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THE PARLIAMENTARY STANDING COMMITTEE ON PUBLIC ACCOUNTS MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON 9 JUNE 2023

HYDRO TASMANIA AND THE TERMINATION OF THE BASSLINK SERVICES AGREEMENTS

Honourable GUY BARNETT, MP, MINISTER FOR ENERGY AND RENEWABLES, WAS CALLED.

Mr GRANT EVERY-BURNS, CHAIR OF THE BOARD, **Mr IAN BROOKSBANK**, CHIEF EXECUTIVE OFFICER, HYDRO TASMANIA, **Mr ANTON VOSS**, CEO, and **Mr ADRIAN CHRISTIAN**, DIRECTOR, RENEWABLES, CLIMATE AND FUTURE INDUSTRIES TASMANIA (ReCFIT), WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Welcome, gentlemen.

Mr BARNETT - Thank you, Madam Chair and Committee members. I welcome the opportunity to appear once again before the Committee on this important matter. Much has happened since the last hearing for this inquiry around a year ago. I have prepared for the Committee a synopsis of events since June 2022 which I will table today.

CHAIR - Just before you continue, I will pass it along and ask Ali if she could get a copy for everyone.

Mr BARNETT - Thank you, Madam Chair. I would like to highlight some of the key points in the synopsis to frame today's discussion. At last year's hearing we briefed the Committee on the events that led to the termination of the Basslink services agreement on the 10 February 2022. As you know the State chose to pursue our collective rights, which ultimately resulted in the sale process.

Last time we appeared before the Committee legal proceedings were on foot and we sought to satisfy the Committee's questions in a way that didn't risk compromising our legal position. Just prior to the hearing the first receivers had been replaced by FTI Consulting and they were sending signals that they intended to proceed with the sale on a tight time frame.

I would now like to outline for the Committee what has transpired between June 2022 and now. The State prepared for the sale process by setting seven objectives for the sale recapitalisation process because we wanted to ensure that FTI and bidders were clear about the outcomes the State wanted to achieve. These seven criteria are set out in the synopsis.

The sale process was managed by the receivers, not the State and Hydro Tasmania. Nonetheless both State parties participated in the process by having discussions with bidders with the objective of securing our respective objectives of the process. On 7 September 2022 FTI announced that it had selected the APA bid as the preferred proposal from the shortlisting process to move forward to final documentation, with a view to it being put to DPL creditors for a vote.

During September and October 2022 there were negotiations between the State, Hydro Tasmania and APA in relation to a number of contractual arrangements that aimed to secure

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the State's and Hydro Tasmania's interests in the sale and to secure long-term outcomes in relation to the link consistent with the State's objectives. These negotiations were successfully concluded. As a result, APA finalised a deed of company arrangement that was accepted by BPL creditors on the 18 October 2022. APA acquired Basslink for \$773 million. APA's purchase of BPL delivered a very good result for the State financially, legally and in relation to Basslink's technical performance for this State and Hydro recovering all the moneys owed. Importantly, it will continue to remain a key element of Tasmania's energy security arrangements. APA's clearly stated business model is for Basslink to become a regulated link under the jurisdiction of the Australian Economic Regulator from 1 July 2025. Underwriting outcomes from the regulatory process remain at APA's risk.

There are some very good outcomes for Tasmania that could come from Basslink becoming a regulated interconnector. Another key agreement resolved through the sale process was the commercial model that would apply to Basslink, ahead of it achieving regulation. Those arrangements are captured in the Network Service Agreement between Hydro Tasmania and BPL in October 2022. The NSA is a commercially confidential agreement and did not involve the State. Importantly, the NSA does not deliver a long-term commercial model for Basslink; it has been designed with APA's objective of Basslink regulation in mind and accordingly has been negotiated to terminate on the earlier of either the regulation of Basslink by AER or the 30 June 2025.

Finally, I'd like to update the Committee on where matters are in relation to the arbitration technical outcomes. One of the key requirements from the 2020 arbitration was the actual physical performance characteristics of the link to be clearly established, as the 2015-16 outage and subsequent investigation clearly established the link was not able to perform to its design specifications. I am pleased to report to the Committee that agreement was reached on these matters - a credit to the Hydro Tasmania team. There is no longer any dispute about the continuous rating of Basslink between the State parties and BPL which is 462 megawatts in August to December and 447 megawatts in January to July. Importantly, BPL has also delivered the fault ride-through solution which was one of the Government's key objectives for the sale process. This was resolved in March 2023 and it means Basslink is more able to withstand faults on the Tasmanian network without it self-tripping.

To close, the Government and Hydro Tasmania took hard stances in November 2021 and in February 2022 to progress our legal rights and protect Tasmania's best interests. These actions culminated in the sale of BPL to APA which saw the State and Hydro Tasmania receive their full entitlements - both financial and technical, from the arbitration process, something that many parties had considered very unlikely.

The outcomes we have delivered for Tasmania through the steps taken over the past year will see Basslink move to a sustainable footing and continue to play an important role in energy security and provide trading opportunities for Hydro Tasmania.

CHAIR - Thank you. Does the CEO want to add anything?

Mr BROOKSBANK - No.

CHAIR - I am sure some of this is probably contained in the background document you have provided. You talk about the physical performance of the link, Minister, and that was, as

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I understand it, a fairly key component of some of this dispute. Has extra work been done at APA's expense - I assume - to shore it up because the reliability of your link is pretty crucial?

Mr BARNETT - Yes, is the answer. The work undertaken is very significant. It is certainly an operational matter and more than happy to pass to the CEO of Hydro Tasmania to outline the nature of that work and what has been achieved.

Mr BROOKSBANK - APA committed to a number of engineering fixes, for example ride-through. They have worked diligently across those items and have delivered the majority of those they promised to do. The operation of the link itself has become more stable from our perspective. Certainly, the relationship with APA is much stronger than the relationship we had with the previous owners.

CHAIR - There is obviously, the expectation on access and reliability as part of the agreement?

Mr BARNETT - I know Adrian Christian could also answer that but I am sure the Hydro CEO could add to his answer.

Mr CHRISTIAN - A couple of points are relevant. Coming out of the arbitration, because the original design performance of the link, the contracted level of performance of the link, was proven not to be there -

Dr BROAD - By how much? What quantum?

Mr CHRISTIAN - I've got the numbers. The Minister just read them into *Hansard*. It varies depending on the temperature of the water.

Dr BROAD - What was the previous supposed -

CHAIR - The degrees -

Mr CHRISTIAN - I don't have the design characteristics in front of me. They're contained in the Basslink operation agreement. I'll come back to the Basslink operation agreement.

Coming out of the arbitration, one of the key tasks was for BPL to establish what the maximum thermal rating of the link actually is. There was very slow progress with BPL under its former ownership. Hydro had done a power of work to undertake investigations of a whole range of factors that determine that thermal rating, and under the previous ownership of Basslink, we couldn't reach agreement on the modelling.

Very soon after the sale of Basslink to the APA, APA had gone through all of that work, and those matters have now been resolved pretty much on the basis of the numbers that Hydro had produced. That's a bit more detail on the numbers. They're not in dispute anymore. They're now agreed, to the point of output availability.

Dr BROAD - What was it supposed to be, though? You're talking about what it is. What was the rating supposed to be?

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Mr CHRISTIAN - I'll have to take that on notice. I don't have those answers.

Mr BROOKSBANK - The nominal rated capacity of the link is 630 megawatts.

CHAIR - To clarify, that was the expectation when Basslink owned it? When the previous owners owned it?

Mr BROOKSBANK - Yes. That is the engineered as-built capacity. With the failure that occurred in 2016, it became clear with all the investigative work Hydro did that 630 megawatts, subject to the loss factors across the line, wasn't achievable as a result of the thermal loading on the cable itself.

Dr BROAD - Was it achievable before the breakdown?

Mr BROOKSBANK - I don't know the answer to that.

Mr EVERY-BURNS - The rating of Basslink was defined to have sort of a dynamic element to it. It wasn't correct to say that it had a 630-megawatt continuous rating. It actually had a rating that was related to how hard it had been operated for how many hours. It was called a dynamic rating.

What's happened is, as we work through these particular issues, the engineering studies sort of said, if you could put in a new system that could emulate what the cable is doing, you could operate it dynamically. That is still in the future for us. The more conservative thing to do was to make it a 500-megawatt cable at the sending end, for example, which is where the numbers of 462 I think has come from. So, yes, it has been conservatively de-rated to make sure that it can operate continuously safely, and it appears to be doing that very effectively from our point of view. There is still the 'blue sky' future ahead, to get a dynamic element back to it.

CHAIR - Essentially, the rating when the agreement was first struck was higher, or considered to be higher? I'm just trying to paraphrase this, correct me if I'm wrong. It wasn't found to be reliable or possible because of the nature of the link. Now it's been revised down, and you're saying that, at the current rating, we should see very reliable transmission.

Mr EVERY-BURNS - That's our view. The ratings now are designed to maintain the thermal element of the cable for a very long period - so much so that it would get all of its remaining life, probably without question.

CHAIR - To follow up on that, someone would remember, after all the questions I've put on notice regarding Basslink and Marinus, that you provided a graph with the annual Basslink import and export charges from 2010 through August 2022. Have you got an updated 2022 to 2023 import-export figure?

Mr BROOKSBANK - Yes, we do.

CHAIR - Can you provide that?

Mr BROOKSBANK - Sure. For the financial year to date, to the end of April 2023, the net number is a net import of about 1045.4 gigawatt hours.

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CHAIR - Can you provide the import? I have the graph you provided previously. Are you able to reproduce that with up-to-date data, to the end of April at least?

Mr BROOKSBANK - Yes, we can reproduce that graph.

CHAIR - We can put that on notice.

Mr BROOKSBANK - The data is also publicly available. All I'm quoting is data that's in the public domain.

CHAIR - That alright. I'm wondering if you could reproduce the table and send it to us. In fairness to this side of the table, we've been flat-out all week in budget Estimates, and we're just asking for a document that would be easy for you to generate and provide to the Committee, I would have thought.

Mr BROOKSBANK - We'd be happy to. Absolutely, no problem at all.

Dr BROAD - That just seems like a lot of import for up to this point. I wouldn't have thought it was a low rainfall year, given the amount the rainfall into the Great Lake catchment and so on. I'm just wondering what the reasoning is for having to import 1000 gigawatt hours in this financial year.

Mr BROOKSBANK - There are a couple of reasons. It has been a year of variable rainfall. It was quite dry at the start of the financial year, and therefore there was a need to balance our inflows and our storage catchment.

We had severe storms and rainfall in the October and November, which resulted in a 22 kV line falling down for some time. That meant the island became essentially two networks, north and south. That therefore changed the way we would run our portfolio of assets.

Thirdly, the opportunity to arbitrage across the link is becoming significant, if you like, with the variable renewable penetration on the mainland. The link provides both an energy security for Tasmania as well as an opportunity to sell energy into the mainland market at high prices and import energy at low prices. Part of our commercial operation is to do that.

Dr BROAD - Is that arbitrage opportunity driven largely by the impact of solar, or wind, or a combination?

Mr BROOKSBANK - It's a combination with the variable renewable energy that exists in the mainland, particularly in Victoria, because that's obviously where the link's connected. So yes, it's a combination of those variable renewable energy sources.

Mr WILLIE - What is the life of Basslink?

Mr EVERY-BURNS - The design life is 40 years.

CHAIR - Do you mean 40 years from the start?

Mr EVERY-BURNS - Yes, 40 years from the start.

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CHAIR - I read that it was 50?

Mr CHRISTIAN - The original design life for the link is 2046. It started in 2006. That's not to suggest that in 2046 the link is completed, but the original design life is 2046.

Mr WILLIE - If there's better management of the link, would you be able to extend past that time, in terms of the loads? It sounds like you've got a better handle on it.

Mr EVERY-BURNS - Well, whether it's better management or not, in the engineering sense, if you loaded a cable very lightly, it might last much, much longer. So, you have a design life because you want to utilise the power transfer as best you can, for an economic return of the security.

If you operated above its design capability, or above its actual capability, you will shorten its life - but in the engineering sense, every hour you operate any cable, any insulator, you reduce its life a little. There is no combination that lasts for ever. The right combination is that timeframe. At the moment it is more than just the current flow, it is also the time that you switch from one direction of current to the other. There is a whole lot of elements that are now understood much better than they were decades ago. The operation is conservative to keep the cable fit.

Dr BROAD - You have greater understanding of the operation of this cable, is that because of your understanding of this cable or understanding of cables across the world, it is a relatively new technology. Is that fair to say? Or is it specific to this cable?

Mr EVERY-BURNS - Through you, Minister. We have far more detail comprehension about this cable that we, as Hydro and the operators of that cable, because of the engineering studies that were done and the work that was done in Bass Strait to understand the geology of it is laid into, the sand beds and so on. Generally, I would say worldwide, yes, there is more knowledge available now. There is more computing power available and the growth of engineering knowledge over that 20-year period is quite substantial.

Mr WILLIE - The other question I had was on the asset becoming a regulated asset. I heard the Minister talk about there may be some benefits to the State of Tasmania under that arrangement. I am interested in what they are and also whether any economic modelling has been done by the State?

Mr BARNETT - Thank you for the question and I will pass to Adrian Christian in a moment. In terms of the regulation of Basslink, that is an independent process that has to go through the Independent Regulator and that is a decision of APA which we have an agreement with them on that to provide an opportunity for the Government to monitor and assess that process. It does and can provide good and positive outcomes for Tasmania and Tasmanians noting it is an independent process and very much transparent process. The objectives of APA are clear that they want to get moving with that process and we support that process. They are seeking to have that in place by 1 July 2025.

The energy market is changing rapidly and, as a Government, we cannot pre-empt any particular outcome because there is a process involved. It might be useful to outline that process, I know Mr Christian could do that to assist the Committee.

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Mr WILLIE - If we could do that but also the benefits in your overview, if you talked about those.

CHAIR - Before it goes to that I might reflect on an answer to a question on notice about this matter where it said that the process has regard to the interests of Tasmanian consumers including by achieving a transmission cost allocation outcome to Tasmania there is minimised and no more than the benefits the Tasmanian customers receive. I was interested in that aspect of it particularly. How that is assessed?

Mr CHRISTIAN - There are a couple of things in play there. Maybe I will pick up that last comment, what you have just referred to, Chair, that was the Government's clearly stated objective for the regulatory process. It is not the design of the process, just for the record that is what the Government set out as its objective.

We will come back to Mr Willie's question in terms of the benefits of Basslink being regulated to Tasmania. It is APA's process, it is APA's proposal, not the Government's proposal.

Mr WILLIE - I understand that, the Minister is talking about the benefits to Tasmania.

Mr CHRISTIAN - Yes, that is fine. Tasmania is best served in having Basslink available on a sustainable basis for electricity flows to and from Tasmania as opportunities present or needs must, in terms of Hydro, availability and energy security. That is really starting right from the beginning, that is what Basslink is about and Tasmania's best interests are served by having Basslink available on an open basis.

Mr WILLIE - So more stability is a benefit?

Mr CHRISTIAN - It's surety that it's going to be there and be able to flow electricity as need requires from our perspective and as opportunity presents from Hydro's perspective. That's number one and regulation delivers that outcome. The alternative of a merchant link doesn't present that because the whole model of a merchant link is to actually restrict flows between Tasmania and Victoria so that they can make money. That's the first thing. I've got a long list. Would you like me to continue?

Mr WILLIE - That's why we're here.

Mr CHRISTIAN - The second thing is we want the owner to operate efficiently and effectively and to continue to invest in the link so that it's available. Regulation provides an open, transparent process around driving those outcomes. If the link is left unregulated and operates as an MN¹, how the owner chooses to invest in that and make it available is a matter for the owner and there is no oversight of that by anybody.

Thirdly, Tasmania as a collective - Tas Inc, if you like - has been paying for Basslink since 2006. That has been met by Hydro through the BSA and currently through the NSA.² What regulation provides is the opportunity for, other than Tasmanians, Victorians to pay for

¹ Market Network Service Provider

² Network Service Agreement

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a share of the link. Now, the quantum of that will be determined in the future and we don't know what that is, but that's a benefit as well. If we move the costs in service [inaudible] from Basslink to Victoria, that is in Tasmania's interest.

CHAIR - Just on that point, if I might, if or when it becomes a regulated link, the AER³ will make the determination about the pricing and Victorians will pay some, but ultimately the cost of any price rise is effectively passed on to consumers normally in that arrangement. I'm not saying it's any better the way it is, I'm just making that point. Can you comment on that? In terms of the Government's position here, which is what I read out to you in the interests of Tasmanian consumers, through a regulated link process, how do we protect Tasmanian consumers?

Mr CHRISTIAN - Again, starting from first principles, if you think of Tasmania as a collective, Tas Inc, passing some of the costs to Victoria is a positive outcome. The issue you're raising is the change in the incidence of the costs within Tasmania as a collective. At the moment, Tasmania, through Hydro Tasmania, is paying for 100 per cent of the link and going forward we'll pay less than 100 per cent of the link, so from Tas Inc's perspective, we're better off.

As to the question you've identified, it is plain that whatever the eventual outcomes of the AER to determine the share of maximum allowable revenues that's to be paid by Tasmanian customers, there will be some costs for Tasmanian customers and the quantum isn't known. How that is dealt with is a policy matter for the Tasmanian Government and there's no policy on that at the moment, it's not something the Government has been advised on or something they've formed a view on, because at the moment we have no facts and on the current timeline it's two years away.

CHAIR - Two years is not very long, anyway.

Mr CHRISTIAN - There's a lot of time to get more facts. I will come back to Mr Willie's question. The next part of why Basslink regulation might be good - and I'm not advocating Basslink regulation, it's their proposal, but I thought about why this might be in Tasmania's interests - is that the AER's processes are very customer-centric and what you will find as that process evolved over the next two years is that customers, both in Tasmania and Victoria, will get to have a say. They'll get to have a say on how they see the benefits of reliability versus price, there will be open questions about that. They'll be able to participate in the discussion's insurance, for example, whether they prefer to have a higher bill for the link effectively to be fully insured for events, or whether customers would prefer to have a lower bill and be exposed to a larger deductible for insurance.

With Basslink not regulated, those customers don't get a say. Customers will get a say now. There are many stakeholders that have had questions and issues about Basslink being a private commercial transaction and regulation. That puts all of this into the public domain.

The flip side of this, what is not in Tasmania's interests, is to have this link operating as a commercial monopoly able to choke off supply, and that's effectively the counter fact if Basslink's not regulated, the NSA is on foot for two years and its model, by default, would become an unhedged market network service provider and they would determine how much

³ Australian Electricity Regulator

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electricity flows to Tasmania when we need it and how much electricity can flow north when Hydro wants to make money.

CHAIR - On that point, wouldn't the services agreement have dealt with that matter? Why would you sign an agreement, all other agreements aside that we can think of, that puts you in a position where you could have your supply cut off unless you paid through the nose?

Mr CHRISTIAN - That's what the Basslink services agreement did from 2006 until it was terminated in February [2022], and that's what the network service agreement does for the duration that it's on foot.

CHAIR - So we're looking at the same situation under the NSA. There is no real change between the provisions in the Basslink Services Agreement, the BSA, and basically it's the same as the NSA.

Mr CHRISTIAN - They're different agreements and they're Hydro's agreements, so it's not for me to talk about them, but the core operating regime for the NSA is the same as the BSA in that without the agreement, the link can be bid as the owner sees fit. What the NSA does, as the BSA did, is require the owner to bid it in at its full capacity all the time. It keeps the link open. The agreement still works that way.

Dr BROAD - If it went to a market link, then it's also open to Hydro to choke off the link as well, isn't it? It's not that everything is weighted in Basslink's favour, because if we have a good rainfall year we could decide to break it if it was an unregulated, purely market link.

Mr CHRISTIAN - I don't know what you mean by break it?

Dr BROAD - Break the company. If it's a completely unregulated link and they say, 'You're going to play by our rules, we're going to tell you how much power you can transmit', or they really play hardball, then potentially Hydro could withdraw from the market as well.

Mr BARNETT - I think it would be useful to have a response from Hydro to these observations.

Dr BROAD - You're saying that it's completely weighted in the favour of the owner of the link if it's completely unregulated, being a monopoly, so we wouldn't be able to export or import unless we were willing to -

Mr WILLIE - What I'm hearing is it's a risk post the NSA.

Mr CHRISTIAN - That's the design of a market network service provider; that's what the new rules are based upon.

Mr BARNETT - I would like to pass to Hydro Tasmania and note that we've had a BSA on foot since 2006, and now we have a network services agreement which is there for another two years while we go through this process with the independent regulator. I'm sure Hydro would like to respond to some of the observations made.

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CHAIR - I'd also ask the Minister to tell us what happened between those two agreements, because there was a period where there was no agreement on foot, and I think some of that was answering the question on those, but I'd like it on the record here as well.

Mr EVERY-BURNS - Listening to the conversation, I think it's fair to say that the NSA operationally replicates the BSA. You as a consumer, and we as a user, that's standing; it's a stepless arrangement. That's quite important. The other issue is that Hydro being a very large generator in a circumstance where it happens to have access to a network cable like this, is subject very clearly to the competition laws. There's just no way a director would tolerate offending any of that law. Hence, the agreements that say that the link will be bid by our operators at full capacity, or fully available capacity, is most important to us and will be bid at no cost, is most important. That allows the free transfer of power. That's the way it will be.

What might happen if it was just a merchant link, is really, it's not a merchant link. It is a link that is being carefully governed by BSA and now carefully governed by the NSA, and the network services agreement will transition into the regulation arrangements when that happens. The link is never going to be left naked. It's going to be governed by proper arrangements.

Dr BROAD - It was for a period, wasn't it?

CHAIR - During February and October there was a period when there was no agreement.

Mr EVERY-BURNS - Yes. That's true.

CHAIR - What happened in that period?

Mr EVERY-BURNS - May I answer this? Two very key effects were that Hydro Tasmania was no longer required to pay the facility fee on an ongoing monthly basis, and the operator of the link, as Adrian has said, had the choice at times, because it wasn't Hydro calling the price on it, it was the operator. They were available to put limits on the link. They did that. The two countervailing forces that operated in that period were Hydro benefitting by not having to pay an ongoing facility fee and then -

CHAIR - They're getting hammered another way. Financially.

Mr EVERY-BURNS - Yes and no. For months on end, you'd have to say no. For Hydro it was all benefit one-way.

CHAIR - You didn't have to pay anything to access the link, is that what you're saying?

Mr EVERY-BURNS - Yes, that's right.

CHAIR - You didn't get the inter-regional revenues though, because they were sold in the market.

Mr EVERY-BURNS - No, because they went to the owner of the link. But at that point, that's a very risky business for the owner of the link, because they've essentially capitalised hundreds of millions of dollars sitting there with a return that could be nothing or it could be interesting from their point of view on high price days.

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You stand back from it and yes, there was a period there where it was transitioning from one agreement to the other. But over the period, I'm sure the CEO will support me, that it was a neutral effect for us, and in effect we didn't get away with paying nothing for that six- or seven-month period. There were costs that went with the transfer of energy, particularly during that high-price period. But overall, it was neutral to us.

CHAIR - So it was a net zero, basically?

Mr EVERY-BURNS - Yes.

CHAIR - In a question on notice, you talked about this under the NSA being effectively the same as the BSA in terms of the way it works.

Mr EVERY-BURNS - I said functionally, I think.

CHAIR - Functionally, yes. You also said that Hydro Tasmania may only instruct the operator to bid at a price other than zero in pre-arranged circumstances. Can you explain to me when that would occur?

Mr WILLIE - And then can we come back to the benefit?

CHAIR - Yes. We will. Making Basslink available at zero price, except in certain circumstances. I'm interested in these certain pre-arranged circumstances, what they actually are.

Mr EVERY-BURNS - I might refer you for detail. That's a very little-used situation. I think the last time it was used was 2013. It would be related to physical need. From our point of view, it's not a day-to-day operational matter at all. It's quite consequential.

CHAIR - I'm assuming that's the case, because it's the exception rather than the rule. I'm just trying to understand what it actually means. I take the answers in good faith. It's just not clear what it actually means.

Mr EVERY-BURNS - I don't have the detail written in front of me, that's why I want to be careful.

Mr BROOKSBANK - Under the network services agreement, as we have discussed, Basslink Propriety Limited is obliged to make Basslink available to the market at its safe, continuous capacity at a price of zero dollars, unless otherwise instructed by Hydro.

The process, should we wish to instruct Basslink and BPL otherwise, and the chair is correct - that has only occurred once back in 2013 under the old BSA - we would only instruct other than zero in extremely limited circumstances and they're set out and agreed in a Transport Bidding Protocol.

CHAIR - In a what, sorry?

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Mr BROOKSBANK - In a Transport Bidding Protocol - 'transport' being the transport of energy. That would happen very rarely. As I say, last time was in 2013. We would publish a notice on our website of that and the protocol is also published on our website.

Dr BROAD - What were the circumstances in 2013 to trigger that?

Mr BROOKSBANK - That would be a question I'd have to take on notice.

CHAIR - We'll follow up with what the reason for that was, and if you could also direct us to the link on it. Websites are quite dense and sometimes these things are hard to find. Do you have that, Simon?

Mr BROOKSBANK - I can clarify a little bit to the question on notice that we've just taken. I've had an update. As you know, networks can get constrained and that would be a circumstance in which bidding other zero occur - if the network in Tasmania was constrained.

CHAIR - When you say - 'other than zero', what would it be?

Mr BROOKSBANK - That would be a highly hypothetical question based on the circumstances we were facing at the time.

CHAIR - I'm trying to understand what it means - does it mean that Hydro would instruct the owner to pay Hydro to access their link? Is that what we're saying here? Or the other way - I'm trying to understand which way it goes here.

Mr BARNETT - Could we pass to Adrian Christian to assist the Committee.

Mr CHRISTIAN - This is all available on the website. We can send you the link.

CHAIR - That would be good.

Mr CHRISTIAN - Effectively, there is a Transport Bidding Protocol which is all set out there. This used to be set out in a regulatory instrument that was published by the government and originally this all the way back to the Australian Competition and Consumer Commission (ACCC) authorisation and our entry arrangements. It's got a long history and the thrust of it is to make sure the Basslink is bid in at zero, apart from these specific circumstances which are rather detailed but we'll give you the link and it's publicly available. It's a bit detailed to explain now. If those circumstances do arise and Hydro can instruct BPL to issue a positive bid and in very limited circumstances a negative bid which means -

CHAIR - It can do either?

Mr CHRISTIAN - Yes, it can. What it means is that effectively Hydro, to deal with these technical circumstances which are published, can control the link to avoid technical issues.

CHAIR - Like a failure of the link?

Mr CHRISTIAN - I would describe them as unintended consequences of having the link freely available - not to do with thermal overheating of the link - not that sort of failure

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because that's dealt with by having the agreed technical limits that we've already spoken about - making sure that the link operates within those thermal limits. So, what it would mean if these limited circumstances happen, Hydro has the opportunity to say to Basslink, rather than bid in your capacity into AEMO⁴ at zero, which is what Basslink has to do every five minutes, we want you to bid the Basslink capacity in at a positive price difference in which case if the price difference between Victoria and Tasmania is not equal to that amount or more, no flows will happen on the link; that's what it means.

CHAIR - Thank you, that's helpful. Back to Josh's question.

Mr WILLIE - He's working his way through, because my next question will be what are the drawbacks.

Mr CHRISTIAN - That's a much shorter list.

To clarify, where I was going, and to pick up the Grant's point, we had a BSA and an NSA that's on foot and that's scheduled to terminate. We are either in regulation or we're not. If we're not then that was where I was going in terms of the owner of the link having the capacity to bid. That's the design of how NEM⁵ works. That has been mitigated, as Grant said, with the BSA and the NSA. If we didn't have regulation all we have on the table is a two-year transaction. The default position after that is it becomes a merchant link. That would be particularly bad for Tasmania in times of hydrological stress when it becomes more profitable for the interconnector to withhold capacity because when we need it prices in Tasmania would be going higher and higher to try to attract the electricity from Victoria. Then the link owner is in control.

I go back to the key point of what is in Tasmania's interest, which is the open flow. This is where I started. We want open flows across Basslink, effectively at a zero price difference. It's what we've seen since 2006, apart from the six months, or however long that period was. It's what we would see in regulations and the open flows. To your question about what are the down sides, I'm hard pressed to see any down sides.

Dr BROAD - The regulation compared to something like an NSA-type agreement.

Mr CHRISTIAN - That is not a scenario that's on the table.

Dr BROAD - No, but we are playing it out. What are the differences between having an NSA and a regulated link that may not be in Tasmania's benefit? You can't think of anything?

Mr CHRISTIAN - There's no commercial model past the NSA. It's entirely hypothetical.

Mr WILLIE - My understanding is this is the only non-regulated interconnector in the country. Way back when Basslink was implemented it was a merchant link with an agreement, not a regulated asset, and that was because of the owners and that was what their model was. It wasn't the State of Tasmania preferring a regulated asset.

⁴ Australian Energy Market Operator

⁵ National Electricity Market

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Mr CHRISTIAN - I happened to be around back then. The Government went through a competitive process with multiple phases. All the bidders running through the process wanted to pursue a non-regulated asset. That was principally because back then the perceived risk of bidders going through what preceded the regulatory investment test (RIT-T) that currently exists by the AER, none of the bidders wanted to go through what then existed for the RIT-T. They saw that as too risky. All the proposals coming through from Basslink, the national grid was the eventual winning proposal, were all for an NMSP.

Mr WILLIE - That's good to understand the history. Has there been any economic modelling or have you just looked at the benefits and you would be able to understand the economics more when there is more detail?

Mr CHRISTIAN - Correct, that is for the AER process.

Mr VOSS - I'll elaborate a little bit. The BPIPIA will be putting up modelling around how they think the cost allocation will play out. I think what you're asking is, has the State done any modelling? We have not done any modelling at this stage. I wouldn't rule in or out us doing modelling. We'll look to what APA puts up and we'll take a position at that point if we need to.

Mr WILLIE - This is all very technical. I'm a primary school teacher by trade.

CHAIR - None of have energy experience or expertise on this side either.

Mr BROOKSBANK - Excuse me, Chair. Through you, Minister, I can read out the link to the protocols, if the Committee would like, so that it is in the record.

CHAIR - That would be good.

Mr BROOKSBANK - It is www.hydro.com.au/about-us/our-governance/airside-compliance-plans and that will take you to the protocol in all the instances.

Mr BARNETT - We can also forward that to you.

CHAIR - Just in case Hansard manage to get it not quite 100 percent correct.

This may seem like an obvious question, but I would like the Minister to address your mind to it. What you've told us is that the BSA and the NSA are the same sort of agreement, there's very little difference? So, why did you make the decision to terminate the BSA if the situation hasn't changed in the nature of the agreements?

Mr BARNETT - There were a number of reasons for that in the State's best interests, but also, in particular, Hydro. I'll pass firstly to the chair.

Mr BROOKSBANK - While the functional operation of the NSA is similar to the BSA, there are a number of important changes to Tasmania. One, the facility fare's different. Two, the NSA is structured around the effective capacity of the asset rather than the BSA, which was structured around the original dynamic overload capacity of the asset.

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There are a couple of technical things around some reduced availability charges. If the availability's set to what its effective thermal capacity is, then there isn't a challenge there. There are a couple of other things related to the engineering and the operation of the asset. The NSA has addressed a lot of the concerns we had with the operation of the BSA.

CHAIR - You said the fee's different, what is the fee?

Mr BROOKSBANK - The fee is commercial-in-confidence. It's with a third party, APA, and therefore not something we would discuss.

CHAIR - It'll probably appear in their financial reports won't it?

Mr BROOKSBANK - The impact of the net assets and liabilities, just like they did for the BSA, will appear in our annual report at the end of this financial year.

CHAIR - So then why can't you at least inform the Committee of it?

Mr BROOKSBANK - First, our financial year hasn't ended yet, so our accounts aren't drawn and our annual report hasn't been tabled. Second, it's a commercial agreement with a counter party and therefore commercial-in-confidence.

CHAIR - In your financial reports you consolidated some of the fees. It will appear as part of that fee in your annual financial reports?

Mr BROOKSBANK - My expectation is that we will report the NSA in a similar fashion to the way we reported the BSA in prior years.

CHAIR - How is the fee paid?

Mr BROOKSBANK - The fee is paid as a monthly charge.

CHAIR - Regarding the recording of it in the financials, will we see future liabilities recorded or just the fee paid?

Mr BROOKSBANK - You will see a future asset and a future liability, remembering that the NSA is only on foot until 30 June 2025. The BSA is a much longer term.

CHAIR - If there is a delay in that process, for whatever reason, and we go back to the situation where there isn't an agreement, because it will terminate, whichever happens first -

Mr BROOKSBANK - If I could step in for one piece, there is an option to extend the agreement after 30 June 2025, if both parties agree.

CHAIR - For how long?

Mr BROOKSBANK - That would be a discussion to be had at that time dependent upon the circumstances which caused it to be extended.

CHAIR - So, the BSA is now redundant?

Mr BROOKSBANK - The BSA is terminated.

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CHAIR - So the confidentiality provisions contained with that would no longer be relevant?

Mr BROOKSBANK - I would have to inspect the agreement, but I would imagine that the confidentiality arrangements survived the agreement because of the commercial nature of them. That is normal in these sorts of things.

CHAIR - I'm just going through the *Hansard* last time with our questions. My brain's been in lots of other places this week.

Dr BROAD - You have the NSA for two years. What impact does that have on recontracting with your customers, particularly the major industrials? Would that have an impact on the negotiations seeing as there's a risk, I suppose, because you don't know exactly how that regulation process will end up?

Mr BROOKSBANK - Thank you. I won't go into the details of conversations and negotiations we're having with major industrials. The answer to the question is really something they would have to answer in terms of their modelling and understanding of what their energy costs will be for the time ahead, remembering that that charge wouldn't be something that Hydro would be incurring and, therefore, passing through to the major industrial customers.

Dr BROAD - The major industrials would be, in effect, dealing with the regulated link themselves? Is that what you're saying?

Mr BROOKSBANK - No, the regulated link charges will pass through the transmission network service provider and be part of their charges into the system. So, no, I don't believe the MIs would be directly engaging with the link.

Dr BROAD - What you're saying is that it would be up to the major industrials to model that?

Mr BROOKSBANK - Yes, as they model out their position for the negotiations ahead, unless I stand to correct myself.

Mr VOSS - I'm just getting clarity from your question, Dr Broad. Are you asking about the transfer of the pricing through to major industrials as a result of the Basslink regulation, or are you asking a different question, around when the link becomes regulated around the contracting and Hydro's ability to provide energy? I wasn't quite clear.

Dr BROAD - I think there's some uncertainty as the regulation process hasn't occurred, is occurring. I'm questioning what that means for contract negotiations with major industrials.

Mr VOSS - Again, the contract negotiations of Hydro's negotiations - I don't know if there's a specific Hydro answer and I'm not sure -

Dr BROAD - One way of dealing with that is to extend current contracts until you know or there are always ways of mitigating that risk. I'm inquiring what it means for the

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recontracting process - the fact that it's unknown how the link is going to be regulated specifically.

Mr BROOKSBANK - From Hydro's perspective, we're providing the MIs with energy. We're not providing the MIs with the network or the interconnection service. That's, obviously, Basslink/APA's responsibility for the interconnection, then the transmission is TasNetworks'. From our perspective, I doubt that it would play any real role in our negotiations whatsoever because it's not a charge we are charging the MIs.

Mr VOSS - Hydro will deal with the [inaudible]. The transmission part and the implications of regulation will arise through TasNetworks, so it's a separate outcome that will be done through the regulatory process. Hydro is just dealing with the wholesale energy component, so the regulatory process and how that plays out shouldn't have an impact on how Hydro contracts on their wholesale energy renegotiations.

CHAIR - Going back to the previous hearing, we had a series of questions. You provided answers and no more to us because the legal actions were still on foot. Have all of those legal matters now been resolved? I think you indicated they had, Minister, in your opening Statement.

Mr BARNETT - Yes.

CHAIR - I think you said the State and Hydro received all the monies they had claimed were contested?

Mr BROOKSBANK - Almost all of the monies. There was a level of that dispute around the availability adjustment so the arbitrator didn't award the full amount of that. But in the context of the overall transaction, that's a relatively small amount. We always anticipated that there was some risk that that full charge would be agreed to by the arbitration.

CHAIR - Did each party pay their own legal costs in all of that?

Mr BROOKSBANK - I can speak for Hydro. Yes, we paid our legal costs and the arbitration allowed us.

CHAIR - How much were the legal costs for Hydro?

Mr BROOKSBANK - I'll take that on notice for a minute while I find the right page.

Mr BARNETT - Chair, from the State's point of view, because we're talking Hydro Tasmania, we did receive all of the funds owing, \$49.6 million from the sale process comprised of the following: The Basslink Operations Agreement arbitration award was \$38.5 million. We were awarded arbitration costs of \$7.2 million. There was interest on the outstanding awards amount to 3 June 2022 of \$2.2 million. And post-insolvency costs, which is [inaudible] and other adviser costs from the insolvency to 30 June 2022 of \$1.6 million. That payment was received in October 2022.

Mr YOUNG - Minister, you're obviously satisfied with the end result of the negotiations, which to me also includes a good or improved commercial and stakeholder relationship with

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the new operator, APA. Are you able to talk about that and how good APA is as the new operator?

Mr BARNETT - There are many positive features in the relationship and the answer is, yes, in terms of a very good outcome for Tasmania and, once having our monies owed returned, the technical fixes fixed in a short amount of time. So, APA has really stood up. They are a multi-billion-dollar infrastructure and transmission entity and they are an incredible organisation. They are great to deal with as a State. Hydro can speak for themselves but I know they have the same view.

They have plans to continue to operate the link efficiently in a safe and reliable manner and are working in partnership with Hydro Tasmania to achieve a good outcome for Tasmania. We are very pleased with that relationship. And the main thing is that it's on a sustainable footing. That's their vision and it's our vision, and we are pleased with that position.

CHAIR - They got a pretty big price on it, Minister. Basically what it cost to build and, through seeking to have a regulated link, they'd be expecting to recoup some of that, surely. The impact on prices will be interesting. We will come back to that because Mr Brooksbank has the information I was seeking.

Mr BROOKSBANK - Hydro Tasmania recovered \$109 million of the \$135 million owed from BPL upon the completion of the transaction which saw APA assume ownership of Basslink.

The \$135 million comprised of amounts owed following termination of the BSA, including a \$50 million security deposit and approximately \$11 million of inter-regional revenues that had accumulated prior to the transaction, and there was a portion of accrued interest; \$25.25 million for the costs awarded to Hydro Tasmania from the 2020 arbitration; approximately \$45 million of payment under the BSA for constrained operation of Basslink from the date of the arbitration awards to termination of the BSA on 10 February 2022.

These payments were contested by PPL and BPL's receivers in the Federal Court litigation commenced with KPMG, who were the original receivers of Basslink in February this year. Hydro Tasmania considered it appropriate to discount the quantum payments in light of those disputes, the litigation risk associated with recovering the insolvency of BPL and the overall benefits from finally resolving all of these matters.

CHAIR - Did you say what your cost were in that?

Mr BROOKSBANK - I did, yes. I will clarify. Our costs were approximately \$32.5 million, of which we recovered \$25.25 million.

CHAIR - Thank you. During the period where there was no contract, from February 2022 to October 2022, can you tell us what the revenues were over that period?

Mr BROOKSBANK - The wholesale trading revenues?

CHAIR - Yes.

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Mr BROOKSBANK - I don't have that number to hand and that would be something that we would hold commercial with our results that are being published at the end of the year. I can say that that was also the period where we weren't paying the Basslink services facility fee and that netted off against those revenues as a result of the link being operated the way it was.

CHAIR - As I understand it, OTER does publish these revenues.

Mr BROOKSBANK - OTER publish the revenues from the flows through the NEM, they do not have or publish the revenues from our wholesale trading activities, the hedging arrangements we enter into and the like.

CHAIR - Okay. Basically, what you have been is we are actually better off under this arrangement?

Mr BROOKSBANK - Yes, that is correct.

CHAIR - That is the arrangement with the NSA in place. Minister, how do you see it in terms of being better off for the people of Tasmania, because, we own Hydro. How will we be better off? Mr Christian talked a bit about this. How do you see this as we being better off in terms of pricing and that sort of thing under a regulated link, when APA have a pretty highly priced asset sitting there. One would assume they will put a pretty tidy case to the regulator if their regulated asset base is assessed against the value they have put on it, it is going to be hard to keep prices down.

Mr BARNETT - Thank you for the question. It is a bit of a two-part question and I do think Mr Christian has responded very well in terms of the positive potential benefits for Tasmania of reliability, efficiency, serviceability and providing a sustainable link for the two-way flow of energy which can deliver benefits for Tasmania to put downward pressure on prices.

To the second part of your question, it will need to go through independent process that is very transparent. The Australian Energy Regulator will be looking at all of those issues very carefully. It will depend a lot on what APA puts forward and then the feedback from the various stakeholders, consumers and other groups will have input to the independent regulator, that will take some time. There is a two-year window there for that process to progress. Others around the table are better than me at outlining the process and how that works and Adrian Christian could add to that.

That is certainly the AER as I understand it. We will be looking at the AER in terms of the regulated maximum revenues for the link. They will be looking at things like the Basslink's efficient and prudent operating costs, the regulated asset base for the link, efficient and prudent capital expenditure over the period, the return on capital, including the application of the AER's standard rate of return, the return on capital appreciation and performance incentive regime. I think there is also a reference earlier to insurance. There is a whole range of matters the independent regulator will work through, get feedback on. It is very transparent and we will be monitoring that very carefully. At the end of the day, this State Government will do what is in the best interests of Tasmania and Tasmanians.

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To Adrian Christian's earlier point, at the moment, as you know, it is 100 per cent paid through Hydro Tasmania since 2006 and there will clearly be a net significant improvement for Tasmania Inc. As a Government we will ensure it is in the best interests of Tasmania and Tasmanians.

Mr VOSS - As the Minister outlined, the AER's role is on setting fair and efficient prices. It is not on the commercial decisions at APA.

CHAIR - APA would not have paid what they did if they did not think they were going to get a return.

Mr VOSS - They have a view to what they think the regulated asset based might be, but that is a decision of the AER. The AER's mandate is to set fair and efficient prices. Our view is they will not take a lot of weight to what APA did commercially. They go through their processes, as the Minister said, on efficient operating costs and et cetera and working out the regulated asset base. The risk of getting a different regulatory outcome such as a low regulated asset base, or a lower return verses the price they pay is entirely APA's risk. It is not the State's risk, it is the risk they have taken on purchasing that asset.

CHAIR - I get that and that sits behind this. We could find ourselves back here again if the AER determine the regulated asset base is significantly less than \$800 million, which is what APA are notionally evaluating it at.

Mr VOSS - On what basis would we be back here?

CHAIR - If they find themselves struggling financially because they become unsustainable financially.

Mr VOSS - One of the benefits of APA being the owner of this link is they are a very large company. They own the other interconnectors in Australia, they have a very large portfolio across the country.

CHAIR - Keppel did set Basslink. They put them off as one they could cut lose.

Mr VOSS - They are a very different company to Keppel Infrastructure Trust. As Adrian said before, one of the benefits of going through this process and having APA as the owner of the link and going through the regulatory process is it gives us confidence they are a sustainable commercial entity. A much different position to where we were a few years ago.

Mr BARNETT - Chair, the Chair of Hydro would like to make a contribution.

Mr EVERY-BURNS - I was going to say virtually the same thing APA is a sophisticated investor. They understand how to power energy transport very well. It puts themselves in a position to do this. Adrian Christian went to it very well, Tasmania currently pays the entire cost, in effect, of Basslink, the financial costs any way you look at it. They pay the entirety of it. In the future, the vision, the light on the hill is that other people who are beneficiaries as the power flows across Basslink will contribute to those costs.

Patently, as power is flowing into Victoria it is happening because Hydro Tas or Tasmania is providing power into Victoria at a better price than their market would otherwise

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give it to them. The beneficiaries of the power flows, half the time, are on the other side and yet the payment at the moment is being fully funded by Tasmania.

CHAIR - It was a bit of a dodgy deal signed all that time ago.

Mr EVERY-BURNS - No, not at all.

CHAIR - I think all the hedging wasn't all that successful.

Mr EVERY-BURNS - Adrian went to it, at the time the deal was put in place it was the only way it could be done. With the passage of time, it is the only interconnector funded by one group, which happens to be Tasmania and beneficiaries are sitting very well. It is self-evident to me, where we are now, that link should be regulated and it should have its costs distributed across the beneficiaries. Standing back from it, Tasmania will not be paying as much as it was.

CHAIR - We will see how it pans out. The Basslink Operations Agreement is still on foot?

Mr VOSS - Yes.

CHAIR - That will cease once the Basslink is regulated?

Mr VOSS - No.

CHAIR - Can you explain to me how that works after with the regulator link?

Mr VOSS - Briefly, that is an important commercial agreement from the State's perspective. It goes to 2046, which goes back to the commentary earlier around the expected engineering life of the cable. The BOA is between APA and the State. It has a range of things in there on performance standards, curing defaults and it is an important agreement. That agreement will stay on foot. Part of the negotiations we had with APA was to keep that going. Mr Christian might want to add.

Mr CHRISTIAN - If that satisfies the question, I have nothing to add, but I can add more.

CHAIR - I was not sure whether it would continue or whether it was just a time limit with the NSA, but it obviously ongoing.

Mr CHRISTIAN - There are always two separate agreements with two separate parties.

CHAIR - There was one in place with Basslink.

Mr CHRISTIAN - It is the same agreement that continues, but there were some modifications made to the agreement given the likelihood of regulation. It provides for only two changes if Basslink becomes regulated otherwise, it continues on its terms.

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CHAIR - Without all the gory details, because I'm sure they're commercially sensitive, or something - if they're not, it'd be lovely to hear them - how does that agreement alter once the link becomes regulated?

Mr CHRISTIAN - There are only two elements that change. First, the BOA has always dealt with decommissioning of Basslink when it does get to the end of its useful life, which happens; the first contract period is 2046, as we discussed.

CHAIR - I understand that the previous owners, for the depreciation purposes, put it out to 60 years.

Mr CHRISTIAN - I couldn't comment one way or another. I don't know.

CHAIR - According to their financials, anyway.

Mr CHRISTIAN - The BOA, when it was prepared on the basis of the link being at its peak, had a set of arrangements around decommissioning and a process by which the owner of the link would deal with the government around decommissioning elements. If the link becomes a regulated interconnector, that will be part of the AER's framework, and the AER will set the arrangements for decommissioning and the costs associated with that. That clause, which remains as it is now, because an MNSP at the moment, when it comes regulated, that of course will change to reflect it's going to be a regulated interconnector and the AER will step into that.

CHAIR - So it effectively becomes redundant for our purposes?

Mr CHRISTIAN - There's another adjudicator of the decommissioning arrangements once we've moved to the AER, which is the AER. The only other change to it is that currently there are some arrangements around insurance. The State wants to ensure that the link is insured. If the link becomes regulated then the nature and costs and the form of that insurance - this is the point I was making to Mr Willie earlier - become a part of the AER's domain. Interestingly, it will get to involve customers. What is the customers' view about insurance on the link? Customers will get a voice.

At the moment, under the BOA, because the State wants to ensure the thing is regulated, we've got clauses around insurance, and they fall away because, again, the AER will be in control of that, otherwise the full BOA continues on foot.

Mr WILLIE - Just on the AER determinations, if they make a determination that the State of Tasmania is unhappy with, what recourse is there to challenge that decision?

Mr CHRISTIAN - They'll produce a draft determination, just as they do with all of their decisions; the State gets the opportunity - as does anybody, including you - to make further submissions on the regulator's determination, but once that determination is made, by the design the of the rules, they're the independent regulator.

Mrs ALEXANDER - Minister, Tasmania launched the legal action to recover \$70 million for outages that occurred in 2015-16 and then a settlement was arrived at in December 2020. That was around \$38.5 million. It was awarded. Are you comfortable with

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such a difference between what originally the Tasmanian government was planning to recoup and to get to \$38.5 million - was that a good outcome?

Mr BARNETT - Thanks for the question. I appreciate your interest there. I'll pass to ReCFIT for a moment and maybe Hydro will wish to speak as well. There are two parts to that. There's the State's interest and there's Hydro Tasmania's interests. We put it to arbitration with former chief justice of the High Court Mr French. It went through an arbitration process. There was certainly a view that we wouldn't receive all that we were seeking and claiming, but all the advice I have is that we did, and we're pleased with the outcome. I'd ask either Anton or Adrian to add to that answer.

Mr VOSS - Mrs Alexander, as the Minister said, it went through an arbitration process and the outcome was the outcome. I think, from my perspective and the Government's perspective, it was a very good outcome going through the process we went, with the eventual purchase of the cable by APA, there was an enormous amount of work done, as you could imagine. As the Minister said in his opening Statement, there was, certainly when ReCFIT started and when I came back into government, there was not a high expectation that we would get an outcome like we got. I think the State and Hydro have done, if I can -

CHAIR - Pump your own tires up?

Mr VOSS - Well, I think there was no real expectation that we would get the outcome that we did, certainly in a commercial sense and, as we said at the outset, we recovered \$49.6 million and was a really good outcome. In fact, our lawyers won the insolvency and restructuring deal of the year in the Australasian Awards for the APA position of Basslink, so -

CHAIR - You wear that as a badge of honour, do you?

Mr VOSS - Well, the lawyers do across the spectrum - but no, look, I think that was a very good outcome from the State's perspective.

Mrs ALEXANDER - Yes, so, there is no concern over the fact that you started with \$70 million and we ended up with slightly less?

Mr CHRISTIAN - If I just might make a contribution there, what Mrs Alexander is talking about is the original arbitration, not the sale. I think that was a very good outcome for us because if the counterposition put by BPL at the time was that the Basslink cable failure was a force majeure, nothing to do with them and they had no responsibility for the costs or consequences. We may have started from a different position from where we landed, but the alternative position was nothing. The money from the arbitration is important, and that is separate to the sale process, but probably the most important thing to come out of the arbitration was the clear establishment that the cause of the cable fold was thermal overloading and that the cable needed to be reinspected and the engineering done to work out what the safe thermal limits are, and that is now being resolved, thanks to an awful lot of work from Hydro.

The question about the arbitration, as opposed to the sale and the BSA termination, which is the terms of reference, that outcome was an excellent outcome for the State. Then when you overlay that, we won that and then the State allowed BPL and its owner KIT a period of time to position itself that it could make good on those arbitration outcomes. They failed to do so, and then the State and Hydro provided them a further period of time to make good of the

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arbitration outcomes and they failed to do so. Then the Government took strong action to say 'enough is enough, we have to bring this to a head'; that is what led to Basslink going into insolvency because they could not make good on those award outcomes financially or technically.

CHAIR - That is when the agreement was terminated?

Mr CHRISTIAN - No, not quite, but that strong action by the Government back in November 2021 to say 'we have given you one chance and a second chance, we don't have confidence that you can bring this to a conclusion; we need to go on a different course' set us on the course that we have arrived at. Most informed people had written off the State getting those award payments and we got every dollar we were owed, so that is why it is such a good outcome from the sale process.

CHAIR - From a timing perspective here, we know that Hydro did a lot of work in looking at the actual rating of the cable, if you like; did that occur after the agreement was terminated or could that be done during this process? I am just not sure when that occurred.

Mr EVERY-BURNS - The failure occurred in 2015, the return to service was in June 2016, and then in that intervening number of years, we started to do the work because we were not getting satisfactory answers. Then that led to the arbitration process, it meant it was an evidence-based process where we said this is our evidence on the cause of failure, and the other side didn't agree.

CHAIR - BPL would not reduce the rating at that point?

Mr EVERY-BURNS - They weren't motivated to do that. They had their own advice that was different from that.

CHAIR - The rating wasn't changed until after APA bought the link?

Mr EVERY-BURNS - No, the rating was changed a year or 18 months before. I can confirm that. That's when we went to BPL and insisted that it could only be bid to those limits. You might have said we took a commercial risk doing that, but it was the right outcome, so it's been operated at reduced throughput for quite a while.

CHAIR - That's the base for the NSA?

Mr EVERY-BURNS - Yes, that informed the NSA. It was essentially codifying what had become current practice.

Mr CHRISTIAN - To be clear, BPL never conceded - up until we'd reached a resolution - about the lower thermal rating of the link. Hydro drove that by dint of its ability to direct BPL about the capacity to be bid. Hydro drove that until we sold the link, and then all the work that Hydro had done with the experts had been reviewed by APA -

CHAIR - Until BPL sold the link, not you.

Mr CHRISTIAN - Until the link was sold and APA took up ownership. APA effectively then saw it Hydro's way, and now we've got the agreed limits.

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Mr VOSS - To be clear on that, Hydro and the State had concerns over the ability of the link to perform at the high levels - and couldn't do at the much lower levels - that their technical experts said. Hydro took actions to make sure it didn't go higher than what Hydro's technical experts said, because of our concern over the viability of the link at higher flows.

Dr BROAD - I imagine that was part of APA's due diligence in the purchase - that they went through all of that and came to their own view.

Mr VOSS - Yes, and ultimately agreed with Hydro's technical experts.

CHAIR - Going back in history to understand the profitability of Hydro or otherwise, we talked about the interregional revenues and the revenue that is raised through those. Is it possible to get the past history data now, after the termination of the BSA up until that point?

Mr BROOKSBANK - Through the Minister, we operate our wholesale portfolio as a portfolio. We obviously have numerous financial agreements, and we don't independently report in the way that you're talking about. We don't attribute to individual deals because of the portfolio, so it's a body of work that we don't have. Secondly -

CHAIR - There's no way you could pull out the past interregional revenues and provide them to the Committee?

Mr BROOKSBANK - Yes, we could pull out the interregional revenues, but the point I was going to make is that there is a level of commercial-in-confidence around the way we operate our plant. I would be reluctant for Hydro to, in effect, air its intellectual property in the way that we operate the asset and the assets.

CHAIR - But a total figure for the years 2006 to 2021, when the agreement was terminated - how would that reveal your processes that sit behind that?

Mr BROOKSBANK - It would reveal the value to Hydro and the State of Tasmania.

CHAIR - With all due respect, that is what this Committee is interested in. Can that information be provided in camera to the Committee?

Mr BROOKSBANK - I would have to take that on notice, but my thought would be yes. I'd be much more comfortable in camera.

CHAIR - We will write to you about that, through the Minister. I'm not asking for all the detail that sits behind it, just the high-level figures on an annual basis.

Mr BROOKSBANK - I understand. If I might, I just want to add to my response to the question around legal fees. My response took us up to the point of 2020-21. In the financial year 2022 and a portion of 2023, we also incurred in total another \$8.8 million worth of legal and advisor fees.

CHAIR - In relation to this matter?

Mr BROOKSBANK - Yes.

CHAIR - What is still hanging over, if you like?

Mr BROOKSBANK - There was advice and negotiations during the receivership and post the receivership; it's just the flow of money across the financial years.

CHAIR - Late accounts coming in.

Mr BROOKSBANK - Yes, all of that sort of stuff and little bit of extra work.

Dr BROAD - Obviously APA is a different beast than the previous owner and they operate a number of links and have certain capacity. Is there any possibility that they may seek to establish another link across Bass Strait?

Mr BARNETT - I think that's a question for APA. I understand where you're coming from and it's a fair question, but we are not APA.

Dr BROAD - But you must have some insight if that's a discussion point or a probability? It's not purely a question for APA because Tasmania and Hydro would be major stakeholders.

Mr BARNETT - It's certainly outside the terms of reference, but I'm happy to indicate that as a government we'll do what's best for Tasmania. We obviously have plans for Marinus Link, Battery of the Nation. We can see the benefits of interconnection; it was raised at the energy conference yesterday in Devonport. I think they are important discussions, but in respect of what APA may or may not wish to do, that's a matter for APA. We've had some discussions and they have ongoing relationships with Hydro Tasmania, but they're very good questions for APA. We'll certainly keep all those sorts of questions under active consideration as and when they fall due.

Dr BROAD - So there haven't been any discussions on that topic?

Mr BARNETT - We don't go into private conversations with private entities. We're happy to talk about what's best for Tasmania and that's what we will continue to focus on. We have a renewable energy future. We support the benefit and merit of interconnection, which is why we're progressing Marinus Link which is supported by the federal Labor government, subject to a financial investment decision by the end of next year. We're continuing on that track with a policy to grow our economy and create more jobs, put downward pressure on prices, make energy security improvements for a cleaner world. There are a lot of benefits from Marinus Link and Battery of the Nation and that does touch on your question to some degree with respect to interconnection.

CHAIR - Can I clarify that the process to regulate Basslink has started now, or you don't know whether it has or not?

Mr BARNETT - No, my understanding is July this year. APA has advised the Government of its intention to apply to the Australian Energy Regulator, so that would be when it commences with that vision to conclude by 1 July 2025. I will pause there and do a double check with Adrian Christian and/or Anton Voss.

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Mr VOSS - I might read out, for the benefit of the Committee, what the expectation of APA is on the timetable.

CHAIR - That would be helpful.

Mr VOSS - Adrian also has another point he needs to make. This is what APA thinks might happen, but ultimately this is up to the AER, but just as an indication to the Committee. The submission of the revenue proposal and the pricing methodology is expected around mid-July, again not to the Government but that's just to give the Committee an understanding. They've also got to do a submission in support of the conversion application, so I might get Adrian to talk to that. The AER will issue an issues paper and stakeholder consultations, they deal with all these types of matters, and that will probably be around September.

CHAIR - Will the Government participate in that?

Mr VOSS - Yes, we have an option to participate in that, and we will through the APA consultation more broadly. There's a public forum that will also be around September/October. Then you'll have stakeholder submissions through that period, probably at the end of October, the AER draft decision by 24 March - again, just to be clear, this is how APA thinks things might play out - Basslink revised proposal by 24 May, and the AER final decision on both those determination towards the end of 2024, so it's close.

Mr CHRISTIAN - Like all things in energy, it's slightly complicated. BPL is not a TNSP regulated interconnector yet and there's a little complication in the rules about how they actually get into the process to start the process, so there's a minor bit of detail on top of the Minister's answers. They have written to the AER and put the key in the lock, if you like, to start the process. There's a little cycle that has to happen, but the process starts in full effect in July.

There are two things that are going to happen in July. You'll see there's two submissions, because the AER has to decide two things. The first thing is should Basslink move from an MNSP to become a regulated interconnector? The rules provide for that to happen, they are the determinant of that. Then if the answer to that question is yes, what are its allowable revenues? They're two different processes and our understanding is that the AER will conduct those things together in parallel.

CHAIR - So you've got to have the answer yes to one to go to the next?

Mr CHRISTIAN - They're doing them simultaneously, so what will happen in mid-July is that BPL will make its full application for conversion and at the same time it'll put in a revenue determination submission as well. That will look rather like what we see with TNSP's TasNetworks regulatory proposal and Transgrid's and so on. So there are two things that are happening, but the process has started in that they've initiated to become an intending TNSP to commence the process in July.

CHAIR - I know this is a question for the AER, but do you know how they engage with the stakeholders? I assume the MIs all know this is going on and they'll participate in the process. How does that happen?

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Mr CHRISTIAN - The AER's got a heavy focus on consultation. APA's already started the consultative process ahead of starting the formal AER process. They've established a regulation reference group that's got representatives from Tasmania and Victoria. That group has been active for some time and they've been consulting on the shape of the regulatory proposal they intend to put to the AER. That work's underway. The way in which wider consultation happens as part of the AER process is obviously for the AER, and it'll have a shape, like Mr Voss has just read into the process.

CHAIR - Okay.

Mrs ALEXANDER - I just have one question. In a Statement APA said in relation to the acquisition about entering into contract with Hydro and the State Government to provide 'predictable revenues'. Revenues, as much as they're predictable, but there's no reference to what happens with fees and sort of a cap on fees or more of a structure on fees, because we know in the previous agreement at times Hydro actually paid more in fees that it obtained in revenues. Are we comfortable, Minister, that this 'predictable revenue' they're referring to also has the other side, which is far more controlled fees?

Mr BARNETT - Thank you for the question, I appreciate that. I'll quickly refer to Anton Voss and then we'll go to Hydro Tasmania.

Mr VOSS - I think you're referring to two different things there. The fee question that you're asking about I think relates to the fees Hydro's paying currently under the NSA and previously under the BSA. In the regulatory framework, it'll be a very different outcome. The Minister went through some of those previously. The revenue determination in the AER makes a determination on their maximum allowable revenue based on a range of things around, as we said before, the prudent costs, what the regulated asset base is going to be, return on capital, return of capital, et cetera. Those things can vary a little bit from year to year, potentially based on performance incentive type regimes that the AER has and on standard processes with transmission infrastructure. Once that is set, it is set for a five-year period, but it is not sort of set and forget, as I said, it is five-years and then they go through another process every five years.

So, the regulatory revenues that APA will receive is based on that AER process. There is potentially some variability that it will be based on the AER determination, but it is different to what I think you were describing with regard to the fees that Hydro pays under a contractual commercial arrangement.

Mr BROOKSBANK - I will not speak to the regulation piece, but the fees that APA are referring to would, I suspect, be the fees under the network services agreement. APA, as the Committee knows, is an extremely large Australian infrastructure operator investor. They have regulated links already on their asset book, so from their shareholders' perspective and their investors perspective, they are investing in the stable returns that an infrastructure organisation like APA would deliver and that is the point they are making, that they have moved into an agreement that guarantees a stable return, if you like, a stable revenue to APA, that is the point they were making, I believe.

Dr BROAD - Do some States have multiple links and how are they regulated? This would be relevant, like, Marinus comes into the picture, so are multiple links regulated, like they are competition between each other? I'm not sure, just trying to get some clarity on that.

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Mr BARNETT - Well, first of all, I think it is not within the terms of reference, however it is okay to respond to assist the Committee, I think, and I think Adrian Christian has outlined that every other link in Australia goes through an independent process that is regulated, maximum allowable revenue. It's independently assessed, it's transparent, it is open, subject to submissions. I would ask Adrian Christian to add to that answer.

Mr CHRISTIAN - Yes, other jurisdictions have multiple links, and they are all regulated and so the way they actually work is that AEMO as the market operator takes the bids of generators in each region and where there is a transmission capacity under the regulator model, effectively, but they are not bid, but think of them as bid in at 0, they are available for AEMO to manage, dispatch that so that electricity will flow. So, they do not compete with one another, they are effectively in the system as pieces of transmission kit, and as AEMO is managing the market, they will take a generator here and do there's some load over there, and the algorithm that AEMO uses to do dispatchable, so can we get this generation across the interconnector to where that load is or do we need to get generation in the same region where the load is if we cannot get it through the link because it is constrained.

So, that is how it works, it works by AEMO managing dispatch, the links being open and available, and electricity will flow according to the engineering.

Dr BROAD - So, in effect, AEMO manages the distribution between the different links.

Mr CHRISTIAN - By dint of which generators they call on.

CHAIR - Well, okay, thanks Minister. Did you want to make any comments on things?

Mr BARNETT - No, I don't think so, I think we have covered a fair bit of ground. I thank you for the opportunity to share those remarks and provide an update. It is very useful, I don't think I have anything else to add.

CHAIR - I will write you a couple of things. With the inter-regional revenues, it would be good to have the totals of the fees as well to show the true picture, so I will write to you around that, through you, Minister, and you can determine how it is presented.

Mr BARNETT - Can we just double check, unless the Chair wanted to add anything in conclusion or ReCFIT, but I think from my point of view, it has been helpful, Chair.

CHAIR - We got a little bit outside the terms, but I appreciate that. It's all about looking to the future too.

Mr BARNETT - It's an educational thing as well, I think, for the Committee and the parliament and the public. Chair and CEO, happy?

CHAIR - The Committee will prepare a report so it will, except for anything received in confidence, obviously, will form part of the report, notionally, to help public understanding.

Mr BARNETT - No problem. Thank you very much.

CHAIR - It's a complex area. Thank you.

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The Committee adjourned at 10.50 a.m.