

THE ALBERTA ENERGY REGULATOR

PROCEEDINGS ID NO. 417

IN THE MATTER OF the Regulatory Appeal by  
Michael Judd of the AER's decision to approve  
Application No. 31097955 and issue  
Pipeline Licence No. 62559 to  
Pieridae Alberta Production Ltd.  
on August 16, 2021  
(Regulatory Appeal 1935549)

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AER PROCEEDING

VOLUME 3

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Calgary, Alberta  
November 21, 2024

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1 Proceedings taken at Govier Hall, Calgary,  
2 Alberta

3

4 November 21, 2024

Morning Session

5

6 C.L.F. Chiasson

Hearing Commissioner

7

H. Robinson

Hearing Commissioner

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Hearing Commissioner

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Michael Judd

1 R.M. Johanson, CSR(A) Official Court Reporter  
2 A. Vidal, CSR(A), RPR, RMR Official Court Reporter

3

4 (PROCEEDINGS COMMENCED AT 9:04 AM)

5 Opening Remarks

6 THE CHAIR: Please be seated.

7 So good morning, everyone. Welcome back to  
8 Day 3 of our hearing. Happily, I have no  
9 warnings to share today in terms of anything  
10 that we anticipate beeping or going off or  
11 otherwise.

12 So as per usual, the standard reminders  
13 that -- to be sure that you have turned all  
14 your electronics, phones, computers, or  
15 otherwise to silent and also to remind everyone  
16 in the room that the hearing is being video  
17 cast, and anyone in the room, including in the  
18 audience, maybe caught on the -- shown on the  
19 video cast; so if you have concerns, please  
20 approach Ms. Arruda or our counsel to discuss.

21 Are there any matters to discuss before we  
22 move ahead, Mr. Sawyer?

23 M. SAWYER: Good morning.

24 Just a very quick thing. So the last three  
25 days driving in from Nanton with this weather  
26 has been particularly treacherous and -- and I

1           would say if -- if anything went sideways, I  
2           would not be able to make it on time. And so I  
3           wanted to ask if the Panel would agree to start  
4           the proceedings tomorrow at 9:30 rather than 9  
5           just to give me a little margin of error. And  
6           I've canvassed the other counsels, and  
7           everyone's in agreement with that.

8           So that's my preliminary matter.

9           THE CHAIR:                               Thank you,  
10          Mr. Sawyer.

11                 I think we haven't had a chance to --  
12           actually, we are anticipating releasing our  
13           subject-matter experts so that they don't  
14           necessarily have to attend tomorrow.

15                 Counsel, do we have any concerns?

16          B. KAPEL HOLDEN:                       No. No concerns.  
17           Our normal start time would've been at -- I  
18           believe at 9:00; so it would just be a half an  
19           hour --

20          THE CHAIR:                               Yeah.

21          B. KAPEL HOLDEN:                       -- day.

22          THE CHAIR:                               No. The only  
23           reminder that I would throw out for all the  
24           parties there is, similarly to you travelling,  
25           Mr. Sawyer, is that when we close this hearing  
26           fully, Commissioner Robinson and I both have to

1 travel back to Edmonton; so we are equally  
2 interested in time limits and travel safety.  
3 So, yes, we will plan to start tomorrow then at  
4 9:30 rather than 9:00.

5 So thank you for raising that, Mr. Sawyer.

6 M. SAWYER: And thank you.

7 THE CHAIR: So today what we  
8 have on our schedule --

9 THE COURT REPORTER: I'm sorry. We  
10 tested this out this morning. It's not  
11 working. Could we just take two minutes just  
12 to shut down and start again?

13 THE CHAIR: All right. Let's do  
14 a reboot for the court reporters.

15 So we'll just pause, and then I'll launch  
16 on with what else I was going to say.

17 (ADJOURNMENT)

18 THE CHAIR: Now, it appears  
19 we're good to go. So this morning -- or today  
20 is primarily set aside for cross-examination of  
21 the witness panel provided by regulatory  
22 applications. So that will include  
23 cross-examination by Mr. Sawyer on behalf of  
24 Mr. Judd. I can say right now that the Panel  
25 and our staff will have questions for this  
26 witness panel; so we will work that in

1           accordingly.

2           And once all that is done, Mr. Sawyer will  
3           have the opportunity, if you and Mr. Judd wish,  
4           to bring reply evidence. So we would look at  
5           that, and then that would ideally take us to  
6           closing the evidence for the hearing and then  
7           breaking, and we would come back tomorrow to  
8           hear a final argument from the parties. So  
9           that's the scope of our day.

10           So no other preliminary matters to come up?  
11           No? All right. Then, Mr. Sawyer, the floor is  
12           yours to proceed with -- actually, we should  
13           swear the witnesses first, and then,  
14           Mr. Sawyer, you can proceed once they're sworn.

15           STUART LLOYD, MELISSA BARG, DAVID GRZYB,  
16           Affirmed

17           M. Sawyer Cross-examines the Alberta Energy  
18           Regulator Regulatory Applications Witnesses

19           D. BREZINA:                           I had intended to  
20           introduce the witnesses, if that's all right.

21           THE CHAIR:                           Yes. Go ahead,  
22           Ms. Brezina.

23           D. BREZINA:                           Great. As  
24           regulatory applications did not file a  
25           submission in this proceeding, we have no  
26           direct evidence and are presenting witnesses



1 for questioning on direction of the panel.

2 Included in our panel, closest to me is  
3 Mr. Dave Grzyb, who is with regulatory  
4 applications, surface infrastructure. He was  
5 involved in the technical review of the  
6 pipeline application at issue.

7 Next is Ms. Melissa Barg with AER liability  
8 management, who was involved in preparation of  
9 the disclosure.

10 Finally, Mr. Stuart Lloyd with AER  
11 liability management, who was also involved in  
12 preparation of the disclosure. Thank you.

13 THE CHAIR: Thank you,  
14 Ms. Brezina.

15 Mr. Sawyer, it's now open to you to  
16 proceed.

17 Q M. SAWYER: Good morning, panel.  
18 How are you this morning?

19 A D. GRZYB: Good, thanks.

20 Q As you likely know, my name is Mike Sawyer, and  
21 I will be asking you a series of questions on  
22 behalf of Mr. Judd.

23 I just want to give you a little brief  
24 outline of where -- you know, what I'm going to  
25 try to cover today. My goal today is to get a  
26 general understanding of the purpose of the LCA

1 in the broader context of the AER's management  
2 scheme for closure liabilities both in general  
3 and for specific companies. Then I want to  
4 delve into the Pieridae's LCA and information  
5 that was used by regulatory applications to  
6 prepare the redacted Pieridae LCA. Finally, I  
7 have some questions about how Mr. Judd should  
8 view the LCA results, specifically the redacted  
9 LCA results, and the subsequent actions of  
10 Mr. Judd, should that give Mr. Judd any sense  
11 of comfort with respect to Pieridae's  
12 operations.

13 So on this panel is there a particular  
14 person that would be able to provide me with  
15 some overarching regulatory context on the  
16 application? Would that be you, sir?

17 A Yes. I can give you some general direction or  
18 general information about how applications  
19 proceed.

20 Q Okay. And before I delve into that, I do have  
21 a couple preliminary questions. Does  
22 regulatory applications understand that  
23 Pieridae Alberta Production Limited is a wholly  
24 owned subsidiary of Pieridae Energy Limited?

25 A Yes.

26 Q Okay. And does regulatory applications

1 understand that Pieridae Alberta Production  
2 Limited holds nearly all of the assets of the  
3 parent company, Pieridae Energy?

4 A Sorry. Could you repeat that.

5 Q Does regulatory applications understand that  
6 Pieridae Alberta Production Limited holds  
7 nearly all of the assets of the parent company,  
8 Pieridae Energy?

9 Discussion

10 D. BREZINA: Excuse me for rising  
11 so quickly, but I just have to question the  
12 relevance of that question.

13 M. SAWYER: There was some  
14 discussion yesterday afternoon about the  
15 corporate structure and who has the pipeline  
16 application and such. And when I get into the  
17 discussion about the LCA and how it was done,  
18 it's absolutely relevant to -- in terms of  
19 which company -- which company's financial  
20 information would have been used in the  
21 analysis.

22 So that's the context of -- I'm not going  
23 to go into this too far. I just want to  
24 establish, as a matter of fact, is there an  
25 understanding within the AER regulatory group  
26 that -- okay.

1 THE CHAIR: Okay. We'll --

2 D. BREZINA: I also have to just  
3 comment that financial information is not  
4 relevant, I believe, in this proceeding.

5 THE CHAIR: So, Mr. Sawyer, I  
6 recognize that there is on the record some  
7 financial information; so we'll give you a  
8 little bit of leeway here. I think we would  
9 look to see the questions be a little more  
10 specific as you get into the LCA piece.

11 M. SAWYER: Yeah.

12 THE CHAIR: So -- but because  
13 you're asking them in terms of level of  
14 knowledge, I'd -- we'll let the question go for  
15 now.

16 M. SAWYER: And I appreciate  
17 that. And it's not my intention to delve into  
18 any specifics on the financial side. I'm just  
19 setting the broad sort of context of what their  
20 understanding was when they prepared the LCA.

21 THE CHAIR: All right.  
22 Actually, before you proceed, Mr. Grzyb, could  
23 you just move the microphone a little closer to  
24 you? I find I'm having difficulties hearing  
25 you clearly. Thank you.

26 M. Sawyer Cross-examines the Alberta Energy

1 Regulator Regulatory Applications Witnesses

2 Q M. SAWYER: So just because I  
3 want to be clear, your response to the last  
4 question was that you are aware of that -- of  
5 that -- the response to the last -- does  
6 regulatory applications understand that  
7 Pieridae Alberta Production Limited holds  
8 nearly all of the assets of the parent company,  
9 Pieridae Energy, and your response was yes?

10 A D. GRZYB: No. I hadn't really  
11 responded to that one because I wasn't sure of  
12 the question.

13 Q Okay. I misunderstood.

14 A Yeah. My comment would be -- is that the  
15 financial affairs of the companies is not  
16 something that's within my wheelhouse. Perhaps  
17 my colleagues here might have further comment  
18 on that.

19 A M. BARG: So I think specific  
20 to the question that you asked related to the  
21 LCA. So in Exhibit 171.02, which is the  
22 disclosure in the LCA, so specifically the  
23 licensee capability assessment that was  
24 prepared. It was prepared specifically for  
25 Pieridae Alberta Production Limited.

26 Q And I'm going to follow up on that. But just

1 before we do that, can -- does Alberta  
2 regulatory applications understand that the  
3 parent company, Pieridae Energy, does not have  
4 an AER BA number?

5 A Correct.

6 Q Okay. I'm going to pull up Directive 067. So  
7 it's my understanding that in the regulatory  
8 context of liability assessment and AER trying  
9 to deal with some of these closure issues that  
10 one of the prime directives is Directive 067.  
11 Would you agree?

12 A So Directive 067 is one of the many  
13 requirements that licencees need to follow and  
14 address.

15 Q And it is Directive 067 that directs a company  
16 to submit financial information; correct?

17 A Yes. Directive 067. And it might be helpful  
18 to maybe bring it up on the screen. So if we  
19 can scroll down to Section 4.4. So you can see  
20 here that it outlines that financial  
21 information will be used by the AER for four  
22 reasons, and then an applicant must submit a  
23 complete financial summary, Schedule 3. So  
24 that's to obtain initial eligibility.

25 And then if we scroll down to Section 4, I  
26 believe -- or -- 5. Sorry. Section 5. So

1 "Maintaining Licence Eligibility". And if we  
2 look at Requirement 14: (as read)

3 The licensee and approval holders must  
4 submit financial statements as well as  
5 a financial summary [which is called  
6 Schedule 3] annually through our  
7 electronic system.

8 Q So I want you just to go back to Section 4.4  
9 starting on PDF page 5 and then rolling over to  
10 PDF page 6, and under paragraph 11(c), which is  
11 on page 6, can you read that paragraph for me,  
12 please.

13 A Sure. (as read)

14 If the financial records of the  
15 applicant are consolidated into  
16 another corporation's consolidated  
17 financial statements, the parent  
18 corporation, then the financial  
19 summary, Schedule 3, for the parent  
20 corporation and its consolidated  
21 financial statements must also be  
22 submitted.

23 Q Okay. And -- and so we understand that the  
24 applicant in this case was Pieridae Energy --  
25 bear with me -- I want the terms here --  
26 Production Alberta Limited; correct?

1 A So maybe we can just clarify it was the  
2 applicant for the pipeline licence that  
3 you're --

4 Q Yes.

5 A -- asking about?

6 Q The applicant for the pipeline.

7 A Correct.

8 Q And that that company is a wholly owned  
9 subsidiary of Pieridae Energy Limited; correct?

10 A So I believe that was a bit of a discussion  
11 yesterday, but I don't believe that that is  
12 something I can specifically respond to as it  
13 relates to that.

14 M. SAWYER: Okay. Let me --  
15 let's keep that handy, but I'd like you to  
16 bring up Exhibit 182.2 and if you could scroll  
17 down, I'm thinking, three pages. More.  
18 Maybe -- maybe another page. There we go.

19 Q M. SAWYER: So in Exhibit 182.2,  
20 that's a document published by Pieridae Energy,  
21 "Annual Information Form". They -- they show  
22 the corporate -- intercorporate relationships,  
23 and you see that in Table 2 it shows Pieridae  
24 Energy Limited owning 100 percent of the shares  
25 of Pieridae Alberta Production Limited;  
26 correct?



1 A M. BARG: So while that's  
2 what's shown on the screen, I was directly  
3 involved with the disclosure which was prepared  
4 specifically for Pieridae Alberta Production  
5 Limited. So I can't comment further on this.

6 Q Okay. So having -- having seen that, I want to  
7 go back to the -- the page in Directive 067  
8 that we were on, and the paragraph that I had  
9 you read was -- it essentially says if the  
10 applicant is -- is a subsidiary of a parent  
11 company that they need to file the -- and --  
12 and the parent companies puts their financial  
13 information as consolidated financial  
14 statements that they need to -- it says:  
15 (as read)

16 Then the financial summary for the  
17 parent corporation and its  
18 consolidated financial statements must  
19 also be submitted.

20 You have no reason to challenge that statement;  
21 correct?

22 A So I think specifically based on Directive 067,  
23 Pieridae holds general eligibility, and if we  
24 look at this requirement, it's an annual  
25 requirement to maintain their eligibility.

26 Q Okay. So getting back to the LCA, was the

1 financial -- and I'm not asking for the  
2 financial information. I just want a  
3 confirmation. In submitting their financial  
4 information, did they follow this requirement?

5 A Based on the information that we currently have  
6 that's within the LCA, the financial  
7 information was submitted in accordance with  
8 Directive 067.

9 Q So it would've been the -- the consolidated  
10 audited financial statements of Pieridae  
11 Energy?

12 A I can't speak specifically to what came in for  
13 that. However, based on the information within  
14 the LCA and with them holding general  
15 eligibility under Directive 067, they've met  
16 the requirements for Directive 067.

17 Q Okay. And are you aware from our discussion  
18 yesterday and from the record of this  
19 proceeding that -- that the parent company,  
20 Pieridae Energy, is publicly traded on the TSX  
21 and it does publish consolidated public  
22 financial statements that would also include  
23 Pieridae Alberta Production Ltd.?

24 A So, again, based on discussions yesterday, that  
25 did come up. The requirements for  
26 Directive 067 are clear of what information

1 needs to be submitted to the AER, which is then  
2 held confidential under the Oil and Gas  
3 Conservation Rules.

4 Q Well, let's -- let's jump right into that. In  
5 regulatory applications' letter -- bear with me  
6 one second here. When the LCA was being  
7 prepared but prior to it being released,  
8 regulatory apps sent a letter to the Panel,  
9 which was shared with everyone, August the 2nd,  
10 Exhibit 160.01. And in that letter, regulatory  
11 applications stated: "These redactions" -- and  
12 I quote: (as read)

13 These redactions are necessary to  
14 protect the confidentiality of a  
15 licencees's financial information,  
16 both for Pieridae specifically and for  
17 its peer group. [And then you went on  
18 to cite] Pursuant to Rule 12.15(1) of  
19 the Oil and Gas Conservation Rules,  
20 the AER is legally required to keep a  
21 licencees's financial and reservoir  
22 information confidential for a period  
23 of five years.

24 D. BREZINA: Excuse me.  
25 Mr. Sawyer is quoting from legal counsel's  
26 letter. It was not prepared by this panel.

1 Q M. SAWYER: Is it true that the  
2 people who were preparing the LCA for this  
3 proceeding are under the belief that they could  
4 not -- well, no, let me back up -- that the  
5 information is confidential as per the -- the  
6 Oil and Gas Conservation Rules?

7 A M. BARG: So from a regulatory  
8 perspective, both Directive 067 and the Oil and  
9 Gas Conservation Rules speak to the  
10 confidentiality of financial information  
11 submitted by the licensee which in this case  
12 would be Pieridae.

13 Q Okay. So thank you for that.

14 If financial information is already public,  
15 as Pieridae Energy's publicly released audited  
16 consolidated financial statements are, does  
17 that section of -- does that -- are they  
18 there -- are they still confidential?

19 D. BREZINA: Excuse me. I  
20 believe he's asking for a legal opinion.

21 Q M. SAWYER: Has your group been  
22 instructed by legal counsel or someone in the  
23 AER to treat that as confidential?

24 D. BREZINA: It's -- I don't  
25 think it's appropriate to ask for legal advice  
26 or direction that these witnesses have

1 received.

2 Q M. SAWYER: So your counsel has  
3 said that the -- the information that was sent  
4 to the Panel, which is on the record of this  
5 proceeding, where they talked about -- well, I  
6 suppose where she talked about the confidential  
7 issues around Oil and Gas Conservation Rules,  
8 does this -- do the people that worked on the  
9 LCA accept that they are required to keep that  
10 information confidential?

11 A M. BARG: So the teams that  
12 work specifically with the requirements under  
13 Directive 067 and the financial situation are  
14 aware that it's confidential and treat it as  
15 such.

16 Q And you would believe that would be the case  
17 even if those are public documents?

18 A So I think we need to consider the fact that  
19 the information submitted to the AER under  
20 Directive 067 is specifically filled out as it  
21 relates to Schedule 3 and submission of the  
22 information to the requirements that are in  
23 Directive 067.

24 Q But you've acknowledged that that  
25 information -- the source of that information  
26 as the requirements of Directive 064 are coming

1 from the consolidated financial statements of  
2 the parent company, Pieridae Energy, which is  
3 public information?

4 A I think I've answered the question already, and  
5 I'm not sure if there's anything else I can add  
6 to that.

7 Q So let me ask you this question: Why are we  
8 doing this dance? You know, there's a -- I  
9 think a reasonable suggestion that the  
10 provisions of the Act or the Rules that you  
11 cite don't apply to public information. Does  
12 the AER have something to hide? It's a fair  
13 question.

14 D. BREZINA: That's a very  
15 general question. It doesn't seem appropriate.  
16 I'm looking for the Panel's direction.

17 THE CHAIR: Mr. Sawyer, I am  
18 concerned you're skating very close on the edge  
19 in terms of what the Panel had given direction  
20 on a year and a half ago in terms of being out  
21 of scope, and I would also point out that in  
22 the Panel's direction to regulatory  
23 applications on the disclosure and our finding  
24 on your amended motion that we directed that we  
25 were not going to direct disclosure, financial  
26 information, because we were not convinced that

1 disclosure of the financial information  
2 provided under Directive 067 and Directive 088  
3 was relevant.

4 So I would say part of what -- it seems to  
5 me that some of what you're getting at is  
6 matters that might be more appropriately raised  
7 in your final argument. I don't think there --  
8 some of this is you're getting dangerously  
9 close to being out of scope, and I think there  
10 are things. In particular, your last question,  
11 that is not something this witness panel can  
12 answer.

13 Q M. SAWYER: So let's -- let's  
14 back out a little bit to the question of what's  
15 the purpose of the LCA and the other related  
16 parts of the AER's regulatory process. If  
17 someone could give me a summary of what -- what  
18 is the purpose of these analyses and the  
19 associated regulatory requirements.

20 A M. BARG: So it is a very  
21 broad question. Are you able to get a bit more  
22 specific at what you're looking for? As the  
23 directives and the manual do outline that at a  
24 high level. So I'm wondering if you could just  
25 get a bit more specific with the question.

26 Q So my -- my specific question would be why does

1 the AER do -- or why did the AER conduct an LCA  
2 for Pieridae Alberta Production Limited? What  
3 were the underlying reasons for that?

4 A Could we please bring up Exhibit 154.01. And  
5 if we could go to page 5, please.

6 So at the bottom of page 5, it specifically  
7 highlights that the Panel directed AER  
8 regulatory applications to: (as read)

9 Disclose to the Panel any current  
10 licensee capability assessment or  
11 holistic assessments prepared by the  
12 AER about Pieridae Alberta Production  
13 Limited.

14 So that was why the LCA was provided, and in  
15 the exhibit it specifically outlined that the  
16 information specific for the data in our  
17 disclosure or responses -- sorry -- to the  
18 information requests in 187.2, Information  
19 Request 2.1. We specifically outlined that the  
20 information was extracted from our AER internal  
21 IT systems and databases on June 30th of this  
22 year.

23 Q Okay. So I understand that the board said  
24 provide that LC -- or the Panel said provide  
25 that LCA and that you did, but is that the  
26 reason you prepared the LCA?



1 A So the licensee capability assessment is  
2 specifically used for decisions outlined in  
3 Directive 067 and Directive 088. So if there  
4 is a decision to be made under those  
5 directives, then the LCA would be reviewed by  
6 staff and statutory decision-makers under those  
7 requirements.

8 Q And what was the date that the -- this LCA that  
9 was redacted -- I think the date on it was  
10 July 2024. Is that the date it was prepared?

11 A So as mentioned in our IR response on 187.2 for  
12 exhibit, I think we answered that in  
13 Information Request 2.1. It was pulled from  
14 our systems on June 30th, 2024.

15 Q And so -- so I just want to understand. So the  
16 data gets loaded into your system, and you  
17 can -- I want to simplify it here and say --  
18 hit a button and produce an LCA for  
19 Company XYZ, and it kicks out a result; is that  
20 correct?

21 A So to an extent, that is correct. However, we  
22 should clarify that it's not generating a  
23 result. As outlined in the manual, there's a  
24 variety of factors and parameters that the LCA  
25 is built off. So it provides a suite of  
26 information for consideration.

1 Q M-hm. And prior to the July 2024 iteration of  
2 the LCA that was produced for -- at the request  
3 of this Panel, when was the last time an LCA  
4 was produced for Pieridae by the regulatory  
5 group?

6 A So we can't specifically provide a date as it  
7 would depend on when there may have been  
8 specific decisions needing to be made under  
9 Directive 067 or Directive 088 related to  
10 Pieridae.

11 Q Has the regulatory applications groups ever  
12 done an LCA for Pieridae prior to the request  
13 from the Panel?

14 A I can't specifically comment on that as I'm not  
15 a specific decision-maker where there may have  
16 been other decisions made within regulatory  
17 applications.

18 Q Thank you for that.

19 Is there anyone on the panel who is aware  
20 if there's ever been an LCA done for Pieridae  
21 prior to the August iteration?

22 A D. GRZYB: I can't really  
23 comment on that. I wouldn't know of one. It's  
24 not my role to -- to know of that.

25 A S. LLOYD: I'm not aware of any  
26 previous LCA being produced for Pieridae in

1 support of any decision.

2 Q Moving along. Can regulatory applications  
3 confirm that it has only used the information  
4 that includes the wells, pipelines, and  
5 facility that Pieridae Alberta Production  
6 Limited is the licensee and located in Alberta?  
7 I believe that you had responded that in an IR,  
8 and I just want a confirmation of that.

9 A M. BARG: If we've already  
10 responded in an IR, I think that's been  
11 answered. So if you want to reference the IR,  
12 we can confirm if there's anything further.  
13 But I think that's been answered, then.

14 Q Okay. So that would mean, then, that all of  
15 the licences that were included in Shell's  
16 failed transfer of the so-called Foothills  
17 assets are not included until the Pieridae LCA;  
18 correct?

19 A So, again, I think in some of the IRs, there  
20 were some questions related to this. The LCA  
21 information is specific to the licensee, and in  
22 this case the licensee is Pieridae.

23 Q And regulatory applications understand that a  
24 result of all that and the sale of Foothills  
25 assets did occur and that Pieridae owns those  
26 assets; correct?

1 THE CHAIR: Mr. Sawyer, transfer  
2 of the Foothills assets that's between Shell  
3 and Pieridae is clearly out of scope on this  
4 hearing. That decision was made in March of  
5 2023.

6 M. SAWYER: Respectfully,  
7 Commissioner Chiasson, I disagree in the  
8 context of my question. I want to understand  
9 what the inputs were to the LCA that was  
10 submitted. And so I'm just -- I'm not going  
11 into the transfer. I just want to confirm that  
12 the information that was used in that LCA did  
13 not include the transfer information.

14 THE CHAIR: And I believe you  
15 have an answer from the panel saying that it  
16 was asked and answered in relation to the  
17 information requests that you provided related  
18 to the disclosure.

19 Q M. SAWYER: So can regulatory  
20 applications tell me how, if at all, the  
21 current ownership licence situation with Shell  
22 and Pieridae affected your LCL analysis.

23 A M. BARG: So, as previously  
24 answered, the LCA is specific to a licensee and  
25 their specific licences, and in this case it's  
26 Pieridae.

1 Q So the current situation didn't affect your  
2 analysis?

3 A I think I've answered that question. We've --  
4 LCA is specifically related to Pieridae and  
5 their licences.

6 Q So in the LCA that you prepared, did you  
7 include the revenues that Pieridae Energy is  
8 claiming in their financial statements that  
9 were derived from the Foothills assets?

10 A So I believe there was a similar question to  
11 this in the IR. So if you can just bear with  
12 me for a moment.

13           Could we please bring up Exhibit 187.2, and  
14 if we can go to Information Request 5.4. So I  
15 believe there is a suite of questions here  
16 related to cash flow and the reserve  
17 information. Then we did respond to it, and it  
18 does reference how that's determined in  
19 Manual 23.

20 Q Thank you for that.

21           But that IR doesn't answer the question I  
22 asked, and that is did you use the financial  
23 information from Pieridae that included the  
24 revenues from the Foothills assets?

25 A So, again, I think it's specific. How the  
26 information within the licensee capability

1           assessment is determined is outlined in  
2           Manual 23, which is as defined on the screen  
3           there in the exhibit. That's how  
4           information -- the LCA is determined.

5       Q    Thank you. But you didn't answer my question.  
6           Did you use the financial information from  
7           Pieridae, which included revenues from the  
8           Foothills assets, in calculating the LCA?

9       THE CHAIR:                    While the witness  
10          panel is discussing, we would like to ask that,  
11          Mr. Sawyer, both you and the witness panel be  
12          clear when you're referring to Pieridae whether  
13          you are referring to Pieridae Energy or  
14          Pieridae Alberta Production Ltd.

15       M. SAWYER:                    I'm sorry,  
16          Commissioner Chiasson. I didn't quite hear  
17          that.

18       THE CHAIR:                    We would like both  
19          you and the witness panel in this process of  
20          this cross-examination to be clear when you're  
21          asking and answering questions for our purposes  
22          so that we understand. When you're referring  
23          to Pieridae, we want you to indicate to us are  
24          you referring to Pieridae Energy or to Pieridae  
25          Alberta Production Ltd.

26       M. SAWYER:                    I understand that.

1 Thank you.

2 And, for clarification, if I'm referring to  
3 the redacted LCA, I am referring to Pieridae  
4 Energy Production Limited -- or Pieridae  
5 Alberta Production Limited.

6 A M. BARG: Can you just repeat  
7 the question, please.

8 Q M. SAWYER: Did the redacted LCA  
9 analysis include the revenues reported in  
10 Pieridae Energy's consolidated financial  
11 statements that reported revenues from the  
12 Foothills assets? Was that revenue amount  
13 included in your analysis?

14 Discussion

15 D. BREZINA: I think I need to  
16 object because it sounds very much like  
17 Mr. Sawyer is asking about information  
18 submitted -- financial information submitted.  
19 I believe that's out of scope.

20 M. SAWYER: My response to that  
21 would be that the LCA was submitted, prepared  
22 by regulatory affairs, and it's an opportunity  
23 for us to understand how that evidence was  
24 prepared. And so I'm not asking for actual  
25 financial numbers. I'm -- what I'm questioning  
26 is the methodology and what the source of the

1 data was. And so I don't think that  
2 transgresses the boundaries that have been put  
3 on me.

4 THE CHAIR: Mr. Sawyer, what  
5 you're asking for, though, is material that the  
6 Panel directed was not part of the disclosure  
7 and that we were -- we said was out of scope,  
8 and, hence, that it was not part of the  
9 disclosure. So it's not on our record.

10 M. SAWYER: Maybe I seek your  
11 direction, then. Am I entitled to ask  
12 questions about the methodology that we used to  
13 prepare the LCA that was submitted as evidence  
14 in this? Is that outside my scope?

15 THE CHAIR: Mr. Sawyer, I think  
16 you can ask questions in terms of understanding  
17 the methodology of how an LCA is prepared. I  
18 think that in terms of understanding the  
19 methodology, understanding how an LCA comes  
20 about, how it's prepared, that is the case. I  
21 think it's not necessary for the purposes of  
22 this proceeding, given the scope that we set  
23 and the direction that we gave on the  
24 disclosure, to delve into the specifics of  
25 Pieridae Energy and/or the Foothills assets.

26 M. SAWYER: My response to that,



1 Commissioner Chiasson, would be that, you know,  
2 we actually have a very unique situation here.  
3 You know, we -- we're almost five years into a  
4 process on a 640-metre long pipeline, which is  
5 really quite remarkable. And the context of  
6 this is largely related to the history of this,  
7 and so finding out the methodology that was  
8 used to prepare the evidence that the  
9 regulatory panel has submitted is actually very  
10 germane.

11 And if -- in fact, they've stated at the  
12 front end they did not use anything that was  
13 not related to Pieridae Alberta Energy -- or  
14 Energy Production Limited, and yet they're  
15 having difficulty answering the question of did  
16 they use the financial information -- the  
17 consolidated financial information from  
18 Pieridae Energy.

19 And so I think it's very germane and very  
20 relevant to understanding the methodology. I'm  
21 not asking for numbers. I'm not asking for how  
22 that affects their analysis. I just want to  
23 understand the methodology that they used in  
24 doing the LCA.

25 THE CHAIR: So, Mr. Sawyer, I'll  
26 make it clear. You can ask questions about --

1 generally speaking about methodology of how LCA  
2 is prepared. You can ask questions about how,  
3 in doing an LCA, they would consider a parent  
4 company vis-à-vis a subordinately owned. And  
5 we were not getting into specifically the  
6 specific companies or the Foothills assets. So  
7 you may ask questions broadly and generally  
8 about the process, but the Foothills assets and  
9 the financial information that -- is out of  
10 scope and is clearly out of scope and has been  
11 for some time.

12 M. SAWYER: You know,  
13 Commissioner Chiasson, I don't think I'm the  
14 sharpest pencil in the room, but I'm not a  
15 stupid man. And I'm not asking for financial  
16 information. I'm ask -- I'm testing the  
17 methodology -- the general methodology in the  
18 context of the specific evidence that this  
19 panel submitted to this regulatory review. And  
20 so unless I get a clear ruling from you saying,  
21 It's just not relevant, I want to continue my  
22 cross.

23 THE CHAIR: Mr. Sawyer, I  
24 believe I have been abundantly clear. Material  
25 about the Foothills asset, transactions between  
26 Shell and Pieridae are out of scope. You may

1 not ask them as part of your cross-examination.

2 M. SAWYER: Fair enough.

3 M. Sawyer Cross-examines the Alberta Energy

4 Regulator Regulatory Applications Witnesses

5 Q M. SAWYER: Well, let me reframe

6 that question, if I can. Did the regulatory

7 applications group use Pieridae Energy's

8 audited consolidated financial reports as the

9 financial basis for conducting your analysis?

10 A M. BARG: Could we bring up

11 Manual 23, Section 2.1.1, please. It'll be on

12 page 2, and this is the April 2024 version,

13 please, from the website, or actually from

14 Exhibit Number 221.2. So in this document I

15 believe it should be page 3 -- or -- sorry --

16 not page 3. Just bear with me for a minute.

17 If we could just scroll down. I believe it

18 should be page 6. One more. Sorry.

19 So in answer of your question, if we look

20 at this Section 2.1.1, it specifically

21 indicates that the ratios which are used in the

22 LCA are using information submitted directly to

23 the AER as required via Schedule 3 of

24 Directive 067. And so this requires licencees

25 to put the specific financial information into

26 that form, and then that form is then used to

1 calculate the ratios that are in Manual 23 and  
2 end up being part of the LCA.

3 Q So based on that response, I take it that  
4 regulatory applications doesn't know where the  
5 financial information comes from? Pieridae  
6 fills out the report, submits it, and you don't  
7 actually look at the -- the financial  
8 statements?

9 A The AER does have staff that do review, and we  
10 do audit financial statements.

11 Q Okay. So -- so then I'm going to circle back.  
12 Did the information that you input into your  
13 LCA model include the financial information  
14 from Pieridae Energy's audited consolidated  
15 corporate financial statements?

16 A We can't specifically respond to that as,  
17 again, it's based on how the information is  
18 submitted into Schedule 3 of Directive 067 by  
19 the licensee, Pieridae Alberta Production.

20 Q But you indicated you have staff that audited  
21 the financial statements. So have those  
22 financial statements been audited by the AER  
23 staff?

24 A I'm not able to answer that.

25 Q Is anyone on the panel able to answer that?

26 A No.

1 Q I take it you're their supervisor?

2 A No. None of us are financial specialists with  
3 the AER. So a financial specialist, if there  
4 was a requirement to audit, would have been the  
5 one to review.

6 Q So I just want to be clear. On this panel  
7 there are people who are involved or were  
8 involved in the -- in the initial regulatory  
9 decision to approve the pipeline?

10 A D. GRZYB: Yes.

11 Q Okay. So could you tell me, sir, when you  
12 reviewed that pipeline application why you did  
13 not enforce Section 3.012(e) of the Oil and Gas  
14 Conservation Regulations.

15 A I can't speak directly to that not being  
16 familiar with it. The way our application  
17 process works is it looks to see that the  
18 licensee in question has eligibility to receive  
19 a licence, and our application process does not  
20 go beyond that.

21 Discussion

22 D. BREZINA: Can you repeat the  
23 section number that you quoted.

24 M. SAWYER: Yes. I was  
25 referring to Section 3.012(e) of the Oil and  
26 Gas Conservation Regulations.

1 THE CHAIR: Perhaps for the  
2 benefit of the Hearing Panel, Mr. Sawyer, you  
3 could tell us what that section is about  
4 because we don't have it in front of us.

5 D. BREZINA: I -- I do just want  
6 to indicate that we're talking about a pipeline  
7 licence; so just a small point that the Oil and  
8 Gas Conservation Regulations do not apply to a  
9 pipeline licence application or a pipeline  
10 licence.

11 THE CHAIR: Thank you,  
12 Ms. Brezina.

13 M. SAWYER: Shall I give you  
14 some context of that, or do you want me to just  
15 move along?

16 THE CHAIR: I'll leave it to you  
17 given Ms. Brezina's comment in relation to  
18 applicability of the oil and gas rules to  
19 pipeline applications or non-applicability.

20 So, Mr. Sawyer, what it is if you intend to  
21 pursue the question further based on that  
22 Ms. Brezina has pointed out that the Oil and  
23 Gas Conservation Rules, the AER does not apply  
24 them to pipeline licence applications, that --  
25 you know, you could do so and explain to us  
26 what the provision of the question was, or you

1           could move on. I leave it open to you.

2           M. SAWYER:                           I'm going to save it  
3           for final argument.

4           M. Sawyer Cross-examines the Alberta Energy  
5           Regulator Regulatory Applications Witnesses

6    Q    M. SAWYER:                           So yesterday we  
7           heard Pieridae confirmed that it is not the  
8           licencee of record for the Waterton 610 wells,  
9           which is where the gas will come for to fill  
10          this pipeline, and -- and that Shell remains  
11          the licencee of record for those wells. Does  
12          regulatory applications understand that?

13   A    D. GRZYB:                           That's not really a  
14          point of contention as part of this pipeline  
15          application.

16   Q    Fair enough. But not being a point of  
17          contention, then, you would confirm that you  
18          understand that is what Pieridae confirmed  
19          yesterday in the hearing?

20   A    I can't confirm that, no.

21   Q    Okay. When you -- when you do a pipeline  
22          application, sir, is there anything in the  
23          legislative regulatory scheme that -- that  
24          would require you to consider the need for the  
25          pipeline?

26   A    Generally speaking, I would say no. That's

1           sort of a -- well -- generally -- well, I  
2           should say we -- we -- we do see sometimes  
3           pipeline applications that it's not totally  
4           clear what its intended or final purpose will  
5           be, but, you know, we -- we look at each  
6           application on its own merits.

7       Q     So the panel would confirm that your  
8           overarching governing legislation does require  
9           consideration of things like, you know, social  
10          effects, effects on the environment, and the  
11          broader public interest; is that correct?

12       A     Yes.

13       Q     And wouldn't normally that broader  
14          consideration include a consideration of the  
15          need for the project?

16       A     The project proponent is the one who determines  
17          the need for the project. I mean, our role  
18          is -- is to receive the application and  
19          evaluate it for suitability.

20       Q     So at no time in your process do you consider  
21          whether the project is in the public interest,  
22          given your governing legislation. You just  
23          accept whatever proposition puts forward by the  
24          applicant?

25       A     Unless directed for other reason to look beyond  
26          that. A discrete application is just



1 considered on its own merit.

2 Q Okay. Thank you for that, sir.

3 In your consideration of the application,  
4 is one of the factors that you have a checkbox  
5 for is whether the ERP provisions have been  
6 followed by the applicant?

7 A Yes.

8 Q And -- and on this application you checked  
9 that, and -- and he -- they have checked that  
10 box?

11 A Yes.

12 Q So one of my questions would be -- you know,  
13 we're several years into this process, and  
14 we've had a -- basically a constant litany of  
15 revisions and -- and new documents. Some were  
16 submitted by Pieridae on their own volition,  
17 and some were at the request of the Panel.  
18 What was different from what's on the record  
19 now as the current versions versus what you saw  
20 back in 2021, 2022?

21 A I'm afraid I don't understand your question.

22 Q And you did review the -- the ERPs back when  
23 you originally did the ...

24 A I did not. I -- I reviewed the technical  
25 aspects related to pipeline design and  
26 engineering and construction. We had other

1 SMEs look at the other issues.

2 Q But that is one of the factors that your  
3 group --

4 A Yes.

5 Q -- would have checked the box on? Okay.

6 So in checking the box, I'm assuming that  
7 you would've concluded that the application was  
8 in compliance with Section 8 of the Oil and Gas  
9 Conservation Rules?

10 A We follow the Pipeline Act and Pipeline Rules  
11 and Directive 056 when we evaluate a pipeline  
12 application.

13 Q And so you're saying the Oil and Gas  
14 Conservation Rules are not applicable?

15 A Not to pipeline, as Ms. Brezina has indicated.

16 Q What -- what is the legal authority basis for  
17 requiring pipeline operators to have -- prepare  
18 and submit EPRs?

19 D. BREZINA: I think given the  
20 way the question was stated, it's --

21 M. SAWYER: A legal question.

22 D. BREZINA: -- clearly not  
23 appropriate.

24 THE CHAIR: Yeah. Mr. Sawyer,  
25 I'm assuming what you're looking for is the  
26 legislative basis --

1 M. SAWYER: Yes.

2 THE CHAIR: -- for requiring an

3 emergency response plan for a pipeline? Okay.

4 Rephrase the question, please.

5 Q M. SAWYER: When you're  
6 considering a pipeline application, what is the  
7 legislative basis for requiring companies to  
8 submit emergency response plans?

9 A D. GRZYB: Well, that's  
10 included in the --

11 THE COURT REPORTER: Sorry. I can't hear  
12 you.

13 A D. GRZYB: Oh, yeah. The mic  
14 is not on. Whoops. There we go.

15 Sorry. What -- what was the question  
16 there?

17 Q M. SAWYER: Sorry?

18 A Sorry. The question again, please.

19 Q Yeah.

20 When you're considering a pipeline  
21 application, what is the legislative authority  
22 which allows you to require a company to submit  
23 an emergency response plan?

24 A The Pipeline Rules require that a company  
25 that's proposing a pipeline with sour gas in it  
26 follow Directive 071 and submit emergency

1 planning information as per Directive 071.

2 Q And when they submit that ERP under  
3 Directive 071, does Directive 071 also require  
4 that they incorporate that into their corporate  
5 ERP or other facilities and other pipelines  
6 other than the applicant pipeline?

7 A I'm not able to answer that. The evaluation of  
8 EPZ and ERP is -- is not my role.

9 Q Okay. I'm going to ask -- sorry. Did I cut  
10 you off?

11 A No. No.

12 Q My apologies.

13 M. SAWYER: Can I ask that  
14 Exhibit 002.02 be pulled up to PDF page 432,  
15 please. If you could scroll down, please,  
16 again. Maybe I have -- I may have the wrong  
17 reference.

18 Q M. SAWYER: When I looked at the  
19 original record of the decision-maker, there  
20 was a reference to a term, "SOCAR 1404", and I  
21 just wanted -- what does that term mean?

22 A D. GRZYB: I believe that's the  
23 record of -- of a statement of concern that's  
24 been received.

25 Q Okay. Thank you very much for that.

26 And -- and just to confirm, based on our

1 earlier conversation, when I asked if you had  
2 done LCAs prior to Pieridae's application or  
3 earlier, your response was you weren't aware of  
4 any; is that correct?

5 A I'm not aware of any, yeah.

6 Q Anyone else on the panel?

7 A M. BARG: I think, as  
8 previously indicated, we've answered that, but  
9 it does depend on if there are other people in  
10 the organization who may have had a decision to  
11 make under Directive 088 as there are other  
12 elements where the holistic licensee  
13 assessment, including the licensee capability  
14 assessment, may be used for decisions under  
15 that directive.

16 Q So thank you for that.

17 I just want to drill down -- so what is  
18 the -- give us the Reader's Digest version of  
19 why the AER prepares LCAs.

20 A So as discussed both in the requirements for  
21 Directive 088, the licensee capability  
22 assessment is part of one factor that is part  
23 of a holistic licensee assessment to look at  
24 licensees to determine their liability to meet  
25 regulatory and liability obligations across the  
26 life cycle which currently applies to decisions

1 under Directive 067 and Directive 088. It's  
2 currently not applicable under Directive 056  
3 which this licence application was under.

4 Q Okay. And -- thank you for that.

5 And can you describe in more detail the --  
6 the LCA role in AER's strategy for managing or  
7 controlling closure liabilities.

8 A Can you repeat the question, please.

9 Q Can you describe in more detail the LCA's role  
10 in the AER strategy for managing or controlling  
11 closure liabilities.

12 A So I'm not entirely clear on your question.  
13 But when we look at closure and potential  
14 closure obligations, part of the LCA, of  
15 course, has the magnitude of liability, which  
16 is broken up into a variety of factors, and the  
17 inactive liability portion is used to set  
18 mandatory closure spends on an annual basis.

19 Q Okay. And tell us why -- why is this issue of  
20 closure spend -- like, why is this an issue?  
21 Like, why is it -- why is it important?

22 A So closure of energy activities is very  
23 important on the landscape as we look at energy  
24 development as it's no longer needed. Those  
25 activities need to move through the closure  
26 process to obtain a reclamation certificate.

1 Q Okay. And would it be fair to say that one of  
2 the roles of doing LCAs as a part of the  
3 process is to determine whether a company is at  
4 a high risk of defaulting on its closure  
5 liabilities?

6 A Can you clarify which process you're  
7 referencing?

8 Q The AER's process to manage closure liabilities  
9 and the role of LCA in providing flags to see  
10 when a company may default on its closure  
11 liabilities.

12 A So I think, specific to your question, you  
13 identified flags for companies. And so there  
14 are a variety of regulatory tools that AER has  
15 available to us when we're looking at licencees  
16 and their abilities to address their regulatory  
17 and liability obligations. So eligibility is  
18 one of those, and as outlined in Directive 067,  
19 there's a variety of unreasonable risks that  
20 would be identified, and that does include  
21 compliance activities which could identify  
22 ability to address closure obligations.

23 And then we can also look at -- within  
24 Manual 13, there are administrative sanctions  
25 that can be put on a company called "global" or  
26 "focus refer". So if there are concerns

1 related to a company, those are flags in the  
2 system that can be identified for a company to  
3 help identify if further review and action is  
4 needed or if there are specific requirements.  
5 And, if needed, we could bring up Manual 13 for  
6 further details.

7 Q Thank you for that.

8 You mentioned earlier "mandatory closure  
9 spends". Has AER regulatory applications  
10 required any mandatory closure spends on the  
11 part of Pieridae Alberta Limited?

12 A Yes. Pieridae Alberta Production Limited had  
13 had mandatory closure spends since they were  
14 put into place in 2022.

15 Q And without disclosing what those are, are they  
16 meeting their closure spends requirements?

17 A Based on the information we have, yes.

18 Q And you also mentioned one of the options on --  
19 one of the regulatory options you have is to  
20 require security; correct?

21 A So security can be collected for a variety of  
22 reasons under the Oil and Gas Conservation  
23 Rules, specifically for closure quotas. If a  
24 closure quota is missed, the security can be  
25 collected as it relates to addressing the  
26 noncompliance related to the closure spend.



1 Q And with respect to the applicant on this  
2 pipeline, has AER requested and/or received  
3 security from Pieridae?

4 A So specific to closure quotas and security, no.

5 Q Now, in -- you can confirm for me, if you  
6 would, that the AER's current approach to  
7 liability management is a relatively new  
8 process and it's evolving; is that correct?

9 A So there is a new process. The Government of  
10 Alberta provided direction to the Alberta  
11 Energy Regulator in July of 2020 to introduce a  
12 new liability management framework. The  
13 organization has been implementing that policy  
14 direction in phases; so, yes, it does continue  
15 to evolve and be updated and adapted as it's  
16 being implemented to meet the intent of the  
17 policy.

18 Q Thank you for that.

19 Is the security collection part of the AER  
20 closure liability process complete and  
21 operational?

22 A So the security portion to replace the  
23 liability management rating or LMR security  
24 that was part of the prior liability management  
25 system is still under development. It has been  
26 implemented in phases, and the initial security

1 requirements are outlined in Directive 088 and  
2 are specific to the closure quotas as well as  
3 the licensee management program and for  
4 applications related to transfers.

5 Q Okay. And so we can understand the context of  
6 this, are you able to tell me, you know, how  
7 much -- for the province as a whole, how much  
8 security has the AER collected?

9 A I don't have that at the top of my head. That  
10 would be something we'd have to look at.

11 Q Thank you.

12 Now, as a layperson, it's my understanding  
13 that part of the problem with this whole issue  
14 of closure and environmental liability is that  
15 it's not uncommon in Alberta for any particular  
16 company -- I'm not saying Pieridae; I'm just  
17 saying any particular company -- facing  
18 financial challenges is ordered by the AER to  
19 provide security to cover closure costs and  
20 that often that company is already insolvent  
21 and the AER is unable to collect security or  
22 enough security to cover closure costs. And  
23 this happens over and again.

24 Is that my general sense of the overall  
25 problem that these policies are trying to  
26 address?

1 A Can you maybe be a bit more specific with your  
2 question. Because the Alberta Energy Regulator  
3 doesn't set policy. We take policy direction  
4 from the Government of Alberta.

5 Q Okay. So is it not true that the well  
6 abandonment closure environmental issues have  
7 become a very large problem in Alberta and  
8 these policies and regulations are trying to  
9 address that?

10 D. BREZINA: Chairperson  
11 Chiasson, I just wanted to question the  
12 relevance of such general -- it's a very  
13 interesting topic that we care deeply about,  
14 but I'm just wondering about the relevance.

15 M. SAWYER: The relevance is the  
16 LCA has been provided as evidence in this  
17 proceeding, and I'm -- many of my questions,  
18 you'll gather, are trying to get an  
19 understanding about what is the relevance, what  
20 is the importance, why are we doing LCAs? And  
21 so I think that this is just sort of an  
22 overarching context question about what's the  
23 nature of the problem that the Government of  
24 Alberta and the AER are trying to deal with.  
25 And so I think it's quite relevant. I'm not  
26 going down this path any further than that, so

1 I -- I'd like to let my question stand.

2 THE CHAIR: I would suggest you  
3 might want to revisit your question as much as  
4 anything because you refer to well abandonment,  
5 and what we're dealing with here is a pipeline  
6 licence.

7 Q M. SAWYER: What I'm trying to  
8 understand is that it's not uncommon to have  
9 companies who are facing financial problems  
10 where the AER asks them to provide security to  
11 cover closure costs and that the company may  
12 already be insolvent or approaching insolvency,  
13 can't provide that security, and those assets,  
14 those liabilities, end up falling to the public  
15 to cover. And so I'm just trying to get a  
16 sense. Is that the sort of general nature of  
17 the problem that we're trying to address with  
18 these regulations and directions?

19 A M. BARG: So I think when  
20 we're specifically looking at the licensee  
21 capability assessment, it is providing  
22 information for us as a regulator with the  
23 current requirements under Directive 067 and  
24 Directive 088 to look at licensees across the  
25 lifecycle for specific decisions. There's a  
26 lot of different activities occurring on the

1 landscape and activities at different stages in  
2 the lifecycle.

3 There are definitely -- with Directive 067,  
4 that was one of the policy directions that we  
5 received was to assess licencees' capabilities,  
6 including their overall financial health, which  
7 is why we established the requirement to submit  
8 financial information under Directive 067 and  
9 looked to categorize licencees as low, medium,  
10 and high to determine how they are progressing,  
11 their overall capabilities to address their  
12 liability and regulatory obligations, and what  
13 additional actions the AER may need to take.

14 So in Directive 088 specifically, we do  
15 have a licensee management program where, using  
16 the information from the licensee capability  
17 assessment, further review and actions could be  
18 taken on licencees.

19 Q So one final question on this. In your  
20 experience within the AER, have you actually  
21 had experience with cases where a company in  
22 financial difficulty stops complying with  
23 safety and regulatory requirements?

24 A So I can't speak specifically to that; however,  
25 based on orders the Alberta Energy Regulator  
26 has issued, it has shown that there are

1           licenceses who have not been able to meet all of  
2           their regulatory and liability obligations, and  
3           that's where AER takes appropriate compliant  
4           steps to address those concerns.

5    Q    And in that case -- in those cases would it be  
6           reasonable to expect that a company facing  
7           financial challenges would potentially cut  
8           corners in its operation to reduce costs?

9    A    I don't think I can specifically answer that  
10           'cause that's making assumptions on companies.

11   Q    Can anyone on the panel speak to that?

12   A    S. LLOYD:                            I'd agree with my  
13           colleague. We'd be speculating on the actions  
14           of a -- of a particular company and decisions  
15           that it would make in the management of its own  
16           business.

17   Q    When regulatory applications redacted the LCA,  
18           did it have an understanding about how useful  
19           that might be to Mr. Judd?

20   A    M. BARG:                            So as outlined in  
21           our Exhibit 160.01, the August 2nd letter, the  
22           information that we specifically referenced for  
23           confidentiality was the financial information  
24           submitted to the AER which, by legislation, we  
25           are required to keep confidential. And then  
26           there were additional redactions made by the

1 Panel that I can't specifically speak to.

2 Q Okay. Now, there are provisions in the rules  
3 for disclosure of confidential information in  
4 the context of a regulatory hearing. You agree  
5 to that, that the Panel could disclose the  
6 information subject to us taking an undertaking  
7 not to disclose?

8 D. BREZINA: That's sounding like  
9 a legal question to me.

10 THE CHAIR: Mr. Sawyer, I would  
11 say you're asking them to speculate on what the  
12 hearing Panel may have had in their minds,  
13 which I don't think they have information on.

14 M. SAWYER: Fair enough.

15 Q M. SAWYER: Without confirming  
16 any specific financial information, can  
17 regulatory applications confirm that the  
18 financial information submitted to the AER by  
19 Pieridae was materially similar to Pieridae's  
20 publically available audited consolidated  
21 corporate financial statements?

22 A M. BARG: I feel like this  
23 question's similar to what we discussed earlier  
24 where, again, the financial information  
25 submitted to the AER specific for the licensee  
26 capability assessment is provided in

1           Schedule 3, and any specific details related to  
2           that would need to be addressed by a financial  
3           specialist.

4    Q    So you're saying you don't know if it's  
5           similar? Or my question is: Did you -- can  
6           you confirm it's -- it is -- is it or is it not  
7           materially similar to what Pieridae Energy has  
8           submitted in their financial statements?

9           D. BREZINA:                            If I recall  
10           correctly, I think this has been asked and  
11           answered to the extent it can be.

12          M. SAWYER:                            And I would never  
13           want to challenge your recollection.

14    Q    M. SAWYER:                            Moving along. Does  
15           regulatory applications accept and understand  
16           the notion that Pieridae Energy's publicly  
17           available corporate financial statements are  
18           audited financial statements and that they are  
19           therefore presumed to be accurate?

20    A    M. BARG:                                So similar to  
21           earlier responses, that information isn't  
22           something we can specifically speak to. We can  
23           only specifically speak to the information  
24           that's provided through the licensee capability  
25           assessment and the requirements under  
26           Directive 067 which are for the Schedule 3



1           which feeds into the licensee capability  
2           assessment.

3       Q    So just going back to the Manual 23 and the  
4           LCA, can you walk me through what steps that  
5           you -- well, first of all, let me back up.  Who  
6           on the panel actually prepared the LCA?

7       A    S. LLOYD:                    That would be me.

8       Q    Okay.  So could you walk me through the -- in  
9           parallel with the -- the steps outlined in  
10          Manual 23, could you tell me, like, in a little  
11          bit of detail what you actually did to prepare  
12          that LCA.

13      A    With that pause, could you repeat the question,  
14          please.

15      Q    Yeah.

16                Being that you were the person on the panel  
17                that actually conducted the LCA and prepared it  
18                for this proceeding, could you just walk me  
19                through the steps that you took.  Like, what  
20                did you actually do to prepare that LCA?

21      A    The production of an LCA is a largely automated  
22          process.  The -- the system mines a number of  
23          data sources.  One of those is the Schedule 3  
24          submitted under Directive 067.  The -- the  
25          production of the -- of the LCA, then, is -- is  
26          a matter of selecting the -- the licensee that

1           one is interested in and letting the -- the  
2           system cross the databases and extract the data  
3           to build the licensee capability assessment  
4           itself in its -- in its totality.

5       Q     Okay.  And following up on an earlier response,  
6           would it be my understanding that -- that you  
7           did not check or audit the -- the accuracy of  
8           the information being submitted by Pieridae?

9       A     The LCA contains information that is provided  
10          by Pieridae.  The -- the LCA also includes  
11          information from a wide range of other sources,  
12          and those data sources are verified by the  
13          teams that are responsible for that data.

14      Q     So when you -- when you say a wide range of  
15          other data, you're not talking about other  
16          sources of financial data, are you?

17      A     No, I'm not.

18      Q     No.

19                   And -- and just to confirm that your  
20          analysis on the LCA was never checked by  
21          someone else doing an audit on -- on the  
22          information that Pieridae submitted?

23      A     The -- the LCA is extracted and was provided on  
24          the basis of that extraction.  An analysis of  
25          LCA is a completely different thing.

26      Q     Okay.  Thank you for that.

1 M. SAWYER: I wonder if we could  
2 bring up Exhibit 171.02, please. Now, if we  
3 could scroll down to the page where the  
4 redacted LCA is on, please. There we go.

5 Q M. SAWYER: So I have some  
6 specific questions about this form, and --  
7 and -- and I'm relying on -- on this form plus  
8 the Manual 23 to -- to generate my questions;  
9 so bear with me.

10 So in the -- in the top left bracket,  
11 there's two boxes that are under "Risk", and  
12 can you confirm that in the standard form that  
13 you use those -- those would be -- the first  
14 left box would be a financial risk and the  
15 second redacted box would be magnitude of  
16 liability risk; correct?

17 A S. LLOYD: We refer to that as  
18 the estimated magnitude of liability rather  
19 than -- rather than the magnitude of liability,  
20 but, yes.

21 Q I'm disadvantaged because it's redacted, so ...

22 So can you -- can you confirm for me that  
23 calculating the risk group values involved  
24 using specified financial ratios, including net  
25 profit margin, current ratio, debt to equity  
26 interest coverage ratios, and cash flow from

1 the company?

2 A That is described in the manual, yes. Yeah.

3 Q Okay. And that these -- these ratios were  
4 calculated based on the information submitted  
5 by Pieridae?

6 A Under Schedule 3 that is correct.

7 Q Okay. And so my understanding is from what you  
8 told me -- and I think I earlier characterized  
9 it as sort of the LCA as being sort of hitting  
10 a button, and it -- and it kicks out the  
11 response. That might be a slightly unfair  
12 characterization.

13 But my question is this: If -- do you  
14 believe that if a competent person had access  
15 to Pieridae's financial information and access  
16 to the Manual 23 procedures, could they  
17 generate an LCA? It wouldn't be an official  
18 AER. Could they generate something similar to  
19 what you would generate with your model?

20 A I apologize for the delay there. On the --  
21 could you just repeat the question so I make  
22 sure I answer as far as I can.

23 Q So my question was if a competent person  
24 experiencing financial analysis of corporate  
25 financial statements were to prepare an LCA and  
26 if that person precisely followed the

1 methodology contained in the AER manual and had  
2 access to Pieridae's audited corporate  
3 financial statements that are public, could  
4 they derive a reasonably accurate output?

5 A As we've described already, the LCA is made up  
6 of six factors: The four that are not redacted  
7 in the -- in the exhibit that's on the screen  
8 at the moment, plus the two that are. So --  
9 and the -- the financial data available to an  
10 uninvolved third party would be the -- the  
11 information for Pieridae Energy rather than  
12 Pieridae Alberta Productions Limited and would  
13 only help in a very tangential and partial way  
14 to calculating a -- one of -- only one of the  
15 six components in -- in LCA. So it would not  
16 be possible for a third party to -- to  
17 reconstruct an LCA.

18 Q And what would the one that you could calculate  
19 be? Like, which one would it be?

20 A You could get towards but you could not  
21 actually recalculate the -- the financial  
22 component of the LCA because the -- the data  
23 that's available publicly is not the data that  
24 is used, which is the data submitted under  
25 Schedule 3.

26 Q Okay. So that -- that implies that the data

1           you used is different than the audited public  
2           data?

3    A    I disagree with that.  The data that's  
4           submitted is the data that we use.  It may or  
5           may not be different.  It may have different  
6           inclusions --

7    Q    Okay.

8    A    -- or exclusions.

9    Q    But, sir, if -- if a competent person had  
10           access to that data and it's public information  
11           and they applied it exactly as you would in the  
12           manual and then you say, But they wouldn't come  
13           up with the same results, tell me why that  
14           would be the case.

15   A    The licensee capability assessment, as -- as  
16           it's named, is the licensee capability  
17           assessment.  The financial data that's publicly  
18           available is Pieridae -- Pieridae Energy's  
19           information.  The information submitted through  
20           Schedule 3 and included in the LCA would be  
21           Pieridae Alberta Production Limited's financial  
22           data as the licensee as required for the  
23           licensee eligibility under Directive 067.

24   Q    Okay.  So would you agree with me that if we  
25           were doing the LCA on Pieridae Energy that  
26           those results would be reasonably accurate?

1 A My role is not as a financial specialist; so it  
2 would be inappropriate for me to comment on  
3 that.

4 Q And there's no one on the panel who is a  
5 financial specialist; correct?

6 A That's correct.

7 Q Okay. So Mr. Judd had Dr. Finn complete an LCA  
8 for Pieridae Energy using methodology contained  
9 in AER Manual 23 and Pieridae's publicly  
10 available audited corporate financial  
11 information and found that Pieridae would be in  
12 the risk group "Financial Distress" category  
13 high. Do you have any reasonable basis to --  
14 to dispute Dr. Finn's findings?

15 A M. BARG: So as my colleague  
16 has highlighted, the LCA requirements under  
17 Manual 23 are specific to the licensee, so  
18 Pieridae Alberta Production, and so when you're  
19 referencing that Dr. Finn completed an LCA on  
20 Pieridae Energy, those are two different  
21 entities and different information. And from  
22 information available, as my colleague has  
23 indicated, the LCA includes the risk group and  
24 the performance group, and that information is  
25 from AER data sources.

26 Q M-hm. So let's look at the -- at the redacted

1 risk groups. In -- in -- you know, so these  
2 are ordinal categories low, medium, high;  
3 correct?

4 A S. LLOYD: At the -- at the  
5 high level, yes, that's -- that's true.

6 Q Okay. So if we just look at the high level,  
7 those two redacted boxes in the upper left  
8 corner, and we look at the -- the financial  
9 capability risk factor, can you tell me is that  
10 indication -- whatever it was you concluded --  
11 low, medium, or high -- is that financial  
12 information?

13 A M. BARG: So as outlined in  
14 Manual 23, which specifically you wanted to  
15 highlight as well, the 2024 version, the  
16 financial information that supports the  
17 assessment of a licensee's level of financial  
18 distress is from Schedule 3, which would be  
19 considered financial information under  
20 Directive 067.

21 Q But that financial information is not -- even  
22 if it was not redacted, it wouldn't be in that  
23 cell on the table, would it? It would just be  
24 an ordinal category, "Low", "Medium", "High".  
25 So is that ordinal category financial  
26 information?



1 A So, again, based on Manual 23, we do have the  
2 information in Table 2. I'm not sure if we  
3 want to specifically bring that up, which is  
4 Exhibit two two -- 221.2, please.

5 So as you can see in Table 2 there, as  
6 you've highlighted, there are the different  
7 parameters for level of financial distress. So  
8 as part of the licensee capability assessment,  
9 based on those ratios and that information, the  
10 licensee is categorized as low, medium, or high  
11 for level of financial distress.

12 Q And is that -- is that categorization financial  
13 information?

14 A The information submitted to the licensee based  
15 off of the Oil and Gas Conservation Rules is  
16 considered financial information.

17 Q Okay. So they did not submit which ordinal  
18 category they were going to be in, and -- and  
19 while we could concede that those categories  
20 are derived from financial information,  
21 they're not actually financial information, are  
22 they?

23 A So I can't specifically comment on that. We've  
24 only been able to apply the requirements in the  
25 oil and gas conservation rule about what  
26 information is considered financial, and at

1           this time that information is considered  
2           confidential.

3       Q    So point me to where in the Oil and Gas  
4           Conservation Act or regulations that it says  
5           ordinal categories are financial information.  
6           And I can save you the answer because it isn't  
7           there.

8       A    So I can only speak to what the Oil and Gas  
9           Conservation Rules are and in relation to that  
10          financial information and how that has been  
11          applied in practice within the AER, and that  
12          information is considered confidential.

13      Q    Okay.  So you refer repeatedly to the -- the  
14          regulatory provision that it's confidential,  
15          but where in that regulatory provision -- it  
16          says that financial information -- and we can  
17          dispute whether that's valid in this case, but  
18          is -- are these ordinal categories financial  
19          information in your opinion?

20      M. SAWYER:                                Would you like me to  
21          move?

22          Submissions by D. Brezina

23      D. BREZINA:                                Yes, please.  Thank  
24          you.

25                I just wanted to point out that the  
26          witnesses are here to speak to the disclosure

1           and, as directed by the Panel, the -- anything  
2           regarding any assessment of Pieridae's  
3           financial capability was out of scope, and I  
4           believe it was out of scope of the disclosure.  
5           So Mr. Sawyer's trying to get my witness to  
6           sort of pin her down on a very specific point  
7           that is not within what was considered relevant  
8           for the hearing. I wasn't very eloquent about  
9           that, but I do believe that his point is not  
10          relevant or material to the issues in this  
11          hearing.

12          THE CHAIR:                                 Mr. Sawyer, any  
13          comment on what Ms. Brezina has raised?  
14          Submissions by M. Sawyer

15          M. SAWYER:                                 Well, predictably, I  
16          don't agree. I think that this is the evidence  
17          that this panel, regulatory applications, has  
18          submitted, and I'm trying to drill down into  
19          how it was produced and why it was treated in  
20          certain ways. And, quite frankly, this isn't a  
21          difficult question, and I think that -- I think  
22          that it's an appropriate -- it's relevant. I'm  
23          not asking for financial information. I'm  
24          trying to understand how they did this. And so  
25          I would say that I should be allowed to  
26          continue.

1 THE CHAIR: One moment, please.

2 (DISCUSSION OFF THE RECORD)

3 Ruling

4 THE CHAIR: So, Mr. Sawyer,  
5 we're going to uphold the objection. We feel  
6 that this material's been covered. It's been  
7 answered by the witness panel. They've  
8 referred to the disclosure direction in the  
9 decision on the information motion that was  
10 made by the Panel on June 27th of this year and  
11 that the Panel found that -- that in disclosure  
12 of information about financial status and  
13 assessment of -- AER assessment of Pieridae's  
14 financial capability was not relevant.

15 So we're not -- I would say move on from  
16 that question.

17 I also note that it is time for us to have  
18 a break, so I would suggest now that we take  
19 our break and return at five past 11. Okay.  
20 Thank you.

21 (WITNESSES STAND DOWN)

22 (ADJOURNMENT)

23 THE CHAIR: Please be seated.

24 So, Mr. Sawyer, let's continue. I will  
25 advise the intent is to break for lunch by  
26 about quarter past 12 or so; so roughly an

1 hour.

2 M. SAWYER: Yes. Commissioner  
3 Chiasson, I think I can advise the Panel that  
4 I'm not going to use all of that time, so we  
5 can -- subject to any redirect from this side,  
6 we can expect to be out before noon.

7 THE CHAIR: I don't think we'll  
8 be out because the Panel and the staff will  
9 have questions, so we will include that. I  
10 suspect given what you've said, we may be out  
11 early afternoon, but it is likely that we will  
12 continue a bit after lunch.

13 M. SAWYER: Okay.

14 THE CHAIR: But thank you for  
15 that information, Mr. Sawyer.

16 M. SAWYER: You're welcome.

17 THE CHAIR: So please continue.

18 M. Sawyer Cross-examines the Alberta Energy  
19 Regulator Regulatory Applications Witnesses

20 M. SAWYER: If I can have 171.02  
21 brought back up, please. Thank you.

22 Q M. SAWYER: Now, before we took  
23 the break, we were talking about the one "Risk"  
24 cell that related to financial risks. And  
25 moving on from that onto the "Magnitude of  
26 Liability", can you tell me -- in that category

1           would have been a -- some ordinal  
2           classification, "Low", "Medium", "High". Why  
3           has that information been redacted?

4    A    M. BARG:                                So I don't think we  
5           can actually answer that as that information  
6           was redacted by the Panel.

7    Q    So just so I'm clear that when regulatory  
8           authorization sent their initial redacted  
9           version that that was not redacted by you guys?  
10           That was redacted by the Panel?

11   A    I can just speak to the letter, I believe. Let  
12           me just find the exhibit number. Yeah. If we  
13           could bring up Exhibit 171.01, please. And if  
14           we can just scroll down there a little bit.  
15           The third paragraph. It does indicate that  
16           additional redactions were made by the Panel.

17   Q    Okay. So are you able to confirm for me that  
18           the "Magnitude of Liability" cell was redacted  
19           by regulatory applications, or was it redacted  
20           by the Panel?

21   A    It was redacted by the Panel.

22   Q    Okay. Thank you for that.

23                        So in the redacted document, the  
24           performance group results were not redacted.  
25           If we can just scroll down a bit.

26                        And if I draw your attention to the

1 "Closure" category. You know, Judd's evidence  
2 is that regulatory affairs made an error in  
3 classifying that as "Medium" -- or "Moderate"?  
4 Is that the correct terminology, "Moderate"?

5 A S. LLOYD: The performance  
6 factors are rolled up and ranked in a tiering  
7 system; so Tier 1 for the best, Tier 2 for the  
8 medium area, Tier 3 for the worst as per --

9 Q Okay.

10 A -- as defined and described in Manual 23.

11 Q Thank you for that.

12 So if we look at the closure, with the one  
13 exception of the inactive liability trend, all  
14 of the other one, two, three, four, five, six,  
15 seven, eight parameters are in the lowest  
16 tier -- or the third tier; correct?

17 A The individual parameters, that is -- that is  
18 correct.

19 Q And the one parameter, which is "inactive  
20 liability trend", is in the top tier; correct?

21 A So let's remember that these rankings are  
22 relative to performance of -- of the other  
23 companies with -- who were placed in the same  
24 peer group as Pieridae Alberta Productions  
25 Limited.

26 Q Understood.

1           But in terms of developing where these  
2 rankings -- how you calculate the weighted  
3 value that would tell us what tier we would go  
4 into higher up in the form, when you did your  
5 calculations, you know, using the weights that  
6 were prescribed in Manual 23, what percentage  
7 did you arrive at?

8    A    So the rollup parameter score for Pieridae  
9 Alberta Productions in the closure factor is  
10 visible in the -- in the exhibit. It's the  
11 factor value, which is .22 -- 2220. That's the  
12 rollup value. And that is then tiered itself  
13 in the same way as the parameters are tiered  
14 against that same -- against the factor rollup  
15 value for all of the other licencees in the  
16 same peer group.

17   Q    So let me just -- I want to make sure I  
18 understand this. So you look at the parameters  
19 and the parameter values, and then you take a  
20 weighted average of those values, and then you  
21 rank them again against their peers?

22   A    So I -- I want to correct a couple of points  
23 that you've made there. We -- we do not take a  
24 weighted average. There is no averaging  
25 involved, and we do not use it for the  
26 parameter values either. They're -- they are



1 not the input to the rollup. The input to the  
2 rollup is the parameter ranking and the  
3 parameter weight.

4 Q Okay. So when you say "parameter ranking" --  
5 so you basically -- that rollup, it would be --  
6 nine of the rankings would have been in the  
7 Tier 3; one of them was in Tier 1. Walk me  
8 through how you would use those numbers to  
9 calculate that they arrived in Tier 2.

10 A So to repeat -- to repeat what I -- part of  
11 what I said earlier, the -- the parameter  
12 ranking result on a parameter-parameter --  
13 parameter-by-parameter basis is multiplied by  
14 the parameter weight. Those are summed up to  
15 provide the rollup factor value. That -- that  
16 factor value is then ranked against the best  
17 and the worst factor values in the peer group,  
18 and that's what -- so the position of the  
19 licencees factor value in that distribution --  
20 as mentioned in Manual 23, section 2.1.2 --  
21 leads to the overall factor tier ranking, and  
22 in this case that places Pieridae Alberta  
23 Productions Limited A4, C5 in Tier 2.

24 Q Okay. So I just want to be sure I'm clear. So  
25 the parameter rankings, specifically the  
26 parameter values, are then weighted with the

1 parameter weight to come up with an average  
2 value; correct?

3 A Your question uses the term "ranking" and  
4 "value" interchangeably. Which one are you  
5 particularly referring to?

6 Q Well, so let me ask you this: If we took all  
7 of the parameter values and weighted them by  
8 the parameter weight -- and we're talking about  
9 closure here -- are you telling me that that  
10 calculation would result in a factor value of  
11 0.2220?

12 A No. I'm telling you that .2220 is the result  
13 of the factor -- sorry -- the parameter ranking  
14 multiplied by the parameter weight, not the  
15 parameter value.

16 Q Okay. And where on the recall LCA form is --  
17 does it compare the factor value to its peer  
18 group?

19 A The factor value compared to the peer group is  
20 the factor ranking to the left of the .2220  
21 number in the "Factor Value" column. That  
22 show -- that shows 42.96 percent, and that is  
23 in the Tier 2 region, those regions being  
24 defined in Manual 23.

25 Q So what you're -- if we look at the closure  
26 parameters, we have "Closure Spend Rate",

1 lowest 4 percent of the peer group; "Well  
2 Abandonment Rate", lowest 13 percent; "Well  
3 Abandonment Rate", lowest 2 percent; "Well  
4 Reclamation Rate", the lowest in its category  
5 at zero; "Well Reclamation Non-Produced",  
6 again, lowest in its peer group, zero;  
7 "Facility Abandonment Rate", 20 percent;  
8 "Facility Reclamation Rate", zero, lowest in  
9 its peer group; "Pipeline Abandonment Rate",  
10 10 percent; and "Inactive Liability Trend",  
11 they're at 86 percent of their peer group.

12 So I'm not a mathematical wizard at all,  
13 but how do you take those values and translate  
14 that into being a Tier 2? Like, walk me  
15 through the calculations.

16 A I can certainly repeat what I've already said.  
17 The -- the factor value result of .2220 is  
18 calculated by taking the 4 percent parameter  
19 ranking foreclosure spend and multiplying that  
20 by its weighting, which would be 20 percent.  
21 It would be .2. So .04 times .02. And that  
22 methodology would be used. It would be summed  
23 up across those nine parameters as, indeed, we  
24 would do for -- and we do do for -- every  
25 licensee in this peer group.

26 The sum in this case is .2220. That --

1           that .2220 sits just under halfway through that  
2           42.96 -- let's call it 43 -- within the range  
3           of rollup scores achieved in the peer group.

4    Q    Okay.  So just before I leave this -- so I just  
5           want to be clear.  You didn't actually do these  
6           calculations.  You just hit the button, and  
7           this is what it kicked out?

8    A    I have confirmed that these calculations are  
9           correct.

10   Q    Do you have a mathematics background, sir?

11   A    Arithmetic is within my competence.

12   Q    Perfect.

13                So if we look at how this is done, and you  
14                have a -- you take a performance on those  
15                parameters within their peer group and come up  
16                with a weighted average, and then you compare  
17                that weighted average to the performance in the  
18                peer group, isn't it essentially double  
19                counting?

20   A    The methodology we use as -- again, as  
21                described in Manual 23, does not use a weighted  
22                average to come up with the -- with a result.

23   Q    Okay.  And what do you think it says about --  
24                if we look at Pieridae's parameter rankings,  
25                which I would say are terrible with the  
26                exception of the one factor, and if that places

1           them at 42 percent of the -- or approximately  
2           halfway through its peer group, what does that  
3           tell you about the state of our liability  
4           closures in the province that 50 percent of the  
5           companies are worse than this?

6       A    That's a very broad question.  I think it's  
7           very difficult to look at -- at any particular  
8           factor or parameter in LCA in isolation, and --  
9           and we are with -- as -- as we've commented  
10          before, we're comparing within -- we're  
11          comparing results with the parameter ranking  
12          within the performance of the peer group.  It  
13          does not speak to compliance or achievement  
14          of -- of targets.

15       Q    But you have said that the results of your  
16           analysis show that Pieridae's roughly at  
17           50 percent compared to its peer group.  So that  
18           implies that 50 percent of the peer group  
19           are -- have worse results than what's shown  
20           here under the parameter rankings.  Is there  
21           any reason why that wouldn't be a reasonable  
22           conclusion?

23       A    The -- the individual performance of this  
24           licencee in a number of these parameters may  
25           appear to be poor, but the issue we -- we --  
26           you see here is that -- and the challenge that

1 we face is that these parameters -- at the --  
2 the lower part of the screen, the parameters  
3 are based on a licensee's closure activity  
4 moving through defined closure milestones.

5 This does not -- this -- these LCA results  
6 do not indicate that no closure work is being  
7 done. In fact, they -- they indicate when we  
8 look at the -- the closure spend rate parameter  
9 value specifically that they are spending  
10 8.12 percent, which is in excess of the  
11 mandatory target they were given. This shows  
12 that -- that money is being spent on closure  
13 activities.

14 However, that is likely in the earlier  
15 stages of activity on these particular assets,  
16 and when an abandonment is completed or a  
17 reclamation is completed, then the licensee  
18 will make the appropriate submission, and  
19 the -- the count of those will increase, and  
20 then the parameter value would change.

21 So I would comment here that the LCA needs  
22 to be viewed in the round. One needs to look  
23 at all of the parameters together and the  
24 connections between them and -- and the story  
25 that they tell as a whole rather than looking  
26 at an individual point, a data point, to try to

1 draw an extended, an extravagant conclusion  
2 from it.

3 Q Thank you for that response, sir.

4 So just one or two last questions on this.  
5 The inactive liability trend shows that  
6 Pieridae is doing -- 86 percent of it is better  
7 than -- well, it's doing better than 86 percent  
8 of its peer group; correct?

9 A No. It is not showing that it is doing better  
10 than 86 percent of the other licencees in the  
11 peer group. It's showing that their parameter  
12 value, .3556, is 86 percent of the way through  
13 the gap between the poorest performance and the  
14 best performance.

15 Q Okay. So if that's true, when we look at, for  
16 example, "Well Abandonment Rate", 13 percent;  
17 "Well Abandonment Rate Non-Produced",  
18 2 percent; "Well Reclamation Rate", zero, the  
19 lowest in its peer group; "Well Reclamation  
20 Rate Non-Produced", zero; and so on and so  
21 forth.

22 If they're not reclaiming facilities and  
23 wells, whether they are producing or  
24 non-produced, how can they possibly have an  
25 inactive liability trend that's positive?

26 A Do you mean "positive" in absolute terms or

1 "positive" in relative terms?

2 Q Well, I mean, that -- how -- how would they  
3 possibly be better than 83 percent of their  
4 peers?

5 A As I responded to -- to your question before,  
6 the most recent one, it is not showing that  
7 their performance is better than 86 percent of  
8 their peers. It's showing that their  
9 performance is 86 percent of the way through  
10 the performance of the worst to the performance  
11 of the best.

12 Q Would it -- would it be reasonable to assume  
13 that Pieridae's inactive liability trend  
14 results are because Pieridae is reactivating  
15 formally inactive assets instead of abandoning  
16 them?

17 A Is this a repeat of the Information Request 6.6  
18 that we responded to under 187.2?

19 Q But isn't it true, sir, that by scoring  
20 Pieridae in the inactive liability trend at  
21 83 percent that the AER is scoring that it is  
22 reducing -- that Pieridae's reducing inactive  
23 liability when it does nothing to reduce total  
24 liability? Isn't that correct?

25 A Can I refer you to Information Request 6.7  
26 under the same exhibit? That's Exhibit 187.2,



1           please, PDF page 24.

2       Q     So, sir, wouldn't you say that response to the  
3           information request was better characterized as  
4           a non-response?

5       A     No. I think that's a very clear response. You  
6           can't -- can't confirm it.

7       Q     And -- and when you say it does not confirm  
8           this, meaning you don't have the information  
9           that allows you to confirm it, or you choose  
10          not to confirm it?

11      A     LCA relies on data. We prefer to make  
12          statements and -- and -- and comments based  
13          on -- on data and absolute information rather  
14          than speculation.

15      Q     Now, if you were Mr. Judd and one of your  
16          concerns was whether Pieridae had the financial  
17          and operational capability to be adequately  
18          prepared for emergencies and to protect public  
19          safety and health or to manage the  
20          construction, maintenance, and operation  
21          according to AER's regulatory requirements and  
22          Pieridae's obligation to not compromise public  
23          safety or to minimize the potential effects  
24          on -- on the pipeline environment, would --  
25          would -- Pieridae's LCA results that I haven't  
26          had the benefit of seeing, would that give

1 Mr. Judd comfort that -- that Pieridae is  
2 capable of managing its liabilities?

3 A M. BARG: So I think as my  
4 colleague has indicated, when we look at the  
5 licencee capability assessment, we have to look  
6 at it as one of the factors that a licencee is  
7 assessed, and so, as mentioned earlier, the AER  
8 does have other tools to help identify if there  
9 are potential concerns with a licencee and  
10 their capabilities.

11 And so the one we did talk about -- and if  
12 we would like, we could bring back up -- is  
13 Directive 067 in the "Unreasonable Risk"  
14 section where a licencee's eligibility could be  
15 limited based on some of those concerns,  
16 including compliance history, their  
17 capabilities to provide reasonable care and  
18 measures, as well as their financial health,  
19 and at this time Pieridae holds general  
20 eligibility.

21 Some of the other regulatory tools that we  
22 do have that was mentioned as well is if there  
23 is a concern with their compliance history,  
24 there are additional compliance tools through  
25 Manual 13, that we can apply that are global  
26 and focus refer that would help to potentially

1 manage any licencees that have identified risks  
2 within the organization. So those different  
3 tools would be available to us if there are  
4 specific concerns with a licencee.

5 Q Just a couple quick questions, and then I'll  
6 wrap up. Can this panel tell me are you  
7 familiar with the concept of regulatory  
8 capture?

9 A So I think we've heard that term used in a  
10 variety of articles and media.

11 Q But do you understand the concept?

12 A I'm not sure what your question specifically is  
13 related to that.

14 Q Do you understand the concept of regulatory  
15 capture?

16 A Maybe you could define it for us.

17 Q I would define it off the cuff as a public  
18 regulatory body that is supposed to protect the  
19 public interest but through a variety of  
20 mechanisms ends up actually protecting the  
21 interests of the industry that they're supposed  
22 to regulate. Are you aware of that concept?

23 A As mentioned, I think -- indicated have heard  
24 it in a variety of articles and media.

25 Q Okay. And -- and you're aware that the AER  
26 and -- and its predecessors, the ERCB, is

1           having an ongoing public confidence crisis, I  
2           would describe it? Would you agree with that  
3           comment?

4    A    I'm not sure that's something I can agree or  
5           disagree with.

6           D. BREZINA:                               Perhaps this would  
7           be better left to final argument. It doesn't  
8           seem appropriate as -- in terms of  
9           cross-examination on the disclosure made.

10          M. SAWYER:                               Commissioner  
11          Chiasson, I just have one last question. Then  
12          I will wrap up.

13    Q    M. SAWYER:                               The three of you as  
14          an employee of the AER, you would confirm that  
15          you are public servants who are supposed to  
16          serve the public interest; correct?

17    A    D. GRZYB:                                Would you like us to  
18          respond to that individually?

19    Q    Pardon me?

20    A    I'm sorry. Would you like us to respond to  
21          that individually?

22    Q    Yes, please.

23    A    Could you restate the question.

24          Discussion

25          D. BREZINA:                               Well, I'm actually  
26          going to object. This -- this seems to be

1 going to terms of employment, all sorts of  
2 things that are really not appropriate as  
3 cross-examination questions of this panel for  
4 the disclosure. Again, Mr. Sawyer can make  
5 whatever comments he needs to in his final  
6 argument. The -- the mandate of the AER speaks  
7 for itself in our governing legislation.

8 M. SAWYER: Yeah. And --  
9 understood. I'm just trying to establish that  
10 these three witnesses have a clear  
11 understanding of what their role is, and that  
12 would be my last question.

13 THE CHAIR: And the relevance  
14 to -- to the disclosure?

15 M. SAWYER: It's -- it's  
16 relevant in terms of how we would interpret the  
17 disclosure to understand the -- the -- the  
18 minds and attitudes of the people that prepared  
19 it. It's a very simple question. Do they  
20 understand that they're public servants and  
21 have a public-interest role to play?

22 D. BREZINA: Again, I do have to  
23 object. That question and the phrasing,  
24 "public interest", is referred to in various  
25 places of our legislation. The employees at  
26 the AER carry out different roles.

1 THE CHAIR: Mr. Sawyer, I'm not  
2 convinced of the relevance.

3 M. SAWYER: Okay. Thank you for  
4 that, Commissioner Chiasson.

5 Having said that, I have no further  
6 questions for this panel, and I would like to  
7 thank them for being patient with me this  
8 morning and answering the questions to -- to  
9 the extent possible. Thank you.

10 THE CHAIR: Thank you,  
11 Mr. Sawyer.

12 So before we move on, we would take a short  
13 break before we move onto the Panel and staff  
14 questions.

15 Mr. Naffin and Mr. Myers, I'm just going to  
16 check in with you, recognizing as I had  
17 indicated before when we checked in with  
18 regulatory applications yesterday at the end of  
19 your cross-examination, that, generally  
20 speaking, cross-examination is only allowed  
21 where parties are adverse in interest. So we  
22 wanted to check in with you nonetheless.

23 D. NAFFIN: That's understood,  
24 Commissioner Chiasson, and we have no questions  
25 for this panel. Thank you.

26 THE CHAIR: Thank you very much,

1 Mr. Naffin.

2 All right. We will break till 10 to 12 for  
3 the Panel and the staff to get prepared on  
4 their questions, and then we will be back with  
5 that.

6 So, witnesses, we would just remind you, no  
7 discussion with your counsel, please.

8 (WITNESSES STAND DOWN)

9 (ADJOURNMENT)

10 THE CHAIR: All right. Thank  
11 you. Please be seated.

12 So, Ms. Kapel Holden, please proceed.

13 B. Kapel Holden Cross-examines the Alberta  
14 Energy Regulator Regulatory Applications  
15 Witnesses

16 B. KAPEL HOLDEN: Thank you very much,  
17 Commissioner Chiasson.

18 Q B. KAPEL HOLDEN: Good morning, panel.

19 I will direct my first set of questions to  
20 Mr. Grzyb, but if anybody else on the panel  
21 wants to answer these questions, feel free to  
22 jump in as well. And the purpose of my  
23 questions are just to get some further  
24 clarification brought out onto the record.

25 First off, I'd like to ask you a few  
26 questions about what information is used by the

1 AER during the application process related to  
2 connected or ancillary assets. And when I  
3 refer to "connected assets", I'm referring to  
4 assets such as connected downstream or upstream  
5 pipelines, wells, facilities, et cetera, but  
6 I'm -- that's not limited to that if there's  
7 other connected assets.

8 So my first question is: Does regulatory  
9 applications assess connected assets as part of  
10 the application process?

11 A D. GRZYB: Yes. We do. The --  
12 the assessment is relatively limited. We look  
13 to see that the substance and, if there is an  
14 H2S content, that that H2S content is  
15 compatible with the line being proposed.  
16 And -- sorry. When I mean "compatible", yeah,  
17 I mean an H2S content pressure, substance,  
18 et cetera.

19 Q And can you clarify what data the AER requires  
20 to be filed during the application process for  
21 a pipeline with respect to connected assets?

22 A There is a field on -- in the -- in the OneStop  
23 application module that asks the licensee if  
24 there are connected assets and what the licence  
25 number would be, and it's identified in that  
26 manner.



1 Q I think this morning when Mr. Sawyer was asking  
2 you some questions about the ERP and having  
3 that checked off as well as part of the D-56  
4 application, are there any other items that  
5 you'd be looking for in regards to the  
6 connected assets, directly or indirectly?

7 A Not in regards to the connected assets, no.

8 Q And does any of the data provided in regards to  
9 connected assets change how an application is  
10 evaluated by the AER? And I'll give you an  
11 example: If there had been a pipeline failure  
12 in a connected asset in the past, what impact  
13 would that information have in regards to the  
14 application, if any?

15 A If we were aware, we could -- you know, we  
16 could use that information to look more closely  
17 at the applied-for pipeline. As a rule, you  
18 know, we don't necessarily check that  
19 information of the connected asset.

20 Q Would -- any of that information that the AER  
21 was aware of, would any of that information  
22 inform the practices used, for example, to a  
23 connected asset, such as, like, a pipeline that  
24 had been applied for?

25 A You mean operational practices and --

26 Q Yes.

1 A -- and such?

2 No.

3 Q Thank you very much.

4 I have some questions in regards to the LCA  
5 that was produced by the AER. So my questions,  
6 either Ms. Barg or Mr. Lloyd can answer.

7 Mr. Lloyd mentioned this morning that the  
8 LCA has information contained within the AER  
9 system and pulls information from a number of  
10 data sources. Can you confirm that each  
11 licensee has access to their current LCA?

12 A S. LLOYD: Yes, absolutely.

13 Q Thank you.

14 And can you confirm because the LCA  
15 extracts information within the AER's system  
16 that it is evergreen and contains the most  
17 recent information available to the AER?

18 A Yes, that is correct.

19 Q So depending on the latest financial  
20 information submitted by Pieridae Alberta  
21 Production Limited, who is the licensee of the  
22 subject pipeline, the AER's LCA that has been  
23 filed in this proceeding -- and it's been filed  
24 as Exhibit 171.02 -- may be different today if  
25 it was pulled from the AER system; would that  
26 be correct?

1 A That may be correct depending upon when  
2 financial data under Schedule 3 was updated.  
3 Typically, that is annually -- provided once  
4 annually. The regulations require it to be  
5 submitted with -- within 180 days of the end of  
6 the licensee's financial period. It is -- so  
7 on -- the data would change around whether that  
8 data was submitted or not and when that data  
9 was submitted. So that's -- yes, it's  
10 evergreen, but it's annual data. So there is a  
11 level of greenness, if you like, in that.

12 A M. BARG: And if I can maybe  
13 supplement. Directive 067 does allow the AER  
14 to require and direct the licensee to provide  
15 updated financial information when required to  
16 support decision-making. So if -- as my  
17 colleague has identified, if the information  
18 did come in based on kind of that end of  
19 June timeline, which is usually when most  
20 financial statements come in, we could require  
21 updated financial statements to support  
22 decision-making as required under Directive 067  
23 and Directive 088.

24 Q And is it possible that other financial  
25 information could come in at different times,  
26 such as any closure work that's been done, and

1           there's been updates in regards to that?

2    A    S. LLOYD:                    Yeah.  Closure data  
3           is submitted by the licensee through the --  
4           through the appropriate channel.  The data has  
5           to be submitted by the 31st of March of the  
6           subsequent year.  The closure parameter is --  
7           is updated once we've gone through the 31st of  
8           March.  It would be unfair and inequitable  
9           to -- to use intermediate steps when different  
10          licensees report data on a different -- on  
11          different schedules within that requirement.  
12          They can submit early -- as early as they -- as  
13          they wish or as late as they wish, provided  
14          they remain within the compliance window.

15   Q    Okay.  My next question is what programs or  
16          regulatory decisions described in Directive 088  
17          used the results of a licensee capability  
18          assessment?

19   A    M. BARG:                    So when we look at  
20          the requirements outlined in Directive 088  
21          specifically, the information is used for the  
22          AER's licensee management program.  It is also  
23          used for our inventory reduction program, which  
24          is separated into closure quotas and closure  
25          nomination.  It's also used for licence  
26          transfer applications under Directive 088, as

1 well as for determining security requirements  
2 for those programs within specifically  
3 Directive 088.

4 Q Okay. Thank you.

5 And are there any programs or regulatory  
6 decisions not outlined in Directive 088 that  
7 used the results of the LCA?

8 A So there is a direct link in Directive 088 back  
9 to Directive 067 to assess the licensee's  
10 capabilities as part of eligibility.

11 Q Earlier this morning, Ms. Barg, you mentioned  
12 that the LCA does not apply to D-56  
13 applications. Can you elaborate on that,  
14 please.

15 A Correct. So with the liability management  
16 framework policy that was provided to the  
17 Alberta Energy Regulator, we are implementing  
18 it in phases. And so as part of the phases for  
19 applying the holistic licensee assessment as  
20 well as the licensee capability assessment,  
21 it's been implemented in phases. And so  
22 currently the requirements for using the LCA  
23 specifically is for Directive 067 and  
24 Directive 088. We will be looking to  
25 potentially add additional requirements to meet  
26 the full intent of the policy into

1 Directive 056 at a later date; however, we have  
2 not been able to do that as of yet, so the  
3 requirements are not applicable to  
4 Directive 056 until they are added in and  
5 approved through our internal approval  
6 processes and published as updated  
7 requirements.

8 Q Thank you very much, panel. Those are all my  
9 questions.

10 THE CHAIR: Thank you.

11 The Panel Questions the Alberta Energy  
12 Regulator Regulatory Applications Witnesses

13 THE CHAIR: So Commissioner  
14 Mackenzie does have questions.

15 COMMISSIONER MACKENZIE: Just one question.

16 I believe this is for probably a combination of  
17 Ms. Barg and Mr. Lloyd.

18 Q COMMISSIONER MACKENZIE: If we look at the  
19 redacted LCA for Pieridae and we look at the  
20 performance groups and the different tiers that  
21 have been allocated as well as the rest of the  
22 extensive information in the LCA, could you  
23 explain to us at a high level what does this  
24 actually tell us about Pieridae's performance  
25 compared to its peer group of intermediate gas?

26 A S. LLOYD: So at a very high

1 level, what this shows with the Tier 2 rollup  
2 ranking in three of those four performance  
3 factors, it shows me that their overall  
4 performance in those factors fits in the  
5 mid-range of the performance achieved by  
6 companies of a similar size and nature.

7 Q Thank you.

8 Did you have anything else you wanted to  
9 add? Thanks.

10 A I don't -- I don't think so.

11 THE CHAIR: Thank you. Those  
12 are all the questions from the Hearing Panel.

13 So, Mr. Grzyb, Ms. Barg, Mr. Lloyd, thank  
14 you for attending today. We appreciate your  
15 participation. And so you are now released.  
16 It's now all right for you to speak to your  
17 counsel again.

18 (WITNESSES STAND DOWN)

19 Discussion

20 THE CHAIR: So, Mr. Sawyer, just  
21 to check in with you, am I correct in my  
22 understanding -- I may have misunderstood  
23 previously when we came back, I think, from our  
24 morning break -- you don't intend to call any  
25 reply evidence?

26 M. SAWYER: Commissioner

1 Chiasson, I will not have any reply.

2 THE CHAIR: All right. Thank  
3 you.

4 So that being said, that brings us to the  
5 end of our schedule today, and that also brings  
6 us to the end of the evidentiary portion of  
7 this hearing; so we will declare the  
8 evidentiary portion of this hearing closed.

9 We will close now for the end of -- for end  
10 of day today. We will return at 9:30 tomorrow  
11 morning to hear closing argument.

12 Actually, just tied in with that,  
13 Ms. Brezina, just to check back in with you,  
14 regulatory applications' position. Do you  
15 intend to make any comments in closing  
16 argument?

17 D. BREZINA: I do.

18 THE CHAIR: Yes.

19 D. BREZINA: Just to be of  
20 assistance to the Panel. Thank you.

21 THE CHAIR: Thank you.

22 So we will slot that in in our order as we  
23 have set out. We have it set out for tomorrow  
24 with Mr. Sawyer beginning with closing argument  
25 on behalf of Mr. Judd, then Pieridae, then we  
26 will have regulatory applications follow



1 Pieridae, and then Mr. Sawyer will have the  
2 opportunity for -- for reply before we close  
3 the hearing.

4 So with that, we are done 'til 9:30  
5 tomorrow morning. As usual, we remind everyone  
6 to take their belongings out of the hearing  
7 room. So thank you very much.

8 \_\_\_\_\_  
9 PROCEEDINGS ADJOURNED UNTIL 9:30 AM,  
10 NOVEMBER 22, 2024  
11 \_\_\_\_\_

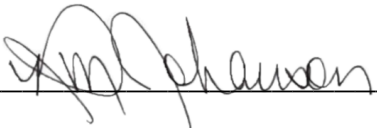
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CERTIFICATE OF TRANSCRIPT:

I, R.M. Johanson, certify that the foregoing pages are a complete and accurate transcript of the proceedings taken down by me in shorthand and transcribed from my shorthand notes to the best of my skill and ability.

Dated at the City of Calgary, Province of Alberta, this 21st day of November 2024.

  
\_\_\_\_\_

R.M. Johanson, CSR(A)  
Official Court Reporter  
Commissioner for Oaths Appointee No. 0693147  
ASRA Membership No. 115

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