

Ottawa Light Rail Commission

Troy Charter
on Tuesday, May 3, 2022



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6	OTTAWA LIGHT RAIL COMMISSION
7	CITY OF OTTAWA - TROY CHARTER
8	MAY 3, 2022
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15	--- Held via Zoom Videoconferencing, with all
16	participants attending remotely, on the 3rd day of
17	May, 2022, 9:00 a.m. to 12:00 p.m.
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1 COMMISSION COUNSEL:

2 Kate McGrann, Co-Lead Counsel Member

3 Carly Peddle, Litigation Counsel Member

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5 PARTICIPANTS:

6 Troy Charter: City of Ottawa

7 Peter Wardle, Lucas Da Silva: Singleton Urquhart

8 Reynolds Vogel LLP

9

10 Also Present:

11 Deana Santedicola, Stenographer/Transcriptionist

12 Chandani Joshi, Virtual Technician

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INDEX OF EXHIBITS

NO.	DESCRIPTION	PAGE/LINE NO.
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[No Exhibits Marked]

* * The following is a list of documents undertaken to be produced, items to be followed up on, or questions refused * *

INDEX OF UNDERTAKINGS

The documents to be produced are noted by U/T and appear on the following page/line: 142:9, 203:4, 203:10

INDEX OF REFUSALS

The questions/requests refused are noted by R/F and appear on the following pages: [None]

1 -- Upon commencing at 9:00 a.m.

2

3 TROY CHARTER; AFFIRMED.

4 KATE McGRANN: I won't repeat the
5 message that I read to you at the beginning of last
6 day's. This is a continuation of our last day's
7 discussion, so we'll jump right into it.

8 Some more questions about the trial
9 running criteria and the trial running process.
10 Since last day, have you had the opportunity to
11 review some documents about this process, Mr.
12 Charter?

13 TROY CHARTER: Yes, I have, thank you.

14 KATE McGRANN: And I believe that when
15 we spoke last, you were -- in speaking about the
16 Trial Running Review Team, members of that team who
17 were there on behalf of the City were yourself,
18 Larry Gaul; is that right?

19 TROY CHARTER: Larry Gaul was the
20 consultant that was supporting OC Transpo and
21 myself, yes.

22 KATE McGRANN: And he was a member of
23 the Trial Running Review Team?

24 TROY CHARTER: Yes, he was.

25 KATE McGRANN: And Richard Holder was

1 also a member of the Trial Running Review Team?

2 TROY CHARTER: Yes, he was.

3 KATE McGRANN: And were you, Mr. Gaul
4 and Mr. Holder all involved in preparing
5 requirements for the trial running process?

6 TROY CHARTER: To a certain degree,
7 yes. It was Richard, as a member of the Rail
8 Implementation Office, they were leading, you know,
9 obviously the design and the construction side of
10 things. So yes, we had a couple of working group
11 sessions where we finalized the trial running
12 review package that we had been talking about.

13 KATE McGRANN: Okay, and just so
14 that -- just so that we know we are all talking
15 about the same document, I am showing you a
16 document under doc ID OTT3177178. This is a
17 document entitled "Trial Running Test Procedure",
18 and it is a 19-page document. If I scroll down to
19 the bottom of the first page, it has got a revision
20 marking "FINAL REVO2", and it is dated July 31,
21 2019. Is this the document you are referring to
22 when you say that you held some working groups and
23 you put together a package?

24 TROY CHARTER: Yes, it is.

25 KATE McGRANN: So this is the package

1 that resulted from the work done by yourself,
2 Mr. Gaul and Mr. Holder and others at OLRTC?

3 TROY CHARTER: Yes, I mean, it was
4 primarily led by OLRTC, but we all participated in
5 its development, yes.

6 KATE McGRANN: So I am going to stop
7 sharing that with you for a second. I understand
8 that there was a set of criteria for trial running
9 that had previously been developed in or about
10 2017?

11 TROY CHARTER: Yes, that is correct.

12 KATE McGRANN: And I am going to show
13 that to you. So when we talk about the criteria
14 that was developed in 2017, I am now showing you
15 document COW442401. This is a seven-page document,
16 and if I scroll down to the second page, we have
17 got a date attached of May 11, 2017. Are you
18 familiar with this document?

19 TROY CHARTER: Yes, I am. That is
20 the -- from my previous transcripts, that is what I
21 was referring to as the RFI-0 document, so yes, I
22 am familiar with this document.

23 KATE McGRANN: And we can see that it
24 is titled RFI-0-266. What do you know about how
25 this 2017 trial running criteria document was put

1 together?

2 TROY CHARTER: I know that that
3 document was put together several years prior to
4 the commencement of trial running and that it did
5 have some criteria for, you know, what the
6 pass/fail or what the criteria would be for the
7 trial running that we ultimately put forward in
8 2019.

9 KATE McGRANN: And do you know who was
10 involved in the creation of this document?

11 TROY CHARTER: You know, going by the
12 document itself, you know, I can assume it was
13 Richard Holder from the Rail Implementation Office
14 or Rail Construction Program, and my understanding
15 as well was Roger Schmidt who worked for OLRT at
16 the time.

17 KATE McGRANN: And you are taking that
18 information from the names of the individuals that
19 are listed on the document?

20 TROY CHARTER: That is correct, as I
21 was not involved in the creation of this document.

22 KATE McGRANN: Were you aware that it
23 was being created in 2017?

24 TROY CHARTER: Not to my recollection.
25 I don't recall being involved, and you know,

1 obviously when we got into the creation of the
2 other document, the Trial Running Test Procedure
3 document, I didn't recall or didn't make a
4 connection to this one.

5 KATE McGRANN: Now, this document
6 is -- it has got an Infrastructure Ontario logo on
7 the top right-hand corner there. To your
8 knowledge, did Infrastructure Ontario have any
9 involvement in the creation of this document?

10 TROY CHARTER: I don't have any
11 firsthand knowledge of that.

12 KATE McGRANN: Was Infrastructure
13 Ontario consulted at any time, to your knowledge,
14 about the criteria that would be applied to the
15 trial running process?

16 TROY CHARTER: I don't have any
17 firsthand information on that.

18 KATE McGRANN: And do you have any
19 information at all on it?

20 TROY CHARTER: No. You know, I wasn't
21 involved in the creation of this document. I
22 became aware of it later, but no, I don't know.

23 KATE McGRANN: Okay. So if I scroll
24 down a little bit, I am just trying to understand
25 where this document would have been saved and who

1 would have been able to access it at any time. So
2 can you help me understand what the coding
3 RFI-O-266 means? Is this part of a request for
4 information process that existed on the project?

5 TROY CHARTER: Yeah, it would have been
6 a process that, you know, the Rail Construction or
7 Rail Implementation Office had in place with the
8 constructors, so OLRT. But that would have all
9 been managed through Michael Morgan and Richard
10 Holder's units.

11 KATE McGRANN: And would anybody who
12 was working for the City be able to access this
13 document if they wanted to?

14 TROY CHARTER: No, I mean, no, it would
15 have been a restricted document to people who had
16 reasons to access the information related to the
17 project. So you know, the City of Ottawa is a
18 large organization. It wasn't available to every
19 single person, but key people that required its use
20 would have had access to it.

21 KATE McGRANN: Would you have been able
22 to have access to it?

23 TROY CHARTER: I would have been able
24 to access it through members of my team or
25 requesting it through Richard Holder or Michael

1 Morgan, yes.

2 KATE McGRANN: Would you be able to
3 access it directly, like through your own computer,
4 for example?

5 TROY CHARTER: I don't recall if at the
6 time I had access to it, but it wouldn't have been
7 a problem to receive it. I just don't know if I
8 was set up to have access to all that
9 documentation, but I just don't recall at the time.

10 KATE McGRANN: Okay, so you said this
11 wouldn't have been accessible to just anybody
12 working at the City, but those who were
13 specifically working on the Stage 1 OLRT project,
14 would they generally be able to access this
15 document and others like it?

16 TROY CHARTER: That is my
17 understanding, yes.

18 KATE McGRANN: And if you can answer
19 this question, and I don't know if you'll be able
20 to or not, do you know if this information would
21 have been readily accessible to those on the RTC
22 side -- or RTG, pardon me, side of this project?

23 TROY CHARTER: My understanding is yes.
24 RTG, being the contractor, and OLRT being a
25 subsidiary of them, yeah, my understanding is yes,

1 they would have had access to this.

2 KATE McGRANN: And when you are
3 referring to OLRT, are you referring to OLRTC, the
4 construction subcontractor to RTG?

5 TROY CHARTER: That is correct, yes.

6 KATE McGRANN: Just looking at
7 the -- this page has got three boxes on it.
8 Looking at the second box, we see that this request
9 has been initiated by Mr. Holder. The "Background"
10 says "Please see attached document", which is the
11 trial running criteria. And he is asking for
12 acceptance of the document; do you see that?

13 TROY CHARTER: Yes, I do.

14 KATE McGRANN: It is sent over to Roger
15 Schmidt, who is listed as OLRT Technical Director,
16 with a copy to Humberto Ferrer; do you know who
17 that is?

18 TROY CHARTER: I know who he is. I
19 don't know if we ever met, but I know who Humberto
20 is, and I have met Eugene once or twice.

21 KATE McGRANN: What was Mr. Ferrer's
22 role on the project?

23 TROY CHARTER: He was part of the
24 construction consortium. That is all I can tell.

25 KATE McGRANN: Do you know whether he

1 was with RTG, OLRTC?

2 TROY CHARTER: I don't know.

3 KATE McGRANN: And then Eugene Creamer,
4 who was that?

5 TROY CHARTER: He was, once again, part
6 of the RTG/OLRTC consortium. I don't know exactly
7 what his role was at the time, but we did have -- I
8 know that the rail construction program would have
9 been -- he would have been one of the key people
10 that they were interacting with on the status of
11 the construction project, the construction side of
12 the project.

13 KATE McGRANN: Under the title "Query"
14 in the second box "See Below and attached", it
15 says:

16 "Please indicate your
17 acceptance of the 12 Day Trial
18 Running Criteria that has been
19 developed in consultation with
20 OLRT-C, OTC [...]"

21 Is that the O-Train Construction Office
22 of the City?

23 TROY CHARTER: That's correct.

24 KATE McGRANN: And "OCT" is OC Transpo?

25 TROY CHARTER: That's correct.

1 KATE McGRANN: Who from the O-Train
2 Construction Office to your knowledge was involved
3 in the creation of this document?

4 TROY CHARTER: I don't know. I don't
5 have a recollection. I don't recall who was
6 involved and who was consulted in the creation of
7 this document.

8 KATE McGRANN: And do you know who from
9 OC Transpo was involved in the creation of this
10 document?

11 TROY CHARTER: No, I do not.

12 KATE McGRANN: And if we scroll down,
13 we can see the response from Mr. Schmidt who has
14 indicated:

15 "We accept this criteria
16 document."

17 To your knowledge, was there any
18 outstanding agreement that was required to finalize
19 this document or to make it a document that was
20 agreed to by all of the parties?

21 TROY CHARTER: Sorry, could you say
22 that again?

23 KATE McGRANN: Yeah, I am just
24 wondering if, to your knowledge, there was anybody
25 who was supposed to agree to this that hadn't

1 agreed to it?

2 TROY CHARTER: Not to my knowledge, no.

3 KATE McGRANN: I am going to scroll
4 down to page 3 here, and my question is, do you
5 know if at the time that this document was sent
6 over for agreement in 2017 whether it was intended
7 to be the final criteria for trial running?

8 TROY CHARTER: I can't say that
9 definitively. I mean, obviously the intent of the
10 document was to form part of the trial running and
11 the criteria for it and that is why the parties
12 exchanged documentation and that is why they agreed
13 to the criteria.

14 So I can only assume that it was
15 intended to be the criteria used ultimately in
16 2019. But I don't have direct firsthand knowledge
17 of the intent, but I can only assume based upon why
18 it was written and why it was formally communicated
19 and agreed to between the two parties.

20 KATE McGRANN: If you look at the first
21 bullet point on page 3 here, it talks about a:

22 "[...] twelve day Trial Running
23 period will be devoted to running
24 regular scheduled service [...],
25 with all systems and processes

1 functional."

2 And then it says:

3 "An evaluation 'scorecard' will
4 also be used by the Independent
5 Certifier to quantify the outcome of
6 the day."

7 This seven-page document does not
8 include a scorecard. Do you know if any scorecard
9 was developed in connection with this 2017
10 criteria?

11 TROY CHARTER: I believe a
12 scorecard -- there was an initial scorecard created
13 as a result of it, and ultimately we did use -- and
14 ultimately we did approve a scorecard that was used
15 by ourselves and the Independent Certifier.

16 KATE McGRANN: There is a scorecard
17 attached to the 2019 criteria, and we'll go there
18 in a minute, but I just want to stick with 2017 for
19 a second. So there was an initial scorecard. Have
20 you seen that scorecard?

21 TROY CHARTER: No, I just -- I believe
22 there was one.

23 KATE McGRANN: What is the basis for
24 that belief?

25 TROY CHARTER: Because when we started

1 creating the store card, I recall, and maybe my
2 recollection is mistaken, but we were working off a
3 template document that already existed.

4 KATE McGRANN: Mr. Wardle, the template
5 scorecard that Mr. Charter is referring to, would
6 you take a look and, if it hasn't been produced,
7 produce it; if it has been produced, would you
8 identify it to us by doc ID, please?

9 U/T PETER WARDLE: Sure. I mean, if we can
10 locate it, we'll identify it for you.

11 KATE McGRANN: Thank you. Okay, and
12 while we are here, the second heading -- or third
13 heading on this page "Evaluation Scorecard" has
14 bullet points underneath it. The second bullet
15 point says:

16 "Evaluation will occur after
17 each day, at the next morning's
18 Daily Operations meeting."

19 Do you know what meeting that is
20 referring to?

21 TROY CHARTER: Yes, so every
22 day -- yeah, so you would have a service day, and
23 then every day following we would review the
24 previous day's performance, so that was our
25 operational process that we had in place throughout

1 the trial running. The following day you would
2 review the previous day's performance.

3 KATE McGRANN: If you know, in 2017 was
4 there an intention that there would be a Trial
5 Running Review Team that would form part of the
6 evaluation of the trial running performance?

7 TROY CHARTER: My assumption is yes. I
8 mean, there was -- there had to be a way to
9 evaluate and confirm that both parties were in
10 agreement that the criteria was being met, so my
11 understanding is yes, there was always going to be
12 some sort of review team. What the makeup of that
13 was going to be was subject to final determination.

14 KATE McGRANN: Okay, and then this
15 scorecard -- or not this scorecard. This document
16 sets out the possible outcomes of evaluation. We
17 have got a:

18 "Pass: Performance
19 demonstrated for all evaluation
20 criteria, move on to the next day;"

21 There is a:

22 "Repeat day/scenario:", where
23 "performance in one or more
24 evaluation criteria does not meet
25 the passing requirements;"

1 And then there is a:

2 "Re-start Trial Running [...]"

3 Which kicks in apparently upon:

4 "serious safety issues require
5 re-starting Trial Running at Day 1."

6 Do you see all that?

7 TROY CHARTER: Yes, I do.

8 KATE McGRANN: And then at the bottom
9 there is, in italics, a "Note" that says:

10 "In some exceptional
11 situations, the City, RTG and the
12 Independent Certifier may agree to
13 'pause' Trial Running for a
14 pre-defined period of time."

15 And then it goes on to give examples of
16 when:

17 "[...] a pause could be
18 warranted to address any gaps in
19 systems that are discovered during
20 trial running, or to conduct further
21 investigation of a safety incident."

22 Were you aware of any of these criteria
23 when you began working on the trial running
24 criteria that you created with others?

25 TROY CHARTER: Well, when we created

1 the trial running review package, the documentation
2 that we ended up following, that was criteria that
3 we included into it, yes.

4 KATE McGRANN: And how did you know
5 about this criteria to include it in the 2019
6 package?

7 TROY CHARTER: Once again, you know,
8 the group was working off an existing sort of
9 template, which most likely was this document here.

10 So a lot of what you are seeing in
11 this -- a lot of what you are describing here has
12 been incorporated into the Trial Running Review
13 Team package.

14 KATE McGRANN: And just to clarify,
15 what information you did have when you started
16 working on the 2019 package, I had understood you
17 to say that you did not have access to this
18 document.

19 TROY CHARTER: I don't -- at the time I
20 didn't recall that document, but I know that we
21 were working off -- we weren't working from a blank
22 slate, that there was information that was
23 already -- that already existed. You know, my
24 colleague, Richard Holder, would have had access to
25 the document itself, but I knew that we weren't

1 working from a blank slate, that there was already
2 information that was understood or agreed to that
3 we were going to be applying, and that was, you
4 know, the scorecard, some of the metrics.

5 But I don't specifically recall that
6 RFI or the RFI-O-266 document. I recall it now.
7 At the time, I did not.

8 KATE McGRANN: I am just not sure that
9 I follow your answer. So at the time that you sit
10 down to work on the 2019 criteria, what information
11 are you referring to in order to begin your work?

12 TROY CHARTER: So when we start the
13 Trial Running Review Team, the process to develop
14 the final criteria or develop the process that we
15 are going to apply, there is already some
16 information that's available to the team, and there
17 is -- you know, there is already sort of a working
18 copy. That is when I get brought into the process,
19 is to start to work with the rest of the team to
20 finalize the process and put it in place.

21 There was already some things in place,
22 that as I said, I didn't recall at the time that
23 there was this previous document. Had I recalled
24 some of the details in that -- had I recalled that
25 document, I would have asked the questions about

1 why we are looking at different criteria from, you
2 know, the AVKR, the vehicle kilometre ratio
3 difference. That would have been a question that I
4 would have posed at the time.

5 KATE McGRANN: So just to make sure I
6 understand your evidence, when you get involved in
7 developing the 2019 criteria, there is some
8 information that is already available to the team,
9 right?

10 TROY CHARTER: Correct.

11 KATE McGRANN: RFI-O-266 is not a
12 document that the team is working from?

13 TROY CHARTER: I don't recall. I mean,
14 you know, I don't recall. I mean, I know that we
15 had existing information. We weren't working from,
16 as I said, a blank slate. There was already some
17 existing information. Was it coming from that
18 RFI-O document? I can assume at this point, yes,
19 but I don't recall specifically at the time.

20 KATE McGRANN: And so you don't recall
21 whether you had access to RFI-O-266 or whether you
22 were looking at it as you put together the 2019
23 criteria?

24 TROY CHARTER: I don't recall.

25 KATE McGRANN: Why, to your knowledge,

1 was a group put together to work on the 2019
2 criteria?

3 TROY CHARTER: Well, we needed a
4 process to be able to validate and assess whether
5 or not the -- whether the terms of the Project
6 Agreement were met, whether substantial completion
7 was met, and whether or not the system was ready to
8 go into revenue service operations.

9 So you needed a process to be able to
10 validate that, you know, the functionality of the
11 trains, the systems, the stations. You needed a
12 process in place for everyone to sign off and
13 validate that, yes, all the criteria had been met
14 for substantial completion and that the trains, the
15 service is ready to go into revenue operation.

16 KATE McGRANN: Do you recall who
17 identified that this need was outstanding?

18 TROY CHARTER: Sorry, my computer is
19 just doing something here. I am trying to get back
20 to my -- sorry, it was doing an update on me.

21 Can you repeat the question, please?

22 KATE McGRANN: Do you recall who
23 identified that this work was outstanding and
24 needed to be completed?

25 TROY CHARTER: No, I do not.

1 KATE McGRANN: Do you --

2 TROY CHARTER: I think it was just
3 understood that, you know, we needed to have a
4 process in place to assess and validate and there
5 was going to be a requirement for a trial running
6 period.

7 KATE McGRANN: Understood by whom?

8 TROY CHARTER: Both RTG, who we have
9 the contract with, OLRTC, the constructor, and you
10 know, the City of Ottawa.

11 KATE McGRANN: Do you recall when work
12 on the 2019 package started?

13 TROY CHARTER: I believe it started in
14 2019.

15 KATE McGRANN: Can you be more specific
16 in terms of when in 2019?

17 TROY CHARTER: I think it was late, the
18 late winter, early spring.

19 KATE McGRANN: Okay. Who identified
20 which people would be on the group working on this?

21 TROY CHARTER: From an OC Transpo, from
22 a City of Ottawa perspective, we discussed it at
23 DLT, and myself, being the Operational Manager, and
24 it made an -- it was an appropriate fit, made good
25 sense. I had been involved in the project working

1 towards operationalizing it and getting ready for
2 service, and you know, the decision was made to
3 make sure that I had support from an industry
4 expert who had commissioned lines and run rail
5 lines before.

6 And then as well, we wanted
7 representation from the Rail Construction Program
8 who was actively involved in all the construction
9 aspects of the project, so that is why Richard
10 Holder was part of it. We knew that we needed to
11 have representatives from the constructor and the
12 maintainer on it because everyone -- you know, we
13 were all essentially partners and we all needed to
14 sign off that the system was ready and fit for
15 service.

16 KATE McGRANN: But I think I missed a
17 word or an acronym in your answer there. I only
18 caught LT. Was there a DLT or an OLT?

19 TROY CHARTER: So the Departmental
20 Leadership Team with OC Transpo.

21 KATE McGRANN: Oh, the DLT?

22 TROY CHARTER: DLT, sorry, yes.

23 KATE McGRANN: Who was on that team?

24 TROY CHARTER: So all the direct
25 reports to the General Manager, so there is John

1 Manconi, Jocelyne Bejin, myself, Pat Scrimgeour,
2 Michael Morgan, at the time Jim Hopkins, the Chief
3 Safety Officer. You know, I think that we had a
4 smaller subset of our DLT that were specific to
5 rail operations. I think those were the primary
6 players. We might have had -- Kim McEwan might
7 have also been part of it at the time.

8 KATE McGRANN: So the names that you
9 just gave me, Mr. Manconi, Jocelyne, Pat
10 Scrimgeour, Michael Morgan and Jim Hopkins, are
11 they the smaller subset of the DLT, or is that the
12 entire group?

13 TROY CHARTER: It is a smaller subset.
14 I mean, there is -- on the bus side, there was
15 Mr. Jim Greer as well, and I know our org structure
16 has changed a little bit over the past couple of
17 years, but you know, we try to focus the
18 operational decisions and the construction to the
19 people that required and were directly impacted by
20 it.

21 So the bus service, while impacted by
22 detours and ultimately when the rail line would
23 come on, they weren't directly related to the
24 ongoing construction and all the actions taken to
25 ensure that, you know, operationally we were ready

1 to run the line.

2 KATE McGRANN: So the subset of the
3 DLT, those people that you just identified, that
4 group discussed who should be working on the trial
5 running criteria and selected, yourself, Mr. Holder
6 and Mr. Gaul; is that right?

7 TROY CHARTER: Right.

8 KATE McGRANN: And then with respect to
9 representatives of the RTG group in the work that
10 is being done, who reached out to them to include
11 them in this work?

12 TROY CHARTER: You know, I would assume
13 that at the time that would have been, you know,
14 someone like Peter Lauch. He would have been
15 making that operational decision or that decision
16 as to who would be participating from RTG and OLRTC
17 and as well as RTM.

18 KATE McGRANN: Do you know how RTG was
19 advised that this was something that needed to be
20 done and some people from there should join the
21 City in putting it together?

22 TROY CHARTER: No, I don't. You would
23 have to ask my colleague Richard on that.

24 KATE McGRANN: And do you know whether
25 the initiative to get this done came from the City

1 or came from RTG?

2 TROY CHARTER: I don't know who -- I
3 just understand that both parties understood that
4 we needed to have a process in place, and it was in
5 all our best interests to document the process and
6 make it formal. You know, so I think it was an
7 understanding, but who initiated it? You would
8 have to ask rail construction or Richard Holder.

9 KATE McGRANN: And is that because you
10 don't know?

11 TROY CHARTER: Yeah, I don't know.

12 KATE McGRANN: Bear with me for a
13 second. I am just going to switch back to the 2019
14 doc, so we can look at it while we are talking
15 about it.

16 Okay, so we are looking, again, at
17 OTT377178. This says it was prepared by Matthew
18 Slade and Will Allman. Do you know who Will Allman
19 is?

20 TROY CHARTER: Yes, I do.

21 KATE McGRANN: Who is he?

22 TROY CHARTER: So Will was with the
23 construction consortium, and he worked with us
24 through finalizing this document as well as during
25 the Trial Running Review Team daily assessments.

1 KATE McGRANN: And do you know what his
2 role was?

3 TROY CHARTER: No. I don't recall
4 right now. I just know that he was involved on the
5 construction side of things with OLRTC, and he
6 assisted in pulling together all of the -- a lot of
7 the information that was required in order to make
8 the assessments.

9 KATE McGRANN: All right, scroll down
10 to the second page, there is a sort of header
11 across the top of the document, and on the
12 right-hand side, it says "Owner: T&C"; do you know
13 what that is in reference to?

14 TROY CHARTER: Testing and
15 commissioning.

16 KATE McGRANN: And was there a testing
17 and commissioning working group?

18 TROY CHARTER: There was a testing and
19 commissioning team, and then as I said, we had a
20 working group that pulled together this document.

21 KATE McGRANN: So is it the case that
22 this document was owned by the testing and
23 commissioning team?

24 TROY CHARTER: For OLRT, yes.

25 KATE McGRANN: And what that mean for

1 practical purposes?

2 TROY CHARTER: So it was their
3 trial -- you know, we jointly created the document,
4 but it was a document that they created for the
5 purposes of assessing pass/fail or
6 pass/repeat/restart during trial running. So it
7 identified what the metrics were that we were going
8 to be looking at, how -- where the metrics were
9 being pulled, overall the process itself. You
10 know, it outlined the daily meetings that were
11 going to occur.

12 So you know, it was a trial running
13 plan, how we were going to assess, how we are going
14 to meet, what the frequency of the meetings were,
15 all that was identified in this document.

16 KATE McGRANN: The members of the
17 working group who worked on this document, it is
18 yourself, Mr. Holder and Mr. Gaul, right?

19 TROY CHARTER: Correct.

20 KATE McGRANN: Anybody else from the
21 City involved in the working group?

22 TROY CHARTER: Possibly an
23 administrative person, but the other names that are
24 on this list here from the OLRT side, they
25 participated in the creation of the document as

1 well.

2 KATE McGRANN: Okay, so on the City
3 side, it is just you, Mr. Holder and Mr. Gaul and
4 maybe an administrative person, right?

5 TROY CHARTER: Yeah, and I believe I
6 mentioned at our last transcript that for a period
7 of time we did have another consultant that we had
8 seconded from another property, Mr. Russell Davies.
9 He also provided some assistance in creating this
10 document too.

11 KATE McGRANN: So was he also a member
12 of the working group?

13 TROY CHARTER: You know, I don't
14 believe -- he wasn't part of the Trial Running
15 Review Team. He didn't -- he wasn't there during
16 the sessions. He did assist in creating some of
17 the criteria, the initial -- putting together this
18 document. But I don't believe he was a formal
19 member of the review team, or the working group,
20 sorry.

21 KATE McGRANN: And was Mr. Davies
22 involved in the creation of the 2017 criteria?

23 TROY CHARTER: No.

24 KATE McGRANN: Why was he involved in
25 the creation of this trial running test procedure?

1 TROY CHARTER: Well, throughout the
2 process, throughout the construction, and as we got
3 closer and closer to operationalizing the line, you
4 know, I previously spoke to you that the City
5 brought in additional expertise and assistance from
6 people who have run rail lines or commissioned rail
7 lines, and we wanted to continue to augment our
8 knowledge and experience.

9 And he was a person that we had reached
10 out to. He had some contacts with -- you know,
11 Calgary Transit was one of the agencies that we
12 sought to collect a lot of feedback from, you know,
13 in terms of, you know, creating operating
14 procedures, best practices, even customer-facing
15 elements, like, you know, do you allow food on a
16 train.

17 So Calgary was one of those areas in
18 which they were sort of viewed as a comparator, not
19 an identical comparator, but a comparator. So as I
20 said, throughout the process we surrounded
21 ourselves with people who had experience, and
22 Mr. Davies was one of those people who had that
23 experience and we wanted to tap into that in
24 creating this trial running review, trial running
25 test procedure document.

1 KATE McGRANN: Did he have specific
2 experience in trial running procedures and the
3 evaluation of trial running?

4 TROY CHARTER: Yes.

5 KATE McGRANN: And what can you tell me
6 about that experience?

7 TROY CHARTER: I can tell you that, you
8 know, Mr. Davies had experience running rail lines.
9 He had an engineering background, and he had
10 experience with Calgary and I am not sure if he had
11 experience with other properties. But he has had
12 experience in assessing and, you know, whether it
13 be vehicles, whether it be lines, but he had
14 experience in going through that commissioning
15 process and what are the things you need to look at
16 and those -- you know, what criteria you want to
17 put in place.

18 KATE McGRANN: Turning -- so he is a
19 member -- he provides assistance, but not a member
20 of the working group, per se?

21 TROY CHARTER: Yeah, and I don't
22 believe so. I don't recall him attending the
23 formal meetings -- the minutes -- sorry, the
24 meetings that we had to discuss, but I know that he
25 provided some input and some initial documentation

1 that resulted ultimately in the creation of this
2 document.

3 KATE McGRANN: And in terms of the
4 documentation that he provided, was it precedent
5 criteria from other trial running experiences he
6 had on other projects?

7 TROY CHARTER: I don't know. I don't
8 have the -- I can't recall exactly where he pulled
9 his information from. You know, I can assume that,
10 you know, some of the information came from most
11 likely the RFI document, the RFI-O document, but I
12 don't recall, no.

13 KATE McGRANN: And then in terms of the
14 working group membership, representatives from the
15 RTG side of the partnership, is it Mr. Slade,
16 Mr. Allman, Mr. Jacob and Mr. Lauch?

17 TROY CHARTER: Yes, that's correct.

18 KATE McGRANN: Okay. Anybody else
19 representing RTG on the working group?

20 TROY CHARTER: Not that I can recall at
21 this time. Those were the primary people.

22 KATE McGRANN: And do you remember
23 approximately how many meetings the working group
24 had?

25 TROY CHARTER: Several. You know, I

1 would say probably five or six meetings, if not
2 more. There were several meetings.

3 KATE McGRANN: Were those meetings
4 minuted? Was someone taking notes?

5 TROY CHARTER: I believe --

6 KATE McGRANN: Pardon me?

7 TROY CHARTER: I believe there was some
8 minutes taking from rail construction, yes.

9 KATE McGRANN: And where would those
10 minutes have been saved?

11 TROY CHARTER: With the Rail
12 Construction Team.

13 KATE McGRANN: If we wanted to go
14 looking for them now, where would we look for them?

15 TROY CHARTER: You would have to -- you
16 know, they would be archived, but the Rail
17 Construction Program would have access to them.

18 KATE McGRANN: Did the members of the
19 working group who were representing the City have
20 the authority to agree to trial running criteria to
21 be applied?

22 TROY CHARTER: Yes.

23 KATE McGRANN: And if the members of
24 the working group representing the City agreed, was
25 any further agreement required from the City in

1 order to finalize or approve the trial running
2 criteria?

3 TROY CHARTER: I am not sure if I
4 follow your question.

5 KATE McGRANN: If the group of you
6 agreed, was anybody else required to agree on
7 behalf of the City, or was that sufficient to
8 finalize the criteria?

9 TROY CHARTER: Well, you know,
10 obviously when we are creating this document, you
11 know, I am not working in isolation. You know, I'm
12 connecting up with my General Manager at the time
13 and, you know, connecting up with Michael Morgan
14 from the Rail Construction Program to make sure
15 that we are all aligned and that the criteria makes
16 sense, and, you know, the criteria makes sense and
17 it is not, you know, out of scope with the rest of
18 the Project Agreement.

19 So there is some checks and balances in
20 place, but ultimately, you know, the criteria that
21 was put in place was approved by the Trial Running
22 Review Team and was accepted by the City.

23 KATE McGRANN: And when you say that
24 you are connecting with your General Manager, is
25 that Mr. Manconi ?

1 TROY CHARTER: Yes.

2 KATE McGRANN: And you said you were
3 connecting with Mr. Manconi and Mr. Morgan
4 throughout. Were you sharing drafts of the trial
5 running criteria with them as the working group is
6 doing its work?

7 TROY CHARTER: Not necessarily drafts,
8 but we are talking about what the criteria would
9 be. You know, I think we might have
10 demonstrated -- showed a picture of the scorecard
11 that we were proposing. But we were talking about
12 the criteria. We wanted to make sure that there
13 was a safety element to it and that needed to be
14 first and foremost. That needed to be -- you know,
15 at the end of the day, safety is the number one
16 priority, so we wanted to make sure there was a
17 safety criteria element to it.

18 Obviously, there needed to be criteria
19 specific to things like travel time and number of
20 trips that can be delivered in a period of time to
21 meet the EA requirements of I believe it is 11,000
22 customers per hour per direction, approximately.
23 So making sure we are having those discussions to
24 show how the criteria that is put in place aligns
25 with ultimately performance measures that we would

1 be putting in place when the line is in service.

2 So there were requirements that needed
3 to be met, you know, in terms of, as I said, the
4 number of customers that were -- that the system
5 had capacity to move on an hourly basis. So we
6 chose criteria that was able to demonstrate that,
7 and that was, you know, primarily the travel time
8 and number of trips that were able to -- you know,
9 go past a certain location, you know, at a specific
10 time.

11 KATE McGRANN: And by virtue of the
12 conversations that you are having with Mr. Manconi
13 and Mr. Morgan through the time that the working
14 group was working on this, did you fully brief them
15 on the criteria that the group had agreed to?

16 TROY CHARTER: Yes.

17 KATE McGRANN: Did you share a copy of
18 this "FINAL REV02" version of the criteria with
19 them in advance of the commencement of trial
20 running?

21 TROY CHARTER: I don't know if they
22 would have seen this specific REV version, but they
23 would have seen the scorecard and the metrics that
24 were being applied.

25 KATE McGRANN: And when you say they

1 would have seen the metrics being applied, would
2 that be by virtue of reviewing the scorecard in
3 combination with the briefings that you were giving
4 them?

5 TROY CHARTER: Yes, and then when we
6 got into trial running, we did review the
7 scorecard, the results each day.

8 KATE McGRANN: The conversations that
9 you were having with Mr. Manconi and Mr. Morgan
10 briefing them on the progress of the group and the
11 criteria that is going to be applied, was either
12 Mr. Holder or Mr. Gaul involved in those
13 conversations?

14 TROY CHARTER: Yes, they would have
15 been.

16 KATE McGRANN: And before the trial
17 running actually commenced, was there any question
18 in your mind or concern that either Mr. Manconi or
19 Mr. Morgan did not fully understand all of the
20 criteria and the test procedure that was to be
21 applied?

22 TROY CHARTER: No, I had no concerns.

23 KATE McGRANN: When was the membership
24 of the Trial Running Review Team settled?

25 TROY CHARTER: It would have been

1 months before we got into trial running.

2 KATE McGRANN: Did the Independent
3 Certifier have any involvement in the creation of
4 this trial running test procedure?

5 TROY CHARTER: They participated and
6 sat in on the Trial Running Review Team minutes,
7 the meetings, and then they obviously participated
8 in each day of the trial running.

9 You know, they probably -- I am going
10 by my memory here. They were at the meetings.
11 They participated, but you know, I didn't think
12 they had that much of an active role in determining
13 what the criteria was. And you know, unless there
14 was a significant disagreement in what we needed to
15 prove, I mean, the Independent Certifier was there
16 to certify that the terms of the Project Agreement
17 had been met, so as long as we were choosing
18 criteria that aligned with that, I don't think they
19 had much more to offer at the time.

20 KATE McGRANN: So the Independent
21 Certifier attended the working group meetings in
22 which this document was being created?

23 TROY CHARTER: Yeah, I mean, I do
24 recall that the Independent Certifier was on a few
25 of the calls virtually, but they did participate,

1 yes.

2 KATE McGRANN: And your understanding
3 of the role that the Independent Certifier played
4 in the working group meetings was to ensure that
5 the criteria, the test procedure determined,
6 satisfied the requirements of the Project
7 Agreement?

8 TROY CHARTER: Well, ultimately the
9 role of the Independent Certifier was to verify
10 whether or not substantial completion had been met,
11 so whether or not the terms of the Project
12 Agreement had been met.

13 So you know, as long as the parties
14 were working towards that and provided, you know,
15 rationale in metrics that could demonstrate that, I
16 think that met what the Certifier was looking for.
17 But the Certifier wasn't working for the City or
18 wasn't working for RTG. I mean, the Independent
19 Certifier, they are there to verify whether or not
20 substantial completion has been met, revenue
21 service -- substantial completion has been achieved
22 and revenue service availability has been met.

23 KATE McGRANN: With respect to the
24 attendance of the Independent Certifier at the
25 working group meetings, putting together this

1 document, did you understand their role was to
2 ensure that the criteria that the working group
3 came up with was compliant with the requirements of
4 the Project Agreement?

5 TROY CHARTER: Yes.

6 KATE McGRANN: And what was the basis
7 for that understanding?

8 TROY CHARTER: Just simply what their
9 role was, as I previously explained. You know, if
10 the City was seeking to create some criteria that
11 was completely out of scope and didn't fit with
12 substantial completion or achievement of revenue
13 service availability, I would assume that the
14 Certifier would have had an opportunity to speak at
15 that point. And conversely, the same on the RTG
16 side.

17 But both parties had some
18 documentation, had to come up with a process that
19 was able to verify some of the key aspects of the
20 Project Agreement, namely, you know, the
21 output-based specification of -- you know, I
22 already said 11,000 customers per hour per
23 direction, that was one of the key criteria, was we
24 needed a system that was capable of moving that
25 number of people per hour per direction, and that

1 is why we had criteria, as I said, about the -- you
2 know, you can -- you know, it is math, but you
3 know, that is why you come up with criteria that
4 talks about, well, you know, to move that many
5 people in this much capacity per train, you need
6 this many trains to pass certain locations and you
7 need to have a travel time, an end-to-end travel
8 time of I believe it was less than 23 minutes.

9 KATE McGRANN: Do you recall the
10 Independent Certifier ever objecting to any of the
11 criteria put together by the working group in those
12 meetings?

13 TROY CHARTER: I don't recall, no. I
14 don't believe there was.

15 KATE McGRANN: Do you recall the
16 Independent Certifier making any comments or giving
17 feedback on the trial running test procedure that
18 was created by the working group?

19 TROY CHARTER: I mean, there was a lot
20 of dialogue over, you know, how we assessed certain
21 things, especially when you get into some of the
22 qualitative-type stuff. The quantitative was more
23 easier to do. You know, you pull information from
24 the various systems and you can have checks and
25 balances in place.

1 But there was a lot of dialogue on some
2 of the quantitative stuff and verifying that the
3 information from a numerical perspective was
4 accurate and you had checks and balances.

5 I believe the Certifier was engaged in
6 that, but there was quite a bit of dialogue back
7 and forth between the parties.

8 KATE McGRANN: Would an example of
9 qualitative criteria that was subject to a lot of
10 dialogue be the maintenance requirements in the
11 trial running test procedure?

12 TROY CHARTER: Yeah, the maintenance
13 requirements was one of those areas where it was
14 more qualitative in nature, you know, and then, you
15 know, that was the primary one that, well, was the
16 qualitative one.

17 I mean, to a certain degree, the safety
18 criteria could be viewed a little bit as
19 qualitative. I mean, there is, you know, whether
20 occurrence -- a safety occurrence happened or not,
21 you know, you can quantify that. But the degree
22 and the concern associated with the safety issue,
23 there could be, you know, some interpretation
24 involved in that one as well.

25 KATE McGRANN: Was the Independent

1 Certifier required to sign off on the trial running
2 test procedure before it could be used?

3 TROY CHARTER: No. I do not believe
4 so.

5 KATE McGRANN: But you don't recall the
6 Independent Certifier raising any objections to the
7 use of this trial running test procedure?

8 TROY CHARTER: No, I do not.

9 KATE McGRANN: I am going to take you
10 to page 9 of this document to ask you some
11 questions about the specific criteria that was set
12 out.

13 Oh, before I do that, I am going to
14 take you to page 3, just to understand the -- you
15 know, the approach is understood. So page 3 under
16 heading 2.3 "Definitions, Acronyms and
17 Abbreviations", there is a definition for "Trial
18 Running" that says:

19 "A twelve (12) consecutive day
20 period that may commence upon the
21 successful completion of testing and
22 commissioning. Upon successful
23 completion of trial running, the
24 integrated system will be ready for
25 revenue service."

1 What was your understanding as to
2 somebody who contributed to this document as to
3 what the 12 consecutive day period required in
4 order for a pass?

5 TROY CHARTER: You know, that for a
6 period of 12 consecutive days, 12 days in a row,
7 you know, Monday to Sunday, they would be required
8 to pass each one of those days, subject to, you
9 know, the criteria outlined and some interpretation
10 from the Trial Running Review Team, but 12
11 consecutive days Monday to Sunday.

12 KATE McGRANN: Now we will go to page
13 9. Bear with me for one second.

14 At page 14 of OTT377178, heading 5.4
15 "Vehicle Performance", and then under heading 5.4.1
16 "Vehicle Reliability", this says:

17 "Vehicle reliability will be
18 assessed using the Aggregate Vehicle
19 [Kilometre] Availability Ratio" or
20 the acronym "AVKR".

21 And then if you scroll down, you see
22 that there is criteria for pass, repeat day and
23 restart; do you see that?

24 TROY CHARTER: I do.

25 KATE McGRANN: So the "Pass Criteria"

1 is that all:

2 "All AVKR requirements in
3 section 3.1 are met".

4 There is no "Repeat Day Criteria";
5 correct?

6 TROY CHARTER: Correct.

7 KATE McGRANN: And then a "Restart
8 Trial Criteria" is:

9 "Failure to meet the minimum
10 daily AVKR requirement."

11 Is that right?

12 TROY CHARTER: Yes.

13 KATE McGRANN: And then I suppose we'll
14 have to look at section 3.1 to know what the
15 requirements are.

16 And so here we are on page 9, and the
17 requirements are, as I understand it, under the
18 heading "Availability Performance - Aggregate
19 Vehicle [Kilometre] Availability Ratio", average
20 over 12 days of 98 percent, right?

21 TROY CHARTER: Correct.

22 KATE McGRANN: And then a minimum daily
23 of 90 percent?

24 TROY CHARTER: Correct.

25 KATE McGRANN: And so that is supposed

1 to be 90 percent every day for 12 days to get a
2 pass?

3 TROY CHARTER: That is correct, yes.

4 KATE McGRANN: And if you don't meet
5 either of those on any given day, it is a restart
6 day?

7 TROY CHARTER: Yeah, I mean, the
8 average, you have to wait until you have completed
9 the number of days, but yes, if it didn't -- if we
10 did not achieve the 90 percent on a day, that would
11 have been a restart, yes.

12 KATE McGRANN: And at some point in the
13 process, there is an agreement to change some of
14 the criteria to use a criteria that was set out in
15 the 2017 RFI-O-266 document; is that right?

16 TROY CHARTER: That is correct, yes.

17 KATE McGRANN: So to understand what
18 happened when that change was made, I am going to
19 show you two documents at the same time so we can
20 compare them.

21 Okay, so I am showing you two
22 documents. On the left-hand side we have got the
23 2017 criteria, OTT3177 -- no, wrong, COW442401; on
24 the right-hand side, I am showing you the 2019
25 criteria, document OTT3177178.

1 And so looking to the 2017 document
2 under the heading "Service Delivery", the metric
3 that is described here is the AVKR, and it sets out
4 three criteria in order to achieve a pass; do you
5 see that?

6 TROY CHARTER: I do.

7 KATE McGRANN: So the first one
8 "Minimum Daily Availability", that is 90 percent,
9 right?

10 TROY CHARTER: Correct.

11 KATE McGRANN: And on the 2019
12 criteria, does that correspond to the AVKR minimum
13 daily of 90 percent that we see on page 9 of that
14 document?

15 TROY CHARTER: Yes.

16 KATE McGRANN: Okay, so no change was
17 made to that requirement when the 2017 criteria is
18 reintroduced?

19 TROY CHARTER: That is correct.

20 KATE McGRANN: With respect to "Minimum
21 Peak Availability", this is set at 88 percent in
22 the 2017 document; do you see that?

23 TROY CHARTER: Yes, I do.

24 KATE McGRANN: Looking at the 2019
25 document, I am turning to the scorecard that is

1 appended to the back of that document. This
2 minimum peak availability from 2017, is that what
3 is represented under the heading "Operational", the
4 pass ratio number for each of the "Morning
5 westbound", "Morning eastbound", "Afternoon
6 westbound", "Afternoon eastbound"?

7 TROY CHARTER: That is correct. I
8 mean, it is not an exact match, but that is what we
9 put in place to be able to look at meeting our peak
10 period requirements both in the morning and the
11 afternoon, and you know, it was -- literally it was
12 a count of trains passing at specific locations
13 each morning, so that was able to verify both the
14 travel time, the headway -- or the travel time,
15 end-to-end travel time, as well as the headway of
16 the trains, the train frequency.

17 KATE McGRANN: In 2019, the
18 availability requirements are 94 percent in the
19 morning and 93 percent in the afternoon. When the
20 2017 criteria is reintroduced, are those
21 requirements changed to 88 percent to match the
22 2017 criteria?

23 TROY CHARTER: Those requirements, no,
24 I don't recall changing those requirements, no.

25 KATE McGRANN: The third requirement to

1 achieve a pass in the 2017 criteria is an:

2 "Achievement of an average
3 daily AVKR of 96% [...]"

4 And I will just stop right there.

5 If I turn to the 2019 criteria, is that
6 measure represented under the heading "Vehicle
7 Availability Aggregate Vehicle [Kilometre]
8 Availability Ratio (AVKR)" at 98 percent?

9 TROY CHARTER: Yes, that was changed.

10 KATE McGRANN: So that is changed from
11 98 percent to 96 percent?

12 TROY CHARTER: That is correct.

13 KATE McGRANN: And then in 2019, for
14 that measure, it is "AVKR (average over 12 days)".

15 When you look at the 2017 criteria, it
16 says "over 9 of 12 days".

17 So is the change made to the 2019
18 criteria to bring it from 12 days down to 9 over 12
19 days?

20 TROY CHARTER: Yes, it is.

21 KATE McGRANN: And then there is an
22 additional requirement in 2017:

23 "[...] no three consecutive
24 days below 94%."

25 Was that requirement used in 2019 when

1 the 2017 criteria is reintroduced?

2 TROY CHARTER: They continued to use
3 the no more than three days. I don't believe the
4 94 percent really came into factor, but we did
5 apply the no more than three days, and that is in a
6 couple of criteria throughout the document.

7 KATE McGRANN: How is the -- no more
8 than three consecutive days below 94 percent, so
9 that was not required?

10 TROY CHARTER: Well, we had -- there
11 was no days below the -- sorry, I might be just
12 mixing up on the -- I know that if there was any
13 delays below 90 percent, it is an automatic
14 restart. But we had criteria for the weekday, the
15 headway of the throughput, if it was more than
16 three days, it would have to be a restart.

17 The 94 percent, I just -- yeah, no, I
18 believe we applied that, sorry, yes.

19 KATE McGRANN: And --

20 TROY CHARTER: And I know that we
21 applied the criteria that no more than three,
22 through no more than three repeat days, and then,
23 you know, otherwise that would be a restart.

24 KATE McGRANN: Okay, I think that we
25 may be talking about different things here. So let

1 me come back to what you just said, no more
2 than -- is it no more than three repeat days and it
3 would be a restart?

4 TROY CHARTER: That's correct.

5 KATE McGRANN: But with respect to the
6 2017 requirement, that "no three consecutive days
7 below 94%", do you recall whether that element of
8 the 2017 criteria was used in 2019?

9 TROY CHARTER: I'm sorry, I went
10 through all this and I thought I had this
11 all -- that I knew this all.

12 The 94 percent, I don't recall at this
13 time.

14 KATE McGRANN: Now, we looked before at
15 the 2019 criteria which did not allow for repeat
16 days if the AVKR measurements were not met.

17 Was the allowance of repeat days
18 provided for in 2017 reintroduced when the other
19 2017 criteria was reintroduced?

20 TROY CHARTER: Sorry, could you repeat
21 that?

22 KATE McGRANN: Yes, and I think I
23 can -- bear with me.

24 TROY CHARTER: Please, yes.

25 KATE McGRANN: So I am taking you back

1 to page 14 of the 2019 document, and we are looking
2 at heading 5.4.1 and the criteria set out for
3 "Vehicle Reliability" here.

4 The 2019 criteria does not allow for
5 any repeat days when it comes to the measurement of
6 AVKR; do you see that?

7 TROY CHARTER: Yes.

8 KATE McGRANN: And the 2017 criteria
9 does allow for a repeat day when there is a failure
10 to achieve the minimum daily AVKR or the minimum
11 peak AVKR.

12 Do you know if the allowance of repeat
13 days was reintroduced into the criteria when the
14 2017 criteria was applied in 2019?

15 TROY CHARTER: No, if they didn't meet
16 the daily AVKR, it was a restart.

17 KATE McGRANN: All the way through the
18 trial running in 2019?

19 TROY CHARTER: Yes.

20 KATE McGRANN: With respect to the
21 maintenance criteria which is on page 13, and we
22 are looking at page 13 of the 2019 document now, I
23 just want some help understanding the criteria that
24 is applied here.

25 First of all, at any point during trial

1 running, was any change made to the maintenance
2 criteria to be applied?

3 TROY CHARTER: No.

4 KATE McGRANN: And in order to -- this
5 page sets out "Past Criteria", "Repeat Day
6 Criteria" and "Restart [Day] Trial Criteria". In
7 order to pass:

8 "All maintenance practices
9 (planned and unplanned) are
10 conducted as expected and the
11 supporting maintenance processes are
12 being followed and reported on
13 correctly."

14 It says:

15 "Some minor deficiencies in
16 process may be seen (but will be
17 remedied accordingly) and any
18 deviations from practices or
19 reporting are only minor with
20 relatively quick and easy resolution
21 expected."

22 So is it the case that you are not
23 expecting perfect performance on the maintenance
24 practices in order to achieve a pass?

25 TROY CHARTER: That is correct. I

1 mean, two things we are assessing there, we are
2 assessing, one, the use of the system, but
3 primarily as well we are assessing the system
4 itself.

5 So you know, we enter what we call the
6 work orders, so a request for work. It could be
7 due to an observation from someone on the field or
8 it could be due to something the control centre has
9 seen or some sort of deficiency or defect or just
10 an operational issue you need to respond to.

11 So we wanted to both verify that, one,
12 that these work orders, once they get entered, they
13 flow properly through to the right people, that
14 they get actioned, they get actioned within the
15 appropriate time period, and then the work order is
16 closed off.

17 So we wanted to see that tracking of
18 work, right.

19 And then secondly, we wanted to see the
20 use of the work -- the use of their system to --
21 you know, from their maintenance personnel, their
22 teams, to conduct that work and then close off the
23 work and verify that the work has been completed.

24 KATE McGRANN: Okay. The tracking,
25 there is two categories that are used to evaluate

1 "Maintenance Performance". There is "Maintenance
2 Activities".

3 TROY CHARTER: Yes.

4 KATE McGRANN: And the "Demonstration
5 of IMIRS process".

6 TROY CHARTER: Yes.

7 KATE McGRANN: The tracking of work
8 evaluation that you described, which heading does
9 that fall under?

10 TROY CHARTER: That would be under the
11 "Demonstration of the IMIRS process".

12 KATE McGRANN: And the use of the
13 system that you just described, which would heading
14 would that fall under?

15 TROY CHARTER: That would be under the
16 "Maintenance Activities", more of the use, yes, and
17 you can see in there it talks about, you know, what
18 you would expect to see in work orders in terms
19 of -- you know, you see the criteria there,
20 "completeness, timeliness, accuracy", those types
21 of things.

22 KATE McGRANN: Who determined whether
23 any deficiencies or deviations would be minor such
24 that the day could still be a pass day or would
25 fall under a repeat day, for example?

1 TROY CHARTER: So that was the Trial
2 Running Review Team. So we had a process in which
3 the day prior someone would select -- or someone
4 would select five random work orders from the day
5 prior and review that with -- so an OC Transpo
6 employee would do that, review that with an RTM
7 employee, and they would make, you know, their
8 initial assessment as to whether or not the
9 maintenance activities and the completeness of the
10 work orders was considered a pass/fail.

11 Then that information was brought to
12 the Trial Running Review Team on a daily basis when
13 we did our review the next day, and ultimately a
14 determination as to whether or not it constituted a
15 repeat day or a pass.

16 KATE McGRANN: Did the Trial Running
17 Review Team review the preliminary determination
18 that is made and decide whether or not they agreed
19 with that preliminary determination?

20 TROY CHARTER: Yes.

21 KATE McGRANN: And then I believe there
22 is a second level of evaluation which is whether,
23 for example, on a fail day, that failure should
24 result in a repeat day, a pass day; is that right?

25 TROY CHARTER: Correct. So we felt it

1 was important in the scorecard to continue to
2 document, you know, a lot of the incidents that
3 were failures, that they didn't -- failed, the data
4 didn't show the proper amount of completeness or
5 the timeliness in the work orders.

6 But the Trial Running Review Team made
7 a decision based upon, you know, was it -- were
8 they significant issues or were they minor issues
9 that could be easily corrected. And for the
10 majority of the time, you know, almost all the
11 time, they were minor issues in terms of a work
12 order was entered in an hour later than it should
13 have been or it was lacking some detail in how they
14 closed off the work.

15 So the Trial Running Review Team made a
16 determination as to whether or not those should be
17 repeat days or ultimately was it sufficient enough
18 to pass for the day.

19 KATE McGRANN: Was any more specificity
20 put around how the determination was made, whether
21 a maintenance failure under either heading would
22 result in a pass day or a repeat day?

23 TROY CHARTER: No, I mean, the criteria
24 that is outlined in the document is what was
25 applied, but we used some discretion in

1 determining, you know, if these were major issues,
2 if they were issues that were safety critical or
3 anything like that, those are factors that were
4 considered into it.

5 And what we saw in almost every one of
6 the circumstances, it was minor issues with regards
7 to the data that was included under the work order,
8 and through some training, through some, you know,
9 what RTM talks is the tool box talks, through that
10 type of corrective action, these were all issues
11 that were easily able to be corrected.

12 KATE McGRANN: Do you recall if you saw
13 any repeat issues over the 23 days of trial running
14 from a maintenance perspective?

15 TROY CHARTER: Well, I mean, from a
16 maintenance perspective, yeah, it was -- you know,
17 the repeat was the fact that the work orders, you
18 know, they were lacking some detail that the City
19 expected to see in terms of, you know, what actions
20 were being taken to either close off the work order
21 or, you know, details with regards to if there was
22 a delay in responding, what the rationale was for
23 the delay in responding.

24 And there is perfectly good, legitimate
25 reasons why certain things you would respond later.

1 If you are running service and it is something to
2 do on the line, you know, you would have to wait
3 until the end of the day or disrupt service.

4 So if it is a non-safety critical
5 issue, you know, it is more than reasonable to say,
6 Hey, wait until the end of the day. Not going to
7 make the timeline associated with this
8 rectification repair, but because it is a
9 non-safety issue and I am going to wait until the
10 end of the day when service ends, and when we have
11 our engineering hours, we'll do that work.

12 So you know, we definitely saw repeats
13 of that type of situation -- of those types of
14 situations and it was just the level of detail in
15 the work orders, we wanted to see more. We wanted
16 more insight as to what actions were being taken,
17 when they were being taken, and what ultimately was
18 being done to rectify issues.

19 But we could see that the information
20 was flowing, that actions were being taken, that
21 the appropriate steps were being taken to rectify
22 issues. It really just came down to the
23 completeness of the documentation from their
24 technicians.

25 So that was a repeat issue, and you saw

1 that throughout.

2 KATE McGRANN: With respect to the
3 items that led to a preliminary finding of a fail
4 but were determined by the Trial Running Review
5 Team to be non-safety-critical issues such that
6 they could be dealt with over a period of time
7 outside the required timeline; is that right?

8 TROY CHARTER: Yeah, yeah, essentially.
9 I mean, as I said, if there was a safety-critical
10 item that needed immediate attention, that would
11 have been something we would have factored into.

12 But really, the repeat issue that we
13 saw here was just lack of detail, and I know that,
14 you know, there was some discussion as to how much
15 detail should be in these work orders. And from a
16 safety perspective, we want to see as much detail
17 as possible.

18 KATE McGRANN: Sticking for a moment
19 with the items that were identified as non-safety
20 critical such that a failure to meet the timeline
21 wouldn't lead to a repeat day, do you know if any
22 adjustments were made to those timeline
23 requirements as they would be applied in revenue
24 service to reflect the recognition that these are
25 not safety critical and they don't need to meet the

1 timeline that is originally set out?

2 TROY CHARTER: Let me just ask a
3 clarifying question. I mean, I know the Project
4 Agreement talks about timelines for response to
5 certain issues and timeline for rectification for
6 certain issues.

7 And depending on what that -- what the
8 issue is, you know, i.e., whether it being a safety
9 issue, it is immediate response or response within
10 an hour versus something that is not
11 safety-critical, they have a longer period of time.

12 No, there was no adjustments made to
13 the Project Agreement in terms of those key
14 performance metrics in terms of response and
15 rectification time coming from trial running into
16 revenue service.

17 I think that answers your question.

18 KATE McGRANN: I think it does, but I
19 am going to ask you a couple more to just make
20 sure.

21 TROY CHARTER: Okay.

22 KATE McGRANN: So the
23 non-safety-critical issues that led to a fail but
24 it was determined that they could have more time to
25 respond, it wasn't -- it didn't warrant a repeat

1 day, was it the case that they had been incorrectly
2 classified when they were entered as
3 safety-critical when they actually weren't?

4 TROY CHARTER: No. So I don't believe
5 we had any -- I don't recall any safety critical
6 items during trial running. We didn't -- I know we
7 didn't have any safety incidents or safety
8 occurrences. We had a good -- we had a very, very
9 positive safety record during trial running.

10 But no, I mean, I am going back to the
11 higher level answer, I just -- there was no
12 adjustments to the Project Agreement in terms of
13 response time and rectification time from trial
14 running into revenue service. There was no
15 adjustments.

16 The Project Agreement was the Project
17 Agreement. We made no adjustments in that regard.
18 However, there are processes in place that, you
19 know, RTM can leverage when they need longer time
20 or, you know, I use the example we can't repair
21 something as you are in service. We can either
22 disrupt service or we can wait until engineering
23 hours. It is a non-safety critical item. There is
24 what they call a temporary repair process that
25 RTG/RTM can utilize, and you know, literally it is

1 a simple call, hey, to the City, saying, we want to
2 apply the temporary repair process, which puts a
3 hold on the response and rectification times. They
4 give us the rationale for it, and then, you know,
5 ultimately it is approved.

6 That temporary repair process wasn't
7 being utilized early, you know, in the early days
8 in revenue service and obviously in trial running
9 as well.

10 So we worked with them to make sure
11 that that process was understood and was going to
12 be appropriately used. It wasn't a means of
13 protecting from financial deduction. It was about
14 when can the work get done; when does the work need
15 to get done; when can it get done; and can it be
16 done safely.

17 KATE McGRANN: So in terms of the
18 non-safety-critical issues that led to a fail but
19 didn't ultimately lead to a repeat day, in your
20 recollection, was it the case that the temporary
21 repair process should have been engaged in respect
22 of those failures but was not?

23 TROY CHARTER: In some of those cases,
24 yes, possibly, because I know that it did happen
25 throughout the first several months when we were in

1 revenue service, but the majority of the issues
2 that we faced during trial running was just lack of
3 detail. We wanted to see more detail in the work
4 orders. We wanted more line of sight with regards
5 to what actions were being taken, what was being
6 done to rectify the issue.

7 KATE McGRANN: And why is that
8 important to the City?

9 TROY CHARTER: You know, the City is
10 the owner of the line. It is -- it was our line.
11 It is brand new. It was brand new at the time.
12 But to this day, we want to know how our system is
13 being maintained and we want the assurance that the
14 right decisions are being made and the right
15 actions are being taken.

16 So we don't look at every single work
17 order. We don't look at every single piece of work
18 that they do on a vehicle or a piece of track. We
19 try to take a risk-based approach and look at those
20 major issues, look at track. You know, if there is
21 a major incident, we want to understand that in
22 more detail.

23 But you know, the City needs to conduct
24 its due diligence as well in overseeing its
25 contractor, and that is what we do.

1 KATE McGRANN: Are there concerns on
2 behalf of the City that if the work order process
3 is not fully filled out and completed as the City
4 wants, that the work may not have been completed or
5 completed appropriately?

6 TROY CHARTER: More about just
7 questions. You know, primarily we were really
8 encouraged to see that, you know, the work orders
9 were flowing, that we could see that they were
10 tracked, that they were being actioned, and that
11 they were getting to the right people and they were
12 being classified as well too.

13 So you know, the system worked. It
14 really just came down to, you know, knowledge and
15 understanding of their technicians and their staff
16 of the importance of putting in sufficient detail
17 into those work orders. You know, it is not
18 something that is unique to us. I know that other
19 places, you know, maintenance shops, they
20 sometimes -- you know, getting that level of detail
21 out of the frontline technicians and mechanics can
22 be a challenge at times, but you know, this was
23 really about education and experience and letting
24 people know that this is the rationale why we want
25 to see this information in there.

1 KATE McGRANN: In terms of the "Repeat
2 Day Criteria" on the 2019 document, it says:

3 "Multiple errors or omissions
4 were experienced on multiple
5 occasions and possibly by multiple
6 people".

7 Was that within a single day, or was it
8 looked at over the course of the 12 days or more
9 that --

10 TROY CHARTER: It was within the single
11 day, but obviously, you know, we looked at it over
12 the 12 days, but -- or in the end I think 14 pass
13 days, I believe, but it was a longer period of time
14 with the restarts and everything. But no, we were
15 looking at it on a day-by-day basis.

16 KATE McGRANN: And was there any
17 tracking done within or outside of the trial
18 running evaluation of the kinds of errors that were
19 being identified on the maintenance front?

20 TROY CHARTER: Not from my
21 understanding, no. RTM may be better able to
22 understand that, because that was their personnel,
23 and you know, that was the feedback they were
24 receiving from the City. They had committed to
25 doing tool box talks and additional training with

1 their staff, but that would be -- you know, what
2 tracking mechanisms they put in place, that would
3 be for RTM to answer.

4 KATE McGRANN: What is a "tool box
5 talk"?

6 TROY CHARTER: It was a term that they
7 used, an information session. So you know, for
8 example, during the construction period of time,
9 there was -- you know, when we went from, you know,
10 no trains operating on the line and then trains
11 running but there was still construction activities
12 going on, we needed to make sure that everyone was
13 very cognizant of the fact that you can't just, you
14 know, jump -- you know, you can't just access a
15 rail line -- you can't just access the rail. You
16 need to call into the Transit Operational Control
17 Centre because there is trains that are moving and
18 they may be moving in this area.

19 So they would have had tool box talks
20 with their staff to educate them on the fact that
21 they were moving away from construction in which
22 you don't have to worry about any moving vehicles.
23 Now there is construction in which there is
24 processes in place that if you need to access the
25 tracks, the process you need to follow, you need to

1 get a permit to access the track and that permit
2 would prevent the train from, you know, operating
3 where you are working.

4 So they would have had tool box talks
5 and stuff like that. But basically it is training
6 and information sessions given to frontline staff.
7 I would say it is probably not in a formal office
8 setting. You know, it is out in the field where
9 the people are working, so you know, hence the term
10 "tool box talk".

11 KATE McGRANN: You said the City wasn't
12 monitoring the maintenance results day over day.
13 How did the City satisfy itself that the
14 maintenance issues that were identified during
15 trial running had been addressed and remedied?

16 TROY CHARTER: Throughout the process
17 we were looking at -- as I said, we were looking at
18 a handful of work orders, and you know, there is
19 the work orders and then there is just the general
20 ongoing maintenance.

21 So from the work order perspective and
22 this perspective, we looked at it and what the
23 issues we were seeing, and yes, they did repeat,
24 but they all were very, you know -- they were minor
25 in nature, lack of some detail, lack of some

1 timeliness in closing a work orderer, but we could
2 see that the work was flowing, that the work was
3 being properly assigned and that the work was being
4 carried out.

5 So that was the basis for the decision
6 that, you know, this wasn't a -- this wouldn't be a
7 holdup in moving forward in launching the system,
8 is that those issues were all minor and that the
9 system was properly tracking and we could see that.
10 So if there was a major safety incident, we could
11 see that in IMIRS and we could see what work they
12 had done or hadn't done.

13 So we had the line of sight that the
14 City needed. And then, you know, the other aspect
15 of it, as I said, was, you know, with time and
16 effort and training, you know, those issues could
17 be easily rectified.

18 KATE McGRANN: And how did the City
19 satisfy itself that those issues had been
20 rectified?

21 TROY CHARTER: Well, as I said, I go
22 back to, you know, put a lot of weight on the fact
23 that the system itself was functioning and was
24 working, and we had line of sight on it. So we
25 were able to see -- you know, we were able to see

1 some improvements in the quality of the work
2 orders, but you know, I can't sit here and say that
3 everything was resolved in terms of, you know,
4 every work order was perfectly worded and had
5 everything we needed into it.

6 You know, that is a bit of an ongoing
7 evolution in that we needed to see continued
8 improvements on that, but there was nothing there
9 that led us to believe that there was any safety
10 concerns, any concerns with how they were
11 maintaining the fleet or the vehicles and the
12 station that would result in any reliability
13 challenges or future safety issues, so that was the
14 basis for our decision.

15 KATE McGRANN: On any day do you recall
16 a disagreement as to how to score either the
17 maintenance activities or the demonstration of the
18 IMIRS process as between the Trial Running Review
19 Team?

20 TROY CHARTER: Oh, definitely within
21 the Trial Running Review Team there was a lot of
22 discussion on the maintenance activities piece and
23 there was discussion as to whether or not it should
24 still be recorded as a fail.

25 And, you know, I would -- you know,

1 myself and, you know, my support, Larry and I
2 believe Richard as well, we all felt that, no, it
3 doesn't meet the definition here that we have
4 included, but recognizing that, you know, there
5 weren't significant issues that would prevent the
6 launch of the rail lines.

7 So yeah, there was some discussion
8 whether or not we should be changing what we
9 recorded on the scorecard from a fail to a pass,
10 but no, we felt confident that in -- and ultimately
11 the group agreed, A, we are able to demonstrate the
12 IMIRS process is working, but there needs to be
13 improvements in the completion of the work orders
14 in those closing comments.

15 So we are going to continue to show it
16 as a fail because we want to send that message that
17 there needs to be ongoing improvements in this
18 regard.

19 KATE McGRANN: Okay, so to further
20 understand that answer a little bit, I take it it
21 is the case that the representatives of RTG on the
22 Trial Running Review Team are advocating that a day
23 should be coded as a pass, not a fail; is that
24 right?

25 TROY CHARTER: Yeah, I mean, that is a

1 fairly glossed-over version of it, but yeah, there
2 was some discussion back and forth on it. But
3 ultimately, as I said, the parties agreed that the
4 information contained in the work orders was less
5 than ideal, that improvements could be made and,
6 therefore, we left it as a fail. But ultimately it
7 passed the day.

8 KATE McGRANN: And were there any
9 disagreements that you recall on the Trial Running
10 Review Team about whether a failure on either
11 maintenance performance should result in a repeat
12 day as opposed to a pass day?

13 TROY CHARTER: No, I don't recall any
14 debate in that regard.

15 KATE McGRANN: The Trial Running Review
16 Team meetings are limited by this procedure to 30
17 minutes; is that right?

18 TROY CHARTER: That is what the process
19 was. There was no way we were done in 30 minutes.

20 KATE McGRANN: Yeah, that was going to
21 be my next question. Was that requirement applied
22 in practice?

23 TROY CHARTER: No. No, we took the
24 time we needed.

25 KATE McGRANN: And what time did you

1 generally need? How long did the meetings
2 generally go?

3 TROY CHARTER: I think a lot of the
4 meetings were around an hour. We had some longer
5 meetings where we had to assess more of the data,
6 but you know, no, it was -- we were considerably
7 longer than the half hour, you know, and you know,
8 it was supposed to be a stand-up meeting. Well,
9 you know, they were longer meetings. You know, we
10 sat in a boardroom.

11 So, but no, the half an hour practice,
12 while it was good in theory, we couldn't apply it
13 that way. So we took the time that we needed.

14 KATE McGRANN: And do you remember any
15 day in which the determination of whether the day
16 as a whole would ultimately be a pass or something
17 else had to go to the Independent Certifier because
18 the parties could not agree?

19 TROY CHARTER: I don't believe we had
20 any of those days, no.

21 KATE McGRANN: The information that is
22 brought to the Trial Running Review Team on a daily
23 basis to help it assess maintenance performance and
24 the other criteria, was that package of information
25 retained and available to the parties as trial

1 running continued?

2 TROY CHARTER: Yes. So you know, the
3 previous day's performance reviewed the following
4 day, and then we had -- you know, we had respective
5 teams that were responsible for collecting bits and
6 pieces, various pieces of the information.

7 So for example, the headway, the number
8 of trains passing through, we had information that
9 we pulled from I'll just say the system, and I will
10 probably get the acronym wrong, but the system, but
11 then we had staff out in the field doing physical
12 counts. We had staff doing, you know, physical
13 timing of trains, but then we also pulled
14 information from the -- once again from the system
15 that told how long the average travel time was from
16 end to end.

17 So we had various information -- the
18 inputs were coming from various sources. It was
19 compiled and then we viewed it the previous day, so
20 the other example being the maintenance practices,
21 the RTM representative and OC Transpo
22 representative randomly selected five work orders
23 and they made their determination based on those
24 five that they reviewed.

25 So once again, that information came to

1 us. It was only the Trial Running Review Team that
2 had access to the pass/fail or pass/repeat/restart
3 information. All the other groups only had their
4 individual component.

5 KATE McGRANN: And all of the I'll call
6 it source information that each of the individual
7 groups brought together, was that compiled and how
8 was it shared with the Trial Running Review Team?
9 Did you each receive a binder or was it electronic?

10 TROY CHARTER: A lot of it was
11 electronic, and so it was compiled in -- you know,
12 Will Allman was the person who really took the lead
13 in walking everyone through that, through the
14 various pieces of information in filling out and
15 completing the scorecard.

16 KATE McGRANN: And do you know if the
17 collection of each source information -- or each
18 collection of source information for each of the
19 trial running days was saved as a single file such
20 that you could go and see everything that was
21 relied upon for that particular day?

22 TROY CHARTER: I believe it is, but you
23 would have to ask my colleague Richard Holder on
24 that.

25 KATE McGRANN: Mr. Wardle, if that

1 information hasn't been produced, could you produce
2 it to us; and if it has been, could you identify
3 each of those packages by doc ID?

4 U/T PETER WARDLE: You know, I am not aware
5 of whether we have the information. We'll look for
6 it, and if it does exist, we'll produce it.

7 KATE McGRANN: Okay, and if you have
8 already produced it it turns out, would you just
9 let us know how to find it by doc ID?

10 U/T PETER WARDLE: Of course. Of course.

11 KATE McGRANN: Why don't we take the
12 morning break now. It is just about 10:30 and we
13 can come back at 10:40, if that works for everyone.

14 TROY CHARTER: Great.

15 PETER WARDLE: Great, thank you.

16 -- RECESSED AT 10:28 A.M.

17 -- RESUMED AT 10:40 A.M.

18 KATE McGRANN: So in terms of the
19 changes that are made to the trial running
20 criteria, I want to understand when the decision is
21 made to include the 2017 criteria that we have
22 already discussed.

23 I am going to show you the Independent
24 Certifier's package with respect to trial running.
25 That is document COW270758. It is up on the

1 screen. We are looking at page 12 of that
2 document. It is the scorecard from August 5th.

3 I pulled this up just because there is
4 a note on this particular card that I wanted to
5 share with you before you give your answer. It is
6 note number 4 which says:

7 "AVKR 12 day Average target is
8 currently under review."

9 This note appears on each scorecard
10 from August 5th to August 9th. So if that is of
11 any assistance to you, then I just wanted to let
12 you know that is there.

13 Do you recall when the switch to the
14 2017 criteria was made?

15 TROY CHARTER: Yeah, it would have been
16 around midway through the trial running period, so
17 I believe I mentioned on our last meeting it was
18 around the 15th or 16th of August.

19 You know, I think it is around there.
20 It might have been a couple of days earlier.

21 But the reference on this scorecard
22 here is we were validating the data that was coming
23 out of the system in terms of kilometres delivered,
24 so you see the number 1 there we talk about:

25 "Vehicle KMs continue to be

1 validated by Deloitte during Trial
2 Running, and may be subject to
3 change [...]"

4 KATE McGRANN: Yes.

5 TROY CHARTER: That is what the
6 discussion is, is we are looking at those 12 -- we
7 are looking at the -- we are validating the
8 kilometres and that may change.

9 KATE McGRANN: Okay, so note 1 and note
10 4 on this page are related to each other?

11 TROY CHARTER: Yes.

12 KATE McGRANN: So note 1 says:

13 "Vehicle KMs continue to be
14 validated by Deloitte during Trial
15 Running, and may be subject to
16 change as a result of the Deloitte
17 review."

18 Is that what you were referring to?

19 TROY CHARTER: Yes.

20 KATE McGRANN: And then how does note 4
21 relate to note 1?

22 TROY CHARTER: I just assumed that they
23 were related because I know that we didn't make the
24 change to the AVKR until later on in the process.

25 KATE McGRANN: Is it -- could it be

1 that the notion of changing it was brought up on
2 August 5th and then the decision to make the change
3 takes place later?

4 TROY CHARTER: Possibly, yes.

5 KATE McGRANN: And to be fair to you,
6 do you actually know what note 4 is referring to?

7 TROY CHARTER: You know, it most likely
8 is related to the RFI-0 document and that change,
9 you are right. You are correct.

10 KATE McGRANN: So do you remember how
11 the AVKR 12-day average target came to be under
12 review?

13 TROY CHARTER: No, I know that Mr.
14 Lauch had reached out to my colleague, Mr. Morgan,
15 and brought up the existence of the previous
16 document and discussed that, you know, there
17 was -- you know, although all well-intentioned to
18 go with higher criteria to really demonstrate that
19 the system was ready, that there was a -- that they
20 would like to shift back to the original
21 agreed-upon trial running criteria of the 9 of 12
22 and the lower AVKR.

23 So it is possible, yes.

24 KATE McGRANN: And you said that Mr.
25 Lauch reached out to Mr. Morgan. How do you know

1 that?

2 TROY CHARTER: I have seen email
3 correspondence on that.

4 KATE McGRANN: Email correspondence?

5 TROY CHARTER: Yes.

6 KATE McGRANN: Were you copied on it on
7 at the time?

8 TROY CHARTER: No.

9 KATE McGRANN: Did Mr. Morgan share the
10 email correspondence with you when he received it?

11 TROY CHARTER: Yeah, ultimately we had
12 conversations about it, that the Trial Running
13 Review Team had to discuss it. We did have
14 conversations with it, including the Independent
15 Certifier.

16 So you know, the information all did
17 come up at the time. I don't recall the exact
18 dates, but you know, the information would have all
19 been discussed amongst the entire Review Team,
20 including the Independent Certifier.

21 KATE McGRANN: And do you remember --
22 and I am sorry, I am just not sure I got an answer
23 to my question, do you remember if Mr. Morgan
24 shared the correspondence when Mr. Lauch -- with
25 you at the time he received it?

1 TROY CHARTER: I don't know if he
2 shared with me the email, but we did talk about,
3 yes.

4 KATE McGRANN: And do you know if he
5 shared the email correspondence with Mr. Manconi
6 when he received it?

7 TROY CHARTER: I don't know.

8 KATE McGRANN: When you said that you
9 and Mr. Morgan talked about the email
10 correspondence, was anybody else involved in that
11 discussion?

12 TROY CHARTER: Well, Richard Holder
13 would have been involved, and you know, ultimately
14 we ended up speaking with the entire team. The
15 exact sequence of events and the timeline
16 associated with it, I don't recall the exact dates
17 and times, but you know, I know that the entire
18 Trial Running Review Team was apprised and did
19 speak to it.

20 KATE McGRANN: With respect to the
21 discussions on the Trial Running Review Team about
22 a potential change to the AVKR 12-day average, when
23 did those discussions take place? And I will let
24 you know what I mean. Was it during the daily
25 review meetings you were having about the previous

1 day's performance or was a separate meeting struck,
2 for example?

3 TROY CHARTER: We would have discussed
4 it at our daily review meetings, yeah, post -- pre
5 or post review. That is why -- you know, most
6 likely that is why the reference is here in item
7 number 4 in this document.

8 KATE McGRANN: And do you remember how
9 much time the Trial Running Review Team spent
10 considering this change?

11 TROY CHARTER: No, I don't recall.

12 KATE McGRANN: Do you remember if the
13 decision was outstanding over a number of days?

14 TROY CHARTER: Yes, it would have been.

15 KATE McGRANN: And did this discussion
16 about the potential change take place over a number
17 of days?

18 TROY CHARTER: Possibly. I mean,
19 ultimately, you know, the Trial Running Review Team
20 was asked, you know, if we could still -- you know,
21 still review the performance of the line with this
22 change and did it detrimentally impact our ability
23 to assess whether or not, you know, substantial
24 completion in trial running was successful.

25 You know, I know that there were other

1 discussions obviously going on outside of the Trial
2 Running Review Team about this change.

3 KATE McGRANN: You said substantial
4 completion. Were you referring to revenue service
5 availability?

6 TROY CHARTER: Revenue service
7 availability, yes.

8 KATE McGRANN: And when you said you
9 were asked to consider whether you could still
10 review it, was the question, Is the criteria clear
11 enough? Do you feel that you can actually measure
12 if we apply this criteria?

13 TROY CHARTER: Yeah, does it
14 fundamentally change our ability to assess whether
15 or not the system is performing as designed and the
16 output specifications are achieved, which would
17 enable us to start running the service with
18 customers.

19 KATE McGRANN: And did you have
20 reference to any documents such as the Project
21 Agreement or otherwise when making that
22 determination?

23 TROY CHARTER: Yeah, we know that the
24 Project Agreement, there is not a lot of detail
25 when it comes to trial running, and we looked at

1 the criteria that was outlined in both the RFI
2 document as well as the trial running procedure
3 that we had, and you know, there was a lot of
4 similarities there.

5 And you know, the criteria was really
6 only changing the AVKR and the 9 of 12 days.

7 KATE McGRANN: And in looking at other
8 documents to determine whether you could still
9 review the system, did you look at the performance
10 requirements that would be expected of the system
11 when it went into revenue service?

12 TROY CHARTER: Yeah, I mean, we knew
13 that we wanted -- you know, we knew that it had to
14 meet the -- I believe I said 11,000, it might have
15 been 10,700, but 11,000 customers per hour per
16 direction, so the train frequency, the headway,
17 that remained unchanged.

18 You know, and the daily AVKR of 90
19 percent remained unchanged as well.

20 So it was just the average and whether
21 it was 12 days or 9 of 12 days, those changed.

22 KATE McGRANN: With respect to whether
23 it would be detrimental, I didn't catch your entire
24 answer there, but could you explain to me what you
25 were referring to?

1 TROY CHARTER: Well, I mean, was it
2 fundamentally changing how we were assessing and
3 what we were assessing in terms of the performance
4 of the line, and you know, the collective decision
5 was no, it was not fundamentally changing how we
6 were assessing and it was not fundamentally
7 changing what we were assessing.

8 KATE McGRANN: Any concerns on the
9 trial running team that the system shouldn't be
10 able to achieve revenue service availability if it
11 can't meet these -- the 2017 requirements, 96, 12
12 days in a row?

13 TROY CHARTER: I think whenever you are
14 in a situation like that, you know, there is always
15 going to be a bit of hesitancy, and you want to put
16 forward the best possible service for a customer.

17 So you know, I think, you know,
18 switching to the criteria, it was supported by the
19 entire team, as well as the Independent Certifier.

20 So no, you know, we felt that, you
21 know, this could still confirm whether or
22 not -- you know, I say substantial completion, but
23 substantial completion led to trial running which
24 led to revenue service availability.

25 So no, I think we felt that still it

1 was going to give us, you know, enough information
2 to determine whether or not we were prepared to
3 move to a revenue service availability.

4 KATE McGRANN: You said there were
5 other discussions taking place at the same time.
6 What other discussions?

7 TROY CHARTER: You know, obviously, I
8 am not privy to all the discussions going on, but I
9 know that there were conversations with Michael,
10 you know, Mr. Morgan and Peter Lauch, and I am
11 assuming -- you know, I know that we had some --
12 sorry, we had some discussions on this at our
13 meetings with our extended DLT with RTG, and I am
14 assuming that Mr. Manconi had some conversations
15 with his counterparts and, you know, possibly the
16 City Manager.

17 KATE McGRANN: Do you know if the City
18 Manager was apprised of this potential change
19 before the change was made?

20 TROY CHARTER: I don't know. I don't
21 know for a fact. I can assume. I know that -- you
22 know, I worked with Mr. Manconi for many years, and
23 you know, he takes pride in making sure -- you
24 know, one of his focuses is no surprises, and
25 communicates, you know, major issues and major

1 developments, so I can only assume.

2 But, you know, I don't believe that
3 this was a decision that was made in isolation.

4 KATE McGRANN: You said that there were
5 some discussions with the extended DLT. Is that
6 the Department Leadership Team?

7 TROY CHARTER: Yeah, the Departmental
8 Leadership Team, and you know, previously I believe
9 I talked about how we had meetings, joint meetings
10 with RTG and RTM, and you know, as we got closer to
11 launch, the meetings went from monthly to biweekly,
12 to weekly, and then ultimately to daily. So you
13 know, there would have been some discussions there
14 making that change.

15 But you know, ultimately, as I said, I
16 know that, you know, Peter and Michael spoke to
17 this and the Trial Running Review Team felt that it
18 did not adversely impact our ability to assess and
19 ultimately then the change was put in place.

20 KATE McGRANN: The discussions that
21 were had with the DLT, including representatives of
22 RTG, do you remember how many discussions were had?

23 TROY CHARTER: I don't remember how
24 many, no.

25 KATE McGRANN: Do you remember if those

1 discussions took place before the decision was made
2 to change the criteria or after?

3 TROY CHARTER: Before. Before and
4 after.

5 KATE McGRANN: What was the subject of
6 the discussions before?

7 TROY CHARTER: Well, you know, it is
8 basically similar to your questions and similar to
9 my previous answers. It is, you know, why was this
10 criteria not put into the original Trial Running
11 Review Team document; what was the rationale for
12 the change; and then ultimately, does this change
13 our process, our approach for trial running, and
14 does it change our ability to assess and verify
15 whether or not the system is ready for operation.

16 KATE McGRANN: With respect to the why
17 the 2017 criteria wasn't put into the 2019
18 document, what was the answer to that question?

19 TROY CHARTER: So you know, the 2017
20 document, although agreed to the parties, you know,
21 was a good starting point and, I know that, you
22 know, RTM/RTG wanted to demonstrate that the system
23 was fit for use and it set a very high bar, very
24 high criteria.

25 And that was the rationale for it, was

1 they wanted to really demonstrate that the system
2 was ready.

3 And you know, some of the criteria
4 applied wanted to get closer to the criteria
5 applied during when we were in revenue operations,
6 and you know, when the contractual mechanisms and
7 the penalties would come into place. But those are
8 separate and apart from trial running.

9 KATE McGRANN: So if I understand
10 correctly, the 2017 criteria wasn't originally used
11 in 2019 because RTG wanted the criteria to be
12 higher?

13 TROY CHARTER: That is my
14 understanding, yes.

15 KATE McGRANN: And that understanding
16 was based on the discussions at the meetings at the
17 DLT with RTG?

18 TROY CHARTER: Yeah, and you know,
19 obviously I am going by -- you know, history has
20 passed, right, so I know what we -- you know, what
21 was communicated to the public, what the additional
22 conversations were post trial running. So you
23 know, I obviously have the advantage of that right
24 now as well too.

25 But, you know, that was a big piece of

1 it for sure, was that they wanted to set a really
2 high, high bar. They wanted to demonstrate that
3 the system was ready for service. We had gone
4 through a year and a half approximately of delays,
5 and you know, by setting a high bar, you are also
6 setting it closer to what the performance payments
7 and deductions would be once you got into revenue
8 service.

9 KATE McGRANN: And when you say it is
10 what the performance payments and reductions would
11 be, it is the requirements for performance during
12 revenue service; if those requirements are not met,
13 then deductions are made, right?

14 TROY CHARTER: Correct, you know, it is
15 a performance-based contract, so pay for
16 performance. So they wanted to set a high, high
17 performance target initially in trial running
18 because that set them up for success when they got
19 into revenue service a couple of weeks later.

20 KATE McGRANN: Would it not also set
21 the system up for success in terms of demonstrating
22 that the service that was promised in the Project
23 Agreement could be delivered to the customers?

24 TROY CHARTER: Yes, I think we are
25 saying the same thing, just a little differently.

1 KATE McGRANN: Okay. I just wanted to
2 be sure. So you said that at the DLT meetings with
3 RTG, there were discussions about why the criteria
4 in 2017 wasn't originally put in the 2019 criteria.
5 I think we have covered that.

6 And then you said, what is the
7 rationale for the change. So what was the
8 rationale for the change that was included at those
9 meetings?

10 TROY CHARTER: You know, well, the
11 parties wanted to make sure that we are using the
12 appropriate criteria and that there was an
13 agreement back in 2017. You know, trial running
14 wasn't going perfectly. There were some really,
15 really good days, and there were some days on which
16 we had some challenges, and I think, you know,
17 those challenging days were anticipated.

18 But at the end of the day, it was
19 one -- it was that both parties agreed that, you
20 know, go with the original criteria, and you know,
21 that original criteria was agreed to in 2017 and
22 gives us a good barometer as to whether or not, you
23 know, the service was fit for service for
24 customers.

25 KATE McGRANN: So the 2017 criteria is

1 agreed to in 2017, right?

2 TROY CHARTER: Yeah.

3 KATE McGRANN: The 2019 criteria is
4 agreed to in 2019 before trial running begins,
5 right?

6 TROY CHARTER: Yeah, and to be honest,
7 Kate, I don't know why that the criteria
8 wasn't -- I mean, I know what -- you know, they
9 wanted to go with the higher level of -- the higher
10 metrics closely matched what -- more closely
11 matched what revenue service would be, but I don't
12 know why it wasn't more discussed earlier on when
13 we were creating the trial running documents. I
14 don't know why RTG didn't push that more or wanted
15 to discuss it more. I applaud them for wanting to
16 go with the higher, you know, higher performance
17 criteria, but I think that it warranted more
18 discussion at the earlier stages.

19 And as I previously mentioned, I didn't
20 recall it at the time and, you know, that is a miss
21 on my part.

22 KATE McGRANN: I guess what I am
23 wondering is why the City would agree to this
24 change. For example, doesn't the City want to see
25 the system perform at the level that it is required

1 to perform under the Project Agreement when it goes
2 into revenue service? Doesn't it want to see that
3 the system can do that?

4 TROY CHARTER: Yes, it does, and you
5 know, from the Trial Running Review Team
6 perspective, we were able to accomplish that
7 through, you know, both the criterias, whether it
8 be the 9 of 12 or the 12 consecutive.

9 KATE McGRANN: Well, isn't there a
10 difference in your mind between a system that can
11 meet the criteria 12 days in a row and a system
12 that can only meet the criteria 9 days out of 12
13 days? On three days you have got unhappy
14 customers, right?

15 TROY CHARTER: Yeah, potentially, and
16 you know, the one thing that we all need to keep in
17 mind is that, you know, things can happen on every
18 system, and they do happen on every system.

19 Also recognizing that this was a brand
20 new line with a new -- you know, the maintainer had
21 new staff. So I think there was an understanding
22 that there were going to be some growing pains
23 along the way.

24 But at the end of the day, aside from
25 those growing pain issues, the vetting-in period we

1 talked about previously, you know, was the -- you
2 know, were the vehicles ready, was the system
3 ready, you know, were all the support systems,
4 including, you know, the elevators, escalators,
5 fire alarm systems, were they all ready to go. And
6 we were looking at that.

7 So you know, at some point you have to
8 make a decision as to the criteria you want to
9 apply and what is the length of time. You know, is
10 it assessing it for four months or is it assessing
11 it for a short period of time? Recognizing that
12 there wasn't a lot of detail in the PA that
13 directed this, and we had an agreement back in 2017
14 as to what the criteria should be.

15 KATE McGRANN: In terms of when the
16 change in criteria begins to be applied by the
17 Trial Running Review Team -- hang on a second.
18 There is a letter that comes over to Michael Morgan
19 from Peter Lauch that I am going to show you.

20 So we are looking at an August 16th,
21 2019, letter from Peter Lauch there to Michael
22 Morgan. It is document COW158931. Happy to give
23 you a second to review this document. Do you
24 recognize it?

25 TROY CHARTER: I do. I recognize it,

1 yes.

2 KATE McGRANN: Do you know if August
3 16th is the date that the 2017 criteria begins to
4 be used in the evaluation of trial running?

5 TROY CHARTER: Yeah, it is around that
6 time. I mean, because it is dealing with the AVKR,
7 the average over 9 of 12 days, you know, we had
8 the -- you know, it is not applied -- it wasn't
9 applied on a day-to-day basis because that wasn't a
10 change. The 90 percent was still -- the 90 percent
11 AVKR on a daily basis was still applicable. This
12 was the average over a period of time. So it would
13 have been around that time, yes.

14 KATE McGRANN: And was it your
15 understanding that once the average of 9 of 12 days
16 is introduced, that metric is going to be used to
17 look back and see have we already met this and also
18 used to apply to days going forward?

19 TROY CHARTER: Yes.

20 KATE McGRANN: So once it is
21 introduced, it is introduced to cover all days of
22 trial running from the very beginning?

23 TROY CHARTER: Yes. And we had some
24 repeats and restarts earlier in the process, so I
25 believe earlier in the process a lot of those dates

1 don't really apply because we had to restart
2 anyway.

3 KATE McGRANN: And I am going to ask
4 you some questions about those dates to better
5 understand them in a second.

6 For the repeat days that we see prior
7 to August 16th, and I think there are a couple, do
8 you know if those repeat days were repeats as a
9 result of the introduction of the 2017 criteria or
10 were they repeats for other reasons? And if you
11 need to look at the scorecards, we'll do that.

12 TROY CHARTER: I think I can answer
13 that question. I mean, depending on how much more
14 detail we get into, I might need to look at the
15 scorecards.

16 But no, the repeats and restarts were
17 as a result of the original criteria.

18 KATE McGRANN: And what was the
19 Independent Certifier's involvement in the change
20 of the criteria to the RFI-O-266 criteria?

21 TROY CHARTER: Well, ultimately the
22 Independent Certifier signed off on the trial
23 running process and, you know, confirmed that, you
24 know, that it is -- that the requirements were met
25 and they were involved in those conversations that

1 we had at the Trial Running Review Team.

2 So no objections were raised.

3 KATE McGRANN: And what role did you
4 understand the Independent Certifier to be playing
5 in the discussions about the change in criteria?

6 TROY CHARTER: Well, ultimately I go
7 back to the role of the Independent Certifier was
8 to, you know, be independent from both RTG and the
9 City and to confirm whether or not, you know, the
10 requirements for successful pass in trial running
11 had been met.

12 So ultimately, they signed off on the
13 final scorecard, and if there were any disputes or
14 debates, you know, they would have sort of final
15 determination.

16 So they were involved in the process,
17 involved in the discussion, and raised no
18 objections with making the change, and as I said,
19 ultimately signed off and certified that the system
20 was ready to go.

21 KATE McGRANN: In terms of the change
22 of the criteria, did you understand the Independent
23 Certifier to be doing anything other than applying
24 the criteria that was agreed to by the parties?

25 TROY CHARTER: I think if we were

1 fundamentally changing how we were going to assess
2 and fundamentally changing the criteria, moving
3 away from, you know, the output-based
4 specifications and those types of things, I think
5 the Independent Certifier would have had more of a
6 role and more of a discussion.

7 But because the criteria was similar in
8 nature and it had already been previously approved,
9 you know, I don't think there was a lot for the
10 Independent Certifier to weigh in on.

11 KATE McGRANN: And then why do you
12 think the Independent Certifier would have spoken
13 up if there was a fundamental change away from what
14 you just mentioned?

15 TROY CHARTER: Because ultimately the
16 trial running was to confirm whether or not the
17 requirements to move into revenue service had been
18 met and achieved, and as the role of the Certifier,
19 they weren't there to take the City's stance or
20 RTG's stance. They were truly meant to be
21 independent of that.

22 So you know, I think, you know, the
23 Independent Certifier, Monica and Kyle could
24 probably speak to it in the more detail, but you
25 know, that is my understanding.

1 KATE McGRANN: Okay, I am asking are
2 you relying on the fact that they didn't object as
3 an indicator that the change wasn't meaningful?

4 TROY CHARTER: Yeah, that is part of it
5 for sure. I mean, we -- you know, there were,
6 yeah, no objections raised. A lot of -- we did
7 discuss it, and as I said, we changed the average
8 over the course of the period of time and -- you
9 know, but we kept a lot of the daily metrics in
10 place, which was the 90 percent, you know, the
11 other type -- the headway, the throughput, travel
12 time. We kept all those there.

13 So you are still assessing largely all
14 the same criteria. There was just some
15 modifications to that criteria that were being
16 applied.

17 KATE McGRANN: The other change that is
18 mentioned in this letter that we are looking at
19 right now, the last paragraph on the first page
20 here speaks to:

21 "[...] [proceeding] to a
22 subsequent phase of testing where
23 [RTG] provide[s] a service that
24 matches or exceeds the expected
25 passenger volumes during the launch

1 period. This plan requires thirteen
2 vehicles during the morning peak and
3 thirteen vehicles during the
4 afternoon peak, and will be measured
5 against RFI-O-266 targets."

6 When it says in the subsequent phase
7 that it will be measured against RFI-O-266 targets,
8 does that incorporate any changes to the trial
9 running criteria other than those that we have
10 already discussed?

11 TROY CHARTER: You know, we did change
12 the peak period vehicle counts.

13 KATE McGRANN: That is the 13 here?

14 TROY CHARTER: Yeah, the 13, and it was
15 previously -- and we had run that numerous times.
16 It was 15 trains in the morning and 13 trains in
17 the afternoon. That was based on ridership
18 projection numbers from years earlier, and we
19 wanted to assess based upon what the actual
20 ridership numbers were moving forward.

21 So 13 trains in the morning and 13
22 trains in the afternoon more than met our ridership
23 needs, so that is what that reference is referring
24 to there, is we started to, you know, instead of
25 launching 15 trains in morning, it was 13 trains,

1 which matched what we were going to be putting into
2 place for revenue service once the line opened up.

3 KATE McGRANN: When that line says -- I
4 am just trying to figure out what it means when it
5 says "it will be measured against RFI-O-266
6 targets". For example, we looked at RFI-O and
7 there was a minimum peak availability of 88 percent
8 that you said wasn't introduced into the 2019
9 criteria.

10 Do you know if the reference to the
11 RFI-O-266 targets in this line in respect to the
12 subsequent phase of testing introduced any other
13 changes to the trial running criteria other than
14 the AVKR changes that we have already discussed?

15 TROY CHARTER: Yeah, the only changes
16 are the AVKR and as well as the 9 of 12 days. I
17 believe the 88 percent that I was talking about
18 earlier, that was superceded by the other criteria
19 in terms of the throughput and the headway. That
20 is why I don't believe it was a factor.

21 But this, the change in train counts to
22 match our ridership needs, didn't change the AVKR;
23 it didn't change the criteria. It changed the
24 frequency of trains in our morning peak period
25 only, and that was to match what our ridership

1 needs were going to be when service launched.

2 KATE McGRANN: And --

3 TROY CHARTER: And as I mentioned
4 earlier, we had previously done several days where
5 we had launched 15 trains and were able to
6 demonstrate that 15 trains can operate reliably and
7 safely.

8 KATE McGRANN: I find it confusing to
9 understand how you dropped the number of required
10 trains from 15 to 13 in the morning and the
11 afternoon, but maintained the AVKR. And this is
12 why I am confused and then you can help me
13 understand it.

14 It sounds to me like there is less
15 trains running in the morning and the afternoon,
16 and so the total number of kilometres run that day
17 would also be lower.

18 So how does that not affect the AVKR?

19 TROY CHARTER: So just to clarify, the
20 reduction in train count was in the morning only,
21 not in the afternoon. Okay, so the afternoon --
22 all other times of the day remained the same except
23 for the morning peak period, which is approximately
24 two, two and a half hours in the morning. So it
25 was just the morning peak period that was changed

1 to match our ridership needs.

2 But the AVKR is based upon a
3 percentage, right. So yes, you are correct in that
4 with less trains, there is less kilometres
5 travelled, but the AVKR is based on percentage. It
6 is a dependability, reliability factor. So the
7 number of kilometres did reduce based upon the
8 number of trains, but the percentage of kilometres
9 delivered compared to planned did not change, if
10 that makes sense.

11 So that 9 percent is a reliability and
12 dependability factor.

13 KATE McGRANN: It is a percentage of
14 how many kilometres are to be delivered which is a
15 function of how many trains are running?

16 TROY CHARTER: Yeah, the number of
17 trains, yeah, the number of trains running. You
18 know, you plan your service and that determines how
19 many trains. You know, then the throughput, you
20 know, how quickly trains can go from end to another
21 and determines how many kilometres are travelled.
22 You know, that is all scheduled, and then you
23 compare that to what is actually delivered.

24 KATE McGRANN: When did the City
25 determine that the demands in the morning peak

1 period would only require 13 trains?

2 TROY CHARTER: There was an ongoing
3 review of our ridership needs. I mean, that is
4 something we are always looking at is ridership and
5 something we are always cognizant of.

6 So, you know, leading into trial
7 running, that review was ongoing, and you know, the
8 decision was made during trial running to, you know
9 what -- because we wanted to look at all service
10 frequencies, you know, 15 trains, 11 trains, you
11 know, even on the weekends you are running 11
12 double car trains.

13 So we wanted to look at all
14 frequencies. But as we were getting closer and
15 closer to revenue service, we wanted to make sure
16 we are trialing the service that matches our
17 ridership needs.

18 KATE McGRANN: So the City didn't
19 realize until midway through trial running that
20 only 13 trains would be required in the morning?

21 TROY CHARTER: No, you know, I think
22 that was just an ongoing discussion, and you know,
23 as we are getting closer and closer to service
24 where we are matching -- you know, we are making
25 adjustments and we are matching what our service

1 levels are to what we actually need.

2 So you know, there is constant
3 refinement of that, and you know, the plan was -- I
4 am going to jump here, the plan was after a year of
5 service was to re-evaluate our service levels and
6 possibly make some more adjustments.

7 Unfortunately, COVID hit and we haven't had that
8 opportunity to do that review, but that is
9 something that we are planning to do when we get to
10 a period of stable ridership, and that may be quite
11 some time before we see what the new normal is.

12 KATE McGRANN: Can you say -- like do
13 you remember when the City determined that it was
14 only going to require 13 trains in the morning?

15 TROY CHARTER: I don't recall exactly,
16 no.

17 KATE McGRANN: Do you recall if the
18 City came to that conclusion before the beginning
19 of trial running?

20 TROY CHARTER: I don't believe we did,
21 no.

22 KATE McGRANN: Who raised the
23 possibility of reducing the trains from 15 to 13?

24 TROY CHARTER: I don't recall.

25 KATE McGRANN: You don't recall if that

1 was a suggestion from the City or from RTG?

2 TROY CHARTER: You know, there were
3 discussions on train counts throughout, you know,
4 the lead-up to trial running. You know, they were
5 going in with a very, very low spare ratio, a low
6 number of unavailable -- you know, 30 trains in
7 service with a fleet of 34. So that was going to
8 be a challenge moving into revenue service.

9 So definitely it was a factor that the
10 City considered is, you know, their ability to
11 maintain a reliable service with such a
12 small -- with only four spare vehicles on a fleet
13 of -- so 34 vehicles with 30 in service. It is a
14 tight spare ratio for a new service, so that was a
15 factor that the City looked into is -- you know,
16 and that links back to the conversation we had
17 earlier about soft versus hard launch.

18 KATE McGRANN: So you don't remember
19 who raised this potential change first, the City or
20 RTG?

21 TROY CHARTER: No, I mean, I think it
22 was an organic discussion because it occurred over
23 time. You know, from an RTG perspective, you know,
24 spare ratio would have been a challenge for them,
25 and you know, as I mentioned earlier, you know, the

1 vehicles, there were still some things that they
2 were working through the vehicles to continue to
3 improve the reliability.

4 You know, at the same time, though, the
5 City would have been looking at it from a ridership
6 perspective, and you know, it is one of those
7 things. Don't dictate 15 trains if you don't truly
8 need it for service and trying to be that
9 reasonable partner.

10 So the City is looking at what are the
11 ridership projections and do we really truly need
12 15 trains and is that something that can be
13 considered in terms of reduction.

14 So I don't know who exactly raised it
15 first, or you know -- I don't know who exactly
16 raised it first, but that was the discussion that
17 was going on. From an RTG perspective, 15 trains,
18 low spare ratio. From the City's perspective,
19 okay, we want 15 trains in service, we paid for 15
20 trains in service, but at the same time the
21 ridership projections were based upon years and
22 years ago and we know that our ridership had
23 been -- wasn't as high as it was in the years
24 prior.

25 KATE McGRANN: So if you determined

1 that 13 trains are only going to be needed when
2 service starts, what I am wondering is why wouldn't
3 the City continue to insist on seeing that 15
4 trains can be produced in order to just assess
5 whether the system is reliable or not.

6 Like, presumably if you've got to run
7 11 trains and you can run 15, you can run 11,
8 right?

9 TROY CHARTER: Yeah, and I would also
10 argue, though, that 13 trains gives you that
11 indication as to whether or not the system can run
12 reliably, and we had done -- once again, I would
13 have to look at the scorecards but three or maybe
14 five days in which we had run 15 trains. So we had
15 proven that we could run 15 trains and we wanted to
16 then start to focus on matching the service
17 frequency to what we would be putting into service
18 come revenue service launch.

19 So but 13 trains gives you that same
20 sort of assessment. You know, two extra trains
21 over 25 kilometres of track, you know, is literally
22 what it is. It is two extra trains. But you are
23 still assessing the computer-based train control
24 systems. You are still testing all the emergency
25 telephones, the fire alarms, the reliability of the

1 systems, your Transit Operation Control Centre.
2 You are still assessing all those things, whether
3 it is 13 or 15 trains.

4 KATE McGRANN: And you said this is --

5 TROY CHARTER: Sorry?

6 KATE McGRANN: Yes, sorry, my audio was
7 a little off for a second. Is it okay now?

8 TROY CHARTER: Yeah, I just missed it
9 again there when you reset it there.

10 KATE McGRANN: You said that this
11 discussion about the change from 15 to 13 trains
12 occurred over time. Do you remember how long this
13 topic was up for discussion?

14 TROY CHARTER: No, I don't.

15 KATE McGRANN: Can you give me a
16 general sense? Like was the discussion done within
17 a day? Was it done within a week?

18 TROY CHARTER: I would say it was done
19 over several days, if not several weeks, but you
20 know, why I'm having trouble answering that
21 question is that, you know, we had earlier
22 discussions on spare -- number of spare trains way
23 earlier. Just like there was initial discussions
24 on a partial opening as opposed to a soft opening,
25 you know, those discussions occurred very early on,

1 and then, you know, they don't resurface until
2 later.

3 So the actual change in the shift from
4 15 to 13 would have occurred around trial running
5 and during that time period, but I would be
6 inaccurate if I said there weren't previous
7 discussions about how they are going to manage to
8 maintain service with only four spare trains --
9 with only four spare vehicles.

10 You know, and that is part of the
11 discussions that the City was having from a due
12 diligence perspective very early on, and you know,
13 I referenced the Independent Assessment Team that
14 helped us assess whether or not substantial
15 completion was met. Those are the types of things
16 that we are asking the maintainers, you know, show
17 us how you are going to be able to maintain. You
18 know, it is a new service. There are going to be
19 things that are going to pop up. How are you going
20 to maintain with only four spare vehicles.

21 So a lot of dialogue happened over a
22 long period of time on that, but the decision and
23 that final shift was definitely, you know, around
24 that time, around this time that we are talking
25 about here.

1 KATE McGRANN: What was the challenge
2 that was foreseen with running the system with only
3 four spare trains?

4 TROY CHARTER: The ongoing maintenance.
5 You know, just -- I am not trying to minimize
6 things, but you know, like a car, you know, you
7 need to maintain. And vehicles -- you know, these
8 are obviously multimillion dollar vehicles with
9 lots of components, lots of safety features, lots
10 of customer service features and they need to be
11 proactively maintained.

12 And you know, with a small fleet size,
13 you know, you have got short-term maintenance
14 actions and long-term maintenance actions, and any
15 time, you know, something that would take a vehicle
16 out for -- you know, if it was, you know, a
17 maintenance procedure that takes a couple of days,
18 well, that gives you one less vehicle to be able to
19 respond and react to day-to-day issues that can
20 happen on any rail line or any transit system.

21 So you know, all transit systems have
22 spare vehicles, whether it be buses or trains, and
23 you know, it is a balance. You want to have the
24 right number of spare vehicles so that you can
25 maintain a reliable service, but at the same time

1 you don't want to be carrying too, too much cost
2 overhead in terms of these spare vehicles.

3 So it is finding that right balance,
4 but you know, the other piece to this is, once
5 again, it was a new system, and you know, we were
6 going to go through some of that vetting-in period
7 and some of those growing pains of dealing with a
8 new system, so having that additional flexibility
9 was going to benefit both our customers, you know,
10 as well as the service.

11 KATE McGRANN: Was one of the reasons
12 in favour of creating more spare vehicles known
13 reliability issues with the trains as they were
14 running through trial running?

15 TROY CHARTER: Well, yeah. I mean, you
16 know, I mentioned previously there were some
17 reliability issues with the trains.

18 And you know, we had seen -- you know,
19 as we had seen quite a few actions taken with
20 regards to updating the braking systems, the train
21 line communications. We saw considerable
22 improvements in their performance. Some of the
23 earlier issues had greatly reduced, if not were
24 completely eliminated and we hadn't seen a return.

25 But yeah, that was definitely part of

1 it. You know, we want to -- you know, you want to
2 provide a reliable service for your customers. At
3 the same time, you know, we wanted to get service
4 started too.

5 So, you know, RTG was going to benefit
6 from having some additional spares in their fleet
7 to be able to maintain, and the City was going to
8 benefit from, you know, enhanced or improved
9 reliable service for our customers.

10 So, you know, that is the -- those are
11 two considerations in those decisions for sure.

12 KATE McGRANN: And the agreement to
13 reduce from 15 to 13 trains during morning peak
14 service is ultimately captured in a term sheet that
15 is signed prior to the achievement of revenue
16 service availability; is that right?

17 TROY CHARTER: That is correct, yes.

18 KATE McGRANN: And were you involved in
19 negotiating that term sheet?

20 TROY CHARTER: No, I wasn't involved.
21 I mean, I am aware of it. I wasn't involved in
22 negotiating it. Now, maybe "negotiating" is a bit
23 strong of a word. I mean, I was involved in the
24 process where what was being included but I wasn't
25 involved in the actual negotiations, but I know

1 that there was financial offsets and there was
2 requirements to provide those trains and there was
3 other mitigations put in place too.

4 KATE McGRANN: Well, when you say that
5 you were involved in the process, what do you mean?

6 TROY CHARTER: You know, I am aware and
7 they are asking, is there any feedback, is there
8 other items that potentially should be included, or
9 does the -- is the wording appropriate,
10 given -- well, is the wording appropriate and does
11 it meet operational needs.

12 KATE McGRANN: Were there any items
13 that the City wanted to include in that term sheet
14 that were not ultimately included?

15 TROY CHARTER: No, not that I am aware
16 of, no.

17 KATE McGRANN: With respect to the
18 reporting back on the daily results of the trial
19 running, would you please describe to me what
20 reporting was done at the City from members of the
21 Trial Running Review Team to others at the City who
22 were looking at this project?

23 TROY CHARTER: Yes, so on a daily
24 basis, you know, following the Trial Running Review
25 Team's assessment, we would -- you know, we would

1 come back and we had a room that we had established
2 here and, you know, we were tracking various items
3 towards -- you know, obviously we were tracking
4 things like, you know, the trial running, you know,
5 the key dates, key milestones, service change
6 dates.

7 You know, it was the same room that we
8 previously were using to track the progress of all
9 the construction activities, whether it be
10 stations, vehicles, track.

11 So on a daily basis, myself and
12 Mr. Larry Gaul who was supporting me, we would
13 report back to the leadership team, the
14 Departmental Leadership Team, as to the results of
15 the day, what was achieved. You know, was it a
16 pass day; was it a repeat day.

17 So you know, we were relaying that back
18 and we were also relaying back what the various
19 elements of the scorecard were and where the
20 challenges were.

21 So you know, that was occurring on a
22 daily basis back to the Departmental Leadership
23 Team here at OC Transpo.

24 KATE McGRANN: And let me take a step
25 back in the process actually because I realized I

1 neglected to ask you something. In terms of how
2 the scorecard is filled out and completed, you
3 know, we have got a package with completed
4 scorecards for each day. How was it filled out?
5 Was it tossed up on a screen and filled out in
6 realtime and then saved at the end of the Trial
7 Running Review Team meeting? Like how did that
8 work?

9 TROY CHARTER: Yeah, so we had a video
10 screen in which certain information was -- you
11 know, the data was brought up on the screen and the
12 parties could see how, you know, for example, the
13 headway was calculated, how the travel time was
14 calculated and pulled out of the system data, so we
15 would review that.

16 But then the information was put up on
17 a white board and then we tracked it all there, and
18 ultimately the form was filled out. And I believe
19 on most days we were able to print the form and
20 then have it signed right then and there, but there
21 may have been, you know, once everyone confirmed on
22 the white board, you know, the same scorecard
23 criteria, once everyone had -- we might have signed
24 some on the following day, following confirmation.

25 But I believe we were able to print the

1 information that day and sign it off that day, but
2 we had processes in which we looked at the data,
3 came to -- you know, had a discussion on the
4 various criteria, came to a consensus, determined
5 whether, you know, pass/fail, and then ultimately
6 made a determination on the day whether it was a
7 pass, repeat or restart.

8 KATE McGRANN: And at the end of the
9 trial running meeting for the days in which you
10 were able to complete the form and sign it off, do
11 you leave that meeting with a copy of the completed
12 form or is it otherwise available to the members of
13 the Trial Running Review Team to be able to
14 continue to review, to share with others?

15 TROY CHARTER: No, we didn't leave with
16 copies of the form.

17 KATE McGRANN: Okay.

18 TROY CHARTER: And I believe it was all
19 captured with -- I believe Richard and Will may
20 have kept the original, but no, the team, we
21 weren't distributing copies to multiple people and
22 it definitely wasn't information -- you know, it
23 definitely wasn't bringing copies back of the
24 scorecard to DLT, the Departmental Leadership Team.

25 KATE McGRANN: Were copies of the

1 completed scorecards available electronically?

2 TROY CHARTER: They would have been,
3 yes, yeah.

4 KATE McGRANN: So when you go to speak
5 to the DLT to provide them with an update, are you
6 able to pull up a copy of the scorecard and say,
7 Look, this is where we landed today. Here are the
8 scores. You can see the completed scorecard.

9 TROY CHARTER: You know, I don't
10 believe I brought up the completed scorecard at the
11 DLT because we really ended up just being focussed
12 on a few things, because it was the main points,
13 right, so travel time, frequency, and then the
14 kilometres.

15 So you know, we didn't get into
16 discussion as to, you know, Hey, the kilometres
17 achieved was 94 percent. It was, you know, the
18 kilometres achieved was a pass and, you know, it
19 was a good service day. But it wasn't saying, Hey,
20 we missed 500 kilometres, but it was still a pass.
21 It was more of at a higher level.

22 KATE McGRANN: So members of the DLT
23 are not reviewing the scorecard for the previous
24 day each day?

25 TROY CHARTER: No, I mean, we were

1 tracking our own -- we were tracking information
2 that myself and Mr. Gaul were presenting to the
3 group.

4 KATE McGRANN: And was there any
5 specific information that you tracked over the
6 course of trial running?

7 TROY CHARTER: No, I mean, the
8 information that I was looking at was, you know,
9 what we agreed to run, was the criteria. So you
10 know, any safety occurrences? Yes or no. What is
11 the travel time, end-to-end travel time, vehicle
12 frequency, kilometres achieved, maintenance
13 practices, and then, you know, station availability
14 and some of the other customer-facing features.

15 KATE McGRANN: During the course of
16 trial running and the meetings at the DLT or
17 otherwise, were there concerns raised about the
18 readiness of RTM to maintain the system once
19 revenue service was launched?

20 TROY CHARTER: Yeah, we had some
21 concerns, and I know there was some discussion on
22 that, that, you know, was RTM prepared to be able
23 to deal with the constant grind, and I describe it
24 as a constant grind because when it comes to public
25 transit, you know, you can have a good day but then

1 you need to do it again the next day, and then you
2 need to do it the next, and the next week, and it
3 is never-ending, right.

4 So it is about shifting staff's focus
5 from testing and commissioning or a construction
6 environment to the day-to-day grind of running a
7 day-to-day operation, and you know, so there
8 definitely was some discussion and some back and
9 forth with RTM on their ability to do that.

10 And, you know, the City expressed its
11 concerns. We made requests that they look at
12 things like their staffing levels, bringing in
13 additional expertise to help plan and manage.

14 But -- you know, so yeah, those
15 discussions happened and there were some
16 observations raised by the City that, you know,
17 they were going to -- you know, they needed to look
18 at how they were going to provide that day-to-day
19 service and maintain the reliability over the long
20 term.

21 KATE McGRANN: And the concerns about
22 staffing levels, did those concerns persist through
23 trial running?

24 TROY CHARTER: I mean, during trial
25 running they were able to meet the requirements,

1 right, and you know, save and except for what I
2 talked about earlier about the maintenance
3 practices and the work orders, they were able to
4 meet the criteria and have the trains available and
5 meet the AVKR.

6 But you know, I go back to what I was
7 talking about earlier. A new system, with some new
8 staff, you know you are going to go into some, you
9 know, growing pains, the vetting-in period, and I
10 know I'm using those terms quite a bit and
11 frequently, but you know, we did continue to
12 provide them feedback about, you know, until -- you
13 know, everything is new. You should be
14 over-resourcing, anticipate, prepare for what is
15 unexpected, and anticipate and over-resource. And
16 then when things stabilize and normalize, then you
17 can look at, you know, reducing your workforce back
18 down to I'll say normal levels.

19 But we encouraged them to over-resource
20 in the early days because you just don't know what
21 could happen, and although we had no concerns from
22 a safety perspective and, you know, the reliability
23 of trains was trending in the right direction, we
24 continued to push that they should be looking at
25 over-resourcing and bringing in additional

1 expertise, just like the City had to bring in
2 additional expertise to help inform and make sure
3 the right decisions are being made to ensure the
4 ongoing and continued reliable service.

5 KATE McGRANN: And did RTM do that to
6 the City's satisfaction in time for the public
7 launch of revenue service?

8 TROY CHARTER: Yeah, so it wasn't a
9 requirement. It was our feedback and our advice
10 and recommendations that we were getting from our
11 industry experts and from our team. You know, RTG
12 had taken some steps to bring in some additional
13 resources and people. They brought in a yardmaster
14 to help with the planning of launching trains in
15 the morning.

16 But no, you know, we don't have line of
17 sight on all the staffing actions that they take,
18 but you know, they did add in some areas, but no, I
19 don't think it was -- you know, at the end of the
20 day, you know, the proof is in the pudding, and I
21 have the advantage of looking back at history. You
22 know, we started to run into some issues later on
23 into service, you know. Approximately, you know,
24 four or five weeks into service we started to run
25 into some issues.

1 KATE McGRANN: And just to understand
2 your answer there, I understand that the City is
3 making suggestions about staffing levels, expertise
4 that should be introduced. Did RTM provide
5 information about what, if anything, they did in
6 response to those suggestions up to and at the time
7 of the public launch of service?

8 TROY CHARTER: Yeah, I mean, there was
9 some information provided. I mean, they did -- you
10 know, they did require -- we did require them to
11 bring in, you know, spotters on trains and
12 additional technicians on the line, so they did
13 that. I talked about a yardmaster. They did that.

14 But you know, was it sufficient? You
15 know, in my opinion, I don't believe so, not with
16 what we experienced in the months following.

17 KATE McGRANN: Did you --

18 TROY CHARTER: But they did take
19 action. They did take action. They did bring in
20 additional resources. But you know, were they the
21 right resources at the right places? I don't
22 believe so.

23 KATE McGRANN: Did the City know at the
24 time of the launch of revenue service that RTG
25 hadn't brought in all of the resources that the

1 City thought they ought to have?

2 TROY CHARTER: They -- you know, RTM
3 and RTG remained committed that they had the
4 sufficient resources. They had the team in place.
5 They had the requisite knowledge, expertise and
6 training to be able to maintain the system.

7 So from that perspective, you know,
8 from a project perspective, from a day-to-day
9 service delivery perspective, they are the ones
10 that, you know, it is that output-based,
11 performance-based specification, right.

12 They are there to -- they built the
13 system, and they are there to maintain it. So it
14 is their decisions with regards to the appropriate
15 staffing levels, but they assured us that they had
16 the appropriate knowledge, skills, abilities and
17 the right number of people.

18 The City's suggestions were primarily
19 around it is a new system. You know, things can
20 happen. There is -- you know, in any new system
21 there always is a growing curve, a learning curve
22 and vetting-in period. Over-resource.

23 So the City was focussed more on
24 anticipating, mitigating and over-resourcing to be
25 prepared for what could happen. But throughout the

1 process, RTM and RTG maintained that they had the
2 right number of people, they were properly trained
3 and they had the skills and abilities to do the
4 job.

5 KATE McGRANN: I understand that --

6 PETER WARDLE: Would you mind taking
7 down the share, please?

8 KATE McGRANN: I beg your pardon?

9 PETER WARDLE: Could you take the share
10 down, please?

11 KATE McGRANN: Oh, of course, yes.

12 All I'm trying to understand is whether
13 the City knew as the system is being launched
14 whether RTM had followed its advice, its requests
15 to bring in additional staff and additional
16 expertise in order to be prepared for the launch of
17 the system.

18 TROY CHARTER: I can tell you I know
19 that they brought in some, but was it sufficient?
20 You know, that is my opinion I don't believe it
21 was, but the City was comforted in knowing that RTG
22 had taken a lot of action. They had brought in
23 some additional resources.

24 If you even go back earlier, we had
25 raised some concerns earlier about winter

1 operations, and RTG provided some assurances as to
2 what they were going to be doing different in terms
3 of, you know, staffing and equipment and those
4 types of things.

5 So you know, the City had to go by with
6 what the information that RTM and RTG were
7 providing us, and that was that they had the
8 appropriate staff and they were prepared and ready
9 to launch the system.

10 During trial running, they were able to
11 demonstrate that during that period of time they
12 were able to, you know, launch trains, provide a
13 certain degree of reliability and, you know,
14 continue to do that, you know, over the course of
15 several weeks and many days.

16 So you know, the information that was
17 available to the City was they were ready and RTG,
18 RTM, they maintained that they were ready. Our
19 feedback was about going over and above.

20 KATE McGRANN: And do you know whether
21 RTM accepted and incorporated the City's feedback
22 prior to the launch of revenue service?

23 TROY CHARTER: As I said, I believe
24 that they have incorporated in some areas. I
25 talked about a yardmaster that they had brought on.

1 They had brought on some additional technicians to
2 assist on the line. You know, and that was some of
3 the feedback that the City provided, so we were
4 encouraged in that regard that we saw additional
5 field personnel out working on the line, out
6 supporting the vehicles. And you know, they were
7 going to be a critical piece in troubleshooting if
8 there was any of those sort of minor issues that
9 could occur, having a technician nearby or on the
10 exact train was going to be of great assistance.

11 So no, they did take some action to
12 improve in that regard, yes.

13 KATE McGRANN: Was there any pressure
14 on the City to open the system to the public in
15 September of 2019?

16 TROY CHARTER: Yeah, yes, there was. I
17 mean, the system was a year and a half delayed. We
18 had been -- you know, our customers had been on
19 detour routes that introduced longer travel times
20 and less direct routes, more delays.

21 And you know, the bus service was, you
22 know, to put it mildly, it was hurting because, you
23 know, it became difficult to recruit at a point, a
24 certain point when, you know, we had to publicly
25 tell our operators that, you know, a number of them

1 were potentially going to be laid off because of
2 the introduction of the rail lines.

3 So you can imagine how hard it would be
4 to recruit new operators when it was only going to
5 be a temporary opportunity.

6 So no, there was definitely pressure
7 because of, you know, the state of the system, and
8 we all wanted it and -- but, yeah, no, there was
9 pressure, but I don't see that as any -- normal as
10 any other sort of major system that gets
11 introduced. There is always pressure to get it up
12 and running because people want to reap the
13 benefits of, well, what you are building.

14 KATE McGRANN: Did that pressure play
15 any role in the decision to change the criteria or
16 the number of trains that would be required
17 throughout trial running?

18 TROY CHARTER: Not to my knowledge, no.
19 I mean, at the end of the day, you know, we had
20 some criteria in terms of reliability and, you
21 know, safety first and foremost and which they were
22 able to achieve.

23 And throughout, RTM maintained that
24 they were ready to go. You know, the City did
25 initially reject their first substantial completion

1 submission, and you know, then they were able
2 to -- when they subsequently submitted their second
3 substantial completion package, I will say, it
4 included a lot of information about the actions
5 they have taken to be able to rectify and address
6 the outstanding issues, whether it be documentation
7 or whether it be reliability issues.

8 And we had our -- you know, I
9 mentioned -- I believe I mentioned earlier we had
10 the Independent Assessment Team that Mr. Manconi
11 put in place which was a team of experts that
12 helped inform the City's decision as to, you know,
13 whether or not we could accept substantial
14 completion and whether or not they were ready to
15 start trial running.

16 So that group helped inform that
17 decision to move forward, but you know, not to
18 say -- as I said, I think I'm repeating myself from
19 last time, you know, things weren't perfect, but we
20 had seen considerable improvements in terms of the
21 reliability of the vehicles, finishing off of some
22 of the outstanding items on stations and systems,
23 and -- you know, and then all the safety
24 certification and those types of documentation was
25 all being finalized as well too.

1 But we didn't just rubber-stamp a
2 substantial completion. As I said, we said no to
3 the first submission. We said no.

4 KATE McGRANN: With respect to the
5 testing and commissioning that was performed in
6 advance of trial running, are you aware of any
7 concerns with the adequacy of the testing and
8 commissioning that was done?

9 TROY CHARTER: No. I mean, you know,
10 we took -- we had, you know, the advantage we had
11 of the delay, right, and that gave ourselves and
12 RTM a longer time of running trains on the track, a
13 longer time -- more time in the stations and more
14 time using the systems, whether it be through our
15 control centre or, you know, managing the CBTC
16 systems.

17 So no, we had the opportunity to do a
18 variety of scenarios and drills and exercises, and
19 you know, the OC team, as well as, you know, I
20 would say RTM and some of their field personnel
21 really got to benefit from a lot of those drills
22 and exercises we did in advance.

23 You know, we did things like, you know,
24 emergency alarm activations. You know, we had
25 troubleshooting situations, you know, the launch in

1 reduction of trains on a daily basis. We were able
2 to practice a lot of things and we were able to do
3 it multiple times with our staff.

4 So but, no, I don't -- no, I am not
5 aware of any inadequacies during the testing and
6 commissioning period, no.

7 KATE McGRANN: Okay. So to your
8 knowledge, no one working for or on behalf of the
9 City raised any concerns about the adequacy of the
10 testing and commissioning that was performed?

11 TROY CHARTER: No. I mean, earlier
12 days, obviously, we raised -- there was concerns
13 back and forth with regards to reliability of the
14 vehicles, and that was one of the reasons why the
15 first substantial completion was not accepted and
16 then we saw the plan and what actions were taken
17 and we saw the improvement. It wasn't -- as I
18 said, it wasn't perfect, but we did see an
19 improvement in the vehicles and we had reason to
20 believe that it was going to continue to improve.

21 KATE McGRANN: Are you aware of any
22 concerns raised by anybody working for or on behalf
23 of the City about the accuracy of the reports about
24 the passing of the testing and commissioning, the
25 various tests done during that phase?

1 TROY CHARTER: No, I am not aware.

2 KATE McGRANN: With respect to the
3 Operator Safety Report, do you know what I am
4 talking about?

5 TROY CHARTER: The Operator Safety
6 Case, yes.

7 KATE McGRANN: I believe that you
8 signed off on the Operator Safety Case; is that
9 right?

10 TROY CHARTER: Yes, myself, and I
11 believe I think the Chief Safety Officer at the
12 time would have signed off too.

13 KATE McGRANN: Okay, and could you just
14 quickly describe what the Operator Safety Case is
15 and what its purpose is?

16 TROY CHARTER: Yeah, ultimately it is
17 how the system is going to be operated and what --
18 you know, and how the system is going to be
19 operated, what the operating plans are in terms of,
20 you know, the service reduction and service launch,
21 outlines things like -- I believe it outlines your
22 operating principles, your standard operating
23 procedures and all the mitigations that are in
24 place to ensure safe operations.

25 So, you know, we have a wealth of

1 technology that helps ensure that our system is
2 safe. You know, so it starts off with, you know,
3 it is completely grade separated. We don't -- we
4 are not interacting with any other vehicles or
5 pedestrian pathways. We have a CBTC system that,
6 you know, is computer-based train control. We have
7 operators in our control centre that are working
8 24/7 so we always have controllers that are
9 watching the line and managing the line.

10 And then we go one step further. You
11 know, although it is a computer-based train control
12 system that could be completely automated, we have
13 added that extra level of safety on it and we have
14 operators on those trains.

15 So you know, all of this is sort of
16 outlined and captured in how the line is going to
17 be operated.

18 KATE McGRANN: Okay, and what is
19 signified or communicated by signing off on the
20 Operator Safety Report?

21 TROY CHARTER: Essentially that from an
22 operator perspective that, you know, the system is
23 ready for service.

24 KATE McGRANN: And is it --

25 TROY CHARTER: And --

1 KATE McGRANN: Sorry, go ahead.

2 TROY CHARTER: No, no, it is ready for
3 service, but we have -- you know, here -- sorry,
4 you know, it is here is how -- you know, it
5 outlines how we are going to provide the day-to-day
6 service in a safe manner and what the mechanisms
7 are.

8 So it outlines how -- you know, so what
9 functionality needs to exist, right, so the
10 Guideway Intrusion Detection System, you know, the
11 CBTC system, so it all summarizes and outlines how
12 we are going to operate --

13 KATE McGRANN: And --

14 TROY CHARTER: -- safely.

15 KATE McGRANN: And when you say
16 that --

17 TROY CHARTER: Sorry, I keep cutting
18 you off, and my apologies. I just wanted to say,
19 you know, it is all about, and because it is
20 entitled "Operator Safety Case", it is about the
21 safe operation of the line. That is what it is
22 focussed on.

23 KATE McGRANN: Okay, so when you say it
24 signifies readiness of the system, it is that the
25 system is ready to be operated in a safe manner?

1 TROY CHARTER: Yeah, and here is the
2 technology; here is how it is used. You know, this
3 technology, it is all towards the day-to-day
4 operation in a safe manner, yes.

5 KATE McGRANN: And is it that
6 everything that is listed in the operator's safety
7 case has been measured against existing standards
8 or hazard list. Like how is it -- how do you
9 determine that it is ready to be operated safely?

10 TROY CHARTER: Well, there is a variety
11 of things. I mean, obviously there is a whole
12 bunch of technical documents and certifications
13 that go through -- you know, I went through the
14 Rail Construction Program, you know, more like
15 engineering-type documents that demonstrate
16 reliability and that type of thing.

17 There is also the hazard mitigation
18 process in which you look at -- even though you
19 put, you know, as many -- as much technology and
20 systems in place, there always is, you know, an
21 inherent degree of risk and how can you further try
22 to minimize that risk.

23 So, you know, and that is when you get
24 into things like training and coaching and those
25 types of things with your staff, having operating

1 procedures.

2 So you know, the safest rail system is
3 a system that doesn't move, right. So
4 unfortunately, you know, if you want to move
5 people, you know, that is when you start to
6 introduce a bit of risk, right. So how do you
7 manage that? Well, we manage that through the
8 computer-based train control system. We manage
9 that by having an operator on the train. The
10 system, the computer-based train control system has
11 been validated through these engineering exercises.

12 You know, oh, but even then you could
13 still have someone jump in front of a train. Okay,
14 here is the operating procedures. Here is what we
15 do. Here is how the train interacts with the
16 guideway detection system and how it helps detect
17 people who may be trying to access the track from
18 the platform. So you are linking all of that
19 together.

20 And so it is a combination of factors,
21 but I also know as part of that we did have a
22 review with the Independent Safety Certifier who
23 looked at that and certified the system as being
24 safe and ready for operations, so that was part of
25 the City process. We had an Independent Certifier,

1 but we also had -- and you know, my apologies, I
2 might get the term wrong, but I am not sure if it
3 is a Safety Auditor or Safety Certifier, but we
4 also had that as well as part of our process.

5 KATE McGRANN: The Independent Safety
6 Auditor or Supervisor, are you referring to the
7 gentleman from TÜV Rheinland?

8 TROY CHARTER: Yes.

9 KATE McGRANN: And what did you
10 understand his function to be? What did he do?

11 TROY CHARTER: Well, ultimately looking
12 at, you know, the system and the documentation that
13 was supplied by RTG in terms of how they validated
14 that the systems are working properly and, you
15 know, all the engineering tests that they have
16 done. You know, he is reviewing that information
17 and providing ultimately his opinion as to whether
18 or not the system has been -- is ready and is ready
19 for safe operation.

20 KATE McGRANN: Jumping around a little
21 bit here because we only have a few minutes left,
22 with respect to, and I may describe this wrong, but
23 the speed profiles or the acceleration and
24 deceleration profiles used during the operations of
25 the trains, I understand at some point some changes

1 were made to those, particularly with respect to
2 during inclement weather; have I got that right?

3 TROY CHARTER: Yeah. Yeah, so -- yeah,
4 there is a vehicle acceleration and brake rates,
5 and you are correct in that, you know, we
6 have -- there is adjustments that Alstom can make
7 with regards to their vehicle and how it interacts
8 with Thales, the computer-based train control
9 system.

10 But as well, there is adjustments that,
11 you know, our control centre staff can make to deal
12 with adverse weather conditions, and basically we
13 refer to it as implementing a Type 1 or Type 2
14 braking rate. And depending on the weather
15 conditions, essentially, you know, come into a
16 station a little slower and accelerate out of a
17 station a little slower.

18 And Type 1 is -- well, Type 2 is more
19 aggressive in that regard, so lower in and slower
20 out.

21 KATE McGRANN: Okay, so the idea is you
22 would use Type 1 in inclement weather and take a
23 slower in and slower out approach?

24 TROY CHARTER: Yeah, and sort of -- you
25 know, and not to minimize it, but like how you

1 drive a car in weather conditions, right, slower up
2 to the stop signs and make sure you -- you know,
3 slower up to the stop signs or stoplights and a
4 little lighter on the acceleration leaving it.
5 It's the same principle.

6 KATE McGRANN: Okay, and is that being
7 done to try to avoid the application of the
8 emergency brake?

9 TROY CHARTER: It is done for a variety
10 of reasons, but yeah, you know, that could be part
11 of it.

12 Part of it as well is you want to avoid
13 what they call slip-slides, so you know, it is
14 steel wheels on steel track, right, so you want to
15 avoid that, because when you have a wheel lock up
16 and say it is sliding on the rail, it can create a
17 flat spot on the bottom of the wheel or it can
18 create, you know, a bit of -- it can create some
19 grooving or some flat spot on the rail itself.

20 So, you know, it is -- you know, and
21 then ultimately you want the trains to stop where
22 they are supposed to stop at every station, and you
23 know, they are designed to stop within a certain
24 period of -- you know, a certain couple of feet,
25 I'll say. It is probably -- and that is probably

1 even a bit long. But they are supposed to stop at
2 a specific location every single time.

3 So you know, we are just managing your
4 service that way, and it is a way to provide a safe
5 service but also there is a reliability and
6 maintainability aspect to it as well.

7 KATE McGRANN: When was the use of Type
8 1 braking first introduced?

9 TROY CHARTER: That first winter.

10 KATE McGRANN: So that would be the
11 winter of 2019?

12 TROY CHARTER: Yeah, so leading into,
13 you know, the winter of 2019/2020, you know, there
14 would have been use of the Type 1 and Type 2 brake
15 rates. You know, it is something that I think both
16 respective teams have gotten better and there has
17 been better communication as to when to use it and
18 how to use it. I think both teams have been much
19 more proactive at using those different brake
20 rates.

21 So in the early days, you know, it
22 wasn't utilized as much as it was -- as it is now
23 currently.

24 KATE McGRANN: And was it a request
25 from RTM or RTG or subcontractors that led to the

1 increased use of Type 1 braking?

2 TROY CHARTER: You know, I would say it
3 resulted as a result of ongoing discussions about
4 how we can continue to improve and how the
5 performance of the line operates, so it is a joint
6 initiative.

7 You know, at the end of the day, you
8 know, these brake rates can impact your -- you
9 know, you have heard me say throughput, right, your
10 ability to meet your headways and that sort of
11 stuff. So it can impact that.

12 So you know, we want to make sure that
13 the system is designed to be able to operate in all
14 weather conditions, but you have got to factor in
15 that in certain weather conditions, just like, as I
16 said --

17 [Court Reporter's Note: Audio
18 interference over the Zoom conference.]

19 KATE McGRANN: I think you were saying
20 just like a car, and you sound fine to me now, do
21 you want to keep going.

22 PETER WARDLE: Sorry, I was having some
23 difficulty and I am not sure whether it is at my
24 end. I didn't get the witness's last answer.

25 KATE McGRANN: I think it might be on

1 your end, but we want you to hear everything
2 obviously, so can you hear us okay now for
3 starters?

4 PETER WARDLE: I can. I have just had
5 a little trouble this morning and I am not sure
6 why.

7 TROY CHARTER: Are you able to hear me
8 now, Peter?

9 PETER WARDLE: I can hear you now
10 perfectly.

11 So I wonder if the reporter could just
12 read back that last answer, if that is possible.

13 THE COURT REPORTER: The last answer
14 was:

15 "You know, I would say it
16 resulted as a result of ongoing
17 discussions about how we can
18 continue to improve and how the
19 performance of the line operates, so
20 it is a joint initiative.

21 You know, at the end of the day,
22 you know, these brake rates can
23 impact your -- you know, you have
24 heard me say throughput, right, your
25 ability to meet your headways and

1 that sort of stuff. So it can
2 impact that.

3 So you know, we want to make sure
4 that the system is designed to be
5 able to operate in all weather
6 conditions, but you have got to
7 factor in that in certain weather
8 conditions, just like, as I said --"
9 And that is where I believe we had some
10 audio interference on the line.

11 PETER WARDLE: Okay, thank you, that is
12 very helpful. Sorry about that.

13 KATE McGRANN: It is part of our
14 day-to-day these days.

15 TROY CHARTER: So what I was saying
16 was, you know, so, you know, maybe there is a bit
17 of a balance, right.

18 The brake rates can impact your
19 throughput, so we want to make sure that when we
20 are using them, it is appropriate and, you know, it
21 is required to meet -- to respond and react to
22 those weather conditions. But at the same time, we
23 want to be applying those, you know, when we are
24 faced with those weather conditions, which we would
25 surely need to adjust and adapt.

1 So things like your throughput or
2 travel time will change depending on your weather
3 conditions. How much should it change? You know,
4 it shouldn't change significantly, but you know,
5 that would be partially dependent on the type of
6 weather you are facing, you know, a couple of
7 centimetres of snow, versus, you know, the blizzard
8 of 45 centimetres, you know, there is two different
9 things.

10 So there has been ongoing dialogue and
11 this is how the teams need to truly work together.
12 They need to look at what works in the various
13 situations and what is the most appropriate course
14 of action. Do we truly need to put in a speed
15 reduction when there is frost on the rails first
16 thing in the morning? How long does it need to
17 stay on? Can it come off after the sun comes out
18 or three or four passes? Those are all things that
19 you need to work out with time and experience, and
20 it is the two parties working together.

21 KATE McGRANN: Was there a reluctance
22 on the part of the City at any time to apply the
23 Type 1 braking due to concerns about the impact on
24 headway or otherwise?

25 TROY CHARTER: The concerns that the

1 City would have is unnecessarily putting it on at
2 all times, not necessarily putting it on because it
3 is a feature of the system and it is both -- as I
4 said, it is both a reliability and maintainability
5 for the fleet, but as well it is a safety feature
6 as well too.

7 So you know, it is about just making
8 sure that it is applied at the right times and it
9 is not meant to deal with, you know, changes to
10 brake rates, brake rate adjustments that need to
11 happen, and that was one of the outstanding
12 deliverables from RTG is they needed to make
13 adjustments to the brake rates because there is
14 different types of brakes on these trains, and I am
15 not a vehicle engineer but you have got electrical
16 brakes and mechanical brakes and finding the
17 right -- you know, finding the right optimal
18 balance between the two is something that they were
19 working on as well as, you know, the profile of how
20 Thales interacts with those trains and how the
21 computer-based train control system interacts with
22 the trains.

23 So there was some work there that had
24 to be done and that was identified in one of their
25 subsequent plans.

1 KATE McGRANN: So just to understand
2 your answer there, was it the case that, first of
3 all, there were requests from RTG to change the
4 brake profile and apply Type 1 brakes in different
5 circumstances?

6 TROY CHARTER: We definitely had
7 circumstances in which there was a request to move
8 to Type 1 brake rates or to move to make these
9 brake rate adjustments.

10 There would also be situations where
11 our staff would observe it themselves because our
12 control centre is monitoring the system and that
13 there will be times in which if they are getting
14 reports from operators of, you know, the train
15 experiencing a little bit of slip-slide coming into
16 a system, they may implement it as well at their
17 own discretion.

18 But, you know, the brake rate
19 adjustment is really an example of the two parties
20 need to work together and, as I said, it is a brand
21 new system and you need to find ways to work and
22 provide the best possible service in all types of
23 weather conditions.

24 And you know, some of those things take
25 time.

1 KATE McGRANN: With respect to requests
2 from RTG or its subcontractors to apply different
3 brake rates, it sounded to me in one of your
4 earlier answers that the City may have viewed those
5 requests differently depending on whether they were
6 in the City's view required by weather, for
7 example, versus whether they were required by an
8 outstanding need for CBTC-related brake issues. Is
9 that right?

10 TROY CHARTER: Yeah, there has been
11 some requests over the years in which we questioned
12 why would we need to go to a brake rate on a clear,
13 sunny day, and some of the answers are, you know,
14 you clearly understand once you have that dialogue
15 with people.

16 You know, for example, first thing in
17 the morning, when you have a little bit of dew on
18 the rails or maybe it is frost when it is still
19 cold, you know, there could be a little bit of
20 slip-slide that occurs at that time, so you know,
21 put on this brake rate for your first couple of
22 trips. Once you have cleared that off and then the
23 sun has come out, then you can remove that time.

24 So some of the things make perfect
25 sense once you have the dialogue, but other times,

1 you know, it is -- you have got to wonder, you
2 know, midday, why would there be a request for a
3 brake rate adjustment on a clear day in which there
4 is no snow or precipitation on the rails.

5 So you know, that is the dialogue you
6 expect to have and that is the dialogue that we do
7 have at whether it be a daily meeting or weekly
8 meeting, you know, those are the things that being
9 partners that we need to be and that we are, is
10 that we need to find ways to jointly work through
11 those issues because, you know, with all the
12 automation in the world, you still need to have
13 people that respond and react to certain events.

14 KATE McGRANN: So it is fair to say
15 that there were requests to apply different brake
16 rates coming from RTG that the City refused to
17 agree to?

18 TROY CHARTER: You know, I don't know.
19 I wouldn't say that. It is definitely possible. I
20 would have to look at the days in question or what
21 those requests were. It is possible that there may
22 have been some occurrences where the City said no,
23 but generally speaking, when we have a request from
24 our maintainer to implement a brake rate
25 adjustment, that is something that we do because

1 they are seeing something.

2 But I would have to look at the
3 specifics of, you know, if there are specific
4 examples. I would gladly take a look into those,
5 because we would have that captured and tracked.

6 KATE McGRANN: In terms of receiving
7 those requests and responding to them from RTG to
8 change the brake rate, who would be the person who
9 would be best to speak to about that?

10 TROY CHARTER: I mean, I think you
11 might get faced with the same answer in that I
12 would need to see the specifics because, you know,
13 we have been in service for, you know, two and a
14 half years and a lot has happened over that time.

15 But I believe we do have coming up in
16 one of your upcoming meetings with Mr. Matt Peters
17 from OC Transpo, he could definitely speak to the
18 OC side of things.

19 But -- you know, and I am assuming on
20 the RTM side of things, you might want to speak to
21 someone like Mario Guerra. But you know, Matt
22 Peters from my team would be able to speak to that,
23 but he would probably -- you know, because he is
24 dealing with all of the day-to-day, he would
25 probably need some specifics on that, but he would

1 be the appropriate person to speak to because he
2 does track and lead all our trains and systems
3 discussions with RTM.

4 KATE McGRANN: Do you recall any more
5 generalized requests to adjust the brake rates, so
6 not like, you know, only today from 12:00 to 1:00
7 can we please adjust the brake rate, but in
8 situations like this can we adjust the brake rate
9 that the City at least initially said no to?

10 TROY CHARTER: You know, I don't recall
11 saying no to any occurrences, but I do know that,
12 you know, we had some concerns early on that, you
13 know, they were applying the brake rates and not
14 dealing with -- they were asking us to apply brake
15 rates and not dealing with an underlying issue in
16 terms of brake rate adjustments.

17 So you know, I would have a look at
18 that in more detail, but yeah, you know, I know
19 that the City had some concerns that you are asking
20 us to use the brake rates rather than making
21 adjustments to your vehicle or the CBTC system.

22 KATE McGRANN: And in that instance,
23 was there any discussion about we'll do this for
24 now, but we need you to show that you are dealing
25 with the underlying issue?

1 TROY CHARTER: Well, and this is what
2 was part of one of the rectification plans was
3 brake rate adjustments, okay. You know, we
4 required them to make adjustments to improve the
5 reliability of the fleet because what we were
6 seeing was, you know, when we went into that winter
7 of 2019/2020, that winter, we did see -- we did
8 have issues with vehicles that had flat spots due
9 to slip-slides.

10 Now, there is a number of factors that
11 lead into that, you know, obviously weather
12 conditions, the brake rates, but you know, I also
13 know at that period of time that their wheel lathe
14 that trues the wheels, that was down for weeks on
15 end, and you know, it took the City getting
16 involved and I don't know if it was telling them to
17 wake up or whatnot, but you know, get a technician
18 here. They had to bring someone in from the States
19 and that person needs to be situated here, house
20 them here until you get this under control.

21 But they went weeks with their wheel
22 lathe, a critical piece of infrastructure, not
23 functioning. And I know that -- you know, and I
24 know that they blame, you know, the wheel flats on
25 the City's reluctance to do Type 1 and Type 2 brake

1 rates.

2 Well, you know, there are other factors
3 at play, you know, i.e., you need to be looking at
4 your -- you know, adjusting, fine-tuning your
5 braking systems, but if you don't have a
6 functioning wheel lathe, that is a big red flag.

7 KATE McGRANN: So the one factor that I
8 just want to explore with you is the City's
9 reluctance to apply the brake rates.

10 So was it the case that there were
11 requests made to apply the brake rates to avoid the
12 slip-slides and the City did not agree to it?

13 TROY CHARTER: I don't know
14 specifically.

15 KATE McGRANN: Generally do you know
16 whether that was a request that was outstanding for
17 any period of time?

18 TROY CHARTER: I think that those -- I
19 mean, I'll go to my previous answer, and my
20 apologies for this. I believe it is possible, yes,
21 there may have been some occurrences of that, yes.
22 I can't say definitively, but given, you know, what
23 I just mentioned about the discussion back and
24 forth on that, it is possible, yes.

25 KATE McGRANN: And how was that

1 reluctance to agree to the brake rates in the best
2 interests of the system and its customers?

3 TROY CHARTER: Well, if the brake rate
4 is hiding -- or not hiding, but if the brake rate
5 is a way to mitigate, you know, I would be looking
6 at you to solve the problem.

7 And is it the Thales system? Is it
8 your computer-based train control system? Is it
9 too aggressive in terms of acceleration or braking?
10 Is it something to do with the trains and how you
11 adjust your brake rates? But I would want you to
12 look at the underlying cause and not just, you
13 know, expect the City to always implement different
14 brake rates to -- instead of dealing with the
15 underlying issue.

16 KATE McGRANN: And was the City
17 concerned that if it agreed to the mitigation
18 requests, the underlying issue would not be
19 addressed?

20 TROY CHARTER: Yeah.

21 KATE McGRANN: And --

22 TROY CHARTER: Yeah, yeah. I want them
23 to address the issue. I mean, you can mitigate
24 things temporarily while the long-term fix is being
25 investigated and researched and then ultimately

1 implemented.

2 So yeah, you know, I would want to make
3 sure that there is actions being taken to address.

4 KATE McGRANN: Was it a requirement of
5 the City that RTG show that such actions were being
6 taken before the City would agree to the mitigation
7 of changing the brake rate?

8 TROY CHARTER: No. No, you know, I
9 think we were looking just really for clarification
10 as to what the rationale was for brake rate
11 adjustments at certain times, but when you get into
12 that winter, that first winter of, you know,
13 2019/2020, you know, we are following the training
14 and direction that we have been provided by RTM and
15 by OLRTC, right. It was their instructors that
16 trained our staff and, you know, it was their
17 instructors that trained our operators through the
18 train-the-trainer approach.

19 But you know, we are following the
20 training that was provided, but at the same time,
21 you know, it is a complex system in which you
22 need -- you know, both parties need to learn how to
23 use it properly and use the various options or
24 levers to manage the service effectively given all
25 types of weather conditions.

1 So there was a bit of a learning curve.
2 Right, going into that first winter, there is
3 definitely a bit of a learning curve there on both
4 parties.

5 So you know, I know I am talking really
6 negatively right now on RTM in that regard, but
7 there is a bit of a learning curve on their part
8 too. You know, but ultimately, when we get into
9 our first notice of default and the rectification
10 plan, you know, brake rates and brake rate
11 adjustments is one of those items.

12 KATE McGRANN: With respect to the
13 requests that are made to change the brake rates in
14 the winter of 2019 and heading into 2020, was there
15 a lack of trust on behalf of the City as to the
16 motivations of RTG when it made requests like that?

17 TROY CHARTER: You know, I don't know
18 if it is trust or hesitancy. You know, a lot of
19 fanfare when we opened up the service, a lot of
20 excitement. The first couple of weeks, the service
21 went relatively well, but then we get into, you
22 know, the months of October, November and December,
23 and that is when the performance issues start to
24 really come to the surface. And it starts with
25 doors and then you get into, you know, some issues

1 with the sanding system.

2 You know, and then you get into -- you
3 know, I will never forget that New Year's Eve in
4 2019, multiple trains on the line disabled. The
5 first New Year's Eve with rail service, the City
6 out there advertising, be responsible, take
7 transit, take the train into downtown, and we have
8 multiple vehicles that are out of service.

9 And one of the factors that came back
10 of that as to why they were out of service was lack
11 of cleaning of the roofs. And there was some other
12 factors too, but cleaning of the roofs.

13 KATE McGRANN: With respect to --

14 TROY CHARTER: So there definitely is
15 some hesitancy to take what they say at face value
16 at certain points.

17 Now, I say that, and this is all
18 in -- you know, I say that, and you know, we are in
19 a really good place right now. I think the parties
20 are working really well together - and I am really
21 jumping - but you know, at the time, yeah, there
22 was a real hesitancy to take what they said at face
23 value, one hundred percent.

24 KATE McGRANN: With the benefit of
25 hindsight sitting here today, is it possible that

1 that hesitancy interfered with the effective and
2 efficient resolution of issues that interfered with
3 the reasonable -- or reliability of the system?

4 TROY CHARTER: No. I can honestly say
5 that. The City wants to be informed. The City
6 wants its due diligence -- wants to do it due
7 diligence.

8 We are not going to be a quiet observer
9 and just let you maintain the way you feel you want
10 to maintain. We want to make sure it meets the PA
11 requirements, follows industry best practices, and
12 we want to be involved.

13 Now, I don't want to micro-manage. I
14 am not set up to micro-manage. But I do want to be
15 informed. I do want to be involved.

16 And so no, but you know, how the City
17 was applying the contract, how the City's approach
18 to managing operations, that is not what caused the
19 door failures, that is not what caused the catenary
20 pull-down, that is not what caused the derailments.
21 Those are all within the control of RTM.

22 KATE McGRANN: Ms. Peddle, do you have
23 any follow-up questions based on anything that we
24 have discussed today?

25 CARLY PEDDLE: No, I don't. Thank you.

1 KATE McGRANN: The Commission, as you
2 know, has been asked to investigate the technical
3 and commercial circumstances that led to the
4 breakdown and derailments. Are there any areas or
5 topics that we haven't discussed over the two days
6 that we have conducted this interview that you
7 think the Commission should be looking into?

8 TROY CHARTER: No, not that I can of.
9 I mean, we obviously spent most of our time talking
10 about trial running and the lead-up to trial
11 running, and my -- more of my -- I am comfortable
12 and more familiar with, you know, the maintenance
13 term.

14 But no, I think, you know, you are
15 touching upon all the salient points. I mean --
16 and I think it is well-documented in both the media
17 and, you know, just generally, you know, the
18 performance issues that we have had since launch,
19 and I think you are very familiar with that.

20 But no, I can't think of anything else.
21 I mean, obviously there is a lot to talk to with
22 regard to the maintenance term in terms of what
23 happened, but I don't think there is anything
24 additional to add other than talking to some of the
25 details.

1 KATE McGRANN: And any specific details
2 that we haven't touched on that you think are of
3 importance that the Commission should be looking
4 at?

5 TROY CHARTER: No, I mean, it is just
6 sort of like what I mentioned just a minute ago.
7 You know, I think we are in a really good space
8 right now in terms of the working relationship
9 between the parties. You know, Mario, since he has
10 been brought on, Mario Guerra since he has been
11 brought on, he really brought a change in approach.
12 The parties are working very, very effectively
13 together. I think we have been able to move
14 through a lot of some of the earlier disputes,
15 debates, maybe not contractually, but at least from
16 an operational perspective.

17 But the City maintains that, you know,
18 we want to be involved. We want to be engaged. We
19 expect to know what is going on. And I don't want
20 to be surprised. I don't want to learn of an issue
21 that may be affecting the fleet or the ongoing
22 operation, you know, weeks later.

23 I want to know when it happens. And we
24 expect to be kept informed.

25 The information that we request from

1 them is in line with the PA requirements, and you
2 know, should be available online, you know, whether
3 it be inspection reports on vehicles or on
4 stations, corrective action reports, all these
5 things should be available, and if these things
6 were available online, we wouldn't have to be
7 requesting them and they would greatly reduce their
8 work volume.

9 But at the end of the day, our
10 involvement has only benefitted RTM in terms of
11 providing a safe and reliable operation, and you
12 know, I used the last -- the latest derailment as a
13 prime example of that. You know, the City really
14 inserted itself, demanded that we had a fulsome
15 investigation, a fulsome review of their safety
16 management system, a fulsome review of all the
17 vehicles, and I think we are starting to reap the
18 benefits of that because the past several months,
19 you know, we have seen some very -- you know,
20 probably the most reliable service we have seen in
21 the past couple of months and that is a direct
22 result of the City's involvement ensuring that, you
23 know, it wasn't just a quick resolution. You know,
24 we needed to look at it in detail.

25 So I am rambling at this point. I can

1 go on and on.

2 KATE McGRANN: When you say the
3 information should be available online, is there a
4 Project Agreement requirement that isn't being
5 complied with by RTM in terms of making information
6 reports available to the City online?

7 TROY CHARTER: There are some
8 requirements in terms of frequency of documentation
9 and it being available to the City. Whether it is
10 a requirement that it is available online or not, I
11 don't know if that is a PA requirement, but we set
12 up a SharePoint site and we are sharing a lot of
13 information through this joint SharePoint site.

14 We have access to their IMIRS system,
15 and we should be able to go in and just, Hey, I
16 want to pull out all the track inspection reports
17 for this period of time. And that will prevent us
18 from having to ask for them to compile that
19 information for us.

20 And I share that because I know that is
21 one of their concerns that, you know, we ask for a
22 lot of information. Yes, we do. And I think the
23 expectation is that the City would ask for a lot of
24 information, because ultimately it is the line that
25 we own. They are maintaining our line. Again, I

1 don't want to micro-manage, and I don't want to be
2 in the weeds on every single issue.

3 But you know, when you have vehicle
4 reliability specific issues, you had a catenary
5 pull-down, you had a derailment, yeah, I am going
6 to lean in and I want to know what is going on and
7 I want to make sure that I can speak, you know,
8 effectively to my boss or to the public and say,
9 Here is what we are doing to prevent this from
10 reoccurring.

11 KATE McGRANN: To your knowledge, are
12 there any Project Agreement requirements as far as
13 RTM providing information to the City that haven't
14 been complied with since the beginning of revenue
15 service?

16 TROY CHARTER: I know that, you know,
17 documentation has been a challenge sometimes in
18 terms of timeliness of getting documentation. I
19 don't know if there is anything specifically
20 outstanding from launch, but you know, some of the
21 documentation requests have been slow to get or
22 incomplete when we receive them.

23 But I don't recall anything
24 specifically being missed or a violation of the
25 Project Agreement, per se.

1 KATE McGRANN: The Commissioner has
2 also been asked to make recommendations to try to
3 prevent issues like this from happening again. Any
4 specific recommendations or areas of
5 recommendations that you would suggest be
6 considered as part of that work?

7 TROY CHARTER: I think I get more on to
8 the contractual side of things, but you know, I
9 think there needs to be more specifics in terms of,
10 you know, how a Project Agreement is applied in a
11 transit or an operating perspective. That is where
12 I think we run into some challenges in terms of how
13 do you apply the key performance metrics when they
14 are fairly broad.

15 And you know, the example I'll bring up
16 of that, and you know, it is an example that drives
17 everyone crazy right now for months, is the doors,
18 for example, not vehicle doors but doors at
19 stations. You know, there are considerable
20 penalties that get levied with respect to doors
21 and, you know, because there is a response and
22 rectification time to deal with that. These doors
23 are controlled doors. They have access to, you
24 know, train control equipment, you know, the back
25 of house. You don't want people in.

1 You can spend a lot of time arguing
2 about the interpretation of the City being too firm
3 on it being a safety and security issue. If we
4 can't confirm that a door is locked and we want
5 someone to attend to it, you can spend a lot of
6 time arguing about the interpretation or you can go
7 and fix it.

8 And I think, unfortunately, I think we
9 spent a lot of time arguing about fixing the door,
10 and I use that -- you know, it is just an example,
11 but I think there needs to be --

12 PETER WARDLE: I think what Mr. Charter
13 is saying is that he believes that there should be
14 more criteria built into the maintenance term in
15 terms of the Project Agreement, and that is
16 something that --

17 TROY CHARTER: Right.

18 PETER WARDLE: -- the City will address
19 in submissions to the Commissioner at the
20 appropriate time.

21 TROY CHARTER: Yes. Yeah, I am getting
22 too far down the path on a specific example, Peter,
23 thank you. There should be some more definitions,
24 some more clarification.

25 KATE McGRANN: Okay, I mean, the sooner

1 that we hear about anything like that, obviously
2 the better, and so I thank you for raising that
3 today.

4 Mr. Wardle, did you have any follow-up
5 questions you wanted to ask of the witness?

6 PETER WARDLE: I mean, I only wanted to
7 just elaborate on what I have just said. You know,
8 you have been asking individual witnesses for their
9 individual recommendations. The City at the
10 appropriate time will have a list of
11 recommendations it wants the Commissioner to
12 pursue.

13 This is one of them. There are others.
14 I think some of them may have -- you may have
15 touched on with Mr. Morgan and with some of the
16 others who have been examined.

17 So, you know, we are not sure when the
18 appropriate time is to bring that forward, and that
19 is something maybe we can discuss offline.

20 KATE McGRANN: And were there any
21 follow-up questions you wanted to ask of the
22 witness?

23 PETER WARDLE: I think the only
24 question I had, Mr. Charter, was with respect to
25 the discussion you had with my friend about speed

1 profiles, are you able to give us your assessment
2 of how that issue affected the issues that arose
3 with respect to wheel flats in 2020; that is,
4 whether it was a significant contributing factor to
5 the wheel flats?

6 Because my friend asked you a lot of
7 questions about the issue, but I think this is kind
8 of the punch line.

9 TROY CHARTER: Yeah, I think it
10 was -- was it a significant contributing factor? I
11 don't know. I think it may have been one of many
12 factors, but I know that as part of the
13 rectification plan and part of the ongoing work
14 that RTG and RTM have done on those vehicles is
15 looking at the brake rates, looking at making
16 adjustments to the brake rates of the trains and
17 how it interacts with the computer-based train
18 control system.

19 So there is a recognition there that
20 there was actions required on their part.

21 You know, and then as I mentioned, the
22 wheel lathe was down for weeks on end, and you
23 know, that is just unacceptable, especially when
24 you are in the winter months in which, you know,
25 that is when you will experience more slips and

1 slides, regardless of what brake rate adjustment
2 you have. In the winter season, you will see more
3 of that, hence more of a requirement to be
4 continuing to maintain your vehicles and true those
5 wheels.

6 So the slip-slides I would say is one
7 factor of many factors.

8 So is it the significant contributing
9 one? My view is no, but I'll admit it was a
10 factor.

11 PETER WARDLE: Thank you. And just so
12 the record is clear, the rectification plan you are
13 speaking of, and just I am going from memory, is a
14 rectification plan that was discussed between the
15 City and RTM in the fall; do I have that right?

16 TROY CHARTER: Yes, it was
17 following -- yeah, I know we are not talking about
18 the contractual side of things, but it was
19 following the notice of default that was issued in
20 March of 2020, so it would have been in the spring,
21 sorry.

22 PETER WARDLE: Okay, thank you very
23 much. Those are all my questions.

24 KATE McGRANN: All right. Well, that
25 is it for today then. Thanks very much for your

1 time.

2 TROY CHARTER: Thank you.

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5 -- Adjourned at 12:23 p.m.

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REPORTER'S CERTIFICATE

I, DEANA SANTEDICOLA, RPR, CRR,
CSR, Certified Shorthand Reporter, certify:

That the foregoing proceedings were
taken before me at the time and place therein set
forth;

That the statements of the
presenters and all comments made at the time of the
meeting were recorded stenographically by me and
were thereafter transcribed;

That the foregoing is a true and
certified transcript of my shorthand notes so
taken.

Dated this 4th day of May, 2022.



NEESONS, A VERITEXT COMPANY,

PER: DEANA SANTEDICOLA, RPR, CRR, CSR

WORD INDEX

< 1 >

1 136:13 144:5
204:24 205:9,
12, 21 265:13,
18, 22 267:8, 14
268:1 271:23
273:4, 8 278:25
1:00 277:6
10,700 211:15
10:28 203:16
10:30 203:12
10:40 203:13, 17
11 132:17
231:10, 11 235:7
11,000 162:21
167:22 211:14,
15
12 138:17
170:19 171:3, 6,
10 172:20
173:1 176:14,
16, 18 193:8, 12
204:1, 7 205:6
206:21 211:6,
21 212:11
220:8, 11, 12
222:7, 15 228:16
12:00 127:17
277:6
12:23 295:5
12-day 206:11
208:22
13 179:21, 22
227:13, 14, 16,
21, 25 229:10
231:1, 20
232:14, 23
235:1, 10, 19
236:3, 11 237:4
240:13
14 171:14
179:1 193:12
142:9 129:15
15 227:16, 25
229:5, 6, 10
231:10 232:23
234:7, 12, 17, 19
235:3, 7, 14, 15
236:3, 11 237:4
240:13
15th 204:18

16th 204:18
221:20 222:3
223:7
19-page 131:18
< 2 >
2 265:13, 18
267:14 278:25
2.3 170:16
2017 132:10, 14,
17, 25 133:23
140:6 141:9, 18
143:3 156:22
173:15, 23
174:1, 17, 22
175:2, 20, 22
176:1, 15, 22
177:1 178:6, 8,
18, 19 179:8, 14
203:21 204:14
212:11 215:17,
19 216:10
218:4, 13, 21, 25
219:1 221:13
222:3 223:9
2019 131:21
133:8 140:16
141:17 145:5,
16 146:10
147:7, 22 148:1
149:12, 14, 16
153:13 173:24
174:11, 24
175:17 176:5,
13, 17, 25 178:8,
15 179:1, 4, 14,
18, 22 193:2
215:17 216:11
218:4 219:3, 4
221:21 228:8
254:15 267:11
282:14 283:4
2019/2020
267:13 278:7
281:13
2020 282:14
293:3 294:20
2022 127:8, 17
296:18
203:10 129:16
203:4 129:15
23 168:8 185:13
24/7 260:8
25 235:21

< 3 >

3 127:8 140:4,
21 170:14, 15
3.1 172:3, 14
30 199:16, 19
233:6, 13
31 131:20
34 233:7, 13
3rd 127:16
< 4 >
4 204:6 205:10,
20 206:6 209:7
45 271:8
4th 296:18
< 5 >
5.4 171:14
5.4.1 171:15
179:2
500 245:20
5th 204:2, 10
206:2
< 8 >
88 174:21
175:21 228:7, 17
< 9 >
9 170:10
171:13 172:16
174:13 176:16,
18 206:21
211:6, 21 220:8,
12 222:7, 15
228:16 230:11
9:00 127:17
130:1
90 172:23
173:1, 10 174:8,
13 177:13
211:18 222:10
226:10
93 175:19
94 175:18
176:24 177:4, 8,
17 178:7, 12
245:17
96 176:3, 11
212:11
98 172:20
176:8, 11
9th 204:10

< A >

a.m 127:17
130:1 203:16, 17
Abbreviations
170:17
abilities 251:16
252:3
ability 209:22
210:14 214:18
215:14 233:10
247:9 268:10
269:25
accelerate
265:16
acceleration
264:23 265:4
266:4 280:9
accept 139:15
256:13
acceptance
137:12 138:17
accepted
161:22 253:21
258:15
access 135:1,
12, 16, 20, 22, 24
136:3, 6, 8, 14
137:1 145:17,
24 147:21
160:17 194:14,
15, 24 195:1
202:2 263:17
288:14 290:23
accessible
136:11, 21
accomplish
220:6
accuracy
182:20 258:23
accurate 169:4
achieve 173:10
174:4 176:1
179:10 180:24
212:10 255:22
achieved
166:21 210:16
225:18 242:15
245:17, 18
246:12
achievement
167:12 176:2
240:15
acronym 150:17
171:20 201:10

Acronyms

170:16
action 185:10
250:19 252:22
254:11 271:14
287:4
actioned 181:14
192:10
actions 151:24
185:19 186:16,
20 191:5, 15
238:14 239:19
249:17 256:4
258:16 281:3, 5
293:20
activations
257:24
active 165:12
actively 150:8
Activities 182:2,
16 183:9
194:11 197:17,
22 242:9
actual 227:19
237:3 240:25
adapt 270:25
add 249:18
285:24
added 260:13
additional 157:5
176:22 193:25
216:21 239:8
240:6 247:13
248:25 249:2,
12 250:12, 20
252:15, 23
254:1, 4 285:24
address 144:18
256:5 280:23
281:3 291:18
addressed
195:15 280:19
adequacy 257:7
258:9
Adjourned 295:5
adjust 270:25
277:5, 7, 8
280:11
adjusting 279:4
adjustment
273:19 275:3,
25 294:1
adjustments
187:22 188:12
189:12, 15, 17

231:25 232:6 265:6, 10 272:10, 13 273:9 277:16, 21 278:3, 4 281:11 282:11 293:16 administrative 155:23 156:4 admit 294:9 advance 163:19 257:6, 22 advantage 216:23 249:21 257:10 adverse 265:12 adversely 214:18 advertising 283:6 advice 249:9 252:14 advised 152:19 advocating 198:22 affect 229:18 AFFIRMED 130:3 after 142:16 215:2, 4 232:4 271:17 Afternoon 175:5, 6, 11, 19 227:4, 17, 22 229:11, 15, 21 agencies 157:11 Aggregate 171:18 172:18 176:7 aggressive 265:19 280:9 ago 234:22 286:6 agree 139:25 144:12 160:20 161:6 200:18 219:23 275:17 279:12 280:1 281:6 agreed 139:20 140:1, 12, 19 146:2 160:24 161:6 163:15 183:18 198:11 199:3 215:20	218:19, 21 219:1, 4 224:24 246:9 280:17 agreed-upon 206:21 agreement 139:18 140:6 143:10 148:6 160:25 161:18 165:16 166:7, 12 167:4, 20 173:13 188:4, 13 189:12, 16, 17 210:21, 24 217:23 218:13 220:1 221:13 240:12 288:4 289:12, 25 290:10 291:15 ahead 261:1 alarm 221:5 257:24 alarms 235:25 aligned 161:15 165:18 aligns 162:24 Allman 153:18 159:16 202:12 allow 157:15 178:15 179:4, 9 allowance 178:17 179:12 Alstom 265:6 amount 184:4 answering 236:20 answers 188:17 215:9 274:4, 13 anticipate 248:14, 15 anticipated 218:17 anticipating 251:24 anybody 135:11 136:11 139:24 155:20 159:18 161:6 208:10 258:22 anyway 223:2 apart 216:8 apologies 261:18 264:1 279:20	apparently 144:3 appear 129:15, 20 appears 204:9 appended 175:1 applaud 219:15 applicable 222:11 application 266:7 applied 134:14 160:21 163:24 164:1, 11, 21 177:18, 21 179:14, 24 180:2 184:25 187:23 199:21 216:4, 5 221:16 222:8, 9 226:16 272:8 290:10 apply 146:15 177:5 190:2 200:12 210:12 221:9 222:18 223:1 271:22 273:4 274:2 275:15 277:14 279:9, 11 290:13 applying 146:3 224:23 270:23 277:13 284:17 apprised 208:18 213:18 approach 170:15 191:19 215:13 265:23 281:18 284:17 286:11 appropriate 149:24 181:15 186:21 218:12 241:9, 10 251:14, 16 253:8 270:20 271:13 277:1 291:20 292:10, 18 appropriately 190:12 192:5 approve 141:14 161:1 approved 161:21 190:5 225:8	approximately 159:23 162:22 217:4 229:23 249:23 archived 160:16 area 194:18 areas 157:17 169:13 249:18 253:24 285:4 290:4 argue 235:10 arguing 291:1, 6, 9 arose 293:2 aside 220:24 asked 146:25 209:20 210:9 285:2 290:2 293:6 asking 137:11 226:1 237:16 241:7 277:14, 19 292:8 aspect 196:14 267:6 aspects 150:9 167:19 assess 148:4 149:4 155:13 200:5, 23 209:23 210:14 214:18 215:14 225:1 227:19 235:4 237:14 assessed 168:20 171:18 assessing 155:5 158:12 181:1, 2, 3 212:2, 3, 6, 7 221:10 226:13 235:23 236:2 assessment 183:8 235:20 237:13 241:25 256:10 293:1 assessments 153:25 154:8 assigned 196:3 assist 156:16 254:2 assistance 156:9 157:5 158:19 204:11	254:10 assisted 154:6 associated 169:22 186:7 208:16 assume 133:12 140:14, 17 147:18 152:12 159:9 167:13 213:21 214:1 assumed 205:22 assuming 213:11, 14 276:19 assumption 143:7 assurance 191:13 assurances 253:1 assured 251:15 attached 132:17 137:10 138:14 141:17 attend 291:5 attendance 166:24 attended 165:21 attending 127:16 158:22 attention 187:10 audio 236:6 268:17 270:10 Auditor 264:3, 6 augment 157:7 August 204:2, 10, 18 206:2 221:20 222:2 223:7 authority 160:20 automated 260:12 automatic 177:13 automation 275:12 availability 166:22 167:13 171:19 172:18, 19 174:8, 21 175:2, 18 176:7, 8 210:5, 7 212:10, 24 213:3 228:7 240:16 246:13
--	--	--	---	--

<p>available 135:18 146:16 147:8 200:25 244:12 245:1 248:4 253:17 287:2, 5, 6 288:3, 6, 9, 10 average 172:19 173:8 176:2, 14 201:15 204:7 206:11 208:22 211:20 222:7, 12, 15 226:7 AVKR 147:2 171:20 172:2, 10 174:3, 12 176:3, 8, 14 178:16 179:6, 10, 11, 16 204:7 205:24 206:11, 22 208:22 211:6, 18 222:6, 11 228:14, 16, 22 229:11, 18 230:2, 5 248:5 avoid 266:7, 12, 15 279:11 aware 133:22 134:22 144:22 203:4 240:21 241:6, 15 257:6 258:5, 21 259:1</p> <p>< B > back 148:19 153:13 169:6 175:1 178:1, 25 189:10 196:22 199:2 203:13 206:20 218:13 221:13 222:17 224:7 233:16 241:18 242:1, 13, 17, 18, 22, 25 244:23 247:8 248:6, 17 249:21 252:24 258:13 269:12 279:23 283:9 290:24 Background 137:9 158:9 balance 238:23 239:3 270:17 272:18</p>	<p>balances 161:19 168:25 169:4 bar 215:23 217:2, 5 barometer 218:22 based 140:17 184:7 201:23 216:16 227:17, 19 230:2, 5, 7 234:21 284:23 basically 195:5 215:8 265:12 basis 141:23 163:5 167:6 183:12 193:15 196:5 197:14 200:23 222:9, 11 241:24 242:11, 22 258:1 Bear 153:12 171:13 178:23 beg 252:8 began 144:23 beginning 130:5 222:22 232:18 289:14 begins 219:4 221:16 222:3 behalf 130:17 161:7 192:2 258:8, 22 282:15 Bejin 151:1 belief 141:24 believe 130:14 141:11, 21 149:13 156:5, 14, 18 158:22 160:5, 7 162:21 168:8, 14 169:5 170:3 177:3, 18 183:21 189:4 193:13 197:9 198:2 200:19 202:22 204:17 211:14 214:2, 8 222:25 228:17, 20 232:20 243:18, 25 244:18, 19 245:10 250:15, 22 252:20 253:23 256:9 258:20 259:7,</p>	<p>11, 21 270:9 276:15 279:20 believes 291:13 benefit 239:9 240:5, 8 257:21 283:24 benefits 255:13 287:18 benefitted 287:10 best 153:5 157:14 212:16 273:22 276:9 280:1 284:11 better 193:21 223:4 267:16, 17 292:2 big 216:25 279:6 binder 202:9 bit 134:24 151:16 169:6, 18 197:6 198:20 212:15 240:22 248:10 263:6 264:21 266:18 267:1 270:16 273:15 274:17, 19 282:1, 3, 7 bits 201:5 biweekly 214:11 blame 278:24 blank 145:21 146:1 147:16 blizzard 271:7 board 243:17, 22 boardroom 200:10 boss 289:8 bottom 131:19 144:8 266:17 box 137:8 138:14 185:9 193:25 194:4, 19 195:4, 10 boxes 137:7 brake 265:4 266:8 267:14, 19 268:8 269:22 270:18 272:10, 13 273:4, 8, 9, 18 274:3, 8, 12, 21 275:3, 15, 24</p>	<p>276:8 277:5, 7, 8, 13, 14, 16, 20 278:3, 12, 25 279:9, 11 280:1, 3, 4, 11, 14 281:7, 10 282:10, 13 293:15, 16 294:1 brakes 272:14, 16 273:4 braking 239:20 265:14 267:8 268:1 271:23 279:5 280:9 brand 191:11 220:19 273:20 break 203:12 breakdown 285:4 brief 163:14 briefing 164:10 briefings 164:3 bring 176:18 249:1, 12 250:11, 19 252:15 278:18 290:15 292:18 bringing 244:23 247:12 248:25 broad 290:14 brought 146:18 157:5 183:11 200:22 202:7 206:1, 15 243:11 245:10 249:13 250:25 252:19, 22 253:25 254:1 286:10, 11 building 255:13 built 251:12 291:14 bullet 140:21 142:14 bunch 262:12 bus 151:14, 21 254:21 buses 238:22</p> <p>< C > calculated 243:13, 14 Calgary 157:11, 17 158:10</p>	<p>call 181:5 189:24 190:1 194:16 202:5 266:13 calls 165:25 capable 167:24 capacity 163:5 168:5 captured 240:14 244:19 260:16 276:5 car 231:12 238:6 266:1 268:20 card 142:1 204:4 Carly 128:3 284:25 carried 196:4 carrying 239:1 case 154:21 180:22 189:1 190:20 198:21 259:6, 8, 14 261:20 262:7 273:2 279:10 cases 190:23 catch 211:23 categories 181:25 catenary 284:19 289:4 caught 150:18 caused 284:18, 19, 20 CBTC 257:15 260:5 261:11 277:21 CBTC-related 274:8 centimetres 271:7, 8 centre 181:8 194:17 236:1 257:15 260:7 265:11 273:12 certain 131:6 163:9 168:6, 20 169:17 185:25 188:5, 6 243:10 253:13 254:24 266:23, 24 268:15 270:7 275:13 281:11 283:16</p>
--	--	---	--	--

CERTIFICATE 296:1 certification 256:24 certifications 262:12 certified 224:19 263:23 296:4, 13 Certifier 141:5, 15 144:12 165:3, 15, 21, 24 166:3, 9, 16, 17, 19, 24 167:14 168:10, 16 169:5 170:1, 6 200:17 207:15, 20 212:19 223:22 224:4, 7, 23 225:5, 10, 12, 18, 23 263:22, 25 264:3 Certifier's 203:24 223:19 certify 165:16 296:4 challenge 192:22 233:8, 24 238:1 289:17 challenges 197:13 218:16 242:20 290:12 challenging 218:17 Chandani 128:12 change 173:13, 18 174:16 176:17 180:1 205:3, 8, 16, 24 206:2, 8 208:22 209:10, 16, 22 210:2, 14 213:18, 19 214:14, 19 215:2, 12, 14 218:7, 8 219:24 221:16 222:10 223:19 224:5, 18, 21 225:13 226:3, 17 227:11 228:21, 22, 23 230:9 233:19 236:11 237:3 242:5 255:15 271:2, 3,	4 273:3 276:8 282:13 286:11 changed 151:16 175:21 176:9, 10 211:21 226:7 228:23 229:25 changes 203:19 227:8 228:13, 14, 15 264:25 272:9 changing 175:24 198:8 206:1 211:6 212:2, 5, 7 225:1, 2 281:7 CHARTER 127:7 128:6 130:3, 12, 13, 19, 24 131:2, 6, 24 132:3, 11, 19 133:2, 11, 20, 24 134:10, 16, 20 135:5, 14, 23 136:5, 16, 23 137:5, 13, 18, 23 138:2, 5, 23, 25 139:4, 11, 21 140:2, 8 141:11, 21, 25 142:5, 21 143:7 144:7, 25 145:7, 19 146:12 147:10, 13, 24 148:3, 18, 25 149:2, 8, 13, 17, 21 150:19, 22, 24 151:13 152:7, 12, 22 153:2, 11, 20, 22 154:3, 14, 18, 24 155:2, 19, 22 156:5, 13, 23 157:1 158:4, 7, 21 159:7, 17, 20, 25 160:5, 7, 11, 15, 22 161:3, 9 162:1, 7 163:16, 21 164:5, 14, 22, 25 165:5, 23 166:8 167:5, 8 168:13, 19 169:12 170:3, 8 171:5, 24 172:6, 12, 21, 24 173:3, 7, 16 174:6, 10,	15, 19, 23 175:7, 23 176:9, 12, 20 177:2, 10, 20 178:4, 9, 20, 24 179:7, 15, 19 180:3, 25 182:3, 6, 10, 15 183:1, 20, 25 184:23 185:15 187:8 188:2, 21 189:4 190:23 191:9 192:6 193:10, 20 194:6 195:16 196:21 197:20 198:25 199:13, 18, 23 200:3, 19 201:2 202:10, 22 203:14 204:15 205:5, 11, 19, 22 206:4, 7, 13 207:2, 5, 8, 11 208:1, 7, 12 209:3, 11, 14, 18 210:6, 13, 23 211:12 212:1, 13 213:7, 20 214:7, 23 215:3, 7, 19 216:13, 18 217:14, 24 218:10 219:2, 6 220:4, 15 221:25 222:5, 19, 23 223:12, 21 224:6, 25 225:15 226:4 227:11, 14 228:15 229:3, 19 230:16 231:2, 21 232:15, 20, 24 233:2, 21 235:9 236:5, 8, 14, 18 238:4 239:15 240:17, 20 241:6, 15, 23 243:9 244:15, 18 245:2, 9, 25 246:7, 20 247:24 249:8 250:8, 18 251:2 252:18 253:23 254:16 255:18 257:9 258:11 259:1, 5, 10, 16	260:21, 25 261:2, 14, 17 262:1, 10 264:8, 11 265:3, 24 266:9 267:9, 12 268:2 269:7 270:15 271:25 273:6 274:10 275:18 276:10 277:10 278:1 279:13, 18 280:3, 20, 22 281:8 282:17 283:14 284:4 285:8 286:5 288:7 289:16 290:7 291:12, 17, 21 292:24 293:9 294:16 295:2 checks 161:19 168:24 169:4 Chief 151:2 259:11 choosing 165:17 chose 163:6 circumstances 185:6 273:5, 7 285:3 CITY 127:7 128:6 130:17 135:12, 17 136:12 138:22 144:11 149:10, 22 152:21, 25 155:21 156:2 157:4 160:19, 24, 25 161:7, 22 166:17 167:10 185:18 190:1 191:8, 9, 23 192:2, 3 193:24 195:11, 13 196:14, 18 213:16, 17 219:23, 24 224:9 230:24 231:18 232:13, 18 233:1, 10, 15, 19 234:5, 10 235:3 237:11 240:7 241:13, 20, 21 247:10, 16 249:1 250:2, 23 251:1, 23	252:13, 21 253:5, 17 254:3, 14 255:24 258:9, 23 263:25 271:22 272:1 274:4 275:16, 22 277:9, 19 278:15 279:12 280:13, 16 281:5, 6 282:15 283:5 284:5, 16 286:17 287:13 288:6, 9, 23 289:13 291:2, 18 292:9 294:15 City's 225:19 234:18 249:6 251:18 253:21 256:12 274:6 278:25 279:8 284:17 287:22 clarification 281:9 291:24 clarify 145:14 229:19 clarifying 188:3 classified 189:2 192:12 cleaning 283:11, 12 clear 210:10 274:12 275:3 294:12 cleared 274:22 clearly 274:14 close 181:22 185:20 closed 181:16 184:14 closely 219:10 closer 157:3 214:10 216:4 217:6 231:14, 15, 23 closing 196:1 198:14 coaching 262:24 coded 198:23 coding 135:2 cognizant 194:13 231:5 cold 274:19 Co-Lead 128:2
---	---	---	--	--

<p>colleague 145:24 152:23 202:23 206:14 collect 157:12 collecting 201:5 collection 202:17, 18 collective 212:4 combination 164:3 263:20 come 151:23 167:18 168:3 178:1 203:13 207:17 216:7 235:18 242:1 265:15 271:17 274:23 282:24 comes 179:5 210:25 221:18 246:24 271:17 comfortable 285:11 comforted 252:21 coming 147:17 188:15 201:18 204:22 273:15 275:16 276:15 commence 170:20 commenced 164:17 commencement 133:4 163:19 commencing 130:1 comments 168:16 198:14 296:9 commercial 285:3 COMMISSION 127:6 128:1 285:1, 7 286:3 commissioned 150:4 157:6 Commissioner 290:1 291:19 292:11 commissioning 154:15, 17, 19, 23 158:14 170:22 247:5 257:5, 8 258:6, 10, 24</p>	<p>committed 193:24 251:3 communicated 140:18 216:21 260:19 communicates 213:25 communication 267:17 communications 239:21 COMPANY 296:22 comparator 157:18, 19 compare 173:20 230:23 compared 230:9 compile 288:18 compiled 201:19 202:7, 11 complete 244:10 completed 148:24 173:8 181:23 192:3, 4, 5 243:2, 3 244:11 245:1, 8, 10 completely 167:11 239:24 260:3, 12 completeness 182:20 183:9 184:4 186:23 completing 202:15 completion 148:6, 14 166:10, 20, 21 167:12 170:21, 23 198:13 209:24 210:4 212:22, 23 237:15 255:25 256:3, 14 257:2 258:15 complex 281:21 compliant 167:3 complied 288:5 289:14 component 202:4 components 238:9</p>	<p>computer 136:3 148:18 computer-based 235:23 260:6, 11 263:8, 10 265:8 272:21 280:8 293:17 concern 164:18 169:22 concerned 280:17 concerns 164:22 192:1 197:10 212:8 246:17, 21 247:11, 21, 22 248:21 252:25 257:7 258:9, 12, 22 271:23, 25 277:12, 19 288:21 conclusion 232:18 conditions 265:12, 15 266:1 268:14, 15 270:6, 8, 22, 24 271:3 273:23 278:12 281:25 conduct 144:20 181:22 191:23 conducted 180:10 285:6 conference 268:18 confident 198:10 confirm 143:9 212:21 224:9 225:16 291:4 confirmation 243:24 confirmed 223:23 243:21 confused 229:12 confusing 229:8 connecting 161:12, 13, 24 162:3 connection 134:4 141:9 consecutive 170:19 171:3, 6, 11 176:23</p>	<p>177:8 178:6 220:8 consensus 244:4 consider 210:9 considerable 239:21 256:20 290:19 considerably 200:6 considerations 240:11 considered 183:10 185:4 233:10 234:13 290:6 considering 209:10 consortium 137:24 138:6 153:23 constant 232:2 246:23, 24 constituted 183:14 construction 131:9 133:14 135:6 137:4, 24 138:8, 11, 21 139:2 150:7, 8 151:18, 24 153:8, 23 154:5 157:2 160:8, 12, 17 161:14 194:8, 11, 21, 23 242:9 247:5 262:14 constructor 149:9 150:11 constructors 135:8 consultant 130:20 156:7 consultation 138:19 consulted 134:13 139:6 contacts 157:10 contained 199:4 continuation 130:6 continue 157:7 184:1 198:15 204:25 205:13 234:2 235:3</p>	<p>244:14 248:11 253:14 258:20 268:4 269:18 continued 177:2 197:7 201:1 248:24 249:4 continuing 294:4 contract 149:9 217:15 284:17 contractor 136:24 191:25 contractual 216:6 290:8 294:18 contractually 286:15 contributed 171:2 contributing 293:4, 10 294:8 control 181:8 194:16 235:23 236:1 257:15 260:6, 7, 11 263:8, 10 265:8, 11 272:21 273:12 278:20 280:8 284:21 290:24 293:18 controlled 290:23 controllers 260:8 conversation 233:16 conversations 163:12 164:8, 13 207:12, 14 213:9, 14 216:22 223:25 conversely 167:15 copied 207:6 copies 244:16, 21, 23, 25 copy 137:16 146:18 163:17 244:11 245:6 corner 134:7 correct 132:11 133:20 137:5 138:23, 25 147:10 155:19</p>
---	--	--	---	---

159:17 172:5, 6,
21, 24 173:3, 16
174:10, 19
175:7 176:12
178:4 180:25
183:25 206:9
217:14 230:3
240:17 265:5
corrected 184:9
185:11
corrective
185:10 287:4
correctly
180:13 216:10
correspond
174:12
correspondence
207:3, 4, 10, 24
208:5, 10
cost 239:1
COUNSEL
128:1, 2, 3
count 175:12
229:20
counterparts
213:15
counts 201:12
227:12 228:21
233:3
couple 131:10
151:16 177:6
188:19 204:20
217:19 223:7
238:17 266:24
271:6 274:21
282:20 287:21
course 193:8
203:10 226:8
246:6, 15
252:11 253:14
271:13
Court 268:17
269:13
cover 222:21
covered 218:5
COVID 232:7
COW158931
221:22
COW270758
203:25
COW442401
132:15 173:23
crazy 290:17
Creamer 138:3

create 167:10
266:16, 18
created 133:23
141:12 144:24,
25 155:3, 4
165:22 168:18
creating 142:1
156:9, 16
157:13, 24
161:10 219:13
239:12
creation 133:10,
21 134:1, 9, 21
139:3, 6, 9
155:25 156:22,
25 159:1 165:3
criteria 130:9
132:8, 13, 25
133:5, 6 134:14
137:11 138:18
139:15 140:7,
11, 13, 15
141:10, 17
143:10, 20, 24
144:22, 24
145:2, 5 146:10,
14 147:1, 7, 23
148:2, 13 152:5
156:17, 22
158:16 159:5
160:20 161:2, 8,
15, 16, 20 162:5,
8, 12, 17, 18, 24
163:6, 15, 18
164:11, 20
165:13, 18
166:5 167:2, 10,
23 168:1, 3, 11
169:9, 18
170:11 171:9,
22, 25 172:4, 8
173:14, 23, 25
174:4, 12, 17
175:20, 22
176:1, 5, 15, 18
177:1, 6, 14, 21
178:8, 15, 19
179:2, 4, 8, 13,
14, 21, 23 180:2,
5, 6 182:19
184:23 193:2
200:24 203:20,
21 204:14
206:18, 21
210:10, 12

211:1, 5 212:18
215:2, 10, 17, 24
216:3, 4, 10, 11
218:3, 4, 12, 20,
21, 25 219:3, 7,
17 220:11, 12
221:8, 14, 16
222:3 223:9, 17,
20 224:5, 22, 24
225:2, 7 226:14,
15 227:9 228:9,
13, 18, 23
243:23 244:4
246:9 248:4
255:15, 20
291:14
criteria 220:7
critical 185:2
186:4 187:20,
25 189:5, 23
254:7 278:22
CRR 296:3, 23
CSR 296:4, 23
currently 204:8
267:23
curve 251:21
282:1, 3, 7
customer
212:16 238:10
customer-facing
157:14 246:14
customers
162:22 163:4
167:22 210:18
211:15 217:23
218:24 220:14
239:9 240:2, 9
254:18 280:2
cutting 261:17

< D >
Da 128:7
Daily 142:18
153:25 155:10
172:10, 22
174:8, 13 176:3
179:10, 16
183:12 200:22
208:24 209:4
211:18 214:12
222:11 226:9
241:18, 23
242:11, 22
258:1 275:7

data 184:3
185:7 200:5
204:22 243:11,
14 244:2
date 132:17
222:3
dated 131:20
296:18
dates 207:18
208:16 222:25
223:4 242:5, 6
Davies 156:8,
21 157:22 158:8
day 127:16
130:10 138:17
140:22 141:6
142:17, 22, 23
143:1, 20 144:5
162:15 164:7
165:8 170:19
171:3, 22 172:4
173:1, 5, 6, 10
179:9 180:5, 6
182:24, 25
183:3, 4, 13, 15,
23, 24 184:18,
22 186:3, 6, 10
187:21 189:1
190:19 191:12
193:2, 7, 11
195:12 197:15
198:22 199:7,
12 200:15
201:4, 19
202:21 204:7
218:18 220:24
229:16, 22
236:17 242:15,
16 243:4, 24
244:1, 6 245:19,
24 246:25
247:1 249:20
255:19 268:7
269:21 274:13
275:3 287:9
296:18
day/scenario
143:22
day-by-day
193:15
days 171:6, 8,
11 172:20
173:1, 9 176:14,
16, 18, 19, 24
177:3, 5, 8, 11,

16, 22 178:2, 6,
16, 17 179:5, 13
184:17 185:13
190:7 193:8, 12,
13 200:20
202:19 204:20
209:13, 17
211:6, 21
212:12 218:15,
17 220:11, 12,
13 222:7, 15, 18,
21 223:6, 8
228:16 229:4
235:14 236:19
238:17 243:19
244:9 248:20
253:15 258:12
267:21 270:14
275:20 285:5
day's 130:6
142:24 143:2
201:3 209:1
day-to-day
222:9 238:19
247:6, 7, 18
251:8 261:5
262:3 270:14
276:24
deal 246:23
265:11 272:9
290:22
dealing 222:6
239:7 276:24
277:14, 15, 24
280:14
dealt 187:6
Deana 128:11
296:3, 23
debate 199:14
debates 224:14
286:15
deceleration
264:24
December
282:22
decide 183:18
decision 150:2
152:15 184:7
196:5 197:14
203:20 206:2
209:13 212:4
214:3 215:1
221:8 231:8
237:22 255:15
256:12, 17

<p>decisions 151:18 191:14 240:11 249:3 251:14</p> <p>deduction 190:13</p> <p>deductions 217:7, 13</p> <p>default 282:9 294:19</p> <p>defect 181:9</p> <p>deficiencies 180:15 182:23</p> <p>deficiency 181:9</p> <p>definitely 186:12 197:20 233:9 237:23 239:25 244:22, 23 247:8 255:6 273:6 275:19 276:17 282:3 283:14</p> <p>definition 170:17 198:3</p> <p>Definitions 170:16 291:23</p> <p>definitively 140:9 279:22</p> <p>degree 131:6 169:17, 21 253:13 262:21</p> <p>delay 185:22, 23 257:11</p> <p>delayed 254:17</p> <p>delays 177:13 217:4 254:20</p> <p>deliverables 272:12</p> <p>delivered 162:20 204:23 217:23 230:9, 14, 23</p> <p>Delivery 174:2 251:9</p> <p>Deloitte 205:1, 14, 16</p> <p>demanded 287:14</p> <p>demands 230:25</p> <p>demonstrate 163:6 166:15 198:11 206:18 215:22 216:1 217:2 229:6 253:11 262:15</p>	<p>demonstrated 143:19 162:10</p> <p>demonstrating 217:21</p> <p>Demonstration 182:4, 11 197:17</p> <p>Department 214:6</p> <p>Departmental 150:19 214:7 242:14, 22 244:24</p> <p>dependability 230:6, 12</p> <p>dependent 271:5</p> <p>depending 188:7 223:13 265:14 271:2 274:5</p> <p>derailment 287:12 289:5</p> <p>derailments 284:20 285:4</p> <p>describe 241:19 246:23 259:14 264:22</p> <p>described 174:3 182:8, 13</p> <p>describing 145:11</p> <p>DESCRIPTION 129:2</p> <p>design 131:9</p> <p>designed 210:15 266:23 268:13 270:4</p> <p>detail 184:13 185:18 186:14 187:13, 15, 16 191:3, 22 192:16, 20 195:25 210:24 221:12 223:14 225:24 277:18 287:24</p> <p>details 146:24 185:21 285:25 286:1</p> <p>detect 263:16</p> <p>Detection 261:10 263:16</p> <p>determination 143:13 183:14, 17, 19 184:16,</p>	<p>20 200:15 201:23 210:22 224:15 244:6</p> <p>determine 211:8 213:2 230:25 262:9</p> <p>determined 166:5 182:22 187:4 188:24 232:13 234:25 244:4</p> <p>determines 230:18, 21</p> <p>determining 165:12 185:1</p> <p>detour 254:19</p> <p>detours 151:22</p> <p>detrimental 211:23</p> <p>detrimentally 209:22</p> <p>develop 146:13, 14</p> <p>developed 132:9, 14 138:19 141:9</p> <p>developing 147:7</p> <p>development 132:5</p> <p>developments 214:1</p> <p>deviations 180:18 182:23</p> <p>devoted 140:23</p> <p>dew 274:17</p> <p>dialogue 168:20 169:1, 6, 10 237:21 271:10 274:14, 25 275:5, 6</p> <p>dictate 234:7</p> <p>difference 147:3 220:10</p> <p>different 147:1 177:25 253:2 267:19 271:8 272:14 273:4 274:2 275:15 280:13</p> <p>differently 217:25 274:5</p> <p>difficult 254:23</p> <p>difficulty 268:23</p>	<p>diligence 191:24 237:12 284:6, 7</p> <p>direct 140:16 150:24 254:20 287:21</p> <p>directed 221:13</p> <p>direction 162:22 167:23, 25 211:16 248:23 281:14</p> <p>directly 136:3 151:19, 23</p> <p>Director 137:15</p> <p>disabled 283:4</p> <p>disagreement 165:14 197:16</p> <p>disagreements 199:9</p> <p>discovered 144:19</p> <p>discretion 184:25 273:17</p> <p>discuss 158:24 207:13 219:15 226:7 292:19</p> <p>discussed 149:22 152:4 203:22 206:16 207:19 209:3 219:12 227:10 228:14 284:24 285:5 294:14</p> <p>discussion 130:7 187:14 197:22, 23 198:7 199:2 205:6 208:11 209:15 219:18 224:17 225:6 231:22 233:22 234:16 236:11, 13, 16 244:3 245:16 246:21 247:8 277:23 279:23 292:25</p> <p>discussions 162:23 208:21, 23 210:1 213:5, 6, 8, 12 214:5, 13, 20, 22 215:1, 6 216:16 218:3 224:5 233:3 236:22, 23, 25 237:7, 11</p>	<p>247:15 268:3 269:17 277:3</p> <p>disputes 224:13 286:14</p> <p>disrupt 186:3 189:22</p> <p>distributing 244:21</p> <p>DLT 149:23 150:18, 21, 22 151:4, 11 152:3 213:13 214:5, 21 216:17 218:2 244:24 245:5, 11, 22 246:16</p> <p>doc 131:16 142:8 153:14 203:3, 9</p> <p>document 131:15, 16, 17, 18, 21 132:15, 18, 21, 22, 25 133:3, 10, 12, 19, 21 134:2, 3, 5, 9, 21, 25 135:13, 15 136:15 137:10, 12 139:3, 7, 10, 16, 19 140:5, 10 141:7 142:3 143:15 145:9, 18, 20, 25 146:6, 23, 25 147:12, 18 153:5, 24 154:11, 20, 22 155:3, 4, 15, 17, 25 156:10, 18 157:25 159:2, 11 161:10 165:22 167:1 170:10 171:2 173:15, 25 174:1, 14, 22, 25 175:1 177:6 179:1, 22 184:2, 24 193:2 203:25 204:2 206:8, 16 209:7 211:2 215:11, 18, 20 221:22, 23</p> <p>documentation 136:9 140:12 145:1 158:25 159:4 167:18</p>
--	--	--	---	---

186:23 256:6,
24 264:12
288:8 289:17,
18, 21
documents
129:7, 14
130:11 173:19,
22 210:20
211:8 219:13
262:12, 15
doing 148:19,
20 162:6
193:25 201:11,
12 224:23
253:2 289:9
dollar 238:8
door 284:19
291:4, 9
doors 282:25
290:17, 18, 20,
22, 23
double 231:12
downtown 283:7
drafts 162:4, 7
drills 257:18, 21
drive 266:1
drives 290:16
dropped 229:9
due 181:7, 8
191:24 237:11
271:23 278:8
284:6

< E >

EA 162:21
earlier 204:20
219:12, 18
222:24, 25
227:18 228:18
229:4 233:17,
25 236:21, 23
239:23 248:2, 7
252:24, 25
256:9 258:11
274:4 286:14
early 149:18
190:7 236:25
237:12 248:20
267:21 277:12
easier 168:23
easily 184:9
185:11 196:17
eastbound
175:5, 6

easy 180:20
educate 194:20
education
192:23
effective 284:1
effectively
281:24 286:12
289:8
efficient 284:2
effort 196:16
elaborate 292:7
electrical 272:15
electronic 202:9,
11
electronically
245:1
element 162:13,
17 178:7
elements
157:15 242:19
elevators 221:4
eliminated
239:24
email 207:2, 4,
10 208:2, 5, 9
emergency
235:24 257:24
266:8
employee 183:6,
7
enable 210:17
encouraged
192:8 248:19
254:4
ended 145:2
208:14 245:11
ends 186:10
end-to-end
168:7 175:15
246:11
engaged 169:5
190:21 286:18
engineer 272:15
engineering
158:9 186:11
189:22 263:11
264:15
engineering-type
262:15
enhanced 240:8
ensure 151:25
166:4 167:2
249:3 259:24
260:1

ensuring 287:22
enter 181:5
entered 181:12
184:12 189:2
entire 151:12
207:19 208:14,
17 211:23
212:19
entitled 131:17
261:20
environment
247:6
equipment
253:3 290:24
errors 193:3, 18
escalators 221:4
especially
168:21 293:23
essentially
150:13 187:8
260:21 265:15
established
242:1
Eugene 137:20
138:3
evaluate 143:9
181:25
evaluation
141:3 142:13,
16 143:6, 16, 19,
24 158:3 182:8
183:22 193:18
222:4
Eve 283:3, 5
events 208:15
275:13
evidence 147:6
evolution 197:7
exact 175:8
207:17 208:15,
16 254:10
exactly 138:6
159:8 232:15
234:14, 15
examined
292:16
example 136:4
169:8 182:25
183:23 189:20
194:8 201:7, 20
209:2 219:24
228:6 243:12
273:19 274:7,
16 287:13

290:15, 16, 18
291:10, 22
examples
144:15 276:4
exceeds 226:24
exceptional
144:10
exchanged
140:12
excitement
282:20
exercises
257:18, 22
263:11
EXHIBITS 129:1,
3
exist 203:6
261:9
existed 135:4
142:3 145:23
existence
206:15
existing 145:8
147:15, 17 262:7
expect 182:18
275:6 280:13
286:19, 24
expectation
288:23
expected
180:10, 21
185:19 211:10
226:24
expecting
180:23
experience
157:8, 21, 23
158:2, 6, 8, 10,
11, 12, 14
192:23 271:19
293:25
experienced
193:4 250:16
experiences
159:5
experiencing
273:15
expert 150:4
expertise 157:5
247:13 249:1, 2
250:3 251:5
252:16
experts 249:11
256:11

explain 211:24
explained 167:9
explore 279:8
expressed
247:10
extended
213:13 214:5
extra 235:20, 22
260:13

< F >

face 283:15, 22
faced 191:2
270:24 276:11
facing 271:6
fact 185:17
194:13, 20
196:22 213:21
226:2
factor 177:4
228:20 230:6,
12 233:9, 15
268:14 270:7
279:7 293:4, 10
294:7, 10
factored 187:11
factors 185:3
263:20 278:10
279:2 283:9, 12
293:12 294:7
fail 183:23
187:3 188:23
190:18 197:24
198:9, 16, 23
199:6
failed 184:3
Failure 172:9
179:9 183:23
184:21 187:20
199:10
failures 184:3
190:22 284:19
fair 206:5
275:14
fairly 199:1
290:14
fall 182:9, 14,
25 294:15
familiar 132:18,
22 285:12, 19
fanfare 282:19
favour 239:12
feature 272:3, 5
features 238:9,
10 246:14

<p>feedback 157:12 168:17 193:23 241:7 248:12 249:9 253:19, 21 254:3 feel 210:11 284:9 feet 266:24 felt 183:25 198:2, 10 212:20, 25 214:17 Ferrer 137:16 Ferrer's 137:21 field 181:7 195:8 201:11 254:5 257:20 figure 228:4 file 202:19 filled 192:3 243:2, 4, 5, 18 filling 202:14 FINAL 131:20 140:7 143:13 146:14 163:18 224:13, 14 237:23 finalize 139:18 146:20 161:1, 8 finalized 131:11 256:25 finalizing 153:24 financial 190:13 241:1 find 203:9 229:8 273:21 275:10 finding 187:3 239:3 272:16, 17 fine 268:20 fine-tuning 279:4 finishing 256:21 fire 221:5 235:25 firm 291:2 firsthand 134:11, 17 140:16 fit 149:24 150:14 167:11 215:23 218:23 fix 280:24 291:7</p>	<p>fixing 291:9 flag 279:6 flat 266:17, 19 278:8 flats 278:24 293:3, 5 fleet 197:11 233:7, 12 238:12 240:6 272:5 278:5 286:21 flexibility 239:8 flow 181:13 flowing 186:20 192:9 196:2 focus 151:17 235:16 247:4 focuses 213:24 focussed 245:11 251:23 261:22 follow 146:9 161:4 194:25 followed 129:8 180:12 252:14 following 129:7, 15, 20 142:23 143:1 145:2 201:3 241:24 243:24 250:16 281:13, 19 294:17, 19 follows 284:11 follow-up 284:23 292:4, 21 food 157:15 foregoing 296:5, 12 foremost 162:14 255:21 foreseen 238:2 forget 283:3 form 140:10 143:5 243:18, 19 244:10, 12, 16 formal 153:6 156:18 158:23 195:7 formally 140:18 forth 169:7 199:2 247:9 258:13 279:24 296:7 forward 133:7 196:7 212:16</p>	<p>222:18 227:20 256:17 292:18 frequencies 231:10, 14 frequency 155:14 175:16 211:16 228:24 235:17 245:13 246:12 288:8 frequently 248:11 friend 292:25 293:6 front 193:19 263:13 frontline 192:21 195:6 frost 271:15 274:18 fully 163:14 164:19 192:3 fulsome 287:14, 15, 16 function 230:15 264:10 functional 141:1 functionality 148:10 261:9 functioning 196:23 278:23 279:6 fundamental 225:13 fundamentally 210:14 212:2, 5, 6 225:1, 2 future 197:13 < G > gaps 144:18 Gaul 130:18, 19 131:3 132:2 152:6 155:18 156:3 164:12 242:12 246:2 General 150:25 161:12, 24 195:19 236:16 generalized 277:5 generally 136:14 200:1, 2 275:23 279:15 285:17 gentleman 264:7</p>	<p>give 144:15 190:4 204:5 213:1 221:22 236:15 293:1 given 173:5 195:6 241:10 279:22 281:24 gives 218:22 235:10, 19 238:18 giving 164:3 168:16 gladly 276:4 glossed-over 199:1 good 149:24 185:24 189:8 200:12 215:21 218:15, 22 245:19 246:25 283:19 286:7 grade 260:3 Great 203:14, 15 254:10 greatly 239:23 287:7 Greer 151:15 grind 246:23, 24 247:6 grooving 266:19 group 131:10 145:8 148:1 149:20 151:12 152:4, 9 154:17, 20 155:17, 21 156:12, 19 158:20 159:14, 19, 23 160:19, 24 161:5 162:5 163:14, 15 164:10 165:21 166:4, 25 167:2 168:11, 18 198:11 246:3 256:16 groups 131:22 202:3, 7 growing 220:22, 25 239:7 248:9 251:21 Guerra 276:21 286:10 guess 219:22 Guideway</p>	<p>261:10 263:16 < H > half 200:7, 11 217:4 229:24 254:17 276:14 handful 195:18 hang 221:17 happen 190:24 220:17, 18 238:20 248:21 251:20, 25 272:11 happened 169:20 173:18 237:21 247:15 276:14 285:23 happening 290:3 happens 286:23 Happy 221:22 hard 233:17 255:3 hazard 262:8, 17 header 154:10 heading 142:12, 13 170:16 171:14, 15 172:18 174:2 175:3 176:6 179:2 182:8, 13 184:21 282:14 headway 175:14, 15 177:15 201:7 211:16 226:11 228:19 243:13 271:24 headways 268:10 269:25 hear 269:1, 2, 7, 9 292:1 heard 268:9 269:24 Held 127:15 131:22 help 135:2 179:23 200:23 229:12 247:13 249:2, 14 helped 237:14 256:12, 16 helpful 270:12 helps 260:1 263:16</p>
--	---	--	---	---

hesitancy 212:15 282:18
283:15, 22 284:1
Hey 186:6
190:1 245:16,
19 288:15
hiding 280:4
high 215:23, 24
217:2, 5, 16
234:23
higher 189:11
206:18 216:12
219:9, 16 245:21
hindsight
283:25
history 216:19
249:21
hit 232:7
hold 190:3
Holder 130:25
131:4 132:2
133:13 135:25
137:9 145:24
150:10 152:5
153:8 155:18
156:3 164:12
202:23 208:12
Holder's 135:10
holdup 196:7
honest 219:6
honestly 284:4
Hopkins 151:2,
10
hour 162:22
167:22, 25
184:12 188:10
200:4, 7, 11
211:15
hourly 163:5
hours 186:11
189:23 229:24
house 278:19
290:25
Humberto
137:16, 19
hundred 283:23
hurting 254:22

< I >
i.e 188:8 279:3
ID 131:16
142:8 203:3, 9
idea 265:21
ideal 199:5
identical 157:19

identified
148:17, 23
149:19 152:3
155:7, 15
187:19 193:19
195:14 272:24
identify 142:8,
10 203:2
imagine 255:3
IMIRS 182:5, 11
196:11 197:18
198:12 288:14
immediate
187:10 188:9
impact 209:22
214:18 268:8,
11 269:23
270:2, 18 271:23
impacted
151:19, 21
implement
273:16 275:24
280:13
Implementation
131:8 133:13
135:7
implemented
281:1
implementing
265:13
importance
192:16 286:3
important 184:1
191:8
improve 234:3
254:12 258:20
268:4 269:18
278:4
improved 240:8
improvement
258:17, 19
improvements
197:1, 8 198:13,
17 199:5
239:22 256:20
inaccurate 237:6
inadequacies
258:5
incident 144:21
191:21 196:10
incidents 184:2
189:7
inclement 265:2,
22

include 141:8
145:5 152:10
203:21 241:13
included 145:3
185:7 198:4
218:8 240:24
241:8, 14 256:4
including
207:14, 20
214:21 221:4
incomplete
289:22
incorporate
227:8
incorporated
145:12 253:21,
24
incorrectly
189:1
increased 268:1
Independent
141:4, 15
144:12 165:2,
15, 20, 24 166:3,
9, 18, 24 168:10,
16 169:25
170:6 200:17
203:23 207:14,
20 212:19
223:19, 22
224:4, 7, 8, 22
225:5, 10, 12, 21,
23 237:13
256:10 263:22,
25 264:5
INDEX 129:1, 12,
18
indicate 138:16
indicated 139:14
indication
235:11
indicator 226:3
individual 202:4,
6 292:8, 9
individuals
133:18
industry 150:3
249:11 284:11
inform 249:2
256:12, 16
information
133:18 134:17,
19 135:4, 16
136:20 145:15,
22 146:2, 10, 16

147:8, 15, 17
154:7 159:9, 10
168:23 169:3
183:11 186:19
192:25 194:7
195:6 199:4
200:21, 24
201:6, 8, 14, 17,
25 202:3, 6, 14,
17, 18 203:1, 5
207:16, 18
213:1 243:10,
16 244:1, 22
246:1, 5, 8
250:5, 9 253:6,
16 256:4
264:16 286:25
288:3, 5, 13, 19,
22, 24 289:13
informed 284:5,
15 286:24
Infrastructure
134:6, 8, 12
278:22
inherent 262:21
initial 141:12,
19 156:17
158:25 183:8
236:23
initially 217:17
255:25 277:9
initiated 137:9
153:7
initiative 152:25
268:6 269:20
input 158:25
inputs 201:18
inserted 287:14
insight 186:16
insist 235:3
inspection
287:3 288:16
instance 277:22
instructors
281:15, 17
integrated
170:24
intended 140:6,
15
intent 140:9, 17
intention 143:4
interacting
138:10 260:4

interacts 263:15
265:7 272:20,
21 293:17
interests 153:5
280:2
interfered 284:1,
2
interference
268:18 270:10
interpretation
169:23 171:9
291:2, 6
interview 285:6
introduce 263:6
introduced
222:16, 21
228:8, 12 250:4
254:19 255:11
267:8
introduction
223:9 255:2
Intrusion 261:10
investigate
285:2
investigated
280:25
investigation
144:21 287:15
involved 131:4
133:10, 21, 25
134:21 139:2, 6,
9 147:6 149:25
150:8 154:4
155:21 156:22,
24 164:12
169:24 208:10,
13 223:25
224:16, 17
240:18, 20, 21,
23, 25 241:5
278:16 284:12,
15 286:18
involvement
134:9 165:3
223:19 287:10,
22
isolation 161:11
214:3
issue 169:22
181:10 186:5, 9,
25 187:12
188:8, 9 191:6
277:15, 25
280:15, 18, 23

286:20 289:2 291:3 293:2, 7 issued 294:19 issues 144:4 184:8, 11 185:1, 2, 6, 10, 13 186:18, 22 187:5 188:5, 6, 23 190:18 191:1, 20 195:14, 23 196:8, 16, 19 197:13 198:5 213:25 220:25 238:19 239:13, 17, 23 249:22, 25 254:8 256:6, 7 274:8 275:11 278:8 282:23, 25 284:2 285:18 289:4 290:3 293:2 italics 144:9 item 187:10 189:23 209:6 items 129:8 187:3, 19 189:6 241:8, 12 242:2 256:22 282:11 < J > Jacob 159:16 Jim 151:2, 10, 15 job 252:4 Jocelyne 151:1, 9 John 150:25 join 152:20 joint 214:9 268:5 269:20 288:13 jointly 155:3 275:10 Joshi 128:12 July 131:20 jump 130:7 194:14 232:4 263:13 Jumping 264:20 283:21 < K > Kate 128:2 130:4, 14, 22, 25	131:3, 13, 25 132:6, 12, 23 133:9, 17, 22 134:5, 12, 18, 23 135:11, 21 136:2, 10, 18 137:2, 6, 14, 21, 25 138:3, 13, 24 139:1, 8, 12, 23 140:3, 20 141:16, 23 142:4, 11 143:3, 14 144:8 145:4, 14 146:8 147:5, 11, 20, 25 148:16, 22 149:1, 7, 11, 15, 19 150:16, 21, 23 151:8 152:2, 8, 18, 24 153:9, 12, 21 154:1, 9, 16, 21, 25 155:16, 20 156:2, 11, 21, 24 158:1, 5, 18 159:3, 13, 18, 22 160:3, 6, 9, 13, 18, 23 161:5, 23 162:2 163:11, 17, 25 164:8, 16, 23 165:2, 20 166:2, 23 167:6 168:9, 15 169:8, 25 170:5, 9 171:12, 25 172:7, 13, 22, 25 173:4, 12, 17 174:7, 11, 16, 20, 24 175:17, 25 176:10, 13, 21 177:7, 19, 24 178:5, 14, 22, 25 179:8, 17, 20 180:4 181:24 182:4, 7, 12, 22 183:16, 21 184:19 185:12 187:2, 18 188:18, 22 190:17 191:7 192:1 193:1, 16 194:4 195:11 196:18 197:15 198:19 199:8, 15, 20, 25	200:14, 21 202:5, 16, 25 203:7, 11, 18 205:4, 9, 12, 20, 25 206:5, 10, 24 207:4, 6, 9, 21 208:4, 8, 20 209:8, 12, 15 210:3, 8, 19 211:7, 22 212:8 213:4, 17 214:4, 20, 25 215:5, 16 216:9, 15 217:9, 20 218:1, 25 219:3, 7, 22 220:9 221:15 222:2, 14, 20 223:3, 18 224:3, 21 225:11 226:1, 17 227:13 228:3 229:2, 8 230:13, 24 231:18 232:12, 17, 22, 25 233:18 234:25 236:4, 6, 10, 15 238:1 239:11 240:12, 18 241:4, 12, 17 242:24 244:8, 17, 25 245:4, 22 246:4, 15 247:21 249:5 250:1, 17, 23 252:5, 8, 11 253:20 254:13 255:14 257:4 258:7, 21 259:2, 7, 13 260:18, 24 261:1, 13, 15, 23 262:5 264:5, 9, 20 265:21 266:6 267:7, 10, 24 268:19, 25 270:13 271:21 273:1 274:1 275:14 276:6 277:4, 22 279:7, 15, 25 280:16, 21 281:4 282:12 283:13, 24 284:22 285:1 286:1 288:2 289:11	290:1 291:25 292:20 294:24 kept 226:9, 12 244:20 286:24 key 135:19 138:9 167:19, 23 188:13 242:5 290:13 kicks 144:3 kilometre 147:2 171:19 172:19 176:7 kilometres 204:23 205:8 229:16 230:4, 7, 8, 14, 21 235:21 245:14, 16, 18, 20 246:12 Kim 151:6 kind 293:7 kinds 193:18 KMs 204:25 205:13 knew 145:25 150:10 178:11 211:12, 13 252:13 knowing 252:21 knowledge 134:8, 11, 13 139:2, 17, 24 140:2, 16 147:25 157:8 192:14 251:5, 16 255:18 258:8 289:11 known 239:12 Kyle 225:23 < L > lack 187:13 191:2 195:25 282:15 283:10 lacking 184:13 185:18 laid 255:1 landed 245:7 large 135:18 largely 226:13 Larry 130:18, 19 198:1 242:12 late 149:17, 18 latest 287:12 lathe 278:13, 22 279:6 293:22	Lauch 152:14 159:16 206:14, 25 207:24 213:10 221:19, 21 launch 198:6 214:11 226:25 233:17 235:18 249:7 250:7, 24 252:16 253:9, 12, 22 257:25 259:20 285:18 289:20 launched 229:1, 5 246:19 252:13 launching 196:7 227:25 249:14 lead 187:21 190:19 202:12 277:2 278:11 Leadership 150:20 214:6, 8 242:13, 14, 22 244:24 leading 131:8 231:6 267:12 lead-up 233:4 285:10 lean 289:6 learn 281:22 286:20 learning 251:21 282:1, 3, 7 leave 244:11, 15 leaving 266:4 led 132:4 187:3 188:23 190:18 197:9 212:23, 24 267:25 285:3 left 199:6 264:21 left-hand 173:22 legitimate 185:24 length 221:9 letter 221:18, 21 226:18 letting 192:23 level 183:22 186:14 189:11 192:20 219:9, 25 245:21 260:13
--	--	--	---	---

<p>levels 232:1, 5 247:12, 22 248:18 250:3 251:15 leverage 189:19 levers 281:24 levied 290:20 LIGHT 127:6 lighter 266:4 limited 199:16 lines 150:4, 5 157:6, 7 158:8, 13 198:6 255:2 linking 263:18 links 233:16 listed 133:19 137:15 262:6 literally 175:11 189:25 235:21 Litigation 128:3 LLP 128:8 locate 142:10 location 163:9 267:2 locations 168:6 175:12 lock 266:15 locked 291:4 logo 134:6 long 165:17 166:13 200:1 201:15 236:12 237:22 247:19 267:1 271:16 longer 188:11 189:19 193:13 200:4, 7, 9 254:19 257:12, 13 long-term 238:14 280:24 looked 178:14 193:8, 11 195:22 210:25 228:6 233:15 244:2 263:23 looking 137:6, 8 147:1, 22 153:16 155:8 160:14 166:16 174:1, 24 179:1, 22 193:15 195:17 204:1 205:6, 7 211:7 221:6, 20</p>	<p>226:18 231:4 234:5, 10 241:22 246:8 248:24 249:21 264:11 279:3 280:5 281:9 285:7 286:3 293:15 lot 145:10, 11 154:6 157:12 168:19 169:1, 9 184:2 196:22 197:21 200:3 202:10 210:24 211:3 221:12 222:25 225:9 226:6, 9 237:21 252:22 256:4 257:21 258:2 276:14 282:18, 19 285:21 286:14 288:12, 22, 23 291:1, 5, 9 293:6 lots 238:9 low 233:5 234:18 lower 206:22 229:17 265:19 LT 150:18 Lucas 128:7 < M > made 149:24 150:2 173:18 174:17 176:17 180:1 183:18 184:6, 15, 20 187:22 188:12 189:17 191:14 199:5 201:23 203:19, 21 204:14 213:19 214:3 215:1 217:13 231:8 244:6 247:11 249:3 265:1 279:11 282:13, 16 296:9 main 245:12 maintain 233:11 237:8, 17, 20 238:7, 25 240:7 246:18 247:19</p>	<p>251:6, 13 284:9, 10 294:4 maintainability 267:6 272:4 maintained 191:13 229:11 238:11 252:1 253:18 255:23 maintainer 150:12 220:20 275:24 maintainers 237:16 maintaining 197:11 288:25 maintains 286:17 maintenance 169:10, 12 179:21 180:1, 8, 11, 23 181:21 182:1, 16 183:9 184:21 185:14, 16 192:19 193:19 195:12, 14, 20 197:17, 22 199:11 200:23 201:20 238:4, 13, 14, 17 246:12 248:2 285:12, 22 291:14 major 185:1 191:20, 21 196:10 213:25 255:10 majority 184:10 191:1 makeup 143:12 making 152:15 162:23 168:16 210:21 213:23 214:14 224:18 231:24 250:3 272:7 277:20 288:5 293:15 manage 237:7 247:13 263:7, 8 281:24 managed 135:9 management 287:16 Manager 149:23 150:25 161:12, 24 213:16, 18</p>	<p>managing 257:15 260:9 267:3 284:18 Manconi 151:1, 9 161:25 162:3 163:12 164:9, 18 208:5 213:14, 22 256:10 manner 261:6, 25 262:4 March 294:20 Mario 276:21 286:9, 10 Marked 129:3 marking 131:20 match 175:8, 21 228:22, 25 230:1 matched 219:10, 11 228:1 matches 226:24 231:16 matching 231:24, 25 235:16 math 168:2 Matt 276:16, 21 Matthew 153:17 McEwan 151:6 McGrann 128:2 130:4, 14, 22, 25 131:3, 13, 25 132:6, 12, 23 133:9, 17, 22 134:5, 12, 18, 23 135:11, 21 136:2, 10, 18 137:2, 6, 14, 21, 25 138:3, 13, 24 139:1, 8, 12, 23 140:3, 20 141:16, 23 142:4, 11 143:3, 14 144:8 145:4, 14 146:8 147:5, 11, 20, 25 148:16, 22 149:1, 7, 11, 15, 19 150:16, 21, 23 151:8 152:2, 8, 18, 24 153:9, 12, 21 154:1, 9, 16, 21, 25 155:16, 20 156:2, 11, 21, 24</p>	<p>158:1, 5, 18 159:3, 13, 18, 22 160:3, 6, 9, 13, 18, 23 161:5, 23 162:2 163:11, 17, 25 164:8, 16, 23 165:2, 20 166:2, 23 167:6 168:9, 15 169:8, 25 170:5, 9 171:12, 25 172:7, 13, 22, 25 173:4, 12, 17 174:7, 11, 16, 20, 24 175:17, 25 176:10, 13, 21 177:7, 19, 24 178:5, 14, 22, 25 179:8, 17, 20 180:4 181:24 182:4, 7, 12, 22 183:16, 21 184:19 185:12 187:2, 18 188:18, 22 190:17 191:7 192:1 193:1, 16 194:4 195:11 196:18 197:15 198:19 199:8, 15, 20, 25 200:14, 21 202:5, 16, 25 203:7, 11, 18 205:4, 9, 12, 20, 25 206:5, 10, 24 207:4, 6, 9, 21 208:4, 8, 20 209:8, 12, 15 210:3, 8, 19 211:7, 22 212:8 213:4, 17 214:4, 20, 25 215:5, 16 216:9, 15 217:9, 20 218:1, 25 219:3, 22 220:9 221:15 222:2, 14, 20 223:3, 18 224:3, 21 225:11 226:1, 17 227:13 228:3 229:2, 8 230:13, 24 231:18 232:12, 17, 22, 25</p>
---	---	--	---	--

233:18 234:25 236:4, 6, 10, 15 238:1 239:11 240:12, 18 241:4, 12, 17 242:24 244:8, 17, 25 245:4, 22 246:4, 15 247:21 249:5 250:1, 17, 23 252:5, 8, 11 253:20 254:13 255:14 257:4 258:7, 21 259:2, 7, 13 260:18, 24 261:1, 13, 15, 23 262:5 264:5, 9, 20 265:21 266:6 267:7, 10, 24 268:19, 25 270:13 271:21 273:1 274:1 275:14 276:6 277:4, 22 279:7, 15, 25 280:16, 21 281:4 282:12 283:13, 24 284:22 285:1 286:1 288:2 289:11 290:1 291:25 292:20 294:24 meaningful 226:3 means 135:3 190:12 228:4 meant 225:20 272:9 measure 176:6, 14 210:11 measured 227:4, 7 228:5 262:7 measurement 179:5 measurements 178:16 measures 162:25 mechanical 272:16 mechanics 192:21 mechanisms 194:2 216:6	261:6 media 285:16 meet 143:24 155:14 162:21 172:9 173:4 179:15 187:20, 25 198:3 211:14 212:11 220:11, 12 241:11 247:25 248:4, 5 268:10 269:25 270:21 meeting 142:18, 19 175:9 200:8 204:17 209:1 243:7 244:9, 11 275:7, 8 296:10 meetings 155:10, 14 158:23, 24 159:23 160:1, 2, 3 165:7, 10, 21 166:4, 25 168:12 199:16 200:1, 4, 5, 9 208:25 209:4 213:13 214:9, 11 216:16 218:2, 9 246:16 276:16 meets 284:10 Member 128:2, 3 130:22 131:1, 7 156:11, 19 158:19 members 130:16 135:24 155:16 160:18, 23 241:20 244:12 245:22 membership 159:14 164:23 memory 165:10 294:13 mentioned 156:6 204:17 219:19 225:14 226:18 229:3 233:25 239:16 256:9 279:23 286:6 293:21 message 130:5 198:16 met 137:19, 20 143:10 148:6, 7,	13 163:3 165:17 166:10, 12, 16, 20, 22 172:3 178:16 217:12 222:17 223:24 224:11 225:18 227:22 237:15 metric 174:2 222:16 metrics 146:4 155:7, 8 163:23 164:1 166:15 188:14 219:10 226:9 290:13 Michael 135:9, 25 151:2, 10 161:13 213:9 214:16 221:18, 21 micro-manage 284:13, 14 289:1 midday 275:2 midway 204:16 231:19 mildly 254:22 milestones 242:5 mind 164:18 220:10, 17 252:6 minimize 238:5 262:22 265:25 minimum 172:9, 22 174:8, 12, 20 175:2 179:10 228:7 minor 180:15, 19 182:23 184:8, 11 185:6 195:24 196:8 254:8 minute 141:18 286:6 minuted 160:4 minutes 158:23 160:8, 10 165:6 168:8 199:17, 19 264:21 missed 150:16 236:8 245:20 289:24 mistaken 142:2 mitigate 280:5, 23	mitigating 251:24 mitigation 262:17 280:17 281:6 mitigations 241:3 259:23 mixing 177:12 modifications 226:15 moment 187:18 Monday 171:7, 11 Monica 225:23 monitoring 195:12 273:12 monthly 214:11 months 165:1 190:25 221:10 250:16 282:22 287:18, 21 290:17 293:24 Morgan 135:9 136:1 151:2, 10 161:13 162:3 163:13 164:9, 19 206:14, 25 207:9, 23 208:9 213:10 221:18, 22 292:15 Morning 175:4, 5, 10, 13, 19 203:12 227:2, 16, 21, 25 228:24 229:10, 15, 20, 23, 24, 25 230:25 231:20 232:14 240:13 249:15 269:5 271:16 274:17 morning's 142:17 motivations 282:16 move 143:20 163:5 168:4 213:3 225:17 256:17 263:3, 4 273:7, 8 286:13 moving 167:24 194:17, 18, 21, 22 196:7 225:2 227:20 233:8 multimillion 238:8	Multiple 193:3, 4, 5 244:21 258:3 283:4, 8 < N > names 133:18 151:8 155:23 nature 169:14 195:25 225:8 nearby 254:9 necessarily 162:7 272:2 needed 148:3, 9, 11, 24 149:3 150:10, 13 152:19 153:4 162:13, 14, 18 163:2 165:14 167:24 187:10 194:12 196:14 197:5, 7 199:24 200:13 235:1 247:17 272:12 287:24 needs 191:23 198:12, 17 227:23 228:22 229:1 230:1 231:3, 17 241:11 261:9 278:19 290:9 291:11 NEESONS 296:22 negatively 282:6 neglected 243:1 negotiating 240:19, 22 negotiations 240:25 never-ending 247:3 new 191:11 220:20, 21 232:11 233:14 237:18 239:5, 8 248:7, 13 251:19, 20 255:4 273:21 283:3, 5 non-safety 186:4, 9 187:19 189:23
--	---	--	---	--

<p>non-safety-critical 187:5 188:23 190:18 normal 232:11 248:18 255:9 normalize 248:16 Note 144:9 204:4, 6, 9 205:9, 12, 20, 21 206:6 268:17 noted 129:14, 19 notes 160:4 296:13 notice 282:9 294:19 notion 206:1 November 282:22 number 162:15, 19 163:4, 8 167:25 173:9 175:4 201:7 204:6, 24 209:7, 13, 16 229:9, 16 230:7, 8, 16, 17 233:6 236:22 238:24 251:17 252:2 254:25 255:16 278:10 numbers 227:18, 20 numerical 169:3 numerous 227:15</p> <p>< O > object 226:2 objecting 168:10 objections 170:6 224:2, 18 226:6 observation 181:7 observations 247:16 observe 273:11 observer 284:8 OC 130:20 138:24 139:9 149:21 150:20 183:5 201:21 242:23 257:19 276:17, 18 occasions 193:5</p>	<p>occur 142:16 155:11 254:9 occurred 233:22 236:12, 25 237:4 occurrence 169:20 occurrences 189:8 246:10 275:22 277:11 279:21 occurring 242:21 occurs 274:20 OCT 138:24 October 282:22 offer 165:19 Office 131:8 133:13 135:7 138:21 139:2 195:7 Officer 151:3 259:11 offline 292:19 offsets 241:1 OLRT 133:15 135:8 136:13, 24 137:3, 15 154:24 155:24 OLRTC 132:2, 4 137:3 138:1 149:9 152:16 154:5 281:15 OLRT-C 138:20 OLT 150:18 omissions 193:3 ones 251:9 ongoing 151:24 195:20 197:6 198:17 231:2, 7, 22 238:4 249:4 268:3 269:16 271:10 286:21 293:13 online 287:2, 6 288:3, 6, 10 Ontario 134:6, 8, 13 open 254:14 opened 228:2 282:19 opening 236:24 operate 229:6 261:12 268:13 270:5</p>	<p>operated 259:17, 19 260:17 261:25 262:9 operates 268:5 269:19 operating 157:13 194:10 195:2 259:19, 22 262:25 263:14 290:11 operation 148:15 215:15 236:1 247:7 261:21 262:4 264:19 286:22 287:11 operational 142:25 149:23 151:18 152:15 175:3 181:10 194:16 241:11 286:16 operationalizing 150:1 157:3 operationally 151:25 Operations 142:18 148:8 151:5 216:5 253:1 259:24 263:24 264:24 284:18 Operator 259:3, 5, 8, 14 260:20, 22 261:20 263:9 operators 254:25 255:4 260:7, 14 273:14 281:17 operator's 262:6 opinion 250:15 252:20 264:17 opportunity 130:10 167:14 232:8 255:5 257:17 opposed 199:12 236:24 optimal 272:17 options 281:23 order 146:11 154:7 161:1 171:4 174:4 180:4, 7, 24</p>	<p>181:15 184:12 185:7, 20 191:17 192:2 195:21 197:4 235:4 252:16 orderer 196:1 orders 181:6, 12 182:18 183:4, 10 184:5 185:17 186:15 187:15 191:4 192:8, 17 195:18, 19 197:2 198:13 199:4 201:22 248:3 org 151:15 organic 233:22 organization 135:18 original 206:20 215:10 218:20, 21 223:17 244:20 originally 188:1 216:10 218:4 OTC 138:20 O-Train 138:21 139:1 OTT3177 173:23 OTT3177178 131:16 173:25 OTT377178 153:17 171:14 OTTAWA 127:6, 7 128:6 135:17 149:10, 22 ought 251:1 outcome 141:5 outcomes 143:16 outlined 155:10 171:9 184:24 211:1 260:16 outlines 259:21 261:5, 8, 11 output 210:16 output-based 167:21 225:3 251:10 outside 187:7 193:17 210:1 outstanding 139:18 148:17, 23 209:13</p>	<p>256:6, 22 272:11 274:8 279:16 289:20 overall 155:9 overhead 239:2 over-resource 248:15, 19 251:22 over-resourcing 248:14, 25 251:24 overseeing 191:24 owned 154:22 Owner 154:12 191:10</p> <p>< P > p.m 127:17 295:5 PA 221:12 284:10 287:1 288:11 package 131:12, 23, 25 145:1, 6, 13, 16 149:12 200:24 203:24 243:3 256:3 packages 203:3 PAGE/LINE 129:2, 15 pages 129:20 paid 234:19 pain 220:25 pains 220:22 239:7 248:9 paragraph 226:19 pardon 136:22 160:6 252:8 part 135:3 137:23 138:5 140:10 143:5 150:10 151:7 156:14 219:21 226:4 237:10 239:25 263:21, 24 264:4 266:10, 12 270:13 271:22 278:2 282:7 290:6 293:12, 13, 20 partial 236:24 partially 271:5</p>
--	---	--	---	---

<p>participants 127:16 128:5 participate 165:25 participated 132:4 155:25 165:5, 7, 11 participating 152:16 particular 202:21 204:4 particularly 265:1 parties 139:20 140:11, 19 143:9 153:3 166:13 167:17 169:7 199:3 200:18, 25 215:20 218:11, 19 224:24 243:12 271:20 273:19 281:22 282:4 283:19 286:9, 12 partner 234:9 partners 150:13 275:9 partnership 159:15 Pass 143:18 168:6 171:4, 8, 22, 25 173:2 174:4 175:4 176:1 180:7, 24 182:24 183:15, 24 184:18, 22 193:12 198:9, 23 199:12 200:16 224:10 242:16 244:7 245:18, 20 pass/fail 133:6 155:5 183:10 202:2 244:5 pass/repeat/resta rt 155:6 202:2 passed 199:7 216:20 passenger 226:25 passes 271:18 passing 143:25 175:12 201:8</p>	<p>258:24 Pat 151:1, 9 path 291:22 pathways 260:5 pause 144:13, 17 pay 217:15 payments 217:6, 10 Peak 174:21 175:2, 9 179:11 227:2, 4, 12 228:7, 24 229:23, 25 230:25 240:13 Peddle 128:3 284:22, 25 pedestrian 260:5 penalties 216:7 290:20 people 135:15, 19 138:9 149:20 151:19 152:3, 20 157:6, 21, 22 159:21 167:25 168:5 181:13 192:11, 24 193:6 195:9 244:21 249:13 251:17 252:2 255:12 263:5, 17 274:15 275:13 290:25 percent 172:20, 23 173:1, 10 174:8, 13, 21 175:18, 19, 21 176:8, 11 177:4, 8, 13, 17 178:12 211:19 222:10 226:10 228:7, 17 230:11 245:17 283:23 percentage 230:3, 5, 8, 13 perfect 180:23 256:19 258:18 274:24 perfectly 185:24 197:4 218:14 269:10 perform 219:25 220:1</p>	<p>performance 142:24 143:2, 6, 18, 23 162:25 171:15 172:18 180:23 182:1 188:14 199:11 200:23 201:3 209:1, 21 211:9 212:3 217:6, 10, 11, 16, 17 219:16 239:22 268:5 269:19 282:23 285:18 290:13 performance-based 217:15 251:11 performed 257:5 258:10 performing 210:15 period 140:23 144:14 149:6 156:6 162:20 170:20 171:3, 6 175:10 181:15 187:6 188:11 193:13 194:8 204:16 220:25 221:11 222:12 226:8 227:1, 12 228:24 229:23, 25 231:1 232:10 237:5, 22 239:6 248:9 251:22 253:11 258:6 266:24 278:13 279:17 288:17 permit 195:1 persist 247:22 person 135:19 155:23 156:4 157:9 202:12 276:8 277:1 278:19 personnel 181:21 193:22 254:5 257:20 perspective 149:22 169:3 185:14, 16 187:16 195:21, 22 220:6 233:23 234:6,</p>	<p>17, 18 237:12 248:22 251:7, 8, 9 260:22 286:16 290:11 Peter 128:7 142:9 152:14 203:4, 10, 15 213:10 214:16 221:19, 21 252:6, 9 268:22 269:4, 8, 9 270:11 291:12, 18, 22 292:6, 23 294:11, 22 Peters 276:16, 22 phase 226:22 227:6 228:12 258:25 physical 201:11, 12 picture 162:10 piece 191:17, 18 197:22 216:25 239:4 254:7 278:22 pieces 201:6 202:14 place 135:7 142:25 146:20, 21 148:12 149:4 153:4 158:17 161:20, 21 162:24 163:1 168:25 175:9 189:18 194:2, 24 206:3 208:23 209:16 213:5 214:19 215:1 216:7 226:10 228:2 241:3 251:4 256:11 259:24 262:20 283:19 296:6 places 192:19 250:21 plan 155:13 227:1 230:18 232:3, 4 247:13 258:16 282:10 293:13 294:12, 14 planned 180:9 230:9</p>	<p>planning 232:9 249:14 plans 259:19 272:25 278:2 platform 263:18 play 255:14 279:3 played 166:3 players 151:6 playing 224:4 point 140:21 142:15 147:18 167:15 173:12 179:25 215:21 221:7 254:23, 24 264:25 287:25 points 142:14 245:12 283:16 285:15 pop 237:19 posed 147:4 positive 189:9 possibility 232:23 possible 143:16 187:17 206:23 212:16 269:12 273:22 275:19, 21 279:20, 24 283:25 Possibly 155:22 190:24 193:5 206:4 209:18 213:15 232:6 post 209:4, 5 216:22 potential 208:22 209:16 213:18 233:19 potentially 220:15 241:8 255:1 practical 155:1 practice 199:22 200:11 258:2 practices 157:14 180:8, 18, 24 201:20 246:13 248:3 284:11 pre 209:4 precedent 159:4 precipitation 275:4</p>
---	--	---	--	---

<p>pre-defined 144:14 preliminary 183:17, 19 187:3 prepare 248:14 prepared 153:17 213:2 246:22 251:25 252:16 253:8 preparing 131:4 Present 128:10 presenters 296:9 presenting 246:2 pressure 254:13 255:6, 9, 11, 14 presumably 235:6 prevent 195:2 198:5 288:17 289:9 290:3 previous 132:20 142:24 143:2 146:23 201:3, 19 206:15 208:25 215:9 237:6 245:23 279:19 previously 132:9 157:4 167:9 214:8 219:19 221:1 225:8 227:15 229:4 239:16 242:8 pride 213:23 primarily 132:4 163:7 181:3 192:7 251:18 primary 151:5 159:21 169:15 prime 287:13 principle 266:5 principles 259:22 print 243:19, 25 prior 133:3 183:3, 5 223:6 234:24 240:15 253:22 priority 162:16 privy 213:8 proactive 267:19</p>	<p>proactively 238:11 problem 136:7 280:6 Procedure 131:17 134:2 156:25 157:25 164:20 165:4 166:5 168:17 169:11 170:2, 7 199:16 211:2 238:17 procedures 157:14 158:2 259:23 263:1, 14 proceeding 226:21 proceedings 296:5 process 130:9, 11 131:5 134:15 135:4, 6 142:25 146:13, 14, 18, 20 148:4, 9, 12 149:4 153:4, 5 155:9 157:2, 20 158:15 167:18 173:13 180:16 182:5, 11 183:2 189:24 190:2, 6, 11, 21 192:2 194:25 195:16 197:18 198:12 199:18 205:24 215:13 222:24, 25 223:23 224:16 240:24 241:5 242:25 252:1 262:18 263:25 264:4 processes 140:25 180:11 189:18 194:24 244:2 produce 142:7 203:1, 6 produced 129:8, 14 142:6, 7 203:1, 8 235:4 profile 272:19 273:4 profiles 264:23, 24 293:1</p>	<p>Program 133:14 138:8 150:7 160:17 161:14 262:14 progress 164:10 242:8 project 135:4, 17 136:13, 22 137:22 138:11, 12 148:5 149:25 150:9 161:18 165:16 166:6, 11 167:4, 20 188:3, 13 189:12, 16 210:20, 24 217:22 220:1 241:22 251:8 288:4 289:12, 25 290:10 291:15 projection 227:18 projections 234:11, 21 projects 159:6 promised 217:22 proof 249:20 proper 184:4 properly 181:13 196:3, 9 252:2 264:14 281:23 properties 158:11 property 156:8 proposing 162:11 protecting 190:13 prove 165:15 proven 235:15 provide 240:2 241:2 245:5 247:18 248:12 250:4 253:12 261:5 267:4 273:22 provide[s] 226:23 provided 156:9 158:25 159:4 166:14 178:18 250:9 253:1</p>	<p>254:3 281:14, 20 provides 158:19 providing 253:7 264:17 287:11 289:13 public 216:21 246:24 249:6 250:7 254:14 289:8 publicly 254:24 pudding 249:20 pull 168:23 245:6 288:16 pull-down 284:20 289:5 pulled 154:20 155:9 159:8 201:9, 13 204:3 243:14 pulling 154:6 punch 293:8 purpose 259:15 purposes 155:1, 5 pursue 292:12 push 219:14 248:24 put 131:23 132:25 133:3, 7 146:20 147:22 148:1 158:17 161:21 162:24 168:11 175:9 184:20 194:2 196:22 212:15 214:19 215:10, 17 218:4 241:3 243:16 254:22 256:11 262:19 271:14 274:21 puts 190:2 putting 152:21 156:17 163:1 166:25 192:16 228:1 235:17 272:1, 2</p>	<p>quantitative 168:22 169:2 Query 138:13 question 136:19 140:4 147:3 148:21 161:4 164:17 188:3, 17 199:21 207:23 210:10 215:18 223:13 236:21 275:20 292:24 questioned 274:11 questions 129:9 130:8 146:25 170:11 192:7 215:8 223:4 284:23 292:5, 21 293:7 294:23 questions/reques 129:19 ts 180:20 quick 287:23 quickly 230:20 259:14 quiet 284:8 quite 169:6 232:10 239:19 248:10</p> <p>< R > R/F 129:19 RAIL 127:6 131:7 133:13, 14 135:6, 7 138:8 150:4, 7 151:5, 22 153:8 157:6 158:8 160:8, 11, 16 161:14 194:15 198:6 238:20 255:2 262:14 263:2 266:16, 19 283:5 rails 271:15 274:18 275:4 raised 224:2, 17 226:6 232:22 233:19 234:14, 16 246:17 247:16 252:25 258:9, 12, 22 raising 170:6</p>
---	--	--	--	---

<p>292:2 rambling 287:25 random 183:4 randomly 201:22 rate 265:14 272:10 273:9, 18 274:12, 21 275:3, 24 276:8 277:7, 8, 16 278:3 280:3, 4 281:7, 10 282:10 294:1 rates 265:4 267:15, 20 268:8 269:22 270:18 272:10, 13 273:8 274:3 275:16 277:5, 13, 15, 20 278:12 279:1, 9, 11 280:1, 11, 14 282:10, 13 293:15, 16 ratio 147:2 171:19 172:19 175:4 176:8 233:5, 14, 24 234:18 rationale 166:15 185:22 190:4 192:24 215:11, 25 218:7, 8 281:10 reached 152:10 157:9 206:14, 25 react 238:19 270:21 275:13 read 130:5 269:12 readily 136:21 readiness 246:18 261:24 ready 148:7, 15 150:1, 14 151:25 170:24 206:19 215:15 216:2 217:3 221:2, 3, 5 224:20 253:8, 17, 18 255:24 256:14 260:23 261:2, 25 262:9 263:24 264:18</p>	<p>real 283:22 realize 231:19 realized 242:25 really 177:4 186:22 187:12 192:7, 14, 23 202:12 206:18 211:5 216:1 217:1 218:14, 15 223:1 234:11 245:11 257:21 273:19 281:9 282:5, 24 283:19, 20 286:7, 11 287:13 realtime 243:6 reap 255:12 287:17 reason 258:19 reasonable 186:5 234:9 284:3 reasons 135:16 185:25 223:10 239:11 258:14 266:10 recall 133:25 134:3 136:5, 9 139:5 142:1 145:20 146:5, 6, 22 147:13, 14, 19, 20, 24 148:16, 22 149:11 154:3 158:22 159:8, 12, 20 165:24 168:9, 13, 15 170:5 175:24 178:7, 12 185:12 189:5 197:15 199:9, 13 204:13 207:17 208:16 209:11 219:20 232:15, 17, 24, 25 277:4, 10 289:23 recalled 146:23, 24 receive 136:7 202:9 289:22 received 207:10, 25 208:6 receiving 193:24 276:6</p>	<p>RECESSED 203:16 recognition 187:24 293:19 recognize 221:24, 25 recognizing 198:4 220:19 221:11 recollection 133:24 139:5 142:2 190:20 recommendation s 249:10 290:2, 4, 5 292:9, 11 record 189:9 294:12 recorded 197:24 198:9 296:10 recruit 254:23 255:4 rectification 186:8 188:5, 15 189:13 190:3 278:2 282:9 290:22 293:13 294:12, 14 rectified 196:17, 20 rectify 186:18, 21 191:6 256:5 red 279:6 reduce 230:7 240:13 287:7 reduced 239:23 reducing 232:23 248:17 reduction 229:20 234:13 258:1 259:20 271:15 reductions 217:10 re-evaluate 232:5 refer 265:13 reference 154:13 204:21 209:6 210:20 227:23 228:10 referenced 237:13 referring 131:21 132:21 137:3</p>	<p>142:5, 20 146:11 205:18 206:6 210:4 211:25 227:23 264:6 refinement 232:3 reflect 187:24 REFUSALS 129:18 refused 129:9, 19 275:16 regard 189:17 198:18 199:14 254:4, 12 265:19 282:6 285:22 regardless 294:1 regards 185:6, 21 191:4 239:20 251:14 258:13 265:7 regular 140:24 reintroduced 174:18 175:20 177:1 178:18, 19 179:13 reject 255:25 relate 205:21 related 135:16 151:23 205:10, 23 206:8 relationship 286:8 relatively 180:20 282:21 relaying 242:17, 18 Reliability 171:16, 17 179:3 197:12 230:6, 11 234:3 235:25 239:13, 17 247:19 248:22 253:13 255:20 256:7, 21 258:13 262:16 267:5 272:4 278:5 284:3 289:4 reliable 233:11 235:5 238:25 240:2, 9 249:4 287:11, 20</p>	<p>reliably 229:6 235:12 relied 202:21 reluctance 271:21 278:25 279:9 280:1 relying 226:2 remained 211:17, 19 229:22 251:3 remedied 180:17 195:15 remember 159:22 200:14 206:10 207:21, 23 209:8, 12 214:22, 23, 25 232:13 233:18 236:12 remotely 127:16 remove 274:23 reoccurring 289:10 repair 186:8 189:20, 24 190:2, 6, 21 repeat 130:4 143:22 148:21 171:22 172:4 177:22 178:2, 15, 17, 20 179:5, 9, 12 180:5 182:25 183:15, 24 184:17, 22 185:13, 17 186:25 187:12, 21 188:25 190:19 193:1 195:23 199:11 223:6, 8 242:16 244:7 repeating 256:18 repeats 186:12 222:24 223:8, 10, 16 report 242:13 259:3 260:20 reported 180:12 reporter 269:11, 13 296:4 Reporter's 268:17 296:1</p>
---	--	--	--	--

reporting 180:19 241:18, 20 reports 150:25 258:23 273:14 287:3, 4 288:6, 16 representation 150:7 representative 201:21, 22 representatives 150:11 152:9 159:14 198:21 214:21 represented 175:3 176:6 representing 159:19 160:19, 24 request 135:3 137:8 181:6 267:24 273:7 275:2, 23 279:16 286:25 requesting 135:25 287:7 requests 247:11 252:14 273:3 274:1, 5, 11 275:15, 21 276:7 277:5 279:11 280:18 282:13, 16 289:21 require 144:4 231:1 232:14 250:10 required 135:19 139:18 151:19 154:7 160:25 161:6 170:1 171:3, 7 177:9 187:7 219:25 229:9 231:20 255:16 270:21 274:6, 7 278:4 293:20 requirement 149:5 172:10 174:17 175:25 176:22, 25 178:6 199:21 249:9 281:4	288:4, 10, 11 294:3 requirements 131:5 143:25 162:21 163:2 166:6 167:3 169:10, 13 172:2, 15, 17 175:10, 18, 21, 23, 24 187:23 211:10 212:11 217:11, 12 223:24 224:10 225:17 241:2 247:25 284:11 287:1 288:8 289:12 requires 227:1 requisite 251:5 researched 280:25 reset 236:9 resolution 180:20 284:2 287:23 resolved 197:3 resources 249:13 250:20, 21, 25 251:4 252:23 respect 152:8 166:23 174:20 178:5 179:20 187:2 190:21 203:24 208:20 211:22 215:16 228:11 241:17 257:4 259:2 264:22 265:1 274:1 282:12 283:13 290:20 292:24 293:3 respective 201:4 267:16 respond 181:10 185:25 188:25 238:19 270:21 275:13 responding 185:22, 23 276:7 response 139:13 188:4, 9, 14 189:13 190:3 250:6 290:21	responsible 201:5 283:6 rest 146:19 161:17 restart 171:23 172:7 173:5, 11 177:14, 16, 23 178:3 179:16 180:6 223:1 244:7 Re-start 144:2 re-starting 144:5 restarts 193:14 222:24 223:16 restricted 135:15 result 141:13 183:24 184:22 197:12 199:11 205:16 223:9, 17 268:3 269:16 287:22 resulted 132:1 159:1 268:3 269:16 results 164:7 195:12 241:18 242:14 RESUMED 203:17 resurface 237:1 retained 200:25 return 239:24 REV 163:22 REV02 163:18 revenue 148:8, 15 166:20, 22 167:12 170:25 187:23 188:16 189:14 190:8 191:1 210:4, 6 211:11 212:10, 24 213:3 216:5 217:7, 12, 19 219:11 220:2 225:17 228:2 231:15 233:8 235:18 240:15 246:19 249:7 250:24 253:22 289:14 review 130:11, 16, 23 131:1, 12 142:23 143:2, 5, 12 145:1, 12	146:13 153:25 156:15, 19 157:24 161:22 164:6, 24 165:6 171:10 183:2, 5, 6, 12, 13, 17 184:6, 15 187:4 197:18, 21 198:22 199:10, 15 200:22 202:1, 8 204:8 205:17 206:12 207:13, 19 208:18, 21, 25 209:4, 5, 9, 19, 21 210:2, 10 211:9 214:17 215:11 220:5 221:17, 23 224:1 231:3, 7 232:8 241:21, 24 243:7, 15 244:13, 14 263:22 287:15, 16 reviewed 201:3, 24 reviewing 164:2 245:23 264:16 revision 131:19 REVO2 131:20 Reynolds 128:8 RFI 146:6 159:11 211:1 RFI-O 132:21 147:18 159:11 206:8 228:6 RFI-O-266 132:24 135:3 146:6 147:11, 21 173:15 223:20 227:5, 7 228:5, 11 Rheinland 264:7 Richard 130:25 131:7 133:13 135:9, 25 145:24 150:9 152:23 153:8 198:2 202:23 208:12 244:19 ridership 227:17, 20, 22 228:22, 25 230:1 231:3, 4,	17 232:10 234:5, 11, 21, 22 right-hand 134:7 154:12 173:24 risk 262:21, 22 263:6 risk-based 191:19 Roger 133:15 137:14 role 137:22 138:7 154:2 165:12 166:3, 9 167:1, 9 224:3, 7 225:6, 18 255:15 roofs 283:11, 12 room 242:1, 7 routes 254:19, 20 row 171:6 212:12 220:11 RPR 296:3, 23 RTC 136:21 RTG 136:22, 24 137:4 138:1 144:11 149:8 152:9, 16, 18 153:1 159:15, 19 166:18 167:15 198:21 213:13 214:10, 22 216:11, 17 218:3 219:14 224:8 226:23 233:1, 20, 23 234:17 240:5 249:11 250:24 251:3 252:1, 21 253:1, 6, 17 264:13 267:25 272:12 273:3 274:2 275:16 276:7 281:5 282:16 293:14 RTG/OLRTC 138:6 RTG/RTM 189:25 RTG's 225:20 RTM 152:17 183:6 185:9 189:19 193:21 194:3 201:21
--	---	---	--	--

<p>214:10 246:18, 22 247:9 249:5 250:4 251:2 252:1, 14 253:6, 18, 21 255:23 257:12, 20 267:25 276:20 277:3 281:14 282:6 284:21 287:10 288:5 289:13 293:14 294:15 RTM/RTG 215:22 rubber-stamp 257:1 run 150:4 152:1 157:6 227:15 229:16 235:6, 7, 11, 14, 15 246:9 249:22, 24 290:12 running 130:9, 16, 23 131:1, 5, 11, 17 132:8, 25 133:4, 7 134:2, 15 137:11 138:18 140:7, 10, 22, 23 143:1, 5, 6 144:2, 5, 13, 20, 23 145:1, 12 146:13 149:5 152:5 153:25 155:6, 12 156:14, 25 157:24 158:2, 3, 8 159:5 160:20 161:1, 21 162:5 163:20 164:6, 17, 24 165:1, 4, 6, 8 168:17 169:11 170:1, 7, 18, 23 171:10 179:18 180:1 183:2, 12, 16 184:6, 15 185:13 186:1 187:4 188:15 189:6, 9, 14 190:8 191:2 193:18 194:11 195:15 197:18, 21 198:22 199:9, 15</p>	<p>200:22 201:1 202:1, 8, 19 203:19, 24 204:16 205:2, 15 206:21 207:12 208:18, 21 209:9, 19, 24 210:2, 17, 25 211:2 212:9, 23 214:17 215:10, 13 216:8, 22 217:17 218:13 219:4, 13 220:5 221:17 222:4, 22 223:23 224:1, 10 225:16 227:9 228:13 229:15 230:15, 17 231:7, 8, 11, 19 232:19 233:4 237:4 238:2 239:14 241:19, 21, 24 242:4 243:7 244:9, 13 246:6, 16 247:6, 23, 25 253:10 255:12, 17 256:15 257:6, 12 285:10, 11 Russell 156:8 < S > safe 259:24 260:2 261:6, 21, 25 262:4 263:24 264:19 267:4 287:11 safely 190:16 229:7 261:14 262:9 safest 263:2 safety 144:4, 21 151:3 162:13, 15, 17 169:17, 20, 22 185:2 187:16, 25 188:8 189:5, 7, 9 196:10 197:9, 13 238:9 246:10 248:22 255:21 256:23 259:3, 5, 8, 11, 14 260:13, 20 261:20 262:6</p>	<p>263:22 264:3, 5 272:5 287:15 291:3 safety-critical 187:9 188:11 189:3 salient 285:15 sanding 283:1 Santedicola 128:11 296:3, 23 sat 165:6 200:10 satisfaction 249:6 satisfied 166:6 satisfy 195:13 196:19 save 248:1 saved 134:25 160:10 202:19 243:6 scenarios 257:18 scheduled 140:24 230:22 Schmidt 133:15 137:15 139:13 scope 161:17 167:11 score 197:16 scorecard 141:3, 8, 12, 14, 16, 19, 20 142:5, 13 143:15 146:4 162:10 163:23 164:2, 7 174:25 184:1 198:9 202:15 204:2, 9, 21 224:13 242:19 243:2, 22 244:24 245:6, 8, 10, 23 scorecards 223:11, 15 235:13 243:4 245:1 scores 245:8 screen 204:1 243:5, 10, 11 Scrimgeour 151:1, 10 scroll 131:18 132:16 134:23</p>	<p>139:12 140:3 154:9 171:21 se 158:20 289:25 season 294:2 seconded 156:8 secondly 181:19 section 172:3, 14 security 291:3 seeking 167:10 select 183:3, 4 selected 152:5 201:22 send 198:16 sense 149:25 161:16 230:10 236:16 274:25 separate 209:1 216:8 separated 260:3 September 254:15 sequence 208:15 serious 144:4 service 140:24 142:22 148:8, 15 150:2, 15 151:21 163:1 166:21, 22 167:13 170:25 174:2 186:1, 3, 10 187:24 188:16 189:14, 21, 22 190:8 191:1 210:4, 6, 17 211:11 212:10, 16, 24 213:3 217:3, 8, 12, 19, 22 218:23 219:11 220:2 225:17 226:23 228:2 229:1 230:18 231:9, 15, 16, 23, 25 232:5 233:7, 8, 11, 13, 14 234:8, 19, 20 235:2, 16, 17, 18 237:8, 18 238:10, 25 239:10 240:2, 3, 9, 14, 16 242:5 245:19 246:19</p>	<p>247:19 249:4, 7, 23, 24 250:7, 24 251:9 253:22 254:21 259:20 260:23 261:3, 6 267:4, 5 273:22 276:13 281:24 282:19, 20 283:5, 8, 10 287:20 289:15 session 194:7 sessions 131:11 156:16 195:6 set 132:8 136:8 170:11 173:14 174:21 179:2 188:1 215:23 217:1, 16, 18, 20 284:14 288:11 296:6 sets 143:16 174:3 180:5 setting 195:8 217:5, 6 settled 164:24 seven-page 132:15 141:7 share 163:17 204:5 207:9 244:14 252:7, 9 288:20 shared 202:8 207:24 208:2, 5 SharePoint 288:12, 13 sharing 132:7 162:4 288:12 sheet 240:14, 19 241:13 shift 206:20 237:3, 23 shifting 247:4 shops 192:19 short 221:11 Shorthand 296:4, 13 short-term 238:13 show 132:12 162:24 173:19 184:4 198:15 203:23 221:19</p>
--	---	--	---	--

<p>237:16 277:24 281:5 showed 162:10 showing 131:15 132:14 173:21, 24 side 131:9 136:22 138:11 151:14 154:5, 12 155:24 156:3 159:15 167:16 173:22, 24 276:18, 20 290:8 294:18 sight 191:4 196:13, 24 249:17 sign 148:12 150:14 170:1 244:1, 10 signed 223:22 224:12, 19 240:15 243:20, 23 259:8, 12 significant 165:14 184:8 198:5 293:4, 10 294:8 significantly 271:4 signified 260:19 signifies 261:24 signing 260:19 signs 266:2, 3 Silva 128:7 similar 215:8 225:7 similarities 211:4 simple 190:1 simply 167:8 single 135:19 191:16, 17 193:7, 10 202:19 267:2 289:2 Singleton 128:7 sit 146:9 197:2 site 288:12, 13 sitting 283:25 situated 278:19 situation 186:13 212:14 situations 144:11 186:14</p>	<p>257:25 271:13 273:10 277:8 size 238:12 skills 251:16 252:3 Slade 153:18 159:15 slate 145:22 146:1 147:16 slides 294:1 sliding 266:16 slips 293:25 slip-slide 273:15 274:20 slip-slides 266:13 278:9 279:12 294:6 slow 289:21 slower 265:16, 17, 19, 23 266:1, 3 small 233:12 238:12 smaller 151:4, 11, 13 snow 271:7 275:4 soft 233:17 236:24 solve 280:6 somebody 171:2 sooner 291:25 Sorry 139:21 148:18, 20 150:22 156:20 158:23 177:11, 18 178:9, 20 207:22 213:12 236:5, 6 261:1, 3, 17 268:22 270:12 294:21 sort 143:12 145:8 146:17 154:10 157:18 181:9 224:14 235:20 254:8 255:10 260:15 265:24 268:10 270:1 286:6 sought 157:12 sound 268:20 sounded 274:3 sounds 229:14 source 202:6,</p>	<p>17, 18 sources 201:18 space 286:7 spare 233:5, 12, 14, 24 234:18 236:22 237:8, 9, 20 238:3, 22, 24 239:2, 12 spares 240:6 speak 167:14 208:19 225:24 245:4 276:9, 17, 20, 22 277:1 289:7 speaking 130:15 208:14 275:23 294:13 speaks 226:20 specific 149:15 151:4 158:1 162:19 163:9, 22 170:11 175:12 246:5 267:2 276:3 286:1 289:4 290:4 291:22 specifically 136:13 146:5 147:19 279:14 289:19, 24 specification 167:21 251:11 specifications 210:16 225:4 specificity 184:19 specifics 276:3, 12, 25 290:9 speed 264:23 271:14 292:25 spend 291:1, 5 spent 209:9 285:9 291:9 spoke 130:15 157:4 214:16 spoken 225:12 spot 266:17, 19 spots 278:8 spotters 250:11 spring 149:18 294:20 stabilize 248:16 stable 232:10 staff 192:15 194:1, 20 195:6</p>	<p>201:11, 12 220:21 248:8 252:15 253:8 258:3 262:25 265:11 273:11 281:16 staffing 247:12, 22 249:17 250:3 251:15 253:3 staff's 247:4 Stage 136:13 stages 219:18 stance 225:19, 20 standard 259:22 standards 262:7 stand-up 200:8 start 146:12, 19 210:17 235:16 256:15 263:5 282:23 started 141:25 145:15 149:12, 13 227:24 240:4 249:22, 24 starters 269:3 starting 215:21 287:17 starts 235:2 260:2 282:24 state 255:7 statements 296:8 States 278:18 station 197:12 246:13 265:16, 17 266:22 stations 148:11 242:10 256:22 257:13 287:4 290:19 status 138:10 stay 271:17 steel 266:14 Stenographer/Tra nscriptionist 128:11 stenographically 296:10 step 242:24 260:10 steps 186:21 249:12</p>	<p>stick 141:18 Sticking 187:18 stop 132:6 176:4 266:2, 3, 21, 22, 23 267:1 stoplights 266:3 store 142:1 strong 240:23 struck 209:1 structure 151:15 stuff 168:22 169:2 195:5 268:11 270:1 subcontractor 137:4 subcontractors 267:25 274:2 subject 143:13 169:9 171:8 205:2, 15 215:5 submission 256:1 257:3 submissions 291:19 submitted 256:2 subsequent 226:22 227:6 228:12 272:25 subsequently 256:2 subset 151:4, 11, 13 152:2 subsidiary 136:25 substantial 148:6, 14 166:10, 20, 21 167:12 209:23 210:3 212:22, 23 237:14 255:25 256:3, 13 257:2 258:15 success 217:18, 21 successful 170:21, 22 209:24 224:10 sufficient 161:7 184:17 192:16 250:14 251:4 252:19 suggest 290:5 suggestion 233:1</p>
--	---	--	---	--

suggestions 250:3, 6 251:18 summarizes 261:11 sun 271:17 274:23 Sunday 171:7, 11 sunny 274:13 superceded 228:18 Supervisor 264:6 supplied 264:13 support 150:3 198:1 221:3 supported 212:18 supporting 130:20 180:11 242:12 254:6 suppose 172:13 supposed 139:25 172:25 200:8 266:22 267:1 surely 270:25 surface 282:24 surprised 286:20 surprises 213:24 surrounded 157:20 switch 153:13 204:13 switching 212:18 system 148:7 150:14 163:4 167:24 170:24 181:2, 3, 20 182:13 191:12 192:13 196:7, 9, 23 201:9, 10, 14 204:23 206:19 210:15 211:9, 10 212:9 215:15, 22 216:1 217:3, 21 219:25 220:3, 10, 11, 18 221:2 224:19 235:5, 11 238:2, 20 239:5, 8 243:14	246:18 248:7 251:6, 13, 19, 20 252:13, 17 253:9 254:14, 17 255:7, 10 259:17, 18 260:1, 5, 12, 22 261:10, 11, 24, 25 263:2, 3, 8, 10, 16, 23 264:12, 18 265:9 268:13 270:4 272:3, 21 273:12, 16, 21 277:21 280:2, 7, 8 281:21 283:1 284:3 287:16 288:14 293:18 systems 140:25 144:19 148:11 168:24 221:3, 5 235:24 236:1 238:21 239:20 256:22 257:14, 16 262:20 264:14 277:2 279:5 < T > T&C 154:12 takes 206:3 213:23 238:17 talk 132:13 194:5 195:10 204:24 208:2 285:21 talked 208:9 214:9 221:1 248:2 250:13 253:25 talking 131:12, 14 153:14 162:8, 11 177:25 228:17 237:24 248:7 259:4 282:5 285:9, 24 294:17 talks 140:21 168:4 182:17 185:9 188:4 193:25 194:19 195:4 tap 157:23 target 204:7 206:11 217:17	targets 227:5, 7 228:6, 11 Team 130:16, 23 131:1 135:24 143:5, 12 145:13 146:13, 16, 19 147:8, 12 150:20, 23 153:25 154:19, 23 156:15, 19 160:12 161:22 164:24 165:6 171:10 183:2, 12, 17 184:6, 15 187:5 197:19, 21 198:22 199:10, 16 200:22 202:1, 8 207:13, 19 208:14, 18, 21 209:9, 19 210:2 212:9, 19 214:6, 8, 17 215:11 220:5 221:17 224:1 237:13 241:21 242:13, 14, 23 243:7 244:13, 20, 24 249:11 251:4 256:10, 11 257:19 276:22 teams 181:22 201:5 267:16, 18 271:11 Team's 241:25 Technical 137:15 262:12 285:2 Technician 128:12 254:9 278:17 technicians 186:24 192:15, 21 250:12 254:1 technology 260:1 262:2, 3, 19 telephones 235:25 template 142:3, 4 145:9 temporarily 280:24	temporary 189:24 190:2, 6, 20 255:5 term 194:6 195:9 240:14, 19 241:13 247:20 264:2 285:13, 22 291:14 terms 148:5 149:16 157:13 159:3, 13 163:3 165:16 166:11 182:18 184:11 185:19 188:13, 14 189:12 190:17 193:1 197:3 203:18 204:23 212:3 217:21 221:15 224:21 228:19 234:13 239:2 243:1 248:10 253:2 255:20 256:20 259:19 264:13 276:6 277:16 280:9 285:22 286:8 287:10 288:5, 8 289:18 290:9, 12 291:15 Test 131:17 134:2 156:25 157:25 164:20 165:4 166:5 168:17 169:11 170:2, 7 Testing 154:14, 16, 18, 22 170:21 226:22 228:12 235:24 247:5 257:5, 7 258:5, 10, 24 tests 258:25 264:15 Thales 265:8 272:20 280:7 Thanks 294:25 theory 200:12 thing 217:25 220:16 262:16 271:16 274:16 things 131:10 146:21 154:5 158:15 162:19	168:21 177:25 181:1 182:21 185:25 220:17 225:4 234:1, 7 236:2 237:15, 19 238:6 242:4 245:12 247:12 248:16 251:19 253:4 256:19 257:23 258:2 259:21 262:11, 24, 25 271:1, 9, 18 273:24 274:24 275:8 276:18, 20 280:24 287:5 290:8 294:18 third 142:12 175:25 thirteen 227:1, 3 thought 178:10 251:1 throughput 177:15 226:11 228:19 230:19 268:9 269:24 270:19 271:1 tight 233:14 time 133:16 134:13 135:1 136:6, 9 138:7 140:5 144:14 145:19 146:7, 9, 22 147:4, 19 151:2, 7 152:13 156:7 159:21 161:12 162:19, 20 163:7, 10, 13 165:19 168:7, 8 173:19 175:14, 15 178:13 181:15 184:10, 11 187:6 188:11, 15, 24 189:13, 19 191:11 193:13 194:8 196:15 199:24, 25 200:13 201:15 207:7, 17, 25 209:9 213:5 219:20 221:9, 11 222:6, 12, 13 226:8, 12 232:11 233:23
---	--	---	--	---

234:4, 20 236:12 237:5, 22, 24 238:15, 25 240:3 243:13 245:13 246:11 249:6 250:6, 24 253:11 256:19 257:12, 13, 14 259:12 267:2 270:22 271:2, 19, 22 273:25 274:20, 23 276:14 278:13 279:17 281:20 283:21 285:9 288:17 290:22 291:1, 6, 9, 20 292:10, 18 295:1 296:6, 9 timeline 186:7 187:7, 20, 22 188:1, 5 208:15 timelines 188:4 timeliness 182:20 184:5 196:1 289:18 times 190:3 192:22 208:17 227:15 229:22 254:19 258:3 272:2, 8 273:13 274:25 281:11 timing 201:13 title 138:13 titled 132:24 today 245:7 277:6 283:25 284:24 292:3 294:25 told 201:15 tool 185:9 193:25 194:4, 19 195:4, 10 top 134:7 154:11 topic 236:13 topics 285:5 tossed 243:5 total 229:16 touched 286:2 292:15 touching 285:15 track 191:18, 20 195:1 235:21	242:8, 10 257:12 263:17 266:14 277:2 288:16 tracked 192:10 243:17 246:5 276:5 tracking 181:17, 24 182:7 193:17 194:2 196:9 242:2, 3 246:1 tracks 194:25 train 157:16 168:5 175:16 195:2 211:16 228:21 229:20 233:3 235:23 239:20 254:10 260:6, 11 263:8, 9, 10, 13, 15 265:8 272:21 273:14 280:8 283:7 290:24 293:17 trained 252:2 281:16, 17 training 185:8 193:25 195:5 196:16 251:6 262:24 281:13, 20 trains 148:11, 14 168:6 175:12, 16 194:10, 17 201:8, 13 227:16, 21, 22, 25 228:24 229:5, 6, 10, 15 230:4, 8, 15, 17, 19, 20 231:1, 10, 12, 20 232:14, 23 233:6 234:7, 12, 17, 19, 20 235:1, 4, 7, 10, 14, 15, 19, 20, 22 236:3, 11, 22 237:8 238:3, 22 239:13, 17 240:13 241:2 248:4, 23 249:14 250:11 253:12 255:16 257:12 258:1	260:14 264:25 266:21 272:14, 20, 22 277:2 280:10 283:4 293:16 train-the-trainer 281:18 transcribed 296:11 transcript 156:6 296:13 transcripts 132:20 Transit 157:11 194:16 236:1 238:20, 21 246:25 283:7 290:11 Transpo 130:20 138:24 139:9 149:21 150:20 183:5 201:21 242:23 276:17 travel 162:19 163:7 168:7 175:14, 15 201:15 226:11 243:13 245:13 246:11 254:19 271:2 travelled 230:5, 21 trending 248:23 trial 130:8, 9, 16, 23 131:1, 5, 11, 17 132:8, 25 133:4, 7 134:2, 15 137:11 138:17 140:7, 10, 22 143:1, 4, 6 144:2, 5, 13, 20, 23 145:1, 12 146:13 149:5 152:4 153:25 155:3, 6, 12 156:14, 25 157:24 158:2, 3 159:5 160:20 161:1, 21 162:4 163:19 164:6, 16, 24 165:1, 4, 6, 8 168:17 169:11 170:1, 7, 17, 23 171:10 172:8 179:18,	25 180:6 183:1, 12, 16 184:6, 15 185:13 187:4 188:15 189:6, 9, 13 190:8 191:2 193:17 195:15 197:18, 21 198:22 199:9, 15 200:22, 25 202:1, 8, 19 203:19, 24 204:16 205:1, 14 206:21 207:12 208:18, 21 209:9, 19, 24 210:1, 25 211:2 212:9, 23 214:17 215:10, 13 216:8, 22 217:17 218:13 219:4, 13 220:5 221:17 222:4, 22 223:22 224:1, 10 225:16 227:8 228:13 231:6, 8, 19 232:19 233:4 237:4 239:14 241:18, 21, 24 242:4 243:6 244:9, 13 246:6, 16 247:23, 24 253:10 255:17 256:15 257:6 285:10 trialing 231:16 trips 162:20 163:8 274:22 trouble 236:20 269:5 troubleshooting 254:7 257:25 TROY 127:7 128:6 130:3, 13, 19, 24 131:2, 6, 24 132:3, 11, 19 133:2, 11, 20, 24 134:10, 16, 20 135:5, 14, 23 136:5, 16, 23 137:5, 13, 18, 23 138:2, 5, 23, 25 139:4, 11, 21 140:2, 8 141:11,	21, 25 142:21 143:7 144:7, 25 145:7, 19 146:12 147:10, 13, 24 148:3, 18, 25 149:2, 8, 13, 17, 21 150:19, 22, 24 151:13 152:7, 12, 22 153:2, 11, 20, 22 154:3, 14, 18, 24 155:2, 19, 22 156:5, 13, 23 157:1 158:4, 7, 21 159:7, 17, 20, 25 160:5, 7, 11, 15, 22 161:3, 9 162:1, 7 163:16, 21 164:5, 14, 22, 25 165:5, 23 166:8 167:5, 8 168:13, 19 169:12 170:3, 8 171:5, 24 172:6, 12, 21, 24 173:3, 7, 16 174:6, 10, 15, 19, 23 175:7, 23 176:9, 12, 20 177:2, 10, 20 178:4, 9, 20, 24 179:7, 15, 19 180:3, 25 182:3, 6, 10, 15 183:1, 20, 25 184:23 185:15 187:8 188:2, 21 189:4 190:23 191:9 192:6 193:10, 20 194:6 195:16 196:21 197:20 198:25 199:13, 18, 23 200:3, 19 201:2 202:10, 22 203:14 204:15 205:5, 11, 19, 22 206:4, 7, 13 207:2, 5, 8, 11 208:1, 7, 12 209:3, 11, 14, 18 210:6, 13, 23 211:12 212:1, 13 213:7, 20 214:7, 23 215:3, 7, 19 216:13, 18
---	---	--	---	---

217:14, 24 218:10 219:2, 6 220:4, 15 221:25 222:5, 19, 23 223:12, 21 224:6, 25 225:15 226:4 227:11, 14 228:15 229:3, 19 230:16 231:2, 21 232:15, 20, 24 233:2, 21 235:9 236:5, 8, 14, 18 238:4 239:15 240:17, 20 241:6, 15, 23 243:9 244:15, 18 245:2, 9, 25 246:7, 20 247:24 249:8 250:8, 18 251:2 252:18 253:23 254:16 255:18 257:9 258:11 259:1, 5, 10, 16 260:21, 25 261:2, 14, 17 262:1, 10 264:8, 11 265:3, 24 266:9 267:9, 12 268:2 269:7 270:15 271:25 273:6 274:10 275:18 276:10 277:10 278:1 279:13, 18 280:3, 20, 22 281:8 282:17 283:14 284:4 285:8 286:5 288:7 289:16 290:7 291:17, 21 293:9 294:16 295:2 true 294:4 296:12 trues 278:14 truly 225:20 234:7, 11 271:11, 14 trust 282:15, 18 trying 134:24 148:19 228:4	234:8 238:5 252:12 263:17 turn 176:5 Turning 158:18 174:25 turns 203:8 TÜV 264:7 twelve 140:22 170:19 type 185:10 186:13 226:11 262:16 265:13, 18, 22 267:7, 14 268:1 271:5, 23 273:4, 8 278:25 types 182:20 186:13 225:4 237:15 253:4 256:24 262:25 272:14 273:22 281:25 < U > U/T 129:14 142:9 203:4, 10 ultimately 133:7 140:15 141:13, 14 151:22 159:1 161:20 162:25 166:8 183:13 184:17 186:17 190:5, 19 198:10 199:3, 6 200:16 207:11 208:13 209:19 214:12, 15, 19 215:12 223:21 224:6, 12, 19 225:15 240:14 241:14 243:18 244:5 259:16 264:11, 17 266:21 280:25 282:8 288:24 unacceptable 293:23 unavailable 233:6 unchanged 211:17, 19 underlying 277:15, 25 280:12, 15, 18	underneath 142:14 understand 132:7 134:24 135:2 147:6 153:3 164:19 167:1 170:14 172:17 173:17 191:21 193:22 198:20 203:20 216:9 223:5 224:4, 22 229:9, 13 250:1, 2 252:5, 12 264:10, 25 273:1 274:14 understanding 133:14 136:17, 23, 25 143:11 153:7 166:2 167:7 171:1 179:23 192:15 193:21 216:14, 15 220:21 222:15 225:25 understood 145:16 146:2 149:3, 7 153:3 170:15 190:11 undertaken 129:7 UNDERTAKINGS 129:12 unexpected 248:15 Unfortunately 232:7 263:4 291:8 unhappy 220:13 unique 192:18 units 135:10 unnecessarily 272:1 unplanned 180:9 upcoming 276:16 update 148:20 245:5 updating 239:20 Urquhart 128:7 utilize 189:25 utilized 190:7 267:22	< V > validate 148:4, 10, 13 149:4 validated 205:1, 14 263:11 264:13 validating 204:22 205:7 value 283:15, 23 variety 257:18 262:10 266:9 various 168:24 201:6, 17, 18 202:14 242:2, 18 244:4 258:25 271:12 281:23 vehicle 147:2 171:15, 16, 17, 18 172:19 176:6, 7 179:3 191:18 204:25 205:13 227:12 238:15, 18 246:11 265:4, 7 272:15 277:21 289:3 290:18 vehicles 158:13 194:22 197:11 221:2 227:2, 3 233:12, 13 234:1, 2 237:9, 20 238:7, 8, 22, 24 239:2, 12 242:10 254:6 256:21 258:14, 19 260:4 278:8 283:8 287:3, 17 293:14 294:4 verify 166:9, 19 167:19 175:13 181:11, 23 215:14 verifying 169:2 VERITEXT 296:22 version 163:18, 22 199:1 versus 188:10 233:17 271:7 274:7 vetting-in 220:25 239:6	248:9 251:22 video 243:9 Videoconferenci ng 127:15 view 274:6 294:9 viewed 157:18 169:18 201:19 274:4 violation 289:24 Virtual 128:12 virtually 165:25 virtue 163:11 164:2 Vogel 128:8 volume 287:8 volumes 226:25 < W > wait 173:8 186:2, 6, 9 189:22 wake 278:17 walking 202:13 wanted 135:13 150:6 157:7, 23 160:13 162:12, 16 181:11, 17, 19 186:15 191:3, 4 204:4, 11 211:13 215:22 216:1, 4, 11 217:1, 2, 16 218:1, 11 219:9, 14 227:19 231:9, 13, 15 235:15 240:3 241:13 255:8 261:18 292:5, 6, 21 wanting 219:15 wants 192:4 284:5, 6 292:11 Wardle 128:7 142:4, 9 202:25 203:4, 10, 15 252:6, 9 268:22 269:4, 9 270:11 291:12, 18 292:4, 6, 23 294:11, 22 warrant 188:25 warranted 144:18 219:17 watching 260:9
---	---	--	---	--

ways 273:21
275:10
wealth 259:25
weather 265:2,
12, 14, 22 266:1
268:14, 15
270:5, 7, 22, 24
271:2, 6 273:23
274:6 278:11
281:25
weeds 289:2
week 236:17
247:2
weekday 177:14
weekends
231:11
weekly 214:12
275:7
weeks 217:19
236:19 249:24
253:15 278:14,
21 282:20
286:22 293:22
weigh 225:10
weight 196:22
well-
documented
285:16
well-intentioned
206:17
westbound
175:5, 6
whatnot 278:17
wheel 266:15,
17 278:13, 21,
24 279:6 293:3,
5, 22
wheels 266:14
278:14 294:5
white 243:17, 22
winter 149:18
252:25 267:9,
11, 13 278:6, 7
281:12 282:2,
14 293:24 294:2
witness 292:5,
22
witnesses 292:8
witness's 268:24
wonder 269:11
275:1
wondering
139:24 219:23
235:2
won't 130:4

word 150:17
240:23
worded 197:4
wording 241:9,
10
work 132:1
146:10, 11, 19
148:1, 23
149:11 152:9,
11 162:6 181:6,
12, 15, 18, 20, 22,
23 182:7, 18
183:4, 10 184:5,
11, 14 185:7, 17,
20 186:11, 15
187:15 190:14
191:3, 16, 17
192:2, 4, 8, 17
195:18, 19, 21
196:1, 2, 3, 11
197:1, 4 198:13
199:4 201:22
243:8 248:3
271:11, 19
272:23 273:20,
21 275:10
287:8 290:6
293:13
worked 133:15
153:23 155:17
190:10 192:13
213:22
workforce
248:17
working 131:10,
22 135:12
136:12, 13
142:2 144:23
145:8, 16, 21
146:1, 17
147:12, 15
149:20, 25
152:4 154:17,
20 155:17, 21
156:12, 19
158:20 159:14,
19, 23 160:19,
24 161:11
162:5 163:13,
14 165:21
166:4, 14, 17, 18,
25 167:2
168:11, 18
195:3, 9 196:24
198:12 234:2

254:5 258:8, 22
260:7 264:14
271:20 272:19
283:20 286:8, 12
works 203:13
271:12
world 275:12
worry 194:22
written 140:18
wrong 173:23
201:10 264:2, 22

< Y >
yardmaster
249:13 250:13
253:25
Yeah 135:5
136:25 139:23
142:22 153:11
156:5 158:21
165:23 169:12
173:7 177:17
185:16 187:8
198:7, 25 199:1,
20 204:15
207:11 209:4
210:13, 23
211:12 214:7
216:18 219:2, 6
220:15 222:5
226:4, 6 227:14
228:15 230:16,
17 235:9 236:8
239:15, 25
243:9 245:3
246:20 247:14
249:8 250:8
254:16 255:8
259:16 262:1
265:3, 24
266:10 267:12
274:10 277:18
280:20, 22
281:2 283:21
289:5 291:21
293:9 294:17
year 217:4
232:4 254:17
years 133:3
151:17 213:22
227:18 234:21,
22, 23 274:11
276:14
Year's 283:3, 5

< Z >
Zoom 127:15
268:18