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Monday 12 November 2018

Lundi 12 novembre 2018

Chair: Prabmeet Singh Sarkaria
Clerk: Valerie Quioc Lim

Président : Prabmeet Singh Sarkaria
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

SELECT COMMITTEE ON FINANCIAL TRANSPARENCY

COMITÉ SPÉCIAL DE LA TRANSPARENCE FINANCIÈRE

Monday 12 November 2018

Lundi 12 novembre 2018

The committee met at 1301 in room 151.

INDEPENDENT ELECTRICITY SYSTEM OPERATOR (IESO)

The Chair (Mr. Prabmeet Singh Sarkaria): Good afternoon. The Select Committee on Financial Transparency will now come to order. I'd like to welcome the panel from the Independent Electricity System Operator. We will give you a brief opportunity to give a 10-minute introduction between the panel, and then we will go into 20-minute questioning, starting with the government and switching back and forth.

Before we do that, I'd just like to read a parliamentary privilege statement that we do before every session.

Witnesses appearing before committees enjoy the same freedom of speech and protection from arrest and molestation as do members of Parliament. Furthermore, section 13 of the Canadian Charter of Rights and Freedoms provides that, "A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence." Therefore, nothing said by a witness before a committee may be received in evidence against that person in a court of law or similar proceedings, except in a prosecution for perjury where evidence was given under oath. For this reason, a witness may not refuse to answer a question from the committee on the grounds of self-incrimination or that answering might expose the witness to a civil action.

Witnesses must answer all questions the committee puts to them. A witness may object to a question asked by an individual committee member. However, if the committee agrees that the question be put to the witness, he or she is obliged to reply, even if the information is self-incriminatory, is subject to solicitor-client or another privilege or on other grounds that might justify a refusal to respond in a court of law. A witness may ask for clarification if he or she does not understand a question. Members have been urged to display the appropriate courtesy and fairness when questioning witnesses. A witness who refuses to answer questions may be reported to the assembly.

Witnesses must also produce all records requested by the committee. A witness may object to production. However, if the committee agrees that the document is to be produced, the witness is obliged to do so. A refusal or failure to produce a document may be reported to the assembly.

A refusal to answer questions or to produce papers before the committee, giving false evidence, or prevaricating or misbehaving in giving evidence may give rise to a charge of contempt of the assembly, whether the witness has been sworn in or not.

Now we will begin with a quick 10-minute introduction between the panel. I would just ask that each of you also read your name into Hansard as well.

Mr. Peter Gregg: Thank you, Mr. Chair. I'll go first. I plan to do the full 10-minute remarks, if that's okay. My name is Peter Gregg. I'm president and CEO of the IESO.

Ms. Kim Marshall: I'm Kim Marshall, former CFO of the IESO.

Mr. Bruce Campbell: I'm Bruce Campbell, former CEO and president of the IESO.

Mr. Terry Young: I'm Terry Young, a vice-president with the IESO.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you.

Mr. Peter Gregg: Thank you, Mr. Chair and members of the committee, for having us here today. I'm pleased to be here today to speak to the IESO's role as it relates to matters discussed in the report of the Independent Financial Commission of Inquiry.

We've already introduced who is at the table here. By way of background, I joined the IESO on June 22, 2017, succeeding Mr. Campbell, who retired from the organization at that time. Ms. Marshall resigned from the IESO in May of this year. Mr. Young joined the IESO in 2002.

I would like to address in my remarks three issues: the document production made by the IESO, a little bit around our mandate at the IESO, and the role of our organization in the implementation of the Fair Hydro Plan by the previous government.

As to the document production, the IESO was asked in early October to submit a large volume of records to support this committee's work. Regardless of claims of commercial sensitivity or privilege, we were asked to deliver the documents on October 25. We fulfilled the committee's request, and requested that the committee protect IESO confidential and privileged information. Subsequently, we asked the committee to temporarily withhold the information from public until we had time to properly review over 60,000 documents and ensure that all confidential and commercially sensitive information had been withdrawn or protected.

We used an internal team, external document review consultants and legal counsel to assist with this review. This included more than 35 people working, I should add, around the clock, to determine which of the documents were confidential or commercially sensitive. I'm pleased to say that all of our documentation was submitted for publication this past weekend, and I want to thank the committee for granting us the additional time we required. I look forward to coordinating any additional document requests so that we will have the time necessary to protect the confidentiality of commercially sensitive information.

Turning to the IESO and its mandate, we're one of nine system operators in North America. Together, these nine system operators serve about two thirds of electricity customers in North America. We have a broad mandate that includes planning to meet Ontario's electricity reliability needs, both in the near and long term. We operate the provincial electricity grid in coordination with our neighbours, both in Canada and the United States, through five interconnections.

We ensure North American reliability standards are adhered to in Ontario. We also ensure that we protect Ontario's power grid from cyber threats. We also administer a roughly $17-billion-a-year wholesale electricity market. We do all of that through engaging with stakeholders in communities across this great province.

At its core, our mandate is about ensuring the reliability of Ontario's electricity system at the lowest cost to consumers. We balance the supply and demand of electricity for the province on a second-by-second basis, continually sending instructions to market participants across the province to ensure that Ontario has the power when and where it is needed. The IESO was created by the Ontario Electricity Act and is governed by an independent board of directors. Our work is supported by a very talented and dedicated team that is focused on delivering on our mandate.

I will now address the role of the IESO in the implementation of the Fair Hydro Plan and the issues about accounting policies that are discussed in the commission of inquiry's report.

The IESO decided to adopt rate-regulated accounting in early 2017. Reviewing our accounting policies is something we do on a regular basis, although the catalyst for this particular review was the government's pursuit of the Fair Hydro Plan. At that point in time, the government was exploring policy options to reduce electricity costs for Ontario consumers in the short term. As you know, they ultimately decided to create the Fair Hydro Plan through amendments to the Electricity Act.

During this time, there were discussions between the government and the IESO about implementation options. As we understood the policy objectives of the government, the IESO consulted our external auditor, which was KPMG at the time, which further consulted with other major accounting firms, and their review found that rate-regulated accounting was an appropriate accounting treatment for an entity like the IESO. We found that rate-regulated accounting as an accounting treatment was consistent with that used at six of the eight other system operators in North America and with almost all of Ontario's local distribution companies and gas utilities.

Furthermore, and most importantly for us, the change in accounting policies would provide users of the IESO's financial statements with more transparent, reliable and relevant information about our market accounts. At that time, IESO had appointed KPMG as its independent external auditor. Its financial statements were approved by the IESO's audit committee and ultimately the board, and its financial results were rolled out to the province through the Provincial Controller's office. The Auditor General audits the province's financial statements, but at that time had no role as the auditor of the IESO specifically.

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Since then, there have been some significant developments. As you know, in late September of this year, the Ontario government announced that the current fair hydro program will be structurally revised such that the fair hydro variance would be funded by the tax base instead of the ratepayer.

The government also released their 2017-18 public accounts, and findings of the Independent Financial Commission of Inquiry, in which it announced that it would adopt all of the Auditor General's proposed accounting treatment recommendations, including accounting for the fair hydro variance without recognizing rate-regulated accounting, upon consolidation of our accounts to the provincial accounts.

It is worth noting that the IESO has two financial statements that are consolidated. Although the users of both statements are not mutually exclusive, the IESO corporate financial statements are predominantly used by the Ontario Energy Board, or the regulator, and the market financial statements are predominantly used by all market participants.

For clarity, our corporate financial statements include things like staffing and our capital expenditures, while the market financial statements document the flow of money within Ontario's wholesale electricity market.

As a result of the government's policy decision, the IESO reviewed and subsequently changed our accounting policies. We will move the fair hydro variance to the market financial statements, which will be relevant to the users of the statements. To achieve the same level of transparency, these statements will be posted online.

The IESO's current practice of consolidating the market accounts with corporate accounts will change as well. We believe that making the market accounts a separate set of publicly available financial statements will be more relevant and reliable for users of these statements.

Lastly, one other change: Recently approved by our board of directors was the selection of the Auditor General to be the IESO's external auditor for 2018, something we confirmed with her a couple of weeks ago. The IESO has a deep professional respect for the Auditor General, and we look forward to working with her in the future.

Finally, I want to inform the committee of an important change we're making that will help to reduce electricity costs for Ontario consumers.

The long-term electricity generation contracts of the past provide limited flexibility in introducing any system improvements or efficiencies in dealing with unexpected changes in the power system. The contracts also provided certain cost guarantees for suppliers. Looking ahead, there is an important opportunity to draw on the experiences of other electricity markets to meet our reliability needs more cost-effectively.

While certain resources such as nuclear require longer-term commitments, some of our future needs could be met competitively through annual auctions, which have been implemented successfully in other jurisdictions in North America and elsewhere. These auctions introduce a competitive procurement model that provides flexibility while reducing overall system costs. The auctions address system and customer needs in a more timely and efficient manner, looking out three years to accommodate changing needs at the lowest cost to customers.

Overall, this and other initiatives found in the market renewal program will save approximately $3.4 billion over 10 years.

That concludes my opening remarks. We would be happy to take any questions that you may have. Thank you.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you very much.

Just before we start with the questions, I will give a couple of reminders to the members of the committee to please refrain from using any unparliamentary language, and that all questions are also related to the mandate that the House has given us on this committee. I will be listening closely for the imputing of false, unavowed motives of other members. I will be cautioning members at first, but will move on to give the floor to other members if these persist. Please do keep these in mind when questioning.

Now I would like to turn it over to the government side for 20 minutes of questions, starting with Ms. Park.

Ms. Lindsey Park: Thank you all for joining us here today. I know it takes a lot of time out of your day to come here, and it's a lot of time for us to sit here, so hopefully we can get through this as painlessly as possible and just have a dialogue about what your work has been over the last couple of years.

I just wanted to start off with this: We're talking broadly about the Fair Hydro Plan, and you mentioned in passing that a catalyst for a lot of the changes you made in your organization was the introduction of this Fair Hydro Plan. I just wanted to get a sense from each one of you of when you first heard about the Fair Hydro Plan.

Mr. Peter Gregg: Maybe I'll go first on that specific question. I hadn't joined the IESO yet when I first heard about the Fair Hydro Plan, so I believe that I was at my previous job. I was the CEO of a local distribution company called Enersource, in Mississauga. We did a large merger and created a utility called Alectra. I would have still been there when I first heard about the Fair Hydro Plan. I guess it was early in 2017. That's my recollection.

Ms. Lindsey Park: Just to clarify, what was the date you started? I thought I heard June 22.

Mr. Peter Gregg: June 22, 2017.

Ms. Lindsey Park: Of 2017, okay. Thank you.

Mr. Bruce Campbell: I first became acquainted with what became the Fair Hydro Plan in about—I think if I had to put an exact date on it, it would be January 18, at a meeting at the Ministry of Energy.

Ms. Lindsey Park: January 18 of what year?

Mr. Bruce Campbell: Of 2017.

Ms. Kim Marshall: I'll go next. On the date that Bruce has referenced, January 18, I got a call from Bruce to say that we had been invited up to the ministry for a meeting. I would say that at that point the descriptors were more around what I would call—"rate mitigation" was the terminology that was used.

Mr. Terry Young: And I would have been sometime after Bruce and Kim. I would have been involved later on in the process.

Ms. Lindsey Park: How quickly would you say you found out about it after that January 18 meeting?

Mr. Terry Young: It could have been a week, two, three. It wouldn't have been right away. It would have been through briefings that Bruce or Kim would have provided that I would have become aware of it.

Ms. Lindsey Park: So within the month, you'd say?

Mr. Terry Young: I honestly don't have an exact date. It might have been part of the briefing that Kim or Bruce would have given at our executive team meetings, but I don't recall an exact date.

Ms. Lindsey Park: I'll go back to—I guess I'll go to you, Bruce. You probably remember this. Can you just tell me who, to the best of your recollection, was at that meeting on January 18?

Mr. Bruce Campbell: I have not a great memory for names. I'll deal more with organizations.

Ms. Lindsey Park: Or roles. If you remember their job title, that would be good.

Mr. Bruce Campbell: OPG, I believe, was there. The Ministry of Energy staff were there. The meeting was being led by Serge Imbrogno, the Deputy Minister of Energy.

Ms. Kim Marshall: I believe the Provincial Controller's office was there.

Mr. Bruce Campbell: Yes, definitely. Anyone from finance?

Ms. Kim Marshall: I would have thought—you know, I shouldn't say that. My recollection was—I would think someone from finance would have been there.

Ms. Lindsey Park: And when you say someone from finance: minister, staff, or what level?

Ms. Kim Marshall: Staff. Like, not minister, not deputy, not—

Ms. Lindsey Park: Not minister? Okay.

Mr. Bruce Campbell: We also had Michel Picard there, from KPMG, the accounting agency—our accountants.

Ms. Lindsey Park: Who all from IESO was there?

Ms. Kim Marshall: Just Bruce and I.

Mr. Bruce Campbell: Just Kim and myself.

Ms. Lindsey Park: Just you two. Okay; very good. Obviously, there was ministerial staff, but there were no elected officials at that particular meeting.

Ms. Kim Marshall: No.

Ms. Lindsey Park: Okay. Tell me, what was your initial reaction to this?

Mr. Bruce Campbell: I think it was that there was going to be a lot of work under way to look at the policy that was going to be pursued.

Ms. Kim Marshall: Yes, I would just echo that, and I would say that the first meeting—my recollection is that it was just very organizational in nature. It was, "We're going to do some work. There will be roles for you."

Ms. Lindsey Park: I'll go back to, I guess, Peter. You weren't in IESO yet, so what was your reaction when, I guess through the media, you heard about this?

Mr. Peter Gregg: I don't specifically recall. I think you're right; I would have heard about it through the media. But again, it was a different perspective at that time. My focus was probably, because I was at a distribution company, thinking through what impacts it would have on our business and on our relationship with our customers.

Ms. Lindsey Park: Terry, your reaction? I know you can't remember exactly when it was, but shortly after this.

Mr. Terry Young: No, and I guess my reaction would have been one of the work that we were doing associated with the changing accounting standards. That would have been my reaction at the time. But I wasn't at any of those first meetings, so again, it would have been through briefings that Kim or Bruce would have provided to the rest of the executive team that I would have been aware of what we were doing.

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Ms. Lindsey Park: So tell me a bit more about your reaction. You referenced changing accounting standards. What was your reaction to this?

Mr. Terry Young: Well, I'm not an accountant, so it's hard for me to tell you what my reaction is to a change in accounting standards. I did know that our CFO was looking at this and is absolutely, obviously, qualified to be looking at this. So it was more as a member of the executive team that I was aware of the changes that we were working through.

Ms. Lindsey Park: Maybe we'll step back. That's helpful, to have that initial—it looks like you have one thing more to say, Kim.

Ms. Kim Marshall: No, no. Keep going.

Ms. Lindsey Park: Okay. I just want to, for everyone's benefit in the room, set out exactly what it was you were being asked to do. We've been provided with a copy of the cabinet briefing note that eventually went to cabinet and described what you were doing. One of the things that this Fair Hydro Plan legislation did was expand IESO's powers. Can you just describe to us what additional powers this legislation gave you?

Mr. Bruce Campbell: There was a series of changes to the objects of the corporation. They basically authorized, or made part of our objectives as a company, various stages of the implementation of the transactions under the Fair Hydro Plan. That was, of course, a long way down the road from the meetings we've just talked about.

Ms. Lindsey Park: And what other powers did it give you?

Ms. Kim Marshall: I'm not sure I would say there were powers. I think it was the existing part of the IESO mandate, in terms of the settlement of the market, the receipt of money via consumers and payment to generators. We managed, or administered, that flow, and we had been involved with the 8% reduction, because there were things—whenever there's a government policy implementation, there are actions we have to take in our settlement process. So we'd been involved with that previously, and I think this was an extension of it.

As Bruce alluded to, the global adjustment smoothing was one piece of the Fair Hydro Plan, but there were also things like putting the RRRP onto the tax base. There was an affordability fund flow. So there were other things involved.

Ms. Lindsey Park: You guys deal with this every day, so you probably already know what your existing powers were. This question is just very much for the benefit of the committee. One of the things that the cabinet memo says were additional powers given—it says "the putting in place of appropriate payment, settlement and cost-recovery authorities for and through the IESO ... to manage the deferred GA costs."

Can you just describe to us what that means?

Ms. Kim Marshall: I'll talk about it in the general sense, in terms of the IESO's role. The IESO, as I just mentioned, was administrator of the market, so on a monthly basis we would manage the flows of receipts with respect to electricity and payments with respect to electricity. On a monthly basis, those never equalled one-for-one, so we would always have some variance. I think you called it settlement variance. I think the things that are alluded to in that are that the settlement variances would become more complex or larger in nature or dollar value, and so it was making sure that that was embedded in terms of our role. At least that's how I interpret it.

Ms. Lindsey Park: So how is that different from before this legislation came in?

Ms. Kim Marshall: I would say that it was more complex, I would say the dollars involved were bigger, and I would say that there were more parties to deal with in terms of our activities, which perhaps adds to the complexity.

Ms. Lindsey Park: Help explain to me how the IESO's activities were going to help, and I'm just using language, again, from this cabinet memo—how the IESO was going to help "bend the future cost curve of electricity." This is straight from the cabinet memo.

Ms. Kim Marshall: I think the accountants will not talk to "bending the cost curve."

Mr. Bruce Campbell: The way the Fair Hydro Plan was intended to work was—I think the phrase that was used earlier was "global adjustment smoothing." The way things operated at the time of the Fair Hydro Plan being developed and coming into place, the approach was to reduce the current amounts of the global adjustment, to be collected at a future date, which would have the effect of reducing rates now but, of course, at the expense of having to collect that money back. The notion that the investments that had been made in the power system would be spread over a longer period of time, in effect, is what was being proposed under the Fair Hydro Plan. If you think of it as global adjustment smoothing, the global adjustment being large, you take it down here but there's no free lunch, so it would have to be collected at a later date.

Ms. Lindsey Park: You seemed, by your reaction—I don't want to put words in your mouth, but you seemed uncomfortable with the language saying that your activities would bend the future cost curve of electricity.

Mr. Bruce Campbell: I would use the word "change." That's really all. I think it's important to recognize that what was happening was a movement in time of charges, and not—when I hear "bend the cost curve" it tends to be, in my mind, much more of a permanent change in the cost profile. That's really not what was happening here. The global adjustment was being smoothed out over time, with the same amount being collected plus interest.

The Chair (Mr. Prabmeet Singh Sarkaria): Mr. Romano.

Mr. Ross Romano: Thank you. Mr. Campbell, something I noticed—again, when we're on audio and everything like that, we can make out what's being said, but sometimes it's hard to characterize people's motions and such. While you were describing the global adjustment smoothing, you made a reference to reducing the cost of the global adjustment now, but later you had your hand going in an upward motion. So the idea is that it's going to go up, those costs, the global adjustment. That's what you're trying to motion for us?

Mr. Bruce Campbell: It was clear that if you don't collect the money now and you're going to collect it later when you hadn't originally intended to have this charge, it was going to go up.

Mr. Ross Romano: Right. Okay, perfect. Thank you.

The Chair (Mr. Prabmeet Singh Sarkaria): Ms. Park.

Ms. Lindsey Park: So I asked you what your initial reaction was at that first meeting. Each of you had a chance, obviously, in your involvement in this, to really look into what was happening and understand it further. After you started to look into it and fully consider what was happening, then what was your reaction?

Mr. Bruce Campbell: That it was going to be a lot of work. This was a major policy decision that was being fashioned, and what really occupied our time was trying to make sure that, "Okay, you've decided to do this. Let's try to do this in a way that, for instance, doesn't create"—it's going to create work for the settlement system, for managing the flow of funds and so on. "Let's make sure we try to do it in a way that actually will work and will work in an efficient way."

Ms. Lindsey Park: Terry, what was your reaction after you looked into it further?

Mr. Terry Young: Again, I'm not an accountant, so I truly appreciate what Bruce and Kim are speaking about in terms of the amount of work and the work that we're going to need to do associated with that. Other than that, I wouldn't have had another reaction.

Ms. Lindsey Park: Kim, would you like to go next? You look ready to answer this.

Ms. Kim Marshall: Well, I would say that Bruce and I were called up there because we had expertise in terms of the flows and we had an appreciation for the players within the sector and the flows between them. I would just echo that we kind of looked at this and said, "Well, what do we have to do?"

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The Chair (Mr. Prabmeet Singh Sarkaria): Mrs. Martin?

Mrs. Robin Martin: Sorry to interrupt, but can I just ask: Did any of you—maybe Mr. Campbell is the most appropriate on this issue—consider whether this actually fell within the IESO mandate, which you described as ensuring reliability of the electrical system at the lowest possible cost?

Mr. Bruce Campbell: We also settle the market. For all of the transactions that are done through the market, we have a settlement function that takes all the complexities, the ins and outs of electricity flows in the province, and makes sure that everybody is either charged or paid the right amount of money.

Mrs. Robin Martin: So you're in the middle anyway.

Ms. Kim Marshall: Yes.

Mr. Bruce Campbell: There is no way we could avoid being there too, because we had to be sure that whatever was done in implementing this policy decision could be settled. We knew it was going to be more work, but it had to be settled.

Mrs. Robin Martin: I guess I was wondering more, because you said your job was to ensure reliability at the lowest cost, whether that gave you some concerns.

Mr. Bruce Campbell: We operate the power system at lowest cost, really, at all times. That's the way it works. This was more managing the financial flow itself than the underlying cost.

Mrs. Robin Martin: Okay.

The Chair (Mr. Prabmeet Singh Sarkaria): Ms. Park, roughly two minutes left.

Ms. Lindsey Park: Okay. We may not have time to finish this topic, but I just wanted to get a sense of how KPMG was selected to be your auditors.

Mr. Bruce Campbell: I'll ask Kim to come back. At that point in time they had been our auditors for—

Ms. Kim Marshall: Gosh, I don't know.

Mr. Bruce Campbell: A couple of years? At least two?

Ms. Kim Marshall: At least two or three. At a point in time in the past, both of the two predecessor organizations, OPA and IESO, had both done RFPs for audit services. Coincidentally, each had KPMG as their auditors as a result of the RFP.

Ms. Lindsey Park: And the audit process happens at what time every year?

Ms. Kim Marshall: Well, it would happen throughout the year, but primarily the actual audit of the financial statements would happen late in the previous year and then January or February of the current, of the subsequent year.

Mr. Peter Gregg: Our financial year is the calendar year.

Ms. Lindsey Park: So you mentioned this meeting that you had on January 22—

Mrs. Robin Martin: January 18.

Ms. Lindsey Park: January 18. Michel Picard was invited to it. You said you consulted with KPMG as you were kind of sorting through this. Was he attending in his capacity as auditor?

Mr. Bruce Campbell: Yes. He wasn't the partner who actually did the audit. I think he's part of their advisory practice.

Ms. Kim Marshall: Yes. He was not the audit partner. He was part of the advisory process.

Ms. Lindsey Park: Okay, so KPMG was both advising you and your auditor?

Mr. Bruce Campbell: Yes.

Ms. Lindsey Park: Okay.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you. That concludes the time for the government. Now we'll shift it over for 20 minutes from the opposition. Ms. Fife? Thank you.

Ms. Catherine Fife: Thank you very much for being here. I'm sorry the room is so hot.

Mr. Terry Young: It's not just us, then?

Ms. Catherine Fife: It's not just you. I know there's a lot of pressure in the room, but—

Mr. John Vanthof: We don't always operate at lowest cost.

Ms. Catherine Fife: No. If we could figure out the heating in this building, we could probably balance the budget.

I just want to take you back to early 2017. Mr. Campbell, you mentioned that the IESO would regularly review their accounting practices, so that is how the rate-regulated accounting practice or treatment came on the books, but you also mentioned that the driving force was the government of the day. Is that true?

Mr. Bruce Campbell: Maybe I'll get Kim to walk you through the policy review process that—

Ms. Catherine Fife: I mean, I'm just quoting what you just said, though. I'm just confirming. It was in your opening—

Mr. Peter Gregg: I think it was my opening remarks, yes.

Ms. Catherine Fife: Yes.

Mr. Peter Gregg: You're, I think, correct in what I just heard you say. Certainly the Fair Hydro Plan was a catalyst to those discussions.

Ms. Catherine Fife: Yes, but you were also in the process of reviewing how your accounting practices happened?

Mr. Peter Gregg: Sure, which is something you would do on a regular basis.

Ms. Catherine Fife: Sure. And then you also mentioned, though, that KPMG was at the original meeting back in January 2018—

Ms. Kim Marshall: It was 2017.

Ms. Catherine Fife: January 18, 2017. Okay. So KPMG, as your accountant or accounting service, came to a ministry meeting with you to review whatever the ministry was proposing? Was that normal practice?

Mr. Bruce Campbell: No, it was because of the subject matter of the meeting.

Ms. Catherine Fife: Okay. So you had some sense that rate-regulated accounting was going to be proposed by the ministry, and therefore you brought KPMG with you?

Mr. Bruce Campbell: No, that was not the case. We got invited to the meeting, and it was indicated to me that it would be useful to have Michel Picard there.

Ms. Catherine Fife: So the ministry recommended that you bring KPMG to the meeting?

Mr. Bruce Campbell: Yes.

Ms. Catherine Fife: Okay. And that was not a normal practice?

Mr. Bruce Campbell: The ministry, if we were having meetings on topics, would—it was often a question of who needed to be there. I'm not quite sure if it was a normal practice, but in this case, that was what was requested.

Ms. Catherine Fife: Okay. Regardless, though, they were there at the beginning, and then KPMG has been a consistent actor in this.

Mr. Bruce Campbell: Yes.

Ms. Catherine Fife: Okay. I hope that you've had a chance to review the Auditor General's deputation when she came here.

Ms. Kim Marshall: Yes.

Ms. Catherine Fife: I think it's fair to say that she had some very strong words and criticisms of IESO. Even reviewing back further to the Auditor General's report back in 2017 and then the subsequent value-for-money Auditor General report that came to the Standing Committee on Public Accounts back in March, IESO had been identified as having some structural issues, even issues pertaining to oversight, and you were working on those. You had come before the public accounts committee, and I believe it may have been Kimberly at that time who was there.

The Auditor General had identified that the IESO oversight division—that there were some structural issues with that division. You were already on the radar of the Auditor General for a number of issues; I don't have to go through all of them. But then a conflict evolved, based on this accounting treatment. I wanted to give you an opportunity to comment on how that relationship between the Auditor General and her challenging IESO with the use of the rate-regulated accounting treatment evolved, and how you felt about it at the time, because we obviously have public records to comment on that.

Mr. Peter Gregg: I'll make some introductory comments. Thank you for the question. I just want to make sure that we separate certain issues. The Auditor General has audit capabilities for the IESO, as she does for many entities across the province of Ontario, so when we spoke about recommendations that came out of the value-for-money audit with respect to the oversight division, that was a separate issue. It came through a regular value-for-money audit. It wasn't related to the accounting at all.

Ms. Catherine Fife: No, but I'm saying that this was all ongoing as your conflict with the Auditor General was also evolving, because this is March 2017.

Mr. Peter Gregg: The timing would probably have been similar, certainly.

Ms. Catherine Fife: Yes, it is.

Mr. Peter Gregg: The only other thing I'll say before turning it over to Kim—because there was timing when I wasn't around—is that since I've been CEO we have worked very hard to have a positive, productive, respectful relationship with the Auditor General and her staff and, in my view, have co-operated fully with that. I know that there are some disagreements that we've had, but we have great respect for the Auditor General and we do have a good working relationship with her and her staff, in my view.

Ms. Kim Marshall: Yes, I would echo that I think we have a great respect for the Auditor General and their role as the auditor of the provincial accounts.

I'll speak to simply the accounting piece of it.

Ms. Catherine Fife: Sure.

Ms. Kim Marshall: In early 2017—I think it was probably the second meeting on rate mitigation—the IESO got questions from the Provincial Controller's office around our existing practice with respect to—I'll call it the settlement variance, for simplicity. These were questions that indicated that they were not comfortable with the way we were handling that, regardless of what happened with GA smoothing. So we were going through a process to answer their questions in terms of what we were doing, why we were doing it and what were some of the decisions that had been made.

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As part of that process, we relied very heavily on KPMG as our expert advisers in terms of what we were doing and what other entities were doing. That was a process that was ongoing. Because we were consolidated into the public accounts, we dealt very closely with the Provincial Controller's office, and I would say that at that time we were spending more time in terms of making sure that that communication was fairly open and free at that time. But I think there was no intention to ever not have the Auditor General involved at some point.

Ms. Catherine Fife: Okay. We are interested in calling the Provincial Controller, because I think that's part of the missing link here for the committee. You're saying that at the same time as the 2017 Auditor General's report which identified issues at IESO, and then also the value-for-money, you were also dealing with the Provincial Controller, seeking clarity around accounting treatment? This was all happening sort of around the same time?

Ms. Kim Marshall: Yes, it was all happening quite early in 2017.

Ms. Catherine Fife: Okay. So when IESO, back in early 2017, decided or came to the conclusion that rate-regulated accounting would be happening—would you not identify the Auditor General? Because she's obviously going to be reviewing your books at some point. It was actually described as a "radically different" accounting policy for IESO. She said that you didn't notify her of this, which would be, I think, an issue of either courtesy or transparency. Was there a good rationale for you to not notify the Auditor General that you had moved to this new accounting treatment?

Ms. Kim Marshall: No, and I would say that we did reach out once we had made a decision. Our focus at that point was to deal more closely with KPMG, who was auditing our books, and the Provincial Controller, for whom we were being consolidated into their books.

Ms. Catherine Fife: Okay. I'm just going to quote from a Globe and Mail article from just this past March, so six months ago. The Auditor General, at the time, "informed the province's public accounts committee last week of problems uncovered during the audit" of IESO, "which began late last year" and was almost complete. "Her concerns included incorrect accounting, deceptive and obstructive behaviour by the IESO's board and management, and poor financial controls." She referenced that if the improper accounting wasn't corrected, so if IESO didn't either revert back to your former accounting treatment or at least make the future debt, if you will, that you were going to have with the Fair Hydro Plan, then she would have to issue an adverse opinion.

This must have been a point with IESO where you—I mean, I sense some uncomfortableness with moving down this road, but now you have the Auditor General, who has the responsibility for auditing the province's books, calling out IESO for the accounting treatment where the government had sort of indicated you had to go down that direction. Can you explain where your thinking was at this point in time?

Ms. Kim Marshall: Well, I would say that, first of all, the government did not tell us to go down the rate-regulated accounting treatment road. They—

Ms. Catherine Fife: So you chose to smooth out the debt, the GA? That's what I'm talking about here.

Ms. Kim Marshall: Can I—oh.

Mr. Peter Gregg: No, go ahead.

Ms. Kim Marshall: The things that you just said in terms of, "Did we choose to smooth out the GA?"—is that the way you just phrased it?

Ms. Catherine Fife: Well, I'm just using your language that you used earlier: "smooth out," "bending the cost," "smoothing out the global adjustment"—

Ms. Kim Marshall: Those are government policy decisions that we would implement through our settlement system. That is totally separate from accounting decisions that we would make that would be appropriate, that we determine with the use of our external advisers, based on their research of like organizations and other entities, that the accounting treatment was appropriate for IESO—two separate considerations.

Ms. Catherine Fife: However, the Auditor General said that in early 2017, KPMG did not—there was obviously a breakdown in communication with the auditor. That's indisputable. That's the one thing, probably, that we can actually all agree on.

But it was specifically around the accounting changes at IESO, which—when she came before us, she indicated that IESO had not notified her of that and that this prompted the whole special audit of this accounting treatment.

Ms. Kim Marshall: At the time, we respected the role of the Auditor General as the auditor of the public accounts, and we saw the role of KPMG as the auditor of the IESO at the time.

Ms. Catherine Fife: Yes, I know. That's really interesting, because part of this committee is to set a course where we don't end up in this place again—

Ms. Kim Marshall: I understand.

Ms. Catherine Fife: —or at least that there's greater transparency, really, in how government sets policies and then how agencies implement those policies.

The role of KPMG in this whole drama, if you will, is interesting because—I think that these are your words, Ms. Marshal:

"As an auditor of a government body, KPMG is 'accountable to us in terms of ensuring that we have no surprises.'" This was told to public accounts. "But the IESO's chief financial officer, Kimberly Marshall"—that's you. I'm sure it's surreal to have me quoting you back to you.

Ms. Kim Marshall: No—are those my words? Sorry. Keep going.

Ms. Catherine Fife: These are yours. It says, " ... saw no need to consult or notify the Auditor General prior to adopting new accounting policies." And these are your words: "'We would look to our external advisors,'" you told the public accounts committee in February, so this is not that long ago. "KPMG said it had fulfilled its obligations by providing information to the Auditor General after the IESO's books were restated."

So IESO essentially decided to side with KPMG in this initial point of tension. Is that a correct, fair thing to say?

Ms. Kim Marshall: I'm not sure I would agree with your term "side with" KPMG. We looked to KPMG, as our external advisers, to provide us with guidance and advice. That was their role at the time.

Ms. Catherine Fife: Okay. What I'm trying to get to—because you must be wondering, as I am as well. This is from the same Globe and Mail article: "The Auditor General also objected to KPMG advising the government on how to structure the Fair Hydro Plan, while at the same time auditing the IESO's books." It's important for us to know that KPMG was there from the very beginning.

Even Randy Hillier, who was the PC MPP at the time, said: "'With half a million dollars or more in advisory fees, there might be a reasonable expectation, you might say, that their ability to be impartial and effective auditors had become compromised.'"

This is the point of having third-party auditors come in to a situation like this. They're making money. They're collecting fees from the government to advise the government, and yet they are also auditing the books. This is what happened with KPMG.

Ms. Kim Marshall: No.

Ms. Catherine Fife: Yes, it did. It did happen.

Mr. Peter Gregg: Just a point of clarification, perhaps, on that one is that the IESO at the time had a contract with KPMG to be the external auditor. In terms of them providing work for the province, that wasn't anything we were involved in. They were there to perform our external audit and to provide advice for the IESO.

Ms. Catherine Fife: So KPMG is giving advice to the government on how to create the so-called fair hydro accounting scheme, and then they're also auditing IESO, who—you've been charged with rolling out the so-called fair hydro scheme. You don't see that there's a conflict of interest in there?

Mr. Bruce Campbell: Let me describe the relationships, because I think you've jumped to a conclusion that is wrong.

Ms. Catherine Fife: Please tell me how it's wrong.

Mr. Bruce Campbell: Because, at all times, in giving us advice on the implementation of the Fair Hydro Plan, they were acting for the IESO. They were not acting for government. They were entirely acting for the IESO. Now—

Ms. Catherine Fife: And yet you brought them to the first meeting—the ministry asked you to bring KPMG, your auditors, to the first meeting that structured the whole scheme.

Mr. Bruce Campbell: Yes, because clearly the deputy, when he called me, had in mind that accounting issues would be relevant in the course of implementing the global adjustment smoothing. We retained and brought our accounting representative to those discussions because, as I said earlier, it was clear that there was something happening. We didn't actually know at the time—on the morning—but it was clear when we got there that this GA rate smoothing was a policy that they were intent on developing. So we had the auditors there from the beginning because all of the financial flows and transactions were going to be relevant.

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Ms. Catherine Fife: Okay, my colleague is going to—Mr. Vanthof.

The Chair (Mr. Prabmeet Singh Sarkaria): Mr. Vanthof: just under three minutes left.

Mr. John Vanthof: I'm going to follow up on my colleague. I come from a much smaller small business background, but in my business, I had an accountant who helped me make sure that my books were in order. But my accountant wasn't my auditor. What I'm hearing from you is that KPMG was giving you accounting advice on how to structure your books, how to restructure your books, and at same time, at the end of the day, they were also doing the audit of the books. That doesn't work in small business. How does it work in a billion-dollar business?

Ms. Kim Marshall: In our experience, we were dealing with KPMG as a whole. Different aspects or different parts of KPMG had different accountabilities and responsibilities.

Mr. John Vanthof: Respectfully, on behalf of the people of Ontario, I don't buy, "Oh, this part of this for-profit business is over here and they're totally separate from this." That doesn't wash. You can't have your accountant and your auditor being the same, basically, whether it's a big accounting firm or a two-person accounting firm. It cannot be the same people answering to the same boss. That, in our opinion, is one of your problems.

Is that still the case? Now you're going to have the Auditor General.

Mr. Peter Gregg: Correct.

Mr. John Vanthof: But if this hadn't happened, would that still have been the case?

Mr. Peter Gregg: You could say that it is the board, on an annual basis, that needs to make a decision on who the auditor is going to be, and that's what they've done this year.

Mr. John Vanthof: Has it ever come up at the board level to say, "Wait a second. We could have a problem here where the same people are advising us as are actually making"—because even from a board level, if you have the same people advising as actually checking that the advice is right, from a board level, that would frighten me.

Mr. Peter Gregg: I think to have your auditor actually provide accounting advice as well is not an unusual construct. I take your comments, but it is not an unusual construct.

I would add that the board, in considering this, also looked to outside advisory services as well, and had Deloitte, I believe—

Ms. Kim Marshall: Well, KPMG reached out to Deloitte.

Mr. Peter Gregg: KPMG engaged an outside adviser to also look at the move to rate-regulated accounting.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you. That concludes the time for the opposition.

We'll go back to 20 minutes from the government side, starting with Mr. Romano.

Mr. Ross Romano: Sometimes these conversations get a little hairy, so forgive us. We all get excited—politicians and microphones and all that kind of thing, right?

Mrs. Robin Martin: Not accountants.

Mr. Ross Romano: Exactly, not accountants.

One issue I have, and perhaps you would tend to agree with me, especially, I think, Bruce would agree with me based on some of your answers earlier on—this whole "global adjustment smoothing," as that term has been used: It's really not all that smooth, given your own comments. Number one, your first indication was that it was going to create a lot of work and, number two, costs were going to go up. It's easier to really identify it as "global adjustment refinancing," because that's really what it was, correct?

Mr. Bruce Campbell: I think that's a reasonable descriptor, yes.

Mr. Ross Romano: In fairness, I'm going to call it "global adjustment refinancing" because that's exactly what it was. It was like, you remortgage your house, you extend it over a longer period of time. So I'll call it "refinancing."

I want to go back for a moment. Earlier, when my friend to my left here was questioning, you specifically, Bruce, spoke about that January 18 meeting and that that was the first time you had ever heard about the Fair Hydro Plan, the first you had ever heard about any of this. I think your evidence was that you called Kim to attend that meeting as well—the January 18 date?

Mr. Bruce Campbell: Yes.

Mr. Ross Romano: There was a reference that the Provincial Controller's office was present. Who from the Provincial Controller's office would have been present at that meeting?

Ms. Kim Marshall: I can't recall specifically. I would have thought it would be Cindy, but I'm not sure.

Mr. Ross Romano: Cindy—

Ms. Kim Marshall: Veinot.

Mr. Ross Romano: Veinot. All right.

At this meeting, your first indication, Bruce, was that that was the first you had ever heard of it. Then, when the members opposite were asking some questions on this, you referred to Serge Imbrogno calling you to attend that meeting.

Mr. Bruce Campbell: That's correct.

Mr. Ross Romano: So you received a personal phone call from Serge Imbrogno; it wasn't an email. He called you and said, "Bruce, we need you at this meeting on January 18."

Mr. Bruce Campbell: Yes.

Mr. Ross Romano: Can you tell me a bit about that telephone conversation? I gather from your comments that, obviously, you felt the need to bring KPMG to that January 18 meeting based on the way Serge identified—maybe give me a little bit of background. How did that conversation go?

Mr. Bruce Campbell: It was a short conversation. I was asked if we could arrange to be up there. Obviously, I wanted to know what it was about. It was about rate mitigation. I told him I'd be bringing Kim, and Serge went on to suggest that it might make sense to bring KPMG along as well.

Mr. Ross Romano: So it was Serge's recommendation that you bring KPMG?

Mr. Bruce Campbell: Yes—and Michel in particular.

Mr. Ross Romano: And Michel Picard, in particular?

Mr. Bruce Campbell: Yes.

Mr. Ross Romano: When he told you it was about rate mitigation, did you have any suspicion at that point in time that global adjustment refinancing was going to be on the table?

Mr. Bruce Campbell: We didn't discuss what the meeting, in substance, was going to deal with—rate mitigation. In fairness, we had been dealing over the course of the fall with what I'll call "rate mitigation" issues as well. There had been a request for suggestions from us—that, over the long term, could put downward pressure on rates, and we had provided some suggestions, as others had. So there's that context in the background, I just wanted to say, for completeness. We knew that there was work going on aimed at ways of reducing electricity rates, but what became the Fair Hydro Plan and the large, to use your phrase, "global adjustment refinancing"—that was not on the table until that meeting.

Mr. Ross Romano: Okay. I'm just trying to put myself in your shoes, and that might be very difficult to do. If I get a phone call from the Deputy Minister of Energy saying, "Hey, we've got a meeting on January 18. We really need you to attend, in your role as head of the IESO. We need you to come to this meeting on January 18. By the way, it's a really good idea if you bring KPMG; in particular, Michel Picard"—that would sort of sound off, I don't want to say alarm bells; I don't want to put words in your mouth. But at a minimum, I'm going to be wondering why. Isn't that fair?

Mr. Bruce Campbell: Sure. The meeting was later that day, and I knew I'd find an answer later that day.

Mr. Ross Romano: So you actually got the phone call that same day.

Mr. Bruce Campbell: Yes.

Mr. Ross Romano: Did you find it difficult to reach Michel Picard to bring her to the meeting?

Mr. Bruce Campbell: Fortunately not. "Him."

Mrs. Robin Martin: It's a him. It's Michel—a francophone.

Mr. Ross Romano: My apologies. Thank you.

Once you get to the meeting, there's this discussion surrounding the global adjustment refinancing, and now you know squarely why they wanted KPMG, your auditor, present there.

Mr. Bruce Campbell: It became apparent that there was going to be a lot of attention being paid to financial flows and how they would be sorted out. So, yes.

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Mr. Ross Romano: By "financial flows," what you're saying is that it became evident that—I think you don't need to be an accountant, but it's pretty obvious at that point that if we're going to do a global adjustment refinancing, which was identified at this January 18 meeting, based on the normal way of borrowing money, it's not going to work the way the government wants it to work. Obviously there is going to have to be some other type of accounting practice that's implemented.

Mr. Bruce Campbell: There was not that level of discussion. It was kind of a broad, "We want to lower it now, and obviously it would have to be collected later." Really, my recollection of this is that it was much more just a sort of organizational meeting: "Okay, we're going to have to do a series of discussions around this and it will go forward." That is, in fact, what it turned out to be. There was then a series of meetings that Kim attended on behalf of the IESO.

Mr. Ross Romano: With the greatest respect, Mr. Campbell, the way you've just characterized it is to suggest that it was pretty well just an organizational meeting, but the first time you referenced it in the questions in the first portion here, you talked about what your initial reaction was: that this was going to be a lot of work.

Mr. Bruce Campbell: Yes, and I don't resile from that.

Mr. Ross Romano: Okay. So, obviously at that first meeting on January 18, when you learned that this is what the plan is—global adjustment refinancing—the auditor is there for a specific purpose. Obviously you were made aware at that meeting that while the policy decision of the government was to defer costs over a longer period of time—the refinancing portion of the global adjustment—that was not to affect the government's books. They did not want to change the deficit; they did not want to change the net debt of the province. That was made clear to you at that meeting on January 18, obviously.

Ms. Kim Marshall: I would say that in the first few meetings, we understood about GA refinancing, if you want to use that term, but I don't think it was clarified at that time in terms of roles, etc. We certainly wouldn't have had a conversation about government policy pieces with that broad a number of people in the room.

Mr. Ross Romano: Okay. Fair enough.

My friends on the other side of the room took some issue surrounding KPMG being hired in a capacity to both audit your books as well as be your accountants. That does seem a little bit complex, but I would suggest to you that what makes it all the more difficult is that at the same time KPMG was also working on behalf of the government, correct?

Mr. Bruce Campbell: No. They were working entirely for us. Respecting the comments that we got in terms of how the books are set up, I think it was the right thing to do to get expert advice on that, which is what Michel Picard provided. I don't see that as being in conflict with the audit. The audit would make sure that the books were being done consistently with the rules. But what was being looked at here was, "But, by the way, before that happens, we should actually take a look at whether there needed to be a change in the rules." That's what eventually happened, as time went on.

Mr. Ross Romano: Okay. So when Serge calls you to come to this meeting—Serge Imbrogno. I trust you're aware that Serge, as well as three other deputy ministers, attended here and testified before this committee, correct?

Mr. Bruce Campbell: Yes.

Mr. Ross Romano: And I trust that you probably are quite aware of a lot of the details of what came about in that evidence.

Mr. Bruce Campbell: Yes.

Mr. Ross Romano: And you're familiar with the cabinet document that—

Mr. Bruce Campbell: I wouldn't say "familiar," but I obviously had a look at it, yes.

Mr. Ross Romano: Okay; you had a look at it. I trust you're aware that Serge Imbrogno, in particular, at the time in his role as Deputy Minister of Energy, indicated to this committee that he thought global adjustment refinancing was a bad idea. I'm just asking you if you're aware that those were Serge's words to this committee.

Mr. Bruce Campbell: In looking at that material, I did not see him say that, no. I didn't pick up on that.

Mr. Ross Romano: Okay. In fact, I will also suggest to you that all four of those deputy ministers that were present here—that was deputy minister to finance, deputy minister to energy, the secretary—

Mr. Peter Gregg: Secretary of cabinet.

Mr. Ross Romano:—secretary of cabinet, Mr. Orsini, and Ms. Hughes, assistant deputy minister to the—

Ms. Kim Marshall: Treasury Board.

Mr. Ross Romano: Treasury Board, thank you.

They all indicated to this committee that they had significant concerns with the concept of global adjustment refinancing. They went so far as to create this policy document, this cabinet briefing document that they provided to the cabinet itself that identified four major areas of concern from their perspective:

(1) They said it's going to cut across accounting lines.

(2) It will cut across legal lines.

(3) It probably won't work.

(4) Even if it does work, it's going to cause rates to escalate in the future, which I think is to your point that you made earlier, Mr. Campbell.

I guess my question, very simply put: When you first got to this meeting—maybe it's not on January 18, but sometime shortly thereafter—I trust you had some of the same concerns that the deputy ministers themselves had and addressed with us?

Mr. Bruce Campbell: Yes, I would say we had the same concerns.

Mr. Ross Romano: Okay. Now with respect to you having those same concerns they had—and I trust one of the significant ones was the one you referenced earlier today, which was that the costs are just going to go up. You could start it low here, that global adjustment, but it's going to go up in time. That's a significant concern, obviously, in your role with the IESO.

Mr. Bruce Campbell: Given what was eventually decided to be the structure, the inevitable result, as we talked about earlier, was that there were costs transferred from today into tomorrow, in effect. But from our point of view, as we got into these discussions and the thinking around the structure evolved, we were there to provide advice and help in implementing a policy. We weren't there to evaluate what to do. What to do had basically been decided. We were there looking at how we would be best do this, given our responsibilities.

Mr. Ross Romano: So when you say that what to do was already decided, that wasn't for you guys to determine as the IESO. What you're referring to was the method of the GA refinancing with all of this complex rate-regulated accounting and the way that was all worked in. That was the part was that decided. You were there just to make it happen.

Mr. Bruce Campbell: No. It depends at a point. I've got to deal with this at a point of time. As we got into this, the question was really: How do we do this? How can we do this sensibly and work through that? Kim was at more of those meetings—

Mr. Ross Romano: Okay. And actually, I will turn my attention to Kim in one moment, but your statement earlier was, "We were there to advise and"—what was the other A word, sorry? "We were there to give advice on how this was going to work, but the decision had already been made."

Mr. Bruce Campbell: And really, looking at it from the context of we knew, if there were going to be these kinds of financial flows back and forth, that the IESO would be one of the entities that had to deal with all of this and it would affect our settlements. We were there, really, to make sure that, as best we could, that was done in an efficient way.

Mr. Ross Romano: Right. I think your terms were you were there to audit and advise—

Mr. Bruce Campbell: Not—

Mr. Ross Romano: Or not—sorry. To advise. You were there to give advice on how to make this policy occur, but you weren't there on the policy side. The government made that decision and your job was to give advice on how to make it happen.

Ms. Kim Marshall: Sorry—

Mr. Bruce Campbell: It's implementation.

Ms. Kim Marshall: Yes.

Mr. Ross Romano: The implementation?

Mr. Bruce Campbell: "Implementation" is the better word.

Mr. Ross Romano: Perfect. Now, a question for you, Kim. Earlier, your evidence was that you had hired KPMG to give you the advice. My question, then, is, given Bruce's comment that, "Okay, us as the IESO, our job was to advise on how to make this policy decision on global adjustment refinancing work"—you had hired KPMG to tell you how to make that work. Is that fair, based on your earlier evidence?

1410

Ms. Kim Marshall: Yes.

Mr. Bruce Campbell: How to make it work—there was a team of people, other parties.

Mr. Ross Romano: No, I can appreciate that.

Mr. Bruce Campbell: It wasn't just the IESO making this work; it was the group that had been assembled, of which we were a part, looking after the IESO—

Mr. Ross Romano: You're the part that's here today; hence my questions for you at this time.

Ms. Kim Marshall: Can I throw in an A word? Then I'll let you—sorry. It's just when he talked about A words—

Mr. Ross Romano: Which A word?

Interjections.

Ms. Kim Marshall: No. I was going to use the word "accommodate."

Ms. Sandy Shaw: Oh, okay. That's what I was—

Mr. Ross Romano: So you were there to advise and accommodate the government to ensure that global adjustment refinancing happened the way they wanted it to.

Ms. Kim Marshall: We were there because we knew the flows that were existing right now. If there was an intent to change those flows, we would know what that meant to our systems and activities.

With respect to Michel in terms of his work within KPMG, Michel had done a lot of work, for example, with the OEB in terms of rate filings and things, so he also had a familiarity with the flows that happened within the sector.

Mr. Ross Romano: In your role, along with the rest of the group here, you're there to accommodate and you're there to advise on how to make this GA refinancing work, and you hire KPMG, whom you've already brought to the first meeting for that purpose, specifically Michel Picard. I'll put this question to you, Bruce, for the time being: When we talked about some of these people who have testified, do you know Dr. Rosen, who testified before us? He's a lead expert on accounting.

Mr. Bruce Campbell: Yes.

Mr. Ross Romano: He provided some evidence to this committee that he was very suspicious of the choice of auditor, very suspicious that an auditor could basically—and these are my words—be hired to give the advice you want them to.

Just bearing that in mind, a few moments ago, you, Bruce, told me that, "We were there just for that advisory perspective. It was already decided what was going to happen." The decision on GA refinancing, how that was going to go: That was already decided, and that obviously was decided by government.

Mr. Bruce Campbell: It was the—

The Chair (Mr. Prabmeet Singh Sarkaria): Approximately one minute and 15 seconds for questions.

Mr. Ross Romano: So I think just a simple—obviously that was decided by government. My question for you is: As the Independent Electricity System Operator, where was that independence? At the end of the day, what you've explained to us is that you were just there to do what the government asked you to do. You didn't have any say in how it happened; you were told, "Here you go. This is what we need you to do; this is how it's going to happen; make it work."

Mr. Bruce Campbell: I think that way oversimplifies the conversation.

Mr. Ross Romano: But you yourself said that it was already decided.

Mr. Bruce Campbell: It was clear that the government wanted to proceed to do GA smoothing. The question was, "What's a reasonable way to do this?" But the underlying question was, "How do we best do GA smoothing?"

Mr. Ross Romano: Right. But your very words were, "It was already decided."

Mr. Bruce Campbell: Yes, we weren't—

Mr. Ross Romano: That's a yes.

Ms. Kim Marshall: Yes, it was—I mean, I don't want to decide what they had decided, but—

Mr. Peter Gregg: Yes, I think the policy decision had been decided. It was up to people to make the implementation decisions following that.

Mr. Ross Romano: Right.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you. That concludes the time for the government on this session.

We'll hand it over to the opposition for 20 minutes. Ms. Fife.

Ms. Catherine Fife: Thank you, Chair. I just wanted to make a comment, through you, with regard to some of the speculation that Mr. Romano was making about the ministers who appeared before us.

Mr. Ross Romano: Deputy.

Mrs. Robin Martin: Deputy.

Ms. Catherine Fife: Deputy. He suggested that deputy ministers had said that they had crossed legal lines. At no point in my recollection do I remember any of the deputy ministers suggesting that something illegal had taken place.

Mrs. Robin Martin: It's in the memo.

Ms. Catherine Fife: They did not, though. They did not articulate that. So that just becomes a concern for me—

Mrs. Robin Martin: That is incorrect.

Ms. Catherine Fife: —if they actually didn't say it as part of a Hansard.

Mrs. Robin Martin: They did. It's in the memo.

Ms. Catherine Fife: Well, we will double-check with Hansard.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you, Ms. Fife.

Ms. Catherine Fife: I just want to go back to where we just left off with regard to the IESO board and the role that the board played with regard to the responsibility around moving in the direction of the rate-regulated accounting and the GA smoothing scheme. The Auditor General, in her deputation to us, also commented that the board had asked for indemnification as well. Perhaps someone can speak to that, because it was also suggested to us that that's very rare, for a board of directors to embrace a new direction but then also ask for legal protection going forward. Can anybody speak to that, please?

Mr. Bruce Campbell: Yes, I can speak to that. As these discussions proceeded—and I don't want to lose track of the fact that they started and then there was a whole series of discussions that eventually led up to the legislation and the implementation of the plan, but along the way, there were questions that arose. For instance, if the securities involved were going to be offered into the US market, there are different liabilities that arise way beyond what normal liabilities would apply for the IESO.

The kinds of cash flows that we're talking about are substantially greater than anything that we've ever been dealing with before for variances. The variances could get very large.

Ms. Catherine Fife: Sure.

Mr. Bruce Campbell: Collecting those variances depended on a number of other parties. It depended on OPG being prepared to purchase the regulatory asset and having the funds to make those kinds of purchases.

There were risks around, as this asset went through and was sold, if something happened down the line, as the originator of the asset, would there be anybody who would suggest that there should be some liability resting back with the IESO?

I could go on with a few more, but there were a number of very different risks associated with this than had been in the normal course of business for the IESO. The board was, I think, rightly concerned about that, and the way it was addressed was through indemnities. There were also operational risks in all of this as well.

Ms. Kim Marshall: Can I just add that the indemnity was not with respect to the accounting treatment. The indemnity was with respect to the increased responsibilities that the IESO was going to take on financial risk around this, around the movement of the GA smoothing, not around the accounting.

Ms. Catherine Fife: Okay. That's a good distinction. So the IESO board felt strongly that they wanted to be protected because the government had fundamentally increased the financial responsibility and risk that IESO would be moving into?

Ms. Kim Marshall: I agree. I'm not sure I'd say they increased their responsibilities, because it was a similar process in terms of settlement, but the magnitude and complexity that we were getting into were different.

Mr. Bruce Campbell: And it wasn't just for the board, the indemnification. The board was concerned about the company because the indemnity rests for the company, the board members and the employees.

Ms. Catherine Fife: And so there were directors included in this. Had indemnity been offered in any other situation, or was this such a unique new direction for IESO to be moving in that this was offered to the board, or the board sought indemnity?

Mr. Bruce Campbell: I can't remember exactly. As the legal drafting started to get going and so on, this came up very quickly. I just honestly couldn't tell you exactly where the first grain of thought came on this. But yes, the board thought that the company's exposure financially and the complexity of our operations—in light of all of that, that an indemnity ought to be given. And, frankly, there was not much argument about that in terms of it coming forward.

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Ms. Catherine Fife: So the board is absolved of any legal risk on a go-forward position. Is that what this means?

Ms. Kimberly Marshall: I think it's narrower than that and, frankly, I'm probably not the person to speak to the legal aspects of that, but there were some boundaries around them.

Mr. Bruce Campbell: Yes, and as Kim pointed out, this had really nothing to do with the accounting change; it had everything to do with the responsibilities that flowed from the Fair Hydro Plan.

Ms. Catherine Fife: Well, but the Fair Hydro Plan involved a new smoothing-out accounting financial situation, right? We've put those together. You would not have been offering indemnity to your board had this complex financing scheme to fund the Fair Hydro Plan not been in place.

Mr. Bruce Campbell: I think the indemnity relates to the Fair Hydro Plan and its implementation. Let me just posit: If all that had ever happened was that we had changed our accounting practices, there would be no indemnity.

Mr. Peter Gregg: Perhaps if I can add to that, as well. I mentioned in my opening comments that we're no longer using rate-regulated accounting in 2018.

Ms. Catherine Fife: You're no longer?

Mr. Peter Gregg: We're no longer using rate-regulated accounting.

Ms. Catherine Fife: So it's specifically only to the Fair Hydro Plan?

Mr. Peter Gregg: No, I'm answering your previous question, which is around the indemnity. Rather than it being paid by ratepayers, it's now being paid out of the tax base. So it has structurally changed, but in my view, the indemnity still is appropriate.

Ms. Catherine Fife: It's too bad we can't protect the people of this province with indemnity—give them some indemnity from this plan. But thank you for the clarification.

I just want to finish the original point that I had around the role of the Auditor General and its relationship with your auditor, KPMG, and the IESO. At the end of last March, when the special report had been done, the Auditor General said that in normal circumstances, when the AG comes in, "when a board or management in any other province recognizes that an AG's office has issues with their accounting, they would have handled it differently." She told the committee, "They basically treated" her audit team like they "were subservient to KPMG. In terms of the law in the Ontario, that would be the reverse."

I just wanted to give you an opportunity, on the record—the auditor identified that the IESO was not compliant with her review and that also she had some issues with KPMG through that process. Now, do you share the concerns of the Auditor General not having access to the books at IESO?

Mr. Peter Gregg: A few things there: I would say I certainly respect the Auditor General's concerns, but in no circumstance did we ever attempt to disrespect or not co-operate with the Auditor General or her staff. The issue for the financials for 2017, which she's referring to, is that the board had already appointed KPMG to be the external auditor for the IESO. We fully respected that the Auditor General, under the legislation, has the right to come in and audit the IESO, but really the issue was that we had an external auditor in place so it didn't really make sense to have two. But we respected that she could come in and also provide an opinion, and when she did that, we ensured that every piece of information that went to KPMG to fulfill their audit also went to the Auditor General's staff.

Ms. Catherine Fife: So there was sort of a pecking order, then? KPMG was your primary auditor and then there was the Auditor General.

Mr. Peter Gregg: I wouldn't refer to it as a pecking order at all, except that one had been appointed as the external auditor by the board but fully respecting the

Auditor General's authority to come in and do an audit as well.

Ms. Catherine Fife: That doesn't resolve any of the—that doesn't answer the question, really. The Auditor General is on the record and came to public accounts and was pretty clear that the IESO was not compliant during that process. That drove a confidence issue around the finances, I think, at IESO on a go-forward—that are not really alleviated, quite honestly, by KPMG. But I'll leave that line of questioning right now and I'll pass it over to my colleague.

Mr. Peter Gregg: Could I add one point? Just to reiterate, the relationship with the Auditor General is important to the IESO. We do respect her office and her authority and just want to reiterate that the board has appointed the Auditor General to be our external auditor for the 2018 financials.

Ms. Catherine Fife: Thank you.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you. Ms. Shaw.

Ms. Sandy Shaw: I just have some loose dangling participles, I would say, from that last line of inquiry. In order to understand, can you help me understand, as your board of directors, who they owe their ultimate fiduciary duty to?

Mr. Peter Gregg: To the organization itself.

Ms. Sandy Shaw: To the IESO.

Mr. Peter Gregg: Yes.

Ms. Sandy Shaw: So when they were seeking extraordinary or additional indemnification—you identified that it was specifically for the expansion of the organization—you said that it wasn't the accounting treatment specifically, but it was a broad kind of indemnification because you were moving into this direction and you were scaling up the scope of your operations. Is that what you said?

Ms. Kim Marshall: Please feel free to jump in, Bruce, but I would say it was with respect to the financial risks along the deferral process and future collections.

Mr. Bruce Campbell: It was very tightly tied to the Fair Hydro Plan obligations that the company took on in terms of its implementation. So it was very tightly tied to that. It also was clear that it was last resort. If the company's statutory assurances and so on were not met, only then would—

Ms. Sandy Shaw: The indemnity?

Mr. Bruce Campbell: —the indemnity kick in.

Ms. Sandy Shaw: Okay. The risks you identified—what would the risk be that you were getting into a business where you said that the scale and scope of it was beyond what you normally were participating in? You had said that there was significant risk. Would one of the risks have been market risk?

Ms. Kim Marshall: By market risk—how do you define that?

Ms. Sandy Shaw: Well, I would say market risk in terms of—one of the things we're really concerned with is the misrepresentation, in any regard, of the accounting. That's what a lot of the concern was, that there is not clear and transparent financial reporting and that there is a misrepresentation to readers of the financial statement. Is there any part of that that is regulated by securities or a market risk at all?

Mr. Bruce Campbell: I think the indemnity did not have anything to do with the IESO's own financial statements and presentation. It had to do with all of the complexities associated with the Fair Hydro Plan. Securities would have to be created; those securities would be traded—and not necessarily created by the IESO, but the IESO was involved in that whole process. Whether someone at some point in the future—and this was due to run a long time—who felt poorly treated for some reason might look right back through all of the transactions to the IESO and—

Ms. Sandy Shaw: So it is a securities risk, a market securities risk.

Ms. Kim Marshall: Can I say something different?

Mr. Bruce Campbell: Sure.

Ms. Kim Marshall: I was thinking of it as an electricity market as opposed to that, in that we are deferring current costs, we're financing them; and in the future, that money will have to be collected for repayment.

Ms. Sandy Shaw: Okay, just help me. If I'm going in the wrong direction, you can straighten me out, but did you create an asset or security that would have been reviewed by the securities commission at all?

Ms. Kim Marshall: No.

Ms. Sandy Shaw: Okay. Then that's what I—okay.

Then I understand that this GA smoothing and the deferred cost—would one of the risks be because it was identified by—we have some notes from the secretary of cabinet, Steve Orsini, who in a handwritten note identified that one of the substantial risks was that it was unconstitutional, the fact that they were creating this kind of risk. Was that anything that was discussed at the board level when you looked at an indemnification?

Ms. Kim Marshall: That is not an issue that was an IESO issue. That's a government discussion.

Ms. Sandy Shaw: That's a policy discussion. So the risks that your board and your officers were looking to indemnify themselves against were simply financial transaction risks, the idea that this would come rolling back to the IESO if, at some point, this whole thing failed. Really, it's not any different than why we ended up with the 2008—you know, some of the securities that were created and some of the marketing around mortgages. It's sort of the same, would you say? In the same regard, that was the same kind of risk. You were bundling something, putting it out in the future, and if it were ever to come back to your board or your organization, you were indemnifying yourself from that risk.

Ms. Kim Marshall: Well, I'm not sure I would agree with your characterization there, because that's not any expertise I would have. But for us it was that we are a clearing house. We are an agent for the clearing within the sector. This policy decision had a fair amount of future risk.

Ms. Sandy Shaw: Okay.

Mr. Bruce Campbell: And just for the sake of completeness on one of your earlier remarks, in terms of the risks that were looked at, I know that the Ontario Securities Commission was consulted. I am far from a securities analyst, but I know that in terms of moving the transactions through at the various stages—OPG Trust, or our transfer of an asset to OPG Trust—I think it was all reviewed with the OSC.

Ms. Sandy Shaw: So the Ontario Securities Commission were involved in that, but not at your direction. Your board or your officers didn't specifically discuss anything with the Ontario Securities Commission?

Mr. Bruce Campbell: We knew that there was some potential risk there. Then that risk was resolved, I believe.

Ms. Sandy Shaw: Okay. Thank you.

If I could just switch around potential risk: I know that we did request some data from you at some point. We did receive a letter from you with regard to the confidentiality of that data. I'm quoting from your letter from October 26, where you said:

"The records provided to the committee contain commercially sensitive and confidential information of the IESO and third parties. The documents may also contain personal information of individuals. Due to the quantity of documents and the short time provided to produce the documents, the IESO has not redacted irrelevant, confidential or personal information from the records."

Subsequent to that, we reviewed this, and the committee made a determination to reseal—I guess you would say—those documents. I guess my question is: Were there any adverse impacts that you might be aware of, having had those documents public for a certain period of time?

Mr. Peter Gregg: Not that we're aware of, no.

The Chair (Mr. Prabmeet Singh Sarkaria): Just under two minutes.

Ms. Sandy Shaw: Where am I going to go in two minutes? Gee whiz.

I guess my last question would be: Have you had a chance to review the commission's report?

Mr. Peter Gregg: Yes.

Ms. Sandy Shaw: There are many things I want to ask you, but there is a statement on page 19 of this report that says, "With the presentation and reporting issues resolved, the government will need to determine how best to address the risks described above"—which is the Fair Hydro Plan—"in a transparent and cost-effective manner as it sets its own electricity policies." My question is: Were you consulted, with the commissioners? Did you have any input in the idea that they would have to address the risk described?

Mr. Peter Gregg: Our involvement with the commission of inquiry was similar to this committee. We were asked to provide documentation, which we complied with. We did attend one meeting with the commissioners, but we had very limited involvement. The discussion was primarily with the Provincial Controller and certain deputy ministers who were in the room. I think we answered maybe one or two questions, if I recall, but they were just very tactical, factual questions. That was our only involvement with the commission.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you.

Ms. Sandy Shaw: Thank you.

The Chair (Mr. Prabmeet Singh Sarkaria): I can propose, if members are agreeable, a 10-minute recess, or we could continue. But if members are agreeable, we can take a 10-minute recess. Okay, the committee is in recess till 2:44.

The committee recessed from 1434 to 1445.

The Chair (Mr. Prabmeet Singh Sarkaria): The committee is now back in session. I will turn it over to the government side for 20 minutes of questioning, starting with Mr. Downey.

Mr. Doug Downey: We're missing a couple of members, but I guess they can catch up. Oh, she's here. Wonderful.

Interjection.

Mr. Doug Downey: No, I just want to make sure that we're all on the same page, because I think that the other members were asking some questions that I just want to follow up on a little bit.

I want to start at the beginning. I'm confused; I've heard two different statements about the role of Mr. Picard. I originally heard that he was there in an advisory capacity, because he's not of the audit group at KPMG. Then I heard that he was there as an auditor. So if somebody could provide me with some clarity, please.

Ms. Kim Marshall: I'll take that. Your first comment was correct. He was there as part of an advisory process. We have a separate auditor from KPMG who is actually from a separate office.

Mr. Doug Downey: I thought I heard Bruce say that he was there as an auditor, so that—

Mr. Bruce Campbell: If I did, I misspoke.

Mr. Doug Downey: Okay. So there's some clarity on that.

Ms. Fife asked several times about—and Mr. Vanthof put it beautifully: For us simple people, you can't have an adviser and an auditor in the same room. Or can you?

Ms. Kim Marshall: I appreciate your point of view, and I have seen some of the recommendations that came out of the original committee. It has not been uncommon for an organization to look to a firm—a separate part of the firm, obviously, but it's not uncommon to use a firm for both.

Mr. Doug Downey: As you may know, Ms. Marshall, I'm a lawyer and I practised law for 20 years. It is very rare that I would take on the other side of a file or a different part of the file from my partner, so I don't understand how common it is.

Ms. Kim Marshall: Well, I don't know firms broadly, but I do know that in my experience it often happened.

Mr. Doug Downey: I guess we'll leave the public to determine how kosher that is.

Mr. Picard was at the meeting on January 18.

Ms. Kim Marshall: Yes.

Mr. Doug Downey: Mr. Picard was there in an advisory role; we just covered that. But it was described as an organizational meeting. Is that still correct?

Mr. Bruce Campbell: Yes, it was the first meeting in what was to become a series of meetings, so I view it in that sense. It was what kind of got the ball rolling in terms of meetings. That's what I meant.

Mr. Doug Downey: Did you know going in that that was going to be the purpose of the meeting—just an organizational role—or did you think that you would be wading into the content of what was about to happen?

Mr. Bruce Campbell: We didn't know.

Mr. Doug Downey: You had no idea.

Ms. Kim Marshall: No.

Mr. Doug Downey: Who suggested that Mr. Picard be there?

Mr. Bruce Campbell: Deputy Imbrogno.

Mr. Doug Downey: Okay. You had some idea of the subject matter of the meeting on the 18th, in the sense that you were dealing with rates and that kind of thing?

Mr. Bruce Campbell: Yes, rate mitigation.

Mr. Doug Downey: What role was IESO given? You say you asked; you wanted to know what the meeting was about. What role was it indicated that you were to play at that meeting? Were you coming to be told something? Were you coming to discuss something? Were you coming to give guidance on something?

Mr. Bruce Campbell: There was no discussion of what particular role. It was just, "Can you and Kim and if you can get Michel—can you folks come up for a meeting?"

Mr. Doug Downey: And bring a sophisticated accounting adviser.

Mr. Bruce Campbell: Yes.

Mr. Doug Downey: But with no purpose.

Mr. Bruce Campbell: It was clear that it was going to be around rate mitigation, but that was about the extent of the discussion. And we're talking about the discussion being my phone call with Deputy Imbrogno that morning.

Mr. Doug Downey: A fairly short call, I gather.

Mr. Bruce Campbell: A very short call.

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Mr. Doug Downey: I get a sense of this parsing of, there are major policy decisions and then there are accounting decisions, and they're not really joined; these are separate functions. Does that characterize it the way you intend?

Ms. Kim Marshall: I would say that there were some parallel tracks going on. Again, I think IESO was there because of our knowledge of the flows. We were getting a briefing on some of the things that were being thought of, although I think even the initial first couple of meetings were quite high-level. But very early on, there started to be questions coming from the Provincial Controller's office about existing things: "Where's the settlement variance now? What do you mean, it's not there? What about this? What about that?" I would say that they were parallel.

Mr. Doug Downey: So you would take the position, I gather, then, that it was not your job to decide what to do; it was your job just to find out how to do it.

Ms. Kim Marshall: Even the "how to do," I think it would be to represent the IESO's interests in whatever was being decided how to do.

Mr. Doug Downey: And the interests being defined as reliability at the cheapest cost?

Ms. Kim Marshall: Reliability, settlement of the market, flow of the funds—

Mr. Doug Downey: At the cheapest cost. Was that not part of the mandate?

Mr. Peter Gregg: It is.

Mr. Doug Downey: Sorry. It is?

Mr. Peter Gregg: It is part of the mandate, absolutely.

Mr. Doug Downey: So was that objective achieved?

Mr. Peter Gregg: If I could add to that, I think the issue here—

Mr. Doug Downey: It's really a yes or no, if I could.

Mr. Peter Gregg: I understand, but you have to look at policy decisions and implementation decisions and—

Mr. Doug Downey: We are looking at both of those.

Mr. Peter Gregg: I understand.

Mr. Doug Downey: And a policy decision was made. IESO made an implementation decision. Did it achieve the lowest cost?

Ms. Kim Marshall: Can I clarify—go ahead. Sorry.

Mr. Peter Gregg: As we implemented what we needed to do, as we were informed by the policy decisions, yes, we would have gone about doing it at the lowest cost—controlling our costs.

Mr. Doug Downey: The lowest costs?

Mr. Peter Gregg: Our costs.

Mr. Doug Downey: Given what you were told to do as an independent operator?

Mr. Peter Gregg: We're not the policy-makers in the province.

Mr. Doug Downey: You were told to do it. Who told you to do it?

Mr. Bruce Campbell: I think the way to describe this is: It was clear that the global adjustment smoothing was what the meeting was there to get started on—how we do this.

Mr. Doug Downey: In hindsight, you realize that's what it's about?

Mr. Bruce Campbell: Well, it wasn't part of the telephone call, but it became clear at the meeting. Generally it was going to be about rate mitigation. As I said, it was a short call, and the purpose of the call was really just to say, "Can you come up with," etc. So we did that. What we were about was about implementation: What contribution could we make to the discussion about implementation and make sure that the IESO's interests were well represented in those discussions? That's the way it went forward.

Mr. Doug Downey: I'm trying to nail down in my mind—your job was not what to do, but: "You're doing it, and do it the best way you possibly can."

Mr. Bruce Campbell: Yes, but it's not, "We're doing it." In what the government is going to do—because it's the government that's doing it—we would have a role necessarily because of settlements and so on, and we were there from that point forward. What Kim was trying to ensure was that that role was efficient in its carrying out, as much as it could be within the construct of the plan that the government was carrying forward.

Mr. Doug Downey: Part of the role of this committee is to make sure that something like this doesn't happen again. At what point in that process were you able to say, "Should we be doing this?"

Mr. Bruce Campbell: We were there with a policy being pursued.

Mr. Doug Downey: So there was no opportunity for you to say, "We shouldn't be doing this," or, "We should question whether we should be doing this"?

Mr. Bruce Campbell: That wasn't really what we were there for, no.

Mr. Doug Downey: There was no opportunity through that process?

Ms. Kim Marshall: I didn't think so. The only thing I would add to what has just been said is that we were a piece of the implementation. I think the implementation was broader than IESO. Our guidance with respect to the implementation centred around the flow of funds, which is part of our mandate.

Mr. Doug Downey: So if you were just tools of the government, who was making the decision, in your minds? Who were you taking direction from?

Mr. Bruce Campbell: I don't think we were tools of the government, first of all. We were asked to give advice, and we were asked to give advice in the context of a policy decision that the government was carrying forward.

Mr. Doug Downey: Were there any red flags on that advice that you gave about whether this was a prudent way to go and addressing the lowest cost as part of the mandate?

Mr. Bruce Campbell: It was really, "We're planning to do this. How best to do it?"

Mr. Doug Downey: You were planning to do this or the government was planning to do this?

Mr. Bruce Campbell: The government was planning to do this. You, the government, are planning to do this. We were there to say what's the most efficient way to do that, for those parts of it that we are responsible for.

Mr. Doug Downey: But you were used by the government—that's why I used the term "tool." You were used by the government to achieve its policy end.

Mr. Bruce Campbell: I think we worked to ensure that our responsibilities within the overall scheme were well defined and that we could execute them efficiently.

Mr. Doug Downey: At what point during that process, if—I didn't hear you say that there were no opportunities to raise red flags, so I still don't know if that's the case. Were there opportunities to raise red flags?

Mr. Bruce Campbell: In terms of the design of the plan? Yes. In terms of the design of the plan, I'm sure the conversations went on for some time for the whole group. The whole group was aimed at trying to find the best way of doing this. That's what the objective was: What is the best way, given what the objective is?

Mr. Doug Downey: But was it the best way or the least bad way? Because at some point during this process, minds turned to indemnities—very, very unique.

Mr. Bruce Campbell: I'm sorry. I've lost the question.

Mr. Doug Downey: The request for indemnities, to me, is a flag that there were internal concerns.

Mr. Bruce Campbell: There were concerns, from the IESO's perspective, that it was going into a business or an expansion of its responsibilities and obligations that had not been there before. It was really in that context that the indemnities arose.

Mr. Doug Downey: The IESO was simply executing, not deciding, in terms of that policy direction.

Mr. Bruce Campbell: Not deciding? That's right: not deciding.

Mr. Doug Downey: They were just executing.

Mr. Bruce Campbell: We were giving advice on implementation, and then expected to implement.

Mr. Doug Downey: So even as CEO of IESO, you didn't feel you could say no to some of the policy direction that was being given to you by the political side of the government?

Mr. Bruce Campbell: I think our feeling was, the question we were being asked is, "In these circumstances where this plan is going forward, what's the best way to implement it?"

Mr. Doug Downey: I hear you saying that, and I'm not suggesting you didn't pick the best path, given the options. But there was no opportunity for you to raise the red flag, as CEO of IESO, to say, "This is a bad idea."

You have an indemnity, so you can say anything you want.

Mr. Roman Baber: You also have parliamentary privilege.

Mr. Doug Downey: Parliamentary privilege, as well.

Mr. Bruce Campbell: I think in this circumstance where there was a commitment to producing a method of implementation, that's what we focused on.

Mr. Doug Downey: Ms. Marshall, I heard you say that the indemnities really don't have anything to do with the accounting side of this. It's really on the trades and follow-the-money part of it, but not on the accounting itself.

Ms. Kim Marshall: Correct.

Mr. Doug Downey: So why did KPMG ask for an indemnity for itself both from the IESO and the Provincial Controller?

Ms. Kim Marshall: I'll deal with the one with the IESO—

Mr. Doug Downey: Well, they asked for them both at the same time.

Ms. Kim Marshall: I'm not familiar with that, actually, but I'll deal with the IESO. We had a situation where KPMG was under contract to the IESO and was preparing material for the purposes of IESO. They felt there was a risk that that material was going to go broader or beyond the IESO, and so wanted some care on that.

Interjection.

Mr. Doug Downey: You've just been handed an email. I'm curious about the context of this.

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Ms. Kim Marshall: Everybody's got the email?

Mr. Doug Downey: It's being passed out.

Ms. Kim Marshall: KPMG has provided material to the IESO in which they've fulfilled their contract responsibility with the IESO. The Provincial Controller's office is asking for that document, so KPMG is saying, "IESO, is it okay for me to give this to the Provincial Controller's office?" This is saying, "Provincial Controller, you have to indemnify me as well, because this document is going to be given to you."

Mr. Doug Downey: Have you ever been asked for an indemnity by an accountant before?

Ms. Kim Marshall: I probably have not been asked by an account to get accounting work that has been handed off to somebody else.

Mr. Doug Downey: You started off earlier on—and I appreciate that you weren't involved at the time; so you've come into the space. You've stated a couple of times the positive relationship with the Auditor General. Why change systems so that the Auditor General is now the external auditor?

Mr. Peter Gregg: It's really reflecting on significant change that has happened at the policy level. We've talked already about the commission of inquiry's report. The government has accepted the recommendations of the commission of inquiry and also has made a decision not to recognize rate-regulated accounting as it consolidates our accounts under the provincial accounts. With all of that that has transpired and also the mechanical change, that this will be funded by taxpayers and not ratepayers in the future—all of that went into our decision to change our accounting principles, but also to re-examine and really focus on making sure we have a positive, constructive relationship with the auditor.

The reputation of the organization is important to me as the leader of it, and it's important for us to work on that relationship.

Mr. Doug Downey: You don't have a third-party auditor outside of the Auditor General?

Mr. Peter Gregg: The only small caveat I would have—KPMG will not be our financial auditor; the Auditor General will be. But there are certain services the Auditor General's office doesn't do related to our pension plan and some tax filings that KPMG will have to do—relatively small work.

The Chair (Mr. Prabmeet Singh Sarkaria): Two minutes, approximately.

Mr. Doug Downey: Thank you. When the accounting shifted to rate-regulated, you went back and restated five years of financials. That's accurate?

Ms. Kim Marshall: We restated our prior year, which meant that there were certain pieces we would have gone back and—we didn't actually publish those, but in our financial statements, we have a prior year.

Mr. Doug Downey: Would you say the relationship with the Auditor General is significantly better now than it was during this period of time, during the early 2017 period?

Mr. Peter Gregg: I guess that's probably most appropriate for me to answer.

Certainly from my perspective, yes, it has improved.

Mr. Doug Downey: That's good news.

I think I will leave it there, Mr. Chair. We have other questions, but we'll have another opportunity to come back.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you, Mr. Downey. Now we'll turn it over to the opposition for 20 minutes of questioning, starting with Mr. Vanthof.

Mr. John Vanthof: It's been a very interesting afternoon.

Mr. Campbell, at some point, you said that it became clear in your meetings that a decision had already been made, and later on you said that it was your job to first of all give advice on how to reach the objective. What was the objective of this whole process? What was the objective?

Mr. Bruce Campbell: The objective that we were helping to implement was to translate the GA smoothing notion into an actual program that kept those costs inside the electricity sector.

Mr. John Vanthof: I'm going to try to paraphrase it. The objective that you were first asked to give advice on was basically to lower rates without that coming onto the tax base. It would seem much simpler to me, if the government wanted to lower rates, that they borrow the money and they just pay you to pay the generators, if the rate base isn't paying enough. That would be much simpler, right? And if we're all into simplicity, that would be much simpler.

Mr. Bruce Campbell: As I said, the goal of the approach, as we understood it—and it continued on in the implementation meetings—was to do that global adjustment smoothing, not drawing on tax funds, but keeping it within the electricity sector. That was what the objective was: "This is an electricity cost; keep it in the electricity sector."

Mr. John Vanthof: I think I understand. It wasn't just your job; it was OPG. This was a much bigger—you weren't tasked with the whole thing.

One of the things we're having a hard time understanding is how debts became assets, right? Correct me if I'm wrong: They became assets because at some point because they were put out—someone could collect them. That was the asset, just like a mortgage, right? I could buy a mortgage. Was that your idea, or was that another task that you were given to complete?

Mr. Bruce Campbell: I'm going to let Kim come in on this one because this was one of these parallel things that she spoke about earlier where, after the conversation with the Provincial Controller, independent of everything else, as I understood it, she was asking Kim questions about the treatment of our market accounts.

Kim, I'll turn that over to you.

Ms. Kim Marshall: Yes. I'm going to answer a little piece of it and then I'll let you go back and you can rephrase just because—you're right; the concept of the regulatory asset is that you have a right to collect in the future.

Mr. John Vanthof: It's an IOU.

Ms. Kim Marshall: It's not uncommon for an LDC to build something and they're going to collect over a long period of time. That was the concept.

Early on, the conversation was along the lines of the IESO financial statements that said, "You do not recognize, though, that future right. Why don't you?" That was the conversation that was happening early on in parallel.

Mr. John Vanthof: Okay, but they were happening in parallel—parallel or tandem. Because what we've all agreed on now, hopefully, is that basically a debt was turned into, for all intents and purposes, an asset. That's part of the problem. Was that the controller who said, "Okay, we've never done this before, but we've got to make these debts look like assets. We've got to make these minuses look like pluses"? Was that your part of the decision, or were you tasked with that?

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The market regulating accounting: That's the issue. To me, you took a minus—someone—I'm not saying you. Someone took a minus out of the red and put it in the black, and it was done by changing the accounting practices. Where it gets really tricky is, you're putting those debts—the ability to collect in the future: You're putting that out as that people can buy them. That's why it goes to the securities commission. Please correct me, but people are worried about the indemnities: that you won't be able to collect those debts in the future because you're selling them as positives, and if something goes wrong, they're not really a positive.

Was that your part? Were you tasked with that, or did KPMG and you guys say, "Hey, this is the best way to do it. Oh, and by the way, we need protection from this because it might not work," or were you told by the controller, the minister or the Premier of the day, "We've got to make the minuses pluses"? We need to know who decided to do that. Parallel or in tandem, did they happen together?

Ms. Kim Marshall: What I can speak to is what we did with the IESO financial statements, which are a piece of everything. For the IESO financial statements, we took a look, in conjunction with KPMG and the Provincial Controller's office, to say, "What are the things that we're doing as the IESO, regardless of what's going on with GA smoothing, and how were the activities of the IESO being represented?"

Mr. John Vanthof: You changed the accounting practices to regulated—I forget the term, and that was the best way to represent what IESO was doing?

Ms. Kim Marshall: Yes.

Mr. John Vanthof: So why isn't that the best way today?

Ms. Kim Marshall: Because, like all accounting activities, on an ongoing basis you take a look at what you're doing, what's in the environments going on, and there are often updates that you would do to what you are doing.

Mr. John Vanthof: Okay. Fair Hydro Plan: We change our accounting practices; new government, no Fair Hydro Plan or different Fair Hydro Plan, and we change back. The two just happen to be happening at the same time, and I don't think the public would buy that. So the question is: Did you make the negatives pluses? Was that your idea, or was that one of the things you were tasked with? Was that part of the objective? You, at one point, said that the decision had already been made, so you were there to help make the decision happen.

Again, if it's just a change of accounting, then why do people have to indemnify themselves? If it's just a change of accounting, I don't think you need to indemnify yourselves. If you're out selling hydro securities, future hydro—whatever you call them—stocks or whatever you call them and they might not be as rosy as has been described, I can see yourself getting indemnified from that. If it's just an accounting change, why is everyone asking for indemnities?

Ms. Kim Marshall: Well, I come back to: The indemnity was not around the accounting policy—

Mr. John Vanthof: So what was it about?

Ms. Kim Marshall: The indemnity was around the fact that the IESO is an agent within the sector in terms of the flows. The IESO does not itself take on financial risk with respect to those flows. We saw in conversations that the dollars that would be involved with the Fair Hydro Plan would be significant—

Mr. John Vanthof: So did you suggest to the government that those risks should be taken, or did the government say to you that you had to take those risks? Somebody decided to take that risk. Who decided? You? The IESO? Or the controller? Or the government? Who decided that that risk was going to be taken?

Mr. Bruce Campbell: I think the risk flowed from the plan. The plan decision was the government's.

Mr. John Vanthof: So it's fair to say that the government decided that those risks had to be taken and you had to do it on behalf of the government?

Mr. Bruce Campbell: The government decided that the plan would be implemented. The implementation of the plan created certain risks for IESO, and the IESO asked to be indemnified for those risks.

Mr. John Vanthof: So the government directed the IESO, through accounting practices, to make those negatives positive?

Mr. Bruce Campbell: No. The IESO made the accounting changes. The IESO, having had the concerns raised from the Provincial Controller, went back through and took a look at the rationale and made a decision to change the accounting policies and, in the discussions with the board—it wasn't like nobody knew there wasn't some thought being given to rate mitigation, but the board was very clear that it wanted to deal with this question, on the merits, independent of. That was the way they dealt with it, and that was the way management was told: "We'd like this brought to us on the basis of, 'Is this good for the IESO to change the accounting principles?' We understand it may have some downstream consequences, but I want to know," said the board, "is this the right thing to do for the IESO?" We believed it was.

Mr. John Vanthof: If the IESO hadn't changed its accounting practices, could the Fair Hydro Plan have been implemented the way it was implemented?

Ms. Kim Marshall: I think that's a question for the government. If we had not done it, how would they have structured the Fair Hydro Plan? I don't know what that would be.

Mr. John Vanthof: I'm going to try to rephrase the question. If you had continued with the accounting practices that you used in the past, could you have, under the past accounting practices, restructured the debt so it only fell onto future ratepayers? Could you have shown that in your books, without changing the accounting practices?

Ms. Kim Marshall: Say that again?

Mr. John Vanthof: I'm not an accountant or a lawyer, so bear with me.

Under market-regulated accounting, you were able to use a future debt as an asset. Could that have been done if you hadn't changed to market-regulated accounting?

Ms. Kim Marshall: I'm thinking not, but frankly, I'd have to put more thought on it—but, yes.

Mr. John Vanthof: I will take that, and I appreciate that.

Ms. Kim Marshall: There's a whole consolidation into the province that I'm not familiar with.

Mr. John Vanthof: So although they happened totally independent of each other, they couldn't have happened without each other, either.

Ms. Kim Marshall: I think the word that Peter used in his opening statement, which I thought was a good one, was "catalyst."

Mr. John Vanthof: That's a very good word. If the Fair Hydro Plan was the catalyst for market-regulated accounting, could that be—or do I have it wrong? Is market-regulated accounting the catalyst for the Fair Hydro Plan?

Mr. Peter Gregg: The Fair Hydro Plan would be considered a catalyst for change to rate-regulated accounting, yes.

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Mr. John Vanthof: Okay.

Mr. Peter Gregg: I wasn't there at the time, but it wasn't the only consideration done by management and the board, to my understanding. It looked at it from another perspective, too: "Outside of fair hydro, could you do this, should you do this?" They looked at it that way, too.

Ms. Kim Marshall: I would echo the comment that I think Bruce just made in terms of, for us and for the audit committee and for the board, it was very important to say, in the absence of a plan, "Would this still make sense for the IESO?" That was very important for us.

Mr. John Vanthof: Am I correct in assuming that KPMG was one of the advisers for you to switch to market rate?

Ms. Kim Marshall: Yes.

Mr. John Vanthof: I believe we've already covered this ground, but I need to cover it again just in my own mind: When the Auditor General made it quite clear that she wasn't happy with this, that this wasn't—the board of IESO, did someone say, "Wait a second"? At one point, you had to pick between KPMG or the Auditor General, because at some point you knew we were going to maybe not come to this committee—but at some point there was going to be a reckoning. The question is, was anyone else involved? At any point, did any member of the government say, "Auditor General be damned and keep on in the direction you're going"? Or was it solely IESO who basically saw warning flags from the Auditor General and decided to disregard them? Were you directed to follow that course by any other body?

The Chair (Mr. Prabmeet Singh Sarkaria): Just two minutes left.

Mr. Bruce Campbell: No, we were not directed. The board looked at the rationale and thought, for the reasons we've discussed, that it was the right decision to make.

Mr. John Vanthof: So you were directed to implement the Fair Hydro Plan. Someone decided at some point. You had the meeting—we never really figured out who made the decision yet, but you were directed to implement your portion of the Fair Hydro Plan.

Mr. Bruce Campbell: Yes, our portion. And that was embedded into legislation.

Mr. John Vanthof: But when the Auditor General started raising red flags, your board made the decision all by itself to ignore the Auditor General's warnings?

Mr. Bruce Campbell: There was no ignoring. There was, clearly, an accounting opinion from KPMG that supported making this—

Mr. John Vanthof: KPMG, who also helped design the Fair Hydro Plan—or your part of the Fair Hydro Plan.

Mr. Bruce Campbell: He advised us on our involvement in the Fair Hydro Plan.

The Chair (Mr. Prabmeet Singh Sarkaria): Now I'll turn it back over to the government side for 20 minutes of questioning, starting with Ms. Martin.

Mrs. Robin Martin: I have lots of questions. I just wanted to clear up some of the things that have come before.

We talked about the January 18, 2017, meeting, which was really the first meeting that IESO attended. Is that correct?

Ms. Kim Marshall: Yes.

Mrs. Robin Martin: Who from IESO was there? Was it Ms. Marshall? Both of you?

Mr. Bruce Campbell: Yes.

Mrs. Robin Martin: Mr. Campbell, as well?

Mr. Bruce Campbell: Yes.

Mrs. Robin Martin: Okay. And you said that there were, amongst other people, people from the Ministry of Energy, led by Deputy Minister Serge Imbrogno.

Mr. Bruce Campbell: Who called the meeting, yes.

Mrs. Robin Martin: Who called the meeting. Who else was there from the Ministry of Energy? Were there political staff as well as public servants?

Ms. Kim Marshall: I don't remember. There were staff members from Serge's office—assistant deputy minister.

Mrs. Robin Martin: Any particular names you remember?

Ms. Kim Marshall: Steen Hume, I believe, was there. I think Michael Reid—

Mr. Bruce Campbell: I honestly don't remember.

Mrs. Robin Martin: You don't remember any of them? Okay.

That meeting was classified as a meeting on rate mitigation, you have said. That was what you thought you were going to: a meeting about rate mitigation.

Mr. Bruce Campbell: Yes.

Mrs. Robin Martin: As a result of that meeting, were people given roles in pursuing, "How are we going to do this rate mitigation thing?" Was the IESO given a role?

Mr. Bruce Campbell: It was clear there were going to be a series of meetings and the IESO would be involved. I think it was a little early for knowing exactly what roles everybody was going to play.

Mrs. Robin Martin: But there were a whole bunch of people at this important meeting on January 18, 2017. When you left that meeting, what were you charged with doing, or what was anyone charged with doing, that you heard? Was somebody going to go off and have the pen and try to figure this out?

Ms. Kim Marshall: I would say that at that point the pen was being held by the ministry. I'm not sure that at that point we had specific to-dos come out of that meeting. But there was an awareness that this was a process that was being undertaken.

Mrs. Robin Martin: Mr. Campbell said earlier that he thought there was going to be a lot of work. Presumably, you weren't worried about the work that other people were doing; you thought that IESO also was going to have a lot of work to do.

Mr. Bruce Campbell: We operate the settlement system for the province that manages that flow of $17 billion between all of the various participants. My expectation was that if something was going to happen about all of this, there would be changes in those flows that we would have to take care of.

Mrs. Robin Martin: So you knew that there would be some impact on that settlement process and you were going to have to figure out how that was going to impact the IESO.

Mr. Bruce Campbell: Yes. We had no idea exactly what it was going to be. It was just the fact that we run the settlement process and it necessarily would have to be involved.

Mrs. Robin Martin: Can you just tell us what, in general, was said at the meeting—a synopsis?

Ms. Kim Marshall: My recollection is not that good, frankly, on that particular meeting. I had the sense that there was a lot that had already been talked about, because there were discussions about various aspects of what then became the Fair Hydro Plan. I think there were even discussions about magnitude in dollars at that point.

Mrs. Robin Martin: What did they say about magnitude in dollars at that point?

Ms. Kim Marshall: I don't think they actually told us "magnitude in dollars," but there was a sense that they had done some modelling.

Mrs. Robin Martin: When you say "they," who were these discussions involving?

Ms. Kim Marshall: Ministry of Energy staff.

Mrs. Robin Martin: Did anybody else at the meeting contribute? Did it look like anybody else in the meeting was further involved than you were at that stage?

Ms. Kim Marshall: I can't say, based on my recollection.

Mrs. Robin Martin: You said OPG was at the meeting. Do you remember who attended on behalf of OPG?

Ms. Kim Marshall: It was not Jeff. Would it have been Ken?

Interjection.

Ms. Kim Marshall: Yes. I think it would have been Ken.

Mrs. Robin Martin: Anybody else from OPG? No? Ken Hartwick?

Ms. Kim Marshall: Yes. Maybe don't quote me on Ken; it might have been one of Ken's staff.

Mrs. Robin Martin: But that's your recollection?

Ms. Kim Marshall: Yes. It would have been in the finance group.

Mrs. Robin Martin: Do you remember OPG being assigned a role at the meeting?

Ms. Kim Marshall: No, not really.

Mrs. Robin Martin: Usually, when you leave a meeting, you have a "next steps." Any recollection of who was taking the next steps?

Ms. Kim Marshall: I do know that the next steps for me were to have a further discussion with a subset of the energy folks to get a better sense of what they were planning.

Mrs. Robin Martin: Who was the subset?

Ms. Kim Marshall: Steen Hume and some of his folks.

Mrs. Robin Martin: Did you have that discussion?

Ms. Kim Marshall: Yes.

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Mrs. Robin Martin: And when was that?

Ms. Kim Marshall: Within a few days.

Mrs. Robin Martin: All right. What did you discuss at that meeting, and who attended? Maybe start with who attended.

Ms. Kim Marshall: I can't recall specifics. Apologies for that. But I will say that at that point, it was when the discussion started happening: What do you do with what we have termed here the settlement variance, and how does that operate?

Mrs. Robin Martin: Can you just explain for us lay people, non-accountants, what a settlement variance is?

Ms. Kim Marshall: Peter and Bruce have commented on the role of the IESO in terms of the settlement of the market. The market aspect that we settle is about $17 billion in a year. Month to month, there's $1 billion to $1.2 billion of flows between payments to the generators that the IESO makes, and we receive funds through LDCs, primarily from consumers.

To the point that we talked about, the OEB sets rates within the sector. There are different activities that go on. Frankly, it never, on a monthly basis, equals zero in terms of those flows back and forth. So how we manage them is the question that was coming up.

Mrs. Robin Martin: So they just wanted to understand how you work as the IESO before they changed anything. They just wanted to make sure they understood how it worked.

Ms. Kim Marshall: I would say so, yes. There was some discussion, as I recall, in that the 8% had already been done. So, how did that look? How did that operate?

Mrs. Robin Martin: How had you accommodated that change when they brought it in?

Ms. Kim Marshall: Yes, thank you. Yes.

Mrs. Robin Martin: Okay. Was that it for that meeting?

Ms. Kim Marshall: That was probably the meeting where—I would say that was the first meeting where the Provincial Controller started raising questions about our existing accounting practices.

Mrs. Robin Martin: Okay. So she wanted to know about why you didn't rate-regulate, you said?

Ms. Kim Marshall: Yes. I wouldn't say we called it "rate-regulate" at that point. We were talking about the market books and what happens and what is shown there.

Mrs. Robin Martin: Okay. You said the controller was at that meeting. To your recollection, was anyone else at that meeting besides Ministry of Energy, Steen Hume and others?

Ms. Kim Marshall: Oh, there might have been. I can't—

Mrs. Robin Martin: Was OPG there, for example? You said a subset of the energy folks. I just don't know who—

Ms. Kim Marshall: I can't recall. I can't recall.

Mrs. Robin Martin: You don't recall anybody else specifically at that meeting?

Ms. Kim Marshall: No. We had many meetings on an ongoing basis. That one in particular, I can't recall the specifics.

Mrs. Robin Martin: Okay. Well, I'm just trying to figure out how we got from the January 18 meeting, when it was all new, with all these people, to the March 1, 2017, cabinet submission, which I believe Mr. Romano had taken you to earlier, which we saw from the deputy ministers that came to present, where they presented at least a form of a plan for the Fair Hydro Plan and the global adjustment refinancing.

Sometime in the six weeks between January 18 and March 1, somebody came up with a plan. Can you just elaborate on the series of meetings and how the plan evolved, to your knowledge?

Ms. Kim Marshall: On the Fair Hydro Plan?

Mrs. Robin Martin: Yes, how the whole plan evolved.

Ms. Kim Marshall: I would say we were having meetings probably every other week. There were different roles that individuals were playing in terms of bringing information to the table. I would say the majority of the work was being done by the Ministry of Energy folks, both from a modelling perspective as well as a "what does this mean to rates" perspective.

Mrs. Robin Martin: Okay. Did IESO ever have to produce anything as part of a contribution to figuring this out? A document, a memo?

Ms. Kim Marshall: At one point, I thought there was an IESO discussion around the assets, that I was not a part of. Is that ringing a bell?

Mr. Bruce Campbell: I think that toward the end of February, there were—

Mrs. Robin Martin: Sorry, before the end of February?

Mr. Bruce Campbell: Yes, before the end of February, there were memos provided to—I provided them to Serge Imbrogno on the accounting issues.

Ms. Kim Marshall: Oh, of course. That was later in February. I was thinking about the process of the fair hydro. Was there—

Mr. Bruce Campbell: But those particular issues which were relevant to our participation—

Ms. Kim Marshall: Yes.

Mr. Bruce Campbell: —they were provided to the deputy.

Mrs. Robin Martin: Okay. And they were about—

Interjection.

Mrs. Robin Martin: Kimberly, did you want to elaborate?

Ms. Kim Marshall: Finish your sentence.

Mrs. Robin Martin: No, did you want to elaborate on what those were about?

Ms. Kim Marshall: No.

Mrs. Robin Martin: No? Okay, then let me ask you specifically: You were concerned about the IESO aspects of this plan, obviously. When did you get charged with going to figure something out? I assume it was about rate-regulated accounting and, "Can you do this?" They probably asked you, "Will you be able to do this?"

Ms. Kim Marshall: Quite early on—I would say, before the end of January—we were asked to provide information with respect to decision-making that had been done in the past with respect to IESO accounting. We were asked for some research, which KPMG undertook on our behalf with respect to the other system operators, and for some research with respect to some other like organizations. The one that sticks in my mind is the Toronto Stock Exchange, which has a clearing goal. We spent time, from the last week in January to about mid-February, on that process. They formed the basis of the documents that Bruce just alluded to terms of us providing back to the ministry.

Mrs. Robin Martin: As I understand it, those documents effectively said, "This is what IESO can do to achieve its piece of the plan"?

Mr. Bruce Campbell: I think, again, it wasn't so much in context of the overall plan; it was, "Here's the discussion around the accounting treatments."

Ms. Kim Marshall: Yes, I think it was two separate documents. One was with respect to IESO accounting, per se. The second document would be related to our role in dealing with an OPG Trust.

Mrs. Robin Martin: Sorry, dealing with?

Ms. Kim Marshall: An OPG Trust, a financing entity.

Mrs. Robin Martin: Okay. That's the first time that has been mentioned. When did that come up? Did that come up in the first meetings?

Ms. Kim Marshall: No. My recollection is that it probably came up at about the first half of February.

Mrs. Robin Martin: Okay, so early February. Was there any discussion of the IESO ever being able to do this without the use of an OPG Trust? Was there ever any discussion that IESO—seeing as you were already the settlement agency—could just push the cost down the road and finance it?

Ms. Kim Marshall: No. I would say that my impression is, IESO was viewed as more of an administrator role through that process—a mover of funds.

Mrs. Robin Martin: At some point before the end of February, when you gave these documents to Deputy Minister Imbrogno, did you understand OPG to have a role?

Ms. Kim Marshall: Yes.

Mrs. Robin Martin: What was the role that you understood them to have?

Ms. Kim Marshall: I think the term that I just used—"financing entity"—is the term that was used.

Mrs. Robin Martin: What did you understand they were going to be doing?

Ms. Kim Marshall: Financing and funding the deferral.

Mrs. Robin Martin: And that was the only role that you knew for OPG at the time? They didn't talk about anything else?

Ms. Kim Marshall: Not that I recall.

Mrs. Robin Martin: Okay. Do you recall ever talking to any elected officials or political staff—anybody at IESO—on this issue directly?

Ms. Kim Marshall: From a direct point of view, no. The chief of staff would sit in on implementation meetings—not every one, but occasionally.

Mrs. Robin Martin: Who was the chief of staff?

Ms. Kim Marshall: Andrew Teliszewsky.

Mrs. Robin Martin: You mean the meetings between January 18 and March 1—those meetings?

Ms. Kim Marshall: Yes.

Mrs. Robin Martin: And thereafter, perhaps? I don't know.

Ms. Kim Marshall: Yes, occasionally.

Mrs. Robin Martin: So he was there to understand what the plan was. Was he participating in the discussions?

Ms. Kim Marshall: I would say that the meetings were led by the ministry staff, by Serge's team, and then everyone would ask questions.

Mrs. Robin Martin: Okay. And other than the parties you mentioned at the beginning that were at the January 18 meeting, are there any other parties that were involved other than the chief of staff?

Ms. Kim Marshall: You mean other than ministry and—

Mrs. Robin Martin: Yes. Any other ministry people.

Ms. Kim Marshall: Yes. I would say that Treasury Board would have had a representative there at most meetings, as well as occasionally the Ministry of Finance.

Mrs. Robin Martin: And who was there from Treasury Board?

Ms. Kim Marshall: You know what? I wouldn't know all the names.

Mrs. Robin Martin: Oh, okay.

Ms. Kim Marshall: Karen would be there occasionally

Mrs. Robin Martin: Who?

Ms. Kim Marshall: Karen Hughes.

Mrs. Robin Martin: Okay. And the Ministry of Finance you mentioned?

Ms. Kim Marshall: Again, I wouldn't know all the names.

Mrs. Robin Martin: All right. And other than that, those are the only elected officials or political staff that—

Ms. Kim Marshall: Actually, I don't think there was ever an elected official—

Mrs. Robin Martin: In any of the meetings that you attended?

Ms. Kim Marshall: There were a couple of times that there was a briefing of the minister, and I might attend or I might not.

Mrs. Robin Martin: Okay. But at one point or another, you did attend a meeting with the minister?

Ms. Kim Marshall: I think there was one meeting with the minister that I did attend.

Mrs. Robin Martin: Okay. And was it some time between January 18 and March 1?

Ms. Kim Marshall: I would think yes, but I can't be specific on that.

Mrs. Robin Martin: I think the minister was Glenn Thibeault?

Ms. Kim Marshall: Yes.

Mrs. Robin Martin: Okay. And do you recall what that briefing was about?

Ms. Kim Marshall: The one that I attended was simply an update in terms of where they were. It was a lot more procedural that I wasn't party to in terms of: Who had to see what at what points in time? Sorry; by that, I would mean: What has to go through Treasury Board; what has to go through Cabinet Office—those kinds of things.

Mrs. Robin Martin: So getting the dates right?

Ms. Kim Marshall: Yes.

Mrs. Robin Martin: And—

Mr. Bruce Campbell: If I could.

Mrs. Robin Martin: Oh, sorry. Yes?

Mr. Bruce Campbell: You asked a question: Were there any discussions with political staff? I can recall one conversation with Mr. Teliszewsky that had to do with asset lives. I think it was really around the wind assets in particular and a discussion about what would be involved in making sure that they operated beyond their 20-year contract life. That's the only one that I recall. I took your question as addressed to the panel, not just to Kim.

Mrs. Robin Martin: No, of course. Thank you.

The Chair (Mr. Prabmeet Singh Sarkaria): A minute and a half.

Mrs. Robin Martin: Sorry. Can you just elaborate then on what was involved in that discussion? Give us a little bit about—

Mr. Bruce Campbell: It was really simply what I said: Would the wind assets be able to operate beyond 20 years, and the fact that that would mean regular maintenance and all of the usual things. There didn't seem to be a particular reason that they couldn't, but it would depend on good maintenance and so on throughout their operating lives.

Mrs. Robin Martin: Okay. That doesn't sound like an area that you would have particular expertise, if you'll forgive me, in?

Mr. Bruce Campbell: The other—I think—

Mrs. Robin Martin: Unless I'm mistaken on your background. I don't know. You're not the wind power operator, so—

Mr. Bruce Campbell: No, but we contracted all of that.

Mrs. Robin Martin: So you do know something about the length of their contracts, etc.

Mr. Bruce Campbell: Yes.

Mrs. Robin Martin: They don't have contracts past the 20-year term that they initially signed; right?

Mr. Bruce Campbell: No.

Mrs. Robin Martin: So I guess another factor as to whether or not they could be extended as to whether they would actually have a contract, and then the other part of it is—

Mr. Bruce Campbell: They can participate in the market without a contract. There's nothing that would prevent that.

Mrs. Robin Martin: Okay. We haven't done that for a while, but yes, theoretically. But you wanted to also discuss whether they could be operable beyond a certain point mechanically—

Mr. Bruce Campbell: That was the conversation I had. It wasn't a detailed technical conversation. I've told you about the conversation, and that was that.

Mrs. Robin Martin: What was the—

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you. That concludes the time for questioning. We will shortly resume, right after the vote takes place in the House. Committee is in recess.

The committee recessed from 1544 to 1605.

The Chair (Mr. Prabmeet Singh Sarkaria): The committee is now in session. We'll turn it over to the opposition side for 20 minutes of questioning, starting with Ms. Fife.

Ms. Catherine Fife: Thank you very much, Chair.

Have you had the chance to review the Auditor General's recommendations that have flowed from this process? As we've mentioned, our goal is to try to either prevent something like this from happening again by putting in some measures, if you will, or perhaps sober second thought in some instances. The Auditor General has recommended that—and it's specifically to parts of the OPG and IESO and the use of private sector auditors. Have you had a chance to review her recommendations?

Mr. Peter Gregg: Yes.

Ms. Catherine Fife: You have? Did you want to offer some comments about them, or are you still reflecting on what they will mean for the IESO if this committee decides to put these recommendations into action?

Mr. Peter Gregg: I don't have them in front of me, so it's sort of difficult, but I'm happy if you wanted me to respond to anything specific.

Ms. Catherine Fife: One of the recommendations—and this is specific to amendments to the Auditor General Act, 1990—is to strengthen oversight over private sector auditors in their audits of government organizations and crown-controlled corporations to avoid a situation similar to that with IESO from occurring in the future. The sections below are not uncommon with respect to work of Auditors General in Canada.

One of the first ones is to "require the appointment of external auditors for government organizations and crown-controlled corporations, as selected by the Office of the Auditor General, to be approved by the Office of the Auditor General."

I think that this particular recommendation stems from her frustration as to accessing information from IESO. I wondered if you, as the CEO, had any reflections on this, because she was pretty vocal about not being invited to meetings when board meetings were happening, and that some of the information that she was given—she even described finding out about your board being indemnified in a box of papers, just randomly in that box. I think that she and her office identified accessing information as an issue, and I wondered what your thoughts are with regard to the amendments that she has proposed for this committee.

Mr. Peter Gregg: Sure. I just want to reiterate that I respect that she has concerns, but there are some of the elements where she has concerns that I would respectfully disagree, because I do think we did co-operate fully. But there's always more we can do to reinforce that relationship.

As it relates to the specific recommendation you mentioned—I do have it in front of me here—I don't have a specific response for you at this time. I would offer that, as the current legislation exists—this is the Electricity Act—it's our independent board of directors that has the authority to appoint the Auditor General. That will be something that will need to be discussed. I would need to discuss that with my board to be able to give you an answer on that. We've had some initial discussions, but I don't have a final answer for you.

Ms. Catherine Fife: Okay. I guess I could ask a few more questions about this. She's asking this committee to bring in some tools that she can use as an auditor to ensure that those private sector auditing firms know their place within the law in Ontario.

She goes on to ask that the committee look to expand the obstructions sections to apply to all audits conducted by the Office of the Auditor General. She makes reference to the particular section, but she says that the current Auditor General Act is limited in that it addresses "'Obstruction' only applies to special audits of grant recipients. Therefore, this did not apply in the situation that we experienced with the private sector external audit firm and with the senior management and board of the IESO."

She goes on to say that it would be appropriate and beneficial that the obstruction section of the Auditor General Act apply to all audits conducted by the Office of the Auditor General.

The reason I raise this is that this is a unique opportunity to have you before us and to hear your side of the story. There are other recommendations, but the goal is obviously to put some measures in place whereby these competing interests, in some instances, don't override the interests of the people of this province.

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To follow up on Mr. Vanthof's line of questioning, when he was referencing how the AG was warning IESO that there would be long-term costs down the road, which of course were built into the plan that KPMG was part of crafting: There was this other component where the Financial Accountability Officer also published a report saying that the smoothing exercise or the scheme with the Fair Hydro Plan would result in $40 billion in long-term costs. At any point in time, did those numbers cause your board, you or your chief financial officer to question the direction that this plan was taking—this piece of legislation, because it did come before us, and of course we voted against it, as did the Conservatives.

Mr. Peter Gregg: I'm just trying to make sure I have the right people to answer the question. I wasn't necessarily there at the time, but I've got a—

Ms. Catherine Fife: In addition to the Auditor General, the Financial Accountability Officer also published his report. This report came out in the early spring, prior to or very close to the Auditor General's report. You have these external, independent officers of the Legislature, obviously, warning the government. The government of the day, under Premier Wynne, was not listening or not amenable to listening. But as an agency that had been a part of this process, did you ever question the direction that you were going in when those long-term costs were so huge to the people of this province?

Mr. Peter Gregg: I'll start, and then I'm going to ask Bruce and Kim to jump in because they would have been part of the discussions at that time.

I think it's important for the committee to understand that the changes that came about from the Fair Hydro Plan resulted in changes to legislation, to the Electricity Act. So there are objects in that that changed that required the IESO to implement the Fair Hydro Plan, among others. It goes back to, "Were you directed?" When it comes to that, around the implementation, the legislation as passed did require the IESO to implement its elements of the Fair Hydro Plan. That's what I would say on that piece.

Ms. Catherine Fife: I think that's a really important distinction. The politicians of the day, the government of the day, regardless of who they are, will give direction and create legislation that your agency must be compliant with.

What I'm asking you, as it relates to the recommendations that the Auditor General brought in—she basically said that a whole portion of the Fair Hydro Plan was going to be off the books. So the recommendations that she has asked us for would have an independent auditor come in and validate that all of that debt was going to be put off the books—and is this actually an acceptable accounting practice? If the Auditor General came to IESO and said that this is not an acceptable practice, then you would have to acknowledge that, would you not?

Mr. Peter Gregg: At the time when she was voicing those concerns, we had a difference of opinion. Again, it's important to separate the policy, which is government policy, and the accounting decision. That's where we did have a respectful disagreement with the Auditor General at the time. Things have changed since then. But was rate-regulated accounting an appropriate accounting system to use in the circumstances? We asked our external advisers that question. They asked another external adviser that question. We looked at other IESOs across North America that were using the same treatment. Based on all of that, management at the time and the board agreed that it was an appropriate accounting tool to be used in the circumstances.

Ms. Catherine Fife: As you understand the work of this committee—I'm curious to know what you think of this committee, because to date, one of the only tangible things we have that we can actually recommend on a go-forward position is to bring in these recommendations from the Auditor General. Because thus far, every delegation that has come before us has basically said essentially the same thing, which we partly already knew, which is that this was the government of the day. The Liberals had a political problem, right? They had high hydro rates, and they had an election that was looming. They had identified a 25% reduction—a rate mitigation, as you called it, Ms. Marshall—as the goal, and it seems like they didn't care how they got to that goal.

All of the agencies—OPG is coming tomorrow, or at some point, as well. Everyone who actually had the opportunity to interfere, or to stop this plan from becoming realized—based on best experience, based on even some of the bureaucratic oaths that civil servants do take—none of that was enough to stop this plan from coming to the floor of the Legislature and being voted on by a majority Liberal government.

But the only thing that we have, to date, after many weeks of hearings, are these recommendations from the Auditor General. You've just told me that regardless of some of these measures—of bringing in a certified auditor general that has been approved by the AG; looking at the financials before they are published—even that would not have stopped a political goal of rate mitigation of 25%.

Mr. Peter Gregg: I'm not sure I said that. I'm not sure I know the answer to that—if it would have stopped it or not.

Ms. Catherine Fife: Well, there were Auditor General's and Financial Accountability Officer's reports that you had. Based on that information, you knew that there was going to be a huge, long-term cost to the ratepayers of Ontario.

Mr. Peter Gregg: I think it's important to look at the temporal element of that, though. When that became apparent to us, legislation was already drafted, I believe, and perhaps even before the House at that time. It was pretty clear what the legislative mandate and agenda were for the government at the time, and what our expectations would be in terms of implementation.

Ms. Catherine Fife: Okay. I'm going to pass it over to my colleague Ms. Shaw.

The Chair (Mr. Prabmeet Singh Sarkaria): Ms. Shaw?

Ms. Sandy Shaw: I'm just going to read a statement from the Auditor General's report that we were talking about, from 2017. It states that the IESO sells—we're talking about the rate-regulated asset. I guess we're trying to track down the life cycle of a rate-regulated asset and where it exists, if at all, and if it ever did.

The Auditor General said, "The IESO sells the revenue shortfall from eligible ratepayers to OPG Trust as if it were an asset and pays the generators the full amount owed with no residual impact on its own financial statements," by which she means IESO.

I guess, in the context of that statement, I would ask you, number one, do you think that's a fair statement? Would you say that there were any positive impacts, financial or otherwise, for your participation in this Fair Hydro Plan?

Mr. Peter Gregg: I would go with that. I would say that I think that's a factual statement. You can correct me if I'm wrong, but I think the way you described it, or she described it, was factual.

On one hand, the Fair Hydro Plan reduced bills to ratepayers. Ultimately, that was a 25% reduction on bills that ratepayers were not remitting to their LDC and therefore not remitting to us. So we had a shortfall on that side, and we still had to pay the generators. The fair hydro asset, which we were able to sell to OPG Trust, kept us whole. We were able to balance the market through that mechanism.

I think there was a second question. Did we somehow—

Ms. Sandy Shaw: Yes. I guess my question is—it kept you whole, but that was a whole lot of activity on the part of IESO for something that, it sounds like, at the end of the day, you're saying was a wash. Was there any financial benefit, in any regard, to participating in this?

Mr. Peter Gregg: We're a not-for-profit organization. We don't have financial benefit from these activities.

Ms. Sandy Shaw: So let's do the other side. Were there any negative impacts of this on your books? Fiscally, were there any negative impacts—if you had to do future borrowing or currently, with the credit rating? No negatives impacts at all?

Ms. Kim Marshall: The only negative impact that I would point to—Bruce mentioned this very early on this afternoon—is that we knew this was going to be incremental work for the IESO, for the implementation of this. There was work that we took on in terms of the process.

Mr. Bruce Campbell: Incremental work and much higher borrowings etc. All of that.

Ms. Sandy Shaw: That sounds like there's some negative, because incremental work—the resources are not free in an organization. Some of the costs that we're talking about, with your advisers, accounting and otherwise—so this was a cost, at the end of the day, to your organization. Were you made completely whole through this plan?

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Mr. Peter Gregg: No, the making whole is only as it relates to balancing the market. Correct me if I'm wrong, Kim, but our decision both last year and this year was to hold our revenue requirement flat so it's back against 2015 or 2016 numbers—flat revenue requirements. So we're able to accommodate all of the costs for doing this in our existing revenue requirement without asking for additional funding.

Ms. Sandy Shaw: A compensation number—consideration.

Okay. This rate-regulated asset that doesn't exist that was sold from IESO to OPG, OPG Trust—now the government has said in this year's public accounts that they're going to be cancelling the global adjustment refinancing—that portion of the Fair Hydro Plan. Can you help me understand what this means in terms of your organization and what this would mean to either the taxpayer or the ratepayers, with the cancellation of this part of the Fair Hydro Plan?

Mr. Peter Gregg: We don't have all of the details from that, because I don't think the government has established all of those details yet. But if I could put it in the most simple terms: What happens is the Fair Hydro Plan will continue to exist, but rather than ratepayers paying for it in the future, it's going to be funded by the tax base. My expectation would be, in simple terms, that we would probably get a transfer from the government to make up the difference between what we collect from ratepayers and what we pay to generators, but I'm not sure what the mechanics are.

Ms. Sandy Shaw: I think I read earlier about the comment that the commission said, that "the government will need to determine how best to address the risks described above in a transparent and cost-effective manner as it sets its own electricity policies."

We've just gone through this whole long exercise of seeing one way to do it, which was a convoluted, complex, painful way of doing it. Had you been consulted, or do you have any opinions on a better way to have done this or how, going forward, this could be restructured so that the impacts aren't so substantial on current taxpayers?

Mr. Peter Gregg: I have attended one meeting where we had discussions about what it might look like going forward. All I can say is, from that meeting—and, again, this is really in the area of government policy, to change it from ratepayers to taxpayers. Again, what I was able to glean from that meeting is that it does sound like it's going to be a relatively simple approach.

Ms. Sandy Shaw: As in they'll just bring it back on-book? Is that what you think, that they will bring the costs back on-book?

Mr. Peter Gregg: I think so. I don't want to get into the area of speculating either, but I think so.

Ms. Sandy Shaw: Okay. How much time do I have left?

The Chair (Mr. Prabmeet Singh Sarkaria): Roughly two minutes.

Ms. Sandy Shaw: Two minutes. Okay.

Here's the question: What do you think of our committee here? How do they think of us? I guess, most specifically, I would say, was there anything in this commission of inquiry, the report, or anything in the line of questioning that you've just been through to date that you think we have omitted? Is there anything that we should be underscoring, that you would like to underscore? Are there any questions that you think we should be asking that we haven't today?

Mr. Peter Gregg: I didn't expect that, so thank you. One thing I'd like to underline—and I think it comes back to the last line of questioning, where perhaps we didn't reinforce it enough, so I'd like the opportunity to do that. I think it was pretty clear, from a policy perspective, where the previous government wanted to go. It was pretty clear there was going to be legislation that was going to move that forward. Just trying to reinforce that separation around—there was a policy decision. It was very clear where it was going when the organization was brought in. There was an expectation that the legislation would say, "You must implement this." I just want that to be clear to the committee members that that's, I think, how the organization was approaching this, that a policy decision had been made. I think it was very clear that was made and the expectation was that the legislation would say, "This is what you're going to do," and ultimately, it did say that.

Ms. Sandy Shaw: Do I have time, just for follow-up?

The Chair (Mr. Prabmeet Singh Sarkaria): Thirty seconds.

Ms. Sandy Shaw: Further to what my colleague Ms. Fife was asking: There's nothing in the recommendations of the Auditor General that you would like to support—just so that you or your independent board of directors have more autonomy if this happens to you again?

Mr. Peter Gregg: It's interesting—because you can look at it the other way around too, to say that maybe it would be less autonomy for the board if they're told who their auditor could be. I don't want to speak for my board.

Ms. Sandy Shaw: That's death for a CEO.

Mr. Peter Gregg: Yes. The Auditor General certainly raises some valid points. We've been mindful of the issues she has been raising. We are focused on reinforcing a positive relationship with her, and I would say that the fact that the board this year did look again and has decided to ask the Auditor General to audit our books I think is a very positive step forward for us in recognizing the value that she can provide to our organization.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you.

Ms. Sandy Shaw: Thank you.

The Chair (Mr. Prabmeet Singh Sarkaria): That concludes time for questioning on the opposition.

Now we'll go over to the government, Mr. Baber, for 20 minutes. Thank you.

Mr. Roman Baber: Thank you, Chair. Ms. Marshall, I understand that you have left the IESO?

Ms. Kim Marshall: Yes.

Mr. Roman Baber: When?

Ms. Kim Marshall: End of April.

Mr. Roman Baber: Are you currently employed?

Ms. Kim Marshall: No.

Mr. Roman Baber: Ms. Marshall, I'm going to pass on an article to you which has been tabled as an exhibit at this committee. It's called, "Bad Books: How Ontario's New Hydro Accounting Could Cost Taxpayers Billions," in the Globe and Mail, published April 21, by Matthew McClearn.

Before I go to the article: Ms. Marshall, do you understand the concept of parliamentary privilege?

Ms. Kim Marshall: Say that again.

Mr. Roman Baber: Do you understand the concept of parliamentary privilege? That's the concept discussed by the Chair before your testimony today.

Ms. Kim Marshall: Okay, yes.

Mr. Roman Baber: I'm going to ask you a couple of questions with respect to this article.

Ms. Kim Marshall: Okay. And I'll have a chance to look at it?

Mr. Roman Baber: Sure.

Ms. Kim Marshall: Okay.

Mr. Roman Baber: Ms. Marshall, the article touches upon the meeting that was the subject of some testimony earlier today, namely the mid-January 2017 meeting.

Ms. Kim Marshall: Yes.

Mr. Roman Baber: Leading up to this article, have you had any conversations with the reporter who authored this article for the Globe and Mail?

Ms. Kim Marshall: No.

Mr. Roman Baber: So you have not contributed to this article directly or indirectly?

Ms. Kim Marshall: Oh. Let me clarify. I'm sorry. They—

Mr. Terry Young: To declare: Kim did not speak to the reporter; I did. The reporter had a number of questions which we provided answers to.

Mr. Roman Baber: Namely, that was yourself, Mr. Young, who spoke to the reporter?

Mr. Terry Young: Yes.

Mr. Roman Baber: I'd like to take you to the tabbed portion of the article.

Ms. Kim Marshall: The yellow sticky? Your yellow sticky?

Mr. Roman Baber: Specifically with the paragraph beginning, "The official explanation...." This is in connection with the reverting from the previous refusal to adopt rate-regulated accounting, moving to rate-regulated accounting. I quote, "The official explanation is that in mid-January, 2017, at one of the earliest meetings to discuss the Fair Hydro Plan, Ontario Controller Cindy Veinot ordered Ms. Marshall to 'take a closer look' at how the IESO accounted for its market accounts because she didn't think the IESO's existing policies were appropriate." Do you see that, Mr. Young?

Mr. Terry Young: I do.

Mr. Roman Baber: Were you the one who told the Globe or was there anyone at the IESO who told the Globe that Ms. Veinot in fact ordered Ms. Marshall to look at the practice?

Mr. Terry Young: I don't recall that, but we provided a lot of information to him. This could have been in the information that was provided to him.

Mr. Roman Baber: Were you at the meeting?

Mr. Terry Young: Pardon me?

Mr. Roman Baber: Were you at the meeting?

Mr. Terry Young: No.

Mr. Roman Baber: Yes, Ms. Marshall?

Ms. Kim Marshall: I was at the meeting.

Mr. Roman Baber: So, Ms. Marshall, the article suggests that Cindy ordered you to take a closer look at the RRA practice. Is that a fair characterization?

Ms. Kim Marshall: I would not use the word "ordered." I would use the words "she asked me" to take a look at the accounting policies that we were currently using.

Mr. Roman Baber: But the question is, who would have then used the word "ordered," because it wouldn't make sense for Cindy or anyone on the government side to use the phrase "ordered."

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Mr. Terry Young: I can only go to the article. What is in quotes is, "take a closer look." "Ordered" is not in quotes. I believe that, in some of the materials that we filed to the committee, there are probably some materials related to the correspondence between the Provincial Controller and the IESO with respect to the request to take a look at the accounting standards.

Mr. Roman Baber: Ms. Marshall, I want to confirm: You're using the phrase "asked"; the article is using the phrase "ordered." But nonetheless, this is the same meeting that was at issue earlier during this testimony. Specifically, this is the meeting during which the IESO was asked to look at the Fair Hydro Plan.

Ms. Kim Marshall: Yes.

Mr. Roman Baber: In other words, it was at this meeting that the IESO was told by the Liberal government's controller that you should evaluate your current accounting standards. It originated from the initial discussion on the Fair Hydro Plan.

Ms. Kim Marshall: Yes.

Mr. Roman Baber: Thank you.

I want to move on from that. I want to go back to the indemnities for a second. I think it's Mr. Campbell who would probably be best suited to answer this question. Mr. Campbell, within the context of the engagement of all the officers and directors, are indemnities not routinely provided and enclosed with your employment agreement, or within your capacity as a director and an officer of IESO?

Mr. Bruce Campbell: I think they flow really from the statute.

Mr. Roman Baber: Right. In other words, you already have existing protection because you're within this corporate entity, even though it's a non-profit.

Mr. Bruce Campbell: To a degree, yes.

Mr. Roman Baber: With respect, sir, I don't believe that it's "to a degree." If we were to have outside of that degree, that would probably be through fraud or theft. But otherwise, if it's through the course of your employment, and there is no fraud or theft alleged, then you should have indemnity from the corporation for any liability that may arise in the course of your fulfillment of your duties.

Mr. Bruce Campbell: I'll just go ahead a little bit in time. As I understood it, given the changing nature of the work that was being contemplated here—as I said, the advice we got was to seek these indemnities.

Mr. Roman Baber: I would like you to elaborate on that, please. Given the course and change of work—what do you mean by that specifically?

Mr. Bruce Campbell: Well, the fact that the exposure would be great. This was not in our normal course of business. At the point of time that the indemnities were put together, I don't believe the legislation had been tabled at that point. Whether the addition to the objects of the IESO actually changed the degree of need for the indemnity is something that I can't answer.

Mr. Roman Baber: With respect, I would still say that this is still within the course of your employment. But nonetheless, I heard you earlier today speak to the fact that the amounts contemplated in the scheme—I don't think you used the word "astronomical," but—are arguably so high that this, in your view, necessitated indemnities, correct?

Mr. Bruce Campbell: That was one of many factors, yes.

Mr. Roman Baber: How much, in dollars' worth of electricity, do you settle on a daily basis?

Mr. Peter Gregg: An average of $1.2 billion or $1.3 billion a month, so—

Mr. Roman Baber: That's pretty high.

Mr. Peter Gregg: Yes.

Mr. Roman Baber: But nonetheless—so, you're saying that all of a sudden the IESO really deviated—and the phrase he used is a legal phrase: "not in the ordinary course of business." Would you please explain how the formation, the assumption and the role of the IESO in the Fair Hydro Plan render it deviated from the normal course of business?

Mr. Bruce Campbell: Under the plan, as it was being contemplated at that time, this asset would be created, and a transaction would be taking place of that asset. The OPG Trust would be issuing securities and they would be loaning. All of those things have the potential to—if someone wanted to go after the underlying value of the asset, all of that has the potential to be challenged, and it raises that risk.

Mr. Roman Baber: In fact, you were concerned that this would be challenged.

Mr. Bruce Campbell: I think we saw it as a possibility, yes.

Mr. Roman Baber: You also saw, in fairness—you believed that the structure itself may be in question and may be compromised, as in fact it has been since the opinion of the Auditor General and subsequent to the findings of the Independent Financial Commission of Inquiry.

Mr. Bruce Campbell: If the plan failed for any reason, it would be—I think what we were concerned about was that there was some potential, for those people who might suffer some damages in that case, to look to the IESO as a place to get recompense.

Mr. Roman Baber: So it's a good thing that you've got that indemnity now, right?

Mr. Bruce Campbell: What's that phrase? The proof of the pudding is in the eating. I think that's kind of where we are.

Mr. Roman Baber: Maybe the phrase applicable, if we're talking about bakeries, is you can't have your cake and eat it too. That's the one.

Mr. Bruce Campbell: I've always learned that.

Mr. Roman Baber: Mr. Campbell, this is a very unusual indemnity. I want to point to something else you said to me just now, which is that the object of the plan was not consistent with the object of the IESO. Could you please explain to me what you mean by that?

Mr. Bruce Campbell: I didn't say it wasn't consistent. I said it added objects to us. The objects of the act were added to require us to carry out the various things. By the way, it required us to use the rate-regulated accounting and deal with the assets in the way that they have been dealt with.

Mr. Roman Baber: Sorry, who required you to do that?

Mr. Bruce Campbell: The statute does that.

Mr. Roman Baber: So the Liberal legislation mandated the creation of the rate-regulated accounting?

Mr. Bruce Campbell: Yes, it's authorized, and we're required to carry out the Fair Hydro Plan as it's written.

Mr. Roman Baber: Okay.

Mr. Bruce Campbell: Remember, when the indemnity was being contemplated and done, all of the legislation was not complete at the time that the indemnity was first being sought out.

As I say, I'm no longer a practising lawyer. I was at one point in my career—

Mr. Roman Baber: Congratulations.

Laughter.

Mr. Doug Downey: Neither am I.

Mr. Roman Baber: Neither am I, nor Mr. Downey, nor anyone—

Mr. Bruce Campbell: "I'm no longer a lawyer" would be the simplest.

But that said, I'm not going to express any opinion about the impact the statutory requirements have on the indemnity.

Mr. Roman Baber: Mr. Campbell, can you talk to me about some of the long-term risks that the management team was thinking about when it was asking for the indemnities?

Mr. Bruce Campbell: You can just go back and look at all of the types of risks that I spoke about previously, and then take a look at the length of the plan, which went out to a long way.

Ms. Kim Marshall: Yes, 30 years.

Mr. Bruce Campbell: The kinds of risks that I'm talking about were due to stretch out for a long, long time. That is another factor that certainly came to bear on this.

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The Chair (Mr. Prabmeet Singh Sarkaria): Mr. Downey?

Mr. Doug Downey: I heard you say earlier that the expiry of the contracts for solar and wind was a concern because they were 20-year contracts.

Mr. Bruce Campbell: I was asked, what was the view of whether those assets could last longer than the contract life? I explained that our view of that was that if these things were properly and well maintained, there was that possibility, yes.

Mr. Doug Downey: But if the government ran on a mandate to change direction, that was a significant risk, because the contracts expire at the 20-year mark.

Mr. Bruce Campbell: Well, then, the underlying premise of those assets carrying on—that forecast would be proven to be wrong.

Mrs. Robin Martin: So that's a risk.

Mr. Bruce Campbell: Exactly.

The Chair (Mr. Prabmeet Singh Sarkaria): Mr. Baber.

Mr. Roman Baber: That's the risk in a rate-regulated asset.

Mr. Bruce Campbell: That you will be able to in fact collect it over time—that's correct.

Mr. Roman Baber: Mr. Campbell, I want to talk about the email you referred to earlier on, specifically from Mr. Picard to Ms. Marshall and then subsequently forwarded to Cindy Veinot. Do you have a copy of that email?

Ms. Kim Marshall: Is this the indemnity letter?

Mr. Roman Baber: Correct.

Ms. Kim Marshall: Yes.

Mr. Roman Baber: It's dated February 14, 2018.

Ms. Kim Marshall: Yes.

Mr. Roman Baber: It looks as if the indemnity sought by Mr. Picard is with respect to opinions that have yet to be issued. Is that correct?

Ms. Kim Marshall: "We need to obtain an indemnity letter from both IESO and OPCD before our opinion can be provided to OPCD"—I read that as, he has something that IESO has been given under our contract between IESO and KPMG that they want to go to OPCD.

Mr. Roman Baber: But what I'm saying is, first of all with respect to the date of this email—I'm guessing that he's referring to the opinion KPMG issued with respect to the feasibility of rate-regulated accounting.

Ms. Kim Marshall: Yes, I think you're right, and I think this would be an early draft.

Mr. Roman Baber: Okay, but this is February 14, 2018. That's earlier this year.

Ms. Kim Marshall: Oh, I see. I'm sorry. Thank you for that.

Mr. Roman Baber: That really suggests to me that the Fair Hydro Plan had already been announced, designed, legislated, implemented—because we know that the announcement date was March 2, and the legislation, I think, was April 2017. So in 2018, Mr. Picard is coming to all the stakeholders and saying, "I'll provide you with an opinion on this rate-regulated accounting business, but not unless you provide me an indemnity." Isn't it odd that he's seeking this indemnity, or is looking to provide this opinion, a year after the division and almost a year after the passage of the plan and the creation of the asset?

Ms. Kim Marshall: Thank you for clarifying the date; I appreciate that.

I read this as, there were some documents that OPCD wanted that were IESO documents, and we had gone to KPMG and said, "We're going to provide these," and he said, "Well, I need to get an indemnity before you can do that."

Mr. Roman Baber: But he's not talking about documents, Ms. Marshall. He's talking about "our opinion."

Ms. Kim Marshall: "Our opinion" would be in a document.

The Chair (Mr. Prabmeet Singh Sarkaria): Under two minutes.

Mr. Roman Baber: I understand that. But at the end of the day, you have already told me that he's referring to the opinion on rate-regulated assets, and a year later there's now an effort, there's a scramble, by KPMG to try to get protection, 10 months after the fact. Is there a reason for any of this?

Mr. Peter Gregg: I never interpreted it as such. Actually, in my experience, I think accounting firms—not to cast any aspersions—are fairly risk-averse themselves, so if they're going to be forwarding documents that were created for a client to somebody else, they typically ask for this kind of release and indemnity.

Mr. Roman Baber: Ms. Marshall, when did you leave the IESO?

Ms. Kim Marshall: The end of April.

Mr. Roman Baber: Of which year?

Ms. Kim Marshall: Of 2018.

Mr. Roman Baber: Okay.

Ms. Kim Marshall: I think, to Peter's point, KPMG would say, "If you're going to give any of our work products to anyone other than the IESO, we would want some protection on that." That's how I interpret this.

Mr. Roman Baber: But the opinion was to be issued to OPCD. I mean, at the time we didn't have a new government and we didn't have a select committee. Specifically, you wanted to share, or somebody wanted an opinion—an opinion that hasn't been rendered yet—and it looks like it's happening eight to 10 months subsequent to the fact.

Is it possible that someone looked around, subsequent to the Auditor General saying, "None of this passes muster; none of this works," and then there was a scramble to go back to the accountants and try to correct something or, for lack of a better phrase, kosher something that previously hasn't been permitted or allowed?

The Chair (Mr. Prabmeet Singh Sarkaria): Sorry, I'm going to have to interrupt the question. You're a bit over time.

Mr. Roman Baber: Can we get an answer?

The Chair (Mr. Prabmeet Singh Sarkaria): I don't think so. We can come back and you can re-ask the question.

Mr. Roman Baber: Perhaps our friends would allow the answer to be—

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you.

We'll go to 20 minutes to the opposition for their questions.

Ms. Catherine Fife: Where we were going to go with this email, Ms. Marshall, is that you say, "For discussion later today." We were curious: What was that discussion? Because it should shed some light. It isn't just about documents. We already have testimony from everyone who has come before us that asking for indemnification was outside the norm for a board. What happened when you said, "For discussion later today"? Can you take us through what that discussion was?

Ms. Kim Marshall: Some of this is going to be my supposition, because I don't have the detail around this. Because the opinion letters that were done by KPMG were done in 2017, I'm assuming that this is a conversation around documentation as opposed to creation. I think this was one of these situations where I knew that OPCD would not want to do an indemnity.

Ms. Catherine Fife: So were you instrumental in making that happen, then? The indemnity.

Ms. Kim Marshall: No, I doubt it. I doubt it. Was I instrumental in getting an indemnity?

Ms. Catherine Fife: Well, you were clearly part of the conversation, because you say, "For discussion later today." I was just looking for some clarification as to what that discussion was.

Ms. Kim Marshall: My recollection would be that it would be something along the lines of, "Is this something you really need? Do you want to give the indemnity?"

Ms. Catherine Fife: Then would it have been the provincial controller or Cindy Veinot who was the decision-maker?

Ms. Kim Marshall: That's what I mean. That's why I think this a bigger decision than just a couple of people, so I'm sure this went nowhere.

Ms. Catherine Fife: Well, they got their indemnification. Your board and your directors, they were—

Mr. Peter Gregg: This is separate.

Ms. Kim Marshall: Completely different.

Ms. Catherine Fife: All right. Okay. We've asked a lot of questions this afternoon, and we even got some answers, which is good. We feel satisfied with our question set.

The Chair (Mr. Prabmeet Singh Sarkaria): So I'll turn it back over to the government side for the remainder of the 20 minutes, with Mr. Baber to start.

Mr. Roman Baber: Just to follow up on where we left off, it seems peculiar to me that eight to 10 months after the fact, after the passage of the legislation, an opinion is tendered, and Mr. Picard is saying he's not releasing an opinion unless he gets an indemnity from both the province and IESO. Does that not seem odd to you, Ms. Marshall?

Ms. Kim Marshall: Yes, so I would want to see the further detail around this. You're right.

Mr. Roman Baber: And then subsequently, as Ms. Fife pointed out to you, you forwarded Mr. Picard's inquiry to Ms. Marshall "for discussion later today"—

Ms. Kim Marshall: To Cindy.

Mr. Roman Baber: Sorry, to Ms. Veinot. Do you remember if in fact the opinion, which is at issue in this email, has been provided?

Ms. Kim Marshall: I don't know.

Mr. Roman Baber: Okay. Do you also see the text of the email? Let's now go back to Mr. Picard's email. He says:

"Hi Kim,

"We need to obtain an indemnity letter from both IESO and OPCD before our opinion can be provided to OPCD."

1650

My question is, why would he seek an indemnity from IESO?

Ms. Kim Marshall: Because work that KPMG does for any client would be restricted to the purview and review between that client and the firm—in this case, KPMG. Any time any of their work product would go somewhere else where it might be relied upon, they would want to say, "We don't want that to happen."

Mr. Roman Baber: I understand that. But the point is, irrespective of the reliance by the province, Mr. Picard was looking for an indemnity from the IESO. Why would he want an indemnity from the IESO?

Ms. Kim Marshall: Because this would probably be IESO work product that he had created.

Mr. Roman Baber: What is really happening here? Mr. Picard is rendering an opinion on what you are telling us was this rate-regulated accounting, and he says, "I'm not providing my opinion"—

Ms. Kim Marshall: To the province.

Mr. Roman Baber: —"to the province unless both the province and the IESO guarantee, indemnify KPMG" and, presumably, himself, in the event that all of these risks that Mr. Campbell was talking about earlier materialized. He would not provide such opinion until he's indemnified.

Again, the question is, why is he turning to the IESO for the indemnity?

Ms. Kim Marshall: Because the contract was with the IESO. He's saying, "IESO, if you want to give it to the government, I need some indemnity around that."

Mr. Roman Baber: Which was beyond his ordinary errors and omissions insurance. He's a partner at KPMG. There's an enormous structure there. Nonetheless, he did not feel comfortable issuing the opinion to the province without an indemnity from the IESO.

Mr. Peter Gregg: I don't know. I wouldn't want to speculate on his behalf.

Mr. Roman Baber: Is it fair to say that even the partner at KPMG who was the catalyst, I dare say, for the creation of this entire scheme did not want to stand by his work, did not want to issue the work without an indemnity not just from the third party, but from the client? Typically, it's the other way around.

Mr. Peter Gregg: To answer your question directly, I don't think that is fair to say. I'm not even sure what opinion it's necessarily referring to. If Kim is right, that it was work done under the contract with the IESO, it would not be out of the ordinary for that firm to ask for some protection if that was released. But I don't—

Mr. Roman Baber: With respect, Mr. Gregg, it would be the client that would be availing itself of rights against its adviser. It would be the client that would be seeking remedy in the event that the scheme would have failed. It would have been Mr. Campbell who would have said, "Hey, Mr. Picard. This advice was bad. The structure was risky. It collapsed"—and by the way, it has collapsed. "We want you and your insurer to indemnify us." Instead, it's the client, being the IESO, that provides the assurance, the indemnity, to the adviser. I find that incomprehensible, and I've acted against accountants, and I've acted for accountants. This is unbelievable. It was, in fact, the IESO looking to get that opinion out that prompted Mr. Picard to seek this indemnity.

The last question in my inquiry is, has the IESO provided the indemnity to Mr. Picard that Mr. Picard is looking for here?

Ms. Kim Marshall: I believe we provided an indemnity to KPMG and Mr. Picard early on, in mid-2017. I'd have to check that. That was around KPMG's concerns that the government was going to use certain pieces of their work and make it public when it was work that they intended simply for IESO.

Mr. Roman Baber: But you have not provided the indemnity in response to this email? You have not provided the indemnity sought in this email?

Ms. Kim Marshall: I don't believe so.

Mr. Roman Baber: Thank you.

The Chair (Mr. Prabmeet Singh Sarkaria): Mr. Romano?

Mr. Ross Romano: We've talked a lot about this plan, the policy decision. It was characterized at one point in time as, there was a decision from this January 18, 2017, meeting to do this global adjustment refinancing. The idea behind this policy was that we were going to borrow money to smooth out the costs, reduce costs, but it was supposed to be borne by the rate base, not the tax base. That was the policy directive you were all given at the IESO, correct? Yes?

Ms. Kim Marshall: Yes.

Mr. Ross Romano: Everyone is a yes. Perfect. That was an obvious question. Now I just want to get down to it. There are really two parts to that policy. Part A is, we have to borrow money to come up with that 16% for a 10-year period. Correct? The first part is, you have to borrow.

The money doesn't come out of thin air. We don't all have the money tree in the backyard, as much as we'd love it. We have to borrow that money in order to do this refinancing. Part B to it was that it had to be borne by the rate base, not the tax base. Right?

Mr. Bruce Campbell: Yes.

Mr. Ross Romano: Now, Mr. Campbell, I would suggest the reason why, at that January 18 meeting, your initial reaction was, "Wow, we have a lot of work to do here," was because of that second part. It wasn't the borrowing that made it complex; it was that the cost had to be borne by the rate base, not the tax base. That was the part that made it complicated, right?

Mr. Bruce Campbell: No, what I'm referring is the settlement work that needed to be done. Under any variation on this that you talk about, the IESO had to handle all of the transactions.

Mr. Ross Romano: Okay. That was a lot of transactions.

Mr. Bruce Campbell: That is a lot of work. The settlement system is extraordinarily complex, and that was what I was referring to.

Mr. Ross Romano: Okay, perfect. When you talk to your everyday layperson out there, and maybe even for people who are in the legal or accounting worlds, this was a very highly complex system. Fair? The whole rate-regulated accounting—highly complex.

Mr. Bruce Campbell: Apart from the technical arguments around the rate-regulated accounting, I wouldn't have called it complex on its own, no.

Mr. Ross Romano: The way the funds had to flow was highly complex.

Mr. Bruce Campbell: If you're talking about the Fair Hydro Plan—

Mr. Ross Romano: Yes.

Mr. Bruce Campbell: —there was complexity in the securing of that asset and so on.

Mr. Ross Romano: Okay. I want to talk about this part B, though. I just want to try to lay it out in as simple terms as possible, for the everyday average Joe.

When we say that the money was going to come from the rate base, not the tax base, what that really means—and it was identified in the Auditor General's report, which I trust you've all reviewed. What it meant was that we needed to hide where the cost came from, in the sense that the government of the day—the biggest part of this policy directive was that they did not want it to show up on Ontario's books. That's what it really means, right?

Mr. Bruce Campbell: Well, I'm going to forget about the adjectives, the "hide" and all of that part of it. What I will say is that the policy choice was to maintain those costs on the rate base. As a practical result, it would not then show on the government books. A necessary conclusion from saying it's going to be collected from the rate base is that it won't be collected somewhere else.

Mr. Ross Romano: Okay. So let's go back to a question I asked you much earlier in the day, where I spoke about Serge Imbrogno, Deputy Minister of Energy, stating to this committee that he thought it was a bad idea, this plan, the GA refinancing and the way it was done. You agreed that there were concerns that you held, and the IESO held, with respect to pursuing this course of action.

Mr. Bruce Campbell: With respect to its implementation.

Mr. Ross Romano: With respect to its implementation. I noted that cabinet document where the various deputy ministers had identified four concerns: It cut across legal lines; it cut across accounting lines; it probably wouldn't work; and even it if did, costs would escalate. You even indicated at the very start today that costs were going to go up. For all of those reasons, you all had concerns that this implementation was a bad idea. Correct?

Mr. Bruce Campbell: I was concerned that it had complexities associated with it and it would be something that would certainly have to be carefully implemented by us.

Mr. Ross Romano: Okay, so let's talk—

Mr. Bruce Campbell: —or at least, not by us. Our role in it has to be carefully—

Mr. Ross Romano: Yes. Let's talk about the complexities now.

1700

Before I get to complexities, let me back up for a moment. Mr. Vanthof was hitting on this a lot earlier. The simple way to have implemented this 16% reduction that the government was after was just to borrow the money. Leave it on the tax base, and that was the simplest way to do it, correct? Kim, you're already nodding in the affirmative? Yes?

Ms. Kim Marshall: Yes.

Mr. Ross Romano: That was the simple way.

Mr. Gregg, that was the simple way, correct?

Mr. Peter Gregg: Sure. The Financial Accountability Officer, I think, pointed that out in his report as well.

Mr. Ross Romano: Correct. And to something you raised earlier, it wouldn't have created a whole war with the Auditor General. Now you're really happy that that relationship is remedying. You're smiling and nodding in the affirmative. It would have avoided a war with the Auditor General, correct?

Mr. Peter Gregg: I hesitate to comment too much because I wasn't there at the time the decisions were made. It's always—

Mr. Ross Romano: But you have nodded in the affirmative, because it necessitated an argument with the Auditor General. Would you agree with that statement?

Mr. Peter Gregg: Would I have preferred to not have an argument with the Auditor General? Absolutely.

Mr. Ross Romano: All right. I'll accept that.

Obviously, Mr. Campbell, you would agree that it would have been much easier to borrow through the OFA. It would have been a lot easier to borrow that way than to put it on the rate base?

Mr. Bruce Campbell: If the government had been prepared to simply transfer money to the IESO to the extent of the thing, that would have been much more straightforward.

Mr. Ross Romano: Much more straightforward.

Mr. Young, you as well?

Mr. Terry Young: I wouldn't disagree with anything my colleagues have said.

Mr. Ross Romano: Okay. Perfect. So the government decided to go in a direction that was much more complex from everyone's perspective—certainly from the Auditor General's perspective, the FAO's perspective and everyone here's perspective. The Auditor General identified that the reasoning for that, to make it so needlessly complex, wasn't really that needless at the end of the day. The purpose was that they did not want to show any change in the net deficit or debt of the province. There was no other reason to want to do it that way. Isn't that obvious?

Mr. Bruce Campbell: I'm not going to speak to their motives. What I can say is that the choice that was made was to keep it all on the ratepayer side of the equation.

Mr. Ross Romano: Okay. Let me ask you this question: Can you think of any other reason, cogent or not, why you would want it to go that way other than that you didn't want it to be reflected on the books?

Mr. Bruce Campbell: I don't think I can think of anything else.

Mr. Ross Romano: Okay. I trust, Mr. Young, you can't think of any other cogent reason or not either?

Mr. Terry Young: No.

Mr. Ross Romano: Mr. Gregg, no?

Mr. Peter Gregg: No.

Mr. Ross Romano: And Ms. Marshall, no?

Ms. Kim Marshall: Let's be consistent here.

Mr. Ross Romano: All right. So we've got a series of noes.

The only cogent reason why is what the Auditor General identified. They did not want this debt in any way to be on the government books. They didn't want the deficit or the debt to change in Ontario. Fair point? I mean, really, we've already said in the negative. I'm asking for it in the affirmative.

Mr. Terry Young: I think the challenge here, as Mr. Campbell has said, is that the decisions had been made and we were implementing this.

Mr. Ross Romano: Right.

Mr. Terry Young: So the challenge you're asking us now is to look back at the decision and question the rationale of the decision. What you've heard today is our perspective on this around: A decision had been made; you're involved in the implementation. It's in the objects; it's all of that. That was where we came into it and that's where we've applied our knowledge with respect to running the settlement system.

Mr. Ross Romano: I'm going to switch gears for a moment. Mr. Downey was asking you some questions earlier—it was more specifically to Mr. Gregg—and the question was, built into the mandate was that this whole implementation had to be done at the cheapest possible cost. The question was then put to you that it was not done at the cheapest cost, and there wasn't really a response. I think, Mr. Campbell, you came in at one point and said, "Well, in terms of what we were directed to do and how we were directed to do it, it was the cheapest possible outcome." But at the end of the day, it wasn't the cheapest possible way to achieve a 16% reduction. In fact, the cheapest possible way, again, would have been what we referred to earlier: simply borrowing through the tax base, correct?

Mr. Peter Gregg: Yes. The distinction there, again: It's a policy decision that was not ours, to do it that way. So—

Mr. Ross Romano: No, no, I understand—

Mr. Peter Gregg: My reference to it being, to do things as inexpensively as possible as it relates to our mandate that came through the legislation to implement it.

Mr. Ross Romano: Correct, and I'm not casting any negatives here at all on any of the four of you or anyone at the IESO. You had a policy direction that you were given. There was legislation that required you to do something, and you did what you were required to do. What I'm saying is that, at the end of the day, you're all entitled to your opinions. You've got indemnifications, as we've heard already. It wasn't the cheapest way to do it, correct? You're obviously in agreement.

Mr. Peter Gregg: I guess the obvious answer is that the borrowing cost directly from the government would have been cheaper than the other mechanism.

Mr. Ross Romano: Right, by at least, we know from the FAO, $4 billion cheaper.

Mr. Peter Gregg: That's what is in the FAO's report, yes.

Mr. Ross Romano: And $4 billion, obviously, is a lot of money, and it wouldn't have required all of these indemnifications and all of this needlessly complex process, right? That was certainly uncharacteristic. I think we've heard this before, but just to confirm: Ms. Marshall, you've never seen that before ever in your career?

Ms. Kim Marshall: No.

Mr. Ross Romano: Mr. Gregg?

Mr. Peter Gregg: No.

Mr. Ross Romano: Mr. Campbell?

Mr. Bruce Campbell: No.

Mr. Ross Romano: And Mr. Young?

Mr. Terry Young: No.

Mr. Ross Romano: Again, we've got four noes: never seen anything like this before.

Regardless of what the policy was—and that's the government's decision. Every government—it's up to them to do things and to make policy. That's their job. That's what they're elected to do. But you could still have opinions on whether that policy is right or wrong. Is it fair to say, based on everything I've heard here today, that you thought the policy was a bad policy? Ms. Marshall?

The Chair (Mr. Prabmeet Singh Sarkaria): A minute and 30 seconds.

Ms. Kim Marshall: I'm not sure that—

Mr. Ross Romano: Let's just go with a simple—because we've only got 90 seconds on the clock. Yes or no, balance of probabilities 50%-plus-one: Do you think it was a bad idea, yes or no?

Ms. Kim Marshall: I don't think I can say that; I'm sorry.

Mr. Ross Romano: There's only one of two choices. It's kind of hard to be wrong.

Ms. Kim Marshall: The policy decisions had been made by the time we got in the room.

Mr. Ross Romano: No, I understand that, but do you think it was a bad decision?

Ms. Kim Marshall: I can't say.

Mr. Ross Romano: You won't say or you can't say?

Ms. Kim Marshall: I think I can't say.

The Chair (Mr. Prabmeet Singh Sarkaria): Mr. Romano, I would encourage you to move on.

Mr. Ross Romano: Mr. Gregg?

Mr. Peter Gregg: I was a regular citizen at the time, not employed by the IESO, so my perspective on this is entirely different.

Mr. Ross Romano: Bad decision, fair to say?

Mr. Peter Gregg: At the time, I didn't give it thought—

Mr. Ross Romano: Now you can, going back.

Mr. Peter Gregg: There are always lessons that can be learned. Perhaps things can be done a little better in the future.

Mr. Ross Romano: All right.

Mr. Campbell: Bad decision, right?

Mr. Bruce Campbell: I have really struggled with this question.

Mr. Ross Romano: All right. Simple yes and no, 50%-plus-one.

Mr. Bruce Campbell: I don't I can give you a simple yes or no.

Mr. Ross Romano: Okay.

Mrs. Robin Martin: Tell us what you're struggling with.

Mr. Bruce Campbell: On the one hand, it kind of makes sense to say that if you're going to run an efficient electricity system, you should contain the costs, and customers should pay appropriate rates for their electricity to recover those costs. That's on one side. On the other side, these rate increases were hurting people.

When I look at that—right, wrong, right, wrong—that's a serious competition, in my mind, as to what action you take. You can argue about looking at it on a principled basis, not sort of—getting all the bits and pieces right. I think that's a serious question. It's very hard to answer, and I won't answer it yes or no.

What I will say is that we really need to take some lessons from this going forward about how we make these investment decisions—big, long-term investment decisions, that cause costs for a long period of time.

One of the things the company is involved in right now is to try to look at the way the market design works so that, with the benefit of all of the new technologies that are coming out in this sector, we can do decision-making on a shorter, more focused basis where we won't have this argument about whether a set of costs lasts for 50 years or 40 years because we can do these on a—in the IESO's case, they're working on market reform that would look at three-year horizons and say, "Okay, let's have a competitive process to supply electricity over that time." I think that's really where this—that's the lesson I take away from this—

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you. That concludes our time on this round.

I will push it back to the members of the NDP, if they wish—they do have a 20-minute allotment—and then back for seven.

1710

Ms. Catherine Fife: No further questions.

The Chair (Mr. Prabmeet Singh Sarkaria): No further questions. Back to Mr. Romano.

Mr. Ross Romano: Given that I'm back on again—

The Chair (Mr. Prabmeet Singh Sarkaria): We have six minutes.

Mr. Ross Romano: Six?

The Chair (Mr. Prabmeet Singh Sarkaria): Yes, and that's the final six minutes.

Mr. Ross Romano: Mr. Campbell, before I go to Mr. Young on that same question I ended on, I'm going to suggest that, as a lawyer—and they say you never retire as a lawyer; they say you just lose your appeal.

As a lawyer, knowing what a balance of probabilities is in depth, I'm going to say that that sounded like 51-plus-1 per cent in favour of the no I was after. But I will move on to Mr. Young.

Mr. Terry Young: I don't have an opinion that—

Mr. Ross Romano: Okay, fair enough.

I'll let my friend here continue, because once I get going, I have a hard time stopping.

The Chair (Mr. Prabmeet Singh Sarkaria): Mrs. Martin.

Mrs. Robin Martin: I just wanted to follow up on what Mr. Campbell was saying.

We didn't have an open market for contracts, like you're talking about with market reform, under the Liberal government. Is that right?

Mr. Bruce Campbell: It's work that the IESO is undertaking now to redesign the markets. It has been going on for some period of time.

Mrs. Robin Martin: Right. But what we had, leading up to this mess, if you will, and the Fair Hydro Plan, was government contracting for 20 years at a time with various people.

Mr. Peter Gregg: There's a mix of procurement tools that have been used. But it's fair to say that up until this point, there has been more of a reliance on contracts than on market mechanisms.

Mrs. Robin Martin: At least under the last 15 years of Liberal government, because we don't need to go back to the history before that. There was a different set-up before, and then there were 15 years of relying on government contracts. Isn't that, by and large, correct?

Mr. Peter Gregg: Since, what, 2002?

Mr. Terry Young: Since 2002.

Mr. Peter Gregg: Yes.

Mrs. Robin Martin: So we didn't really have that kind of a market that you're aiming at, and that explains partly how we got into this mess, I think, right? We have government saying, "We're going to buy all of this power," and the market doesn't necessarily need the power that the government has procured.

Mr. Bruce Campbell: What we found, when we had later opportunities to have really competitive bidding—we did sort of test this in a funny way, in that we had competitive bidding for some of the later contracting, and we got very good prices.

Mr. Terry Young: If I may—it does speak to the costs that are locked in, if you will. I go back to Mr. Gregg's opening statement and the market mechanisms that we're pursuing, which will eliminate those 20-year locked-in costs that we found ourselves with.

Mr. Bruce Campbell: And that's what I was referring to.

The Chair (Mr. Prabmeet Singh Sarkaria): Mr. Romano.

Mr. Ross Romano: Ms. Marshall, just a couple of questions I have for you with respect to something Mr. Baber was asking about earlier—I believe it was Mr. Baber. There was this reference to the article—yes, it was Mr. Baber—about you being ordered. Mr. Young, you had commented about this.

You had spoken to this reporter, and there was some question about the word "ordered." Ms. Marshall, when you were asked that question, you hesitated a great deal when Mr. Baber asked if you were ordered. Your answer was, after significant hesitation, "I wouldn't use the word 'ordered.'"

I can appreciate that you're all in a very, very difficult position, and I'm not trying to put you in a more difficult situation. But at the end of the day, on January 18, 2017, you guys heard, for the first time ever—yourself and Mr. Campbell—that this global adjustment refinancing was being proposed, and there was the insinuation, or the specific reference, in the article that you were ordered to pursue this rate-regulated accounting. After hesitating, you said, "I wouldn't say I was ordered, but she asked."

Now, it is pretty obvious, from the way in which you answered that question, that although you may not have wanted to use the word "ordered," at least there was a strong indication from you that it was pretty darned close to being ordered. Isn't that fair?

Ms. Kim Marshall: Yes.

Mr. Ross Romano: Okay, thank you.

The Chair (Mr. Prabmeet Singh Sarkaria): Just under two minutes.

Mr. Ross Romano: When we talk about rate-regulated accounting, it has to be independent, correct?

Ms. Kim Marshall: What do you mean?

Mr. Ross Romano: There's got to be independence within that asset system, correct? Mr. Campbell, I think you're nodding in the affirmative, or perhaps—

Mr. Bruce Campbell: No nodding. I'm just trying to understand your question.

Mr. Ross Romano: Okay. At the end of the day, in order for that to have properly worked in terms of what rate-regulated accounting is, doesn't it require some independence on the part of the Independent Electricity System Operator?

Ms. Kim Marshall: I would say that the IESO has to do what's right for the IESO. We don't want to undertake anything that we do not believe is valid, etc. On the other hand, we are a government agency, and we are an entity that is consolidated, from an accounting perspective, up into the provincial books. So we would take our tone and have ongoing conversations with the individuals who are going to be consolidating our books.

Mr. Ross Romano: And so when those individuals are basically almost—coming just shy of—ordering you to do this, you're going to have to do what they order or ask you to do in a relatively forceful way. That's the course of action the IESO took with respect to this.

Mr. Peter Gregg: I think it's really important, though—if you look at the article, it's "take a ... look" at your accounting, right? That was the quote.

Mr. Ross Romano: Mr. Gregg, forgive me. I'm not talking about the article; I'm talking about the context of that specific—we've already heard. And, Ms. Marshall, clearly, you were the one who was impacted by this. It was as close to being ordered as possible, and as a result of that, you just did what they, essentially, directed you to do—fair?

Ms. Kim Marshall: I would say that we did our own due diligence and relied upon our experts, advisers, to make decisions that we thought were best for the IESO. Did they act to support the government plan? Yes.

Mr. Ross Romano: And so you followed direction.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you. That is going to conclude our time for questioning today.

I want to take an opportunity to thank the panel from the Independent Electricity System Operator for coming, and as well answering the questions.

Before the committee members leave, we do have some committee business that we will have to take care of, but members of the panel are free to leave. We thank you.

If members are agreeable, we can take a five-minute break, or we can get right into committee business.

Ms. Catherine Fife: Let's go right in.

The Chair (Mr. Prabmeet Singh Sarkaria): Right into business? That's completely fine.

Mr. Roman Baber: We do need a break to say goodbye to them—one minute?

The Chair (Mr. Prabmeet Singh Sarkaria): Let's just take five minutes. Can we do five minutes? Is that okay? All right. We will recess for five minutes. The committee will be back at 5:23.

The committee recessed from 1718 to 1723.

COMMITTEE BUSINESS

The Chair (Mr. Prabmeet Singh Sarkaria): The select committee is now back in session. As we were discussing earlier, we do have a couple of items up for business.

The committee received letters from the Auditor General relating to the motion passed by the committee on October 4. She has asked that the letters be considered confidential. If the committee agrees, we will distribute the letters for committee members only, and they are to remain confidential. Agreed? Agreed.

The next item: The committee received a USB storage device containing all documents that Ontario Power Generation originally produced on October 25, 2018, divided into a confidential folder and a non-confidential folder. The non-confidential folder has been transferred to the link and is publicly available. Does the committee agree that the confidential folder not be made publicly available?

Ms. Sandy Shaw: The confidential folder?

The Chair (Mr. Prabmeet Singh Sarkaria): Yes, not be publicly available. Thank you. Agree? Agreed.

Ms. Fife?

Ms. Catherine Fife: This is the information that they've said is commercially sensitive and they just want the committee members to see it, right?

The Chair (Mr. Prabmeet Singh Sarkaria): That is correct.

Ms. Catherine Fife: That's fine.

The Chair (Mr. Prabmeet Singh Sarkaria): Also, we would suggest that the original folder from October 25, 2018, that contained both confidential and non-confidential files be removed to avoid confusion. Does the committee agree? Agreed.

Our next item: The committee received files from the Independent Electricity System Operator that could be made public. They are now publicly available on the link. Does the committee agree that the documents the IESO has requested to remain confidential not be made publicly available? Does the committee agree? Agreed.

Ms. Martin?

Mrs. Robin Martin: Can these decisions be revisited if we review the information and decide that it should be public? I have no idea what's in it.

The Chair (Mr. Prabmeet Singh Sarkaria): Yes, they can, Ms. Martin. Does the committee agree? Agreed. Thank you.

The last item on the agenda: The committee received a USB storage device from the Ontario Energy Board representing a subset of the previously submitted materials for which the board is respectfully reiterating its request that they not be publicly disclosed. Please note that the OEB's review is not complete. There may be additional records for which the board will request non-disclosure. They will advise the committee no later than November 16. Until then, the board respectfully requests that the committee keep all records produced on October 25, 2018, private. The committee can revisit this after November 16 as well. Does the committee agree?

Mr. Ross Romano: I believe that would [*inaudible*] made public. That's what we're agreeing to.

The Chair (Mr. Prabmeet Singh Sarkaria): Exactly. Yes, for now. Committee agrees? Agreed. Thank you.

All right, thank you very much. The Select Committee on Financial Transparency will now be adjourned until tomorrow at 3 p.m. Thank you.

The committee adjourned at 1726.

SELECT COMMITTEE ON FINANCIAL TRANSPARENCY

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