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Comité spécial de la transparence financière

1st Session
42nd Parliament

Tuesday 16 October 2018

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Mardi 16 octobre 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

Tuesday 16 October 2018

Mardi 16 octobre 2018

The committee met at 1501 in room 151.

MR. STEVE ORSINI

MR. SCOTT THOMPSON

MR. SERGE IMBROGNO

MS. KAREN HUGHES

The Chair (Mr. Prabmeet Singh Sarkaria): Good afternoon. The Select Committee on Financial Transparency will now come to order.

I welcome our panel here today. You will have up to 10 minutes between all of you for an introduction. We will then go into 20-minute rounds, starting with the official opposition.

Before we begin, I would like to read a statement on parliamentary privilege and the rights and duties of witnesses.

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.

Reiterating once again for the committee: 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. Thank you.

Now I ask the panel to give a brief 10-minute introduction. Before you start, I would ask that each member please state your name into Hansard as well for us.

Mr. Steve Orsini: Mr. Chair, we're going to do that as part of our opening statement. With your permission, I'd like to start.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you. Yes, please do.

Mr. Steve Orsini: Good afternoon, Mr. Chair and members of the select committee. Thank you for the invitation to appear before you today.

In the interests of time, we will not be making a detailed opening statement, but instead will take a few moments to introduce ourselves, as well as to update you on our records production.

I am Steve Orsini. I have served as the secretary of the cabinet, the clerk of the executive council and the head of the Ontario public service since July 2014.

In my role, I serve three functions:

(1) As secretary of the cabinet, I oversee the operation of the cabinet decision-making process.

(2) As clerk of the executive council, I, among other things, attest to the minutes of cabinet and communicate them to the public service for implementation.

(3) As head of the Ontario public service, I lead the overall operation and organization of the public service.

I will now ask my colleagues to introduce themselves as well.

Mr. Scott Thompson: Good afternoon, everybody. My name is Scott Thompson. I'm the Deputy Minister of Transportation and Deputy Minister of Infrastructure. I served as the Deputy Minister of Finance between October 2014 and June 2018.

Mr. Serge Imbrogno: Good afternoon, I'm Serge Imbrogno. I'm currently the Deputy Minister of the Environment, Conservation and Parks. Prior to that, I was Deputy Minister of Energy from April 2012 until June 2018.

Ms. Karen Hughes: Good afternoon. I'm Karen Hughes, currently the Acting Deputy Minister of the Treasury Board Secretariat. My official position is as the Associate Deputy Minister of the Treasury Board, a position I've held since August 2015.

Mr. Steve Orsini: Thank you, Deputies.

I would like to confirm for the committee that the public service is currently in the process of complying with the committee's request for documents. To help facilitate compliance with the motion, we have undertaken a number of steps.

First, as soon as this select committee was established by the Legislature, I instructed all ministries to suspend regular archiving activities for government records. This was done to ensure all records that may be relevant to your proceedings are preserved and easily accessible. A copy of my memo to deputies was shared with the Clerk of the Committee.

Second, I asked the Deputy Attorney General to establish a legal oversight committee to review and instruct the public service on compliance with the motion.

Third, I asked the Deputy Attorney General to engage experts to work with the legal oversight committee to monitor and oversee all steps in record production. These experts include independent external legal counsel, an external forensic e-discovery firm and our own internal forensic investigation team.

Some parts of the motion, particularly the email searches for the custodians listed in your motion, will be carried out entirely by the external e-discovery firm. We have done this to ensure complete independence of the search and review process.

Other parts of the motion, particularly the production of other records, will be carried out within each ministry using search instructions and guidelines approved by the legal oversight committee with advice from external legal counsel, the external e-discovery firm and our forensic investigation team.

We have requested the e-discovery firm to provide all relevant emails directly to the committee within the time frame outlined in the motion. We will keep the committee apprised on timing related to all other records. Given the volume of records that need to be searched, we want to assure the committee we are doing everything possible to meet the timeline.

Finally, I want to give you my assurances that we are here to support the select committee's proceedings. As you're aware, every member of the public service takes an oath of office to protect the confidentiality of the records and deliberations of cabinet. Many of the matters being discussed by the select committee will touch on that oath of office. Having said that, many of the issues we will discuss today are part of the public record through reports of the Auditor General, the Financial Accountability Officer and the Independent Financial Commission of Inquiry.

You have also requested cabinet and other records relevant to your proceedings. While timing did not permit those records to be provided to the committee prior to our testimony today, they will be provided and made public as part of your process.

As a result, we believe it is appropriate for us to speak openly about many of these issues today, and we may refer to some of the documents we'll be producing as part of our testimony.

With your permission, I have two documents that I would like to share with the committee members. These documents will be part of our records disclosure, but I have brought them today as key documents we will be speaking to in our testimony. We have provided copies of the records to the Clerk so that they can be distributed to the members, and I understand they have been.

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We may make reference to other documents during our appearance today. I want to assure the committee members that any document we refer to will be part of our disclosure package. There may be other matters that were made protected by our oath of office, and we may refer to that from time to time throughout our testimony today.

With that, Mr. Chair, we'd be pleased to answer questions from the committee.

The Chair (Mr. Prabmeet Singh Sarkaria): Just before I turn it over for questioning, I want to remind all members that the questioning should be on the mandate, which is reviewing the report—and not to use unparliamentary language.

Now I will switch it over to the official opposition to start for 20 minutes, with Ms. Fife.

Ms. Catherine Fife: Thank you all for being here today.

We're in somewhat uncharted territory with this select committee. As you know, the committee has been legislated to investigate and report on the accounting practices, the decision-making, the policy objectives of the previous government, or on any other aspect of the report that the committee deems relevant.

I assume that you've had a chance to read the commission's report.

Yesterday, we heard fairly strong testimony from the Auditor General. She presented a written report to us, which outlined her concerns beginning all the way back in 2015, where she says, "We advised the government that we would be looking more closely at pension plan accounting. For instance, the Ontario Teachers' Pension Plan was using a different discount rate than the province when calculating the pension plan's liability." They had followed through on some research on this.

"Further, in the prior government's 2016 budget, the forecast pension expense for the teachers' plan was negative, or a revenue."

She identified a two-and-a-half or three-year pattern where she continually raised concerns to the government, through cabinet and through various agencies, as to their accounting practices.

Overall, she says, the accounting treatment—she called it an accounting design exercise, for lack of a better word—was making the province's consolidated financial statements less and less reliable.

The Auditor General concluded that if the overall expenses from the pension plans had been correctly presented, the government's other expenses and deficits at the time of the pre-election report—which I'm sure you're also aware of—would be more than $8 billion higher than it was in 2018-19.

She also identified another red flag for us as it pertained to the Fair Hydro Plan and the accounting design that was used with the Fair Hydro Plan.

Have you had a chance to digest what the Auditor General presented to this committee yesterday? What are your thoughts on what she presented? Feel free at any point in time to give us a reference point if you had any of the shared concerns of the auditor as these new accounting design treatments were developing with regard to the pension plan and the Fair Hydro Plan.

Mr. Steve Orsini: Thank you for the question. I'm going to start off and then maybe ask Karen Hughes to elaborate.

The Auditor General has always been prepared to work with us. She has been available and professional with us on a regular basis. When she identifies issues, we typically will meet with her to try to work through some of those items.

On the pension expense item, I recall—and I'll ask Karen to elaborate—that it came late in the public accounts for 2015-16, where the issue really came home to roost in terms of the difference in accounting treatment between what the provincial controller's office was reporting for our financial statements and what the Auditor General flagged as something that she was concerned about. That came fairly late in the process.

So one of the things that we wanted to do, in working with the Auditor General, is figure out how we were going to sort this out. Our public accounts were scheduled by roughly mid-September, and this was late August when it really surfaced, at least to my attention—late August or early September.

One of the options we did—we presented a number of options internally, saying, "Okay, we have this difference." It didn't look like it would get resolved very quickly, and so one of the objectives or options that the government proceeded with was to pass a regulation adopting the Auditor General's evaluation, and the public accounts for that year was published using the Auditor General's evaluation. The reason that was done is that there wasn't enough time for us to find a meeting of the minds, if you will.

What happened then is that the financial statements for the province and the fall economic statement were revised to reflect the Auditor General's accounting treatment—and I'll look to Scott to make sure I've got that correct. Then an expert panel was appointed. Now, the expert panel sided with the controller's interpretation. I know the Auditor General has raised that she didn't agree with the expert panel. As a result of that, the government didn't renew that regulation, and the controller for the province of Ontario maintained that, based on her professional judgment, the pension accounting treatment was sound.

So that's the history around that particular item.

I don't know if, Karen, you want to elaborate a bit more? Then we'll speak to the other one.

Ms. Catherine Fife: Just for clarification, you're specifically right now speaking about the pension dispute.

Mr. Steve Orsini: Yes, just the pension at this point. I'm breaking those two items up.

Ms. Catherine Fife: That's good. Let's keep them separate as much as we can.

Ms. Karen Hughes: Just to maybe add a little bit—and I'm not an accountant, so I actually can't speak to the interpretation of PSAS. But every year, the Auditor General would have been looking at pensions as part of her review of the accounts. It became, as the secretary said, evident very late in the process, so in August leading into September, that there was a difference of opinion. As I think the Auditor General said yesterday, there were attempts made to try to work through that, but there's also a deadline for tabling the public accounts, which is at the end of September. That's where, I think, decisions needed to be made because there were concerns about not moving forward with tabling the public accounts.

Our professional staff felt that they would be unable to sign off on the public accounts in accordance with the Auditor General's interpretation of the PSAS standards. They had a different interpretation of the PSAS standards around pension accounting. I can't speak to the exact mechanics of that, not being an accountant—but just to help clarify that that was the sort of situation that arose.

Ms. Catherine Fife: Okay. Can I just stop you there? So at the time, you were with the Treasury Board, right? Yesterday, it was described to us—because we're not accountants either; none of us, to the best of my knowledge, are. The auditor says, "In effect"—so this would have been at exactly the same time—"the government was recording a growing accounts receivable from the pension plan even though the government had not, and did not, plan to receive any money from the plan or reduce its minimum contributions to the plan." Overall, this treatment was making the province's consolidated financial statements less and less reliable.

I'm just asking you straight up: Were you not concerned at this point in time that the auditor had red-flagged this accounting dispute and recording, given the fact that there was so much attention, even in 2015, on the deficit? Did you actually have an opportunity to articulate any of these concerns, or were you even concerned at the time?

Ms. Karen Hughes: The accounting treatment for the pension plan at the time had been treated that way since early in 2000.

Ms. Catherine Fife: But the new regulations or reporting standards had come out.

Ms. Karen Hughes: I actually don't think the standards—and I'm not the expert to answer that. I don't know when the standards actually changed. But my understanding was that there hadn't been a change in standards in that particular year. The Auditor General had signed off on the accounts the year before. So it was a surprise to us—at least to me, again not being an accountant—about the issues that were being raised at that point in time.

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Mr. Steve Orsini: Certainly, when the Auditor General raises a concern, we do spend time to better understand it. That's where our controller met with the Auditor General—and I think there were a number of conversations. There was a view that we couldn't find a meeting of the minds or an agreement on professional judgment, coming to an agreement exactly how it would be recorded in public accounts for 2015-16—that was the year, September, around 2016, for the end of that fiscal year. The view was, we couldn't sort it out within that time frame. There was a genuine attempt to say, "Well, let's see if we can study it."

Our advice, and what the government accepted, was, "Let's pass a regulation accepting the Auditor General, because we don't have time." So we agreed with the Auditor General and introduced a regulation that accepted her valuation. It was time-limited because the view was, "Let's do further work, appoint an expert panel"—because throughout that whole ordeal, our professional auditor was saying, "Wait a minute, I think we still have it right." But in the interest of trying to get public accounts done, and in the interest of respecting the role of the Auditor General, the regulation was passed to accept her valuation.

Ms. Catherine Fife: So this was sort of in play, but you were trying to make sure that the audited accounting could be tabled and that we could close that chapter and then move on and try to rectify the situation in a go-forward position. But that didn't happen. It actually just escalated. So if you move into the next fiscal year, the dispute is still ongoing with regard to dealing with pensions.

At what point did you, as secretary of cabinet, say, "This is not going to be resolved in this manner"? Legislating a solution, as we heard yesterday, was unprecedented—to do so.

How were you navigating through this time period with the Auditor General in moving into the second year of the dispute?

Mr. Steve Orsini: I've said this to the Auditor General: When she explains the issue from a pension accounting perspective—not being an accountant—it makes sense. When our controller explains it from her perspective, it made sense. That's why the expert panel was appointed—because none of us are accountants, none of us are experts in the area. By appointing an expert panel, we were leaving it to the experts to try to sort out this difference of views. In fact, the financial statements for the province of Ontario were adjusted in our fall economic statement to reflect her valuation because we didn't have the expert panel yet.

When the expert panel came out endorsing the interpretation from the provincial controller, it did not resolve the issue. The Auditor General, to her benefit, continued to make the point that it wasn't consistent with her interpretation. But I'm relying on staff's professional advice, and the expert panel and their advice. It was left where we didn't have agreement. This was unfortunate, but we were in a situation where we didn't have agreement between two experts in their fields.

Ms. Catherine Fife: You've just given us some cabinet briefing notes, and none of us have really had the chance to move through it. But I just noticed on the first page that you—is this how the cabinet briefing note was presented to cabinet at the time?

Mr. Steve Orsini: Yes.

Ms. Catherine Fife: Okay.

Mr. Steve Orsini: I can explain the documents in front of you if that's—

Ms. Catherine Fife: That would be good. I haven't been in cabinet yet, so I'm not quite there.

You set a theme for the briefing note and then you rationalize it on a go-forward perspective—is that how it goes?

Mr. Steve Orsini: A bit of an explanation to the documents before you—and I said this is part of your motion for document disclosure. So you would have gotten this in due course, but we're giving it to you today because we think it would help facilitate the discussion, especially based on your questions yesterday.

We have a submission from the Minister of Energy. It's a proposal from the minister that the former Minister of Energy has taken to the cabinet for a decision. It's signed by the minister. It's a proposal from the minister. It's signed by the deputy to attest that due diligence has occurred, but it's the minister's proposal.

The other document is the Cabinet Office briefing note prepared by staff—Cabinet Office—in consultation with all ministry staff. It's a public service document. This document tries to make sure that we give our best advice to government and identify issues that they would need to think about before they make a decision.

So those are the two documents before you today, at this particular point in time. With your indulgence, I can ask Serge Imbrogno to explain—it's very high-level—just the global adjustment refinancing. There's a lot of stuff in here, but I'm going to ask him, with your permission, just to hone in on those key elements of it.

Ms. Catherine Fife: Okay, if you can do it in a succinct way, that would be good.

Mr. Serge Imbrogno: I was going to give you a little bit of history on how we got from being asked to look at price mitigation to where we ended up in this document, because I think it would be instructive just to understand the evolution.

Ms. Catherine Fife: Not everybody has this document, so I just want to be clear: In this, there's a preamble by the Premier of the day, who says, "We have to do something about hydro costs," and so then the ministry—your staff, actually—deals with trying to get the costs of hydro down, and then you're rationalizing the accounting treatment as it relates to the Fair Hydro Plan?

Mr. Steve Orsini: It's not quite like that, but obviously we start off with the government's policy statement and then this analyzes the proposal coming to cabinet. So it analyzes—

Ms. Catherine Fife: And you said that due diligence was done, though, on this.

Mr. Steve Orsini: Yes, this outlines the issues and risks that staff identified before the government made a decision on that measure.

Ms. Catherine Fife: Okay, good.

Mr. Serge Imbrogno: I can—

Ms. Catherine Fife: Please go ahead, Serge.

Mr. Serge Imbrogno: If you don't want the history, I can go right to the—

Ms. Catherine Fife: No, no, go ahead, please.

Mr. Serge Imbrogno: You want the history? Well, I'm going back to September 2016. This is when we introduced, in the previous government, the OREC, which was the Ontario Rebate for Electricity Consumers. This is the 8% HST equivalent on the hydro bill. That was introduced in the throne speech on September 12. That was the mitigation at the time.

In November, the Premier of the day talked about making a mistake about hydro prices, saying that the 8% wasn't enough and that the government wanted to move forward with additional mitigation. So at that time, the Minister of Energy asked staff to work up some mitigation options of how we could drive electricity prices lower. I think it's important to note that at that time it did not include the GA refinancing.

So the ministry was working away on options. At the same time, the Premier was meeting with agencies of the ministry—the IESO, OEB, OPG—and they were also meeting with key stakeholders to get their ideas about how we could mitigate prices even further than the 8%.

There is an internal committee called Major Projects that had senior PO and Cabinet Office and other ministries on that committee—finance, Treasury Board—and the Ministry of Energy went in with a proposal for further mitigation. At the time, there were 10 options. You could select all 10 or none of them. At that time there was no GA refinancing as a mitigation option. It included things like market renewal; financing the Ontario Electricity Support Program through the tax base, not the rate base; amortizing conservation; looking for LDC efficiencies; ending the debt retirement charge early; and cancelling the renewable energy procurements for LRP I. Those were the proposals that the Ministry of Energy staff put forward to the government.

Shortly after that, a proposal came forward from the minister's office to ask specifically that the ministry look at this GA refinancing concept. That was the first time we were asked to look at this notion of shifting costs from today's ratepayers to future ratepayers.

The Chair (Mr. Prabmeet Singh Sarkaria): Sorry; just under a minute and 30 seconds.

Ms. Catherine Fife: Okay.

Mr. Serge Imbrogno: That was part of the mitigation proposals going forward. You'll see in this cabinet submission that a major component of it is this GA refinancing, in addition to some of the other initiatives that the government accepted, like moving some of the costs from the rate base to the tax base, and we can go through those in detail.

1530

But I just think it's important to note that the GA refinancing option wasn't part of our initial rate mitigation proposals.

Ms. Catherine Fife: When did that happen, though? When did that become part of the equation?

Mr. Serge Imbrogno: December 8 was the major projects meeting. Near the end of December was when there was a meeting with the minister's office staff, and they introduced this concept—

Ms. Catherine Fife: The Ministry of Energy?

Mr. Serge Imbrogno: The Minister of Energy.

Ms. Catherine Fife: The minister.

Mr. Serge Imbrogno: His staff presented that—

Ms. Catherine Fife: Came up with the idea.

Mr. Serge Imbrogno: Well, they may have got that idea from all the consultations they were doing with outside groups. I don't know exactly who would have provided that as a viable option—

Ms. Catherine Fife: My time is going to be up. Were you surprised when the minister came back with this proposal?

Mr. Serge Imbrogno: I would say we were a bit shocked, because it was pushing out costs today to future ratepayers, so it was something that we had to get our minds around. There were initially a lot of questions being asked: why, and how.

Normally, we would have—you pay today for the costs of the service and not try and push it out. I think it took us a while to socialize that.

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

Ms. Catherine Fife: Thank you very much.

The Chair (Mr. Prabmeet Singh Sarkaria): Now I turn it over to the government side, and Ms. Park.

Ms. Lindsey Park: This is helpful context, and I'm going to try to get your help. We're all trying to put together a timeline in our heads so we can follow along, so I'm just going to circle back to a few things you said, just to try to nail down some dates here.

Initially, I believe, you said it was the minister who asked staff to come up with options to reduce hydro rates beyond the 8% reduction.

Mr. Serge Imbrogno: Yes, that's the minister and the minister's chief of staff, but it would have come from the minister's office.

Ms. Lindsey Park: Okay. Approximately when did you receive that request?

Mr. Serge Imbrogno: I have in my notes that the former Premier, at the Liberal Party annual general meeting, talked about the mistake that the previous government made. At the AGM, they talked about, in the weeks and months ahead, that we were going to identify additional ways to reduce electricity rates.

So in about that time frame—I don't have the exact date, but after November 19, 2016, would have been when the Ministry of Energy started to work on options for further rate mitigation.

Ms. Lindsey Park: How was that request made to you? Was that by email? How did you deal with the minister's office?

Mr. Serge Imbrogno: Usually we'd have a meeting with the chief of staff. The minister may or may not have been there, but it's usually the chief of staff. We'd meet with ministry staff, and we would have that discussion about coming out with options.

Ms. Lindsey Park: To the best of your recollection, it was the chief of staff who made that request to you, then?

Mr. Serge Imbrogno: Usually that's how we would move policy files forward.

Ms. Lindsey Park: And in this particular instance?

Mr. Serge Imbrogno: I'm not 100% certain, but I would have thought that, like most of the time, that would be the way it would go.

Ms. Lindsey Park: Would you have any notes that can clarify that point for us?

Mr. Serge Imbrogno: I'm sure there are going to be millions of emails coming your way.

Mr. Steve Orsini: If I can add—as part of the document production, we'll be giving everything, every email, that has that response in it to the committee to look through. Maybe that's something—

Mr. Serge Imbrogno: There will be meetings of staff, and then there will be asking other staff to work on things. So I think we can be more precise with all those details.

Ms. Lindsey Park: Let's just walk through it. I'm trying to understand how your office worked, how your deputy minister's office interacted with the minister's office here. What was your practice? How did these meetings come about? Was there a meeting request sent by email? How did these meetings come about with the minister's office?

Mr. Serge Imbrogno: They're right across the hall, so there's a lot of interaction. We don't just communicate by email. We just walk over, or they would walk over to our side. But usually there would be a meeting request, and that would be put into the system and we would schedule those meetings.

I'd have a weekly meeting with the chief of staff just to see what the briefings ahead were for the minister, or what things we needed to prepare. Some were formal; some were informal.

Ms. Lindsey Park: So, your evidence here today is, you don't remember that particular meeting, who requested it and who was at the meeting.

Mr. Serge Imbrogno: This was just for the ministry to begin looking at mitigation options. I think we probably would have, ourselves, understood what the Premier was looking for. I think the ministry itself would always be looking at options for further mitigation, so—

Ms. Lindsey Park: Okay, but for this particular meeting, you can't remember exactly who was at it.

Mr. Serge Imbrogno: It wouldn't have been just one meeting. It would have been an ongoing discussion.

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

Mr. Ross Romano: You were originally asked about whether you had notes, and your response was that we'll get millions of emails. Can you please just confirm: Did you have notes with respect to the specific meeting that you've been asked about?

Mr. Serge Imbrogno: I don't know if I kept notes for that particular meeting.

Mr. Ross Romano: Well, you're referring to notes right now. Again, I just want to know very specifically: Do you have notes with respect to the specific meeting that you're being asked about?

Mr. Serge Imbrogno: I don't know if I have notes to that meeting. I'm not with the ministry anymore. If there are notes, they're probably with the Ministry of Energy.

The notes I have here—I'm trying to do a chronology. These are just my notes about what I remember at a high level.

Mr. Steve Orsini: All the emails are being searched and will be sent to the committee that are responsive. Staff are now pulling together any notes—typed notes, briefing notes—

Mr. Ross Romano: I appreciate that. It was a very pointed question. I just wanted to make sure we got an answer to that.

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

Ms. Lindsey Park: I think we got tied up in some of the specifics of that meeting. Like I said, we're trying to develop a timeline here. It's helpful to know the dates of when things occurred. You're saying it was some time after November 19, 2016. In your mind, did this meeting happen before the Christmas holidays? Can you remember?

Mr. Serge Imbrogno: It definitely happened before Christmas, because then there was the other subsequent direction, which was work on the GA refinancing. After the Premier's statement, some time after November 19, we would have started to put together a number of options related to further rate mitigation. So we had done the 8%, what other options are out there. The ministry would have been thinking of this—not just for this purpose, but we always put forward options for consideration about how we can drive prices lower.

Ms. Lindsey Park: I'm sure you noticed the issue developing in the media and thought it was part of your job to continually work on options for the minister and for the ministry.

Take me through what happens next. Your staff are working on developing options. You mentioned, at some point this goes to the major projects committee, which is a makeup of some of the members of cabinet, is what I understood.

Mr. Serge Imbrogno: It's more Premier's office staff. So it would be more the chief of staff to the Premier, other senior PO staff, senior Cabinet Office staff, senior staff from, I think, the Ministry of Finance, Treasury Board.

Ms. Lindsey Park: Walk me through what happens between that initial request by the minister's office to your ministry staff, to it coming to major projects committee. What happens in between?

Mr. Serge Imbrogno: I think the date of the major projects meeting, based on my chronology, was December 8. So between that November and December 8, the ministry would have put together a slide deck that had some proposed options for further rate mitigation. I think we had 10 options, and I listed some of those. I just made the point that GA refinancing was not part of that. So we would have gone to major projects on December 8 and presented those as, "Here are some options for further consideration."

Ms. Lindsey Park: You mentioned it had 10 options in it—or 10 items which were not necessarily options, but ideas. What internal sign-off process happened before it was able to be presented to that committee?

Mr. Serge Imbrogno: How we usually work would be—the chief of staff would review the products. Either the minister would be briefed with us or the chief of staff would brief the minister. So we wouldn't have a product that left the ministry unless we had either explicit or implicit sign-off from the minister.

Ms. Lindsey Park: Did the minister sign off on that document before it went to the major projects committee?

Mr. Serge Imbrogno: Cabinet documents you actually sign. These other ones are more for discussion information. So the chief of staff would have been on top of this—I wasn't there—whether he actually briefed the minister or not. That's usually the way it would go. The chief of staff would be part of the discussion, would review the product, and then normally the chief of staff would get concurrence from the minister.

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Ms. Lindsey Park: So to the best of your recollection, the chief of staff of the Minister of Energy approved the product that went—

Mr. Serge Imbrogno: Right, and they would have been at the briefing with us, whether it was the chief or his director of policy. Because there was Premier's office staff, you would always have a staff person from the minister's office come to those meetings as well.

Ms. Lindsey Park: And so your evidence is, you can't remember whether the minister directly approved of this or not?

Mr. Serge Imbrogno: Not off the top of my head. Our normal course is that the chief of staff would ensure that the minister is onside, but I can't verify that.

Ms. Lindsey Park: You can't verify it in this instance.

Mr. Serge Imbrogno: No. But I would be surprised if the chief of staff didn't brief the minister on this.

Ms. Lindsey Park: When did this idea of the GA refinancing first surface?

Mr. Serge Imbrogno: I don't have the exact dates, so you'll have to bear with me.

My sense of what was happening at this time as well was that the Premier was talking to a number of the agencies. She would have had the IESO and the OEB and—who else was out there?—the OPG come in and provide their advice on further rate mitigation. You'd had other stakeholders come in. I wasn't privy to those meetings. I'm sure the chief of staff and other senior people were also part of those meetings, and meeting with stakeholders.

After major projects, it was more around late, late December—I don't have the exact date—that the chief of staff had a meeting with my staff. I wasn't at that meeting; I don't think my ADM was at that meeting. It was, I guess, during the holidays. But they had that meeting, and that's where the concept of this GA refinancing, or smoothing, was introduced.

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

Mrs. Robin Martin: I just wanted to pop in with a quick question. You've twice mentioned key stakeholders as other people who would have been consulted with. Did you have any specific key stakeholders you wanted to share with us in that regard? You've mentioned IESO and OPG.

Mr. Serge Imbrogno: Right. The Ontario Energy Association, the OEA, I believe—but I wasn't part of all those briefings, so I'm not sure who they talked to. I just know that they—I think I was in one meeting with the IESO and the OEB, but all the other meetings, I don't know—

Mrs. Robin Martin: Okay, but you remember the OEA was one of them?

Mr. Serge Imbrogno: I think I was talking to the CEO of the OEA, who said they were going in to do a briefing.

Mrs. Robin Martin: Okay. Thank you.

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

Ms. Lindsey Park: You just described this meeting that happened over the Christmas holidays with your staff.

Mr. Serge Imbrogno: Yes.

Ms. Lindsey Park: You said you weren't part of the meeting where this GA refinancing issue was first raised. What did your staff tell you happened at this meeting?

Mr. Serge Imbrogno: I think it was that this concept of debt smoothing was introduced and that we were asked to develop that option.

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

Mr. Ross Romano: I want to go back to when I asked earlier about a meeting and whether you had notes to it. That was the December 8 meeting I was referring to. First and foremost, I just want to confirm that's what you were talking about.

Mr. Serge Imbrogno: Yes.

Mr. Ross Romano: Okay, so let's talk about the December 8 meeting. It was the major projects meeting with the Ministry of Energy, and you were present at that meeting.

Mr. Serge Imbrogno: Yes.

Mr. Ross Romano: That was the first time that it was suggested that this smoothing would occur?

Mr. Serge Imbrogno: No, no. At that meeting, December 8, that was the Ministry of Energy's 10 items—there's a deck—to the major projects committee. I'm just making it clear that at that point, it did not include GA refinancing.

Mr. Ross Romano: So GA refinancing comes up at the next meeting?

Mr. Serge Imbrogno: It comes up in this meeting with the chief of staff, with my staff, in late December—the concept of GA—

Mr. Ross Romano: And you're saying you weren't present at that meeting.

Mr. Serge Imbrogno: I don't remember being there.

Mr. Ross Romano: Okay. But you referenced earlier, to Ms. Fife, that you were a bit shocked by the proposal.

Mr. Serge Imbrogno: Right. When I heard from staff that we were asked to work on this GA refinancing smoothing option, my reaction was it was a bit of a shock that we were being asked to do this.

Mr. Ross Romano: And why were you shocked?

Mr. Serge Imbrogno: Because it would have been a large amount—because to do any rate relief requires a large amount—and it just felt like you were pushing out costs to future ratepayers. It felt like an amortization.

We had just spent 10-plus years paying down the stranded debt, and this felt a bit like we were reintroducing the concept of stranded debt.

Mr. Ross Romano: Right. So we didn't want more stranded debt, and it certainly looked like that's what we were going to have.

Mr. Serge Imbrogno: Or more debt, you know, pushing out costs.

Mr. Ross Romano: Okay. So debt was a concern because of GA refinancing.

Mr. Serge Imbrogno: Yes.

Mr. Ross Romano: Are you an accountant?

Mr. Serge Imbrogno: No.

Mr. Ross Romano: Any accounting background at all?

Mr. Serge Imbrogno: No.

Mr. Ross Romano: But right off the top, you're thinking, "Hey, more debt? Probably a bad idea. This isn't going to work very well."

Mr. Serge Imbrogno: More debt, higher costs going forward. Someone has to pay that, going forward.

Mr. Ross Romano: Okay. So higher costs, more debt—we don't want that. Clearly this isn't going to work very well. You don't need to be an accountant to figure that one out.

Mr. Serge Imbrogno: Well, I think it took us some time just to socialize it and start working on some options.

Mr. Ross Romano: Okay. When you say you had to take some time to socialize it, please explain that. The first reaction is, we're going to borrow money to refinance the global adjustment so we can get the rate relief, and that concerns you. So take me from there. Where do we go next?

Mr. Serge Imbrogno: Well, I think it would be that staff would have started working on some of the modelling, like how could this work if you're going to do it? How could it work? What is the concept? What is the policy rationale? So we would have started that process.

Mr. Ross Romano: We know this is approximately a Christmas holiday meeting; you referred to late December. When is it that you find out about it from your staff? How soon after this meeting?

Mr. Serge Imbrogno: I'd have to go back. I don't want to give you a date. They probably would have sent me an email giving me a summary of the meeting, but I don't recall.

Mr. Ross Romano: Okay. Are you prepared to undertake to us to search that out and give us that information?

Mr. Serge Imbrogno: Absolutely. I think it would be part of the disclosure, but—

Mr. Ross Romano: Yes, and I appreciate it. But like you said: millions of pages. Any assistance you can give us will make it a lot easier.

Mr. Serge Imbrogno: No, that's fine, if there's a particular email that you're looking for.

Mr. Ross Romano: All right. Take me through it. What happens next?

Mr. Serge Imbrogno: I have some cursory dates here. If you're going to hold me to exact dates, I'd have to go back, but in January, we would have started working on some of the GA refinancing options. We would, at the same time, be working on non-GA refinancing options that eventually become part of the package.

Mr. Ross Romano: Okay, if I can stop you for a second: You've told me that you're not an accountant. Your first reaction was, "This doesn't make a lot of sense. We're borrowing money. That's going to create more stranded debt." Who are you consulting with to do this GA refinancing idea?

Mr. Serge Imbrogno: Initially, it would have been within the ministry. We would have started that initial modelling within the ministry. At some point, we would start to introduce other parties to that—other parts of the government, probably the Ontario Financing Authority, the Ministry of Finance and Treasury Board.

Mr. Ross Romano: Okay. Now, the usual course of your business—do you have an accountant in the office?

Mr. Serge Imbrogno: We have a CAO who does some accounting, but—

Mr. Ross Romano: Okay, let's put it this way. From the moment you receive this email or this briefing, whatever it is, after you find out about GA refinancing after this Christmastime meeting, you immediately know—you said that you were a bit shocked. How soon thereafter do you talk to an accountant?

Mr. Serge Imbrogno: I wasn't shocked from an accounting perspective. It was more just from a—my background is more of an economist/financial—

Mr. Ross Romano: Okay, that's good to know.

Mr. Serge Imbrogno: So it was more that part of it. The accounting wasn't the shocking part to me.

Mr. Ross Romano: All right.

Mr. Prabmeet Singh Sarkaria: Ms. Park.

Ms. Lindsey Park: I know if I am presented with a completely different direction from a superior than I received a month earlier, I would have questions, like, where did this idea suddenly come from? Did your staff tell you where this idea was coming from?

Mr. Serge Imbrogno: Other than just to say that it was introduced by the minister's chief of staff, that they wanted us to do the work on this GA refinancing concept.

Ms. Lindsey Park: And when you say the minister's chief of staff, who was the chief of staff at the time?

Mr. Serge Imbrogno: At the time it was Andrew Teliszewsky.

Ms. Lindsey Park: So you weren't given any more information about where this idea came from. Did your staff ask why the change of direction?

Mr. Serge Imbrogno: I wasn't at that meeting. I'm not sure if they probed as to the why.

Ms. Lindsey Park: Did you ask why the change of direction?

Mr. Serge Imbrogno: Well, I think, given what we had presented, it probably wasn't enough. I think they needed something big, and if you want to do something big in electricity, given that the global adjustment is such a large part of the cost, you need to do something on the global adjustment. Either it's more of the HST, where you bring the cost onto the tax base, or some other concept. I guess they came up with this other concept.

Ms. Lindsey Park: Okay. So then you're presented with the idea. You're told to come up with a way, I guess, to carry this out. Is that what you understood came out of that meeting?

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Mr. Serge Imbrogno: Yes. Start working on it; start providing some options. How could it work? Would it be for all industry and residential? Would it just be for residential? Start doing that modelling and—

The Chair (Mr. Prabmeet Singh Sarkaria): Just under a minute and 20 seconds for questions.

Mr. Serge Imbrogno: —saying how much of a rate reduction are you looking at, what are the options and how would that work?

Ms. Lindsey Park: Perfect. In the interest of time—we're going to switch questions over to the opposition—which staff members in your office did you ask to work on this?

Mr. Serge Imbrogno: We had our electricity supply division that would have been—they do all the modelling, so they would have led on that part of it, the GA refinancing. Then there are other parts to the Fair Hydro Plan that were more on the social costs, so we had other divisions working on that.

Ms. Lindsey Park: You were deputy minister. Which ADMs were you relying on?

Mr. Serge Imbrogno: For the whole Fair Hydro Plan, it was all the ADMs. But for the GA refinancing, it would have been my ADM of the energy supply policy division, who is Steen Hume.

Steen would have been the ADM of that division. His people would have done most of that work on the GA refinancing. My other ADMs would have done more of the work on moving the costs from the rate base to the tax base and on the OESP program, enhancing that.

Ms. Lindsey Park: Who were your other ADMs that were working on that aspect of it?

The Chair (Mr. Prabmeet Singh Sarkaria): Sorry, but time is up, so we'll have to hold that for the next round of questioning. I'm just going to push it back over to the opposition. Ms. Fife for 20 minutes.

Ms. Catherine Fife: Thank you. I'm just going to try to wrap up that last part, as it pertains to the cabinet documents. Now that we have this in front of us, it's really interesting for us because it says here on page 3 of this cabinet document that: "In order to avoid the cost of the GA refinancing impacting the province's fiscal plan, the proposed mechanism to partially defer the GA costs must meet legal, accounting and financing requirements."

It says that, "This analysis cannot be completed until the proposed legislation is finalized."

It goes on to say that, "If these requirements cannot be met"—so the legal, accounting and financing—"the cost of the GA refinancing would come into the province's fiscal plan. That would be about $2.5 billion and it would increase in subsequent years."

Then it says: "If the GA refinancing is included in an announcement prior to the confirmation of these requirements, the government would not be able to comment on the impact of the fiscal plan."

The advice in this document says: "Rather, the government could explain its intention to draft legislation to ensure legal accounting and financial requirements are met so as not to have a fiscal impact."

The strategy is embedded right in this document. They understand they have a political problem. They have high hydro costs, the 8% isn't cutting it, and they need to reduce it by 25%, and they understand that. They're willing to risk the financial risk of pushing all of this debt to future ratepayers.

So I guess my question to all of you is: Whose job is it at this point in time to say to the Premier—Premier Kathleen Wynne—or the minister at the time, who would be Minister—

Mrs. Robin Martin: Thibeault.

Ms. Catherine Fife: —Thibeault: "This is a fiscally irresponsible, somewhat irrational strategy which doesn't even conform with standard accounting requirements." Whose job is it at this point to say that to the people who are making very political and fairly partisan decisions?

Mr. Steve Orsini: So if I can speak to that: The Cabinet Office note summarizes all of the feedback that the public service has given on this particular issue. You referenced one quote; there are a number of quotes here where we express serious concerns about the approach being taken because we had no way of determining whether it was even feasible. It required legislation.

This note was shared with every cabinet minister. It was part of their cabinet briefing materials. It's part of the public service giving their best advice on a proposal that the minister brought in to cabinet. It's the government prerogative to set policy and it's our obligation, if we think there are concerns, to identify those concerns and also to say if there are ways to mitigate those concerns.

Ms. Catherine Fife: I understand that you can't force the Premier of the day to recognize how irresponsible this is. I understand that. But is there no legal responsibility or obligation on behalf of you, as the secretary at the time? This is when the Auditor General's report comes in, and she says that her office does not question the policy decision around the Fair Hydro Plan. But she goes on to say, "Our concern was that the planned accounting for the rate reduction in the government's budgets and in the province's consolidated financial statements was not in accordance with Canadian public sector accounting standards."

This goes back to the tension between the Auditor General's office and this government and your respective ministries. She's saying to you that this is not in accordance with public sector accounting. Yet the Premier says, "I'm not going to listen to you as the secretary of cabinet. I'm not going to listen to the respective ministers who have responsibility to present accurate fiscal statements to the legislators in the province." That just falls on deaf ears. Did you articulate these concerns to the Premier, and did you do it in writing?

Mr. Steve Orsini: Yes, this is in writing.

Ms. Catherine Fife: I know, but this is the beginning of it. This is before the Fair Hydro Plan was developed.

Mr. Steve Orsini: No. This was on March 1, and it was announced March 2. That's why—you reference what could be communicated publicly.

There were two policy decisions. One was to provide rate relief for residential households. Then there was another policy decision: to design it to be on the rate base, not the tax base. That secondary policy decision, to say that it's going to be through the global adjustment refinancing: What we were saying is that we can't confirm that it's possible; that there could be accounting issues. There were legal issues. There were financing issues.

In fact, if you go to page 4, we actually show the global adjustment financing in the fiscal impact table. We make a footnote: "Assumes the necessary legal/accounting/financial requirements are not met." At this time, we had no basis on which to say, "You can actually do this."

What we were instructed to do was to implement the cabinet direction and develop legislation, which the Auditor General has referred to, develop a complex structure, which the Auditor General has referred to, and try to mitigate those issues in a way that would allow this to proceed. But the idea of putting it on the rate base and not the tax base was the policy decision that was made at this time.

Ms. Catherine Fife: So you, at the time assisted the Liberal government to pass legislation which created, in a government agency, regulatory assets, and those regulatory assets were represented as rate-regulated accounting to favourably alter the bottom line and net debt by deferring the current costs to the future.

You were asked to help the government of the day create, as the Auditor General called it, this design mechanism, this scheme, and you had no recourse within your own responsibility in the civil service. Do you have any rights, as a bureaucrat, to say to the Premier, "This is irresponsible. It crosses fiscally responsible lines, accounting treatments, accounting practices and even the legality of it"? This is an important piece. You understand that this committee is supposed to change the practice going forward. It's not just supposed to be "who did what and who signed off what note on what date"; this is supposed to be a committee that changes how this province operates, so we need to hear honestly from you what you could say at that time.

Mr. Steve Orsini: This was cabinet direction to draft legislation. This was cabinet direction to design it in such a way. Throughout this note, it identifies all the risks that the government would have to deal with. But the government approves legislation. The government asked the public service to come back with a mechanism—albeit complex—to give effect to their policy direction. We were very confident that we gave our best advice as to the efficacy and the risks related to that policy direction.

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Ms. Catherine Fife: So what you're telling me then is that there is really nothing to stop any future government from creating a Fair Hydro Plan in the future and just continually stretching that debt into the future. There's no recourse.

Mr. Steve Orsini: There are obviously legal and other—the question is, can they be mitigated? That was the question we flagged here. If you read through it, there are numerous repeating concerns about the risks. We said at that time, "There's no guarantee that we can mitigate those." Then the government instructed the public service to make best efforts to design something that they feel would address their policy objective.

Ms. Catherine Fife: Isn't it interesting, Mr. Orsini, that you are called to this committee, the Chair has said that you're not allowed to not answer, you're compelled to answer, and yet you can't say to the Premier of the day—in this case, Kathleen Wynne—that this scheme is actually not in the best interest of the people of this province? Do you not find that to be a professional challenge, if you will?

Mr. Steve Orsini: I can say categorically that we did—I did and others have done—express serious concerns about this approach. I can say that categorically.

Ms. Catherine Fife: Then can you also say that your serious concerns that were articulated to the government of the day were not adhered to, were not listened to?

Mr. Steve Orsini: The government of the day heard and acknowledged my concerns and serious concerns by others as well, and said that, in their view, the objective of providing rate relief superseded the concerns that we had and that I had.

Ms. Catherine Fife: I see. Okay, thank you. I'm going to pass it on to my colleague.

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

Ms. Sandy Shaw: You have been talking about the concerns that you expressed to the government of the day and that they were about the legal accounting and financing concerns and that you were charged with mitigating those concerns. Am I catching that correctly? Okay.

Just indulge me for one second: As part of this note, this schematic was something that you developed in response to the government's request. Is that correct?

Mr. Steve Orsini: Yes, in response to the direction we were given.

Ms. Sandy Shaw: Okay, got it. I'll just dwell on the drawing a little bit longer. In the Auditor General's Fair Hydro Plan report—the concerns about the transparency—she has this document. Without going into the details, how similar is what you proposed and what the Auditor General is suggesting is the actual financial mechanism by which this Fair Hydro Plan was implemented? I get that it's a complicated document, but in general, from what you proposed to what we think we ended up with, how similar is it?

Mr. Serge Imbrogno: I think the Auditor General is trying to do the same type of document or picture that we did here. I think she had two options: One was a simple option and one was a more complicated one. I think the more complicated one tried to reflect what you see here on page 14. I think the essence of it is the same.

Ms. Sandy Shaw: Okay, so I can take it that there is no substantial difference between this mechanism and what was proposed.

Mr. Serge Imbrogno: I think that's correct.

Ms. Sandy Shaw: We're still going back to how this came about, but I'm just going to jump a little bit further, to the point where now it's unveiled that this is the plan that was developed to, as you said, put the costs onto future ratepayers and not onto the tax base. That was essentially the requirement you were trying to meet? Is that correct also?

Mr. Steve Orsini: I would say that the policy objective was to put it on the rate base, which had the effect of keeping it off the tax base.

Ms. Sandy Shaw: Right. Okay. Were any of the concerns that you raised, which were legal, accounting and the ability to finance this proposal, about transparency? We had the Auditor General saying that this was designed—I'm not sure what word she used; I guess we've said all the words—to be opaque; let's say that. The FAO has described it as complex. Even in the commission's report, they described it as "risky, complex and ultimately opaque."

In the design of this, was there any concern that you expressed that this wasn't just about a proposal to implement the intention of the legislation? Were any of your concerns about the fact that this seemed like a—how do I describe it?—mechanism that was designed to mislead or to bury the real truth of what was happening there?

Mr. Steve Orsini: I think there are two references to transparency in this note. This isn't the only note on that issue, but on page 9, the first bullet point says, "Complexity of the structure, length of deferral/recovery, increased risk and decreased transparency." On page 19 it says, "The complexity of the structure and length of deferral increased the overall risk of the proposal and decreased transparency to the public."

The Chair (Mr. Prabmeet Singh Sarkaria): Sorry. I'm just going to interrupt there quickly. When posing the line of questioning, in reference to "designed to mislead," we're kind of going the other route.

Ms. Sandy Shaw: Okay. I was struggling with the right word for it.

The Chair (Mr. Prabmeet Singh Sarkaria): You were kind of going down the road of imputing motive, so just rephrase that, if you would. Thank you.

Ms. Sandy Shaw: Okay. I appreciate that. I was really struggling with it.

Mr. Steve Orsini: At the same time, there's an obligation for the public service: When we identify risk, are there ways to mitigate it? There were a couple of ways that we were proposing. One was on transparency of future rate increases, because if you get relief now, it builds up as debt, but then you have to pay higher rates in the future.

Serge, I think you had, as part of trying to mitigate that risk of lack of transparency—they published the higher rates.

Mr. Serge Imbrogno: In October we released the 2017 long-term energy plan. Slides 27 and 28 provide the outlook of where we project prices going with the Fair Hydro Plan. You'll see a steep initial drop, and then it's held to inflation for 2% for a number of years. Then you start to see the increases kick in at 7% and 8%.

In the long-term energy plan, we did disclose where we thought prices were going after you had that initial reduction in rates. At the time, the government always said that future ratepayers would pay more. That's not full transparency, but it did kind of give you a sense of where prices were going. There would have been disclosure on the IESO and OPG. Most people don't look at IESO and OPG, but the financial markets would have been tracking what OPG was doing; IESO presents its financial statements. That's not the disclosure that the Auditor General felt was appropriate, but there were other places of disclosure.

Karen? There may have been—

Ms. Karen Hughes: I think we would have, had it continued on through this year's public accounts, disclosed it within the IESO, with OPG, as part of public accounts. As Serge said, I appreciate that not everyone reads down into the schedules of public accounts, but we would have had full note disclosure in terms of the transaction.

Mr. Steve Orsini: Where we identify a risk, we would give the government options to mitigate it: more transparency in publishing a long-term energy plan, showing rates going up in actual amounts as opposed to an actual statement, and more details. Whether or not it would satisfy public opinion, that's a question we can't answer, but we would be always looking for ways to mitigate risks that we thought were important in the public interest.

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

Ms. Sandy Shaw: Okay. As we've said before, we're trying to not just look at what happened; we want to improve ways that—I mean, I guess we can all agree that transparency is the right and fair thing to do, and I imagine we can all agree that there's nothing about this that would appear transparent, or that the disclosure, as we've said, is complicated. There's no doubt about it. We've been reading these reports for weeks now, and it's still very difficult. The average ratepayer or the average taxpayer would not say that this was in any way adequate disclosure or transparency.

So my question is, from the recommendations that you made around the risk of transparency to the government of the day, what ones did you recommend that were adopted and what did you recommend that they rejected in the ultimate plan?

Mr. Steve Orsini: In the note here, we flagged that if the government wasn't successful in keeping it on the rate base, we would have to go back to the drawing board or come back with other options, and that in the meantime we would be developing a structure to implement the direction we were given, and we would find ways to mitigate some of the issues we talked about.

I can't recall which ones or which—as you know, the first policy decision was to give relief, the second policy decision was to put some on the tax base—that was the HST relief and the social programs going onto the tax base—and the other policy decision was to keep it on the rate base. Once you have that structure, you're very limited beyond that, other than trying to find ways to mitigate the implications, whether it's transparency or other factors—the legal risks. So you're looking at ways of how you mitigate the legal risks, the financial risks.

The Ontario Financing Authority developed a structure to mitigate some of the financial risks. You couldn't mitigate the size of the debt that was growing; that one you just couldn't. The numbers bounce around a bit, but in the slide deck it had estimates of the growing amount of debt of this proposal.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you. That concludes the time in the 20-minute period, so we'll continue again. I'll lead it over to Mr. Romano.

Mr. Ross Romano: Mr. Imbrogno, I'd like to start with just a few questions for you, just from where we left off a bit earlier. I want to go back to this point where you first learned about the GA refinancing. Again, you're surprised, you're a bit shocked. At that point in time, when you first learn about it, do you raise any concerns of any kind with anyone in particular?

Mr. Serge Imbrogno: I think that would have been part of the discussions with staff. I can't recall off the top of my head when that happened because, if I remember, I wasn't at the meeting. I don't have the exact schedule of when I returned or whether someone would email me or call me and tell me that this was put on the table, so I would have to go back and—

Mr. Ross Romano: Okay. So you're addressing it with your staff people who report to you?

Mr. Serge Imbrogno: Right. At some point, I would have had a meeting with the chief of staff as part of that discussion.

Mr. Ross Romano: And by that, you mean the government chief of staff?

Mr. Serge Imbrogno: Yes, the government chief of staff—the Minister of Energy's chief of staff.

Mr. Ross Romano: Okay, the Minister of Energy's chief of staff. When you raise these concerns to the chief of staff for the Minister of Energy, what are you told? What do you hear from them?

Mr. Serge Imbrogno: This is just going by memory. I think it just would have been an open discussion about raising the risks, raising the costs, raising the doability—just things that you would expect from a new proposal: How would you implement it? And then it would just keep working through. I think the direction was to keep moving forward and develop an option.

Mr. Ross Romano: Okay, so let's just stop. The first time you raised it, do you remember anything specific about raising it and the type of response you received?

Mr. Serge Imbrogno: I don't remember the specific meeting. I just remember that, when I heard about it, I was taken aback by it. Whether that was something I verbalized when I saw it or something I know—

Mr. Ross Romano: No, no. I'm not talking about when you say were a bit shocked. Now I'm talking about the first time you address it with the chief of staff to the Minister of Energy and you say, "I don't think this is a good idea" or "I don't know how this is going to work." What's the response you receive?

Mr. Serge Imbrogno: I think it would have been an exchange of, "I hear what you're saying. Here's what we want to do," that kind of—

Mr. Ross Romano: But in a nutshell, "Continue to move forward. You're going to still do this."

Mr. Serge Imbrogno: Yes, under tight time frames as well. I think—

Mr. Ross Romano: Okay. Did you feel comfortable speaking or did you have any fears at all: "Maybe I shouldn't be opposing the order here"?

Mr. Serge Imbrogno: At that point I was the deputy for a while, but I think once the direction was set, then we would move to implement. I think we'd have that open discussion, have that free exchange of views, and then a decision is made and then we would move forward.

Mr. Ross Romano: It sounds to me like at that point in time you feel like there's a free flow of conversation here and you can express concerns.

Mr. Serge Imbrogno: At a high level.

Mr. Ross Romano: At a high level?

Mr. Serge Imbrogno: Yes.

Mr. Ross Romano: I'm getting the sense from you that it got to a point where you didn't feel that way anymore.

Mr. Serge Imbrogno: I think it was clear. I'm not sure if it was that day or two days later, but at some point it was clear that they wanted us to move on this model and develop the option further.

Mr. Ross Romano: So at some point in time you realized, "Regardless of my opinion and my opposition to this, they are telling me I must proceed."

Mr. Serge Imbrogno: Yes.

Mr. Ross Romano: "They" being the government.

Mr. Serge Imbrogno: Through the chief of staff, yes.

Mr. Ross Romano: Through the chief of staff of the Minister of Energy. Okay. Were you concerned at all? Were you afraid of voicing any more concerns over it?

Mr. Serge Imbrogno: No. I think, as we progressed, the complexity of it also became more apparent. Going back by memory, as you—

Mr. Ross Romano: Right.

Mr. Serge Imbrogno: There are other options that you could do. We would have resurfaced some of the other options that we had put forward, to say, "Maybe we should think about this, or these other options." That's just my memory of these free-flow discussions.

Mr. Ross Romano: Your memory of the nature of the conversations specifically would be hard to remember exactly, but, in terms of how you felt about situations, you would agree with me that that's something you'll remember a lot better; right?

Mr. Serge Imbrogno: Right. But I do remember that at some point it was decided, "We're moving forward with this option, and develop it."

Mr. Ross Romano: So let's talk about that. From that moment that you knew it was decided—number one, I just want to confirm: Are we still talking to the chief of staff to the Minister of Energy?

Mr. Serge Imbrogno: Yes. At that point, but we would be—

Mr. Ross Romano: Let's just pause there for one moment.

Mr. Serge Imbrogno: Sure.

Mr. Ross Romano: Once you realized—you say you reached this point of clarity, so to speak—that this was moving ahead whether you liked it or not, did you fear at all any repercussions if you expressed any further concerns?

Mr. Serge Imbrogno: I think at that point it would be more raising issues of implementation. At some point, you have to move on from saying—

Mr. Ross Romano: Is it fair to say—

Mr. Serge Imbrogno: And it's more, "Here are the risks of doing it," as you develop the model.

Mr. Ross Romano: Based on what you're saying, you didn't agree with the approach; that's fair?

Mr. Serge Imbrogno: Initially, and it wasn't something that we came up with, so it's not something we would support.

Mr. Ross Romano: It's fair to say you never agreed with the approach? It's fair to say you thought this was a bad idea?

Mr. Serge Imbrogno: Sure.

Mr. Ross Romano: Okay. You thought it was a bad idea.

Mr. Serge Imbrogno: Yes.

Mr. Ross Romano: Were you afraid of expressing that after this point where you say, "I knew they were moving ahead regardless of my opinion"? Were you concerned about expressing any further opposition to this plan they wanted to move forward on?

Mr. Serge Imbrogno: I think at a certain point, it was more, "Let's move forward with developing the options." Then I would have stopped raising, "This is a bad idea; this is a bad idea," because at a certain point you've got to move on.

Mr. Ross Romano: But on a personal level, you know you don't like the idea. You've confirmed you think it's a bad idea. You are, at the end of the day, the Deputy Minister of the Ministry of Energy. It is your ministry. You're responsible, from the public service perspective; correct?

Mr. Serge Imbrogno: We are there to support the government of the day. If a minister or a Premier makes a decision, then we move forward with that implementation.

Mr. Ross Romano: Okay.

Mr. Serge Imbrogno: We provide our advice, raise our concerns, but at some point, when the government of the day decides to move forward with an option, then we would move forward with implementation, making sure, along the way, that we note all the risk considerations. I think at that point, that's my role as a deputy minister: to make sure, when the government makes a decision, it's fully informed. That's what we tried to do in these—

Mr. Ross Romano: I appreciate your evidence, Mr. Imbrogno. I'm going to move on to Mr. Orsini.

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Mr. Orsini, if I can ask you: At what point in time did you first learn about the GA refinancing plan? We were referring to Mr. Imbrogno. He learned about it after this Christmas meeting. Were you at that Christmas meeting?

Mr. Steve Orsini: No. I think it was more into January before it surfaced up to—

Mr. Ross Romano: And how did you first learn about it?

Mr. Steve Orsini: I don't know exactly, other than: I would have seen a deck coming in with the option developed. So whatever transpired in terms of getting it on the agenda, as it was moving through the system, I would see it then.

To be honest with you, I don't recall when—

Mr. Ross Romano: You don't remember the specific date. That's fine.

From what I heard you say earlier, you obviously had concerns over this GA refinancing as well.

Mr. Steve Orsini: Yes. We try to capture our concerns in our Cabinet Office note, which makes very clear the concerns that we've had.

Mr. Ross Romano: Okay. And I totally appreciate that, but obviously in the interests of time, you're here—we'll review that document, but we'll work through the day. That will certainly be reviewed.

With respect to your concerns that you had, did you specifically address those concerns with—you are the chief from the public service side. Did you speak to the Premier and voice any concerns to her?

Mr. Steve Orsini: I would raise it in a number of different settings—Major Projects, especially talking about the accumulation of debt and the fact that the costs would be greater because the OPG is financing it than if the government borrows.

Mr. Ross Romano: But I'm saying: Did you address them specifically, your concerns, with the Premier?

Mr. Steve Orsini: Yes, I did.

Mr. Ross Romano: Okay. And when you addressed your concerns with the Premier, from the first instance you addressed those concerns, what was the nature of the response you received from the Premier?

Mr. Steve Orsini: I think there was an acknowledgement, if I recall of those concerns.

Mr. Ross Romano: She acknowledged your concerns, but were you told to still proceed nonetheless?

Mr. Steve Orsini: Yes.

Mr. Ross Romano: So regardless of your concerns, the Premier, Kathleen Wynne, said, "You still will proceed with this project."

Mr. Steve Orsini: Correct.

Mr. Ross Romano: Okay.

Mr. Steve Orsini: And then I added that there's no guarantee it actually could be done; that notwithstanding, there's no guarantee—as it was clearly pointed out in the note, this is something that—it was a policy objective, a policy direction. Staff were tasked to implement it in the best way possible. But at that point, there were no assurances that it could be successfully implemented.

Mr. Ross Romano: From the time that you received the direction from Kathleen Wynne herself telling you that you must proceed with this GA refinancing, notwithstanding your concerns with that, did you ever raise that concern with her again?

Mr. Steve Orsini: It was announced the next week. So I think from my perspective, we raised a number of concerns in addition to the overall concern about the accounting risks, the fact that we hadn't engaged the Auditor General. Those types of concerns were raised in a number of settings.

Mr. Ross Romano: Okay. So you knew that the Auditor General would not approve?

Mr. Steve Orsini: I did not know specifically—

Mr. Ross Romano: But you suspected as much?

Mr. Steve Orsini: For major policy decisions of government, the timing of when it's shared publicly with the Legislature and with the legislative officers, is really in the government's hands. Folks in the controller's office felt that she might not agree, and I think we highlight that on page 21—that the Auditor General, related to, I think, her discussion of the IESO producing their financial statements, was concerned about a rate-regulated asset in the IESO.

Mr. Ross Romano: So it's fair to say that everything that you are hearing, with the exception of from the government itself, is telling you that this is a horrible idea; GA refinancing is a horrible plan. Fair to say?

Mr. Steve Orsini: I think it's fair to say that the design of giving temporary relief, accumulating debt at higher cost, raised a lot of concerns at a time when we couldn't even commit to being able to implement it.

Mr. Ross Romano: Right. So "horrible" is not a word you want to adopt, but you can certainly agree that it was a very bad idea.

Mr. Steve Orsini: I would leave others to describe it as they feel appropriate. I would say that our notes are very, very clear.

Mr. Ross Romano: Mr. Orsini, I don't want to be cute with this, but at the end of the day you certainly didn't agree with the idea. You didn't think it was a good idea, correct?

Mr. Steve Orsini: I had significant, substantial concerns.

Mr. Ross Romano: Okay. You had significant and substantial concerns. Certainly, if you felt okay about it, you wouldn't have said you had significant and substantial concerns.

Mr. Steve Orsini: That's fair.

Mr. Ross Romano: So, clearly you didn't think it was a good idea.

Mr. Steve Orsini: I think I expressed significant and substantial concerns with the approach.

Mr. Ross Romano: Okay. I get the difficulty with words, and I can see the look on your face. I know the position you're in.

"It was not a good idea to proceed in this fashion." Can we not just agree on that?

Mr. Steve Orsini: We can agree that the public service would not have recommended or supported this.

Mr. Ross Romano: The public service would not have recommended it.

Mr. Steve Orsini: In fact, can I just elaborate further?

Mr. Ross Romano: Absolutely, yes.

Mr. Steve Orsini: One of the things that we do in terms of giving our best advice in flagging issues is our Cabinet Office note—but also in Treasury Board. In the process of Treasury Board, there is a category of saying, "Proceed, support or recommend," and another category that says, "Staff is not in a position to support or recommend." I'm going to ask Karen to speak to this.

Mr. Ross Romano: I will proceed and I will come to you in a moment.

I just want to conclude here, though, if I can, Mr. Orsini. We are in clear agreement that you didn't think—I'm using the word "good" idea. I'm going to say it was a bad idea. You've expressed it differently; that's fine. I appreciate that you don't want to say that word.

Did you fear any repercussions once Kathleen Wynne herself told you, "No, we're proceeding notwithstanding the concerns you've addressed, Mr. Orsini"? Did you fear any repercussions from continuing to raise concerns?

Mr. Steve Orsini: No, because we were still raising those concerns.

Mr. Ross Romano: You were still raising them. Okay.

You did maintain that the public sector—you knew they wouldn't support it, meaning you also knew the Auditor General wouldn't support it.

Mr. Steve Orsini: We had an inkling. The controller's office had a sense that she wouldn't support it.

Mr. Ross Romano: Okay, fair enough.

I'm going to move on, perhaps, to Ms. Hughes. You were with the Treasury Board at the time—chief of staff in that department.

Ms. Karen Hughes: No, ADM.

Mr. Ross Romano: Sorry, ADM in that department; I apologize.

I do want to start off with: When you first heard about this, did you have concerns about the GA refinancing?

Ms. Karen Hughes: Yes. You will see in the documents that you're going to receive that this proposal also goes to Treasury Board. It's on the front of the cabinet note. It says that it went to Treasury Board on March 1. You will also get, as part of the documents, a Treasury Board note.

Mr. Ross Romano: Right.

Ms. Karen Hughes: We're Treasury Board staff, and our job is to do due diligence on the proposals that have been brought forward by ministries from a financial, resourcing and Management Board directive kind of perspective. That's the role that Treasury Board plays.

We try to bring together the advice from our various partners, be it Cabinet Office, the financing of—

Mr. Ross Romano: Forgive me, Ms. Hughes; I apologize. But a very simple question just at the starting point here: When you first learned about GA refinancing, did you have concerns with it?

Ms. Karen Hughes: We had concerns. You will see in our note that, in Treasury Board, we get to make a recommendation different from Cabinet Office.

Mr. Ross Romano: Right.

Ms. Karen Hughes: In our note, it will say it was a "board judgment."

Mr. Ross Romano: Okay.

Ms. Karen Hughes: So that means our staff aren't comfortable to recommend approval of going ahead with that particular proposal.

Mr. Ross Romano: So the board was against GA refinancing.

Ms. Karen Hughes: The Treasury Board Secretariat, in our advice to Treasury Board of Cabinet, says, "Given all of the risks, and on the balance of risks and things, we think this is a board judgment," which is our equivalent of saying—we don't say, "Do not approve." Our language is, "This is a board judgment."

Normally, with most items that come forward to the board, if we think there's a good business case and rationale, the Treasury Board staff recommendation would be to approve.

Mr. Ross Romano: Okay, fair enough.

Interjection.

Mr. Ross Romano: If I may just continue with Ms. Hughes first. So you, as an individual, Ms. Hughes, did not agree with GA refinancing.

Ms. Karen Hughes: Our staff do the work, go through it, flag all the risks and identify that. We present that to Treasury Board.

Mr. Ross Romano: So you identified concerns to the Treasury Board—

Ms. Karen Hughes: We had similar risks identified. It's a different format of our note. We flagged that their legal/accounting/financing had a series of risks, and at this point in time we're not comfortable with recommending.

Mr. Ross Romano: So it's fair to say they felt it was not a good idea to proceed with GA refinancing.

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Ms. Karen Hughes: We expressed our concerns about all the issues and risks that were associated with it.

Mr. Ross Romano: Okay. In one moment, I will return—sorry, Mr. Orsini.

Mr. Thompson, when you first learned about the GA refinancing, is it fair to say you had concerns as well?

Mr. Scott Thompson: Yes, I had concerns similar to what has already been voiced here.

Mr. Ross Romano: Did you address those concerns to any ministry staff or to the Premier herself?

Mr. Scott Thompson: No, not to the Premier herself. We would be working with the Ministry of Energy and with Treasury Board to identify any concerns that we had.

Mr. Ross Romano: Would you have addressed any concerns with Minister Glenn Thibeault himself?

Mr. Scott Thompson: No.

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

Mr. Ross Romano: What ministry staff would you have addressed concerns with?

Mr. Scott Thompson: Which ministry staff?

Mr. Ross Romano: Sorry—minister's.

Mr. Scott Thompson: It would be primarily with Minister Sousa, who would be preparing for cabinet. In the discussions that went forward at major project committees and other venues, we would be having discussions there about the proposal. Any concerns that we had would have been expressed there.

Mr. Ross Romano: All right. Similar to Mr. Orsini and Mr. Imbrogno, did you also get to a brick wall, so to speak, where you realized, "It didn't matter what I was saying to Minister Sousa; they were going to move ahead, notwithstanding my concerns"?

Mr. Scott Thompson: I think it became clear, at about the time that this cabinet discussion was taking place, that this was the course that they were proposing to take. As long as our concerns were voiced and we were confident the government had heard our concerns, yes—at that point it became clear that that was the route they were going to go.

Mr. Ross Romano: Regardless of your opposition to it.

Mr. Scott Thompson: Regardless of the concerns that had been expressed here.

Mr. Ross Romano: Is it fair to say you thought it was a bad idea, though, as an individual, in your personal opinion?

Mr. Scott Thompson: I'm going to end up at the same place as Mr. Orsini and Ms. Hughes, in the sense that there were concerns expressed.

Mr. Ross Romano: Okay, fair enough.

You highlighted those risks. Once it was time to move forward regardless, did you fear any repercussions of addressing any further concerns?

Mr. Scott Thompson: No.

Mr. Ross Romano: Perhaps you could just elaborate on specifically what the concerns were that you had.

Mr. Scott Thompson: Sure. The concerns were really along the same lines. When we get into issues around accounting, when we get into issues around debt and issues around legal challenges, my primary area of concern was the provincial budget that was upcoming at this point in time. Decisions that were being made at that time would have implications for the provincial budget that we were drafting—so the same concerns that were really expressed in the cabinet note.

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

We'll go back to Mr. Vanthof: 20 minutes.

Mr. John Vanthof: Thank you, Chair. Thank you all for coming today, and thank you for your service to the people of Ontario.

Just to clarify, you are all still in the employ of the people of Ontario, in various capacities?

Mr. Steve Orsini: That's correct.

Mr. John Vanthof: We've heard a lot about what happened when. I'm just going to try to shorten it down and ask for your confirmation. Basically, the elected people identify a problem. The government identifies a problem. They go to whichever part of the public service to give some suggestions on how to solve this problem, which I believe, Mr. Imbrogno, you did with the Fair Hydro Plan, correct?

Mr. Serge Imbrogno: Just prior to that, before the Fair Hydro Plan, we would have given them these 10 options—

Mr. John Vanthof: Yes, options. You gave the government of the day options.

Mr. Serge Imbrogno: Our best advice, yes.

Mr. John Vanthof: Your best advice. They came back with an option that you hadn't given them and, if I may, you were shocked? You were shocked, and they said, "Okay, so make this work," basically.

Mr. Serge Imbrogno: Yes.

Mr. John Vanthof: You're still employed by the province of Ontario. The goal of this committee is to look forward and to, hopefully, have better government in the future. Is that still the way it works with the current government? If the current government came with a program cancelling cap-and-trade or whatever program, and they came to you, would you, having gone through the Fair Hydro Plan, do things in the same manner?

Mr. Steve Orsini: If I can—

Mr. John Vanthof: Mr. Orsini.

Mr. Steve Orsini: I think the public service has a number of important obligations. One is to give our best advice and flag risks and issues, as I think any government would want us to. Two, I think once we get that direction and it's clear and unequivocal, which this one was, it's to make best efforts to implement it, because I think there's an obligation to make it better. If there's a way we can find to mitigate or solve something once the government is planning it, then there's an obligation for us to do that and not give up on trying to find those ways to mitigate. If transparency were an issue, we would still be coming up with new ideas to say, "Make it more transparent." I think that would be a long-standing tradition of the public service which I think is important to continue.

Mr. John Vanthof: So if another bill were to come from the current government or a future government, it wouldn't be really treated, from the public service perspective, any differently than the Fair Hydro Plan. Nothing has really changed in how a government bill is handled. I'm just looking—it's great to see the blow-by-blow and the day-by-day, but from what I hear, you guys are just doing your job. The politicians of the day make a decision to go forward on something and you're telling them whether you agree, whether you don't. That's your job—right?—to make what you are presented the best possible it can be. But that would be the same with the current government as well.

Mr. Steve Orsini: We respect the democratic process. We respect the policy-making authority of the government of the day. We have a role to play to make sure they do so with their eyes wide open and that we follow the laws. Nothing unlawful under our watch would be pursued. We have to be able to ensure that we've given them our best advice, but they have their elected authority to set policies. So there's that interface between government setting policy and the public service speaking truth to power, but also then implementing government policy.

Mr. John Vanthof: So if—I'm repeating myself, I know, but I need to get this through my head. If the current government proposed something that you might find shocking, in your language, you would do the same thing, right? You would do the best you could to warn them, and then, if they decide to go ahead to implement, to make sure it wasn't illegal. But you would have no choice but to implement.

Mr. Steve Orsini: We would implement, but we would never let our guard down of finding ways to make it better, to mitigate, to find solutions.

Mr. John Vanthof: Agreed. You've been asked several times, did you feel—I forget the word the government used—threatened? Would you feel threatened now to say something to the current government if you felt they were going in the wrong direction?

Mr. Steve Orsini: We would provide our best advice as to what we think are the risks, the issues and the complications that the government would face. I think any government would welcome that advice. Sometimes it persuades people to do things differently. Other times, they're wedded to that solution and it's more about minimizing the impacts or risks as opposed to changing the course of action. I've seen all different types and all different ways.

Mr. John Vanthof: Okay. So in previous testimony—I can't remember which one of you said it, but basically they were for the global adjustment plan. There was a simple option and a more complicated option. The simple option was basically just to put it on the tax base, and that accomplishes getting the rates down—because that was one of the government's problems, getting the rates down. So rates down, put it on the province's books, it increases the debt and deficit directly—but that's the simple option, right?

The more complicated option, which the government chose, gets the rates down, but it's a much harder trail to follow. Why they did that—I'm not going to impugn anything, but it's a much harder trail to follow. It goes on the rates of future—not taxpayers but ratepayers. It's basically the same thing, but it goes on ratepayers, right?

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Mr. Steve Orsini: Yes.

Mr. John Vanthof: I'm assuming the government would have also—I'm surprised that in the cabinet document that there was even a risk that it was possibly unconstitutional, that it was unconstitutional tax because it's a tax on future ratepayers, who have no control over the—and they're not getting any benefit. Is that—

Mr. Steve Orsini: We had legal advice—and I might look to Serge to explain this a bit more. You're providing a benefit to the current ratepayers. The idea—and the cabinet submission lays this out—is that the assets are amortized over too short a period, so the current ratepayers are paying too high a rate than they would be if you amortized it over 30 years instead of 20 years. The question is, what's the balance? Are you giving too much too quickly, or are you making others in the future pay too much? The legal risk is, if you don't get that right, then it could be challenged.

Mr. John Vanthof: Just to get it through my—I'm not an accountant. So basically, if you're buying a car and you can't afford to pay for the car in two years, you pay for the car in seven years, which is kind of too long already. The question is, if you amortize the car over 20 years and somebody else has to pay the last 10 years, that's where you run into the trouble, right? Because you know the car is not going to last 20 years.

Mr. Steve Orsini: Or it may not. The problem is, we're trying to estimate the life of assets. We're flagging it as a risk as opposed to a definitive outcome, because it really depends on the assets and the demand for electricity in the future.

Mr. Serge Imbrogno: Maybe I could just add to that: What you have to be able to demonstrate is that that future ratepayer is going to be able to benefit from those assets. You have to show that the life of those assets is beyond the 20 years. For example, wind and solar: The contract is 20 years, but the asset is actually going to last another five or 10 years. If you can show that, then you can demonstrate that that future consumer is going to benefit from the last five or 10 years of additional life. If you can't, then it's more of a tax, because you're getting relief today, but the future consumer is paying and not receiving any benefit. That's how I understand it, in terms of what the legal risk is.

Mr. John Vanthof: Basically, this part of the global adjustment—the global adjustment smoothing, I believe it's called in the document. I don't need a blow by blow, but what is the long-term asset that the global adjustment—because very few people actually know what global adjustment is about.

Mr. Serge Imbrogno: I think, in simple terms, just the basic financial piece is that you're able to collect from future ratepayers an amount of money. That gives rise to the value of that asset. What happens is, there's a differential between what the ratepayer pays and what the producers get paid. That differential—you can collect that in the future. What the IESO does is sell that to OPG, and then OPG has that asset and they borrow from that asset. It's more that you can collect from future ratepayers the cost of that asset.

Mr. Steve Orsini: Just for clarification: You're looking at the asset that is being extended, the life of it, whether it be wind and solar—

Mr. Serge Imbrogno: I thought you're talking about what gives rise to the—

Mr. John Vanthof: I'm talking more the physical. In my car analogy, there has to be something that you're lengthening. I understand you're creating an ability to pay longer. But what's the asset that we're talking about, whether it's going to last 10, 20 or 30 years?

Mr. Serge Imbrogno: That asset would be the physical asset of the wind and solar projects that were already built. The issue there is that you have a contract that pays for them for 20 years, but the actual asset life could be longer. If it's longer, you can then make the case that you can push out those payments or push out that debt.

Mr. John Vanthof: So the entire global adjustment is wind and solar?

Mr. Serge Imbrogno: Well, it's not just wind and solar, but you have to demonstrate what those assets are that you have that can be extended. A lot of the transmission assets already have a life of 40 years, so you can't say, "We can extend them another 10 years," because they're already fully amortized. So you have to find those assets where there are contracts for X period but where there's life beyond that. That was mainly the FIT contracts with wind and solar.

Mr. John Vanthof: I'm always leery to ask a question that I don't know the answer to at all, but I'm going to ask. One of the assets—you mentioned transmission. Is any part of Hydro One's transmission system part of the global adjustment?

Mr. Serge Imbrogno: No. That would be recovered in different rates. The global adjustment is conservation costs and costs for FIT contracts, like IESO type of contracts.

Mr. John Vanthof: Okay.

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

Ms. Sandy Shaw: Going back to the report that we're reviewing, the government's Independent Financial Commission of Inquiry: Have you all had or were you given an opportunity to provide input into this document?

Mr. Steve Orsini: Yes, we've had a chance to provide input.

Ms. Sandy Shaw: Okay. Maybe it's an unfair question, but do you agree generally with the recommendations? And maybe more specifically: Do any of the recommendations in this report speak specifically to some of the risks that you were identifying previous to this GA?

Mr. Steve Orsini: I'll start and let others speak. The report made some very compelling cases, in terms of building a stronger relationship with the Auditor General, to accept the Auditor General's accounting treatment. On the pensions, it talked about "provisional" to work with the Auditor General, so it wasn't as clear-cut as the global adjustment, except the accounting treatment around that. I don't think we would have any—there might be specific issues, but I don't think, if we were writing a note like this, that we would be flagging big concerns with that, other than the fact that now the deficit is bigger and it's going to be more challenging to bring it down.

Ms. Sandy Shaw: One of the recommendations is around, as you said, the whole treatment of the Fair Hydro Plan and the global adjustment refinancing. It does, as you just said—one of the recommendations is to adopt the Auditor General's proposed accounting treatment. Just below that, it says, "With the presentation and reporting issues resolved," and I want to just focus on that. That's why we're back to the idea that, going forward, the presentation and reporting issues will be more transparent and will be more accessible for the average reader of some of these financial documents.

Do you agree that they have been resolved, and could you say what specifically has changed from this presentation and reporting, going forward?

Ms. Karen Hughes: Through the public accounts, you can look at the 2017-18 public accounts and you'll see that there's a transfer payment in the Ministry of Energy that reflects the costs associated with the global adjustment for the past fiscal year.

Ms. Sandy Shaw: So that's new? It wasn't there before? Is that what you're saying?

Ms. Karen Hughes: It wasn't there before. It was created as a result of the commission recommendation. A decision was taken to put that in in that way, and the Auditor General, I think, as she said yesterday, agreed with that presentation and signed off on the public accounts.

Ms. Sandy Shaw: Okay. Thank you. Then, again in there, it talks about how the government, going forward, "will need to determine how best to address the risks described above"—and probably similar to what you've just described—"in a transparent and cost-effective manner as it sets its own electricity policies." That's one sentence, actually—a long one. In that, we're talking about how the government, going forward, will be setting its own electricity policies.

Have you had any discussions yet with the government regarding—I mean, we've reversed the accounting treatment, I would say, but in terms of setting policies that will continue, I suppose, the notion that current ratepayers will not be hit with a 25%—reverse that benefit that they're receiving. Also, the government has talked about an additional 12% reduction. They talked about that in their election campaign. Have you had any discussions with how, going forward, this government's own electricity policies will be implemented?

1650

Mr. Steve Orsini: The current Deputy Minister of Energy is not here. That's something that's still working its way through the process, as I understand it.

The Chair (Mr. Prabmeet Singh Sarkaria): Sorry; I just want to caution again that our questions should be within the mandate of the report. So just your comment—

Ms. Sandy Shaw: Yes, I'm reading directly from the report. It actually says right in the report that we're going to look at the "cost-effective manner as" the government "sets out its own electricity policies." It's right there in the report.

The Chair (Mr. Prabmeet Singh Sarkaria): I appreciate that.

Just over two minutes—two minutes and 20 seconds—of questioning. Ms. Fife.

Ms. Catherine Fife: We have established that you communicated significant concerns, so I think we can move on from this part.

I did want to, though, touch on what the Auditor General raised yesterday. In her report, she said that she raised a red flag when she saw that the Independent Electricity System Operator, the agency that manages the province's power system, retroactively changed the accounting for an unrelated five-year-old transaction. Her office then determined that that accounting policy change was needed to set the stage for the legislation accounting changes to come.

How involved would you be with regard to IESO making this change? Because she red-flagged it with you guys. What would your involvement be with IESO making this accounting change at that time?

Mr. Steve Orsini: I know that I had no involvement. It might be the controller's office—

Ms. Karen Hughes: I think it would have been discussions between the provincial controller's office with respect to—they had some concerns actually quite independent of the Fair Hydro Plan about the presentation of the IESO's statements going forward. I believe the provincial controller asked the IESO to look at that, and I think she communicated that last year to the Standing Committee on Public Accounts.

Ms. Catherine Fife: So, Mr. Orsini, you didn't know about this until it was red-flagged by the auditor?

Mr. Steve Orsini: I wasn't involved in the IESO restatement of the financial statements, if that's the issue, until it was surfaced. I can't remember if it was the Auditor General who surfaced it, but it most likely would have been.

Ms. Catherine Fife: She goes on to say that they learned from the Ministry of Energy—and this is around the same time that we've been talking about the so-called Fair Hydro Plan—that, with the assistance from the accounting firm KPMG and several law firms, they were leading the accounting objective of deferring the current cost of the rate reduction to future years. There was also input from members of senior management, which is why I asked you the question, and the Office of the Provincial Controller Division, the OPG and the Ontario Financing Authority.

Karen, you mentioned that the provincial controller was the first person to raise concerns with regard to IESO and this accounting measure?

The Chair (Mr. Prabmeet Singh Sarkaria): Sorry, I'm just going to have to interject there. The timing is over, so we'll have to come back to that question again.

We've got 20 minutes to the government, then we've got 10 minutes and then 10 minutes. I'll hand it over to Mr. Downey.

Mr. Doug Downey: I have a series of questions. I just have one date question. I'm going to take you to the cabinet briefing note, if I can. It shows, "Treasury Board, March 1," then "Cabinet, March 1." I assume it came in that order, that you do Treasury Board and then the cabinet? That's normal?

Mr. Steve Orsini: Yes.

Ms. Karen Hughes: That's correct.

Mr. Doug Downey: Then the announcement doesn't have a date because it came after, but I think I heard you say earlier that was March 2.

Mr. Steve Orsini: I think it was shortly thereafter.

Mr. Doug Downey: Shortly thereafter? Okay. But it was pretty immediate thereafter?

Mr. Steve Orsini: That's correct.

Mr. Doug Downey: Okay.

Mr. Serge Imbrogno: Yes, it was March 2.

Mr. Doug Downey: It was March 2?

Mr. Serge Imbrogno: Yes.

Mr. Doug Downey: Thank you, Mr. Imbrogno.

I understood you to say that policy number 1 was, reduce the rates. That was a policy decision made by the Liberal government. Is that correct?

Mr. Steve Orsini: Yes, absolutely.

Mr. Doug Downey: Okay. Policy number 2 was—and maybe it's Mr. Thompson who can answer this, from the direction given—bury the cost so it doesn't hit the budget. Is that a fair characterization?

Mr. Scott Thompson: Yes, as it is characterized in this note: that the government chose a path which would not create a fiscal exposure on the government's fiscal plan.

Mr. Doug Downey: I've reviewed the document. Luckily, I did my homework on the bus on the way to school, so I read fairly quickly. Mr. Orsini, you indicated—I wrote it down so I think I got it right—that there was no basis upon which to say it can be done, this GA. You're nodding your head.

Mr. Steve Orsini: Yes. The note is very clear. It hasn't been fully assessed; we say that a couple of times. There are a lot of unknowns. We flagged areas of risk. We had no basis on which to say that this was feasible.

Mr. Doug Downey: On March—

Mr. Steve Orsini: On March 1, absolutely no basis to say that this was doable.

Mr. Doug Downey: And at some point between the March 1 cabinet meeting, after the Treasury Board meeting, and March 2, the Liberal government effectively said, "Damn the torpedoes, we're doing it anyway"?

Mr. Steve Orsini: The government made their announcement, yes.

Mr. Doug Downey: Now, your job—and I agree with the role that you've described, to identify risk and give the best advice possible to mitigate it. You did that. There's a very good document, very detailed. You even threw the weight of former Supreme Court justice Ian Binnie and his legal concerns in here to try and persuade them to listen to reason about the risks.

Mr. Steve Orsini: Yes. We sought Justice Binnie's advice because of the serious nature of the concerns we had.

Mr. Doug Downey: Did you get legal and accounting advice to pass the risk over so that they would take it seriously? Were you feeling they weren't taking you seriously? Why get that outside advice? Why beyond the weight of your group?

Mr. Steve Orsini: I think because it was so complex, you needed someone of his stature and experience to give advice that we could really depend on. But I don't know if, Serge, you commissioned that work or—

Mr. Serge Imbrogno: I think part of it was, once the government decided they wanted to move forward, we wanted to make sure we provided them with the best advice, and that included on implementation as well. KPMG came with IESO as part of our meetings to move forward with the policy and help us craft how the structure would work and what the risks were, and how to mitigate those risks, if possible.

Mr. Doug Downey: I guess it's a difficult question to answer, but it seems to be an extraordinary circumstance to pull in this level of advice.

Mr. Serge Imbrogno: It was an extraordinary program that cut across legal, accounting and financial, so we had to bring in the IESO because they would be impacted; OPG would be impacted. We had to bring in outside legal counsel when structuring a financial arrangement. We had to bring in Treasury Board, finance, energy, Cabinet Office. It was almost a whole-of-government initiative.

Mr. Doug Downey: In the document itself, on page 22, former Supreme Court justice Ian Binnie rates this as a moderately high risk of being a tax. That's a nine out of 10, I think. How do you interpret "moderately high"?

Mr. Steve Orsini: I don't know the ratio for around what that refers to, other than it's a serious risk to be paid attention to.

Mr. Doug Downey: Okay.

Mr. Serge Imbrogno: May I just expand on that a bit?

Mr. Doug Downey: Please.

Mr. Serge Imbrogno: This was identified in the March submission as moderately high. We would have worked to try to bring that risk down as part of that discussion we were having about "Can you demonstrate that the assets have a longer life?" At the time of the submission, we were speculating it was possible that a wind turbine could last more than 20 years. After this, we would have done more analysis to try to demonstrate more authoritatively that, yes, you could show that there is some additional life, to try to bring down that legal risk.

Mr. Steve Orsini: But at the time of the decision, that was the state of our knowledge.

Mr. Serge Imbrogno: That's right. We didn't have the analysis at the time to say, "It's possible." We just thought, going forward, we'll try to mitigate that risk.

Mr. Doug Downey: But they announced it the next day anyway.

Mr. Serge Imbrogno: That's correct.

Mr. Doug Downey: On the same page, page 22, it states, "This financing structure would be unique to Canada." That strikes me as more than an accounting dispute, which is how it was cast in the public by the governing Liberals.

Mr. Serge Imbrogno: We had the benefit of Jeff Lyash, who was the CEO of OPG, who worked in the United States. He gave us some examples and he gave cabinet some examples of how the securitization worked in the US, but it was a much smaller scale and a different type of securitization. But this would be the first of the kind in Canada of this size, as well. So there were a lot of factors that made it quite unique, and unique to Canada.

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Mr. Doug Downey: I'm not going to drag us down into too much accounting, but a rate-regulated asset requires the ability to set the rates, which is not the case in Canada.

Mr. Serge Imbrogno: It requires you to be able to recover the cost in rates, and that would have been done through the financial arrangements in the legislation. There would have been a clean energy adjustment that would have been imposed on ratepayers in the future to help pay for the cost of that debt deferral.

Mr. Doug Downey: So because the IESO doesn't set the rates, it's a bit of financial gymnastics.

Mr. Serge Imbrogno: It would have been through the legislation that you create the ability to recover the cost in the future rates.

Mr. Doug Downey: Okay. You had mentioned earlier the 10 options that you put to decision-makers. And it kept coming back. It's in this document—even the day before it was announced—saying, "There are other options here."

Mr. Serge Imbrogno: Yes, and some of them were accepted. We talked about shifting some costs from the rate base to the tax base, so some of that is part of the broader definition of the Fair Hydro Plan. But the main part of the Fair Hydro Plan would be that GA refinancing that was outside of what we had recommended.

Mr. Doug Downey: And the best advice you were working from was done on a much smaller scale. You talked about securitization and it being a smaller transaction. This was a big deal. You put numbers to it here. It was $4 billion, as a risk.

Mr. Serge Imbrogno: Yes, the $4 billion is just the additional interest cost, but the amount of debt would be in the $20-billion range, and we couldn't find anything that was equivalent in the US.

Mr. Steve Orsini: If I can just add, if you go to the slide deck itself on page 12, they show the accumulation of debt. The up to $4 billion, as the Financial Accountability Officer estimated, is the difference between the OPG borrowing, with a higher interest spread than if the government borrowed.

Mr. Doug Downey: Right. So that's an immediate $4 billion that could have been avoided.

Mr. Steve Orsini: Up to $4 billion of differential because of the mechanism chosen.

Mr. Doug Downey: Unfortunately, my school bus drive wasn't that long. I haven't gone through the slide deck yet.

There are other unquantifiable costs. If I take you to page 19, at the very bottom, it says, "Depending on the magnitude of the debt incurred, the province's borrowing costs may be impacted." Are we talking more than just in this scheme?

Mr. Serge Imbrogno: Maybe Scott can answer it, but I took it that it was more the province's borrowing. As you're bringing on all this additional debt, it could impact how the credit rating agencies view you.

Sorry, Scott, maybe that's—

Mr. Scott Thompson: That's exactly right. If there is an impact that is acknowledged by the credit rating agencies and they make a move on our rating, then that could affect our borrowing costs overall, not just for this but for everything.

Mr. Doug Downey: And a half point cost to us on a $300-billion debt is significant.

Mr. Scott Thompson: Yes.

Mr. Doug Downey: I haven't been through the slide deck, so I don't know if that was articulated.

Mr. Steve Orsini: I think it's the size of the borrowing that's articulated in the slide deck and how the rating agencies would look at it in terms of, "There's borrowing there." The other element we should flag is that the province had to guarantee it under certain circumstances. So the rating agency might say, "Well, you're guaranteeing it. If there's a risk, you're going to have to own it." It would look at our borrowing from a comprehensive perspective. I think that's what it's trying to flag here in the note.

Mr. Doug Downey: When I was reading this, I almost felt a sense of angst, that you were putting the best advice forward you could with the information you had. You put high-level third-party professionals and you actually waded into the politics of it a bit by talking about transparency, by flagging, "This is a less transparent issue." Transparency is mentioned in here more than once. If I can have you articulate that.

Mr. Steve Orsini: We did our best to flag the concerns that we had, and we did it in a way that was pretty stark to draw attention to it.

Mr. Doug Downey: So there's no doubt that they made this announcement with eyes open. They knew what they were doing, and they did it on purpose anyway.

Mr. Steve Orsini: Yes, they had this note and they had—there's plenty of other material that reinforces these issues and concerns.

Mr. Doug Downey: It was 100% clear to the people who you were giving advice to what your advice was, in black and white and verbally.

Mr. Steve Orsini: The issue is, we flagged these concerns. The question was: Can you mitigate them? Some of them are very difficult to mitigate under any circumstances. The legislation addressed some of the legal risks and some of the other risks.

Mr. Doug Downey: Do you know—and you may not. We heard from the Auditor General yesterday about what I call the indemnity in the bottom of the box: people who asked for indemnities. Do you know when the requests for indemnities started to arise?

Mr. Steve Orsini: I don't know, Serge, if you do.

Mr. Serge Imbrogno: I think the exact date would have been sometime in June. I don't have the exact date, but it would have been as you started to do the financing. You would have had the IESO board, you would have had the OPG board, given that it's first of a kind and it's large. They would have known of the legal issues that were flagged in terms of whether it's constitutional or not.

The board and the OPG and IESO staff that worked on it sought an indemnity from the government to ensure that if there were any future actions, they would be indemnified from that.

Mr. Doug Downey: I'll start with Ms. Hughes: Have you ever had an employee ask you for an indemnity for a direction given on a file before?

Ms. Karen Hughes: Our OPS staff?

Mr. Doug Downey: Yes.

Ms. Karen Hughes: No.

Mr. Scott Thompson: No, not that I'm aware of.

Mr. Doug Downey: Mr. Orsini?

Mr. Steve Orsini: No, not that I'm aware of.

Mr. Serge Imbrogno: No. I'm just saying that we're indemnified as civil servants. I think the OPG board and IESO would have their own indemnity through their organization and insurance, so this would have been over and beyond anything that we would have done normally.

Mr. Doug Downey: It's certainly a unique situation.

Mr. Serge Imbrogno: It's a very unique situation, yes.

Mr. Doug Downey: Do you want to jump in, or should I keep going?

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

Mrs. Robin Martin: I just wanted to clarify who drafted these cabinet briefing notes. You have many times said that you put in all of these warnings, but who is the pen?

Mr. Steve Orsini: The pen is held by Cabinet Office. The deputy minister of policy and delivery coordinates. He has people in his office that pull this information together. So it's out of Cabinet Office.

Mr. Serge Imbrogno: Can I also add: In our deck as well, we would have flagged similar risks. So you would have had the ministry flagging the risks also picked up by Cabinet Office and Treasury Board.

Mrs. Robin Martin: Okay. So these two documents were presented at the same time at the cabinet meeting and at Treasury Board as well, I guess?

Mr. Serge Imbrogno: Yes.

Ms. Karen Hughes: Yes.

Mr. Serge Imbrogno: Our document would have been the minister's recommendation to cabinet, and then the Cabinet Office would have been the Cabinet Office document.

Mrs. Robin Martin: Okay. And this document contains your warnings, but it also contains the government's commitments up front and some language which sort of articulates what the government's objectives were and what its plan was. So it's not strictly your advice; it's also trying to put your advice to what the government's plan is.

Mr. Steve Orsini: We tried to articulate our understanding of the policy direction coming from the minister's cabinet submission. We don't repeat it; we try to summarize it because it's already in the cabinet material.

Mrs. Robin Martin: Okay. In here, you've talked about—and we've talked about them a couple of times—the legal accounting and financial risks. We've talked about some of them, but can you give us a summary of what you thought those risks were? I don't care who answers; you can all suggest what you think they were. We've looked at a couple of them, but maybe it would be good to just go through what you saw as the legal accounting and financial risks.

Mr. Steve Orsini: It would be difficult to canvass all of them, so it might be useful to give you examples in each one, and then, in the material—

Mrs. Robin Martin: Sure, the top 10.

Mr. Steve Orsini: The top 10. I'm going to look to Serge to speak to that.

Mr. Serge Imbrogno: I could start based on—

Mrs. Robin Martin: Sure, on your document.

Mr. Serge Imbrogno: I think on slide 15, we talked about the GA smoothing and the accounting considerations. We would have, through our Office of the Provincial Controller, inputted that the analysis is not complete, that several requirements below are high risk regarding satisfactory resolution. We would have listed everything that was still outstanding and not certain at the time.

And then, at the bottom, we also flagged that there was no discussion with the Auditor General about any of the proposal that was going forward, and just noted that the Auditor General has raised concerns in the past about the appropriateness of rate-regulated accounting on different files. That would have been a major risk that we would have identified.

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Mrs. Robin Martin: On that page, these accounting considerations that you're putting forward here—it seems very extensive.

Mr. Serge Imbrogno: Yes, there were a lot of pieces of the accounting. You had OPG accounting that had to work, you had IESO accounting that had to work, and then on the consolidation, that had to work as well. There were a lot of pieces to this Fair Hydro Plan that had to work in order for the GA refinancing to work.

Mrs. Robin Martin: And it's not just one way of looking at the accounting versus another way of looking at the accounting. There are a lot of other issues here, like whether the plan is going to be workable at all.

Mr. Serge Imbrogno: Right, and my experience with the accountants is, it's hard for them to opine on something until they have actually seen the final legislation and the regulations. Until we have the legislation in place, and some of the legal agreements and the financial agreements, it would be hard for any of the accountants to sign off on it at that point. It was more "if you can do all these things, we may be able to get the accounting treatment."

Mrs. Robin Martin: I take it, Mr. Imbrogno, that you would not call this an accounting dispute.

Mr. Serge Imbrogno: I think the accounting dispute comes in in terms of—once you get an opinion from KPMG on how IESO accounts, once you get an opinion from E&Y on how OPG accounts, is that satisfactory enough when you consolidate? I think the auditor felt, "Fine. You got those opinions from the agencies, but when you consolidate, that's my purview."

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

Mrs. Robin Martin: Right. But that's not what this is.

Mr. Serge Imbrogno: No.

Mrs. Robin Martin: Okay. I take it—because we're not going to have time to finish all of this right now—that one of your big concerns in all of this was that you couldn't even tell them at the cabinet meeting whether they could do what they were planning to do. That's one of the big risks: "We can't even tell you if this can be done." That is a huge risk.

Mr. Steve Orsini: That's correct. In fact, it was months and months and months. The legislation had it. A number of the agency auditors had to report back. The borrowing, the money, was—the market actually raised capital in January, almost more than half a year from this decision. A lot of those things weren't actually resolved until very, very close—well, past 2017, in fact.

Mrs. Robin Martin: But they knew when they announced it that they didn't know for sure that it could be done, and if it couldn't be done, ultimately, what would the consequence have been?

Mr. Steve Orsini: Well, if the accounting had worked—we were very clear that to successfully implement this as planned you would need the accounting, or else it would be reported as a deficit on the financial statement.

Mrs. Robin Martin: So it would have shown up on the books.

Mr. Steve Orsini: It would have shown up on the books. Or something else, though—the financing. Let's say the financing didn't work. The government would have to then step in to borrow. So at each point of failure there would be some mechanism to try to address that. We just didn't know it at the time, certainly, whether those mechanisms were feasible or in place.

Mrs. Robin Martin: Okay.

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

Just a reminder: 10 minutes, and then 10 minutes back to the government. Ms. Fife?

Ms. Catherine Fife: Thank you, Chair. I'm very thankful, actually, that the commission also looked at the partial divestment of Hydro One and the reporting of the sale and how that's reflected in the books here in the province of Ontario. The commission of inquiry noted that the one-time revenues from the sale of Hydro One significantly reduced the deficits in 2015-16 through to 2017-18, but that these "time-limited gains ... can compromise the usefulness of deficit figures." Essentially, obviously, you reduce the deficit in the short term, but you may be forgoing revenues in the long term.

On page 20 in the commission report, they note that through their "research into the electricity sector, the commission became aware that the gain on the sale of Hydro One shares—the selling price less the carrying value recorded in the province's books" obviously affected those deficits in 2015 to 2018. It went on to say, "Government business enterprises such as Hydro One, Ontario Lottery and Gaming Corp. and the Liquor Control Board of Ontario are treated as financial assets"—as you know—"under PSAS."

But they did note that "time-limited gains or losses from sales of assets impact reported deficits and can compromise"—obviously—"the usefulness of deficit figures as critical indicators of trends in" the province.

I think we just went through this as trying to come and land on the true deficit point here in the province of Ontario. I think that we all know that the public deserves to know the real number, the truth about the financial state of affairs here in the province of Ontario.

The commissioners say that the sale of public assets like, in this case, the partial divestment of Hydro One, "can mask underlying deficits, and they require the government to forgo future revenue." So it's a sacrifice, if you will.

First of all, did you give some feedback into this component of the commissioners' report? And how do you think the asset sales should be viewed in the province of Ontario?

Mr. Steve Orsini: I'm going to ask Scott to take this.

Ms. Catherine Fife: Thanks, Scott.

Mr. Scott Thompson: Sure. To your first question: not to my knowledge. I met with the commissioners, and it was mostly on the pension asset and the Fair Hydro Plan accounting. I don't recall that they asked me anything about Hydro One, and I think I would.

In terms of one-time asset sales, in this case a significant asset sale in the name of Hydro One, deficits are a one-year picture of money in, money out: Did you balance? Did you spend more than you brought in, including interest on debt? So in order to account accurately for all of the government's financial activities, the sale of any asset, including Hydro One or any other GBE, would be reflected as to how much revenue is brought in from that sale in that year.

The three years you mentioned were years when some of that percentage of Hydro One was divested.

Ms. Catherine Fife: Thanks. The Financial Accountability Officer also had weighed in around the divestment of Hydro One. He commented that the sell-off of Hydro One will, in turn, cost the province more in the long run. Do you share this view of the FAO?

Mr. Scott Thompson: It will decrease the amount of revenue that the province is bringing in from that activity, from the Hydro One activity, absolutely. It's a trade-off that the government chose at the time. In order to divest the ownership, for all the reasons that they stated, it would do that at a point in time, understanding that revenues that are shared from our GBEs would go down from that particular GBE in the future.

Ms. Catherine Fife: This just speaks to transparency as well. If this government chooses to move forward with the sell-off of other public assets, do you not think that they should, in turn, as the commission recommends, indicate that there's a fixed time of revenue that comes in through the one-time sale of an asset, but then there's obviously loss of revenue? Do you share the commission's observation that those should be clearly outlined in a very transparent way in accounting reporting?

Mr. Scott Thompson: It's difficult in either a budget or public accounts to get specific on that matter, because you may be talking about revenue many years out in the future. I think the point is that the risks should be outlined. The risk that revenues will decrease as a result of getting rid of that asset should be pointed out. I agree with that.

Ms. Catherine Fife: Okay. The commission also talked about potential risks to the revenue going forward. One of the risks that they mentioned was that "a risk to the province's revenue projections from the 2018 budget is the impact of the outcome of the appeal of Ontario Energy Board's recent decision on Hydro One Ltd.'s deferred tax asset related to costs associated with the utility's privatization."

Can you speak to the risk that this poses for the province on a go-forward basis? And do you share the view that this is an issue that this government, and indeed this Legislature, will have to deal with? Serge?

Mr. Serge Imbrogno: I'm just trying to go from memory. I think the issue there was the OEB. The government would have made an assumption at the time of how much of that deferred tax asset would be to the benefit of the taxpayer versus the ratepayer. I think the OEB ruling would be whether more of that tax asset benefit should go to the rate base versus the tax base. The more that goes to the rate base, the lower the rates would be but the less of the benefit would come onto the fiscal plan. I haven't tracked where the OEB is in that determination. That's the risk: that the ratepayer gets some of that benefit versus the taxpayer, as it was initially booked.

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Ms. Catherine Fife: That seems to be a theme today: that there's a benefit in the short term, but in the long term, there could be additional costs or impact on the revenue that the province has.

Mr. Serge Imbrogno: Right. It could take some of that revenue away and provide it back to the rate base.

Ms. Catherine Fife: Looking again to the future and changing gears just a little bit, in this year's public accounts, the current government announced that they would be cancelling the global adjustment refinancing portion of the Fair Hydro Plan. We've been talking about this all afternoon. Essentially, future ratepayers will no longer be subsidizing reductions for current ratepayers. Would you say that if the government actually does follow through on cancelling the global adjustment refinancing, that's an accurate statement to say?

Mr. Serge Imbrogno: Without studying it, I think that would be accurate, because it reverses what the GA refinancing would have done. So I think that's fair to say.

Ms. Catherine Fife: And have they consulted with you or given you any indication what they will replace the global adjustment financing with? Because if they're going to address the GA the way that it's currently structured, they're going to have to replace it with something else—

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

Ms. Catherine Fife: Yes?

The Chair (Mr. Prabmeet Singh Sarkaria): On that point: There's a minute and 30 seconds left, but commenting on what a government is going to do on a proposed plan is probably not within the mandate—

Ms. Catherine Fife: It's a matter of public—

Ms. Sandy Shaw: It's in the report.

Ms. Catherine Fife: It's in the report, Chair. I'm sorry, but it's in the report, so that's why I'm asking.

If the government does as the report indicates, what could the government replace the global adjustment financing with?

Mr. Steve Orsini: I think at this stage the commission of inquiry said that the amount that was on the global should be recorded as part of the deficit, so it really speaks currently. I'm not aware of any decision on how this will play out in the future. That's a future government decision, to my understanding.

Mr. Serge Imbrogno: I'm in environment now, so—

Ms. Catherine Fife: I'm just asking about options. Have you given any consideration? Because this is obviously going to transpire fairly soon.

Mr. Steve Orsini: I don't think I've seen those options coming forward yet. That's a future decision at some point, and so those options will be developed at some point. I haven't seen those options.

Ms. Catherine Fife: Well, perhaps in a future select committee, we'll be looking at that cabinet briefing note.

Thank you very much for being here today.

The Chair (Mr. Prabmeet Singh Sarkaria): We'll conclude with 10 minutes and start with Mr. Baber.

Mr. Roman Baber: Thank you to the panel and Mr. Imbrogno for coming here today.

I gather that, as former Deputy Minister of Energy, you had some input into the briefing note that was presented to cabinet on March 1, 2017?

Mr. Serge Imbrogno: So there's a Cabinet Office briefing note, and then there's the cabinet submission. I would have had a lot of input into the cabinet submission, and then Cabinet Office would have taken our submission and input from other ministries and drafted the cabinet note.

Mr. Steve Orsini: If I can add—

Mr. Roman Baber: Sure.

Mr. Steve Orsini: Cabinet Office ensures that we consult with ministry staff and pull them together. If Serge didn't see it himself, his staff would have been inputting into this.

Mr. Roman Baber: Okay. So I would like to look at some of the specifics presented in the briefing note provided to cabinet which was contained in tab 1 of the documents provided to us today, specifically of March 1, 2017. I would like to take you to page 4, please. Specifically, I see that the heading is "What is the expected cost to government?" in the middle of the page; however, a footnote suggests, "Assumes the required legal, accounting and financial requirements can be met to avoid the fiscal cost to the government." Do you see that, Mr. Imbrogno?

Mr. Serge Imbrogno: Yes.

Mr. Roman Baber: So at the time this document was presented, the assumption was that there would be no costs, provided that the proposed regime meets the legal and accounting requirements for such regimes. Is that correct?

Mr. Serge Imbrogno: Yes, and just to clarify: There are proposals for rate mitigation that would have moved cost from the rate base or the tax base, so those would have been costed.

The GA financing would have been the one that's identified here as saying that wouldn't show up as a fiscal impact.

Mr. Roman Baber: At the end of the day, we're talking about the Fair Hydro Plan. That is what this assumption relates to.

Mr. Steve Orsini: Can I just add an important point?

Mr. Roman Baber: Of course, Mr. Orsini.

Mr. Steve Orsini: The footnotes for the whole section—if you look at the second footnote in the table, we do show the opposite assumption, that it's not met. So, you'll see that to make the point, because we can't be certain either way, we assume one where all the conditions have been met, and then in fair transparency, we show everything where it's not met. So the cabinet would see both sides of it.

Mr. Roman Baber: Understood.

At page 5, in fact, you say that it cannot be confirmed at this time, that the amount deferred would not increase the government's annual deficit or reduce its surplus or net debt. You did not know that at the time.

Mr. Steve Orsini: That's correct.

Mr. Roman Baber: That's March 1.

Mr. Steve Orsini: That's correct.

Mr. Roman Baber: And an additional investigation was required.

Mr. Steve Orsini: That's correct.

Mr. Roman Baber: Nonetheless, the very next day, on March 2, the government proceeded to announce the Fair Hydro Plan.

Mr. Serge Imbrogno: Yes.

Mr. Roman Baber: That is also, despite the fact that on page 6 of your document, towards the end of the first paragraph, you say, "There is a high risk"—I repeat, high risk—"that the GA financing will have a fiscal impact on the province." Is that correct?

Mr. Steve Orsini: Yes. Based on the current stage of analysis, at this juncture, that was our understanding.

Mr. Roman Baber: Thank you. I want to proceed to page 8 of the document. You have suggested in the third-last paragraph that the proposed mechanism may fail, and that there is a risk that the provincial deficit would be affected by about $2.5 billion a year, and should that be the case, the ministry will go back to cabinet and provide them other options to try and figure out rate mitigation in a more cost-effective way. Correct?

Mr. Steve Orsini: Yes.

Mr. Roman Baber: But nonetheless, despite the fact that the proposed arrangement has not met the standard imposed by the Auditor General, the government never came back and said, "Well, you know what? Maybe this is now added to our books; we should look at other alternatives for financing of the Fair Hydro Plan." Is that correct?

Mr. Steve Orsini: I think the government had tasked the public service to keep working on the structure to mitigate those risks. At the time of the announcement—and our Cabinet Office notes that—they should make a definitive statement and say, "Our intent is to do it this way," as opposed to, "This is what we're doing because at this juncture we didn't have certainty."

Mr. Roman Baber: But despite the fact that there was some clarity down the road, at the very least there was a strong suggestion by the Auditor General that the net deficit would increase by $2.5 billion. The Liberal government did not come back to the public service to re-evaluate a more cost-effective structure. Is that correct?

Mr. Steve Orsini: It's a fair statement because the government was on a track to do the global adjustment refinancing as proposed by the Minister of Finance—

Mr. Roman Baber: Instead, Mr. Orsini, the government held on to its position and engaged in what it qualifies as a "dispute" with the Auditor General, standing by its accounting that the Auditor General yesterday testified was wrong.

Mr. Steve Orsini: I think, as the Auditor General mentioned, what was the material difference was the legislation that gave us effect to this structure. It was more than just the discussion between the controller—it was the whole legal structure, and the legislation that was put in place that would contribute to how it would be interpreted by the controller, for example.

Mr. Roman Baber: But, Mr. Orsini, the government never came back and said, "We may have a problem. We may have to add $2.5 billion to our deficit. Let's re-look at the structure." They've never done that.

Mr. Steve Orsini: No.

Mr. Roman Baber: Mr. Orsini, I'm looking at the next page, page 9 of the document. Towards the end of the second paragraph, the document suggests that the potential cost to government associated with providing the type of guarantee—that's the guarantee that backs the Fair Hydro Plan—and the cost of borrowing from private lenders is unknown at this time.

Do you see that reference, Mr. Orsini?

Mr. Steve Orsini: Yes, I do see that.

Mr. Roman Baber: Am I to understand that at the time the Liberal government approved and legislated the Fair Hydro Plan, it did not know—it had no clue as to the ultimate cost that taxpayers or ratepayers may bear at the end of this scheme?

Mr. Steve Orsini: I would say that at the time of the announcement—the legislation was produced; more cost analysis was done; more modelling; the discussions with the bond raters and all that—that some of these questions were sorted out or mitigated or refined, but at the time of the cabinet decision, that is a fair statement.

Mr. Roman Baber: They did not know how much that was going to cost?

Mr. Steve Orsini: We have estimates in the cabinet submission. The cabinet briefing note talked about different options. The cabinet didn't specify the numbers because they were still in play.

Mr. Roman Baber: I understand.

Mr. Steve Orsini: But cabinet did have in front of them, on page 12, an estimate based on our understanding of what a 25% rate reduction would be, and it looked at it over time. That was based on the modelling at that time.

The Chair (Mr. Prabmeet Singh Sarkaria): One minute 30.

Mr. Roman Baber: And if I may continue—on page 18, future inputs on electricity rates, your document suggests that it would lower costs in the short term but result in substantial debt and higher electricity prices in the future.

Mr. Steve Orsini: Correct.

Mr. Roman Baber: So the Liberal government understood that this was only short-term relief, but that future ratepayers would bear much higher electricity prices and would incur substantial debt.

Mr. Steve Orsini: Correct.

Mr. Roman Baber: Finally, I understand from page 19 of your document, towards the end of the first section, that future ratepayers would be paying for these assets—these are the assets that were refinanced through the Fair Hydro Plan, mostly green energy assets—that no longer produce power, and paying down the deferred GA and accumulated interest costs.

What I understand this line to suggest is that some of the equipment, or some of the infrastructure, financed or refinanced by the Fair Hydro Plan would be paid off by future ratepayers, even though they don't even enjoy the benefit of such assets at that point in time.

Mr. Steve Orsini: That was an issue that Serge spoke to earlier. The issue was, did we have a firm enough handle at this time to say there were enough assets that could be amortized that we believed would still be in use.

Serge?

Mr. Serge Imbrogno: At this time, we would have had some initial discussions with the IESO, where some of the assets, you could say—we could see a wind turbine, with the appropriate investment, lasting more than the 20 years. We didn't know if that was an extra year, an extra five years. This is a risk that was identified. Subsequent to this, we would try to work towards getting a more definitive analysis of the useful life of these assets.

The Chair (Mr. Prabmeet Singh Sarkaria): Thank you. That concludes the allotted time, two hours and 30 minutes, for questioning today.

I just want to thank, once again, our panel, Ms. Hughes, Mr. Thompson, Mr. Orsini and Mr. Imbrogno, for taking the time and answering the questions from the committee. We really appreciate it.

I'd also ask the members of the subcommittee to please stay behind, and those in the room to please clear out before we do start our subcommittee meeting.

Committee is now adjourned until 1 p.m., Monday, October 22.

The committee adjourned at 1734.

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