 "We agreed to stay away from the  
9 detailed operational impacts of  
10 losing synergies between the water  
11 and electricity operations (and with  
12 the Town), so our job has actually  
13 become easier."

14 I take it that is what we've been  
15 talking about in terms of --

16 MR. JONATHAN ERLING: Yes.

17 MR. JOHN MATHER: -- not doing the  
18 shared services --

19 MR. JONATHAN ERLING: Yes.

20 MR. JOHN MATHER: -- analysis?

21 MR. JONATHAN ERLING: Not getting into  
22 this very detailed nitty-gritty analysis of what the  
23 cost impacts might be and specifically who was shared  
24 and what their workloads were relative between the two  
25 (2), water and LDC lines of business.

1 MR. JOHN MATHER: Okay. So we then  
2 see at the end of this email -- it says:

3 "In a separate email conversation,  
4 John Rockx indicated that KPMG was  
5 required to complete a draft  
6 valuation by the following week."

7 Do you see that?

8 MR. JONATHAN ERLING: Yes.

9 MR. JOHN MATHER: Do you recall  
10 receiving a direction along those lines?

11 MR. JONATHAN ERLING: No. Direction  
12 from whom?

13 MR. JOHN MATHER: From anyone at  
14 Collus.

15 MR. JONATHAN ERLING: I don't recall.

16 MR. JOHN MATHER: Do you remember what  
17 the time line for the project was?

18 MR. JONATHAN ERLING: At that time or  
19 --

20 MR. JOHN MATHER: At that --

21 MR. JONATHAN ERLING: -- in the  
22 original scope?

23 MR. JOHN MATHER: We'll start with at  
24 that time.

25 MR. JONATHAN ERLING: I don't recall.

1 I mean, I think -- I certainly got the impression they  
2 wanted things reasonably quickly. I don't recall what  
3 the scope was, what scope we committed to in the  
4 letter, although I -- there is a copy of the letter at  
5 hand, I could look at it, but I don't know what we  
6 said.

7 MR. JOHN MATHER: Understood. So I'm  
8 now going to ask you some questions about the options  
9 analysis you prepared. Your Honour, I'm happy to go  
10 into it and keep going or -- or would you like to take  
11 a break?

12 THE HONOURABLE FRANK MARROCCO: Why  
13 don't we just keep going? We'll stop about a quarter  
14 to 4:00 instead.

15 MR. JOHN MATHER: Sounds good. Okay,  
16 sounds good.

17 THE HONOURABLE FRANK MARROCCO: Is  
18 that...?

19

20 CONTINUED BY MR. JOHN MATHER:

21 MR. JOHN MATHER: So if we could go to  
22 paragraph 165.

23

24 (BRIEF PAUSE)

25

1                   MR. JOHN MATHER:    So this paragraph  
2 just references that on May 24th, 2011, KPMG delivered  
3 a slide presentation to Collus entitled -- entitled,  
4 "Collingwood utility services review of options." You  
5 can see the email reference there shows that you sent  
6 the email and the attachment to Mr. Houghton, Mr.  
7 Fryer, Mr. Rockx, and Mr. Herhalt. Do you see that?

8                   MR. JONATHAN ERLING:   Yes.

9                   MR. JOHN MATHER:    Okay. And so if we  
10 could pull up the attachment KPM1032.

11

12                                       (BRIEF PAUSE)

13

14                   MR. JOHN MATHER:    So this is the  
15 attachment to that email. Is this the presentation  
16 that you prepared for Collus? We can --

17                   MR. JONATHAN ERLING:   Well, I -- I  
18 assume.

19                   MR. JOHN MATHER:    Okay. We can scroll  
20 through it if you need to see it.

21                   MR. JONATHAN ERLING:   Well, I will  
22 trust you.

23                   MR. JOHN MATHER:    I -- I would just  
24 like to confirm that I'm showing you the presentation  
25 you prepared. So if you could just take a quick look



1 at the screen and -- and confirm it, that would be  
2 great.

3 MR. JONATHAN ERLING: Yes, I think it  
4 is.

5 MR. JOHN MATHER: Okay. And is this  
6 presentation the summary of advantages and  
7 disadvantages of various ownership options that was  
8 contemplated by the retainer?

9 MR. JONATHAN ERLING: Yes.

10 MR. JOHN MATHER: Okay. And then  
11 other than speaking with Mr. Houghton, Mr. Fryer, and  
12 Mr. Muncaster at Collus, did you speak with anyone  
13 else at Collus or the Town before delivering this  
14 presentation?

15 MR. JONATHAN ERLING: No.

16 MR. JOHN MATHER: So if we can go  
17 through the slides, you see there's a background  
18 slide. Go to the next slide; a report structure  
19 slide; an industry environment slide. And then if we  
20 could stop here on the transfer tax slide.

21 So I understand that this slide is  
22 talking about the potential for certain tra --  
23 transfer taxes that may or may not be payable in the  
24 event of a transaction. Is that fair?

25 MR. JONATHAN ERLING: Correct.

1                   MR. JOHN MATHER:   And if we look in  
2 the second paragraph, note -- you say:

3                   "From time to time, the provincial  
4 government has introduced time  
5 limited exemptions or 'holidays'  
6 from a certain transfer tax for  
7 sales of municipally owned utilities  
8 to -- to entities owned by  
9 municipalities or by the province,  
10 e.g., Hydro One. No such exemption  
11 is currently in force, although we  
12 expect that exemption may again be  
13 introduced after the next provincial  
14 election."

15                  Do you see that?

16                  MR. JONATHAN ERLING:   I do.

17                  MR. JOHN MATHER:   And I understand  
18 that you subsequently corrected this portion of the  
19 slide deck. Is that correct?

20                  MR. JONATHAN ERLING:   Yes. That --  
21 the last sentence of that paragraph was incorrect. I  
22 had overlooked that there had been a change in  
23 regulation that continued the exemption from the  
24 transfer tax requirement for publicly owned utilities,  
25 so transactions with municipally owned LDCs and with

1 Hydro One were certainly still possible without  
2 triggering a transfer tax.

3 MR. JOHN MATHER: So the exemption --  
4 and there was an exemption in place.

5 MR. JONATHAN ERLING: There was an  
6 exemption.

7 MR. JOHN MATHER: Okay. And if we  
8 scroll down, we see the -- you say:

9 "The presence of the transfer tax  
10 means that if a sale transaction is  
11 completed, it would make sense until  
12 a new exemption is introduced to  
13 complete the transaction."

14 I take it, based on what you said --

15 THE HONOURABLE FRANK MARROCCO:

16 Contemplated.

17

18 CONTINUED BY MR. JOHN MATHER:

19 MR. JOHN MATHER: Sorry, contemplated.  
20 I take it then what you said that the exemption was in  
21 place, this portion of the slide deck, was -- was not  
22 actually applicable.

23 MR. JONATHAN ERLING: Portions of the  
24 slide -- portions of this slide deck were not  
25 applicable, so some of the language still is

1 applicable.

2 MR. JOHN MATHER: But --

3 MR. JONATHAN ERLING: We didn't change  
4 all of it. We changed some of it.

5 MR. JOHN MATHER: But the suggestion  
6 to wait to do a transaction until a --

7 MR. JONATHAN ERLING: Correct. That  
8 was no longer a limitation. Certainly it was not a  
9 limitation in doing a sale transaction with a private  
10 -- sorry, a public sector entity or a municipally  
11 owned LDC, which were, you know, the relevant buyers  
12 at the time.

13 MR. JOHN MATHER: And my recollection  
14 is you made the changes to this -- this portion of the  
15 analysis in July.

16 Does that sound correct?

17 MR. JONATHAN ERLING: That sounds  
18 correct.

19 MR. JOHN MATHER: Okay. So if we  
20 could scroll down. We see more slides about the smart  
21 grid, financial pressures, regulatory environment,  
22 implications of the industry environment, and then we  
23 get to a slide that says "Restructuring Options."

24 So in this slide you identify two (2)  
25 major options. The first is the status quo option.

1 The second is the sale option, and then within the  
2 sale option you also identify other -- two (2) other  
3 forms of sales. One (1) would be a complete sale and  
4 then the other would be either the sale of a majority  
5 or a minority interest.

6 Have -- have I got that correct?

7 MR. JONATHAN ERLING: Correct.

8 MR. JOHN MATHER: How did you  
9 determine what options you would analyze?

10 MR. JONATHAN ERLING: I think it was  
11 probably -- I don't remember specifically. You know,  
12 we probably got -- we probably had some discussion  
13 with Ed in the meeting about what options were  
14 relevant, but that's a -- because it was many years  
15 ago, I can't say that for sure.

16 You know, typically we might say, you  
17 know, other options would be for Collingwood to go on  
18 and acquisition spree and buy other utilities. I  
19 don't think -- or it might look at merging with  
20 another nearby utility.

21 MR. JOHN MATHER: So when --

22 MR. JONATHAN ERLING: And I think  
23 those were in the circumstances not relevant.

24 MR. JOHN MATHER: So when it says  
25 below:

1                    "We assume that the Town is not  
2                    interested in expanding its  
3                    ownership interest by purchasing  
4                    other utilities or entering into  
5                    merger discussions with other  
6                    utilities."

7                    ...that's what you're referring to?

8                    MR. JONATHAN ERLING:    Yes.

9                    MR. JOHN MATHER:    Do you recall if  
10                   either Mr. Houghton, Mr. Muncaster, or Mr. Fryer told  
11                   you what options they wanted analyzed or not analyzed?

12                   MR. JONATHAN ERLING:    I don't recall.  
13                   I mean, I'm sure we had discussions with them about  
14                   what were relevant options to consider, and I think  
15                   reasonably these were the relevant options to  
16                   consider.

17                   MR. JOHN MATHER:    Other than the  
18                   options that are identified on this slide, were you  
19                   asked to consider any other options?

20                   MR. JONATHAN ERLING:    No.

21                   MR. JOHN MATHER:    Did you consider any  
22                   other options?

23                   MR. JONATHAN ERLING:    No.

24                   MR. JOHN MATHER:    So if we can keep  
25                   going through the slide deck, we see there is a

1 utility valuation slide -- which we'll stop here. And  
2 at the top on the slide it says:

3 "In theory regul -- regulated  
4 utilities should sell at values  
5 close to their book value since they  
6 are regulated based on their actual  
7 costs and by applying a regulated  
8 return on their investment capital.  
9 In practice, utilities often trade  
10 at a premium above book value."

11 Do you see that?

12 MR. JONATHAN ERLING: Yes. And it's  
13 similar to some discussions we had earlier today, just  
14 a few minutes ago on, you know, valuation issues for  
15 regulated utilities.

16 MR. JOHN MATHER: And so you're -- it  
17 looks here that -- from what I understand this is,  
18 that when a utilities -- when a regulated utility is  
19 for sale, in theory it should just be at a -- at a  
20 book value because its -- their costs are regulated,  
21 but often they trade at a premium above that.

22 MR. JONATHAN ERLING: Yeah. I think  
23 in practice, it's probably fair to say it is rare that  
24 a utility doesn't trade at a significant premium to  
25 its book value. So that's really more the norm than

1 something that would be unusual, but the value is  
2 based on the -- on the book value or it's a -- it's a  
3 function of book value.

4 I think -- you know, I have discussions  
5 with valuations people about why that is the case.  
6 You know, in part it's -- you know, I think regulators  
7 tend to err on overestimating required returns for  
8 investment because the consequences of -- the  
9 consequences of underestimating required returns would  
10 be significant and undesirable, and so, you know,  
11 investors probably are willing to live with somewhat  
12 lower returns than utilities -- regulators allow  
13 utilities to earn and, therefore, that tends to bump  
14 up the price that they're willing to pay to earn those  
15 -- to -- to purchase those regulated returns.

16 And the other issue is, yeah, the  
17 potential to reduce costs more quickly than the  
18 regulator may project and the ability to, you know,  
19 achieve other benefits from purchases of the utility.

20 MR. JOHN MATHER: So because an LDC is  
21 a regulated utility, is there any -- does that mean  
22 there's any -- is any limit placed on what a buyer of  
23 that utility could offer to pay for the utility?

24 MR. JONATHAN ERLING: Well, in  
25 practice, yes. I mean, in theory, anybody could offer



1 to pay whatever they want if they're irrational but,  
2 you know, there's a limitation on what they would be  
3 willing to pay because the returns are regulated and -  
4 - and therefore under the control of another entity,  
5 i.e., the utility regulator. So there's -- you know,  
6 it's not like buying Apple or Google, you know, that  
7 they come up with new product line that -- that's, you  
8 know, going to be marketed and make -- make huge  
9 profits. You're buying a regulated business and that  
10 inevitably puts a cap on -- on the potential returns.  
11 Regulators do not take into account the fact that you  
12 purchase the utility at a premium above book value.

13 I mean, you know, if you purchase a  
14 premium for a 50 percent -- if you purchase a utility  
15 for a 50 percent premium over book value, you don't  
16 then get to earn a return on that 50 percent premium  
17 that you paid. Regulators only recognize actual  
18 historic cost of the assets in place.

19 So, absolutely there's a limitation on  
20 what -- what a utility will sell for.

21 MR. JOHN MATHER: But -- so it sounds  
22 like you are describing a -- a kind of a business --  
23 or value limitation. The OEB doesn't limit what  
24 someone can buy a utility for, does it?

25 MR. JONATHAN ERLING: Generally, no.

1 You know, they do have to approve merger transactions  
2 or purchase transactions. I don't -- I don't think --  
3 I don't recall specifically what they look at.

4 I don't think they're there to protect  
5 the interests of utility buyers. They're there to  
6 protect the interests of consumers.

7 So if a purchaser of a utility wants to  
8 pay too much, I don't think they're too concerned  
9 about that in general. They would only be concerned  
10 if -- by purchasing at a very inflated price, the  
11 utility buyer thereby signals that it's going to do  
12 something that the regulator thinks is undesirable.

13 MR. JOHN MATHER: So if we can keep  
14 scrolling through the slides -- so we see operating  
15 synergies, operating dis-synergies, and rate  
16 harmonization. And we see affiliate relationships,  
17 and I'm not going to ask you to go into this 'cause I  
18 think we've talked a lot about it, but this is  
19 relating to the effect on shared services.

20 Is that fair?

21 MR. JONATHAN ERLING: It is.

22 MR. JOHN MATHER: Okay.

23 MR. JONATHAN ERLING: And -- and we  
24 have talked a lot about the shares service issue.

25 So --

1                   MR. JOHN MATHER:    And I just have a --  
2   a few brief questions on the slide then.  You say in  
3   this slide:

4                   "Any such impacts would ultimately  
5                   need to be examined as part of the  
6                   financial analysis from the Town's  
7                   perspective of any proposed  
8                   transaction."

9                   MR. JONATHAN ERLING:    Correct.

10                  MR. JOHN MATHER:    After preparing this  
11   presentation, were you ever asked to analyze the  
12   impacts of the shared services?  Or put it another  
13   way, were you ever asked to do this analysis at any  
14   point in time for Collus?

15                  MR. JONATHAN ERLING:    No.

16                  MR. JOHN MATHER:    Are you aware of  
17   anyone at KPMG being asked to do this analysis for  
18   Collus?

19                  MR. JONATHAN ERLING:    I -- I am not  
20   aware.

21                  MR. JOHN MATHER:    If we keep going  
22   through the slides and then -- so we see issues  
23   related to ownership options one (1); the issue  
24   related to ownership options two (2); three (3); keeps  
25   going.  We'll keep flipping through just so we can see

1 them.

2                   Okay. So we'll stop here. And so we  
3 see on -- this is slide 17, the evaluation of the  
4 status quo option. And if we go down to slide 18, the  
5 evaluation of the sale option. Do you see that?

6                   MR. JONATHAN ERLING: Yes.

7                   MR. JOHN MATHER: So when you are  
8 assessing the advantages and disadvantages of these  
9 two (2) options, whose perspective did you have in  
10 mind?

11                  MR. JONATHAN ERLING: The  
12 shareholder -- the -- the Town. It'd be the Town as  
13 the shareholder of the utility; it's the owner of the  
14 utility. So it's the Town's decision as to the future  
15 ownership of the utility, and you have to take the  
16 perspective of the Town. It holds the equity interest  
17 in the utility. It's -- it's their business to  
18 dispose of, if they want to dispose of it, or to  
19 retain it, if they wish to retain it.

20                  MR. JOHN MATHER: So if you are  
21 analyzing this from the perspective of the Town, why  
22 didn't you speak with anyone at the Town about the  
23 potential advantages or disadvantages of the two (2)  
24 options?

25                  MR. JONATHAN ERLING: Well, I assume

1 that the presentation was prepared for a committee or  
2 group that would include the Town because the Town  
3 would have to be part of any discussion on the  
4 disposition of shares in the utility. It's not --  
5 it's not the role of utility management to make those  
6 decisions. I mean, the utility management, you know,  
7 could certainly have a view and make recommendations  
8 to the Town.

9                   The Board of Directors, you know, is  
10 there to represent the interests of the shareholder,  
11 and, you know, the Board often makes decisions on  
12 behalf of the Town, as its representative or its --  
13 you know, as the governance body that has been  
14 entrusted to make decisions about the future of the  
15 utility.

16                   But when it comes to big decisions  
17 about sell or retain, I think the general governance  
18 principle would be that the Town needs to become  
19 involved directly in those discussions.

20                   MR. JOHN MATHER: Did you consider at  
21 any point up to preparing this presentation whether or  
22 not you should speak with anyone at the Town about  
23 what -- what they make -- they may be considering  
24 about options or what they may be looking for in the  
25 future of Collus?

1                   MR. JONATHAN ERLING:    I think I  
2 reasonably assumed that -- that any issues that the  
3 Town might have, Ed would make me aware of them. I --  
4 I didn't view it at the time that we needed to have  
5 direct discussions with the Town. I think we wrote  
6 the presentation in a way that was clearly written for  
7 the Town's consumption and that spoke to the Town's  
8 perspective in making this decision.

9                   And so -- you know, our understanding  
10 that we were putting together this presentation so  
11 that the Town would have available an analysis by an  
12 independent, hopefully objective third-party of the  
13 considerations that it should evaluate in making  
14 ownership decisions that, you know, the advantage of  
15 coming to KPMG is that, you know, I think -- you know,  
16 we are a third party. And if we put this together,  
17 you know, we have to make -- meet certain tests of  
18 objectivity and -- and balance in the presentation of  
19 the options.

20                   And I -- I you know, we certainly tried  
21 to do that. And therefore, you know, that's --  
22 that -- that was the process.

23                   MR. JOHN MATHER:    It sounds to me you  
24 were relying on Mr. Houghton to provide you the Town's  
25 perspective; is that fair?

1 MR. JONATHAN ERLING: Absolutely.

2 And -- and I -- you know, certainly, my experience  
3 with Ed through the earlier process in -- in the year  
4 2000 was that -- I think of many utility managers that  
5 I have met with over the years. Ed was very good at  
6 interacting with the Town and getting input from the  
7 Town because what I remember about the earlier process  
8 was that the Town was clearly in on the deliberations  
9 about the future of the utility.

10 And, you know, as part of that process,  
11 you know, Ed wanted to have external advisors, and he  
12 wanted to make sure that the Town representatives were  
13 brought up to speed by external advisors on all the  
14 relevant issues that you needed to think about in  
15 making a decision as the Town. And that takes a bit  
16 of education because it's a unique industry, and there  
17 were certain legal restrictions on what they could do  
18 and certain considerations that are outside of, I  
19 think, the normal realm of what municipalities  
20 normally have to concern themselves with.

21 You know, it's -- it's a specific  
22 industry; it has specific rules; it has specific  
23 norms. And so you have to educate people on those  
24 considerations if you're going to bring them in and  
25 having them take a meaningful part in the

1 decision-making process. You can't just bring them in  
2 and not make sure that they're comfortable with the  
3 relevant issues that they need to deliberate on.

4 MR. JOHN MATHER: So -- and I think  
5 you said earlier, you expected that this presentation  
6 would be shared with people in the town. Did you ever  
7 present this presentation or discuss your analysis  
8 with anyone at the Town?

9 MR. JONATHAN ERLING: No.

10 MR. JOHN MATHER: We saw that you sent  
11 this presentation to Mr. Houghton and Mr. Fryer at  
12 Collus. Do you know who they shared the presentation  
13 with?

14 MR. JONATHAN ERLING: I do not. I --

15 THE HONOURABLE FRANK MARROCCO: Before  
16 you -- oh, sorry.

17 MR. JONATHAN ERLING: Sorry.

18 THE HONOURABLE FRANK MARROCCO: Go  
19 ahead and finish your answer.

20 MR. JONATHAN ERLING: I -- I do  
21 recall -- I mean, I think we had got some comments  
22 back on the initial draft, and I -- I do recall an  
23 email, I think, from Tim that suggested it had been --  
24 you know, that he had gotten some comments from other  
25 people specifically, perhaps, on the transfer tax



1 issue. So I had gotten the impression it had been  
2 shared, for sure.

3 MR. JOHN MATHER: And we will go to  
4 that at a -- at a certain point.

5 THE HONOURABLE FRANK MARROCCO: I  
6 wanted to ask you about the transfer tax. On  
7 slide 20, evaluation of sale option, do you have that  
8 slide in front of you?

9 MR. JONATHAN ERLING: I -- I think --  
10 yes, I do.

11 THE HONOURABLE FRANK MARROCCO: It  
12 says the disadvantage is transfer tax payable. Should  
13 I -- should I understand what you said earlier that  
14 I -- that that's not correct?

15 MR. JONATHAN ERLING: That is not  
16 correct. So in the subsequent revision of this  
17 presentation, that disadvantage moves to the bottom of  
18 the list, and it's reworded -- I think it's reworded  
19 to say if you sold to a private sector buyer.

20 So it's -- it's still there, but it's  
21 much less relevant because it -- it only applies if  
22 it's sold to a private sector buyer. So that was a  
23 correction between the draft and the final.

24 THE HONOURABLE FRANK MARROCCO: So the  
25 transfer tax is only payable if you sell to a private

1 sector buyer.

2 MR. JONATHAN ERLING: Correct.

3 THE HONOURABLE FRANK MARROCCO: Thank  
4 you.

5 MR. JONATHAN ERLING: And now there's  
6 specific regulations as to who it applies to. Like, I  
7 have had discussions with people, is it applicable to  
8 a sale to EPCOR -- which is not a private sector  
9 entity, but is not based in Ontario. And I have  
10 gotten different views as to whether --

11 THE HONOURABLE FRANK MARROCCO: Not  
12 what I was asking. If -- I understand what you're  
13 saying there. If you're -- we're dealing with a sale  
14 to PowerStream. Is PowerStream a private sector  
15 buyer?

16 MR. JONATHAN ERLING: No.

17 MR. JOHN MATHER: So, Your Honour, I'm  
18 happy to continue or --

19 THE HONOURABLE FRANK MARROCCO: No,  
20 no. It's -- we have to -- as I explained yesterday, I  
21 think we have to be out of here by 4:00 because of  
22 certain work that the Town is going to be doing in the  
23 building. So it's a quarter to 4:00. We didn't take  
24 a break. So I think we'll stop now. So we're  
25 stopping.

1 MR. JONATHAN ERLING: We're stopping.

2 So that means --

3 THE HONOURABLE FRANK MARROCCO: You're  
4 coming back.

5 MR. JONATHAN ERLING: I'm coming back.  
6 Well, I --

7 THE HONOURABLE FRANK MARROCCO:  
8 Counsel will work it out with you to try and make it  
9 as convenient as possible.

10 MR. JONATHAN ERLING: Well, of course,  
11 I'm delighted to be coming back.

12 THE HONOURABLE FRANK MARROCCO: Well,  
13 we're delighted to have you back.

14 MR. JONATHAN ERLING: Thank you.

15 THE HONOURABLE FRANK MARROCCO: Oh,  
16 one (1) thing I should -- you shouldn't -- you  
17 probably know this, but you shouldn't discuss your  
18 evidence with anyone during the time that we're down  
19 because it could lead to some sort of misunderstanding  
20 about whether someone was influencing your evidence or  
21 not.

22 MR. JONATHAN ERLING: Can I discuss it  
23 with my lawyer?

24 THE HONOURABLE FRANK MARROCCO:  
25 Discuss it with your lawyer but -- well, your lawyer

1 understands the ethical bounds that he's or she's  
2 governed by.

3

4 (WITNESS RETIRES)

5

6 --- Upon adjourning at 3:47 p.m.

7

8 Certified Correct,

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13 Wendy Woodworth, Ms.

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