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**Official Report
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Wednesday 27 March 2013

**Journal
des débats
(Hansard)**

Mercredi 27 mars 2013

**Standing Committee on
Public Accounts**

Special report, Auditor General:
Ornge Air Ambulance and
Related Services

**Comité permanent des
comptes publics**

Rapport spécial, vérificateur
général : Services d'ambulance
aérienne et services connexes
d'Ornge

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

COMITÉ PERMANENT DES COMPTES PUBLICS

Wednesday 27 March 2013

Mercredi 27 mars 2013

The committee met at 1235 in room 151, following a closed session.

SPECIAL REPORT, AUDITOR GENERAL: ORNGE AIR AMBULANCE AND RELATED SERVICES

The Chair (Mr. Norm Miller): I'd like to call this meeting to order. Before we get going with our first witness, just note that the parties have picked from the auditor's report for this year.

Note that the PC Party selected from the 2011 auditor's report section 3.03, "Electricity Sector—Renewable Energy Initiatives," and section 4.14, "Unfunded Liability of the Workplace Safety and Insurance Board."

The NDP has picked, from the 2012 auditor's report, section 3.08, "Long-term-care Home Placement Process," and section 3.09, "Metrolinx—Regional Transportation Planning."

The government has selected, from the 2012 auditor's report, section 3.05, "Education of Aboriginal Students," and section 3.12, "University Undergraduate Teaching Quality."

I note that the Clerk will be sending out letters towards the end of April, advising the affected agencies and ministries and letting them know that at some point we will know the timing on this.

ORNGE

The Chair (Mr. Norm Miller): I would like to now call our first witness of this afternoon: Mr. Robert Giguere, chief operating officer of Ornge. Mr. Giguere, welcome.

Just to confirm that you've received a letter for a witness coming before the committee.

Mr. Robert Giguere: Yes.

The Chair (Mr. Norm Miller): Very well. I think our Clerk is looking for the oath or affirmation, which as soon as he finds we'll do.

Mr. Robert Giguere: If you prefer, I can do an affirmation.

The Chair (Mr. Norm Miller): Just give us a second, please, Mr. Giguere. We just need to—

The Clerk of the Committee (Mr. William Short): So you have the Bible there, Mr. Giguere?

Mr. Robert Giguere: Yes, I do.

The Clerk of the Committee (Mr. William Short): Do you solemnly swear that the evidence you shall give to this committee touching the subject to the present inquiry shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. Robert Giguere: I do.

The Clerk of the Committee (Mr. William Short): Thank you.

The Chair (Mr. Norm Miller): Thank you. You have 10 minutes for an opening statement, if you'd like to make that. Then we'll go to the parties for questions.

Mr. Robert Giguere: Thank you. Good afternoon. My name is Rob Giguere and I'm the chief operating officer at Ornge. I appreciate the opportunity to appear before you today, and I'd like to take a few moments to introduce myself, tell you a little bit about my background, what I bring to Ornge, my role at the organization and what we're trying to do to accomplish and to improve services for Ontario's patients.

To begin with, I'd like to say how tremendously satisfying it is for me to work and be part of an organization that carries about such an important mission. Our mission is to ensure that critically ill or injured Ontarians are transported safely to the care they need, whether it's by air or it's by land. I take extremely seriously the responsibility of ensuring this process, making sure it's carried out effectively and professionally on a day-to-day basis.

I'm fortunate to be able to draw upon four decades of experience in the field of aviation, much of which was spent managing large, complex organizations. I completed my bachelor of science in mechanical engineering at the University of Manitoba and began my career as a pilot with Air Canada in 1974. Over the years at the airline, I held a number of senior leadership positions, including executive vice-president of operations and senior vice-president of flight operations. Following that, I was chief operating officer and later held the position of chief executive officer at Skyservice Airlines.

I've held and hold both an airline transport pilot and a flight engineer's licence. I've also held a number of voluntary roles within the industry as a board member, committee chair and representative with the Air Transport Association of Canada, as an operations council member with the International Air Transport Association, and as an operations council member and the former chair of the Air Transport Association, based in Washington, DC.

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I joined Ornge last year on a contract basis as a special adviser to aviation. In the following months, I worked with other members of the transition team to begin the process of rebuilding the organization. From April to December, I functioned as an observer and an adviser, identifying shortcomings and offering advice on revamping Ornge's processes to improve the service. This included providing recommendations on the redrawing of Ornge's organizational structure to strengthen internal accountability measures, as well as the consolidation of scheduling to ensure better coverage at our bases across the province. Much was accomplished during this time to fix the immediate problems that existed and to get the organization onto a more solid footing.

In December of last year, I was honoured to have accepted a permanent position as chief operating officer. This position now has the responsibility for overseeing three divisions within Ornge: operations, including our front-line paramedics; aviation, including our front-line pilots and aircraft maintenance engineers; and our operations control centre, including the communications officers who dispatch our crews and our resources. I am also the accountable executive for Transport Canada, meaning that I am the person held accountable for ensuring compliance with the Canadian air regulations.

In sum, I am here to support the work of Dr. Andrew McCallum as the chief executive officer, as well as our board of directors, by carrying out the vision they set forward for air ambulance in Ontario and to support the front-line work that happens across Ontario 24 hours a day and seven days a week.

As chief operating officer, I have three priorities that fall within my area of responsibility. The first is safety, and I assure you it's a top priority in all aspects of the operation, from the bases to our head office. This means ensuring the safety of our vehicles—that is, helicopters, airplanes and land ambulances—as well as the safety of our staff members and, of course, the patients on board.

My second priority is effectiveness; that is, ensuring that we have the right resources, the right staff and the right tools to deliver on our mandate as defined by the Ministry of Health and Long-Term Care.

Finally, my third priority is efficiency. We have a responsibility to make wise decisions to ensure good value for tax dollars, given our 24/7 operating environment.

While I'm excited to help out putting these priorities in place, we can't do it alone, nor can Ornge put forward the necessary changes without the collaboration of others. That's why we'll be working closely with our partners, such as the ministry, emergency medical services across the province, the LHINs and the hospitals, so that all of our external stakeholders understand and support what we are doing to improve our service for the benefit of patients in Ontario.

One of the most significant aspects of my job is ensuring that all sides of the organization are functioning as a team and moving forward to support Ornge's focus

on patient care. As I've explained, Ornge has many divisions within it, including operations, fixed-wing and helicopter aviation, dispatch and flight following, the medical and clinical side, and education. While each group is undoubtedly committed to the overall mission of providing top-notch patient care, bringing these diverse units together to work towards a common goal can sometimes be a difficult task. In the past, these divisions reported to separate chief operating officers, and that meant that work was often done in isolation. As a consequence, some silos were created. We're working hard to change that culture.

Much like many of the business units I've led over the course of my career, the air ambulance system in Ontario is extremely complex. We function in a challenging operating environment where the demands of the health care system are heavy and often unpredictable. For these reasons, changes don't come easily or quickly, but I'm happy to say we've made considerable progress on dealing with a host of issues. There are a number of projects under way at Ornge to address many of the top issues the organization is facing, particularly in the areas of staffing, training and dispatch. We've opened up new lines of communication for our people to voice their concerns and practical suggestions.

Overall, I recognize that for Ornge to build the public trust, we need to ensure that we have the vehicles available with qualified staff trained at the appropriate level of care. Simply put, we need to be there when our patients need us. We've come a long way in making sure that we are. While we still have work to do, I have no doubt that we are on the right track for success. We have a top-notch board, an excellent executive team, and senior managers who are committed and focused on making improvements. Of course we have our front-line staff and support staff, whose commitments to the patients have been nothing short of remarkable.

In closing, I want to say what a privilege it is to take on my role as Ornge continues to turn the page on the past and move forward improving the organization. We all share a common goal of seeing the province's air ambulance system transform into something Ontarians can take pride in. I'm happy to be a part of it and to try and make it happen. Thank you.

The Chair (Mr. Norm Miller): Thank you for that opening statement. We'll begin with the opposition. It looks like each of the parties will have 20 minutes. Mr. Klees?

Mr. Frank Klees: Thank you, Mr. Chair. Mr. Giguere, what is your relationship with Mr. Ron McKerlie, professionally or personally?

Mr. Robert Giguere: With Mr. McKerlie?

Mr. Frank Klees: Yes.

Mr. Robert Giguere: I first met Mr. McKerlie when he contacted me last year in the spring expressing an interest, being aware of my background, in whether or not I'd be interested in helping out Ornge. On a personal basis, I have no relationship with Mr. McKerlie.

Mr. Frank Klees: Okay. Do you know why Mr. McKerlie contacted you specifically? Was there a search that was undertaken?

Mr. Robert Giguere: Not that I'm aware of. I'm quite well known within aviation circles in both Canada and Ontario, and I believe that he was provided my CV by someone and then reached out to me to meet with me and speak to me.

Mr. Frank Klees: Okay. Do you know or did you know anyone else who had been involved with Ornge in the past, any of the key people there—senior executives, advisers to Ornge? Did you have personal relationships with anyone who had that previous involvement with Ornge?

Mr. Robert Giguere: I didn't know any of the executives of Ornge. Being in the aviation industry, I knew people on the aviation side. In fact, some of the, I wouldn't say, senior leaders, but some of the people who had worked at Skyservice had moved over to Ornge, so I was aware of people within the organization, yes.

Mr. Frank Klees: Okay. So, there might have been some suggestion internally to Mr. McKerlie that you may be someone who they should contact. Is that reasonable to assume?

Mr. Robert Giguere: I can't say that for sure. Mr. McKerlie would be aware of that.

Mr. Frank Klees: Since you arrived and since you took on your role as, I believe, initially, an adviser and then subsequently a permanent position, have you at any time met with the Minister of Health to provide a briefing to her in terms of the status of the operation of Ornge?

Mr. Robert Giguere: The Minister of Health—and I'm not quite sure of the exact date, Mr. Klees. I believe it was the end of January in Thunder Bay. The minister was in Thunder Bay, and we gave her a tour of our facilities there and some exposure to our operation in Thunder Bay.

Mr. Frank Klees: Did you ever receive a call from the minister or her staff to say, "Now that you're there, you're the chief operating officer. We would like to schedule a meeting with you so that you can report to the minister on the operations of the organization"?

Mr. Robert Giguere: From the minister's office particularly? I don't believe I received any calls. My reporting relationship through the Ministry of Health is to Richard Jackson, whom we're in contact with and I'm in contact with frequently. I report to him on the activities of Ornge. He is, you are aware, the director of air ambulance oversight.

Mr. Frank Klees: I understand that your previous experience was with Air Canada. Can you tell us what your position was with Air Canada?

Mr. Robert Giguere: During the course of my career or at the end my career?

Mr. Frank Klees: At the end of your career.

Mr. Robert Giguere: At the end of my career, I was the executive vice-president of operations.

Mr. Frank Klees: And how long did you hold that?

Mr. Robert Giguere: I held that for about five years.

Mr. Frank Klees: Five years?

Mr. Robert Giguere: Just under five years.

Mr. Frank Klees: I understand that Air Canada filed for bankruptcy protection in 2003. Is that correct?

Mr. Robert Giguere: Yes.

Mr. Frank Klees: And at that time, you were the chief operating officer?

Mr. Robert Giguere: EVP of operations.

Mr. Frank Klees: And who took over your role when you were terminated by Air Canada?

Mr. Robert Giguere: My role was split into two. A gentleman by the name of Rob Reid took over one part of a portfolio, and a gentleman named Steve Smith took over the other part.

Mr. Frank Klees: Would there have been a reason why you were replaced rather than being looked to to provide leadership during that difficult time of Air Canada's financial difficulties?

Mr. Robert Giguere: I can't say that there was or wasn't.

Mr. Frank Klees: But you were not asked to do that?

Mr. Robert Giguere: Not asked to? I'm sorry—

Mr. Frank Klees: To stay with Air Canada and to bring it back out of its financial stress.

Mr. Robert Giguere: That's correct.

Mr. Frank Klees: Where did you go from there?

Mr. Robert Giguere: I went to Skyservice Airlines.

Mr. Frank Klees: Okay. When you were hired at Skyservice, was that immediately following your termination with Air Canada?

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Mr. Robert Giguere: It was late in July 2004.

Mr. Frank Klees: And your position there?

Mr. Robert Giguere: Chief operating officer.

Mr. Frank Klees: I understand that as chief operating officer you played a key role in structuring a deal that ultimately involved the sale of a majority interest in Skyservice Airlines to Gibralt Capital Corporation of BC. Is that correct?

Mr. Robert Giguere: Correct.

Mr. Frank Klees: And that sale occurred some three years after you took on your responsibilities with Skyservice. Is that right?

Mr. Robert Giguere: That would be correct: just over three years.

Mr. Frank Klees: That deal was, I believe, characterized as a leveraged buyout—in other words, a structure that involved leveraging the assets of Skyservice through some significant debt. As a result of leveraging the assets of Skyservice, that really facilitated the buyout. Is that a fair characterization of that transaction?

Mr. Robert Giguere: The financial structure was one arranged by Gibralt Capital, yes, and they put debt on the balance sheet of the airline when they bought it.

Mr. Frank Klees: Who headed up Gibralt Capital?

Mr. Robert Giguere: Mr. Belzberg.

Mr. Frank Klees: And he's a financier in BC?

Mr. Robert Giguere: Yes.

Mr. Frank Klees: Did you know him personally before you went to Skyservice?

Mr. Robert Giguere: No.

Mr. Frank Klees: But you were dealing directly with Mr. Belzberg.

Mr. Robert Giguere: At which point?

Mr. Frank Klees: During the course of the deal being structured and ultimately—

Mr. Robert Giguere: I was not. I met with Mr. Belzberg. The owners of Skyservice Airlines had gone out to sell the airline, a division of their company.

Mr. Frank Klees: So Mr. Belzberg purchased, invested, took a majority control, I believe, through that deal?

Mr. Robert Giguere: My first meeting with Mr. Belzberg was when a presentation was made to him. During the course of the transaction, my exposure to him was somewhat limited. Following the purchase, of course, Mr. Belzberg was a principal who owned the airline, so my exposure was increased at that point in time.

Mr. Frank Klees: How long did Mr. Belzberg hold onto his investment in Skyservice?

Mr. Robert Giguere: Fall of 2007 to spring of 2010.

Mr. Frank Klees: So, not very long.

Mr. Robert Giguere: Two and a half years.

Mr. Frank Klees: And he sold his investment to, I understand, Roynat and Integrated Private Debt Fund LP. Is that correct?

Mr. Robert Giguere: He sold his investment? He remained in an ownership position until the airline closed.

Mr. Frank Klees: And what role, then, did Roynat and Integrated Private Debt Fund play in that?

Mr. Robert Giguere: They were lenders.

Mr. Frank Klees: So they were lenders and lent money to Skyservice. Do you know: Was any capital withdrawn from the company during that time that Mr. Belzberg had the controlling ownership?

Mr. Robert Giguere: Withdrawn in what fashion? As a dividend?

Mr. Frank Klees: As a dividend. There are many ways that that can be accomplished, right?

Mr. Robert Giguere: Mr. Belzberg had a management fee against the organization.

Mr. Frank Klees: So funds were drawn out. Over the next year or so, Skyservice accumulated significant debt that I understand involved some \$1.4 million to Nav Canada as well as USFAA. Is that correct?

Mr. Robert Giguere: I can't speak to the numbers. On an ongoing basis, any organization that operates would incur operating costs.

Mr. Frank Klees: Those are numbers that are readily available. They're in the public domain. There was an assignment into bankruptcy and you've never seen those documents?

Mr. Robert Giguere: No, I have; what I'm saying is, I don't know the specific numbers.

Mr. Frank Klees: So \$1.4 million to Nav Canada and the USFAA; another \$700,000 to ground handling firms, and some \$12 million to Thomas Cook. Then, on March 30, 2011, your board of directors resigned. Is that correct?

Mr. Robert Giguere: What date did you say?

Mr. Frank Klees: March 30, 2011.

Mr. Robert Giguere: Yes, that's correct.

Mr. Frank Klees: And then the next day, I understand you announced that you were shutting down the company. Is that correct?

Mr. Robert Giguere: A receiver was appointed.

Mr. Frank Klees: I understand there are some on-going legal issues. Are you still involved in those, around that bankruptcy?

Mr. Robert Giguere: Involved in what fashion? I'm a creditor to the—

Mr. Frank Klees: Well, you were the COO.

Mr. Robert Giguere: Yes.

Mr. Frank Klees: And I would expect that, as the COO, you're the one who has first-hand knowledge of the financial transactions and what led up to that bankruptcy.

Mr. Robert Giguere: The receivership is with an organization called FTI and is being proceeded through the court process in receivership courts. It's a—

Mr. Frank Klees: Have you been co-operating with the receiver and the legal process around this?

Mr. Robert Giguere: Yes.

Mr. Frank Klees: Mr. Giguere, I have here an affidavit. I have copies for the rest of the committee, Clerk, if you want to distribute it, and please give a copy to Mr. Giguere. In this affidavit—I'm just going to take a minute, Chair, to read a couple of items into the record, and there's a reason for this.

Starting with article 4 in this affidavit, it reads as follows:

"4. Prior to the hearing of the motions"—this is with regard to the receivership—"the receiver had contacted Rob Giguere, who was the president of Skyservice Airlines Inc. from October 17, 2007 to March 31, 2010, to obtain his evidence in relation to certain issues relevant to determination of the motions.

"5. Mr. Giguere initially agreed to provide an affidavit setting out his knowledge of the matters in issue. However, the receiver was subsequently unable to contact him to finalize the swearing of the affidavit.

"6. Counsel for the receiver contacted Mr. Giguere on February 10, 2012, and attempted to obtain a sworn affidavit from him setting out his knowledge of the events at issue. However, Mr. Giguere indicated that he did not wish to be in the middle of the dispute, and did not appreciate that the receiver had indicated it may subpoena him if he refused to swear an affidavit.

"7. On February 13, 2012, at the return of the motions, the Honourable Mr. Justice Morawetz adjourned the motions until May 14, 2012. In his endorsement adjourning the motions, Mr. Justice Morawetz indicated that it would be helpful if Mr. Giguere could meet with counsel

for the receiver and counsel for Sunwing to determine a process by which his evidence could be provided.

“8. Counsel for the receiver made subsequent unsuccessful efforts to contact Mr. Giguere, including by:

“(a) e-mail correspondence to him on February 13, 2012, inviting Mr. Giguere to contact counsel for the receiver and attaching the endorsement of February 13, 2012;

“(b) telephone calls and voicemails to Mr. Giguere on February 13, 2012, asking Mr. Giguere to contact counsel for the receiver; and

“(c) letter correspondence to Mr. Giguere on February 15, 2012, enclosing the endorsement and asking Mr. Giguere to contact counsel for the receiver.”

There is another affidavit; I’d be happy to have this distributed as well, Mr. Clerk. In that affidavit, it refers—and I won’t take the time, simply because we don’t have the time. But again, it’s an affidavit that refers to the fact that Mr. Giguere—in fact, article 19 of this affidavit reads, “The repeated attempts to serve Mr. Giguere by the process server are described in the affidavit of attempted service of Leo Pereira sworn March 19, 2012,” and it talks about the need, then, to compel you to appear.

The reason I say this is that—and I wanted to have this discussion with you—this is disconcerting. We have just gone through a mess at Ornge, and the reason for that is that there was a lack of disclosure and a lack of transparency on the part of the individual who was leading this organization. Notwithstanding the fact that you have extensive experience in the industry, at the end of the day, what we’re concerned about in this committee is that whoever is in a leadership position at Ornge is someone who we can trust to be forthright with the information that we need, that the public needs and that the government needs.

Can you explain to us why—and you have just said you were co-operating with the proceedings. Can you explain these affidavits, and can you explain why you were not willing to co-operate and appear when requested to appear in this particular action?

Mr. Robert Giguere: Yes.

Mr. Frank Klees: Okay, please do.

Mr. Robert Giguere: I travel extensively. I think there’s a comment you made that I was unable to be served. As you are aware, there is a process for that. The process led to me receiving service. I attended, and I’ve been co-operating throughout. You’re portraying, perhaps, that I’m unavailable. I was travelling extensively during that period and wasn’t in the country for lengthy periods of time. I attended with the receiver, with the counsel for the creditors and the receiver—in due course—and provided all the information they needed to the best of my knowledge.

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Mr. Frank Klees: Well, Mr. Giguere, I hear the explanation. I’m not comforted by it. We all travel extensively; we’re all very busy people. When there is something as important as a legal process, I think we all can make ourselves available by email, by letter, by telep-

hone call. Not to even have made yourself available for that just leaves some questions in my mind.

I had to deal with it because for us, we have seen far too much, and we’ve heard from people who have amazing credentials, but they’ve left us wanting in terms of delivery of what we need, and that is trustworthy leadership in this organization.

I’d like to move on to another issue—

Mr. Robert Giguere: I would suggest that my reputation in the industry and across Canada would indicate that I am trustworthy, Mr. Klees.

Mr. Frank Klees: Okay. I would like to move on to the Transport Canada audit. When Dr. McCallum testified last week, he testified that Transport Canada had three critical findings in the audit of your rotorcraft operations. I have here staff instructions that you’d be very familiar with from Transport Canada. These are instructions to staff who are doing the inspections, right?

Mr. Robert Giguere: Yes, more of them.

Mr. Frank Klees: It’s very clear in those instructions to Transport Canada inspectors, who are conducting the audits, that if in fact there are critical findings during an audit, a notice of suspension is to be issued. Was a notice of suspension issued to Ornge as a result of the three critical findings that were discovered in this audit?

Mr. Robert Giguere: No.

Mr. Frank Klees: Can you tell me why not?

Mr. Robert Giguere: I can’t explain Transport’s actions. On the findings that you referred to, we confirmed that the findings indicated there was a shortcoming in some documentation. We ensured that the documentation was completed before our crews operated their next flights and met the requirements for Transport. That is what I would believe to be the answer to that.

Mr. Frank Klees: Who on your management team was responsible for the events leading up to those critical findings?

Mr. Robert Giguere: Who is the head of aviation?

Mr. Frank Klees: Yes.

Mr. Robert Giguere: The head of aviation is Mr. Feeley, who is our vice-president of aviation, and under him our director of flight operations, one for rotor-wing, one for fixed-wing.

Mr. Frank Klees: How did you hold Mr. Feeley accountable for these findings, and what were the consequences for Mr. Feeley?

Mr. Robert Giguere: A Transport Canada audit, in this case a program verification inspection, is something that all air operators in Canada would undergo at some point in time. Obviously, we’re partners in safety with Transport Canada, and we looked forward to the audit, to confirm and identify areas for improvement—

Mr. Frank Klees: Would you agree that a critical finding in an audit is something that anyone in the aviation industry would have very serious concerns about?

Mr. Robert Giguere: Naturally, during the course of an audit, if there are things identified that are critical, as you indicate on the list, they’re very important. We take

them very seriously, and they were addressed immediately.

Mr. Frank Klees: Given that safety is your top concern, how does it come that there would be three critical findings in this audit? Is that not something that should be an exception?

Mr. Robert Giguere: An exception to which?

Mr. Frank Klees: An exception to any organization that is involved in air ambulance service delivery. Especially given the track record of Ornge, did it surprise you? Or is this simply something that you accept as a matter of fact, that there would be three critical findings by Transport Canada?

Mr. Robert Giguere: The program verification inspection and the audit that I believe you have a copy of, obviously, is something that is addressed to us. We welcome the findings. Obviously, we take them very seriously.

On the 10th of April we'll be filing something called a corrective action plan, which addresses the findings in the audit. The critical findings you refer to are obviously of the highest order of interest. There are different levels, as you're aware. Those items were particularly addressed before any further flight conditions.

What they related to and referred to was not a lack of training but a lack of documentation of the training, which is serious in the sense that we could not demonstrate that the training had been completed for the crews. It was relating to ground training that was accomplished in a period of about an hour before the next flight for the crews that had the documentation missing.

The Chair (Mr. Norm Miller): You are out of time, so we'll move on to the NDP. Ms. Gélinas?

M^{me} France Gélinas: Bonjour. Une petite question facile : Est-ce que vous parlez français?

Mr. Robert Giguere: No.

M^{me} France Gélinas: No? The name was a little bit misleading.

Mr. Robert Giguere: Yes.

M^{me} France Gélinas: We'll forgive you.

I have some odds-and-ends questions for you, in no particular order. The first one will be, what would you see as the biggest challenge facing Ornge right now from the position that you're in?

Mr. Robert Giguere: We are an organization that has made tremendous strides forward since the troubles of the past. We are focused on ensuring that we have, as I said in my opening remarks, the proper resources. The resources, obviously, in our case are aircraft, helicopters, ambulances and the people who support them, so the pilots and the medics. So we have been working hard.

As I said, I took my role in December. I had been advising up until then, been working very hard to get the staffing levels and that accomplished to ensure that, as we move forward, we're staffed properly, resourced properly. I'm proud to say that we've made tremendous strides in that area in improving our levels of coverage.

M^{me} France Gélinas: I think Dr. McCallum says that you think you will be fully staffed to your base in

Thunder Bay with the new scheduling late this spring. Am I right?

Mr. Robert Giguere: Yes. As you're aware, we're moving to 24/7 coverage on the resources there, whereas we didn't quite have full coverage before under our mandate. Through our collective agreement process with our unions, there's a process for bidding into bases and bidding into positions. That's been completed. At this point in time, we have staffed up some of them now. The training will continue, and we're expecting that, as we approach the summer season, we'll be staffed up. We have just recently added four rotor pilots to our manpower, so that, of course, will help address the shortfall that existed there with the change of service coverage.

M^{me} France Gélinas: Okay. So you really see this as your biggest challenge. This is what you focus your energy on right now.

Mr. Robert Giguere: When we speak of "biggest challenge," I think that's the immediate challenge, because the outcome is delivery to the service and delivery to the front line and delivery to the patients of Ontario. So there are many underlying challenges. I spoke of knocking down silos, working together, improving communication, while at the same time being fiscally responsible, making sure we are effective and efficient in what we do.

M^{me} France Gélinas: I'd like—as I say, they are odds and ends. We were told that Ornge now has whistleblower protection—

Mr. Robert Giguere: Policy.

M^{me} France Gélinas: Policy. Do you know what it is?

Mr. Robert Giguere: Yes.

M^{me} France Gélinas: Can you describe it for us?

Mr. Robert Giguere: An employee can, through a confidential process, provide to a third party any issue that they feel is of concern in terms of the organization. Additionally, we have, through our other processes, reporting within the company as well that would not be considered part of the whistle-blower policy but would be care reports and other reports that come in when employees have concerns.

M^{me} France Gélinas: So do you think that the employees know the whistle-blower policy?

Mr. Robert Giguere: We've communicated it to them, and the processes—I would say that's it's something that of course becomes a learning for front-line employees. Those who are interested in it would certainly know. Those who might not be quite as interested may not be fully aware, but it's certainly something that can be found available.

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M^{me} France Gélinas: What would happen if a front-line employee was to come to us, come to the ministry or come to an MPP to blow the whistle on something at Ornge?

Mr. Robert Giguere: I suspect that you would listen to them.

M^{me} France Gélinas: Yes, I would. I'm more interested in what would happen at your end.

Mr. Robert Giguere: Well, we wouldn't know about it, so when you say what would happen at our end—if one of our employees came to you, I suspect that would be done on a confidential basis; I don't think they'd advise us that they're coming, but if they did, nothing would happen. I'm a little puzzled at your question, as to what you're—

M^{me} France Gélinas: No, no. You're going in the right way.

I'm interested in your knowledge, also, of the Ambulance Act. I realize that you were an adviser when the bill was first introduced, and now you're in a permanent position now that the bill is back in front of the House. Did you have a look at what's in the new air ambulance act?

Mr. Robert Giguere: At this point in time, I have not studied it, no.

M^{me} France Gélinas: Had you looked at it the first time?

Mr. Robert Giguere: I am aware of it, but again, I had not studied it as an adviser. I was focusing, frankly, a lot on my role directly on the aviation side.

Mr. Jagmeet Singh: Can I just jump in? Your initial role was, you were an adviser and an observer.

Mr. Robert Giguere: Yes.

Mr. Jagmeet Singh: What were some of the key problems that you observed when you were first just observing?

Mr. Robert Giguere: My role was special adviser, aviation. As you know, there had been changes in the executive leadership, so that allowed an opportunity, or perhaps a void to fill. I was taking a look at how we were managing our fleet, meaning our aircraft, and how we were deploying our resources: in the case of aviation, our pilots—both rotor-wing and fixed-wing—and our AMEs, our mechanics.

One of the observations that I had early on, which actually crossed over into the other areas, was how we scheduled our crews. We had, essentially, two scheduling departments that didn't work as a team. Again, I mentioned in my opening remarks the silos. In my understanding of the Ornge organization, there were two operating officers; as a consequence, there were two scheduling teams, and yet we're scheduling people for the same resource. Obviously, when we dispatch an aircraft, we have two pilots and two medics on board, so having that scheduling team synchronized and operating as a team was something that became an immediate goal. With the support of Mr. McKerlie and others, we put in place a plan to integrate the two scheduling teams into one, which is now functioning. It gives us better coverage from a scheduling perspective, meaning the manpower who schedule our staff are there on a longer basis in terms of coverage of a 24/7 period, with no additional cost or change in manpower. It has resulted in improved coverage on our front line in terms of how we schedule, both from an effectiveness and efficiency perspective.

Mr. Jagmeet Singh: That's good to hear.

M^{me} France Gélinas: Do you have any reporting or other relationships with people who work for the ministry or for a ministry?

Mr. Robert Giguere: Well, Transport Canada, federally. I'm the accountable executive for our certificates for Transport Canada. That would be reporting to a ministry, but it would be a federal ministry. In terms of provincial, my primary relationship with the Ministry of Health is through Mr. Jackson's office.

M^{me} France Gélinas: Okay. What does the reporting look like? Is it meetings? Is it in writing?

Mr. Robert Giguere: Yes. We would meet with his staff and department on a monthly basis, and we would report in regularly. In fact, we report in to their office daily with our operational performance, and we report in a roll-up of performance as well. Then we review any active items or projects that are going on in these monthly meetings.

M^{me} France Gélinas: Okay. And do you have anything to do with the land ambulance—that Ornge service?

Mr. Robert Giguere: With the Ornge land ambulances? Yes. They are a part of the paramedic operations portfolio. We have an acting VP of operations who, I would say, has the direct oversight of the land ambulances, which, of course, we have in various locations. But through Mr. Farr, they report in to me.

M^{me} France Gélinas: Through Mr. Farr, they report in to you. Okay.

Have you seen, or do you know, what's in the performance agreement that Ornge has signed with the ministry?

Mr. Robert Giguere: Have I seen it? Yes.

M^{me} France Gélinas: Okay. Had you seen the old one?

Mr. Robert Giguere: No. I had seen it but I had not reviewed it. I'm aware of the new one, of course, that we signed before I arrived at Ornge in the spring of 2012.

M^{me} France Gélinas: Anything in the performance agreement that you signed and in the accountability agreement that has been signed that is problematic or out of the ordinary or that requires a ton of time, effort, and resources to comply with, or is it what you would have expected?

Mr. Robert Giguere: In the general sense I'd say it's what I would have expected. I think there are probably things over time that, between the ministry and Ornge, may require some tuning, I might say, but certainly as a framework it's a good document. It requires clarity and transparency in reporting, which we do regularly.

M^{me} France Gélinas: I'm jumping around because I have a limited amount of time.

Mr. Robert Giguere: Yes.

M^{me} France Gélinas: I'm from northern Ontario. Large parts of my riding are serviced by you guys. How can I reassure people out there that we have equity of access to your services, as in, no matter where people are in Ontario? What can I tell people in Nickel Belt that have been kind of shaken up by what's happening at

Ornge when you depend on that service and you see it at the top of the news for days, weeks and months on end? There's a bit of an issue of trust there that has been broken. What can I tell them that would reassure them that, yes, we do have equitable access?

Mr. Robert Giguere: Well, as you're aware, we have bases in the north. We have a rotor base in Moosonee, a helicopter base in Kenora, a helicopter and fixed-wing base in Thunder Bay and fixed-wing bases in Sioux Lookout and Timmins. I don't know where your line for the north is drawn, but of course we have a rotor base in Sudbury as well. So, throughout all the challenges, our performance has been very good. On a daily basis we operate into all areas of the province. We do so quite effectively, obviously sometimes impacted by weather. Any delays that are incurred are reported to the ministry on a daily basis. I'm confident that we're continuing to and we'll continue to deliver effectively to the north.

As you know, we also use standing agreement carriers to supplement our service on medical cases that are less acute—for primary care cases and some cases of advanced care. That gives us a very nice complement to service the north as well. They do a high frequency of trips with fixed-wing aircraft in the north.

M^{me} France Gélinas: Do you feel confident that the resources—resources as in budget, aircraft, staff, etc.—are, if not at, that you have a path to get you to where you need to go within the resources that you have at your disposal right now?

Mr. Robert Giguere: Yes, I believe so. As I said earlier, our focus is on ensuring that we have the right resources, both human and our operating assets in terms of aircrafts and land ambulances. Our reliability is very good, and we continue to see improvements in our level of care throughout the system through our training processes. So, yes, I am confident.

M^{me} France Gélinas: It may not be your responsibility, but if you have any ideas as to—there is an issue of trust right now from the people in the communities that depend on Ornge because of the trouble that Ornge has gone through. Are there any actions that are being taken on the part of Ornge to reassure and rebuild that trust?

Mr. Robert Giguere: Obviously the most important thing we do is service the patient. That's our primary focus. So, by our actions, which we're proud of in terms of our front-line people who just do a wonderful job when they're out there taking care of the patients of Ontario—obviously that's key in terms of making sure that we're doing the right things. But from a broader aspect, we're reaching out to the various LHINs and hospitals to the regions we serve, to community leaders and so on, sharing our knowledge with them and vice versa so that we work better together in collaboration with these organizations and agencies across the province to ensure that we deliver an effective and seamless part of the health care system.

M^{me} France Gélinas: How are those relationships going? Where I come from, there were hospitals and agencies that were just completely turned off with Ornge.

They would not even bother to call you anymore. Are you rebuilding any of those bridges?

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Mr. Robert Giguere: Absolutely. I would say we're steadily improving each time we visit a community, and we have managers at each of our bases who also reach out in the communities. Dr. McCallum has been meeting with various organizations as he has visited bases across the province. I have as well, and I would say that those relationships are improving. Our doors are open for building the relationships with all the stakeholders in the health care business.

M^{me} France Gélinas: And have you been welcomed, or is it difficult to get the conversation started?

Mr. Robert Giguere: The past is interesting, but when you reach out with a smile and an open hand and a willingness to work with someone, generally they're quite happy to see you. So I would say that no, there have been no challenges when we reach out to someone to say, "We're here to work with you."

M^{me} France Gélinas: You're well received?

Mr. Robert Giguere: Yes, very much so.

M^{me} France Gélinas: Did you have a question?

Mr. Jagmeet Singh: Yes. You've heard a lot of the issues that have gone on about the delivery of care when it comes to Ornge, and I commend you on taking some steps to make sure that's better.

If you could look back, with your experience and your expertise, what were some other areas that you could see that were flawed, or some other models or other mechanisms that were just the wrong direction to head in for Ornge? From the aviation side—

Mr. Robert Giguere: I don't know that I'd say necessarily the wrong direction, but I would say that I believe the transition from the previous rotor operator to ourselves perhaps could have been handled more smoothly. I think that the change from a private organization to essentially a government type of organization, which we are, had some challenges that perhaps could have been handled somewhat differently. A culture change for the employees of the previous operator into Ornge, I think, was challenging for them. Certainly we've been building bridges with those employees, and I would say the relationship is significantly improved. As a consequence, of course, as we rebuild, we're seeing performance improvements as well.

Mr. Jagmeet Singh: That's good. You were mentioning that you have regular reporting to the ministry on a daily basis, as well as monthly meetings. How are those set up and who initiated those?

Mr. Robert Giguere: I don't recall exactly how they were initiated, but certainly they've been in place for a while. We report, every morning, activities of the previous day, which would include our service levels, the number of patients carried, the number of miles. In the circumstances where we cannot carry a patient or cannot attend to a patient because of weather or other reasons, that's reported. Any delays are reported. That's done on a daily basis. We also have a report called a resource

availability report, which really rolls up all of the components necessary for us to deploy an asset. It's important that the aircraft are serviceable, but having an aircraft serviceable without two pilots and two medics serves no purpose. We consolidate all that information into a resource availability report that then rolls into both a daily, a 10-day and a 30-day report that we provide to the ministry.

The Chair (Mr. Norm Miller): You have a couple of minutes left.

Mr. Jagmeet Singh: Sure. I just have one last follow-up question. Whether or not a new air ambulance bill is passed, that's not going to stop you from conducting the reporting that you've been doing so far?

Mr. Robert Giguere: No, absolutely not. Any bill that is passed, obviously, we will abide with, and we will be very open to ensure that we're compliant with it. There's no lack of information available, and whatever is required we'll provide, for sure.

Mr. Jagmeet Singh: And you will continue doing what you're doing already, the oversight that's already going on?

Mr. Robert Giguere: Yes. Some of the things we're doing, although we speak of it as reporting to the ministry—in fact, the resource availability report is something I measure our folks against inside the organization to see if we're being effective. Although, obviously, the ministry and the government are very much interested in what we're doing, internally we're challenging our own folks at all levels to ensure that we continue to improve our performance. So we're using it also as an internal measure, not just an external measure.

M^{me} France Gélinas: Is there something you're looking forward for the legislation to change, kind of, "We really need to get to the next level. We need to do something better. If only the law would allow us to do X, Y, Z"?

Mr. Robert Giguere: I wouldn't say so from my perspective. Dr. McCallum may have a view on it, and the board, but from my perspective as an operating officer, my role is to make sure that we're properly resourced and properly trained and effective in what we do and deliver to the standards we are expected.

The Chair (Mr. Norm Miller): Thank you very much. We'll move on to the government, then. Ms. Jaczek?

Ms. Helena Jaczek: Well, Mr. Giguere, I would like to go over a little bit more in terms of your credentials in aviation, because I think in all modesty you probably abbreviated some of your experience. When did you first obtain your pilot's licence?

Mr. Robert Giguere: I started flying in Winnipeg in the late 1960s. I achieved my commercial licence in 1973.

Ms. Helena Jaczek: Have you been involved in aviation since that time, essentially four decades?

Mr. Robert Giguere: Yes. As I said, I have an engineering degree. I became a commercial pilot in the 1970s. I was hired by Air Canada in 1974 and involved

as a line pilot for a number of years. I was invited into management as a test pilot at our overhaul factory in Winnipeg for the 727s and doing checking and instructing on the 727 fleet. I became a manager for the Airbus fleet as Air Canada introduced the Airbus into the fleet, ultimately chief pilot on that aircraft, responsible for a fleet of over 100 aircraft. Then, I was vice-president of flight operations, senior vice-president of flight operations, executive vice-president of operations with all operating branches reporting into me. I was the executive responsible for integrating the operation of Canadian Airlines and Air Canada into one operating certificate and amalgamating all the labour-related issues with that integration.

Ms. Helena Jaczek: So when you were approached originally by Ornge, by Mr. McKerlie apparently, explain to us what reasons he gave to you for approaching you. Did he ask you about your experience? What was he looking for? What did Ornge need at that point?

Mr. Robert Giguere: He indicated that, as a consequence of the recent changes in the structure, which obviously included the departure of some key individuals within the organization—or people who held key positions—he could use some advice and oversight in terms of the aviation side. I indicated to him that if he was looking for a technical specialist who would rewrite manuals, review documents, either on the turbine side or the rotor side, I was probably not the right person to select. I said, however, if he was looking for someone to take a look at systems, processes, team-building and leadership, I would be a more appropriate person for that role. We had a couple of conversations and then followed on with a contract with essentially some terms that identified what I would be looking at, and that's the role I've taken.

Through the course of several months, as a consequence of the interface between the aviation division and what we call at Ornge the operations division—operations is really paramedic operations, so it's the front-line paramedics, whereas aviation is related to the aircraft themselves, and obviously, they combine into one team. It was clear to me, and one of my early recommendations was to integrate the scheduling department. My recommendation was to integrate the entire operations—aviation, all components; paramedic operations, all components; and our operations control centre, which is really kind of the heartbeat of the operation, where the calls come in and where we dispatch our crews from—into one operation. So it became one cohesive team with one common goal of delivering to the patients.

Ms. Helena Jaczek: In other words, to avoid those silos that you had observed had somewhat been established.

Mr. Robert Giguere: Absolutely, yes.

Ms. Helena Jaczek: I think most of us, as we heard about what had gone wrong with Ornge, were somewhat dismayed about the interiors of the AW139 helicopters. Again, perhaps because people weren't really talking to each other, the paramedics were finding that they were

unable to provide CPR because of the way the interior was designed. Was that something that you got involved with, the refit of those interiors?

Mr. Robert Giguere: When I arrived in April of last year, there were the initial phases of the review and the study that had to be done to correct the anomaly. As you may be aware, there was an exemption granted by Transport Canada to operate the aircraft in a slightly different configuration. That exemption lasted for a year. From an aviation perspective, obviously, I was very much interested in that, with Mr. Feeley, who headed up the aviation team. We worked closely together with the manufacturer, who had gone through the RFP process and so on, for the correction to the interior. I met with the manufacturer a couple of times and was active and provided guidance and oversight through that. We received the certification of what we call the interim interior, so the current interior we're flying. In late December we took delivery of the parts to make that happen, and then completed the installations in January, in time for the expiry of the exemption. We're currently flying that interior right now, or that stretcher.

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Ms. Helena Jaczek: And that's functioning with patient safety in mind and paramedics' ability to provide service?

Mr. Robert Giguere: Yes.

Ms. Helena Jaczek: You're satisfied with that?

Mr. Robert Giguere: Yes. We went through essentially a risk analysis and checklist as that new interior was certified and approved. Of course, on delivery we've been very interested in feedback from our medics and our pilots as to how it operates. It's satisfactory and it meets all the requirements. Our medical advisory committee, headed up by Dr. Sawadsky, has obviously been involved. We've provided the assurances to the Ministry of Health and documentation that all these activities that are required on board the aircraft—in particular the helicopter, the 139 in particular—can be completed safely and that the patient care is where it should be.

Ms. Helena Jaczek: When Dr. McCallum was here last week, he spoke about the amount of service that is given to northern communities, especially in transfer. He actually indicated that something over 60% of the transports were north of Sudbury. So can you just detail a little bit more, from the operations perspective, what changes have been made at Ornge to improve the service to the north?

Mr. Robert Giguere: In terms of service to the north, obviously our bases are the same as they have been for some time, although you'll be well aware of the recent change for the Thunder Bay base, where were putting on an extra line of medics, which will mean that the three aircraft resources—two fixed-wing and one helicopter—are fully staffed 24 hours a day, seven days a week, which was not truly the case in the past. We had two lines of medics for three lines of aircraft and we essentially shared the medics, which didn't give us full coverage.

We have also recently put out an RFP to renew the standing agreement carriers, what we call the SA carriers, who fly supplementally to Ornge, primarily on trips that are of lower acuity, so primary care. That process is completing and we expect that sometime very soon, within the next month or so, we'll have that completed with a large, extensive fleet of SA carriers available to us as well. I think that will be an improvement to service levels, and availability, I might say. So those are sort of two key points that we're working on.

Staffing, of course, is always the issue that we're cognizant of in the north, and continuing to make sure that the north is fully staffed.

Ms. Helena Jaczek: I'm glad to hear, certainly, in terms of staffing, that there has been improvement. What about the training and education of those staff? What have you been able to do—

Mr. Robert Giguere: So training and education on two sides—I think sometimes when we're staffing we have to recognize there are two sides to the equation. On the aviation side, as I said, we've just hired some pilots who are undergoing training to fly the Sikorsky 76, which is the rotor that is actually based in the north, in Kenora, Thunder Bay and Moosonee. Then, on the medic side, we're continuing with the training. We have what we would call an accelerated course of medics who are going through training right now from a primary care level to advanced care. They're in the process of completing, right now, this phase. Next fall we'll start another course—an intensive course, an immersion course, so to speak—that will start in September, of advanced care paramedics up to a critical care level. In the past, some of those courses were quite extended courses while medics were not taken off their flight line duties, and it was spread out over a longer period. We've now taken the view that we backfill, we put them into the class, and we turn them out at higher rate in a faster time. So we're continuing that process and will continue to do so as we go forward.

Ms. Helena Jaczek: So what's the end point, would you say, in terms of completion of the upgrading and appropriate training that you need for your in-house people?

Mr. Robert Giguere: To get everyone to the level of care that we're targeting, it is a long journey. To take a paramedic from a primary care to an advanced care to a critical care is about a two-year process, or even longer. We're making good strides on that. We're achieving higher levels of care. Mr. Farr has been working with the colleges to ensure that the students that are coming out are trained to perhaps what we might consider an enhanced level of care, advanced care, flight, which is something that hasn't been done in the past. That will mean that graduates from the colleges, if we complete those discussions with the colleges, will be available to us coming out of the colleges and into the Ornge organization as we require additional medics. So that will be also a result in favourable outcomes for our staffing.

Ms. Helena Jaczek: Mr. Giguere, you know that the ministry amended the performance agreement, obviously,

with Ornge. Part of that performance agreement is the development of a quality improvement plan, and I'd like to refer to the 2012-13 quality improvement plan.

Mr. Clerk, if I could just ask you to circulate this and make sure Mr. Giguere has a copy. I'll be referring to page 10 of the document. This is a plan, of course, that's posted on Ornge's website and is available to all.

I was particularly interested in terms of, again, some of the testimony that we heard in relation to the availability of helicopters and aircraft. Second paragraph on page 10, there's a statement here: "There was 97.3 per cent base aircraft (helicopter and airplane) availability over the same three-month period, which has been a goal for the entire Ornge fleet since March 2012."

So what I was really interested in was: What would these percentages have looked like before? What was the pre-amended performance agreement rate? We have a goal here, and I guess we would all like to see 100%. So I'm wondering what the plan is going forward to reach that goal.

Mr. Robert Giguere: A 97.3% reliability on an aircraft, or availability of an aircraft, is very good in any measure. Obviously, I can't speak to what it was in the past; I don't have that information available. We can get it for you.

These numbers are very good numbers. We continue to strive for higher numbers. I have an operations meeting every day at 9 o'clock where we review with the key functional heads of each department our aircraft availability, as well as our crew availability. We have, for some time now, had all our bases operational every day from an aircraft perspective, and we track that and, as I say, report it. But we don't just report aircraft availability, which sometimes some people mistake as availability for our resource, because aircraft availability is only one component, and we need two pilots and two medics to adequately service. So we measure all three components, roll them up and then create a number.

But our aircraft reliability has been very good. Our maintenance team have been doing an excellent job of keeping our fleet airborne and reliable.

Ms. Helena Jaczek: I would like, if possible, to find out what the rate was, say, in 2011 or a previous type of percentage so we could—from our perspective, we want to restore public confidence in Ornge. Wherever measurable, we want to see continuous quality improvement. That's clearly the goal of this quality improvement plan. I guess it's a question—there are some issues like weather, I presume, where there are problems around availability. I guess getting to that 100%, there may be some extenuating circumstances.

Mr. Robert Giguere: On the aircraft side, weather would not have an impact. So weather may affect our actual delivery when the aircraft and crews are ready to go, which is a different measure, and obviously it's something beyond our control. But the aircraft availability is something we watch closely, as well as the crew availability, and we can get those figures for you from the past. I believe they're available, but I'll have to check with the aviation team.

Ms. Helena Jaczek: Okay. Now I'd just like to turn to the issue Mr. Klees raised in relation to the audit that was conducted. There were some deficiencies. Is this something that's done routinely? Can you explain a little bit more about—

Mr. Robert Giguere: Yes. Over the number of years, Transport Canada have changed sometimes the method in which they do audits. But all air operators—and those would be people who have an operating certificate or a maintenance organization—would be audited by Transport and measured essentially against the standard to say, "Here's how you're doing. Here's where you can improve. You're meeting the requirements; you're falling short of the requirements. We believe you can do better in these areas."

This is something that's done regularly. In the course of my career, I've been involved in a number of audits, obviously, at different levels and in different roles. So these are things that are done on an ongoing basis for every aviation organization in Canada.

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Ms. Helena Jaczek: Yes, so it's part of a routine that is conducted.

Mr. Robert Giguere: Yes.

Ms. Helena Jaczek: And no flights were delayed because of these findings?

Mr. Robert Giguere: On the side of the training records, we did have what we would describe as down-staff, meaning the aircraft not available for a very short period of time on some shifts of rotor aircraft in the south—our southern bases. That issue was addressed within about an hour or so on the base. The training records were completed, put into the file and made compliant with the requirement of the regulation to ensure that we had the documentation, supporting the fact that the training had been done.

I think it should be very clear that it wasn't a case of training not being completed; it was not having the documentation supporting the training that had been completed. We completed that, but there was no impact on patient care.

Ms. Helena Jaczek: Exactly, so patient safety wasn't jeopardized in any way?

Mr. Robert Giguere: Correct.

Ms. Helena Jaczek: My colleague Ms. Damerla has a question.

Ms. Dipika Damerla: Thanks, Helena. Thank you Mr. Giguere—Giguere?

Mr. Robert Giguere: Giguere, yes.

Ms. Dipika Damerla: Sorry. Thank you for coming. It does seem, based on what I've heard, that between you and Mr. McCallum, Ornge is in pretty good hands.

I did have some questions on the corporate structure, because in your brief deputation I heard you say you were involved in drafting the new corporate structure—the organizational structure. I'm wondering if it would be possible for the Clerk to give him a copy so that he knows what I'm looking at. Is that possible?

Just based on that, I'm curious about the Ornge Global Air Inc., which is the for-profit—the blue square that's the fifth one from the left.

Mr. Robert Giguere: I will say that in my opening comments about organizational structure, I was speaking specifically about organizational structure of our operations group. This document—although I'm aware of it, I'm not particularly familiar with it. Mr. McCallum and our counsel and so on have been working with it—but yes, Ornge Global Air Inc.

Ms. Dipika Damerla: I just wanted to know: In your daily operations, where does this for-profit entity fit in?

Mr. Robert Giguere: Ornge Global Air and the company below it—which you see is 7506406—are actually the corporations that hold the certificates that allow us to perform our aviation functions. They are the holders of our operating certificate: one for aviation fixed-wing and another for aviation rotor-wing.

Ms. Dipika Damerla: I get that I'm not an expert in this. Is it typical for an organization like Ornge to have that holding entity to be for-profit?

Mr. Robert Giguere: It's not atypical, but obviously these things were set up for a purpose in the past which I can't speak to. As we go forward—I believe Mr. McCallum testified, and it's certainly available to you. We've rolled up a number of companies in the past year. I haven't been particularly involved in that, obviously, from an aviation oversight or even from my operating role, but a lot of companies have been rolled up, and that process continues, to simplify the structure.

Ms. Dipika Damerla: Okay, yes. Would you be in a position to talk about whether there has been any thought given to turning this for-profit holding entity into a not-for-profit?

Mr. Robert Giguere: It is being considered. I'm aware that these things are “under discussion,” would be perhaps more accurate.

Ms. Dipika Damerla: Excellent.

The Chair (Mr. Norm Miller): Dipika, you have two minutes.

Ms. Dipika Damerla: Two minutes? Thank you so much.

My other question is, what kind of a Chinese wall is there between the controlled and not-controlled parts from a day-to-day operations perspective, because the taxpayer dollars, I'm guessing, go to the controlled piece.

Mr. Robert Giguere: You're trying to follow the dollars.

Ms. Dipika Damerla: Yes.

Mr. Robert Giguere: In terms of following the dollars, they are all fully rolled up. They're all transparent, so any money that's spent, obviously, in those other two entities is rolled into the parent company; they're captured.

Ms. Dipika Damerla: Sorry, no; I was talking more from controlled to not controlled. There's a group that says “controlled” and there's a group that says “not controlled.”

Mr. Robert Giguere: Yes. I can't speak to that, but we can certainly get the answer for you.

Ms. Dipika Damerla: That would be great.

Mr. Robert Giguere: Yes.

Ms. Dipika Damerla: My last question, because I think I have a few minutes, is on Bill 11. Dr. McCallum did testify earlier, and he said—that's the proposed bill the government is bringing in—that it would certainly go a long way in restoring public confidence, and I just wanted your thoughts on it.

Mr. Robert Giguere: Well, obviously, whatever the Legislature decides, we'll be very supportive of it and welcome it and look forward to seeing what the final document looks like.

Ms. Dipika Damerla: Thank you.

Ms. Helena Jaczek: If we have any time left—I think we're going to have an extra five minutes? Is that—

The Chair (Mr. Norm Miller): I think that we may, if the committee agrees. You're pretty much out of your 20 minutes. Mr. Klees, did you have a request?

Mr. Frank Klees: Yes: if we could, while we have Mr. Giguere here, allocate an additional five minutes per caucus. I understand that we'll carve that out of the Minister of Health, who will be available to us at some other time if we need some additional time with her.

The Chair (Mr. Norm Miller): Is that agreed? Agreed. We'll move to Mr. Klees.

Mr. Frank Klees: Do you want to carry on with your five minutes first?

Ms. Helena Jaczek: No. Why don't we just carry on in rotation.

The Chair (Mr. Norm Miller): Okay. Mr. Klees, you have five minutes.

Mr. Frank Klees: Thank you. Mr. Giguere, a couple of things. You mentioned the resource availability report.

Mr. Robert Giguere: Yes.

Mr. Frank Klees: Could you make available to this committee that report for the last number of months, from the time that you started to keep those records until today?

Mr. Robert Giguere: Certainly. I understand, Mr. Klees, that you had asked for the AOSRs, which are the aircraft out of service reports. I think it's important that you understand the distinction. The AOSRs are primarily documents that were capturing the performance levels of our rotor operations. As I've indicated earlier, that truly didn't reflect the effectiveness of Ornge as a complete organization, and it didn't reflect the availability of the fixed-wing or the land ambulances.

I don't have the exact date, but in August of last year, essentially, that became what I would describe as a secondary report. The rolled-up report, which is the resource availability report, started in August. We can make those available to you. I believe you've got the AOSRs that you requested. I believe you've got them for the last year. I forget the exact dates I was advised.

Mr. Frank Klees: If you could send us the resource availability report, starting—

Mr. Robert Giguere: Yes. They would commence in—I believe August is the first complete month we've

got. Perhaps by the time we send them, March will be available, but certainly we have them to the end of February at this point in time. I have some of them with me here.

Mr. Frank Klees: Thank you.

I'd like to go on to something very specific here. When Mr. Rob Blakely of CHL testified before this committee, he provided testimony that showed that the dispatch reliability of the helicopter operation was 98%. Do you have any reason to dispute that?

Mr. Robert Giguere: I don't know that number and I don't know what it's based on, but I'll take you at your comments.

Mr. Frank Klees: That was his testimony. He presented documentation to support that. Last week, Dr. McCallum testified that the rotorcraft dispatch reliability rate was "above 85%." I think you'll agree that these availability rates are significant. It's my understanding that each percentage point of dispatch reliability represents over 700 hours of service interruption. If that's the case, then the difference between the 98% that Mr. Blakely indicated was the rate of dispatch reliability before Ornge took over control of that aspect of the service and what it is now, according to Dr. McCallum, somewhere in the range of 85%—that we're currently experiencing significant service interruption compared to what it was under the previous operator. It translates literally into hundreds of thousands of hours since Ornge took over the helicopter operation.

Can you tell us if, in your opinion, that is acceptable? We had a situation where there was 98% reliability. Now we're talking about 85% reliability. With the thousands of hours of interruption, particularly given the impact on patients of any delay, what is acceptable to Ornge?

Mr. Robert Giguere: I think it's important we understand the numbers that we're speaking of. I haven't seen Mr. Blakely's testimony, but I take your point that he raised it at 98%, and I'll refer to the—actually, the document was kindly provided. We're at 97.3% for our base aircraft helicopter and airplane in terms of availability at the base to fly the mission. That really is the number that's important. As I said—

Mr. Frank Klees: Well, actually, if I may, I think what's important is the dispatch reliability because, unless I'm wrong, the dispatch reliability is the combination of the aircraft reliability plus paramedic availability so that you can actually respond to a call—two very different things. You may have 100% reliability or availability of aircraft; if you don't have the paramedics available, you can't respond, and that impacts on the dispatch reliability. So if, in fact, it's the two combined, I would suggest that this document here is actually—I'm not saying intentionally misrepresenting, but it certainly doesn't tell the whole story in terms of whether Ornge is available to respond to calls. That's what we're dealing with here.

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We have had far too many examples presented to this committee where Ornge was not available because either

the aircraft wasn't available or because paramedics weren't available. Hence, the dispatch reliability is what I'm focusing in on. I'd just like to know from you, given the disparity—and we'll see this, I'm sure, on the resource availability report, which is why I'm interested in seeing that—the number of times that Ornge still is not able to respond and dispatch a crew when the need is there.

The Chair (Mr. Norm Miller): Take the time you need to answer the question, but you've actually used all your time, Mr. Klees. Take as much time as you need.

Mr. Robert Giguere: Do you mind?

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

Mr. Robert Giguere: I think it's important for us to understand the distinction between what Mr. Blakely is reporting, what we're reporting and what I'm referring to here. In terms of aircraft availability at a base, 97.3%, I certainly don't want you to believe that I'm holding that up and saying, "That is our performance all the time." I'm saying, that is how often the aircraft are ready for dispatch from a maintenance perspective, from an engineering, technical perspective.

The resource availability report, which you'll have soon, captures all the components required. It isn't limited to rotor, isn't limited to fixed-wing; it includes our ambulance service. Obviously, you need three components to be available: You need the aircraft, you need the pilots and you need the medics. Those reports show good, solid numbers. They show that those numbers are improving. Our aircraft availability is high, at 97.3% for the last few months. We have a degradation of that performance based on what I describe as the human side, the paramedics and pilots. There are occurrences where we have sick time, where we have personal days, where we have bereavement and so on, where we may not be able to backfill.

We're working very closely with the representatives of the various associations that represent our employees to ensure that we have a good on-call system to make sure that we are able to resource and staff our aircraft at all times across the province. You'll see from the resource availability that we're running above 90% when you combine all items. When you limit the items and keep isolating them down, you can create higher numbers. But I don't want anybody to misunderstand me: When I say "creating higher numbers," I'm not saying creating artificially, but in isolation. If you look at aircraft availability, it would actually be the best of our performance levels. Then, when you combine all the other vital components to get it resource-ready, we end up with a somewhat lower number—still exceeding 90%. I can't give them all to you. You'll have them available to you. You'll actually see the roll-up as to what was missing on any particular component that would pull that number down somewhat. I would say that our aircraft availability is very good across the system, very reliable.

Do we miss sometimes? Like any aviation organization, it's important that we all understand that we will miss, from a readiness perspective and from a reliability

perspective, because that's how we protect the safety of the organization. We make sure that when an aircraft has a mechanical issue, we park it. We put it on the ground, and we repair it. We've got a very skilled team of people who identify those faults and repair those faults. That's the number one priority for me: to make sure that when we dispatch an aircraft, it's a safe resource, fully compliant. We make sure that the package that we're delivering to the patients of Ontario is the right package.

There will be times we miss. I'd love to say that we'll be at 100%. I can say with certainty that I don't believe that will ever happen because that is probably not the right answer from a fiscal perspective to have 100% reliability and redundancy across the province. That is our goal, but obviously it's a challenge that's huge, because you do have human issues, you have weather issues, and you have maintenance issues on very complicated mechanical devices that we call aircraft and rotor aircraft. There are times where they do fail in operation. When that happens, our reliability drops somewhat below 100%.

The Chair (Mr. Norm Miller): Thank you. We'll move to the NDP. That was almost 10 minutes, so you can have the same amount of time if you wish. Go ahead. Who would like to go?

Mr. Jagmeet Singh: Thank you very much. I just want to go over some of the steps that you're taking right now. You touched on them before, but I want to itemize them in terms of the reporting requirements: external, and then some of them that are internal and some that are both external and internal.

One of the things you mentioned is that there are daily reports that go off to the ministry. What are those reports? If you could kind of itemize them briefly, what type of reports they are.

Mr. Robert Giguere: So they would be sent out every day. Of course, on a Monday, they capture the weekend, although they're prepared. They would capture—some of the things that are of interest, obviously, are total number of patients carried; patients by level of care—critical care, advanced care, primary care—further broken down into the resource that carried them. So they might be carried by land ambulance, they might be carried by helicopter, they might be carried by a fixed-wing aircraft—further broken down, in the fixed-wing aircraft, to whether it's an Ornge fixed-wing aircraft or a standing agreement carrier fixed-wing aircraft.

We would continue down that path, and we would report into what I would describe as deeper details of that breakdown: average times for a call, dispatch reliability, and then any delays that we would note would be any delays of significance where we couldn't service a call immediately. Sometimes you have a resource out on a call and you get a call for another one. There may be what I would describe as a delay while one call is completed and the other call is started if you're in a remote area. If you have your resource in Moosonee on a trip that has been dispatched for—obviously, if a second

one comes up, you complete the first and start the second.

Mr. Jagmeet Singh: Sure. So that's a good breakdown of—those are the reports that go out on a daily basis?

Mr. Robert Giguere: A daily basis to the ministry, yes.

Mr. Jagmeet Singh: Which ones are—you mentioned one, internal reporting, which was resource availability, and you use that as an external as well.

Mr. Robert Giguere: We report it to the ministry as well, which essentially combines a lot of data, but it focuses primarily on the availability of the resource, so aircraft, rotor aircraft or ambulance, then our skilled professionals who operate those. In the case of aircraft, it's two pilots and two medics, and in the case of a land ambulance, just two medics. All that rolls into the resource availability report.

Mr. Jagmeet Singh: Are there other reports like that that aren't external, that are strictly internal? Reports that you generate just to test your own performance against yourself or against that report?

Mr. Robert Giguere: Anything that we have that we produce internally is available externally to the ministry, but we roll them up, so there are obviously segmented reports that go very deep. I have each of the operating teams looking at particular items that would be, frankly, very complex if you continue to report in that detail. Each group looks and digs down into the areas that would impact their operation.

Mr. Jagmeet Singh: So all these reports that you generate, and all this reporting to the ministry, that goes on, on a daily basis, you've described. What's the monthly basis that you described before?

Mr. Robert Giguere: That's the resource availability report. Obviously, there are other things that are reported. I'm talking specifically about the operation. So the resource availability report is a roll-up of the essentially daily performance reports.

Mr. Jagmeet Singh: So you have that mechanism in place right now where there's a daily—and then obviously Monday captures the weekend as well—and you have a monthly report where you kind of roll up all these reports together.

Mr. Robert Giguere: Yes, and we do it as well by each third of the month, so the first 10 days, next 10 days, last 10 days as well.

Mr. Jagmeet Singh: So that's actually three levels, then. You have a daily, you have a 10-day and then you have a monthly.

Mr. Robert Giguere: Correct.

Mr. Jagmeet Singh: Perfect. And all these things are in existence and are going to continue to be in existence. Is it fair to say that you will continue to do this whether or not the air ambulance bill gets passed or not? You're going to continue to do this because you believe in providing great transparency?

Mr. Robert Giguere: Absolutely. I think it's very important for any organization to measure themselves

against some standards, to report those standards internally and, of course, depending on the organization, you report to the board. You report to an external agency in our case. I feel they're vitally important, and if you don't measure, you don't get the improvement. It's important for our staff to see the measurement so they understand where we're doing, how we're doing against our measures.

Mr. Jagmeet Singh: Excellent. Outside of the reporting that we just talked about, are there any, as part of an operations type of—addressing that area, are there regular visitations by the ministry, or are there scheduled visits or unscheduled visits that do occur on a regular basis, whether it's monthly or weekly?

Mr. Robert Giguere: Well, as I said, we meet with the air ambulance oversight branch monthly. During the course of the month, we have an interface regularly—not necessarily always myself; sometimes it's Mr. Farr, who's the head of our paramedic operations.

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Any investigations that are going on are handled by our investigations department, so there's an interface there with the ministry on a very regular basis. I'm aware of those but not directly involved unless they reach a high level, obviously.

Then, of course, if there's any of what I'd describe as ad hoc requests, we interface with the air ambulance oversight branch as well, when there's a question or an issue that they'd like addressed or an answer to.

Mr. Jagmeet Singh: Okay. This may not make sense; I'm just going to put this out there as a question as well: Is there something like a spot check, where there would just be an unannounced, unscheduled drop-in to oversee or to look at the operations side of Ornge?

Mr. Robert Giguere: Certainly there's nothing that precludes it, and I'd not be concerned about it. I believe that in the past there have been people visiting our bases or visiting our operation, but I can't say there's a program. You'd have to probably ask Mr. Jackson if he has any plans in that regard.

Mr. Jagmeet Singh: From the ministry. Okay, fair enough.

France?

M^{me} France Gélinas: I know I asked you questions before about the whistle-blower protection that is now available at Ornge. There's a bill in front of the good people who sit here, in front of us, asking us to prescribe a different whistle-blower protection for your agency. From what you've seen of what you have right now, and if you've had opportunities—you have had opportunities—to work in other agencies that had whistle-blower protection, do you feel what you have is adequate; it's barely making it; it's excellent? How would you rate it?

Mr. Robert Giguere: I think it's very, very healthy, the program we've got. We called it "whistle-blower" here. In other organizations I've seen, there's anonymous reporting—various things that it's called. I believe it's very healthy and very adequate for our organization.

M^{me} France Gélinas: You would feel confident moving forward with what you have in place?

Mr. Robert Giguere: Yes.

M^{me} France Gélinas: You would feel confident that that—

Mr. Robert Giguere: I believe it will be very effective.

M^{me} France Gélinas: Okay. That's good for us.

The Chair (Mr. Norm Miller): Thank you very much. We'll move on to the government. Mr. McNeely?

Mr. Phil McNeely: Mr. Giguere, in this quality improvement plan, you say, "We are in the process of rebuilding Ornge, and it is an exciting and rewarding process." We've certainly been hearing good things about the improvements that were made at Ornge in the last few months.

You've run airlines, so that's something that you know about. Governments generally own the land ambulances. I'd just like you to explain the advantages for Ornge—for the province, for the taxpayers—of operating our own fleet of aircraft.

Mr. Robert Giguere: Obviously we're flying both fixed-wing and rotor aircraft: PC-12s on the fixed-wing side, and rotor aircraft are flying S-76s—the Sikorsky S-76s—in the north and the Agusta AW139s in the south.

From a perspective of operating them ourselves, if there's a for-profit operation that you're contracting to, obviously you build a profit margin in. So if we are as effective as the for-profit organization you might contract to, we would in fact take that profit out. So it would be cheaper for us to operate.

We have care and control. We set the standards; we make sure they're complied with. We have one integrated and seamless operation.

Mr. Phil McNeely: So patient safety, for service to the public, for taxpayers' dollars, you feel that this is a proper way to go forward?

Mr. Robert Giguere: Yes. Very effective.

Mr. Phil McNeely: Thank you.

The Chair (Mr. Norm Miller): Ms. Jaczek.

Ms. Helena Jaczek: So, in other words, to follow up, you would see no reason whatsoever to go back to the former model of air ambulance in Ontario, where there was a contracting out?

Mr. Robert Giguere: I think it's always important in any business to look at options and consider them and measure yourself against those options. We do so. As I said in my opening remarks, efficiency is one of the things that I look at, which of course is fiscal responsibility. We need to make sure that we continue to measure ourselves against other options and opportunities. I think it should be understood that we still partner with some of the SA carriers in that model. We focus our attention, within the Ornge organization—in terms of Ornge land and flight—at a higher level of care, at a critical care and advanced care level. Those other carriers work at a primary care level.

Ms. Helena Jaczek: Thank you. If I may just, again, refer to this quality improvement plan: This, of course,

was the first one ever produced, and I guess it's a similar situation with hospitals—our Excellent Care for All Act prescribed that this would be the way forward. I presume you are looking at the 2013/14 quality improvement act to be coming forward shortly. Would you be involved with that process, that development?

Mr. Robert Giguere: Yes, certainly. I'm working on it with the executive team as we build it, and I think you'll see some areas where we've enhanced our targets and so on in terms of where we're improving. Obviously, the organization has been in transition. As I say, I'm delighted to have been made a permanent part of the organization in December, and very much welcome Dr. McCallum's arrival with Ornge. I think we've got a very good team who are absolutely focused on the right things and are going to make sure that the changes that are necessary going forward to get the improvements that we all want will continue.

Ms. Helena Jaczek: Yes. So some targets will maybe have been changed, hopefully to the positive direction.

Mr. Robert Giguere: Yes.

Ms. Helena Jaczek: Is this a document that you use? Sometimes we just have things that are on shelves. We've heard in the line of questioning from Mr. Singh that you have this constant contact, but presumably the types of measures that you are reporting to daily or monthly all flow out of this document.

Mr. Robert Giguere: They all flow out of that document; everything feeds in. At the lower levels in the organization—obviously this is a high level—everything builds to this quality improvement plan.

Ms. Helena Jaczek: I just noticed on this appendix A to the quality improvement plan that there is a requirement to look at, basically, the patient relations process. I presume this is a satisfaction process?

Mr. Robert Giguere: Yes.

Ms. Helena Jaczek: How are you going to address that? Because, again, we want to restore confidence in Ornge, this is going to be really important going forward.

Mr. Robert Giguere: As I'm sure you're aware, in the last year we've hired a patient advocate who we have internally, who—of course we have our normal process of investigations and follow-up, where there are care reports and so on, but as well, now we have someone that a patient can reach out to. In fact, in some cases, the patient advocate will reach out to patients. That provides what I would describe as an improvement program as well. Our patient advocate, of course, is an integral part of our organization in the sense that any information she gleans through her activities with patients directly feeds into our program, so that we can improve what we do through surveys and through feedback from the patients that we carry.

Ms. Helena Jaczek: Thank you. Any more questions? We're fine.

The Chair (Mr. Norm Miller): Very well. Thank you, and thank you, Mr. Giguere, for coming in today.

Mr. Robert Giguere: Thank you very much.

MINISTRY OF HEALTH AND LONG-TERM CARE

The Chair (Mr. Norm Miller): Okay. We now have Carole McKeogh, deputy director, legal services branch, Ministry of Health and Long-Term Care, coming before the committee. Welcome. Good afternoon. Just to confirm, you've received the letter for someone coming before the committee?

Ms. Carole McKeogh: Yes.

The Chair (Mr. Norm Miller): Okay, very well. And you wanted an affirmation? That's great; our Clerk will do that.

The Clerk of the Committee (Mr. William Short): Ms. McKeogh, could you just raise your right hand, please. Do you solemnly affirm that the evidence you shall give to this committee touching on the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth?

Ms. Carole McKeogh: I do.

The Clerk of the Committee (Mr. William Short): Thank you.

Ms. Carole McKeogh: Thank you.

The Chair (Mr. Norm Miller): Very well. We'll start with the NDP, and you should have about 17 minutes for your questioning. Go ahead.

M^{me} France Gélinas: Very good.

Mr. Jagmeet Singh: She has a statement, I believe, Chair.

The Chair (Mr. Norm Miller): You had stated you didn't want to do an opening statement. Is that correct?

Ms. Carole McKeogh: Sorry. I changed my mind.

The Chair (Mr. Norm Miller): Oh, you did? Okay. Please go ahead with your opening statement, then.

Ms. Carole McKeogh: My apologies. Thank you, Mr. Chair.

Good afternoon, members of the committee. My name is Carole McKeogh, as was mentioned, and I'm the deputy director with the legal services branch at the Ministry of Health and Long-Term Care. Thank you for this second opportunity to appear before the committee, and I am happy to provide the committee with any assistance it requires, to the best of my ability.

I would like to briefly review some points that I presented to the committee on my first appearance, and then address some corporate law issues in respect of which I understand that the committee has requested further information.

My involvement with the legal services provided by our branch to the ministry in connection with Ornge began in January 2012. At that time, I was asked to prepare an amended performance agreement between the ministry and Ornge, which was signed by both parties on March 19, 2012. I've also been involved in the development of the proposed amendments to the Ambulance Act contained in Bill 11, and I would like to discuss these proposed amendments briefly.

Bill 11, if passed, would provide the province with many of the same powers for intervention in the public

interest which currently exist for public hospitals under the Public Hospitals Act. In my view, there is a useful comparison to be made between public hospitals and Ornge. Both hospitals and Ornge are non-profit corporations. They are both charities with volunteer boards. They both provide essential health services to Ontarians and are funded almost entirely by the province.

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However, in the case of public hospitals, the legislative framework includes the power for cabinet to intervene in the governance of a hospital through the appointment of a hospital supervisor who can assume all the powers of the board and the corporation. This is viewed as an extraordinary power of intervention which exists to protect the public interest. It is a key safeguard, which has been included in the proposed legislation for Ornge. However, it is important to note that it will not be possible for the province to exercise this power of intervention, or some of the other powers contained in Bill 11, until Ornge is continued as an Ontario corporation. Currently, Ornge is incorporated under federal legislation, and I will discuss the provincial regulation of federally incorporated companies in more detail in a few minutes.

Going back to Bill 11: As in the case of public hospitals, the proposed legislation permits cabinet to appoint one or more provincial representatives to sit on the board of directors. These provincial representatives would have all the same rights and responsibilities as any other board member. As is also the case with public hospitals, the proposed legislation would permit cabinet to appoint one or more persons as special investigators where cabinet considered it in the public interest to do so.

To conclude this comparison of public hospitals and Ornge, it is essential to note that they both are not just recipients of transfer payments from the province. Given the importance of the services they provide, they are both governed by legislation. The proposed legislation will provide significant powers of intervention in the public interest with respect to Ornge, based on the model which currently exists for public hospitals under the Public Hospitals Act.

I understand that the committee wishes to receive information on the provincial regulation of federally incorporated companies, and this material is a bit dry, so I ask you to bear with me. I would like to provide the committee with a brief summary of Peter Hogg's description of the constitutional division of powers that relates to federally and provincially incorporated companies. Peter Hogg is, of course, Canada's pre-eminent constitutional law scholar.

The Constitution divides constitutional jurisdiction between the federal and provincial Parliaments. In many respects, these powers are exclusive. For example, the federal Parliament has no jurisdiction over driver licensing, and the provincial government has no jurisdiction over criminal law. However, there are many subjects that can be said to have a double aspect in which both levels of government can legitimately legislate, so

long as they do so from the perspective of their own area of constitutional jurisdiction. A good example is the provincial driver-licensing prohibition on careless driving and the similar federal criminal prohibition on dangerous driving.

With respect to company law, both levels of government are constitutionally authorized to legislate. The provincial Legislature has jurisdiction to authorize the incorporation of companies with power to operate within the province, and other provinces may authorize out-of-province companies to operate within their jurisdictions. The federal Parliament has jurisdiction to authorize the incorporation of companies with power to operate anywhere. Both levels of government have legislation for the incorporation of companies that provide for the structure, powers and capacities of these companies.

Potential companies are free to seek incorporation under either federal or provincial law, regardless of which level of government has constitutional jurisdiction over the business activities of the company. For example, a telephone company can be provincially incorporated, even though its telecommunication activities fall within federal jurisdiction, and similarly, a private school could be federally incorporated, even though its education activities fall within the province.

However, the provincial Legislature is not constitutionally authorized to impair the core aspects of the federal company law power; that is to say, to change the essential company law aspects of a federally incorporated company. For example, provincial legislation which supplants the powers of a board of directors authorized by federal company law would unconstitutionally intrude on the federal power over federally incorporated companies.

In summary, a distinction needs to be drawn between constitutional jurisdiction over the activities of federally incorporated companies and constitutional jurisdiction over the company law aspects of those companies.

Since the provision of ambulance services is within provincial jurisdiction, the provincial regulation of ambulance services applies to an ambulance service provider regardless of whether it is federally or provincially incorporated. However, in regulating ambulance services, provincial legislation may not impair the status and essential powers of a federally incorporated company or, in other words, its governance.

Bill 11 contains several provisions which could not be enforced against a federally incorporated company:

(1) cabinet's power to appoint a supervisor in the public interest who would have the exclusive right to exercise all the powers of the board of directors;

(2) cabinet's power to appoint one or more provincial representatives to sit on the board of directors and who would have all the rights and responsibilities of an elected member of the board;

(3) the minister's power to issue directives to an air ambulance service provider in the public interest where the directives would affect the governance of the federally incorporated company; and

(4) cabinet's power to enact regulations regarding the letters patent of Ornge and its bylaws insofar as these would affect governance.

How much time do I have left?

The Chair (Mr. Norm Miller): Two minutes.

Mr. Frank Klees: You can take as much time as you want. I'll give you my share of time.

Ms. Carole McKeogh: You're very kind; thank you. I only have about two minutes left on the subject of continuance.

Now I would like to say a few words on the legal concept of continuance, which is also somewhat dry but very brief. It is legally possible for a corporation which has been incorporated under the laws of one jurisdiction to be continued, which is the technical legal term, as if it has been incorporated under the laws of another jurisdiction. A continued corporation retains its status as a legal entity, its property and its liabilities.

In order for this to happen, there must be enabling legislation in both the exporting jurisdiction, which is where the corporation was established, and in the importing jurisdiction, which is where the corporation wishes to be continued.

Ornge was incorporated federally and is under the jurisdiction of the Canada Not-for-profit Corporations Act. This is new legislation which permits the export of federal corporations to other jurisdictions, provided that the importing jurisdiction, which in this case is Ontario, has legislation in place which mirrors the wording of the federal legislation with respect to the continuation of the corporation's property and liabilities and of causes of actions, proceedings and convictions against the corporation, all of which are maintained in continuance.

Our current Ontario Corporations Act, which is very old legislation, does not contain the mirror wording. Our new Not-for-Profit Corporations Act does contain the mirror wording but has not yet been proclaimed in force. Bill 11 contains the mirror wording required by the federal legislation, which is intended to enable Ornge to be continued as if it had been incorporated under Ontario laws.

Thank you again for this opportunity to address you. Now I would be happy to answer your questions to the best of my ability.

The Chair (Mr. Norm Miller): Very well; thank you. We'll go to the NDP, and you should have 14 minutes. Go ahead.

M^{me} France Gélinas: My head is spinning a little bit with everything that you have given us, but I think I follow the gist of what you've said. I don't know if you've followed the debate in the House, but I have never seen a piece of legislation that governs something within the health care system that gives the minister the right to change the letters patent of a not-for-profit corporation. Am I right in this?

Ms. Carole McKeogh: Yes, I think so.

M^{me} France Gélinas: So this will be the very first time that a piece of legislation that governs a health service gives the minister the right to change the letters

patent. Where does this idea come from, that we need to do that?

Ms. Carole McKeogh: Well, I think it's partly born out of the circumstances that preceded the introduction of the legislation. The letters patent, of course, is the key corporate governance document.

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There could be issues in the letters patent that could raise concerns. For example, if you go through the letters patent of Ornge—as it is now, currently a federal corporation—I'm just casting my mind back here, but at one point they provided that directors could receive remuneration, and that, of course, is really not possible for directors of a non-profit corporation.

M^{me} France Gélinas: Well, it happens at the LHINs. The LHIN directors are members of the governance. They are board of director members and they get remuneration, so—

Ms. Carole McKeogh: Expenses. They could get their expenses paid.

M^{me} France Gélinas: No, the chairs get a stipend of close to \$100,000 a year.

Ms. Carole McKeogh: I'm sorry; I'm not aware of that. They are governed by legislation as well.

In this case, if there were provisions in the letters patent, for example, concerning the remuneration of directors that had been set by the directors and were of concern to the ministry, then that is something that could be addressed.

M^{me} France Gélinas: Okay. We went through all of the different parts of what is now Bill 11, air ambulance. Where did those ideas—that those particular parts of the bill needed to be there? How did it come to be that we were going to need supervisors and appoint representatives on the board and issue directives and all the rest of this—what's the connection here? What am I missing? Why do we need this?

Ms. Carole McKeogh: I think the way Ornge was previously treated was largely as a transfer payment recipient. It was a very large transfer payment recipient, and there was a performance agreement in place. But with light to the services that they're providing, as I mentioned in my opening remarks, for example, contrasted with public hospitals—a very similar set-up. Hospitals are also transfer payment recipients and receive very large amounts of transfer payments. If there's a problem with just a normal, garden-variety transfer payment recipient, then you terminate funding. If they're providing a service which is important but not essential—some type of education about a disease—and there's a problem with how they're using the funds, there's a variety of remedies that are available. But when you have a service provider like public hospitals or Ornge, which are providing such critical services to the public, terminating funding is not really an option. So that's why we tended to look to the public hospital model to see: What are the remedies that are used in that legislation—rarely; very rarely—but available in case of extreme concerns?

M^{me} France Gélinas: You did not touch at all on the whistle-blower protection that is in the air ambulance act.

Ms. Carole McKeogh: Right.

M^{me} France Gélinas: Do you know anything about this?

Ms. Carole McKeogh: I know it's there. That is something that would be enforceable against Ornge regardless. I was sort of addressing my remarks more to the fact that it's federally incorporated and needs to move over, but those provisions would be enforceable against it regardless, even if it doesn't.

M^{me} France Gélinas: Okay. So basically, there are a whole bunch of things that the government cannot do because it is incorporated federally—

Ms. Carole McKeogh: Right.

M^{me} France Gélinas: But there are other transfer payment agencies of the Ministry of Health—we'll take hospital corporations—that are also incorporated at the federal level and have been for decades, and the ministry never said boo about changing for the last decades or moving forward. Why is it that, if it is so restrictive on the Ministry of Health, being incorporated at the federal level, because of all the things you cannot do and we need to change, but then why do we tolerate it for all of those other transfer payments at the Ministry of Health that are incorporated federally and that are under an act?

Ms. Carole McKeogh: Well, speaking of public hospitals, which is my particular area of practice in the time I've been at the ministry—we checked into this last year—there are only three that remain that are federally incorporated, out of 152 hospital corporations. Interestingly, there used to be more, about maybe four more. The majority of them—almost all of them—are owned and operated by religious orders, and so for some reason they tended to prefer to incorporate federally, perhaps because their religious orders were incorporated federally.

There is one other hospital, and I have a note of it here, that is incorporated federally—

M^{me} France Gélinas: There are four right now, not three.

Ms. Carole McKeogh: Four? We found three, but there could be another one.

It is Collingwood General and Marine Hospital, incorporated by federal statute in 1887. I guess the ministry has been aware that there have been a handful of federally incorporated hospitals, and as to the reasons why the ministry would not go to them and say, "You need to be continued provincially," I can't comment on that.

M^{me} France Gélinas: All right.

Coming back to the whistle-blower—one more, then my colleague will take over—you're aware that the whistle-blower protection has been put. I know that you sat in when the previous witness was there, where he explained that they already have a whistle-blower protection they have put in place. He is quite satisfied that what they have is quite robust and will serve, basically, the people of Ontario well. So what's the idea with bringing something that is of lesser quality, to be graceful, that we presently have in this bill?

Ms. Carole McKeogh: I don't know when the whistle-blower program was put in place at Ornge. Of course, this bill dates back to the last year. As you know, it was introduced as Bill 50. I'm not sure if there was a whistle-blower program in effect at Ornge then. This was the decision in terms of what would go in the legislation, and I can't really comment on it beyond that. Sorry.

M^{me} France Gélinas: In your discussion to do everything that we're trying to do through the Air Ambulance Act, was there ever discussion at the ministry to say that maybe it's time to look at our other transfer payment agencies that are also under an act to see if there are what I call "little Ornges" out there? Has any of this been on your radar at all?

Ms. Carole McKeogh: Sorry. I'm not following you there.

M^{me} France Gélinas: What you're trying to put in place for Ornge doesn't exist for hundreds of transfer payment agencies—the Ministry of Health does not have a supervisor appointing reps on the board, issuing directives, changing the letters patent, changing the bylaws. For most of the transfer payment agencies at the Ministry of Health, the Ministry of Health is not allowed to do that to them, but we want to do all of this to Ornge. If it is that important that it be there because of the fiasco at Ornge, why isn't it important that we do it to the hundreds of transfer payment agencies that are out there where there could be similar issues?

Ms. Carole McKeogh: These are very significant powers of intervention. As I said, there's sort of a spectrum in terms of government regulation and control. The vast majority of transfer payment recipients are providing services, but not the same type of essential services as are being provided by hospitals and Ornge. As I mentioned before, those transfer payment recipients are governed by performance agreements and transfer payment agreements that have different rights of notification of concern and escalation of concern and, ultimately, terminating funds. In most of those cases, that would be sufficient. These very significant powers of intervention would only be contemplated, I think, in the case of transfer payment recipients delivering such important services that the termination of funding is just really not an option.

M^{me} France Gélinas: So from what you know, the government has no intention of asking other transfer payment agencies of the Ministry of Health that are incorporated at the federal level—right now, they're not asking them to come under provincial incorporation.

Ms. Carole McKeogh: Not that I'm aware of.

The Chair (Mr. Norm Miller): You have about three minutes.

Mr. Jagmeet Singh: Sure. Just a couple of brief areas.

I'm going to put an assertion to you—and let me know if you agree with it or not—that the way Bill 11 is crafted, would you agree that there's a shift in terms of the powers provided for in Bill 11 towards more ministerial powers, as opposed to more powers for the House at large? The decision-making is put more so in

the hands of the minister through regulatory changes. Would you agree with that?

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Ms. Carole McKeogh: Sorry, than the House? Than the Legislature at large?

Mr. Jagmeet Singh: Yes.

Ms. Carole McKeogh: Yes. It's a similar model, as I said, to the Public Hospitals Act, with powers vested in the minister and cabinet.

Mr. Jagmeet Singh: Okay. And specific to the performance agreement, the performance agreement was amended and a new performance agreement was put together, and you were part of that process. Is that correct?

Ms. Carole McKeogh: Yes.

Mr. Jagmeet Singh: And that was done under what legal authority, I guess? Was there—you didn't require a bill to be passed to be able to amend the performance agreement they created?

Ms. Carole McKeogh: No.

Mr. Jagmeet Singh: You could amend a performance agreement in a similar fashion as many times as you would like.

Ms. Carole McKeogh: Provided both parties agree, yes.

Mr. Jagmeet Singh: Right, and having a bill or not having a bill would not preclude one way or the other the ability to do that.

Ms. Carole McKeogh: That's right.

Mr. Jagmeet Singh: Okay.

M^{me} France G  linas: I'm sure you have seen where a change in performance agreement or accountability agreement is resisted by a transfer payment agency. There are transfer payment agencies that are not always very happy to have to sign, but the ministry has a pretty big stick.

Come March 31, if your previous year's budget has not been signed off by the ministry, your board of directors gets pretty nervous and says, "We will sign this because we cannot continue to operate." What was so different at Ornge that they couldn't simply not sign their budget—not shut them down; just don't sign their budget until they sign? What precluded the Minister of Health to say, "We're not going to sign off on this year's budget or next year's budget until you sign the new performance agreement"?

Ms. Carole McKeogh: Nothing.

M^{me} France G  linas: Thank you.

The Chair (Mr. Norm Miller): Thank you. So we'll move to the government. Ms. Jaczek?

Ms. Helena Jaczek: Thank you. Ms. McKeogh, I just want to pursue a little bit of the questioning from my colleagues from the NDP. You know that there are four federally incorporated hospitals; we now know. You, I understand from your preamble, are specifically the legal counsel looking at public hospitals. Does your supervisor know that there are four federally incorporated hospitals where the minister cannot, and cabinet cannot, appoint a supervisor? Who else knows?

Ms. Carole McKeogh: Yes. I think it's pretty well known throughout the ministry.

Ms. Helena Jaczek: You wouldn't have maybe taken it on yourself to give some advice to say, "Should we not do something about this?"

Ms. Carole McKeogh: I apologize, but that would be solicitor-client privileged, my advice to the ministry.

Ms. Helena Jaczek: I see. Okay. I guess we'll just leave that. It just seems to the layperson somewhat extraordinary that becoming aware of a situation like this, you wouldn't want to create order out of potential chaos, and you might want some consistency. Anyway, I will leave that.

Mr. Singh has talked a lot about the potential to have a performance agreement signed by two parties and perhaps a lack of need for Bill 11. Can you explain to us why we need Bill 11? What are the additional provisions in Bill 11 that are necessary in order for the ministry to be satisfied as to the activities related to patient safety and taxpayer protection at Ornge?

Ms. Carole McKeogh: I'm happy to do that. I think Bill 11 contains a number of provisions which are intended to strengthen the oversight over Ornge and the minister's and the government's power to intervene. As I mentioned in my opening remarks, the minister or cabinet may appoint one or more provincial representatives to sit on the board of directors, and these persons would have all the powers of a board member. This is a power which is contained in the Public Hospitals Act and rarely exercised, but it is a very useful power if the government wishes to have a presence on the board of directors. The power of the minister to issue directives to the air ambulance service provider is significant. A power of cabinet to appoint special investigators where it's considered in the public interest to do so—the range of matters that the investigators may look into and their powers are significant.

There is frequent reference in this legislation to the public interest, as there is in the Public Hospitals Act. There's a section that deals with making a decision in the public interest, and it indicates that the "Lieutenant Governor in Council or the minister ... may consider any matter they regard as relevant, including"—the factors are listed:

"(a) the quality of the administration and management of the designated air ambulance service provider;

"(b) the proper management of the health care system in general;

"(c) the availability of financial resources....

"(d) the accessibility of air ambulance services in the province; and

"(e) the quality of the care and treatment provided by the designated air ambulance service provider."

The public interest test is very broad and gives the government a broad range of matters to consider. The appointment of a supervisor is, as I've mentioned, an extraordinary power of intervention. As you know, public hospitals have been around for a long, long time—since the late 1800s. The first Public Hospitals Act was around

1931, but it wasn't until 1981 that amendments were brought in with respect to investigators and supervisors. The appointment of investigators—from 1981, we're talking however many years that is; 30-odd years—has only occurred under 20 times. It's viewed as being very significant and rarely exercised, but there have been cases where cabinet has considered it to be the appropriate step to take.

Of course, there's the whistle-blowing protection which Madame Gélinas has mentioned, and the continuation provision which I mentioned, as well. There are also extensive regulation-making powers. These are some of the provisions that would be beneficial that are included in Bill 11.

Ms. Helena Jaczek: Just to follow up a little bit on the whistle-blower, the independent ethics officer, I believe—is that the term? This service is being monitored by a legal firm, Grant Thornton. Is that correct?

Ms. Carole McKeogh: I'm not familiar with the particulars of what they have in place at Ornge. I'm sorry. I seem to remember hearing that as well.

Ms. Helena Jaczek: So that isn't specified in the act, that this is the way it will be done, through an independent—

Ms. Carole McKeogh: No, they've created their own whistle-blowing regime, as Madame Gélinas indicated.

Ms. Helena Jaczek: Is there a provision in the performance agreement for Ornge to report on the subsequent investigations, subsequent to this independent ethics officer approaching Ornge and saying, "There has been a report of this particular problem. I want you to investigate"? Does that information ever come back to the ministry? Is that required in the performance agreement?

Ms. Carole McKeogh: No, there are no specific provisions in the performance agreement about that.

Ms. Helena Jaczek: So there would be a possibility that the ministry would be unaware of how many whistle-blower complaints there have been?

Ms. Carole McKeogh: The performance agreement does provide that Ornge shall provide any further information required by the ministry, so if that were something the ministry needed to know, that would be something they could ask for.

Ms. Helena Jaczek: They could ask for and then receive?

Ms. Carole McKeogh: Yes.

Ms. Helena Jaczek: I see. Okay, thank you.

The Chair (Mr. Norm Miller): Ms. Jaczek, just to clarify on your question where you asked and Ms. McKeogh cited solicitor-client privilege: The information that was sent to all people coming before the committee notes that 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." Many other presenters and witnesses—this has been waived with them. So if you do wish to receive an answer to your question, you can—

Ms. Helena Jaczek: Yes, I would wish to receive an answer. I would like to know who else, or your supervisor—who did you report this anomaly to, that there are four public hospitals that are federally incorporated and therefore not subject to the full powers of the minister to appoint a supervisor?

Ms. Carole McKeogh: With all respect, since it is solicitor-client privileged legal advice, I would need to have the entire committee require me to answer, I believe.

The Chair (Mr. Norm Miller): Okay. Is it the decision of the committee to require an answer?

Interjections.

Interjection: We could do it in camera, though.

Ms. Carole McKeogh: And I would ask that it be in camera.

The Chair (Mr. Norm Miller): It's up to the committee.

Interjections.

The Chair (Mr. Norm Miller): So there is agreement that we get an answer?

Ms. Helena Jaczek: Can we recess for some consideration?

The Chair (Mr. Norm Miller): Certainly we can recess. We'll take a five-minute recess.

The committee recessed from 1441 to 1446.

The Chair (Mr. Norm Miller): Okay, we reconvene the committee. Yes, Ms. Jaczek.

Ms. Helena Jaczek: I would request that we respect solicitor-client privilege to the extent that Ms. McKeogh answer in camera.

The Chair (Mr. Norm Miller): Okay. Is that agreed by the committee, that we get this in camera?

M^{me} France Gélinas: No.

The Chair (Mr. Norm Miller): No? Okay. In this case, if there's not agreement we need a motion to that effect.

Ms. Helena Jaczek: I would so move that we move in camera to hear the response from Ms. McKeogh.

The Chair (Mr. Norm Miller): Okay. Any comments? Mr. Klees.

Mr. Frank Klees: I just think, Chair, that it's an important question. This is not giving away a state secret. This is who knew what and when. That's what this is about—who had advice. So I would ask you to call the question.

The Chair (Mr. Norm Miller): Any further debate? Okay. Those in favour of the motion to move in camera? Those opposed? We have a tie, so I must confer with the Clerk on this question.

Mr. Shafiq Qaadri: Chair, if I might just say, it is my understanding that it's the Chair's responsibility to protect the witness.

The Chair (Mr. Norm Miller): I'm not listening to your advice, Mr. Qaadri, but I will vote in favour of the motion. So we shall go in camera.

The committee continued in camera from 1447 to 1455.

The Chair (Mr. Norm Miller): We're back in open session, and we'll move to the opposition. Mr. Klees.

Mr. Frank Klees: Thank you. Just for clarification, before we went in camera, I think on the record we said that there were four hospitals that were federally incorporated. It turns out that there are obviously more hospitals implicated here, because you indicated that the Salvation Army is one of them. How many hospitals under the Salvation Army umbrella does that include now?

Ms. Carole McKeogh: I think it's only the Salvation Army Toronto Grace Health Centre.

Mr. Frank Klees: So there is just one.

Ms. Carole McKeogh: Just the one, yes.

Mr. Frank Klees: We don't have the time to pursue this to any depth, but one of the concerns that has been raised is that we can have as many performance agreements as we want, and you can paper it all you want. At the end of the day, if the provisions are not enforced by the minister, or by the deputy minister, or by the civil service who have the responsibility to ensure that that accountability and the oversight is actually exercised upon, what does it all mean?

Ms. Carole McKeogh: Agreed.

Mr. Frank Klees: It means nothing, right?

Ms. Carole McKeogh: Agreed. Yes.

Mr. Frank Klees: Is there anything—and perhaps you can give this some thought and get back to the committee—in terms of what could be done to build some accountability measures into this performance agreement that would provide some motivation, if I can put it that

way, for the minister, the deputy minister, those within the Ministry of Health who have that oversight responsibility, to comply and to actually do what they're being asked to do?

Ms. Carole McKeogh: I'd have to think about that, Mr. Klees.

Mr. Frank Klees: Please do.

Ms. Carole McKeogh: Thank you.

Mr. Frank Klees: Because I think that the new enhanced performance agreement, without that, just gives us more paper and just simply leaves us open to the next minister or the next deputy or the next assistant deputy to simply ignore it and not do what they're asked to do and what they really have to do in order to enforce that agreement. Those are my comments.

The Chair (Mr. Norm Miller): Any comment at all? Okay. Then I believe we are done. Thank you very much for coming in today. It's appreciated.

Mr. Frank Klees: Chair, could we ask research to follow up with Ms. McKeogh on this question? It's a very serious question.

Mr. Ray McLellan: I was just going to ask—I didn't hear well enough to—

Mr. Frank Klees: She said she would think about it.

Ms. Carole McKeogh: No, I don't have a response to that.

Mr. Ray McLellan: So if I followed up, there wouldn't be a response?

Ms. Carole McKeogh: You're following up with me? That's fine.

Interjection.

Ms. Carole McKeogh: I'll try.

Mr. Ray McLellan: Okay. I wasn't clear.

The Chair (Mr. Norm Miller): Okay; very good. We're adjourned.

The committee adjourned at 1458.

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