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Wednesday 21 March 2012

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Mercredi 21 mars 2012

**Standing Committee on
Public Accounts**

Committee business

**Comité permanent des
comptes publics**

Travaux de comité

Chair: Norm Miller
Clerk: William Short

Président : Norm Miller
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Wednesday 21 March 2012

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The committee met at 0900 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mr. Norm Miller): I'll call this meeting to order, then. At our last meeting, we were discussing a motion put forward by France. There was a fairly lengthy discussion on that motion, and it became apparent that we needed some advice from the Auditor General, who was in Australia attending an auditor generals' conference—on his own dime, I might add.

Mr. Jim McCarter: He paid his own airfare.

The Chair (Mr. Norm Miller): Paid his own airfare. Thank you for that. I'm sure the taxpayers thank you for that.

So I think it appropriate—now that the Auditor General is back, we can get some advice from the Auditor General on this motion.

Mr. Jim McCarter: I do apologize for missing what looked like a very interesting meeting last week. I had a look at the Hansard, and it seemed like there were a couple of issues that the committee would like some input on: a response to the Andrea Horwath letter with respect to her request in December for us to look at the power plants and, also, what our interpretation of section 17 would be with respect to if the committee were to pass a motion for a special audit. I can speak to that a bit.

With respect to the Ms. Horwath letter requesting us to look at the power plant, I did respond to her on December 16, 2011, and I indicated to her—and this is a standard response that I have, regardless of any request I get from a Leader of the Opposition or from a member. Section 17 basically says that we can do a special if requested by the Standing Committee on Public Accounts or by a minister, or in one or two cases we've actually had the Premier make a request. Generally, if we get a request from a Leader of the Opposition or from a member, we write back and basically say that under section 17, I can undertake specials at the request specifically of these individuals or the Standing Committee on Public Accounts. I basically say, other than that, we do not agree to undertake special audits if it comes from another member, even including a Leader of the Opposition. I've got a couple of copies of letters where we have actually written to John Tory in the past and basically said the same thing to John Tory. In the past, I've also had a joint request from the two leaders of the official

opposition, and again, we've stuck to basically the same view: that because it doesn't fall under section 17, we won't do the work.

You might say, "Well, why, Auditor, would you do that, given that you work for the Legislature?" The feeling is that if we start picking and choosing between members that write to us or opposition leaders that write to us and if we end up doing four Conservatives, one Liberal and one NDP, we could be accused of, "Why are you always agreeing to do the ones that are PCs or NDPs?"

So generally, our policy is, and we've stuck with this—and I've issued nine annual reports. I've always adopted that, where if it's a request from a member or the Leader of the Opposition, we basically refer back to section 17.

Having said that, I can tell you that I keep what I call a "high-potential" audit file of potential VFMs, and if I do get a letter from a Leader of the Opposition or from a member, it is something that I do have a look at when considering next year's audits. A number of you have stopped me in the hall or come up to me after the meeting and put a bee in my ear about things we might want to consider looking at, and I can assure you that these are things we do take into consideration.

But that was the response to Ms. Horwath, and that was the reason why we did respond that way.

The Chair (Mr. Norm Miller): Any comments from members?

Mr. Jerry J. Ouellette: VFM?

Mr. Jim McCarter: Value-for-money audit.

Mr. Jerry J. Ouellette: Oh, VFM. I thought you said "B." Sorry.

The Chair (Mr. Norm Miller): Any advice on the motion before the committee?

Mr. Jim McCarter: Maybe I could just comment on the interpretation of section 17. I know there is some discussion as to, if a minister or a committee, under section 17—

Mr. David Zimmer: Would you mind just reading out section 17 on the record?

Mr. Jim McCarter: I've got it here. I'll just read out section 17.

"The auditor ... shall perform"—shall perform—"such special assignments as may be required by the assembly, the standing public accounts committee of the assembly, by resolution of the committee, or by a minister of the crown ... but such special assignments shall not take

precedence over the other duties of the Auditor General under this act”—that being the Auditor General Act—“and the auditor ... may decline an assignment by a minister of the crown that, in the opinion of the Auditor General, might conflict with the other duties of the Auditor General.”

So my interpretation of that would be—I think I’d agree with Mr. Singh’s interpretation of last week: that I can decline a request by a minister, but if it comes from the public accounts committee, I shall do it. However, it cannot take precedence over the other work of my office. So my interpretation of that is that I would do it, but the timing of when I do it would be largely up to me, depending on the impact that it would have on the other work of my office. That would be my interpretation of that section.

The Chair (Mr. Norm Miller): Yes, Liz?

Mrs. Liz Sandals: The other question that we had, which isn’t section 17 per se, is, given that, if the committee makes a request, you shall do it, the question would be: Is it prudent to do it within your normal mandate? Because my sense is, you are always very careful that when you’re doing a value-for-money audit you’re not influencing the outcome of what’s going on; that you’re observing and auditing the result. Whereas in this case, where it’s under active negotiation, some of which may be commercially sensitive, having a special audit could have a very negative influence on commercially sensitive negotiations.

Mr. Jim McCarter: I do hear what you’re saying. My take on that would be, a bit: If that issue is discussed by the committee and the committee is well aware of that and as a whole the committee still goes ahead and passes the motion, I think my sense would be is, if these negotiations were going to take two or three years, I don’t think that if the committee says to me, “Auditor, we want you to do this audit, period,” they pass the motion—I think that I would probably go ahead and do it and I would not wait the two or three years, if the committee passed the motion. I think I would take the direction from the motion.

Having said that, it doesn’t necessarily mean I would start the audit up right away. Often I get asked, “Auditor, if we were to pass the motion, what’s your best take on when you would be able to start the audit?” If I was asked that question, I do always answer that question, and we have discussed that in the office.

M^{me} France Gélinas: Can you answer it now?

Mr. Jim McCarter: This would be an audit that we would prefer not to start up right away, the reason being that, of all the times to start up a special audit, it’s probably the worst time, because we’re about two thirds of the way through—we do about 14 or 15 fairly large value-for-money audits each year, and we’re about two thirds of the way through that. We don’t have any spare staff kind of sitting around that I could put on this right away. We would have to pull people off a value-for-money audit.

0910

We did talk about it, and we don’t have a lot of—just for the new members, we don’t have a big office, compared to the other jurisdictions. We run with about 110 people; Quebec’s got 240, BC’s got 130, Alberta’s got 125. We run pretty lean.

What we would have to do on this one, we would either have to cancel a value-for-money audit—basically postpone it and pull all the people off the audit. We think the earliest we could probably start it up, if it were to pass, would be probably sometime in June; we think we could probably wrestle together enough people. And this is one where, again, because we did a fair bit of work in electricity last year, we do have a bit of expertise and background in this area. We would like to get at least one or two of those same people who worked on those audits.

Our best guess right now is, we would probably start this up in late June, unless the committee were to say to me, “Auditor, thank you for that input, but we want this started tomorrow. Get it done.” I would take such a request pretty seriously. But that would be our take, from meeting with my directors yesterday and talking about the timing.

The Chair (Mr. Norm Miller): Yes, Reza.

Mr. Reza Moridi: Mr. Chair, thanks very much. As far as I understand it, an audit is generally done when an action is completed. So in the middle of an action, an audit, really, in principle, doesn’t make much sense. In this matter, negotiations are still going on between both sides, and the negotiations are very highly sensitive commercial negotiations. So in principle, in my view, it doesn’t make sense to come out and interfere, basically, in the commercial process or negotiations which are going on between the two parties.

Mr. Jim McCarter: There’s a number of challenges in doing this audit. We would probably not have access to—and I also talked to my staff about the challenges we would have in doing an audit of this nature. I’ve got a long list here. We would probably not have access to TransCanada or Greenfield records. We would probably not have access to their staff to talk to them. We might not even have access to the site, to go out and have a look at the site. We don’t know what kind of access we would have from a legal perspective. Ongoing negotiations—often, parties don’t want to talk during ongoing negotiations. There is a list of challenges to doing this audit. We’re certainly aware of the challenges that there would be to do this audit.

But I guess what I’m saying is, having said that, if the committee has a very fulsome discussion of all those challenges and the committee were still to go ahead and say, “We hear all that, Auditor. We still want you to go ahead and do this audit”—I have to be honest. The best way I can put it, and it’s fairly blunt: I probably wouldn’t second-guess that decision, notwithstanding I’m aware that on this particular one, there would be a lot of challenges or roadblocks that would have to be overcome.

It could well be that, at the end of the day, it could prove challenging for us to come up with a best estimate,

given that often these sorts of contractual things—sometimes they end up going to court, and the court ends up making a decision.

The Chair (Mr. Norm Miller): Yes, Toby.

Mr. Toby Barrett: Thank you, Chair. Further to doing an audit when things are completed: As far as the Oakville station, that goes back—the announcement was made in October 2010, so that was a year and a half ago. When is this completed? Is it another year and a half? Is it three years?

As far as I know, you have to juggle other work, and I'm not aware of the magnitude of the work. But what concerns me, and what's out there in the media—the Oakville closure alone has been pegged at \$1.2 billion, so people say that this was a \$1.2-billion issue. I don't know whether that's accurate or not. I think it's kind of disturbing. Those are big numbers. Maybe it's only \$300 million; maybe it's \$3 billion. People are asking these questions.

On top of that, we've seen the announcement about closing the Mississauga plant. I haven't visited that plant. I don't know whether that's another billion dollars. Is it half a million? I think of other plants that are closing, generating stations in Sarnia and Nanticoke. I know at Nanticoke, there's well over 600 people who are working there. They are following us very closely. There's an environmental assessment to run a natural gas line down to the Nanticoke plant. Will they be a gas-fired plant? Will that be closed? How much would that cost? Maybe looking at those dollar figures is beyond the mandate of this, but when you've got two projects out there that the word on the street is they're both billion-dollar projects, I'd like to, at minimum, get something a little closer than \$1 billion or \$1.2 billion.

The Chair (Mr. Norm Miller): Thanks. David?

Mr. David Zimmer: Let me cut to the quick here and just ask the auditor—you know, hit the issue dead-on. I gather, listening to your comments, that what you're saying is that to start such a hearing now as contemplated by the motion would not be particularly effective for the reasons that you've set out because of getting access to information and all of that. Following from that, it would not, by definition, or it would not be particularly thorough—or at least it would be an ongoing struggle to do a thorough one. That, of course, would raise issues of fairness and, in fact, getting all of the relevant facts out in a manner that's fair to everybody: fair to the Legislature, fair to the companies involved, fair to the public. So I gather that—I don't want to put words in your mouth, but I get the sense that, in your professional opinion, it would be premature to tackle this now.

Mr. Jim McCarter: I would think that would be probably taking what I said and maybe going a bit too far. I think my sense would be that if the motion is passed, we will do the work to the best of our ability. Notwithstanding, as some of the members have said, there would be challenges in doing that work, and when it comes to arriving at a best estimate, we may end up with a range. I think that's what I'm saying. Again, I'm

not coming down on one side or the other of the motion; I'm just saying that we would go ahead and do it, but there would be challenges in doing the work.

Mr. David Zimmer: Would it be your preference not to do the audit at this time as contemplated in the motion?

Mr. Jim McCarter: I would say that if the committee passed a motion, we would do everything in our power to comply with the committee's wishes, keeping in mind that that motion would not take precedence over the other work of my office as mandated by the Audit Act. That would come first, but certainly, when the committee passes a motion we would take that very seriously.

Mr. David Zimmer: I appreciate that, but would it be your preference that the committee not pass the motion?

Mr. Jim McCarter: I would honestly say that I really have no opinion on that. If the committee passes the motion, the motion's passed, and we'll do what we need to do to try to accommodate the committee. If the committee doesn't pass the motion, we certainly have lots of other work that will keep us busy.

Mr. David Zimmer: But it does present great problems for you?

The Chair (Mr. Norm Miller): France.

Sorry, do you have—

Mr. David Zimmer: Sorry, I'd asked a question. But it does present great problems for you to move to conduct the audit at this time?

Mr. Jim McCarter: There would be certain challenges, as I indicated, associated with doing the work. But, again, I'd have to say, we have challenges on most of our audits. This is one where I think access to information would probably be the key issue until we really get in there and find out what kind of access we're entitled to. That is one thing that comes to mind. But I think you've worked with us fairly closely over the last eight or nine years. We push pretty hard, but sometimes we get pushed back.

The Chair (Mr. Norm Miller): France?

M^{me} France Gélinas: Thank you. Am I right in thinking that—

Interruption.

I'll let you—we have a very busy auditor this morning.

The Chair (Mr. Norm Miller): That's for sure. He's got a very busy day.

Go ahead, France.

0920

M^{me} France Gélinas: No problem. When you talk about those challenges for access of information, would those challenges be the same as the government? As in, in order for the government to make those decisions, I am guessing that they looked at the financial impact of their decisions. Therefore, they probably went down that path of overcoming those challenges to find out, "What is the price of the decisions that we're making?" Or am I off-base on this?

Mr. Jim McCarter: Well, that would certainly be one of the questions that we would be asking the government ministry that was responsible for this.

M^{me} France G elinas: In this, there's no challenge getting that information.

Mr. Jim McCarter: As far as from the ministry side, as far as getting access to any information that the ministry has, we would have no problem getting access to that information.

M^{me} France G elinas: So the challenges wouldn't be from when the government made the decisions to cancel those deals. I'm assuming they look at the financial impact. That information would be available to you. The challenges come when you try to verify the financials from the players?

Mr. Jim McCarter: Essentially, to give you an example—the gist of this is, often, when you're looking at the cost of a cancellation of a contract, the contract typically has cancellation clauses in it. Very often, there are two or three parts of it. A key part is, what cost has the contractor incurred to date? We're not sure what information the ministry would have on that. The two contractors would certainly have good information on what costs they've incurred to date. But that would be an example of something that if we had access to both sides of the coin, we would go in and say, "What costs have you incurred to date? What costs have you got that you're basically contracted for and you can't get out of?" Often, there are certain go-forward shutdown costs, especially if they've started construction to make the site safe from an environmental perspective etc.; we would be looking at that. Some of that information we may not be able to get access to, I guess, is what I was trying to bring to the committee's attention.

M^{me} France G elinas: Okay.

The Chair (Mr. Norm Miller): Liz?

Mrs. Liz Sandals: If the committee were to pass the motion telling you to do this, and given that there are ongoing discussions with respect to both the Oakville and the Mississauga plants, would you confer with counsel for the OPA to find out at what point you would be interfering with the outcome? Or if we pass the motion, does that direct you to do the work regardless of whether or not you're interfering with the outcome?

Mr. Jim McCarter: I think my take, just off the top of my head, is that we would certainly be conferring with the people from OPA, with their legal counsel. This is one where I suspect we might engage some outside expertise to assist us, as we often do on these audits. One of those could be a lawyer with expertise in contract law. We would certainly talk to the OPA.

Now, sometimes—I say this a bit tongue-in-cheek—we approach auditees, and they say everything in their power to get us to postpone an audit. So we would listen to what they have to say.

I think the way I might approach this one is that if there was something that we felt was so important that would stop this audit dead in its tracks, and it was a motion that was passed by the committee, I think at that

point, I would bring that back to the committee and I would basically say to the committee, "We started this audit. This issue has come up. We think it may have some merit, and I'd like the input of the committee as to"—that could be one thing that I could do: come back to the committee, if it were to come to that.

At the end of the day, we would try to fulfill the wishes of the committee as per the motion, but one of the first things we'd be doing is—we know the people to talk to at OPA. We know all the people there because we did an audit of wind and solar, so we know the people to talk to at the OPA regarding this.

The Chair (Mr. Norm Miller): Jagmeet?

Mr. Jagmeet Singh: Thank you very much. Just to break down some of the information, my understanding is that there would be some elements of the audit which would be information that both parties have access to; for example, something like the brick-and-mortar estimates of what the physical cost of the building is, or the raw material or the labour that's gone in so far. Those things I think both parties, if we look at the government side and the other side, would have access to. Am I right on that?

Mr. Jim McCarter: It's possible. It depends on how the contract is structured. Sometimes the contract could be a cost-plus, in which case they might have more access. Sometimes it might be, basically, "We agree to build this facility to these specifications for \$350 million. We're going to progress-bill you \$10 million a month for the next 35 months, and if we're over, these are going to be the penalty clauses." It would depend a bit on how the contract was structured, I think.

Mr. Jagmeet Singh: Okay. Then, in these types of circumstances, when you're conducting—I'm assuming that you've conducted audits before where there's been a contract cancellation. In terms of how you deal with the information, is there certain discretion that you would use in terms of what information you'd release? If it's information that one party had that the other party didn't have which might affect the contract negotiation, would you exercise discretion on that component—

Mr. Jim McCarter: The other thing we have here, we expect that the whole issue of client-solicitor privilege could have a significant impact on the work here. The understanding that I have with the Ministry of the Attorney General is, we are entitled to information protected under client-solicitor privilege. However, whether we can publicly report that opinion is another matter.

Essentially, I have access to the information, but often there are certain restrictions on me being able to report it if it's protected by client-solicitor privilege. We expect that that issue could come up on this particular audit, but we don't know the extent.

Mr. Jagmeet Singh: Just kind of summing it up, if you could present perhaps a scenario that if you conduct an audit, how would you be able to release the information? The concern is to figure out how much this is costing taxpayers. Could you think of a way that you would be able to release that information, release an estimate that wouldn't negatively impact the actual ne-

negotiations but would still give a sense of how much money's being spent?

Mr. Jim McCarter: Off the top of my head, often on these two things you've got the one party saying, "We think this is what the costs are. This is what the cancellation is. This is our interpretation of the cancellation clauses." You've got the other side of the coin where they're basically saying, "No, no, this is our interpretation of what the cancellation costs are. This is what it is." Generally, you're at a range between this and this, and usually they'll come to a mutual understanding, basically a compromise. Sometimes, as I'm sure you're aware, it goes to court and the court makes a decision on what the right amount would be.

Basically, what the committee is saying to us, unless they've reached that agreement or they're pretty close, we might be in the situation where we'd be looking at providing a range, but I suspect it could be difficult to land on one number—saying it's \$342 million or it's \$17 million. Without doing any work, off the top of my head, that would be my best guess.

The Chair (Mr. Norm Miller): Reza?

Mr. Reza Moridi: Mr. Chair, as I indicated earlier, I think it is very, very premature for us, at this point, to ask the Attorney General to audit this situation. It doesn't make sense.

As the auditor just explained, this is a very complicated project. There's a contract here that was cancelled, so there are cancellation clauses in the contract—as in many, many contracts there are clauses for cancellation—and we have to let this negotiation continue between both sides. Once both sides come to a conclusion, at that point we may ask the Attorney General to go there, review and audit the processes and then come and tell us what happened.

Now, in the middle of negotiations, what are we asking the Attorney General to audit for? What are we going to ask the Attorney General to audit for? There hasn't been any conclusion between both sides. Once both parties, the contractor and the contractee, if they come to a conclusion and make a decision, at that point we may ask the Attorney General to go there and audit the situation and then come back and report to us and say, "Okay, that's the value-for-money audit I have done."

Now, in the middle of negotiations between both sides, I don't know what the auditor can audit for us at this point.

The Chair (Mr. Norm Miller): David?

Mr. David Zimmer: Mr. Auditor, how would you handle this, hypothetically, if you were doing the audit? You get into the audit, you're looking at things and one of the parties to the contract, the government side, one of the private contractors or the utility and so forth says to you, "Mr. Auditor, we'd really like to co-operate with you fully and share all the information and so on, but we are on the cusp of a very delicate negotiation with various parties, and we just can't respect our fiduciary relationship to the parties we're representing in the

negotiation and, at the same time, at this time, share this information with you, because it may do one of two things: It may place us, the party that's raising this issue, in a terrible conflict of interest" vis-à-vis their obligations to get the best deal for their side, and it could well place you, in their opinion, in a conflict-of-interest position because, depending on how you manage or interpret or use that information, you have the ability—almost inadvertently—to affect the negotiation one way or the other.

0930

How would you handle that situation? It's premised on the various parties dealing with you in good faith. That's their dilemma.

Mr. Jim McCarter: I would not be surprised to see that situation arise, especially with respect to the two external parties, Greenfield and TransCanada, who would probably say, "Our primary responsibility is our fiduciary interest toward our shareholders, and consequently it's not in the best interests of our shareholders to provide or share any information with you. We're under no legal obligation to do so. Consequently, unfortunately, as much as we would like to help you out, it's not in the best interests of our shareholders. Therefore, we cannot share information with you whatsoever."

The ministry would be in a more difficult position with respect to that, because I think they'd be required to share information with us. Their concern would probably be, "Just don't disclose anything, Auditor, that might jeopardize us paying the least amount of cancellation charges that we can pay." Notwithstanding, I think the ministry would have to provide us with full and complete access to whatever information they have, although I suspect they would also say that some of this is protected by client-solicitor information.

Mr. David Zimmer: So my follow-up: If you got into that stalemated discussion—they say, "We can't give you the information. It's not that we don't want to co-operate, but we've got other fiduciary"—and so forth and so on. Then, in terms of fulfilling your professional obligations as an Auditor General, where does that leave you? Where do you go?

Mr. Jim McCarter: I think my feeling would be, based on what information I can get from the ministry, from other parties or from consulting with experts, even on what similar penalty clauses could be on similar situations, getting that sort of outside expert advice, I think I would try to come forward with a report which would give the best estimate that I could with respect to the information that I was able to obtain. If there was any caveat where I was not able to obtain information and the impact that that would have, I would set that out very clearly in the report, making that clear to the reader. That is probably how I would report it.

Mr. David Zimmer: But then wouldn't that water down the report? You give a report and say, "Here's my report, with this caveat. It, in effect, is not a full and complete report because I was unable to get this sort of

information.” Really, it waters down the objective value of the report.

Mr. Jim McCarter: The best way that I could put it would be that the better and more access to information I can get, the better my estimate on the possible cancellation charges would be. So the better the information I get, the better the estimate I’m going to be able to make, is the best way I can put it.

Mr. David Zimmer: And that would be fair to all the parties, to have that full information and the full report out.

Mr. Jim McCarter: I would leave that up to the committee to make that decision, in their consideration of the motion.

Mr. David Zimmer: Thank you, Mr. Auditor.

The Chair (Mr. Norm Miller): Thank you. Toby is next.

Mr. Toby Barrett: Yes. As we’ve discussed, the issue is complex. I know that the interest is there, obviously. On this committee, we’ve spent a couple of meetings on this. I don’t know how the vote is going to go. Regardless of the vote, this may come up later, on this committee or somewhere else.

Being new to this committee, I don’t even have the basic information to do much of the discussion on that. Is it appropriate—this isn’t a question to the Auditor General but to the committee—to ask legislative research to put together, at minimum, a thumbnail sketch, even several pages, on this issue? We may well end up talking about this in the future, recognizing that we spent a couple of meetings on it already. I know people in Ontario are—certainly Oakville and Mississauga. I assume there was an awful lot of discussion about it there, and across the province of Ontario.

This is directly, indirectly related to the price of electricity, which is top of mind. I know in the Legislature, there were at least 19 questions from the opposition about the Mississauga plant alone. So for me it would be useful to have even a two- or three-page thumbnail sketch on what’s going down there. I mean, I can rely on the Toronto Star or I could Google it, I suppose, or do library research on my own, but I just throw that out if that would be useful for the committee. At least we’ve got—

The Chair (Mr. Norm Miller): I just ask our legislative research, Ray, to respond.

Mr. Toby Barrett: And I’m not saying we need it right away, but—

Mr. Ray McLellan: As the auditor has said, we’ll certainly undertake to do what the committee requires and what the committee wants. As I was listening to the auditor, I certainly appreciate the limitations and the challenges that he’s outlining, but I could speak with the auditor and perhaps develop a focus as to sources I could get information from and certainly proceed. So I will undertake it, if that’s the committee’s desire, to assemble what information I can above and beyond, as you were saying, just press articles, which really—you need more

than that. But as I say, I’ll see what my limitations are in terms of what’s in the public domain.

Mr. Toby Barrett: My request is not urgent, unless this is on the agenda again. We’d probably need it before then. But it’s not an urgent request.

The Chair (Mr. Norm Miller): I would just ask if it’s the committee’s wish to have research do this. Did you want to defer the motion until you get this research done? Jagmeet?

Mr. Jagmeet Singh: I had a couple of questions that might assist, maybe, in coming to a decision. One is that—maybe the Auditor General would be able to provide some insight into this. Both sides would know—say, if there is a negotiation going on, both sides would know what the other side is asking for. So, for example, the government side would know that the private company is saying that this is going to cost them \$1 billion, and they’ve put it out there. That’s not any secret information. They would know that, the government side. The private side would know that the government is saying, “No, no; it’s actually only \$500 million we’re going to pay you.” That wouldn’t be a secret to the other side; that’s their ask.

Now, what the actual cost is, that might be a secret in terms of the actual cost for the private company. They might say, “You know, it’s actually costing us only \$700 million. We’re asking for the \$1 billion because we need to make more money.” Sure; we don’t know about that. On the other side, the government might have spent—it might have been less of a loss for them. They might be able to recover some of the material, so that might be something that might be damaging.

My question to you, Auditor General, is, in your opinion, would it be damaging to disclose at least what both sides are asking in terms of what they think the cost is? Also, what we can objectively determine in terms of cost: We can look at the building and say, “The fair market value of that building is about this much. The movable equipment in that building is about this much.” Those things are pretty objective, and anyone—you know, it’s not really any secret. I mean, you can go to the building and look at it and assess how much it’s worth. I don’t see how that would impact any negotiations. I’m wondering: What’s your opinion on that?

Mr. Jim McCarter: I suspect if, once we go in and we were to ask for that information, that may very well be the case. But often, on these sorts of things, you get the two sides in-house both thinking that we’re going to end up between here and here. When it comes to negotiating, often when they go to the other party, they say, “We want this,” and the other party says, “Well, we think it should be this.” So you could very well end up with quite a wide range.

I think the focus of our work would be, the way I see it off the top of my head, trying to do additional work to try to provide more information to the committee and saying, “You know, we’re not experts. We suspect that it’s going to end up someplace in and around this range”; that would be off the top of my head. It could be that sort of

thing: They both start off way out here, and it would be our job to sort of consult experts, to look at what documentation we could, and to try to come down to here to be able to provide the committee with maybe a bit better estimate. That would be my off-the-top-of-the-head observation.

Mr. Jagmeet Singh: Okay, thank you. And just one last area would be, what would—I mean, our goal is to ascertain how much the government has spent, really. So if we did an assessment of how much money was spent in terms of taxpayer dollars, the report is presented to this committee and then we make an assessment in terms of how much of that we can disclose, how does that scenario play out or has that played out?

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Mr. Jim McCarter: Once we present it to the committee or it's tabled in the Legislature, it's public information, so as far as what can be disclosed, once it's in a report that we released, it's out there in the public forum.

The Chair (Mr. Norm Miller): If I can, at this point, just point out that we do have limited time this morning and one of the other pieces of business that we need to discuss, with the Auditor General's report coming out today on Ornge, is our upcoming meetings to do with Ornge and to decide on the witnesses that we'd like to call. So I'd just make the committee aware of that so that we don't have what happened last week, which is, we run out of time and I'm forced to call us all to a meeting that interferes with all your schedules. So if we can either come to the point of voting on this motion, or if it's the committee's wish to defer the motion until legislative research does more research, I'd like the advice of the committee. Liz?

Mrs. Liz Sandals: I'm quite happy if we defer it. I think the auditor has indicated that he couldn't get to it until June anyway, so that would give legislative research some time to put things together and we can schedule some time to discuss a deferred motion when we're not trying to deal with Ornge and other things. So I'm happy to support Mr. Barrett's idea.

The Chair (Mr. Norm Miller): France?

M^{me} France Gélinas: At the base of my request is that significant decisions were made by the government that had significant financial implications for the taxpayers of Ontario. Projects that we can see on the ground have started, have been cancelled. When those decisions were made, they have to have taken financial consideration into account, otherwise a government would be completely incompetent if they hadn't. That part of the equation comes from the government and is completely accessible to the auditor. In a show of goodwill, I will go along with what Liz and Toby have said, that we refer to legislative research to get us more information on this topic, with a view of really—the money that has already been spent should be the type of information that legislative research is able to put in a briefing.

If any information can come from the government as to—when you made your decisions, what was the range of financial implications you looked at? Those are cer-

tainly the types of questions that prompted me to bring this motion forward. So I want to show goodwill. I see that Liz has proposed that we postpone—sorry, the Liberals have proposed that we postpone, and so has the PC Party. I'll show goodwill and I'll agree to, do we suspend the motion or whatever, until legislative research can give us more information.

The Chair (Mr. Norm Miller): Okay, so you're willing to defer the motion?

M^{me} France Gélinas: It's called a deferral? Absolutely. I will defer. Do I just withdraw and reintroduce it later?

The Clerk of the Committee (Mr. William Short): No. Like we did at the last meeting, it would just be deferred until legislative research and the auditor's office can talk about preparing this background paper for the committee, if that's the agreement on the committee, just for his research, for the two-page paper.

Interjection.

The Clerk of the Committee (Mr. William Short): Yes, legislative research—Ray. So if that's the agreement of the committee, then would you want to add anything to that?

Mrs. Liz Sandals: Yes, I agree. I just have one other question.

Mr. Ray McLellan: I'll undertake to do this, on the committee's instruction. With respect to a timeline, we would want to have this information back to the committee by—today is the 21st of March. When would you like it back? Obviously, as soon as possible.

Mrs. Liz Sandals: When we end Ornge hearings?

M^{me} France Gélinas: I would say, see how hard it is to pull information together and get back to us. I'd rather you do a thorough job than a rushed job. I'm quite willing to give you the time it takes for legislative research to be able to access documents from the government to see how much has been spent, how much has been considered, etc., so how about we leave it up to you to tell us how much time you need to do that?

Mr. Ray McLellan: On that note, then, I'll undertake this right away and, as soon as the information is assembled, to report back, so: as quickly as I can do it.

M^{me} France Gélinas: How about we say—I would like it before mid-May so that it gives us time to deal with it again before the House recesses.

Mrs. Liz Sandals: September doesn't work for you?

M^{me} France Gélinas: No, September doesn't work. So how about we put a deadline of mid-May? If you can report sooner, great; if you can't, we understand.

The Chair (Mr. Norm Miller): Okay. Do we have agreement of the committee to defer this? All in favour? Okay.

Mrs. Liz Sandals: Chair, just one request: I suspect that all parties are going to be interested in the Hansard, and it often takes a long time to get the Hansard for committees, so if there's any way that we can get the Hansard of at least this part of the meeting quickly, that's probably helpful to everyone.

The Chair (Mr. Norm Miller): Okay. The clerk will put in a request to do so.

Mrs. Liz Sandals: Thank you.

The Chair (Mr. Norm Miller): The other thing we have to discuss is: We have upcoming meetings to do with the Ornge report of the Auditor General scheduled for March 28, April 4 and April 18. So far, we have the deputy minister and Mr. Ron McKerlie being asked to come before the committee, and that's agreed by the committee. So I'm looking for, from the three parties, suggestions of who else you would like the clerk to ask to come before the committee. If you don't have a complete list or if you aren't ready to do that at this point, we can do that in subcommittee as well.

M^{me} France Gélinas: I have my list.

Mr. Toby Barrett: We're still working on our list, Chair. If it was more appropriate—ideally not a subcommittee meeting today, but down the road, to present some other names.

The Chair (Mr. Norm Miller): But we'll have the deputy minister and Mr. McKerlie for March 28.

Mrs. Liz Sandals: Can we come up with some sort of ground rules in terms of, each party gets the same number of invites or how long we're going to invite people to come for, that sort of thing?

Interjection.

The Chair (Mr. Norm Miller): The clerk informs me that that would be helpful for him.

Mrs. Liz Sandals: Yeah, because if we're going to schedule this—so I guess the first suggestion I'll put on the table would be that I'm not sure what the number is but that each party gets the same number of witnesses.

The Chair (Mr. Norm Miller): Yes, and of course, we may not be able to get all the witnesses that are on the list to actually—

Mrs. Liz Sandals: And if that were the case, if we asked to have somebody invited, that you come back to that party and ask them for a replacement suggestion, if somebody that we've asked for is unavailable.

Interjection.

The Chair (Mr. Norm Miller): That's a good question. Does the committee have any idea how long you would like the deputy minister and Mr. McKerlie before the committee? Yes, France?

M^{me} France Gélinas: For me, the deputy minister, a little bit at the beginning, not that much; and then, once I've talked to some of the other witnesses, I will probably want to talk to him again. As far as Mr. McKerlie, not a whole lot. He was not there during the scandal.

The Chair (Mr. Norm Miller): Yes, Jerry?

Mr. Jerry J. Ouellette: Thank you, Chair. Until all the questions are answered.

Mrs. Liz Sandals: Given that the deputy was there as things were unfolding and that Mr. McKerlie is responsible for fixing things and the auditor's report is partly, presumably, as usual, "Here's what's wrong and here's what you should do to fix it," what you're doing to fix it is traditionally a big part, so I think we do want the

deputy and whoever he brings and Mr. McKerlie here to answer questions thoroughly.

The Chair (Mr. Norm Miller): So we'll start with that on March 28. Of this proposed list from each party, how many would you like on that list? France?

M^{me} France Gélinas: I'm looking at people like Chris Mazza. I'm looking at people like Jamison Steeve. I'm looking at people like Tom Lepine and Alfred Apps. I'm looking at maybe bringing forward George Smitherman, who was there when this all started; Lynne Golding; I'm looking at maybe Scott Rettig and Jeremy Tracy from AgustaWestland. I'm looking at a large list of witnesses. I mean, they cast a heck of a web, and I'm interested in people on every side of that web. I did not control the size of this scandal; they did. I want to talk to them all.

The Chair (Mr. Norm Miller): So, to get back to the question, how many people would you like to be able to put on your list?

M^{me} France Gélinas: So far on my list I have one, two, three, four, five, six, seven, eight, nine, 10, 11, 12, 13.

The Chair (Mr. Norm Miller): Thirteen.

Realistically, right now we have three days set aside for the meetings, so I would assume that there is going to be someone on the list you've just recited that we won't be able to get, for various reasons. If they're not in the country, for example, it might be one of the reasons.

Mrs. Liz Sandals: Mr. Chair, I wonder if somebody could do the math, because my sense is, if we all invite 13 people, even if some of them can't show up we're talking like 35 people. I'm not sure how we're going to fit 35 people into this. So I'm not sure 13 is the right standard if they're actually going to have any time to testify.

The Chair (Mr. Norm Miller): Yes, Toby?

M^{me} France Gélinas: I'm hoping there's overlap.

Mr. Toby Barrett: I was going to say, just further to the math: I'm pretty sure there'll be some overlap.

The Chair (Mr. Norm Miller): Okay, so we still haven't come up with a number. Do we want to—

M^{me} France Gélinas: I don't think that working on a number is useful. This is an important issue. I think it will be more—I want to give you as much heads up to try to get a hold of some of those people who, as you say, may be all over the world or not necessarily available on our time schedule. But at least I'm looking at ADMs that have been there. If I cannot get them all, maybe we'll get one of them. I'm looking at people at Agusta. If we cannot get them all, maybe we'll get one. I'm looking at the previous Minister of Health. If we cannot get Smitherman, maybe Caplan; maybe we'll get one. The idea is really to give you the list as soon as possible so you can start to call those people to see who we can bring in front of the committee.

The Chair (Mr. Norm Miller): Yes, Liz?

Mrs. Liz Sandals: Okay, what I'm not hearing, then, is: Does each party not get an equal number of witnesses? I understand that when we sit down there may be

significant overlap between the Conservatives' list and the NDP list, but—

M^{me} France Gélinas: We've never done that in the past.

Mrs. Liz Sandals: We've never done this in the past, France.

M^{me} France Gélinas: The NDP has never insisted that we have the same number as everybody else. We will bring forward the number that's required to go to the bottom.

The Chair (Mr. Norm Miller): Okay. So, I think maybe we should have a subcommittee meeting as soon as possible to try to hash this out. It would make sense.

Will wants to advise on the schedule.

The Clerk of the Committee (Mr. William Short): So going forward, on March 28, then, by past practice of the committee the auditor would come in from 9:30 until 10:25 to give his briefing in camera. Then in the afternoon on that day, we would invite the Deputy Minister of Health and Mr. McKerlie to show up for questions and answers from 12:30 until 3. Then, if we could have a subcommittee meeting well before the 28th to discuss all of the other names and invitations that we'd like to go over, that would be fantastic. Does that work for the committee?

M^{me} France Gélinas: Why don't we start at 9? Why do we start at 9:30?

Mr. Jim McCarter: Sorry—

The Clerk of the Committee (Mr. William Short): Go ahead, Jim.

The Chair (Mr. Norm Miller): Auditor?

Mr. Jim McCarter: Usually, in the past, the auditor's briefing has been from 9:30 to 10:30, but we can certainly start at 9 if you'd like.

M^{me} France Gélinas: Nine is good.

The Chair (Mr. Norm Miller): Well, I think that, based on how long our meetings have been, we'll start at 9 then.

M^{me} France Gélinas: Thank you, Chair.

The Chair (Mr. Norm Miller): Okay, that settles that for now.

Interjection.

The Chair (Mr. Norm Miller): At this time, the clerk informs me that we do have education scheduled for April 25. That's section 4.07 of literacy and numeracy public hearings, just for the information of the committee.

So we'll call a subcommittee meeting to deal with the rest of it and we'll adjourn this meeting.

The committee adjourned at 0950.

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Mr. David Zimmer (Willowdale L)

Also taking part / Autres participants et participantes

Mr. Jim McCarter, Auditor General

Clerk / Greffier

Mr. William Short

Staff / Personnel

Mr. Ray McLellan, research officer,
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