

PCA Case No. 2016-13

UNDER THE RULES OF ARBITRATION OF THE UNITED  
NATIONS COMMISSION ON INTERNATIONAL TRADE LAW AND  
CHAPTER ELEVEN OF THE NORTH AMERICAN FREE TRADE  
AGREEMENT

BETWEEN:

RESOLUTE FOREST PRODUCTS INC.,  
Claimant/Investor

- and -

GOVERNMENT OF CANADA  
Respondent/Party

TRANSCRIPT OF PROCEEDINGS  
HEARD BEFORE JUDGE JAMES CRAWFORD, DEAN RONALD CASS,  
PROFESSOR CÉLINE LÉVESQUE,  
held via Arbitration Place Virtual  
on Tuesday, November 10, 2020, at 8:12 a.m. EST

RESTRICTED ACCESS - VOLUME 2

REVISED TRANSCRIPT

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1 Arbitration Place Virtual

2 --- Upon resuming on Tuesday, November 10, 2020,

3 at 8:12 a.m. EST

4 JUDGE CRAWFORD: Respondent,

5 is your team present?

6 MR. LUZ: We are all present,

7 either in person or virtually, mostly virtually.

8 Thank you, Judge Crawford.

9 JUDGE CRAWFORD: This morning,

10 we have the factual witness, the beginning of the

11 presentation of them, starting with Richard

12 Garneau, the Claimant's fact witness.

13 Who is going to be doing

14 the -- it's cross-examination only, of course.

15 Who is going to be doing the cross-examination?

16 MR. LUZ: I will be, Judge

17 Crawford.

18 JUDGE CRAWFORD: All right.

19 MR. VALASEK: Judge Crawford,

20 there was one housekeeping matter that was left

21 for me to address this morning relating to

22 Mr. Vachon's apparent access to the transcript,

23 the LiveNote transcript yesterday during the

24 restricted access session. And I just propose to

25 address that in a few seconds this morning.

1 JUDGE CRAWFORD: Yes, please.

2 MR. VALASEK: We spoke to  
3 Mr. Vachon. The reality is that, as soon as he  
4 realized that the live script was continuing  
5 during the restricted access session, he closed it  
6 down immediately.

7 The reason it was brought up  
8 in the first place on his station was that we  
9 are -- at our offices, we have three separate  
10 conference rooms with access to the Internet and  
11 access to Zoom and the transcript, and because we  
12 were having great difficulty yesterday, we were  
13 playing musical chairs between the three  
14 conferences. I was trying to get onto the station  
15 that was working best.

16 But the reality is that he  
17 affirms that he did not view any restricted access  
18 material.

19 JUDGE CRAWFORD: All right.  
20 Respondent, any comment? -- sorry. Claimant, any  
21 comment on that?

22 MR. LUZ: At this point, we  
23 don't have anything further to say, but we may  
24 want to address it later on. But I don't want to  
25 delay the cross-examination.

1 JUDGE CRAWFORD: Okay. We  
2 will leave it.

3 MR. VALASEK: Thank you.

4 JUDGE CRAWFORD: We got used  
5 to the system of restricted access information,  
6 and we hope that the technology works cleanly, as  
7 it did for most of yesterday once things got  
8 going.

9 You will notice that, in  
10 response to comments from the parties, the  
11 Tribunal has made a difference to the declarations  
12 for fact and expert witnesses. The new  
13 declaration involves the witness giving evidence  
14 by himself. "There is no one else present in the  
15 room where I am testifying. I do not have notes  
16 or annotations on any hard copy or electronic  
17 documents", and such and such, with the usual  
18 statement.

19 So we will be making that  
20 declaration for fact witnesses and, suitably, the  
21 equivalent amended declaration for expert  
22 witnesses.

23 So can we have Mr. Richard  
24 Garneau on the screen?

25 MR. GARNEAU: I am here.

1 MR. FELDMAN: You have him,  
2 Judge Crawford.

3 JUDGE CRAWFORD: Welcome, sir.  
4 My name is James Crawford. I am the president of  
5 this Tribunal. And my colleagues are Céline  
6 Lévesque and Ronald Cass, respectively from Canada  
7 and the United States. I am from Australia,  
8 although resident in The Hague.

9 You are familiar with the  
10 procedure for these online hearings. The  
11 Arbitration Place will tell me if there's any  
12 problem. We hope there won't be. In the last  
13 resort, you can simply connect by phone using a  
14 dial-in connection provided by Arbitration Place,  
15 which you have the meeting invitation that sets  
16 that out.

17 Do you have any questions  
18 before we start about the process?

19 MR. FELDMAN: Richard, that  
20 question is for you.

21 MR. GARNEAU: No, I am fine.  
22 I am ready.

23 JUDGE CRAWFORD: You have got  
24 the statement that you are required to make,  
25 declaration for fact witness. Can I ask you to

1 make that declaration?

2 MR. GARNEAU: Which

3 declaration?

4 MR. FELDMAN: The oath that

5 you were sent. Do you have that at hand?

6 MR. GARNEAU: I didn't see it.

7 I saw that you sent the oath, but I didn't find it

8 in the information that was sent, so I don't know.

9 I don't know what happened.

10 JUDGE CRAWFORD: Let me read

11 it. If you attend to it and then if you have any

12 questions, you can ask them.

13 "I solemnly declare upon  
14 my honour and conscience  
15 that I will speak the  
16 truth, the whole truth  
17 and nothing but the  
18 truth. No one else is  
19 present in the room where  
20 I am testifying. I do  
21 not have any notes or  
22 annotations on any hard  
23 copy or electronic  
24 documents. I confirm  
25 that I am not receiving



1                                   communications of any  
2                                   sort during my testimony  
3                                   other than my  
4                                   participation in the main  
5                                   hearing room in Zoom."[as  
6                                   read]

7                                   That's straightforward?

8                                   MR. GARNEAU: Yes. And I  
9 agree with that, so...

10                                  JUDGE CRAWFORD: You make that  
11 declaration?

12                                  MR. GARNEAU: Yeah, I made it.

13                                  JUDGE CRAWFORD: Thank you.

14 FACT WITNESS: RICHARD GARNEAU

15                                  JUDGE CRAWFORD: The Tribunal  
16 has carefully read your witness statements, and so  
17 the purpose of today's hearing today is to be  
18 cross-examined on those witness statements. One  
19 hour has been allocated for that.

20                                  So Claimant can start the  
21 cross-examination. Sorry. Respondent. Yes.  
22 Cross-examination is Respondent.

23                                  MR. LUZ: Thank you, Judge  
24 Crawford.

25 CROSS-EXAMINATION BY MR. LUZ:

1 Q. Good morning,

2 Mr. Garneau. Can you hear me okay?

3 A. Yes, I can hear you very  
4 well.

5 Q. Oh, that's good. My name  
6 is Mark Luz. I am counsel for the Government of  
7 Canada. Nice to meet you virtually. It's a very  
8 strange position to be in, to be doing a  
9 cross-examination online, but, hopefully, this  
10 will go smoothly.

11 A. Hopefully. I agree.

12 Q. If you have any problems,  
13 if you can't hear me or if you can't find a  
14 document or something like that, please let me  
15 know. We just want to make this as easy as  
16 possible for you.

17 A. Okay, so...

18 Q. Great. So what I am  
19 going to do today is just some preliminary things.  
20 I am just going to ask you some questions about  
21 the witness statement that you submitted on  
22 December 6th, 2019.

23 Do you have a copy of it with  
24 you?

25 A. No, I have been told to

1 have only the exhibit for cross-examination, so  
2 it's the only thing that I have on my -- on my  
3 desk.

4 Q. Okay. So if you don't  
5 have a copy of your witness statement, we can  
6 bring it up on the screen for you whenever I ask  
7 you questions about what you have written in  
8 there; is that okay?

9 A. Yes, it's okay.

10 Q. Okay. And speaking of  
11 the screen, do you have your computer screen? You  
12 will be able to see documents if we bring up  
13 the --

14 A. Could you bring up a  
15 document that I can see if it works, please?

16 Q. Sure, sure.

17 Chris, do you mind bringing up  
18 Mr. Garneau's witness statement? There we go.  
19 That's perfect.

20 A. Yeah, yeah, I see it on  
21 my computer.

22 Q. Okay. Great.

23 A. Okay.

24 Q. So we will go to  
25 different versions, but this is a public version

1 that has some redactions in it. But when it needs  
2 to go to the session that doesn't have the  
3 redactions, what I will do is I'll just announce  
4 to the Tribunal that we need to go into a  
5 restricted access session. We will just wait a  
6 minute, and then we will go in.

7 A. Okay.

8 Q. Is that okay? Great.

9 A. It's okay. It's okay.

10 Q. And I appreciate we are  
11 already doing a good job of doing a  
12 cross-examination online by not speaking over each  
13 other. It's difficult because I think you know  
14 that there is a court reporter who is transcribing  
15 everything for this, so let's do our best -- I  
16 will do my best to not interrupt you, and I hope  
17 you will do the same for me.

18 A. I will try.

19 Q. Great.

20 And, again, because we only  
21 have about an hour, let's do -- if you don't mind,  
22 I will try and ask my questions clearly and  
23 succinctly. And the best you can, if you can be  
24 direct and clear and succinct about your answers,  
25 that would be great.

1                   A.    I will try.  So it's not  
2 my -- my primary language, but I will do my best.

3                   Q.    I understand.  And I  
4 appreciate you doing this with me because my  
5 French is not as good as I would like it to be.  
6 But maybe after the hearing, I can practice a  
7 little bit more.

8                   A.    Yeah, well, I am going to  
9 practice my English with you.

10                  Q.    Okay, great.

11                  Just one final housekeeping  
12 matter, Mr. Garneau.  Were you watching the public  
13 feed of the arbitration hearing yesterday?

14                  A.    No, I was not online  
15 yesterday.

16                  Q.    Okay.  And did you read  
17 the transcript from yesterday?

18                  A.    No, I didn't.

19                  Q.    Okay.  Great.

20                  So today, I will just talk to  
21 you first about the Bowater Mersey mill.  And then  
22 I will talk about Port Hawkesbury, if that's okay.

23                  A.    That's okay.

24                  Q.    Okay.  So we are going to  
25 start off on page 2 of your witness statement,

1 which we will just bring up and we will start off.

2 At paragraph 6 and 7 -- do you

3 see that there?

4 A. Yeah, I see it.

5 Q. You said that -- you

6 refer to an August 26th, 2011, meeting that you

7 had with Duff Montgomerie and Paul Black from the

8 Government of Nova Scotia; is that right?

9 A. Yeah, it's right.

10 Q. And you recall that

11 Resolute's CFO, Bill Harvey, was there with you as

12 well?

13 A. Yes, he was.

14 Q. And do you recall if the

15 premier of Nova Scotia was at the meeting as well?

16 A. No, I don't think that

17 the premier was at the meeting.

18 Q. Okay. So you recall just

19 Duff Montgomerie and Paul Black?

20 A. Yes.

21 Q. Do you recall meeting

22 with the premier about the Bowater Mersey mill

23 closure?

24 A. Yes, but it was later on.

25 Q. You came to tell -- in

1 that August 26th meeting, you came to tell the  
2 Government of Nova Scotia that Resolute was going  
3 to close its Bowater Mersey mill; is that right?

4 A. Yes, it is.

5 Q. And you said that the  
6 mill's operational costs were too high to be  
7 competitive; is that right?

8 A. Yes, I said that. And I  
9 also mentioned the loss that we had in 2009 and  
10 2010 of 28 and \$23 million and that the mill  
11 was -- was not a going concern.

12 Q. Okay. And you mentioned  
13 that costs like labour, electricity and fibre were  
14 of concern; is that right?

15 A. Yes, I mentioned that  
16 with some details at the meeting.

17 Q. Okay. And they were too  
18 high to be competitive?

19 A. Well, they were  
20 excessively high, and that's the reason why the  
21 mill was losing that much money.

22 Q. At the meeting, the  
23 government asked you to keep the mill open a  
24 little bit longer; is that right?

25 A. Well, they asked for some

1 time to have a better understanding of the reason  
2 why the mill was -- was not profitable and was  
3 losing that much money. And I agree with that,  
4 and I said that the -- Brad Pelley, that is --  
5 that was the general manager of the mill, would be  
6 available to share all the details in early  
7 September or when they would be available to do  
8 so.

9 Q. Okay. So you agreed to  
10 give the government a little bit of time to figure  
11 out what to do next?

12 A. When I agreed to share  
13 the information, I think that the objective was to  
14 make sure, because the recourse was to have a  
15 better understanding, and I just felt that a  
16 better understanding would be to be transparent  
17 and show the -- show the information, the  
18 financial result and what it would take to be able  
19 to continue to run this mill.

20 Q. Okay. And so that was  
21 going to take a little bit of time for the  
22 government to figure out how it could help, if  
23 anything?

24 A. And that would also take  
25 a bit of time for us to prepare the information



1 and to put it in a format that would be easy to  
2 understand for the bureaucrats that are not  
3 specialists in the paper business.

4 Q. Okay. Then you say at  
5 paragraph 9, which, actually, I think -- I think  
6 we should bring up -- yeah, that's right, that's  
7 the public version. Restricted access in here --  
8 so I think we should go into restricted access  
9 session so that we can look at the clean version,  
10 if that's okay. Heather.

11 MS. D'AMOUR: Yes, just give  
12 me one second.

13 MR. LUZ: Thank you.

14 Sorry about this, Mr. Garneau.  
15 It's a bit of jumping back and forth, but,  
16 hopefully, it won't take too long.

17 MS. D'AMOUR: All right. All  
18 people have been removed.

19 --- Whereupon Restricted Transcript Commences

20 MR. LUZ: I think we actually  
21 lost Mr. Garneau, so that's --

22 MS. D'AMOUR: Oh, I am sorry.

23 MR. LUZ: Actually, he is  
24 permitted -- that's okay. That's okay.

25 MS. D'AMOUR: Sorry. All

1 people have been removed except for Mr. Garneau.

2 MR. LUZ: We accidentally  
3 removed you, there, Mr. Garneau. Sorry about  
4 that. You're -- you're muted, Mr. Garneau.

5 THE WITNESS: I didn't do  
6 anything, so some -- someone else...

7 MR. LUZ: There is someone  
8 controlling everything from up there.

9 Okay. Chris, do you mind  
10 putting up the unredacted version of paragraph 9  
11 of Mr. Garneau's witness statement just to --  
12 there we go.

13 BY MR. LUZ:

14 Q. So you say in your  
15 witness statement that, by the end of  
16 September 2011, you were convinced that the  
17 province had no serious plans to reduce costs at  
18 Bowater Mersey; is that right?

19 A. Yeah.

20 Q. And that was only one  
21 month after you had told the government of the  
22 plan to close the mill; is that right?

23 A. Can I explain?

24 Q. I'm sorry?

25 A. Can I explain why --

1 Q. Sure, you can -- you can  
2 answer the question and then go ahead and explain.

3 I am just asking, that was one month after?

4 A. Yeah, that was one month  
5 after.

6 Q. Okay. Go ahead. You can  
7 explain.

8 A. Okay. The reason why I  
9 said that here is that Brad Pelley had quite a few  
10 meeting with the bureaucrats and the -- we tried  
11 to be very clear on what we would need to continue  
12 to operate the mill. And I think that we had  
13 three -- three cost components.

14 Power, and we said that on  
15 power, we were -- the mill was paying then [REDACTED] per  
16 megawatt-hour, and we said to be able to continue  
17 to operate, we need power to come down to [REDACTED].

18 The second element that the --  
19 on fibre, we said the fibre is very expensive, and  
20 we need to have fibre to go down from [REDACTED], if I  
21 remember precisely, to about [REDACTED]

22 And Brad Pelley quantified  
23 that for the government and said, "Well, power is  
24 about [REDACTED] million, and fibre is about [REDACTED], for a  
25 total of [REDACTED] million".

1                   And the other component was  
2 labour. Our labour costs was quite high, close to  
3 ■■■■■, and we had an objective to bring it down to  
4 ■■■■. But we said it's something that the company,  
5 Mersey, will have to do and negotiate with the  
6 union. And --

7                   Q. Right.

8                   A. -- by the end of  
9 September, basically, based on the feedback that I  
10 got on a regular basis from Mr. Pelley, we were  
11 looking at different options but said it's not  
12 going to be material. It's not going to be  
13 helpful. So that's the reason why I said that.

14                  Q. Okay. And then at  
15 paragraph 10 of your witness statement --

16                  A. Yes.

17                  Q. -- you said that:  
18                         "Nonetheless, provincial  
19                         officials pleaded for  
20                         more time and Resolute  
21                         acquiesced." [as read]

22                  Is that right?

23                  A. Yeah, that's right. That  
24 is the case.

25                  Q. Okay. So the province

1 just needed some more time to help figure out what  
2 to do?

3 A. Yes.

4 Q. Now, one of the high  
5 costs for Bowater Mersey you were just talking  
6 about was labour; is that right?

7 A. Well, labour is a small  
8 component when you look at the three.

9 I mentioned ■ million for  
10 power that we were looking for to make this mill  
11 competitive. The other one was fibre at ■ And  
12 labour was about ■ million. If you look at  
13 the ■ hours down to ■ and do the math, it's  
14 about ■ million. So it was the smaller component  
15 of the three items.

16 Q. Okay.

17 Sorry. Chris, could you take  
18 down the callout. You can just leave the witness  
19 statement page up there. That's right. Thank  
20 you.

21 But, Mr. Garneau, by the end  
22 of September 2011, Bowater Mersey hadn't finished  
23 negotiations with the union to reduce labour  
24 costs; is that right?

25 A. No, it was not. It

1 was -- it was progressing, but the union was not  
2 really willing to entertain the -- to make  
3 concessions or we had -- we had a lot of  
4 difficulties to get them on board.

5 Q. Okay. And also by the  
6 end of September, Bowater Mersey was still waiting  
7 on a decision -- was still -- sorry. There was a  
8 crash behind me.

9 At the end of September 2011,  
10 Bowater Mersey was still waiting for a decision on  
11 its application for a reduced electricity rate; is  
12 that right?

13 A. Yes, but the -- what I  
14 recall from Brad Pelley, the process was ongoing,  
15 and he mentioned to me many times it's not going  
16 to be significant. I didn't know what it was.  
17 And I ask him, "Are we going to get close to the  
18 [REDACTED] per megawatt-hour?"

19 And he said, "No, but I don't  
20 know what it is going to be. So it's a process  
21 and it takes time, but not going to be  
22 substantial".

23 Q. Okay. Thank you.

24 But the idea for those two  
25 items is that, if you can reduce the workforce and

1 get contract concessions for the remaining  
2 employees, that can help reduce the labour costs  
3 for the mill?

4 A. Yeah, it was one -- one  
5 component. The smaller one, as I mentioned.

6 Q. But the larger one, as  
7 you mention, electricity, if a paper mill can  
8 learn to become -- can become more energy  
9 efficient, that can also lower the mill's costs  
10 per tonne of paper?

11 A. Our mill, the Mersey  
12 mill, was quite efficient on the energy side, and  
13 I think that the study were made by independent  
14 parties and the -- we had basically almost all the  
15 best practices. So there's -- and when we compare  
16 the consumption with our other mills, this mill  
17 was comparing well. It was really the rate that  
18 was the issue with Mersey.

19 Q. Right. So the rate --  
20 the electricity rate in Nova Scotia was just too  
21 high to be competitive; is that right?

22 A. Exactly.

23 Q. Now, you say -- let's go  
24 back to paragraph 9. You say that you [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]?

3 A. Yeah.

4 Q. And that's what you were  
5 saying before, that you understood from Brad  
6 Pelley that things were still up in the air with  
7 the government in September 2011; is that right?

8 A. Yeah, yeah. The only  
9 discussion that Brad Pelley was having was with  
10 the -- the Nova Scotia, this board that is looking  
11 at the rate and nothing else from the government.  
12 So it was, what Mersey's going to have as the load  
13 retention rate reduction, it is what we are going  
14 to get, so it was Brad Pelley, what he was  
15 mentioning to me then. So -- and he mentioned  
16 that it's not going to be significant. I didn't  
17 know what it was, but it was my understanding that  
18 it was the only initiatives that was discussed  
19 with Brad and the bureaucrats.

20 Q. Okay. Okay. I will come  
21 back to that document in a little bit. But as you  
22 know, I guess, I guess the attitude of the  
23 government changed on December 1st, 2011, when a  
24 financial assistance package was completed with  
25 Bowater Mersey; is that right?



1                   A.     Well, but can I explain  
2     again?

3                   Q.     Sure.  You can answer the  
4     question and then explain.

5                   A.     Yes, the government made  
6     an offer at -- on December 1st, if I recall.  And  
7     this offer, basically what happened between the  
8     end of September, I had many phone conversation  
9     with Paul Black that was -- I don't remember his  
10    title, but he was working closely with the  
11    premier.  And I mentioned to him that what I heard  
12    from Brad Pelley, that there was not much that was  
13    going to happen on fibre and power, and he raised  
14    the five years.

15                   And I said, "Well, cannot,  
16    cannot agree to run for five years.  It's not  
17    going to be possible without achieving the [REDACTED] a  
18    megawatt-hour and the reduction on -- the cost  
19    reduction on fibre".

20                   So, and Paul continued to say,  
21    "Well, we are going to -- we are still working on  
22    it".

23                   So, and at the end of October,  
24    Paul called me -- and I know it's at the end of  
25    October, and he said to me, "We need to set the

1 context here, that the -- it's difficult for the  
2 government to work on an offer if it's not known".

3 So, and I asked him, "What do  
4 you mean?"

5 Well, he said that the press,  
6 the newspaper and the TV network believed that,  
7 well, it's not real. He said that the town  
8 believed that it's not serious. He said that the  
9 union believed that "you are bluffing". He said  
10 that Nova Scotia Power believed that it's not  
11 going to happen.

12 And the -- he mentioned that  
13 the independent sawmills were not -- were not  
14 aware of what was going on really with the mill.  
15 And he said that the -- and I was surprised with  
16 that. He said that the woodland contractor had a  
17 better understanding of what it's going on because  
18 of their experience with Port Hawkesbury.

19 And he said, "Well, you need  
20 to come to the mill and explain what's wrong  
21 with -- with the mill, with the situation, with  
22 power and fibre and labour".

23 So, and I said, "Well, you  
24 already have all the information".

25 But he said, "Well, you need

1 to make it public".

2 So the end of October, the way  
3 that I saw it based on the differing conversation  
4 that I had with Paul Black is that, well, the  
5 government wants to have here us making sure that  
6 the -- they are going -- basically, tried to put  
7 the government in a position to show that they  
8 were taking care of or they were trying to save  
9 jobs and show their constituents that they are  
10 working on it.

11 And it's what we did. In  
12 early November, I went to the mill, and it's when  
13 we explained to the public. Because our employees  
14 were aware that -- but we explained to the -- the  
15 people that -- or the parties that Paul Black  
16 wanted to make sure that they were aware that, to  
17 allow the government, and the way that I describe  
18 it to my management team, I said, "Well, to save  
19 face in this one", because I still -- I was  
20 convinced then at the end of October that the  
21 saving on electricity and fibre would not come.

22 Q. Okay. Let's look at the  
23 actual agreement that was signed on December 1st.

24 Do you have a copy of it with  
25 you, Mr. Garneau?

1 A. Yes, I have it. Yeah.

2 So I have the book here. So what is the section  
3 again?

4 Q. It's Exhibit R-149. I  
5 don't know if --

6 A. Yeah, yeah, okay. I have  
7 it.

8 Q. You have it?

9 A. Yeah.

10 Q. Okay. We will just put  
11 it on the screen as well, but if you have a hard  
12 copy, you can read it. If you are like me, I have  
13 to probably pull up the pages and hold them up to  
14 my face, but they are on the screen, so hopefully  
15 we will go along.

16 A. Yes.

17 Q. So this is [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

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25 [REDACTED]

1 JUDGE CRAWFORD: Can I just  
2 interrupt you for a moment. Would you just mind  
3 if we take a ten-minute break?

4 MR. LUZ: Yes, of course,  
5 Judge Crawford.

6 MS. D'AMOUR: Would you like  
7 me to open the breakout rooms for everyone or did  
8 everyone just want to -- yeah, breakout rooms?  
9 Okay. I will open those now. Thanks.

10 --- Upon recess at 8:51 a.m. EST.

11 --- Upon resuming at 8:58 a.m. EST

12 JUDGE CRAWFORD: On that  
13 basis, we can resume cross-examination where we  
14 were. Thank you for the brief pause.

15 MR. LUZ: No problem. Thank  
16 you, Judge Crawford.

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

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22 [REDACTED]

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3 Q. Okay, okay. So let's  
4 look at Exhibit R-316.

5 A. Yup.

6 Q. Okay. So it's a nice  
7 picture of you under the headline "Resolute boss  
8 confident plan will keep Bowater mill running",  
9 and it's an article dated December 6th, 2011; do  
10 you see that?

11 A. Yes, I see it.

12 Q. And it says above your  
13 picture, "Package all but guarantees five more  
14 years"; is that right?

15 A. Well, it's what the  
16 province said.

17 Q. The headline suggests  
18 that Garneau --

19 A. I repeated what the  
20 province said.

21 Q. Okay. Let's look down a  
22 little bit under the photo where it says -- sorry.

23 Can you just scroll down a  
24 little bit more, Chris?

25 Do you need time to look at

1 this exhibit or you're familiar with it already?

2 A. No, well, I read it.

3 Q. Okay. So it says -- I  
4 will just read it into the record:

5 "I don't want to run the  
6 mill for a year', Garneau  
7 said in an interview from  
8 Montreal, where the  
9 company is headquartered.

10 "'It's structured to  
11 basically guarantee that  
12 the mill survives for  
13 five years. I hope it's  
14 going to run longer than  
15 that. We're going to do  
16 everything in our control  
17 to make it a  
18 success'."[as read]

19 Do you see that?

20 A. Yeah, but --

21 Q. Sorry, go ahead.

22 A. I see that.

23 Q. So you said publicly that  
24 it -- the deal was basically guaranteeing that it  
25 was going to survive for five years and you hope



1 it will run for longer than that; is that right?

2 A. No, I think that I  
3 provided coverage to cover for the government to  
4 save face.

5 Q. Okay. And businesses are  
6 not always able to achieve their goals that you  
7 would say in public for some -- or elsewhere; is  
8 that right?

9 A. Yeah, and I knew that I  
10 was not able to achieve it already based on the  
11 cost savings that were identified that were not  
12 material.

13 Q. But you can't always  
14 achieve your goals unless you achieve cost  
15 reductions?

16 A. Yeah, you need, you --

17 Q. And -- right. And market  
18 unpredictability is a problem as well -- as well;  
19 is that right?

20 A. For sure this one is  
21 declining, the demand was declining.

22 Q. Right. So -- yeah, and  
23 that's what happened in June 2012 when you decided  
24 that Bowater had to close for good; isn't it, the  
25 market collapsed, and overseas demand would go

1 down 25 percent; is that right?

2 A. Well, it was part of the  
3 reason. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q. Okay. Let's look at  
7 R-343, an article dated June 15th, 2012.

8 A. Yeah.

9 Q. And scroll down to the  
10 second page where it says -- it quotes you as  
11 saying:

12 "We've worked with the  
13 employees and governments  
14 to try and save the mill.  
15 The economic slowdown  
16 around the world has made  
17 the situation untenable.  
18 We really tried hard to  
19 find a way forward for  
20 this mill to operate, but  
21 we never expected  
22 overseas demand would go  
23 down by 25 percent." [as  
24 read]

25 Is that right?

1 A. Yeah.

2 Q. And that's consistent  
3 with what you said in your witness statement at  
4 paragraph 12, that worldwide currency market  
5 fluctuations meant Bowater Mersey could no longer  
6 compete with foreign producers and export markets  
7 outside North America; is that right?

8 A. Yeah, because of our high  
9 costs and also because of the where we shipped the  
10 product in South America and in Asia.

11 Q. So Resolute wasn't able  
12 to predict what was going to happen in the market  
13 six months after it signed the agreement with the  
14 government?

15 A. Well, no, no one is able  
16 to predict what the market is going to be when you  
17 have a declining -- a declining demand for your  
18 product.

19 Q. Thanks, Mr. Garneau.  
20 Let's go back to your witness  
21 statement.

22 Chris, if you could put it  
23 back up. Okay.

24 Mr. Garneau, I am going to  
25 talk about Port Hawkesbury now. We will move to

1 page 3 of your witness statement.

2 A. Yeah.

3 Q. I don't think we have --  
4 I am at 45 minutes or so. I may need to go a  
5 little bit longer than that, but I don't expect it  
6 will be much longer than that, if that's okay.  
7 So, again, we will try and move along succinctly,  
8 and, hopefully, we will keep within our allotted  
9 time. If not, just a little bit over. Is that  
10 okay?

11 A. Yeah.

12 Q. Okay. You say the  
13 province of Nova Scotia encouraged you, encouraged  
14 Resolute to consider putting in a bid for Port  
15 Hawkesbury; is that right?

16 A. Yeah.

17 Q. And you understood that  
18 there were certain deadlines that were set by the  
19 Monitor for the bidding process for the mill; is  
20 that right?

21 A. Yes.

22 Q. Okay. I am just going to  
23 confirm some dates.

24 MR. LUZ: Can we pull up  
25 Exhibit C-120? It's the second report of the

1 Monitor dated October 3rd, 2011, that was filed in  
2 the NewPage Port Hawkesbury CCAA proceedings.

3 BY MR. LUZ:

4 Q. I am not going to ask you  
5 substantive questions on this, Mr. Garneau. I  
6 just want to use it to confirm some dates from  
7 your understanding.

8 Can we look at paragraph 15.

9 A. I never read that, so I  
10 don't know why you are asking questions of me on  
11 that.

12 Q. Sure. I won't ask you  
13 any substance. It's just some dates that I -- I  
14 just want to confirm some dates and some other  
15 things that I think you are familiar with. But if  
16 you don't know what it is and you don't know,  
17 that's fine, you can just say you don't know.

18 So it says here that:

19 "The Monitor and Sanabe  
20 contacted the 110  
21 interested parties to  
22 determine if they had an  
23 interest in executing a  
24 CA -- which I think is a  
25 confidentiality

1 agreement -- and  
2 obtaining information  
3 regarding the sale of the  
4 company and its  
5 assets."[as read]

6 Do you see that?

7 A. Yeah.

8 Q. And Resolute was one of  
9 the companies that was contacted by Sanabe; is  
10 that right?

11 A. We were contacted, yes.

12 Q. Okay. Let's look at  
13 paragraph 16, right after that. It says:  
14 "27 potential purchasers  
15 executed a  
16 confidentiality agreement  
17 and, as a result,  
18 received the CIM -- "[as  
19 read]

20 Which I think is confidential  
21 information memorandum:

22 " -- and access to the  
23 electronic data room."[as  
24 read]

25 Do you see that?

1 A. Yeah.

2 Q. Okay.

3 And then on paragraph 17,

4 says:

5 "The deadline for receipt  
6 of non-binding letters of  
7 intent was  
8 September 28th. The  
9 Monitor advises the Court  
10 that 21 submissions were  
11 received. Furthermore,  
12 the Monitor advises that  
13 submissions included  
14 interested parties who  
15 intend to operate the  
16 mill as a going concern  
17 and other interested  
18 parties who intend to  
19 liquidate the company's  
20 assets." [as read]

21 So, Mr. Garneau, can you  
22 confirm that Resolute did not submit a non-binding  
23 letter of intent by the 28th of September, 2011?

24 A. I don't recall this.

25 Q. Okay. Do you recall if

1 Resolute executed the confidentiality agreement  
2 that was referred to in the previous paragraph,  
3 16?

4 A. I remember having seen  
5 the confidentiality information memorandum, so I  
6 guess that it was signed.

7 Q. Do you remember seeing an  
8 earlier version in -- do you remember seeing the  
9 September 2011 information memorandum?

10 A. No, no. I -- I remember  
11 having read something, but I don't -- I don't  
12 remember the date.

13 Q. Okay. Okay. You can  
14 take that down, Chris.

15 Let's look at R-360, [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

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14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 Q. [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 A. [REDACTED]

1 [REDACTED]

2 Q. [REDACTED]

3 [REDACTED]

4 [REDACTED]:

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

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18 [REDACTED]

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20 [REDACTED]

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22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED].

1 Q. Okay. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 MR. LUZ: Are we in restricted  
9 access session or do we need to move?

10 MS. D'AMOUR: Yes, we are in  
11 restricted access session.

12 MR. LUZ: Okay, great. We  
13 don't have to switch into something. Okay.

14 BY MR. LUZ:

15 Q. Can we pull up Exhibit  
16 C-118?

17 A. 118, okay.

18 Q. Yes.

19 A. Yeah.

20 Q. I am going to look at a  
21 hard copy myself as well.

22 Okay. Do you recognize this  
23 document?

24 A. Yes.

25 Q. Okay. [REDACTED]

1 [REDACTED]

2 [REDACTED]

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5 [REDACTED]

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16 MR. LUZ: Thanks, Mr. Garneau.  
17 I don't have any other questions for you today.

18 THE WITNESS: So I am done?

19 JUDGE CRAWFORD: Thank you  
20 very much.

21 MR. LUZ: I -- yeah, I  
22 don't -- unless -- it's up to Judge Crawford to  
23 decide if you're done or not.

24 MR. FELDMAN: Judge Crawford,  
25 we do have some questions on redirect, if we may?

1 JUDGE CRAWFORD: Yes.

2 MS. D'AMOUR: I am sorry to  
3 interrupt. I think Professor Lévesque might have  
4 dropped from the call. I think we might want to  
5 pause, if that's okay, Judge Crawford, so we can  
6 make sure she reconnects.

7 MR. LUZ: And I will also  
8 close my video.

9 MS. D'AMOUR: Thank you. Just  
10 give me a moment. I am going to contact her.  
11 --- Brief pause re technical issues.

12 JUDGE CRAWFORD: We can start  
13 again. Mr. Feldman, I don't think the Tribunal  
14 has questions of this witness at this stage. Can  
15 my colleagues confirm that?

16 PROFESSOR LÉVESQUE: I may  
17 have some after the redirect, I guess.

18 JUDGE CRAWFORD: Yes, let's  
19 have the redirect now.

20 MR. FELDMAN: Thank you, Judge  
21 Crawford.

22 JUDGE CRAWFORD: The claimant  
23 has 15 minutes redirect, if that gives you  
24 guidance.

25 MR. FELDMAN: Thank you. I

1 shouldn't need that much.

2 RE-EXAMINATION BY MR. FELDMAN:

3 Q. Mr. Garneau, bonjour.

4 A. Bonjour.

5 Q. Have I understood  
6 correctly that you were losing about [REDACTED] million a  
7 year at Bowater Mersey at the time that you said  
8 it wouldn't be necessary to close?

9 A. Yes.

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]



1 approximate your objective, which was to stop the  
2 burning of all that cash; is that right?

3 A. Yeah, yes.

4 Q. So why did you sign this  
5 agreement on December 1, 2011, if you knew and you  
6 could tell that its total value wasn't going to  
7 come close to what you needed?

8 A. Well, it was based on  
9 this request to set, the call that I had with Paul  
10 Black that wanted to make sure that the press, the  
11 town, the employees, and Nova Scotia Power, that  
12 they were basically as informed as the government  
13 on the difficulties that we had with Mersey. So I  
14 accepted it because the -- one of the reason was  
15 that I was, I wanted to make sure to keep the good  
16 relationship with the government because they were  
17 interested in buying the land, but the land was  
18 not registered. And the land value was basically  
19 needed to make sure that our retirees -- we had a  
20 pension deficit of over \$100 million -- that we  
21 would be able to make these retirees whole and  
22 have also the money to pay for the severance of  
23 the employees when the mill would close.

24

25

1

[REDACTED]

2

[REDACTED]

3

Q. And your intent was to

4

sell that land to the province so that you could

5

fund pensions for the workers at the mill?

6

A. Yeah, we had -- if I may,

7

we had other interested party, but it would have

8

been difficult to sell to this third party without

9

the land registration that was not done. So it

10

was certainly an easier avenue for the company,

11

for Mersey to sell to the government, and they had

12

very high interest in the timberland.

13

Q. And then I am

14

understanding you to say that, with that in mind,

15

you accepted the December 1st offer for public

16

relations purposes, knowing that it was not going

17

to ultimately keep the mill open; is that right?

18

A. Yeah, because, as you

19

know, just at the end of November, the board

20

approved the small reduction in the -- the load

21

reduction rate was only [REDACTED], so I knew that the

22

timing probably was to offset this, well, bad news

23

that the saving would not be realized on the power

24

side that was the most important component. When

25

we shared the cost reduction that we had with the

1 government, was ■ million, and what we got was  
2 only ■ million.

3 Q. You were asked about  
4 predicting the future in product and declining  
5 demand, and I think you may have said that you  
6 can't make such predictions. But don't you make  
7 such predictions all the time? Your paper  
8 products are in declining demand.

9 A. Well, when you deal with  
10 a product that is declining, you just don't know  
11 how much, if the decline is going to accelerate,  
12 so, and I think that it's the reason why it's  
13 difficult to -- it's difficult to predict. We  
14 knew that the demand would continue to go down,  
15 but we didn't know by how much.

16 Q. Is the best way to deal  
17 with that uncertainty to reduce costs?

18 A. Well, it's the only  
19 avenue that you have. We knew that the mill, the  
20 high-cost mill normally, or the one that closed  
21 because of the cash burn and it was the case in  
22 Mersey, so, and only Resolute was funding the cash  
23 burn because the other partner of The Washington  
24 Post decided that they were done. They would not  
25 participate into the cash burn anymore.

1 Q. The document that -- to  
2 which Mr. Luz referred you regarding Port  
3 Hawkesbury, the planning, the possible bid -- the  
4 bid proposal for Abitibi Bowater and Resolute, you  
5 personally didn't write this document; is that  
6 right?

7 A. No, no. It was done by  
8 the people that went to the mill and the people in  
9 the finance department.

10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]

22 Q. So that document made a  
23 reference to coated mechanical paper, but was your  
24 concern about all of that additional capacity  
25 coming on the market if Port Hawkesbury were to

1 reopen, was your concern directed to  
2 supercalendered paper, what you make in Quebec?

3 A. Well, obviously, in  
4 Canada, not only in Quebec, there is no coated  
5 mechanical. So I was really concerned that by --  
6 by the impact that it would have on our mills in  
7 Quebec. It's -- and, so, it's easy to envision,  
8 if you restart the mill, it's 20 percent of the  
9 demand, so it's going to have a significant impact  
10 on our mill in Quebec. So I was really concerned  
11 about it.

12 Q. And the mills in Quebec  
13 are producing supercalendered paper, not coated  
14 mechanical paper?

15 A. No, no, there was no  
16 coated mechanical produced in Canada. And Quebec,  
17 it's only supercalendered paper.

18 MR. FELDMAN: I think that's  
19 all. Thank you.

20 JUDGE CRAWFORD: I will ask,  
21 do my colleagues have any questions to ask to this  
22 witness? It seems the answer's no. Do you hear  
23 me?

24 DEAN CASS: We hear you. From  
25 my standpoint, I think that the questions have

1    been asked sufficiently. I understand Mr. Garneau  
2    to have responded to Mr. Feldman, not that you  
3    can't make predictions about what's happening in  
4    the market but that, in certain settings, those  
5    predictions are difficult. And that really  
6    answered the question I would have put.

7    QUESTIONS BY THE TRIBUNAL:

8                           PROFESSOR LÉVESQUE: I have  
9    one on -- well, let me say hello first. Bonjour,  
10   Mr. Garneau.

11                          THE WITNESS: Bonjour.

12                          PROFESSOR LÉVESQUE: I have  
13   learned a lot about paper, supercalendered paper  
14   production in this process. I never thought I'd,  
15   yeah, I have learned so much, and one thing that  
16   struck me is how many variables there are that you  
17   have to contend with just in being successful in  
18   this business but also planning.

19                          And I was reviewing the  
20   documents submitted to the U.S. Securities and  
21   Exchange Commission where you list all the risks  
22   you have to contend with, currency fluctuation,  
23   pension plan liability, income tax, access to wood  
24   fibre. And in this particular case, that was the  
25   year ending in December 30th -- 31st December,

1 2012, Resolute mentioned the change in the  
2 province of Quebec going to an auction system for  
3 access to fibre. And it struck me that there's,  
4 yeah, many variables.

5 And in the same document,  
6 Resolute made a statement:

7 "We compete as a leading  
8 lower-cost North American  
9 producer." [as read]

10 And I wondered how, yeah, how  
11 you do manage to reduce costs in that context when  
12 there's so many variables. Some you control; some  
13 you don't control.

14 So if you could enlighten me a  
15 little bit because I know you have a wide -- a  
16 long experience in this business, how is it from  
17 your perspective?

18 THE WITNESS: Well, from my --  
19 based on my experience, the three most important  
20 component -- power, that's the -- normally, it's  
21 the highest cost because when you produce this  
22 grade, you use a lot of energy. So if you have a  
23 high power cost, it's a significant disadvantage.

24 The second one is fibre. And  
25 I think that the species are really important. So

1 when you compare, and I worked in BC and I worked  
2 in Ontario and Quebec, so I have a good  
3 understanding on the species themselves.

4 In Quebec, we have the black  
5 spruce, so mostly black spruce. That is a very  
6 strong fibre. And when you produce SC paper, if  
7 you have black spruce, it costs less because you  
8 can basically use less kraft. That is very  
9 expensive. So it's something in Nova Scotia that,  
10 when you look at even for newsprint, the balsam  
11 and white spruce, it's a weaker, weaker fibre, so  
12 you need to use more energy to remain  
13 cost-competitive. But fibre has a big impact.

14 And the other one is labour.  
15 So it's the three most important item. And after  
16 that, it's a bucket of small items like  
17 maintenance and taxes. And, really, it's, if you  
18 control those three, plus some of the chemical  
19 that you put in, so you have, you are on a solid  
20 ground to compete when the market decline and  
21 pricing go down.

22 PROFESSOR LÉVESQUE: Thank you  
23 very much.

24 JUDGE CRAWFORD: Thank you. I  
25 think that concludes the evidence of this witness.



1 Thank you very much for sharing your experience  
2 with us. It's a pity that we didn't have more  
3 time, but we have certainly gained from your  
4 understanding.

5 THE WITNESS: Thank you.

6 JUDGE CRAWFORD: We will now  
7 have a short coffee break.

8 MS. D'AMOUR: Thank you. I  
9 will open the breakout rooms.

10 JUDGE CRAWFORD: Ten minutes.  
11 It's scheduled for 30 minutes, but I think we need  
12 to make up some time to allow for  
13 cross-examination this afternoon. So the time now  
14 is 15:53 Hague time. What's the time in Montreal?

15 DEAN CASS: 9:53.

16 PROFESSOR LÉVESQUE: 9:53.

17 MR. VALASEK: 9:54. Could we  
18 start -- I am doing the cross-examination next,  
19 and I do need a little break. Could we start at  
20 ten past the hour?

21 JUDGE CRAWFORD: Yes, I  
22 realize that someone would be in that position.  
23 Can we say quarter past the hour?

24 MR. VALASEK: Oh, thank you  
25 very much, Judge Crawford. Thank you.

1 JUDGE CRAWFORD: So we adjourn  
2 till 15:15, Cambridge -- The Hague time. Quarter  
3 past 10, your time.

4 MR. VALASEK: Thank you very  
5 much.

6 JUDGE CRAWFORD: Thank you  
7 very much.

8 --- Upon recess at 9:55 a.m. EST.

9 --- Upon resuming at 10:21 a.m. EST

10 JUDGE CRAWFORD: Are we ready,  
11 Mr. Valasek?

12 MS. D'AMOUR: The breakout  
13 rooms are closed. I just also want to remind  
14 counsel that the restricted access individuals are  
15 still outside of the room. Should I leave them  
16 there, or would you like me to readmit them?

17 JUDGE CRAWFORD: Mr. Valasek.

18 MR. VALASEK: They can be  
19 readmitted at this time.

20 MS. D'AMOUR: Okay. Thank  
21 you.

22 All right. Everyone's  
23 readmitted. Thanks.

24 --- Whereupon Restricted Transcript Ends

25 MR. VALASEK: Ricky, just so

1 that I see what the screen looks like on my  
2 computer, can you pull up Mr. Montgomerie's  
3 witness statement, 2019-04 witness statement of  
4 Duff Montgomerie, RA.3? I am just going to make  
5 an adjustment on my screen so that I can see it  
6 properly. Apologies. I am just trying to get the  
7 right people in the right place.

8 JUDGE CRAWFORD: Can I start?

9 MR. LUZ: Martin, just to note  
10 that the version that's up there is the restricted  
11 access version. I am sure it will go down  
12 eventually, but...

13 MR. VALASEK: Okay. Ricky,  
14 when we are in the -- yeah, I am sorry, I called  
15 up the restricted access. Call up the regular  
16 witness statement, please.

17 Okay, I think I finally have  
18 my computer set up here.

19 MR. DYER: Martin, I don't  
20 think we have the regular one in the database.

21 MR. VALASEK: You don't think  
22 we have the regular. Okay.

23 MR. DYER: All I seem to have  
24 is that first one that I brought up, which is --

25 MR. VALASEK: You know what,

1 I'll be able -- I should be able to check whether  
2 the page that we are bringing up has any  
3 restricted access information. I know that on --  
4 in paragraph 2, there is no -- on that page, there  
5 is nothing restricted.

6 JUDGE CRAWFORD:

7 Mr. Montgomerie, welcome to the Tribunal. Thank  
8 you for coming. Can I ask you to make the  
9 declaration for the fact witness which you should  
10 have been given. It's been mildly revised to take  
11 account of the fact that you can have access to  
12 your witness notes. Have you got the text there?  
13 Can you hear me?

14 MR. VALASEK: Mr. Montgomerie,  
15 can you hear the chairman of the Tribunal?

16 JUDGE CRAWFORD: We can't hear  
17 him.

18 MS. D'AMOUR: Sorry. I think  
19 boardroom volume is muted.

20 JUDGE CRAWFORD:

21 Mr. Montgomerie, can you hear me? We can hear  
22 you, so that's good.

23 Can you make the declaration  
24 for a fact witness which the PCA will have given  
25 you?

1 MR. MONTGOMERIE: I solemnly  
2 declare upon my honour and conscience that I will  
3 speak the truth, the whole truth and nothing but  
4 the truth, no one else is present in the room  
5 where I am testifying, I do not have any notes or  
6 annotations on any hard copy or electronic  
7 documents. I confirm that I am not receiving  
8 communications of any sort during my testimony  
9 other than my participation in the main hearing  
10 room in Zoom.

11 FACT WITNESS: DUFF MONTGOMERIE

12 JUDGE CRAWFORD: Thank you  
13 very much. In case we have technical  
14 difficulties, if you notice that something has  
15 gone wrong, please draw it to our attention.

16 THE WITNESS: Thank you.

17 JUDGE CRAWFORD: And someone  
18 from the Arbitration Place or the PCA will come  
19 immediately, if it's required, in order to get you  
20 back online.

21 MR. VALASEK: Judge Crawford,  
22 may I proceed?

23 JUDGE CRAWFORD: Yes.

24 CROSS-EXAMINATION BY MR. VALASEK:

25 Q. Good morning,

1 Mr. Montgomerie. You can hear me okay?

2 A. Morning. I can.

3 Q. Okay, good.

4 My name is Martin Valasek, and  
5 I am one of the lawyers representing Resolute, the  
6 Claimant in these proceedings.

7 I will be asking you some  
8 questions. I designed my questions so that they  
9 are very short. They generally refer to  
10 documents, and I am asking you to confirm that the  
11 documents essentially say what they -- what's  
12 written on them.

13 I do have quite a number of  
14 questions, so as a general matter, if there is a  
15 long explanation that you'd like to give, I'd  
16 encourage you to wait for the lawyer for Canada to  
17 give you an opportunity to provide an explanation  
18 through questions that he can ask at the end.  
19 Obviously, if there's something that's difficult  
20 about my question in the sense that I have  
21 misunderstood something, then the Tribunal will  
22 want to hear that. But, generally, hopefully, we  
23 can get through my questions as quickly as  
24 possible.

25 A. So can I ask, if I am

1 trying to give context around a yes-or-no answer,  
2 that's not what you are looking for?

3 Q. Well, I have an hour,  
4 Mr. Montgomerie --

5 A. Okay.

6 Q. -- so I have 12 pages of  
7 questions, so if you give context -- the context  
8 is your witness statement. You were given the --

9 A. Okay.

10 Q. -- opportunity to provide  
11 the context. I am really trying to pick up on  
12 facts, not trying to put words in your mouth.

13 A. Okay.

14 Q. So, again, I think the  
15 Tribunal will apply a rule of reason; but if you  
16 did apply your own context to each question, we  
17 could be here all week.

18 So, Mr. Montgomerie, from  
19 January 2011 to April 2014, you were deputy  
20 minister of Natural Resources?

21 A. That's correct.

22 Q. And that made you the  
23 highest civil servant in that department?

24 A. That's correct.

25 Q. In that capacity, on any

1 issue of importance, you would have briefed -- or  
2 you did brief the minister of the department?

3 A. In the context of this  
4 file, I was asked by the premier to chair a  
5 working committee once the two mills were going  
6 down. So, in effect, I was basically reporting to  
7 the deputy minister to the premier and to the  
8 premier directly in this file.

9 Q. Right. [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

21 [REDACTED] It  
22 was the -- the premier actually asked me to lead  
23 this group.

24 Q. And at the time of the --  
25 is it the premier's policy advisor who was Paul



1 Black?

2 A. That's correct. And a  
3 little context is important. Paul reports  
4 directly to the chief of staff on the political  
5 side. I report to the deputy to the premier on  
6 the public service side. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 Q. So you state in your  
13 witness statement at paragraph 5 -- and unless you  
14 really -- do you have your witness statement in  
15 front of you there, Mr. Montgomerie?

16 A. I do. I am  
17 double-checking. Is it April 17 or March 4?

18 Q. It's the April -- it's  
19 the first one, the April 17th.

20 A. Okay. And the number  
21 again? Sorry.

22 Q. Paragraph 5.

23 A. I have it, yes. Thank  
24 you.

25 Q. This is where you state

1 that there were challenges faced by the forestry  
2 sector in 2011?

3 A. Yes. In essence, within  
4 a week and a half --

5 Q. I will ask you the  
6 questions --

7 A. Okay. I -- I am sorry.

8 Q. You will have an  
9 opportunity. No -- no problem.

10 So in the next paragraph, you  
11 talk about NewPage announcing that, in August of  
12 2011, that it would idle its Port Hawkesbury mill.  
13 Four days later, you say Resolute informed the  
14 Government of Nova Scotia about imminent closure  
15 of the Bowater Mersey mill. And then on  
16 September 6th, 2011, NewPage sought court  
17 protection under the CCAA proceedings. That's all  
18 in paragraph 6.

19 A. Right. Correct.

20 Q. And you mention that you  
21 struck up -- you were asked to lead this  
22 interdepartmental committee to deal with these  
23 urgent situations?

24 A. Right.

25 Q. Also, as you put it,



1 restricted access session at this point.

2 A. I am not sure what that  
3 means.

4 Q. Mr. Montgomerie, this is  
5 just to ensure that people who are participating  
6 in the hearing who shouldn't have access to  
7 certain documents cannot see them.

8 A. Okay. Thank you.

9 MS. D'AMOUR: All right. You  
10 may proceed.

11 --- Whereupon Restricted Transcript Commences.

12 BY MR. VALASEK:

13 Q. And so in one of these  
14 industries, for newsprint, you understood that the  
15 prospects, the long-term prospects were dim?

16 A. Yes. And keeping in mind  
17 we were just getting started and getting our feet  
18 on the ground and beginning to interact with  
19 Resolute and eventually with Pacific West.

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 A. They were much more

1 severe in the newsprint side, no question.

2 Q. Yeah, and so the  
3 prospects for supercalendered paper were actually  
4 better. Even though there was declining demand,  
5 there were better prospects competitively?

6 A. Particularly with the  
7 modern machine in Port Hawkesbury, we thought so.

8 Q. [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 [REDACTED]

2 [REDACTED] [as read]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED] ?

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED].

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 A. Yes, it was. [REDACTED]

22 [REDACTED]

23 Q. Okay.

24 A. [REDACTED]

25 [REDACTED]

1 Q. Okay. I was just  
2 referring to your earlier -- your answer, but  
3 that's fine.

4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]



1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED] [as read]

7 [REDACTED].

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED] [as read]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 f [REDACTED].

15 BY MR. VALASEK:

16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 [REDACTED]

2 [REDACTED] [as

3 read]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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25

[REDACTED]

A. I mean, the whole purpose of this exercise was to determine if there was possibilities for success in Port Hawkesbury for somebody to come in with knowledge of the sector and a good corporate citizen to run the mill.

Q. Correct.

[REDACTED]

Q. Yeah. [REDACTED]

[REDACTED]

1 [REDACTED]

2 A. Well, and exactly, again,  
3 my role was to determine whether there was  
4 possibilities for success in Port Hawkesbury and  
5 should we proceed based on that in the context of  
6 a modern machine and the future of the  
7 marketplace.

8 Q. Sure, sure. I am just --

9 A. That was where I was  
10 working from.

11 Q. Yeah, [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 A. Right.

15 Q. -- [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 A. [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Q. [REDACTED]

25 [REDACTED]

1 A. Okay.

2 Q. -- [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED] is that

10 right?

11 A. Sorry. I just missed the  
12 last part. If you don't mind repeating?

13 Q. Yeah. I just said,

14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 So we can go out of the  
5 restricted access session.

6 MR. LUZ: Can you take down  
7 the slide too?

8 MS. D'AMOUR: Everyone's been  
9 readmitted.

10 --- Whereupon Restricted Transcript Ends

11 BY MR. VALASEK:

12 Q. Because we aren't in  
13 restricted access, I don't think I can pull up  
14 your witness statement, but if you have it in  
15 front of you, Mr. Montgomerie, if you can go to  
16 paragraph 22 of your witness statement.

17 A. Was it 22?

18 Q. Yes. And I will try to  
19 find it myself.

20 A. No worries. I am there.  
21 Thank you.

22 Q. You are there?

23 A. Yeah, 22.

24 Q. And do the members of the  
25 Tribunal -- well, let me see for those who are



1 following at home. Do the members of the Tribunal  
2 have paragraph 22? Let me proceed. I am not sure  
3 much turns on you actually seeing the text. I  
4 will read it.

5 Paragraph 22, Mr. Montgomerie,  
6 you say -- this is right at the top of the  
7 paragraph:

8 "Just like with  
9 Resolute's Bowater Mersey  
10 mill, there was never a  
11 direction from the  
12 premier or anyone else in  
13 the Government of Nova  
14 Scotia that the Port  
15 Hawkesbury mill needed to  
16 be saved at any cost." [as  
17 read]

18 You see that statement that  
19 you have made there?

20 A. Yeah, that's correct.

21 And, obviously, it was true because it was us that  
22 walked from negotiations near the end with Pacific  
23 West.

24 Q. Yeah, I am just going to  
25 explore this with you. You started exploring it.

1 Let's keep going.

2 In reality, Mr. Montgomerie,  
3 the most that was ever contemplated for Bowater  
4 Mersey was extending the life of that mill by  
5 maybe five to eight years; isn't that true?

6 A. I mean, we had to  
7 determine, working with Resolute, whether there  
8 was a chance that that mill's life could be  
9 extended to five years or longer. And, I mean, we  
10 had to work together --

11 Q. So the answer --

12 A. -- it was our best shot,  
13 and I believe --

14 MR. LUZ: Sorry, could you let  
15 him answer the question, please?

16 THE WITNESS: Oh, I thought I  
17 was.

18 MR. LUZ: Sorry. Go ahead.  
19 Martin, please, he has to answer the question.

20 Go ahead, Deputy.

21 THE WITNESS: The key was,  
22 with Resolute, working with us together -- quite  
23 frankly, it was an incredibly professional and  
24 strong relationship, I thought -- could we,  
25 together, extend the life of that mill. And I

1 think we gave it our best shot; but,  
2 unfortunately, the Euro went in the tank and we  
3 couldn't do it. But I felt we worked together to  
4 try and accomplish that.

5 MR. VALASEK: Just, Mark, I  
6 appreciate it, but that went way beyond my very  
7 narrow question, which is the most that was ever  
8 contemplated was really extending the life of that  
9 plant for maybe five to eight years. And we can  
10 actually pick up -- Ricky, you can pick up  
11 Exhibit 352.4.

12 BY MR. VALASEK:

13 Q. You can go to the front  
14 page -- sorry, 352.1, to just give context for  
15 what this is. This is an article, a special  
16 report issued by Nova Scotia.

17 And on page 4 is, as I think  
18 we will be able to show, Ricky, in -- you have .4.  
19 Yeah, if you look at the bottom, bottom right-hand  
20 corner -- no, sorry, in what you were just in  
21 there, "Black and Montgomerie believed they'd  
22 bought five to eight years".

23 So this -- in this article,  
24 there is a discussion of the efforts that were  
25 made with Bowater Mersey and Paul Black. And you

1 explain that it was a five- to eight-year  
2 scenario, long enough to plan for a more orderly  
3 transition.

4 So that was really the goal,  
5 was simply to achieve a more orderly closure;  
6 wasn't it?

7 A. Yes, and we felt Resolute  
8 agreed with that.

9 Q. Yeah. And even five  
10 years was perceived, according to your witness  
11 statement, and now I am referring to paragraph 5,  
12 was -- you referred to it as "very challenging  
13 given the status of the newsprint market"?

14 A. Absolutely it was  
15 challenging.

16 Q. Yeah. And so by  
17 contrast, Mr. Montgomerie, the government policy  
18 with respect to Port Hawkesbury was to put the  
19 mill on a path for long-term success; wasn't it?

20 A. Again, my role was to  
21 assess the possibilities of success in Port  
22 Hawkesbury and make recommendations accordingly,  
23 and we felt there was a possibility of success.

24 Q. Right. Let's go to --

25 A. Longer-term.

1 Q. -- let's go to Exhibit  
2 C-183, Ricky. And this is the eventual news  
3 release that the premier made. And if you just  
4 blow that up a little bit, the first few -- the  
5 first few bullets there.

6 So this is sort of  
7 fast-forwarding to what eventually would be  
8 announced in respect of Port Hawkesbury, what you  
9 had been working on for the year with your  
10 committee. And you can see that the news release  
11 from the premier -- the third paragraph, Ricky.

12 "The province, through  
13 its jobs fund, is  
14 providing a financial  
15 package that includes --  
16 "[as read]

17 And there's a number of items  
18 there, but you can see that:

19 "\$24 million loan to  
20 support improved  
21 productivity and  
22 efficiency to make this  
23 the most efficient paper  
24 producer in the  
25 world." [as read]

1                           And then the next bullet:  
2                           "Ultimately, a  
3                           \$40 million repayable  
4                           loan for working capital  
5                           to help the mill become  
6                           the lowest-cost and most  
7                           competitive producer of  
8                           supercalendered  
9                           paper." [as read]

10                           So this was a plan for  
11 long-term success; wasn't it?

12                           A.    Right. [REDACTED]  
13 [REDACTED]  
14 [REDACTED]

15 [REDACTED] How he communicated that -- and how  
16 he, at the end of the day, makes decisions --  
17 that's the premier's call.

18                           Q.    And the premier actually  
19 had a press conference that very day where he  
20 announced that:

21                           "We are confident that  
22                           Pacific West is well  
23                           positioned to be the most  
24                           competitive and best  
25                           supercalendered paper

1 mill in the world."[as  
2 read]

3 And that's Exhibit C-185.1.

4 A. I was confident that they  
5 had a chance for success. I think the premier,  
6 who is above my pay grade, was a little more  
7 descriptive.

8 Q. Yeah. And, but he was --  
9 he was -- he wasn't pulling his conclusions out of  
10 thin air; was he?

11 A. He made decisions based  
12 upon our information. How he communicated those  
13 decisions, that's on him.

14 Q. Right, but the  
15 communication of those -- you're not suggesting  
16 that that's an incorrect description of what your  
17 committee hoped would be the outcome of the  
18 support for Port Hawkesbury; are you?

19 A. I am not -- I am not  
20 looking for those kinds of specifics. Overall,  
21 looking for an opportunity for success. More  
22 importantly, the type of company, how they worked  
23 with their workers, how they would work with the  
24 community. But also to your point, did they have  
25 a chance for financial success.

1 Q. Right.

2 A. That was our goal.

3 Q. In paragraph 21 of your  
4 witness statement, you say --

5 A. Okay.

6 Q. And, again, I think this  
7 might be restricted access, so don't bring it up,  
8 Ricky.

9 But you say in your witness  
10 statement, you say that you were not aware of the  
11 bid from PWCC until October 28th, 2011. So now we  
12 are going back in time to that critical fall  
13 period. And in paragraph 21, you are quite  
14 specific in the language you used. You say:

15 "I was not aware of  
16 PWCC's bid for Port  
17 Hawkesbury." [as read]

18 You see where you say that?

19 A. I do, yeah.

20 Q. And is that right?

21 A. The actual bid itself,  
22 yes.

23 Q. Okay. But had you heard  
24 of PWCC before that date?

25 A. Oh, absolutely. We were



1 governed by the Monitor, and the Monitor would  
2 make us aware of people, folks that were  
3 interested and would, you know, connect with, have  
4 early discussions to see -- feel each other out, I  
5 guess would be the best way to explain it.

6 Q. So you actually --  
7 notwithstanding your statement here that you were  
8 not aware of the bid, you had actually been in  
9 contact with PWCC; weren't you?

10 A. Yeah, I would say there's  
11 a difference, though. I was not aware of the  
12 actual bid, but, yes, I had conversations, at the  
13 request of the Monitor, with Mr. Stern.

14 Q. Well, there's no question  
15 there is a difference. I am just suggesting that  
16 you left one of those aspects out of your  
17 statement. You just focused on the awareness of  
18 the bid, and I am focussing on the awareness of  
19 the bidder.

20 A. I mean, basically, the  
21 conversation with Mr. Stern was I think he was  
22 trying to understand whether the Government of  
23 Nova Scotia understood the marketplace and what  
24 the challenges were before he would decide whether  
25 he would embark on a potential bid. That was my

1 sense of the discussions with him.

2 Q. Let's go have a look.

3 You have predicted where I am going to take you,  
4 so let's go to restricted access, first of all,  
5 please.

6 MS. D'AMOUR: Just one moment.

7 All right. Everyone's been  
8 removed.

9 --- Whereupon Restricted Transcript Commences

10 BY MR. VALASEK:

11 Q. Ricky, if you can pull up  
12 C-318.1. And just enlarge it a little bit,  
13 please, so that we can see the front.

14 So, first of all, I would like  
15 to observe the date. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q. Right, okay.

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED] is that right?

1 A. That's correct, yes.

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 Q. Okay. [REDACTED]

9 [REDACTED]

10 [REDACTED] [as

11 read]

12 I am just reading from the

13 email:

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED] [as

21 read]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 A. [REDACTED]

1

[REDACTED]

2

[REDACTED]

3

[REDACTED]

4

A. Correct.

5

[REDACTED]

6

[REDACTED]

7

[REDACTED]

8

[REDACTED]

9

A. Absolutely.

10

Q. Yeah. [REDACTED]

11

[REDACTED]

12

[REDACTED]

13

[REDACTED]

14

[REDACTED]

15

[REDACTED]

16

[REDACTED]

17

[REDACTED]

18

[REDACTED] [as read]

19

A. Yes.

20

Q. Yeah.

21

And, Ricky, you can maybe

22

scroll down so that we can pick up on some of

23

this.

24

[REDACTED]

25

[REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 A. [REDACTED]

13 [REDACTED]

14 Q. I --

15 A. I am sorry.

16 Q. I was just going to ask

17 you a question. I haven't --

18 A. Okay. Go ahead. Sorry.

19 Q. I wanted to ask you [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]:

23 [REDACTED]

24 [REDACTED] [as

25 read]

1                                    Isn't that right?

2                                    A.    It is.    [REDACTED]

3    [REDACTED]

4    [REDACTED]

5    [REDACTED]

6    [REDACTED]

7    [REDACTED]

8    [REDACTED]

9    [REDACTED]

10   [REDACTED]

11   [REDACTED]

12                                 [REDACTED]

13   [REDACTED]

14   [REDACTED]

15   [REDACTED]

16   [REDACTED]

17                                 [REDACTED]

18   [REDACTED]

19   [REDACTED]

20   [REDACTED]

21   [REDACTED]

22                                    A.    Right.    And the irony is

23   my last line there,   [REDACTED]

24   [REDACTED]

25   [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED] I am asking you  
4 about the market context and whether there was  
5 prospects for success.

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 Q. Yeah, [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED] right?

4 A. [REDACTED]

5 [REDACTED]

6 [REDACTED] Have you got it up there, or...

7 Q. We can bring up C-139.1.

8 A. C-139. Hang on.

9 Q. It will be up on the  
10 screen, Mr. Montgomerie.

11 A. Yeah, with my glasses,  
12 it's better to...

13 Q. [REDACTED]

14 [REDACTED]

15 A. Oh, okay.

16 Q. -- [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 A. Yeah, sorry.

20 Q. - [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]; isn't that right?

25 A. [REDACTED]



1 [REDACTED] Thank you.

2 Q. Yeah. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED] That's C-182.1.

7 Ricky, if you could bring that  
8 up.

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 Q. Yeah.

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 A. Right.

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Ricky, if you can bring up

16 C-324.2.

17 And if you can blow up just

18 sort of the first half, please, to start.

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED] is that right?

1 A. [REDACTED]

2 [REDACTED]

3 Q. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 So, Ricky, now I will ask you  
7 to highlight the -- kind of from the middle of  
8 the -- make sure you capture the -- yeah, from  
9 there to the bottom, please.

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 In other words, [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 A. Right. [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 Q. Basically --

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q. Yeah, [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 A. [REDACTED]

17 [REDACTED] Again, my role

18 was bigger than that, quite frankly, recommending

19 to the government on a go-forward basis that this

20 was a strong corporate citizen that would benefit

21 the province of Nova Scotia in the long term.

22 Q. Well, you, I mean, you

23 clearly did your job. You identified what was

24 appropriate, reasonable, fair, in these

25 circumstances and made it happen.

1 A. There is a good corporate  
2 citizen in Port Hawkesbury; you are correct.

3 Q. Yeah, and a successful  
4 one?

5 A. Yes.

6 Q. Yeah. And so you  
7 forwarded -- if we go back to the first page of --  
8 sorry, the first page of this exhibit, this is  
9 actually .2, but let's go to .1.

10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]

14 A. And that's my style. ■

15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED] That's the  
18 way I work.

19 Q. Right, absolutely.

20 So we can end the restricted  
21 access session. And I am --

22 MR. VALASEK: Let me know,  
23 Heather, when we are out of restricted access.

24 MS. D'AMOUR: Everyone else  
25 has been readmitted.

1 --- Whereupon Restricted Transcript Ends

2 BY MR. VALASEK:

3 Q. So going back to Resolute  
4 now -- we have now seen a little bit of the  
5 back-and-forth with Port Hawkesbury. Going back  
6 to Resolute, in June 2012, Resolute announced the  
7 permanent closure of Bowater Mersey. That was in  
8 June 2012; right? That's referenced in your  
9 witness statement. We don't have to bring it up,  
10 but it's at paragraph 15 of your witness  
11 statement.

12 A. I am sure that's correct.  
13 Thank you.

14 Q. Okay. In paragraph 16 --  
15 Ricky, you could bring this up  
16 because this is -- there's no restricted access  
17 information on this page. So this is Montgomerie  
18 RA.7, 2019-04, and it's paragraph 16. So if you  
19 can go to RA.7.

20 And so I am going to read  
21 paragraph 16. And this essentially is what  
22 happens after the announcement of the closure.  
23 You say:

24 "At that point, we  
25 engaged with Resolute to

1 see how the Government of  
2 Nova Scotia could help to  
3 minimize the impact of  
4 the mill closure. We  
5 also met with the local  
6 community and other  
7 stakeholders to try and  
8 work out a transition  
9 plan for Liverpool and  
10 the affected surrounding  
11 area. In December 2012,  
12 we reached an agreement  
13 with Resolute whereby the  
14 government purchased all  
15 the shares in Bowater  
16 Mersey for nominal  
17 consideration. In  
18 exchange, the government  
19 paid Resolute 18 million  
20 for intercompany debt and  
21 assumed all of the  
22 Bowater Mersey company's  
23 pension, severance and  
24 environmental  
25 liabilities, which were



1 estimated at 127 million,  
2 and absorbed all the  
3 costs involved in the  
4 general winding up of the  
5 company. The assets  
6 included 224,000 hectares  
7 of forest which were  
8 transferred to the  
9 province, which was in  
10 keeping with Nova  
11 Scotia's goal of  
12 increasing its share of  
13 Crown land and protecting  
14 forest diversity."[as  
15 read]

16 So you see that there; right?

17 A. I do.

18 Q. And what you didn't say  
19 in your witness statement, though, is that,  
20 ultimately, the province made money on this deal;  
21 didn't it? It actually made about \$14 million  
22 when it actually completed all the transactions  
23 relating to what it acquired and discharged all  
24 the liabilities?

25 A. I am actually -- Jeannie

1 Chow would be best to answer that --

2 Q. Well, let's bring up --

3 A. -- quite frankly, I am  
4 not sure about that.

5 Q. Let's bring up C-352.6.

6 Okay. And I have to find  
7 where the 14 million reference is in this.

8 MS. DE JONG: If I may  
9 interject, it's in the third column, third  
10 paragraph.

11 MR. VALASEK: Yeah, thank you  
12 very much, Jenna.

13 BY MR. VALASEK:

14 Q. If you can look at the  
15 third paragraph again, this is the article we  
16 looked at before. And after listing all the --  
17 listing all the various aspects of the transaction  
18 in winding everything up and down, if you can look  
19 at that, maybe highlight that third paragraph in  
20 the last column, Ricky, "when the accountants were  
21 done", you see up the -- the third paragraph in  
22 the right-hand column:

23 "When the accountants  
24 were done adding and  
25 subtracting, the province

1 claimed a net gain of  
2 \$14 million on the deal  
3 itself."[as read]

4 Does that refresh your  
5 recollection, Mr. Montgomerie?

6 A. That's a comment by a  
7 journalist; isn't it?

8 Q. Well, we will let the  
9 Tribunal --

10 A. I am just saying, you are  
11 asking me to comment. That's Stephen Kimber's  
12 comment. That's not mine.

13 Q. Okay. Well, I don't want  
14 to press the point. I don't have time. So I have  
15 shown the Tribunal where that comes up.

16 And that was with the pension  
17 liability paid; wasn't it?

18 A. Again, I am not sure  
19 about the 14 million. I apologize, I am not.

20 Q. Okay, but do you know --  
21 you said in your witness statement that the  
22 company assumed Bowater Mersey's pension; so that,  
23 you do know?

24 A. Yes, I do.

25 Q. Okay. So whatever the

1 number, whether it's 10 million or 16 million,  
2 more or less, I expect that the \$14 million is  
3 correct, but that's net of the liability, the  
4 pension liability; isn't it?

5 A. I am not sure, to be  
6 honest. Jeannie would be better positioned to  
7 answer that.

8 Q. Okay. Are you aware that  
9 the pension liability was not discharged as part  
10 of the restart of Port Hawkesbury?

11 A. Oh, umm, to be honest, I  
12 am not totally sure.

13 Q. Okay. Well, I will refer  
14 the Tribunal to Exhibit C-161. We don't need to  
15 pull it up. I am afraid I am going to run out of  
16 time, so I have to keep moving.

17 In your rejoinder witness  
18 statement -- and, again, we are not going to pull  
19 this up, and I am going to have to start moving  
20 more quickly. Paragraphs 4 and 5 say Mr. Garneau  
21 confused the assistance provided in December 2011  
22 with the assistance provided after the closure of  
23 Bowater Mersey.

24 But, in fact, at no time was  
25 the assistance offered to Resolute intended to

1 make Bowater Mersey the lowest-cost mill in its  
2 industry; was it?

3 A. Again, whether a mill's  
4 low cost in the industry, our goal with Resolute  
5 was to see if we could get five to eight years  
6 operation out of that mill, that's Resolute.

7 Q. I guess that's one way of  
8 answering it, but you will agree with me that just  
9 trying to sustain a mill for a few years is  
10 obviously not making it the lowest-cost mill; is  
11 it?

12 A. No. And when the Euro  
13 went in the tank, there wasn't an effort by the  
14 Government of Nova Scotia to throw more money at  
15 the issue. We both realized, Resolute and  
16 ourselves, we worked hard, we tried it, it didn't  
17 work. The Euro went in the tank.

18 Q. And it never could have  
19 become -- given the forecasts in the newsprint  
20 industry, it never could have been the lowest-cost  
21 mill. That was just not on the agenda for anyone?

22 A. Intuitively, I would  
23 agree with you.

24 Q. Yeah.

25 Okay. So we are going to go

1 into restricted access. We have quite a bit of  
2 important information to go over here in [REDACTED]  
3 [REDACTED] And probably, Mr. Montgomerie, you  
4 will be happy to know that this is the last kind  
5 of topic I am getting into.

6 MS. D'AMOUR: You can proceed.

7 --- Whereupon Restricted Transcript Commences

8 MR. VALASEK: Heather, how are  
9 we doing?

10 MS. D'AMOUR: You can proceed.

11 MR. VALASEK: Okay. Thank  
12 you.

13 BY MR. VALASEK:

14 Q. [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]; isn't that right?

24 A. [REDACTED]

25 Q. And we can bring it up,

1 Ricky. It's R-161.1.

2 [REDACTED]

3 [REDACTED] isn't it?

4 A. [REDACTED]

5 Q. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 A. [REDACTED]

9 Q. Yeah. [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 Q. Right, let me --

17 there's -- [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Q. Absolutely.

25 A. [REDACTED]

1 Q. Right. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Q. Yeah.

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED].

14 Q. So, Ricky, you can go to  
15 .3, page 3. I am not sure if that's point -- what  
16 am I missing here? Oh, I am in the wrong --  
17 sorry. I had a paper copy in front of me, and I  
18 had the wrong one. Now we are better off, and I  
19 would like to go, Ricky, instead to .5.

20 So here -- and, Ricky, I am  
21 going to go through this fairly quickly, so unless  
22 I ask you to highlight something, maybe just sort  
23 of let me direct traffic.

24 [REDACTED]

25 [REDACTED]



1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED] [as read]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 Please go to the next page.

18 Here, [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q. Right. [REDACTED]

10 [REDACTED]

11 [REDACTED] --

12 A. Right.

13 Q. [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 Q. Yeah. And the bottom --

20 maybe, Ricky, you can highlight this -- [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED] [as read]

5 [REDACTED]

6 [REDACTED]

7 A. [REDACTED]

8 Q. Yeah.

9 If we can go to .8, page 8.

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED] That's what's stated there; isn't  
4 it?

5 A. Yes, it is.

6 Q. Yeah, and the next page,  
7 page 10 -- sorry, not the next page but the  
8 page -- yeah, the next page, please, page 9.

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED] as

24 read]

25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED] isn't that right?

4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED].

7 Q. Yeah.

8 A [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED].

13 Q. Yeah, [REDACTED]

14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

21 [REDACTED]

22 Q. Yeah, [REDACTED]

23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED].  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]

13 Q. Right.

14 A. -- [REDACTED]

15 [REDACTED]

16 Q. Mr. Montgomerie, [REDACTED]

17 [REDACTED] --

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Q. Right. If we go back,

22 [REDACTED]

23 [REDACTED]

24 A. [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 JUDGE CRAWFORD: Counsel, can  
6 I interrupt? The time for your cross-examination  
7 has passed. How much longer --

8 MR. VALASEK: I am on the last  
9 page of my questions. Let me see. Let me get  
10 to -- let me fast-forward. About two or three  
11 minutes, Judge Crawford.

12 JUDGE CRAWFORD: All right,  
13 take that.

14 BY MR. VALASEK:

15 Q. So on page -- if we go to  
16 page 10, Ricky.

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED] [as read]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 Q. Yeah. And then go to  
11 page 36. [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED] [as read]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]



1

[REDACTED]

2

[REDACTED]

3

Q. Yes, yeah.

4

And then just to wrap up here,

5

[REDACTED]

6

[REDACTED]

7

[REDACTED]

8

[REDACTED]

9

[REDACTED]

10

[REDACTED]

11

[REDACTED]

12

[REDACTED]

13

[REDACTED]

14

[REDACTED]

15

[REDACTED]

16

[REDACTED]

17

[REDACTED]

18

[REDACTED]

19

[REDACTED]

20

[REDACTED]

21

[REDACTED]

22

[REDACTED]

23

Q. Right.

24

A. And, again, [REDACTED]

25

[REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]

5 Q. So last question, Judge  
6 Crawford.

7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]

15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]

18 Q. Yeah. [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

25 A. Again, my -- my objective

1 was much bigger than that, an exceptional company  
2 to be in our province, and that's why we walked  
3 away from negotiations with them and re -- with  
4 them, and they have proven to be that, quite  
5 frankly.

6 Q. Well, when you say that  
7 your objective was larger than that, I mean,  
8 arguably, it was -- it was more focused; wasn't  
9 it? It was focused on Nova Scotia?

10 A. It was focused on Nova  
11 Scotia, in a rural community that had a modern  
12 machine as to whether or not a company could go in  
13 there, be a good corporate citizen and make it  
14 work with reasonable and prudent support. That  
15 was our goal.

16 Q. So you were focused on  
17 Nova Scotia, but, actually, [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED] isn't that true?

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]

13 MR. VALASEK: Yeah, okay.  
14 That's the end of my  
15 questions, Mr. Chairman.

16 JUDGE CRAWFORD: The Tribunal  
17 is being really understanding about the demands on  
18 counsel in cross-examination, but the result is we  
19 are now about 50 minutes behind. I don't want to  
20 run the program as if this was a train timetable,  
21 but we have to make up that time this afternoon.  
22 Otherwise, we will get behind in the next few  
23 days.

24 So we are now to have a short  
25 redirect and then a meal break, which will be --

1 depend on the length of the redirect, which will  
2 be an abbreviated meal break.

3 Redirect first of all.

4 MR. LUZ: Judge Crawford, can  
5 I have just a couple of minutes before I start the  
6 redirect?

7 JUDGE CRAWFORD: Yes.

8 MR. LUZ: Thank you. I won't  
9 be long.

10 MS. D'AMOUR: This might be a  
11 good time. I see that, Mr. Deputy, your laptop  
12 camera disconnected. I am not sure if we can use  
13 these few minutes to try to get -- I noticed that  
14 during the exam.

15 THE WITNESS: It is  
16 disconnected, you are right.

17 MS. D'AMOUR: Is someone able  
18 to pop in there and help you reconnect that?

19 THE WITNESS: Can they hear  
20 you right now? Probably not.

21 MS. D'AMOUR: I think Ali is  
22 there with you; right?

23 THE WITNESS: Not in the room.  
24 He's around here somewhere.

25 MS. D'AMOUR: Is it okay with

1 the Tribunal -- oh, he is going to go. Okay.

2 JUDGE CRAWFORD: Can we have  
3 this problem fixed at the break or do we need it  
4 for the redirect?

5 MS. D'AMOUR: It's up to  
6 counsel. I thought that while we were waiting for  
7 Mr. Luz, we could fix this. But if Mr. Luz is  
8 ready to go and if it's okay to proceed with just  
9 the boardroom camera?

10 JUDGE CRAWFORD: Mr. Luz will  
11 tell us when he is ready to go. The time he is  
12 spending preparing now is time taken off Mr. Luz's  
13 overall allocation.

14 MR. LUZ: We are not muted?

15 MS. D'AMOUR: You are unmuted  
16 now.

17 MR. LUZ: That's fine. You  
18 can hear me now?

19 MS. D'AMOUR: Yes, I can hear  
20 you.

21 MR. LUZ: Okay. Thank you,  
22 thank you.

23 MS. D'AMOUR: Are you okay to  
24 proceed Mr. -- Deputy's up-close camera on his  
25 laptop was dropped from the call, so we only have

1 the boardroom camera connected now. Are you okay  
2 to proceed like that?

3 THE WITNESS: We are rejoining  
4 now, we think. My apologies.

5 MS. D'AMOUR: Got it. Thank  
6 you.

7 JUDGE CRAWFORD: Can you  
8 proceed, then?

9 MR. LUZ: Yes. Deputy  
10 Montgomerie, are you ready?

11 THE WITNESS: There we go. I  
12 am. Thank you.

13 RE-EXAMINATION BY MR. LUZ:

14 Q. Okay. Thank you.

15 Counsel left off with the

16 [REDACTED] Can you  
17 pull that back up on the screen again? It's  
18 Exhibit R-161. Thank you.

19 And, Chris, can you go back to  
20 page 8, [REDACTED]? Thank you.

21 Deputy Montgomerie, my friend  
22 Mr. Valasek was asking you questions about [REDACTED]  
23 [REDACTED] do you recall them?

24 A. [REDACTED]

25 Q. And do you recall, [REDACTED]

1 [REDACTED]

2 do you recall that?

3 A. [REDACTED]

4 Q. And Mr. Valasek suggested

5 to you that [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 A. I do, yes.

14 Q. Does the Government of

15 Nova Scotia control [REDACTED]

16 [REDACTED]

17 A. No, we do not.

18 Q. Okay. [REDACTED]

19 [REDACTED]

20 [REDACTED]; do you see that?

21 A. I do, yes.

22 Q. Does the Government of

23 Nova Scotia control [REDACTED]

24 [REDACTED]?

25 A. We do not.



1 Q. [REDACTED]  
2 [REDACTED]  
3 [REDACTED]; do you see that?

4 A. I do, yes.

5 Q. [REDACTED]  
6 [REDACTED]  
7 [REDACTED]

8 A. [REDACTED]

9 Q. [REDACTED]  
10 [REDACTED]  
11 [REDACTED]

12 A. [REDACTED]

13 Q. Okay. [REDACTED]  
14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED] do you see that?

19 A. I do, yes.

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED] is that right?

25 A. [REDACTED]

1 Q. Okay. Can we turn to  
2 page 36 of [REDACTED]. Mr. Valasek also brought  
3 you to this page.

4 [REDACTED]  
5 [REDACTED]

6 [REDACTED] -- sorry. I will just read it into the  
7 record:

8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED] "[as read]

21 Do you see that?

22 A. I do, yes.

23 Q. Does the Government of  
24 Nova Scotia control [REDACTED]

25 [REDACTED]

1 A. We do not.  
2 Q. And does the Government  
3 of Nova Scotia control [REDACTED]?

4 A. We do not.

5 Q. [REDACTED]

6 [REDACTED]:

7 [REDACTED]

8 [REDACTED]

9 [REDACTED] as read]

10 [REDACTED]

11 [REDACTED]; is that  
12 right?

13 A. That's correct, yes.

14 Q. Okay. Thank you. You  
15 can put [REDACTED] down. Thank you.

16 Mr. Valasek also asked you a  
17 little bit about electricity at Port Hawkesbury;  
18 do you recall that?

19 A. I do, yes.

20 Q. And electricity is  
21 provided by who in the province of Nova Scotia?

22 A. The Nova Scotia Power  
23 Corporation.

24 Q. And is that a private  
25 company?

1 A. It is, yes.

2 Q. And does the Government  
3 of Nova Scotia control the price of electricity?

4 A. We do not. It's  
5 regulated.

6 Q. You also mentioned during  
7 the cross-examination that there was something  
8 else to be done with respect to [REDACTED]

9 A. That's correct. [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 Q. And, but the PWCC's goal  
14 was to [REDACTED]; is that right?

15 A. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 Q. And that was the  
20 company's decision to [REDACTED]?

21 A. It was, yes.

22 MR. LUZ: I think that's all  
23 the redirect questions I have. Thank you, Judge  
24 Crawford.

25 JUDGE CRAWFORD: That

1 concludes the examination and cross-examination of  
2 Mr. Montgomerie. We now have a scheduled meal  
3 break of one hour, which is a luxury, and I am  
4 going to abrogate the luxury and have that as half  
5 an hour only, which will mean that we resume this  
6 hearing at 20 past 6 Hague time, which is, I  
7 think, 20 past 12 Montreal time, when we start  
8 with Jeannie Chow. So unless anyone has any  
9 comments, that concludes --

10 PROFESSOR LÉVESQUE: May I ask  
11 a question?

12 JUDGE CRAWFORD: Yes, of  
13 course.

14 PROFESSOR LÉVESQUE: Thank  
15 you.

16 QUESTIONS FROM THE TRIBUNAL:

17 PROFESSOR LÉVESQUE:  
18 Mr. Montgomerie, I have a question regarding the  
19 Atlantic Business article that was already  
20 referred to by Mr. Valasek twice, was C-352. So  
21 you are familiar with the article. It was written  
22 by Stephen Kimber. To get a bit of a background,  
23 I thought it was interesting to read this article  
24 because Mr. Garneau was interviewed, the premier  
25 was interviewed, you were interviewed, so it gave

1 different people's perspective.

2 So on page, I think it was on  
3 page 3 of the article, you are quoted as saying:

4 "The premier made it  
5 clear from the beginning  
6 he wanted the best  
7 information  
8 available." [as read]

9 And then at the bottom, it  
10 says it could get emotional, and then you give an  
11 example. And then it said:

12 "Issues they had to  
13 tackle were multi-pronged  
14 and mega-complicated." [as  
15 read]

16 I guess that's the journalist,  
17 not quoting you.

18 And I wanted to pick up on  
19 this. So you have all this information [REDACTED]  
20 [REDACTED] The issues are complicated and  
21 you have to provide advice. And I was wondering  
22 if you could elaborate just a little bit on  
23 what -- I guess what kind of advice you were  
24 comfortable providing based on everything that was  
25 described.

1 THE WITNESS: So Mr. Kimber's  
2 quote of me re the premier's direction is quite  
3 clear and totally the way I operate. [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]

8 PROFESSOR LÉVESQUE: Thank you  
9 for this.

10 THE WITNESS: Thank you.

11 JUDGE CRAWFORD: Thank you.

12 Any other questions?

13 That being so, we will have an  
14 abbreviated lunch break of half an hour. Thank  
15 you very much.

16 --- Upon luncheon recess at 11:52 a.m. EST.

17 --- Upon resuming at 12:31 p.m.

18 MR. LEVINE: Judge Crawford,  
19 with your permission, may I proceed?

20 JUDGE CRAWFORD: Let me just  
21 swear the witness.

22 MR. LEVINE: Absolutely.

23 JUDGE CRAWFORD: Ms. Chow, my  
24 name is James Crawford. You are welcome to the  
25 Tribunal. My colleagues are visible on the



1 screen, Céline Lévesque and Ron Cass.

2 I would like you to make the  
3 declaration -- you are a fact witness. I would  
4 like you to make a declaration for fact witness  
5 which you should have been given by the PCA.  
6 Could you make that declaration, please?

7 MS. CHOW: Yes, I can, sir.

8 I solemnly declare upon my  
9 honour and conscience that I will speak the truth,  
10 the whole truth and nothing but the truth. No one  
11 else is present in the room where I am testifying.  
12 I do not have any notes or annotations on any hard  
13 copy or electronic documents. I confirm that I am  
14 not receiving communications of any sort during my  
15 testimony other than my participation in the main  
16 hearing room in Zoom.

17 FACT WITNESS: JEANNIE CHOW

18 JUDGE CRAWFORD: Thank you  
19 very much.

20 CROSS-EXAMINATION BY MR. LEVINE:

21 Q. Good afternoon, Ms. Chow.

22 My name is Paul Levine. I am an attorney with  
23 Resolute. I am going to ask you some questions  
24 about your witness statements and your testimony.

25 I am going to make two asks of

1 you before I get going. If you don't understand  
2 one of my questions, can you please clarify it on  
3 the record so we will understand that you  
4 understand my questions and I can reformulate and  
5 phrase a better question for you.

6 And the second ask is I am  
7 going to ask questions and you are going to give  
8 answers, and there is a court reporter out there  
9 somewhere in the ether who is going to be taking  
10 this all down. And so she can only take down one  
11 at a time, so let's try to avoid talking over each  
12 other. Sometimes it's hard to do, but if that  
13 happens, we will try to slow down and make sure  
14 it's one at a time.

15 Do you understand those two  
16 things?

17 A. Yes, I understand.

18 Q. Excellent. Thank you.

19 Ricky, if you could bring  
20 up -- are we in restricted access?

21 MS. D'AMOUR: Yes, we are in  
22 restricted access.

23 MR. LEVINE: Excellent.

24 BY MR. LEVINE:

25 Q. Ricky, if you can bring

1 up Ms. Chow's rejoinder witness statement at  
2 page 3 and zoom in on paragraph 6.

3 Okay, and what you say here is  
4 in the last sentence:

5 "Whether the company  
6 would be profitable, let  
7 alone achieve its 'lowest  
8 cost' goal, depended on  
9 many factors that were  
10 not in the control of the  
11 Government of Nova  
12 Scotia." [as read]

13 The company there you are  
14 talking about is Pacific West or Port Hawkesbury  
15 Paper; is that correct?

16 A. Yes, that is the company  
17 I am referring to.

18 Q. And your role on the Port  
19 Hawkesbury transaction was to carry out due  
20 diligence and communicate your analysis to senior  
21 management and implement the contractual documents  
22 necessary to authorize any potential financial  
23 assistance to the company; is that correct?

24 A. Yes, that was my role, as  
25 well as to document any of the contracts and

1 evidence that was provided to us. So I was  
2 responsible to ensure that we had all that  
3 information.

4 Q. And you and the province  
5 took this responsibility to conduct this type of  
6 due diligence seriously; is that a fair statement?

7 A. That's a fair statement.  
8 We -- any project that we look at, there's a lot  
9 of due diligence involved, especially on a project  
10 of this size and this complexity. There was a lot  
11 of other parties and information that we had to  
12 gather, so it was part of my job to ensure that we  
13 had all that information.

14 Q. Because in this project,  
15 there was \$100 million in provincial funds that  
16 could go to waste if the project failed; is that  
17 correct?

18 A. Well, this project and  
19 any other project I'd be looking at, it's the same  
20 kind of due diligence that I would have to  
21 conduct, whether it's, you know, \$100,000  
22 investment or, you know, millions of dollars, it's  
23 really important. We recognize that it is public  
24 money that we are spending and that we are subject  
25 to audit by various organizations, including the

1 Auditor General, so it's really important,  
2 especially based on my background, that we -- my  
3 files are very complete. I try to ensure that  
4 anything that was of significance, whether it's a  
5 risk or a benefit, is going to be documented.

6 Q. Okay. And out of that  
7 \$100 million, \$64 million were in [REDACTED] loans;  
8 is that correct?

9 A. There was about 64  
10 million or \$66 million in loans that some of them  
11 were loans, and some of them were like  
12 reimbursement of expenses for the company.

13 Q. And 64 million of those  
14 were [REDACTED]?

15 A. Yes, of the two loans --  
16 sorry.

17 Q. Go ahead.

18 A. Of the two loans that we  
19 provided to the company, they were considered  
20 [REDACTED] loans.

21 Q. Okay. And you had  
22 understood that the Port Hawkesbury mill had  
23 suffered millions in losses and was forced to go  
24 into CCAA administration in 2011; is that fair to  
25 say?

1                   A.     That is my understanding.  
2     I really wasn't on the file at that point whenever  
3     it occurred. I had not yet started with the  
4     Department of Economic and Rural Development and  
5     Tourism. By the time I came on the file, the  
6     Monitor had already looked at proposals to  
7     purchase the mill operations, so I wasn't party to  
8     the CCAA proceedings at that time.

9                   Q.     That's fine. But by  
10    being an [REDACTED] loan, it meant that, if the  
11    Port Hawkesbury mill was not profitable and it  
12    went bankrupt again, those funds might not be  
13    recovered for the province; is that correct?

14                  A.     Well, when the province  
15    looks at investing in companies, I mean, it's  
16    really important for us. It's not just a  
17    simple -- we are not just a bank. There are other  
18    ways that we receive repayment as a province. So  
19    in terms of being [REDACTED], there  
20    are still ways, like, I guess -- I just want the  
21    Court to understand that -- not as a banking  
22    institution -- we get repayments from other means.  
23    For example, employee payroll, taxes that come to  
24    the province, company profits that they pay taxes  
25    on, you know, the employees have money that they

1 spend in the province. So we would get revenue as  
2 a province from other sources other than just  
3 repayment of loans.

4 Q. Sure. But on these two  
5 loans, [REDACTED]

6 [REDACTED]  
7 [REDACTED] I mean, separate and apart  
8 from all the other revenue you are just talking  
9 about here right now -- which is --

10 A. Well --

11 Q. That's what it means to  
12 be [REDACTED]

13 A. So, yes, that is what it  
14 means to be [REDACTED] but as part of the  
15 analysis, we don't separate it like that. Because  
16 there are other revenue streams, not just loan  
17 repayment specifically on that loan. There are  
18 other ways that we, I guess, refer to loan  
19 repayment or benefits to the province.

20 Q. Well, if we could bring  
21 up [REDACTED] here. It's C-338. And if  
22 we could turn to page 2, and if we could look at

23 [REDACTED]  
24 And, Ricky, if you could zoom  
25 in on that for me, please.

1 So I am just going to read

2 this:

3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED] -- "[as read]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED] as read]

17 Did I read that correctly?

18 A. [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED].

22 Q. Okay. [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 is that a correct statement?



1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED] is that correct?

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]

9 Q. Fair enough. [REDACTED]

10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]

15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

25 [REDACTED] [as read]

1  
2  
3  
4  
5  
6  
7  
8  
9  
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11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

[REDACTED]

[REDACTED] correct?

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q. Okay, but [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 Q. Okay, [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 Q. Okay, and [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED] is that correct?  
24 [REDACTED]  
25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 Q. Ricky, if you could bring

5 up C-182.4. [REDACTED]

6 [REDACTED]s:

7 [REDACTED]

8 [REDACTED]

9 [REDACTED] [as read]

10 Do you see that?

11 A. Yes, I do.

12 [REDACTED]

13 [REDACTED]

14 [REDACTED] the

15 [REDACTED]

16 [REDACTED]

17 [REDACTED] correct?

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Q. Okay. [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]; is that correct? And I can bring  
3 it up. It's R-161.

4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]; is that  
8 correct?

9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]

13 Q. Okay. [REDACTED]

14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

21 [REDACTED]; is that a fair  
22 statement?

23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED].

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED] correct?



1

[REDACTED]

2

[REDACTED]

3

[REDACTED]

4

[REDACTED]

5

Q. Okay.

6

A. [REDACTED]

7

[REDACTED]

8

[REDACTED]

9

[REDACTED]

10

[REDACTED]

11

[REDACTED]

12

[REDACTED]

13

[REDACTED]

14

Q. [REDACTED]

15

[REDACTED]

16

[REDACTED]

17

A. [REDACTED]

18

[REDACTED]

19

[REDACTED]

20

[REDACTED]

21

[REDACTED]

22

[REDACTED]

23

Q. Okay.

24

A. [REDACTED]

25

[REDACTED]

1 Q. [REDACTED]

2 [REDACTED]

3 [REDACTED] correct?

4 A. [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Q. [REDACTED]

8 [REDACTED] If you

9 could bring up R-146.

10 [REDACTED]

11 [REDACTED] is that correct?

12 A. [REDACTED],

13 [REDACTED]

14 [REDACTED]

15 Q. Okay, if we can bring up

16 C-322.

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 A. [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 Q. Okay. If we could bring

1 up C-341.2.

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 A. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED].

11 Q. All right. [REDACTED]

12 [REDACTED]

13 [REDACTED] It's C-351.2. You don't have to bring  
14 it up, but I will just note it on the record.

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 A. [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Q. Okay. [REDACTED]

25 [REDACTED]; is that

1 correct?

2 A. I am not sure. I can't  
3 answer that.

4 Q. You are not sure. Okay.

5 Let's go back to [REDACTED]

6 [REDACTED] It was R-161. And look at  
7 page 37 of it. And if we could just zoom in on

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] All the way at the top, Ricky,  
11 the top big paragraph there. Perfect.

12 And this says:

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]. "[as

23 read]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 A. [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Q. Okay.

8 A. [REDACTED]

9 [REDACTED]

10 Q. Okay. And if we turn to  
11 page 9. And if we could just do the top portion.  
12 Call that out, Ricky.

13 And it says here:

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]" [as

19 read]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED] is that correct?

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

23 Q. Okay, if we go back to  
24 [REDACTED] C-338. Do you have a copy of this  
25 in front of you?

1 A. I can get a copy.

2 Q. All right. And my

3 question is, [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]; is that correct?

7 A. [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 Q. [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED] is that

14 correct?

15 A. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 Q. [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 A. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q. Okay. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]. "[as

16 read]

17 Is that correct?

18 A. [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Q. Okay. [REDACTED]

22 [REDACTED]

23 A. [REDACTED]

24 [REDACTED]

25 [REDACTED]



1 Q. Okay. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED] is that correct?

7 A. [REDACTED]

8 [REDACTED]

9 Q. Sure. If we can bring up  
10 R-161.45. The middle there, it says:

11 "[REDACTED]

12 [REDACTED]" [as

13 read]

14 Do you see that?

15 A. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 Q. Okay.

20 A. -- [REDACTED]

21 [REDACTED]

22 Q. And if we turn to the  
23 next page, R-161.46. At the bottom there, the  
24 last bullet point, it says:

25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED] "[as read]

9 Did I read that correctly?

10 A. [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 Q. [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED] correct?

22 A. [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 [REDACTED]

2 Q. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 A. [REDACTED].

6 Q. Okay. And then -- bear  
7 with me for a moment. All right. If we could  
8 bring up C-158.5. And this is [REDACTED]

9 [REDACTED]

10 And if we can zoom in on [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED] is that correct?

19 A. [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Q. Okay. [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED] is that

4 correct?

5 A. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]

8 Q. I think --

9 A. [REDACTED]

10 [REDACTED]

11 Q. I apologize for talking  
12 over you a little bit there, but I think what you  
13 said in your witness statement is:

14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]

20 [REDACTED] "[as read]

21 That was your testimony in  
22 your first witness statement on page 8; correct?

23 A. [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 Q. Okay. And if -- let's  
4 just take a look at the rate that the mill wanted  
5 to get.

6 Ricky, if you could bring up  
7 C-174.25.

8 And if you could just zoom in  
9 on the first paragraph there, Ricky, and call that  
10 up.

11 And it states there:

12 "However, it is important  
13 that the board and all  
14 parties understand that  
15 PWCC does not consider it  
16 appropriate to make an  
17 investment in the Port  
18 Hawkesbury mill unless it  
19 has confidence that there  
20 is a solid long-term  
21 foundation for success,  
22 and it is nowhere near  
23 sufficient to obtain an  
24 electricity costing  
25 structure that would

1 allow it to 'merely'  
2 operate  
3 competitively."[as read]

4 Did I read that correctly?

5 A. Yes, you did. But I am  
6 not sure who that individual is, the testimony of  
7 John Athas, I was not party to wherever he  
8 testified. And that's his interpretation. I  
9 don't know where he is getting that. I don't know  
10 who this person is.

11 Q. This is PWCC's evidence  
12 in the case. If we can just bring it up, the  
13 first page of this, Ricky.

14 This is the rebuttal evidence  
15 of Pacific West Commercial Corporation. They are  
16 saying they need a rate that's more than -- that  
17 enables them to operate more than merely  
18 competitively. Like, they need a better rate than  
19 to just be merely competitively. [REDACTED]

20 [REDACTED]  
21 [REDACTED] I  
22 mean, that's the rate that they wanted, and that's  
23 the rate that got approved in PWCC's eyes;  
24 correct?

25 A. That was never said to me

1 was that they had to have a rate that was more  
2 than competitive. [REDACTED]

3 [REDACTED]

4 [REDACTED] So I really can't say that that's what  
5 they said. What we were looking at was whether or  
6 not they could get a rate that would help them be  
7 sustainable as a company moving forward.

8 Q. You understand the  
9 province participated in the negotiations and at  
10 the hearing for this rate setting; correct?

11 A. That, I honestly -- I  
12 can't -- I don't feel comfortable speaking to the  
13 utility review board. I was not involved in that  
14 part of the project. I did not participate in any  
15 of those meetings or hearings, and I -- and once  
16 again, Utility and Review Board is an independent  
17 body. We don't influence how they run their  
18 review. We don't influence their decision. I was  
19 not party to that. So I really am not comfortable  
20 commenting on those areas. It was never said -- I  
21 had never heard anything that we were, you know,  
22 interfering or part of it. If we were called to  
23 testify, I assume that we would have testified.

24 Q. So the -- the original  
25 electricity rate, though, that got approved, it



1 had to be revised because of this -- this -- this  
2 tax structure was denied by Canada Revenue Agency;  
3 you're familiar with that generally?

4 A. Yes, generally, that is  
5 my understanding was that there was a structure  
6 that the company negotiated with Nova Scotia  
7 Power --

8 Q. Okay.

9 A. -- in terms of a specific  
10 cost structure that helped them get a rate that  
11 they thought would work in the business plan; that  
12 when that did not happen, that CRA did not -- they  
13 provided some indication that they were not going  
14 to give a positive advance ruling on that tax  
15 structure that was being implemented or requested.  
16 That -- then, obviously, that rate could not -- or  
17 that business structure could not happen. And  
18 because of that, the business plan would have to  
19 change.

20 Q. Okay, and it changed, and  
21 one of the changes that the province made was they  
22 made an [REDACTED]  
23 [REDACTED] the \$40 million credit facility; is  
24 that one of the changes?

25 A. Well, actually, when they

1 actually didn't get the advance tax ruling in a  
2 positive way, my understanding at that time was  
3 there was no deal. So it -- I was told that we  
4 weren't moving forward. That personally, that's  
5 what I was told, and I think that was made public  
6 that we weren't moving forward.

7 Q. Okay, and --

8 A. And then several days or  
9 a week later -- which I was not involved in -- I  
10 understand that the company and the province of  
11 Nova Scotia got back together to have discussions  
12 on what changes or what business structure could  
13 be acceptable that would still potentially make  
14 the mill viable as a business.

15 Q. And one of those changes  
16 was to change a \$40 million credit facility that  
17 [REDACTED] for  
18 the mill as a result of the denial of the  
19 electricity rate, the original electricity rate  
20 through CRA; correct?

21 A. Yes, that was one of the  
22 changes, was that the \$40 million loan could  
23 [REDACTED]. But there were other  
24 changes that really were to the benefit of the  
25 province. So you can't pull out one piece of an

1 amendment without looking at all the items that  
2 were amended at that time.

3 Q. Okay, and then there was  
4 also changes to incorporate, like, a larger set  
5 of -- to how to deal with the billion-dollar pool  
6 of tax losses, that change was also made at the  
7 time; correct?

8 A. There was a change that  
9 we had looked at the potential that the company  
10 could use tax losses, that we would share in some  
11 of the savings that they would receive. But you  
12 didn't mention the change that we had to the  
13 profit share section where, originally, we were  
14 only looking at a \$9 million profit share, which  
15 is viewed as a repayment of a loan, that was  
16 changed to 24 million. So there was the potential  
17 that we could receive more money back from the  
18 company, up to \$24 million.

19 Q. And so that --

20 A. And so there's --

21 Q. That profit share was  
22 like an investment that you guys thought you were  
23 going to have in the mill; correct?

24 A. Well, I don't know if I  
25 would call it investment. It's just one of the

1 other changes that -- as a package. So I don't  
2 feel comfortable looking at one amendment because  
3 there was so many, that some looked like it might  
4 be in favour of the company, some looked like it  
5 might be in favour of the province. You can't  
6 take them in isolation. I think you really have  
7 to view it as a package.

8 Q. That profit sharing, that  
9 was something good that the province got out of  
10 this?

11 A. The profit share, yes.  
12 It would be viewed as, for us, as partly -- it  
13 could be viewed as repayment of the loans that we  
14 would have been putting out to the company.

15 Q. Okay. And so that profit  
16 sharing, what happened is [REDACTED]  
17 [REDACTED]  
18 [REDACTED]; correct?

19 A. The [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

25 Q. Okay. And the profit

1 sharing was going to work that [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED] correct?

5 A. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q. [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]; correct?

16 A. [REDACTED]

17 [REDACTED]

18 Q. [REDACTED]

19 [REDACTED]

20 [REDACTED]; right?

21 A. [REDACTED]

22 [REDACTED]

23 Q. [REDACTED]

24 correct?

25 A. [REDACTED]

1 Q. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 A. [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Like, when we look at any kind  
16 of investment in a company, especially a large  
17 sector like this, where we were looking at  
18 significant closures, the economic impact overall  
19 is something that is important to us to consider.  
20 I mean, it would have been significant to our GDP  
21 if this company, you know, never reopened. And we  
22 had to consider that.

23 Q. And that's why you want  
24 to keep it open, because you want to keep it open  
25 because it's the lowest-cost producer, and then it

1 can keep making paper, and it keep supplying all  
2 these other things for the province. The  
3 province, you know, was essentially invested in  
4 ensuring that the mill could stay open as the  
5 lowest-cost producer so it could remit all these  
6 other benefits to the province?

7 A. You don't have to be the  
8 lowest-cost producer to gain benefit as the  
9 province; right? I mean, as long as the company  
10 continues to be viable, there are benefits to the  
11 province. Without a mill -- I mean, it's not the  
12 only reason, but, certainly, it is one of the  
13 balancing factors or one of the risks and the  
14 benefits that we would look at.

15 Q. Okay, [REDACTED]  
16 [REDACTED]  
17 [REDACTED]?

18 A. [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

21 Q. Okay.

22 A. And we recognize that.  
23 You know, I have invested in companies that were  
24 unable or unable to survive, and they didn't --  
25 they couldn't pay back all of their loans or the

1 company ceased operations. So, you know, I  
2 can't -- it's just one piece of information. I  
3 can't guarantee or control whether or not a  
4 company actually is viable.

5 Q. Okay. If we could look  
6 at one more document. Again, it's C-158.2. This  
7 is [REDACTED]. And if we can just  
8 look at the first full paragraph there.

9 One down, Ricky, the first  
10 full one. Thank you, sir.

11 Again, this is -- this  
12 paragraph says:

13 " [REDACTED]  
14 [REDACTED] -- "[as read]  
15 [REDACTED]:  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]



1 [REDACTED]." [as  
2 read]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED] is that correct?  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 Q. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED] is that

7 correct?

8 A. [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 Q. Okay.

17 A. [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 Q. All right. If we can

23 turn to the last page of this document, and we

24 will just look at that one time. [REDACTED]

25 [REDACTED] it says:

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED] " [as  
13 read]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 correct?  
18 A. [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 Q. Sure. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED] right?

6 A. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 Q. [REDACTED]

18 [REDACTED]

19 A. [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED].

3 Q. Can we bring up C-238.5.

4 This is [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 A. [REDACTED]

8 [REDACTED]

9 Q. Okay. One last thing.

10 Mr. Montgomerie's put you on the spot here. I  
11 apologize. But he said that you would know how  
12 much of the benefits that the province got from  
13 the sale of -- from the purchase of the Bowater  
14 Mersey lands.

15 And if we could just bring up  
16 R-155. I believe it's on the second page here,  
17 Ricky.

18 It's at the top there. It  
19 says that:

20 "The value of the assets  
21 acquired by the province  
22 are \$150.4 million, and  
23 the total liabilities are  
24 136.4. And that weighing  
25 assets against

1 liabilities, the net gain  
2 to the province is  
3 \$14 million."[as read]

4 Were you aware of that?

5 A. I can't speak into detail  
6 about that. I didn't look at specifically to  
7 prepare. It was a long time ago. And in terms of  
8 that transaction, there was a lot of complexities.  
9 There potentially could have been a gain, there  
10 may not have been a gain. There was a lot of  
11 costs, so I don't think that was reported how much  
12 cost it took for us to actually buy that facility.  
13 And there were a lot of unknown factors because in  
14 that case, we bought the company, not just  
15 specific assets. So there is always risk when you  
16 are buying companies and not knowing any of the  
17 unknown liabilities that may be present there.

18 Q. Do you have any --

19 A. So I can't say  
20 specifically if 14 million is accurate or not  
21 accurate. Sorry.

22 Q. This is a provincial  
23 press release. Do you have any reason to doubt  
24 what was published in a provincial press release?

25 A. I am not saying I doubt

1 it. I just -- I can't validate it. I don't have  
2 the numbers with me to be able to prove that it  
3 was 14 million.

4 What I can tell you they  
5 didn't include, because as I look at it now, you  
6 know, for us, there was the significant portion of  
7 cost related to that transaction that would not --  
8 that was not put in the press release itself.

9 JUDGE CRAWFORD: Counsel, I  
10 think your time has expired.

11 MR. LEVINE: Yes, Judge  
12 Crawford, I was about to just ask if I could have  
13 one moment to review my notes and confer with my  
14 colleagues, and then I think I am -- I am done,  
15 but I appreciate --

16 JUDGE CRAWFORD: I hope your  
17 moment of conferral is not going to lead to  
18 another ten minutes of cross-examination.

19 MR. LEVINE: I don't think so.  
20 I have been paying attention to the clock above  
21 Ms. Chow, and I think I have taken about  
22 50 minutes or so. So let me check really quickly.

23 Judge Crawford, I am pleased  
24 to inform the Tribunal that I have no further  
25 questions of this witness.

1 JUDGE CRAWFORD: Thank you for  
2 your evidence and thank you, witness, for your  
3 evidence and for attending the Tribunal.

4 The next cross-examination is  
5 of Murray Coolican.

6 MR. GALAGAN: Judge Crawford,  
7 members of the Tribunal, may we have a short  
8 redirect examination, or would you like to have a  
9 pause?

10 JUDGE CRAWFORD: No, I am  
11 sorry, you can have a redirect.

12 MR. GALAGAN: We only have two  
13 documents to bring. It should not take long.

14 JUDGE CRAWFORD: Right. I do  
15 apologize.

16 MR. GALAGAN: Or if you  
17 prefer, we can have a short break now and then do  
18 redirect. Whatever pleases the Tribunal.

19 JUDGE CRAWFORD: Let's do the  
20 redirect. If it's a brief redirect, it can happen  
21 now.

22 RE-EXAMINATION BY MR. GALAGAN:

23 Q. Yes, can we put Exhibit  
24 R-431 on the screen, please. Okay, so we have on  
25 page 1, this is [REDACTED]



1 [REDACTED]

2 Ms. Chow, [REDACTED]

3 [REDACTED]

4 A. Yes, [REDACTED]

5 [REDACTED]

6 Q. And during your  
7 cross-examination, you mentioned that, [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] do you remember that?

11 A. Yes, I do remember saying  
12 that.

13 Q. Could you go to page 4 of  
14 [REDACTED] please.

15 Do you see [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 A. [REDACTED]

21 [REDACTED]

22 Q. Thank you.

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED] [as read]

9 [REDACTED]  
10 [REDACTED]

11 A. I am sorry? [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 Q. [REDACTED]  
17 [REDACTED]

18 A. [REDACTED]  
19 [REDACTED]

20 Q. Thank you.  
21 And if you go to the paragraph  
22 in the middle of the screen which starts with:

23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 [REDACTED]  
2 [REDACTED] "[as read]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 please?  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 Q. Thank you, Ms. Chow.

2 The other question was with  
3 respect to a document that Resolute's counsel  
4 brought to your attention. That is C-158. If we  
5 could go to the second page of that document.

6 Do you see in the middle of  
7 the screen, there is [REDACTED]  
8 [REDACTED]"? Ms. Chow, do you see  
9 [REDACTED]?

10 A. Yes, I do.

11 Q. Thank you.

12 During your cross-examination,  
13 you mentioned that [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]?

17 A. So just like [REDACTED]  
18 [REDACTED], is one piece of information, we have  
19 a group within our Department of Finance that  
20 actually looks at economic impact, and they ran  
21 modelling for us based on the permanent shutdown  
22 of that mill, and it was significant. And so we  
23 could be looking at a decrease of [REDACTED]  
24 [REDACTED] significant loss of  
25 employment, a loss of revenue to the government as

1 well, and we recognized that even though PWCC was  
2 looking to buy the mill at that time and to have  
3 operations, [REDACTED].

4 And so we were reducing any  
5 loss. If that mill or that company can stay in  
6 business, the impact of a permanent shutdown was  
7 certainly reduced significantly, and it was a huge  
8 impact to our consideration as to what reasonable  
9 funding would be to help the mill restart.

10 We recognized that it's still  
11 based on the expertise of that management team,  
12 and nowhere did we ever say we would want to  
13 reopen a mill at all costs because, obviously,  
14 though it's significant, the cost to the province  
15 in terms of GDP, in terms of lost tax revenue,  
16 it's not endless. So, you know, we did have  
17 parameters that would be considered reasonable  
18 based on what the business model would dictate for  
19 that company.

20 MR. GALAGAN: Thank you,  
21 Ms. Chow. That concludes my redirect examination,  
22 and I leave it to the Tribunal to ask any further  
23 questions if they wish.

24 JUDGE CRAWFORD: Do my  
25 colleagues have any questions of this witness? It

1 appears not.

2 Thank you very much for your  
3 evidence, for coming today.

4 THE WITNESS: Thank you.

5 JUDGE CRAWFORD: Next  
6 presentation and the last for the day is a  
7 cross-examination of Mr. Murray Coolican.

8 MR. LEVINE: Judge Crawford,  
9 does the Tribunal mind if we have a short two- to  
10 three-minute break to just get organized for the  
11 next witness?

12 JUDGE CRAWFORD: We will have  
13 a ten-minute break now because the witness will  
14 have a break at the end of the testimony as well.

15 MR. LEVINE: Thank you, Judge  
16 Crawford.

17 --- Upon recess at 1:36 p.m. EST.

18 --- Upon resuming at 1:43 p.m.

19 --- Whereupon Restricted Transcript Ends

20 JUDGE CRAWFORD: Mr. Coolican,  
21 welcome to the Tribunal. I have with me Ron Cass  
22 and Céline Lévesque --

23 MR. COOLICAN: How do you do?

24 JUDGE CRAWFORD: -- my  
25 associates in the arbitration.

1                   You're a fact witness. You  
2                   have a statement in front of you which is your  
3                   oath. It's been slightly modified to take into  
4                   account comments made by counsel.

5                   Can I ask you to make that  
6                   statement?

7                   MR. COOLICAN: Yes.

8                   I solemnly declare upon my  
9                   honour and conscience that I will speak the truth,  
10                  the whole truth and nothing but the truth. No one  
11                  else is present in the room where I am testifying.  
12                  I do not have any notes or annotations on any hard  
13                  copy or electronic documents. I confirm that I am  
14                  not receiving communications of any sort during my  
15                  testimony other than my participation in the main  
16                  hearing room in Zoom.

17                  JUDGE CRAWFORD: Thank you  
18                  very much.

19                  FACT WITNESS: MURRAY COOLICAN:

20                  MR. LEVINE: Judge Crawford,  
21                  with your permission, may I proceed?

22                  JUDGE CRAWFORD: Yes.

23                  MR. LEVINE: Thank you very  
24                  much.

25                  CROSS-EXAMINATION BY MR. LEVINE:



1 Q. Good afternoon,  
2 Mr. Coolican. My name is Paul Levine. I am an  
3 attorney with Resolute. I am going to ask you  
4 some questions regarding your testimony.

5 Just two conditions I ask of  
6 you. The first is you try to let me ask a  
7 complete question, and I will try to let you give  
8 a complete answer. There is a court reporter out  
9 there somewhere who is typing this all down, and  
10 if we talk over each other, she can't do it, and  
11 she will eventually get mad at us and tell us "one  
12 at a time".

13 And the second thing is, is if  
14 you don't understand one of my questions, can you  
15 tell me now so I can try to reformulate that  
16 question for you on the record and we can make a  
17 clear record? I don't want to have any confusing  
18 questions made to you.

19 Do you understand?

20 A. Yes.

21 Q. Thank you very much.

22 MR. MANGHAT: Sorry to  
23 interrupt. It looks like we have lost the feed  
24 for the boardroom for the respondent. Heather,  
25 are we able to take a look and see?

1 MS. D'AMOUR: It does look  
2 like that has dropped again. We have to get Ali  
3 back in there to reconnect it. I am just not  
4 sure -- I don't want to give instructions for how  
5 to reconnect because I am not sure what happened  
6 on the computer.

7 MR. LEVINE: Are you talking  
8 about the boardroom in Nova Scotia or the  
9 boardroom somewhere else? Because I still see a  
10 video of the boardroom in Nova Scotia.

11 MR. MANGHAT: Heather, it's  
12 ours in Arbitration Place.  
13 --- Off-the-record discussion re technical issues.

14 BY MR. LEVINE:

15 Q. Good afternoon,  
16 Mr. Coolican. I won't go over the preliminary  
17 notes again because that probably wasn't too much.

18 But is it fair to say that the  
19 electricity rate hearing concerning Port  
20 Hawkesbury was a fairly important rate hearing to  
21 the province?

22 A. Which rate hearing are  
23 you referring to? The -- are you referring to  
24 the, umm, the --

25 Q. The 2012 one.

1 A. The load retention rate  
2 hearing?

3 Q. Yeah.

4 A. Yeah. Yeah, that one and  
5 also the one for Bowater and NewPage --

6 Q. Okay.

7 A. -- about a year earlier  
8 were very important.

9 Q. Okay. And I can bring up  
10 the document if you want, and you might be  
11 familiar with it already, but I think the opening  
12 statement from the Nova Scotia attorney who  
13 appeared before the Nova Scotia Utility and Review  
14 Board, which I will try to call "the board" from  
15 here on out, stated that the stakes were high; do  
16 you remember that opening statement?

17 A. Yeah, I don't remember  
18 the detail of the opening statement, but that  
19 wouldn't -- that wouldn't surprise me. It was an  
20 important hearing for the province for the  
21 electricity system and the way it operated.

22 Q. All right. Just for the  
23 Tribunal's record, that can be found on C-178.3.  
24 We don't need to call it up now.

25 The board, I think you say in

1 your witness statement, is a quasi-judicial  
2 tribunal that is independent from the Government  
3 of Nova Scotia executive and legislative branches  
4 and that it just doesn't defer to the government's  
5 positions; is that correct?

6 A. Yeah, that's right, and  
7 there are a number of examples of that where the  
8 Government of Nova Scotia has taken a position in  
9 front of the tribunal and has -- the decision has  
10 come out against the position taken by the  
11 Government of Nova Scotia. So it's, it's not just  
12 in theory, but it's in fact, and there are  
13 examples of that.

14 Q. Okay. In this rate  
15 hearing, there were two issues involving renewable  
16 energy that the board needed to consider, and I am  
17 just going to lay them out just from a broad  
18 overview perspective.

19 One was involving renewable  
20 energy standards, and the other one considered the  
21 biomass plant. Is that an accurate statement of  
22 the broad renewable energy issues that were going  
23 on at the Port Hawkesbury 2012 rate hearing?

24 A. Yeah, I have never  
25 divided it in terms of those sorts of separations.

1 The significant issue that was under consideration  
2 was whether the Port Hawkesbury Paper would be  
3 eligible for a load retention rate which had been  
4 opened up to economic distress through the NewPage  
5 and Bowater hearing that had been held about a  
6 year previously.

7 Q. All right. I just want  
8 to call up the board decision.

9 And, Ricky, this is the board  
10 decision.

11 And unless I tell you  
12 otherwise, I am talking about the 2012 Port  
13 Hawkesbury case. If I switch over to Bowater  
14 Mersey and that one, I will let you know.

15 A. Okay.

16 Q. But this is on C-184.57  
17 in paragraph 172. He will bring it up on the  
18 screen for you so you can look at it there.  
19 Otherwise, you can dig through that large stack of  
20 paper which --

21 A. I would rather not tackle  
22 that stack of paper.

23 Q. Me neither.

24 You got it there, Ricky?  
25 There we go. Ricky, are you still on the line?

1 MS. D'AMOUR: It looks like  
2 Ricky just dropped from the call. I just heard  
3 him. Yeah, I think he dropped from the call.

4 MR. LEVINE: I apologize. If  
5 you give us one moment, he will return to the  
6 line.

7 MS. D'AMOUR: Yeah, no  
8 problem.

9 MR. LEVINE: Yeah, all right.  
10 Perfect. Thank you, Ricky.

11 BY MR. LEVINE:

12 Q. So this is C-184.57,  
13 paragraph 172. And this is the board decision.

14 A. Right.

15 Q. And so this incremental  
16 RES issue that's being highlighted here.

17 A. Yes.

18 Q. And you can read it here,  
19 but the basic thrust of the issue is PHP's going  
20 to come back to the grid, it's going to use a lot  
21 of electricity, and would there need to be  
22 additional renewable energy added to the  
23 electricity system as a result of PHP's return to  
24 the grid so that the provincial renewable energy  
25 regulations were satisfied; is that correct?

1 A. That's correct.

2 Q. And what's going on here  
3 is that NSPI and PWCC argued that the province  
4 would have enough renewable energy to meet the  
5 provincial regulations regardless whether the Port  
6 Hawkesbury mill operated or not. That was their  
7 position during this rate hearing; correct?

8 A. Yeah, it also was the  
9 position put forward by the -- by myself in a  
10 letter to the board because the plans that Nova  
11 Scotia Power had drawn up for and projects that  
12 they were -- that were underway were such that  
13 they would have met the load that the province --  
14 the electricity load that the province had with  
15 the Bowater mill still operating, with the Port  
16 Hawkesbury mill operating, with the newsprint mill  
17 as well as the coated paper and the pulping mill.

18 So because Bowater had closed,  
19 because Port Hawkesbury Paper was going to be  
20 closing the newsprint line, there was going to be  
21 less demand on the province than there would have  
22 been when Nova Scotia Power drew up the projects  
23 and plans to meet the renewable energy  
24 requirements.

25 Q. And that's in your

1 letter, and that letter's at C-179. And I think  
2 you even put that letter into your witness  
3 statement, your first witness statement at  
4 paragraph 25. So you kind of summarized it, so we  
5 don't -- I am not going to spend time going over  
6 it.

7 The board was aware at the  
8 time of the hearing that the newsprint facility at  
9 Port Hawkesbury was going to be closing; correct?

10 A. Yeah, I think Port  
11 Hawkesbury Paper made it clear, and it was part of  
12 the construction of the load retention rate that,  
13 because it was closing the newsprint mill and was  
14 able to use the pulping facility as a form of  
15 energy storage, that gave the system some -- some  
16 savings that were reflected in the load retention  
17 rate.

18 Q. All right. And this  
19 renewable energy issue -- if, Ricky, you could  
20 bring up C-147.88.

21 And if you could -- there's  
22 going to be a line there that says "Stern can't  
23 handle any RES cost increase average or  
24 incremental", and do you see that?

25 A. Yes.



1 Q. Okay. And then I think,  
2 I think if you go down farther, it says:  
3 "Ron, also cannot leave  
4 door open by regulator  
5 that RES will/may apply  
6 in the future. It has to  
7 be never." [as read]

8 Correct?

9 A. Yes, I see that.

10 Q. All right. So it's fair  
11 to say, throughout this whole process, PWCC was  
12 fairly adamant that it did not want to incur any  
13 additional cost to comply with this RES standard.  
14 That was their position; correct?

15 A. Well, that -- these are  
16 the notes from Mr. Stern. But I would say that  
17 regardless of how adamant they were or were not,  
18 it was clear to us from the plans that Nova Scotia  
19 Power put in place and from the reduction in load  
20 to the province that were not -- that there were  
21 not going to be any additional RES requirements.

22 Q. Okay. And this issue  
23 came up at the hearing too; didn't it, the rate  
24 hearing?

25 A. Yes, I believe it did.

1 Q. All right.

2 If we could look at R-397.165,  
3 and just go to the bottom of that page and then,  
4 Ricky, to the top of the next page. R-397.165.

5 And I want to read the whole  
6 thing here. But Mr. Stern's being questioned by  
7 the chair of the board; correct?

8 A. Yes.

9 Q. Okay.

10 And just a little bit higher  
11 up on that second one, Ricky.

12 He says:

13 "I am coming back to the  
14 risk to the other  
15 ratepayers with respect  
16 to the RES requirements,  
17 and I understand it's  
18 your position that  
19 there's enough renewables  
20 on the system to  
21 accommodate this load.

22 But it seems to me that  
23 risk could be eliminated  
24 completely by an action  
25 of the province of Nova

1                                   Scotia, and has the  
2                                   province of Nova Scotia  
3                                   been approached to solve  
4                                   that problem?"[as read]

5                                   Mr. Stern says:

6                                   "Yes, we have had some  
7                                   discussions."[as read]

8                                   And the chair said:

9                                   "Are they prepared to  
10                                  solve it?"[as read]

11                                  And Mr. Stern says:

12                                  "No, they've sent us  
13                                  here."[as read]

14                                  And then the chair goes on and  
15                                  says:

16                                  "You agree with me that  
17                                  if indeed the renewable  
18                                  targets changed as a  
19                                  result of government  
20                                  action or if certain of  
21                                  the renewables that are  
22                                  currently being  
23                                  contemplated couldn't be  
24                                  built, that there is a  
25                                  risk with respect to

1 other ratepayers having  
2 to pick up the cost of  
3 the renewables serving  
4 your load?"[as read]

5 And he keeps going farther  
6 down. I think he goes on to the next page, and  
7 the chair comments on the next page at the top:

8 "Based on what we know  
9 today, but seven years is  
10 a long time in the life  
11 of an electric system;  
12 isn't it?"[as read]

13 And then the chair goes on and  
14 he says:

15 "Would you agree with me  
16 that a government that  
17 wants this transaction to  
18 happen should seriously  
19 consider taking away this  
20 risk?"[as read]

21 Mr. Stern says:

22 "I agree, sir, it would  
23 make things easier for  
24 all of us."[as read]

25 So did I get all that

1 correctly?

2 A. Yeah.

3 Q. All right. And so let's  
4 go back to the board decision again, and it's  
5 C-184.58. And look at paragraph 177. All right.  
6 And the board says:

7 "It became clear that,  
8 during the course of the  
9 proceeding, that without  
10 some resolution to these  
11 two RES issues, the LRT  
12 would not likely recover  
13 all its incremental  
14 costs." [as read]

15 Did I get that?

16 A. Yeah.

17 Q. All right. So the board  
18 wasn't satisfied with the explanations that were  
19 provided by PWCC and the province and NSPI about  
20 the renewables; is that correct?

21 A. Well, the board asked for  
22 some more assurance, and I issued a letter back to  
23 the board that gave them the assurance that the  
24 RES targets would be met by existing plans of Nova  
25 Scotia Power. And so, in our view, there was --

1 there was no risk, and we were happy to indicate  
2 that.

3 Q. And your letter also  
4 committed that if there was a risk and it did go  
5 up, the province would take care of the cost and  
6 that the other ratepayers and PWCC would not have  
7 to incur the risk of those renewable energy  
8 standards; is that right?

9 A. Yes, that's what the  
10 letter said. And I was quite comfortable giving  
11 that letter because without any changes, as some  
12 of your documents suggested, no changes were made  
13 to the RES requirements, and even with the fact  
14 that no changes were made to the RES requirements,  
15 we were very confident that there would be no  
16 additional charges. And, in fact, looking back in  
17 history, which we can do now because the time  
18 period for this is up, there were no additional  
19 charges during that period. So it was -- it was a  
20 commitment that was made that was quite easy to  
21 make because there was no -- we could see that  
22 there was no cost, and, in fact, there was no  
23 cost.

24 Q. Okay. Well, let's go to  
25 paragraph 183 of this decision on page 160 -- on

1 page 60, excuse me.

2 And then it says:

3 "Having regard to the  
4 stated position of the  
5 province, approval of the  
6 board will be subject to  
7 two conditions.

8 (A) if the mill load does  
9 trigger additional RES  
10 costs during the term,  
11 those costs may not be  
12 passed along to the  
13 ratepayers." [as read]

14 Is that correct?

15 A. Yeah, that's what it  
16 says.

17 Q. Okay, so the board wasn't  
18 going to approve the rate unless the province made  
19 that commitment that no RES costs would be passed  
20 along to the other ratepayers; correct?

21 A. That's correct. And our  
22 decision was based on the fact that the mill load  
23 had already been taken into account in the plans  
24 and projects that Nova Scotia Power put forward,  
25 and we were completely confident that there would

1 be no additional costs. And, in fact, it's turned  
2 out that there have been no additional costs. So  
3 we were accurate in our confidence, and we were  
4 happy to make that commitment.

5 Q. Okay. And then if we  
6 turn to -- let's go take a look at the biomass  
7 issue. If we can look at page 57, paragraph 173.

8 And the NSUARB says here that  
9 the biomass plant would not need to run unless it  
10 needed to provide steam for the mill. That's a  
11 fair reading of paragraph 173, a summarization of  
12 it?

13 A. Yeah, I am missing part  
14 of the page, but I think that's --

15 Q. That's fine --

16 A. Yes.

17 Q. And if we go to the next  
18 paragraph, and it kind of runs over on this page  
19 and carries on to the next.

20 Do you know who Mr. Bennett  
21 is?

22 A. Yes.

23 Q. He was the CEO of NSPI at  
24 that time; correct?

25 A. That's right.



1 Q. All right. And this is a  
2 summarization of his testimony from the rate  
3 hearing, and it says that the biomass plant may  
4 not need to run to meet renewable energy  
5 compliance standards.

6 That's the issue that we just  
7 discussed; correct?

8 A. That's correct.

9 Q. And then in the next  
10 paragraphs, paragraphs 175 and 176 on page 58  
11 there of C-184, it says that there would be an  
12 analysis that was produced that running that  
13 biomass plant would cost an extra \$7 million a  
14 year or so, approximately; correct?

15 A. Sorry. I am missing part  
16 of this. I am not sure -- I am not sure I would  
17 necessarily agree with that analysis.

18 Q. Okay. But that's just  
19 what was going on at the hearing --

20 A. Yeah.

21 Q. I know you disagree with  
22 the number --

23 A. Yeah, yeah, no, I  
24 understand that, yeah.

25 Q. The analysis someone

1 presented said that this cost would add an extra  
2 \$7 million to run this biomass plant, and everyone  
3 kind of disputed that at the time; correct?

4 A. Correct.

5 Q. And I think if we can  
6 just bring up the public version of Mr. Coolican's  
7 rejoinder witness statement, make sure it's the  
8 public one. It's on page 5. There it is. And  
9 paragraph 8, actually.

10 There you go.

11 Is this the rejoinder one,  
12 Ricky? I apologize.

13 Let's just see if I can do  
14 this without going through your statement and make  
15 this easier.

16 I think you say in your  
17 witness statements that there were regulations  
18 proposed in 2011 that would have made the biomass  
19 plant "must run"; correct?

20 A. Yes, yes, so one of --  
21 one of the things that is important in dealing  
22 with renewable electricity and the transition from  
23 being a primarily coal-based system to having  
24 considerable renewables was that it takes a while  
25 in an electricity system to make the changes. And

1 a lot of these changes were in areas that were new  
2 to electric utilities.

3 And, in fact, Nova Scotia, in  
4 those early years, was further ahead than most  
5 utilities in North America in terms of the  
6 percentage of wind electricity that it was  
7 producing on the system. And so it was, it was  
8 important that the government set out signals of  
9 the directions it was going in. It was important  
10 that we -- we had some plans that the targets that  
11 we created for renewable were, in fact, doable and  
12 that we had to retain some consistency over the  
13 years of the direction that we were headed in to  
14 make it possible for Nova Scotia Power and its  
15 customers to respond.

16 You may have noted watching  
17 other jurisdictions, not just Nova Scotia, where  
18 this kind of -- where governments were attempting  
19 to make this kind of transition, and I would say  
20 that many of them have not been as successful as  
21 Nova Scotia in making this transition and had  
22 considerable rate increases that were primarily as  
23 a result of this transition. Nova Scotia managed  
24 to do it in a much more phased way without --  
25 while we have always had higher electricity rates,

1 we didn't have the significant ups and downs that  
2 you would have seen, for example, in Ontario as a  
3 result of renewable. Because in many cases, the  
4 renewable resources are more expensive.

5 So there were times when we  
6 brought wind on the system when it was more  
7 expensive than the coal alternative. That is  
8 probably not the case today, although I am not  
9 100 percent up to date on where things have gone.

10 Q. Mr. Coolican --

11 A. At the same time --

12 Q. Go ahead.

13 A. At the same time, there  
14 were -- there were aspects of using biomass that  
15 at the time would have been more expensive than  
16 the coal and natural gas opportunities for  
17 producing electricity.

18 So we had to put in place some  
19 decisions that resulted in higher costs at the  
20 time, but over time, given the transition that we  
21 were trying to make, we managed to do it in a way  
22 that was relatively gradual. And I think in the  
23 end result, will mean that we have a system that  
24 is less expensive as well as renewable.

25 Q. All right, Mr. Coolican,

1 I really appreciate that explanation, and I have  
2 some questions I want to go through pretty  
3 efficiently, so I am just trying to ask you, you  
4 said in your rejoinder witness statement, there  
5 were regulations that you guys had proposed in  
6 2011; is that an accurate statement?

7 A. Yes, we proposed -- we  
8 had gone through public consultation on the  
9 direction that we intended to take, and so the  
10 regulations that we came up with, we had delayed  
11 introducing the regulations because of the  
12 uncertainty in the forest sector, both with the  
13 issue with the Bowater mill as well as Port  
14 Hawkesbury, and we wanted to see those resolved or  
15 the general direction resolved before we brought  
16 the actual wording of the regulations forward.

17 Q. All right. And so in  
18 2012, those regulations were still pending at the  
19 time of the rate hearing?

20 A. Yes, that's right.

21 Q. And Todd Williams, he was  
22 an expert, and he was, you know, he was retained  
23 by the province. And I am not trying to get into  
24 a whole side off --side about that--, but he  
25 testified at the hearing too; right?

1 A. Yes.

2 Q. All right. And if we can  
3 bring up R-401.41 and .42.

4 And Mr. Williams, at the top  
5 of the 42nd page, page 774 of that transcript,  
6 said that:

7 "I participated in some  
8 of the discussions on the  
9 biomass."[as read]

10 He was asked was the cost of  
11 running the Port Hawkesbury biomass plant, when it  
12 wasn't necessary to meet RES compliance, was that  
13 discussed during the negotiations?

14 And he says, "We never brought  
15 that issue up"; correct?

16 A. Yeah, I can't see the  
17 entire part of that page.

18 Q. Which one?

19 A. I am looking at myself  
20 rather than some of what he said.

21 Q. Sure.

22 Can you zoom in on the top of  
23 page 42 there, Ricky?

24 A. Yeah, now what's the  
25 next --

1 Q. That was kind of the end  
2 of the questioning on that point.

3 A. All right.

4 Q. He said basically, "I  
5 didn't participate in these discussions regarding  
6 the biomass plant running full-time"?

7 A. He said he didn't  
8 participate in all of those discussions.

9 Q. Okay. And if we look at  
10 the regulations that were pending at the time, if  
11 we look at C-313.8. C-313, there you go, .8.

12 This talks about the firm  
13 supply; is that correct?

14 A. Yeah, do you want to go  
15 back to the heading as to what exactly we are  
16 looking at?

17 Q. Sure.

18 I think page 1, Ricky.

19 These are the 2011 renewable  
20 energy regulations?

21 A. Right.

22 Q. All right. And on the  
23 eighth page there, it talks about a firm supply;  
24 is that correct? We will blow it up for you.

25 A. Yeah.

1 Q. And it says starting in  
2 the calendar year 2015, that's when the firm  
3 supply has to be there; right?

4 A. That's what that draft  
5 says, yes.

6 Q. Okay. And if we could  
7 bring up C-217.2.

8 This is the actual renewable  
9 energy regulations that were amended in 2013; is  
10 that correct?

11 A. Yes.

12 Q. Okay. And if you could  
13 just scroll down to 2A. And this was the change  
14 that made the Port Hawkesbury biomass power  
15 generation plant have to run full-time; is that  
16 correct?

17 A. That is correct.

18 Q. Starting in the calendar  
19 year of 2013?

20 A. Yes.

21 Q. Okay. Let's just go back  
22 to the board decision for one more second and look  
23 at C-184.60, paragraph 183 again. And part (b)  
24 says:

25 "Having regard to the



1                                   stated position of the  
2                                   province, approval of the  
3                                   board will be subject to  
4                                   two conditions."[as read]

5                                   And part (b) says:

6                                   "No costs related to  
7                                   operating the biomass  
8                                   plant out of the normal  
9                                   economic dispatch order  
10                                  may be passed along to  
11                                  ratepayers unless and  
12                                  until, as a result of  
13                                  legislation or  
14                                  regulations imposed by  
15                                  the province, it becomes  
16                                  a must-run facility."[as  
17                                  read]

18                                  Correct?

19                                  A.    That's correct, that's  
20                                  the way it reads.  And that's not -- that's not  
21                                  unusual.  When dealing with renewable electricity,  
22                                  the way the board has consistently worked and its  
23                                  mandate is the lowest cost for electricity.  So  
24                                  there wouldn't have been a kilowatt of renewable  
25                                  electricity brought into Nova Scotia if there

1    hadn't been regulations put in place by the  
2    government in order to require certain levels of  
3    renewable electricity because, especially in the  
4    early days, renewable electricity was always more  
5    expensive than the alternatives, being coal or oil  
6    or natural gas.

7                                     And so when you were trying to  
8    get in place renewable, there had to be, you know,  
9    in every instance, regulations imposed by the  
10   province so that Nova Scotia Power was required to  
11   bring in certain kinds of electricity that  
12   otherwise would never have happened. And it was,  
13   it was clear, the government passed the  
14   environmental legislation in 2007 that set the  
15   province on this course, and then there were  
16   regulations that came out from that over the years  
17   heading in that direction. And there were --  
18   there were always additional costs that went along  
19   with, went along with that. They were passed  
20   along to ratepayers.

21                                     Q.    Okay. And so later on,  
22    it was determined that making the biomass run  
23    pursuant to regulation as mandated by the 2013  
24    regulations cost the ratepayers between 6 to  
25    \$8 million per year; is that right?

1                   A.    Yeah, I, I don't believe  
2    that was tested. I have seen some references to  
3    that, but certainly the government didn't go  
4    through an analysis to ensure that it was or  
5    wasn't. That wasn't in the grander scheme of  
6    things, in terms of moving from a coal-based  
7    system to one with strong renewable energy, it was  
8    not out of line with where we were headed. And it  
9    was not, as I said earlier, the additional  
10   costs -- Nova Scotia did quite a good job, in my  
11   view, in making that transition to a much stronger  
12   level of renewable electricity without incurring  
13   some of the major costs that happened in other  
14   jurisdictions.

15                   Q.    Can we just bring up  
16   C-051, Ricky?

17                   And at the top here, it says:

18                    "Nova Scotia Power  
19                    ratepayers foot 7 million  
20                    bill for Port Hawkesbury  
21                    Paper." [as read]

22                   And then it says:

23                    "A question from the  
24                    consumer advocate at a  
25                    Utility and Review Board

1 public hearing on fuel  
2 costs Monday revealed  
3 another benefit or  
4 possible subsidy to Port  
5 Hawkesbury Paper, as well  
6 as the added cost to Nova  
7 Scotians." [as read]

8 So that came -- this  
9 \$7 million disclosure came out at a 2015 rate  
10 hearing; is that correct?

11 A. Yeah, so there -- I have  
12 seen this. I have seen this report, and it's,  
13 it's -- there has been a benefit to Nova Scotia  
14 ratepayers through the changeover from coal to  
15 renewable which is playing our part in the world  
16 in terms of the reduction of greenhouse gas  
17 emissions and also reducing the impact of  
18 regulations from the federal government and also  
19 reducing potential trade regulations from other  
20 countries given the GHGs that we used to produce  
21 electricity. And I think over time, the end  
22 result will be a reduction in the cost compared  
23 to, compared to coal and other sources of  
24 electricity.

25 So it's a, it's a long-term

1 game, and there are some puts and takes along the  
2 way, and so this, this was not hugely significant  
3 in the scheme of things.

4 Q. All right. So now I just  
5 want to talk a little bit about the Bowater  
6 experience versus the Port Hawkesbury experience.

7 I think we talked about  
8 earlier the province hired Todd Williams, and he  
9 ultimately presented evidence at the rate hearing  
10 as we saw; is that correct?

11 A. Yes, he did. The  
12 province felt that given the role that he had  
13 played to bring, if you will, two different  
14 regulatory cultures together and to help them  
15 understand each other and the benefits each  
16 brought to the table, that it would be important  
17 to be transparent and to make Mr. Williams  
18 available to the board to give testimony and to be  
19 questioned on his experience.

20 Q. Did the province present  
21 any witness or, you know, provide an expert in the  
22 Bowater hearing for Resolute?

23 A. No, we didn't feel that  
24 it was necessary. The Resolute, the Resolute  
25 proposal was quite standard in terms -- I mean, it

1 wasn't standard because it was unique. It was the  
2 first load retention hearing in response to  
3 economic distress in the province, and the UARB  
4 allowed their load retention tariff for the first  
5 time to apply to economic distress. And it was  
6 the first time, and they did it both for NewPage  
7 and for Bowater, that they had a hearing on what a  
8 load retention rate should be under that, under  
9 that tariff. So that was important.

10 But as a load retention rate,  
11 there was nothing really out of the ordinary in  
12 terms of the way it was, it was put together. So  
13 there would not have been a role for a consultant  
14 from the Nova Scotia government. Bowater had been  
15 in the province for many years. The mill was  
16 originally built in 1929, long before the Utility  
17 and Review Board was ever created. So the mill  
18 and its managers were quite familiar with the  
19 regulatory process in Nova Scotia. Their proposal  
20 was not out of the ordinary. They weren't  
21 significantly reducing their load. They weren't  
22 supplying energy storage services as Port  
23 Hawkesbury eventually proposed. So it was, it was  
24 relatively straightforward.

25 Bowater also had access to

1 consultants that they used at the hearing that  
2 were familiar with them and familiar with the  
3 regulatory process in Nova Scotia. So the, the  
4 position that I took when I was the deputy with  
5 respect to the Utility and Review Board was that  
6 unless there was a specific role or a specific  
7 point of view that the government could add  
8 something to a hearing, if -- if -- in the case of  
9 Bowater, I got a strong sense that Bowater and  
10 NewPage were managing things quite well and that  
11 there was no significant controversy with the  
12 board, and so it's sometimes counterproductive in  
13 those situations for the government to feel that  
14 it has to intervene in some way.

15 Q. Is it fair to say --

16 A. In the end, in the end,  
17 that was, that was the way it turned out. The  
18 board approved Bowater's -- first, they approved  
19 the change in the load retention tariff. And then  
20 they approved the rate that Bowater and NewPage  
21 had applied for. It applied only to Bowater since  
22 NewPage had then gone into creditor protection.

23 So Bowater got the load  
24 retention rate that it had requested.

25 Q. So let me just see if I

1 can summarize a whole bunch of stuff there because  
2 I am trying to finish this cross-examination  
3 expeditiously.

4 It seems like the province  
5 didn't submit a witness or assist in the  
6 negotiations for Bowater or present any evidence  
7 or make an opening statement at the hearing in the  
8 Bowater Mersey case or answer information requests  
9 or do anything. The province kind of stayed out  
10 of the way of the Bowater Mersey hearing,  
11 completely; is that right?

12 A. We didn't, we didn't  
13 intervene. We didn't, we didn't offer a  
14 consultant to the parties because the parties  
15 seemed to come to an agreement fairly  
16 expeditiously on their own.

17 Q. All right. So let's say  
18 this will be my last two documents here.

19 Ricky, if you can bring up  
20 C-314, page 2, which is the Mersey Bowater power  
21 application on one side of the screen. And then  
22 C-138.98 and paragraph 287 on the other side of  
23 the screen, and this is the Mersey Bowater rate  
24 decision.

25 One second, please. Back two



1 pages, Ricky, 138.96, please. My apologies.

2 Okay. So on the left is the  
3 application, and on the right is the rate that  
4 actually happened. And on the left, you can see  
5 Bowater wanted a five-year rate. In the first  
6 year, for example, it wanted a total energy charge  
7 of \$55.60. And on the right, they only got a  
8 three-year rate. In the first year, for example,  
9 was a \$60.24 charge per hour; correct?

10 A. I can't see that part.

11 Q. Can you blow up the right  
12 one, Ricky, on the right there?

13 A. Yeah.

14 MR. LEVINE: Okay.

15 Mr. Coolican, thank you very  
16 much for your attendance today, we appreciate it,  
17 coming down. And so I think I am about done  
18 speaking.

19 I would like to thank the  
20 Tribunal for its indulgence today in allowing us  
21 to run a little on the late side.

22 JUDGE CRAWFORD: Any redirect?

23 Sorry, is there any redirect.

24 MR. LUZ: Sorry, here we go.

25 Can you hear me now, Judge Crawford?

1 JUDGE CRAWFORD: Yes.

2 MR. LUZ: I am sorry. Could  
3 we ask for five minutes of the Tribunal's  
4 indulgence? My colleague who is doing the  
5 redirect is not actually in our room, and so I  
6 need to confer with him virtually, if that's okay.

7 JUDGE CRAWFORD: You can have  
8 four minutes.

9 MR. LUZ: Yes, sir, thank you.

10 --- Upon recess at 2:30 p.m. EST.

11 --- Upon resuming at 2:36 a.m. EST

12 MR. MANGHAT: Thank you for  
13 your patience, Judge Crawford. We just have two  
14 quick questions for you, for the witness here on  
15 redirect. Sorry, I think you are on mute.

16 MS. D'AMOUR: Sorry,  
17 Mr. Coolican, you will have to use the remote in  
18 that room to unmute boardroom. I am not sure if  
19 you're able.

20 MR. MANGHAT: Judge Crawford,  
21 may I proceed?

22 JUDGE CRAWFORD: Yes, please.

23 MR. MANGHAT: Thank you.

24 RE-EXAMINATION BY MR. MANGHAT:

25 Q. Mr. Coolican, I am just

1 going to ask you a couple of questions now to give  
2 you an opportunity to elaborate on two quick  
3 issues that were raised in your cross-examination.

4 Earlier, Mr. Levine asked you  
5 about the renewable energy standard costs, and he  
6 took you to the UARB decision. It's Exhibit  
7 C-184. We are looking at paragraph 158.

8 Chris, are we able to pull up  
9 Exhibit C-184, paragraph 158? Thank you.

10 Mr. Coolican, you can see  
11 there the finding where the UARB concluded that  
12 the pricing with respect to the steam is  
13 reasonable and not subsidized by ratepayers; was  
14 that your understanding?

15 A. Yes, it is.

16 Q. Okay. And, Mr. Coolican,  
17 you had indicated that it was the province's  
18 understanding that there would be no additional  
19 incremental costs for the RES and biomass plant.

20 Has the province paid any  
21 additional RES costs or any additional costs for  
22 the biomass to the benefit of PHP?

23 A. No, there have been no  
24 additional RES costs, and there have been no  
25 additional biomass costs. I mean, there are,

1 there are costs associated with biomass generally,  
2 and what the province got in return were -- was  
3 renewable electricity that served ratepayers and  
4 was not out of line with -- not only was it  
5 renewable, but it was firm, so it helped the  
6 province to stabilize the electricity system  
7 during the early years as more and more wind was  
8 coming on.

9 MR. MANGHAT: Thank you,  
10 Mr. Coolican.

11 We don't have any more  
12 questions at this time, so I would like to ask the  
13 Tribunal if they have any more additional  
14 questions for Mr. Coolican.

15 JUDGE CRAWFORD: Do either of  
16 my colleagues have any questions?

17 PROFESSOR LÉVESQUE: I have a  
18 quick one, please.

19 JUDGE CRAWFORD: Yes.

20 QUESTIONS BY THE TRIBUNAL:

21 PROFESSOR LÉVESQUE: Hi.

22 THE WITNESS: Hi.

23 PROFESSOR LÉVESQUE: I have a  
24 quick question regarding the possibility of the  
25 government to be co-applicant in a proceeding in

1 front of the UARB. So Respondent has argued in  
2 its -- I believe it was a counter-memorial that  
3 Government of Nova Scotia did not want to be a  
4 co-applicant, and I would like you, if you could  
5 explain a little bit in which circumstances the  
6 government would be a co-applicant?

7 THE WITNESS: I am not sure  
8 there would -- there certainly were never during  
9 my eight years as deputy minister, and I can't  
10 think of other examples where the Nova Scotia  
11 government would be a co-applicant before the  
12 Utility and Review Board.

13 The applicants were usually  
14 companies or organizations that were subject to  
15 regulation by the Utility and Review Board. The  
16 Nova Scotia government was not subject to  
17 regulation by the Utility and Review Board, so I  
18 couldn't see any circumstance in which we would be  
19 a co-applicant.

20 PROFESSOR LÉVESQUE: All  
21 right. Thank you for this.

22 JUDGE CRAWFORD: That's the  
23 question. We have no further questions for you.  
24 Thank you very much for your evidence. It was  
25 very forthright and very illuminating.

1                   That concludes the evidence in  
2                   the proceedings for today.

3                   We start tomorrow morning at,  
4                   I think, 10 o'clock -- 2 o'clock. I am sorry --  
5                   we start tomorrow at 2 o'clock in the afternoon to  
6                   hear...

7                   PROFESSOR LÉVESQUE: For us,  
8                   that's 8 a.m.

9                   JUDGE CRAWFORD: Yes, that's  
10                  the witness in exile, so to speak. Presentation  
11                  by Mr. Hausman.

12                  So we start tomorrow at 8  
13                  o'clock for 15 minutes -- let me sure that's  
14                  right. That's on Thursday.

15                  We start tomorrow at 8 o'clock  
16                  EST, 9 o'clock ADT, 2 o'clock Cambridge time, the  
17                  Hague time, the testimony of Alex Morrison and  
18                  Seth Kaplan. Only two witnesses. And then -- so  
19                  tomorrow will be a rather short day. And  
20                  Thursday, we move to Hausman.

21                  MR. FELDMAN: Judge Crawford,  
22                  there was a change, I think, but my calendar may  
23                  be wrong. I think we begin with Mr. Morrison and  
24                  then continue with Professor Hausman tomorrow. We  
25                  made that adjustment because you quite rightly

1 identified him in exile. He is in California.  
2 And rather than rouse him at 5 in the morning, we  
3 are going to rouse him for 8 in the morning. So  
4 Professor Hausman will be tomorrow after  
5 Mr. Morrison, and he swapped places with  
6 Dr. Kaplan because of the time zones.

7 JUDGE CRAWFORD: All right, we  
8 will proceed on that basis. Thank you very much.  
9 Have a pleasant evening.

10 --- Whereupon matter adjourned at 2:43 p.m. EST,  
11 to be resumed Wednesday, November 11, 2020, at  
12 8:00 a.m. EST

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