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**Thursday 25 April 2013**

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**Jeudi 25 avril 2013**

**Standing Committee on  
Justice Policy**

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Hansard Reporting and Interpretation Services  
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Toronto ON M7A 1A2  
Téléphone, 416-325-7400; télécopieur, 416-325-7430  
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

## STANDING COMMITTEE ON JUSTICE POLICY

## COMITÉ PERMANENT DE LA JUSTICE

Thursday 25 April 2013

Jeudi 25 avril 2013

*The committee met at 0832 in room 151.*

### MEMBERS' PRIVILEGES

**The Chair (Mr. Shafiq Qadri):** Thank you, colleagues. I call the meeting of the Standing Committee on Justice Policy to order. As you know, we're here to consider issues on energy infrastructure with particular reference to the gas plants.

**Mr. Peter Tabuns:** I have a motion to move, Mr. Chair.

**The Chair (Mr. Shafiq Qadri):** I'm well aware of that, Mr. Tabuns. Give me two minutes, if you might.

**The Chair (Mr. Shafiq Qadri):** There are two issues beforehand. One is, we've received about 100 pages or so from Infrastructure Ontario—

**Mr. Steve Clark:** I'm sorry. Can you repeat that?

**The Chair (Mr. Shafiq Qadri):** We have received 100 pages or so from Infrastructure Ontario—these are to be considered confidential documents at all costs to avoid from the Toronto Star etc. Having said that, the procedure will be that we will hand those to each of the caucuses. One member from each caucus will sign a particular sheet that says, "Thank you for the receipt. It's my pledge to keep these documents confidential," and then we'll decide later what to do with them. That's one issue.

The second issue: The able research assistant, Mr. Jeff Parker, has submitted to you a timeline that the committee will follow in terms of draft report, review of report, research officer report etc. Even though it politely says "suggested," it's not suggested. It's probably what we're going to follow, period.

Mr. Tabuns, the floor is yours now.

**Mr. Peter Tabuns:** Thank you, Mr. Chair. I have copies of this motion that I will give to the Clerk for distribution.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Tabuns. We will now be taking a five-minute recess.

*The committee recessed from 0834 to 0836.*

**The Chair (Mr. Shafiq Qadri):** Thank you, colleagues. The committee's back in session.

Mr. Tabuns, I would invite you to read this into the record, now that it's been distributed.

**Mr. Peter Tabuns:** Thank you, Chair. I move that whereas the government has prioritized the testimony of Ontario Power Authority CEO Colin Andersen in the

media, committee proceedings and oral questions, I move that the Standing Committee on Justice Policy invite Mr. Andersen to testify before the committee on Tuesday, April 30, 2013, which is the next available witness slot designated for a Liberal witness.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Tabuns. Before I open the floor for questioning or any comments, I declare that this motion is out of order because the rule that you have violated—even though this does seem to happen these days—the NDP cannot tell the Liberal Party which witness to call.

**Mr. Peter Tabuns:** Mr. Chair, you didn't seem to have difficulty ruling effectively this same motion in order the other day.

**The Chair (Mr. Shafiq Qadri):** That was their own witness.

**Mr. Peter Tabuns:** You had no difficulty when it was amended by Mr. Fedeli designating the time.

**The Chair (Mr. Shafiq Qadri):** Thank you. It was the government caucus speaking about their own witness. As I understand it, Mr. Tabuns, you are not allowed, as the third party, to tell the government party what witness it can call.

**Mr. Peter Tabuns:** But in fact, Chair, the government brought forward a resolution. It was amended by the Conservatives, by Mr. Fedeli. You had no difficulty with that, even over the objections of the Liberals, and it was brought forward for a vote.

**The Chair (Mr. Shafiq Qadri):** The government chose the witness. All they did was amend the date and time of the witness etc. In any case, the motion is out of order.

Mr. Bisson.

**Mr. Gilles Bisson:** Well, I beg to differ somewhat. The order of the House is pretty clear, that each caucus has an equal number of witnesses. Mr. Colin Andersen is the choice on the part of the government, therefore it comes from their list. So this is not violating in any way the order of the House. The committee is—

**The Chair (Mr. Shafiq Qadri):** Just a moment, Mr. Bisson. I've been told that Colin Andersen is a choice of the—

**Interjection:** NDP.

**The Chair (Mr. Shafiq Qadri):** NDP.

**Mr. Gilles Bisson:** But also of the Liberals. He's on the Liberal list.

**The Chair (Mr. Shafiq Qadri):** Not right now.

**Mr. Gilles Bisson:** Well, yes, they've moved a motion to that effect.

**The Chair (Mr. Shafiq Qaadri):** Understood, but as I understand it, the latest incarnation of the witness choice is that Mr. Colin Andersen is an NDP choice, not a Liberal choice.

**Mr. Gilles Bisson:** Well, I go back to the point—the Liberals have indicated that this is a person they want. Not only has it been indicated in this particular committee, the Premier and the government House leader have indicated that he's an important material witness who has to be heard and is encouraging this committee to deal with it. So, certainly, it is a priority of the Liberals, I have to understand, because your own government House leader, your own Premier and your committee members have indicated so. That's the first part. It is—

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Bisson. I appreciate—

**Mr. Gilles Bisson:** One second, Chair. Just let me finish my point here. So, to what you are ruling, I would say this: The order of the House is clear. Each party is entitled to an equal number of witnesses. It is up to the committee to decide how you schedule those witnesses, and all this motion is doing is dealing with the scheduling of the witness. It is not dealing with the selection. They have already selected him. We're just dealing with the scheduling of the witness.

**The Chair (Mr. Shafiq Qaadri):** I appreciate what you're saying. I thank you for your consideration of the matter. The Chair has now officially ruled. I believe we're on solid ground for it. I have an entire page of rulings to amend that, should you wish to see it, but as I said, the issue is that the NDP cannot dictate the witness selection of another party, and that ruling stands. So this motion is now out of order.

**Mr. Gilles Bisson:** But it is not the selection. That's the point. Mr. Andersen is a selection of the Liberal Party already, so it's not a question that we're selecting on behalf of the Liberals.

**The Chair (Mr. Shafiq Qaadri):** Mr. Andersen, as I am told, is not a selection of the government party.

**Mr. Gilles Bisson:** Well, are you saying that what Mr. Milloy and what the Premier are saying in the House is not true? You can't do that.

**The Chair (Mr. Shafiq Qaadri):** Mr. Bisson, you'll need to take that up in a different forum. In any case, the motion is ruled out of order. We will now proceed, with your indulgence, to our first witness.

MR. CHRIS BREEN

**The Chair (Mr. Shafiq Qaadri):** I would now invite Mr. Chris Breen to please come forward. Thank you, Mr. Breen. You'll be affirmed by the Clerk.

**The Clerk of the Committee (Ms. Tamara Poman-ski):** Do you solemnly affirm that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth?

**Mr. Chris Breen:** I affirm.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Breen. You have five minutes for an introductory address, and then rotation questions. Go ahead.

**Mr. Chris Breen:** Thank you, Mr. Chair.

My name is Chris Breen. I'm a registered lobbyist. I've been responsible for TransCanada's government relations in Ontario for about 11 years. I'm here at the invitation of the committee. I'm here to co-operate, and I hope my testimony is helpful.

I have some knowledge related to the project known as the Oakville generating station, not to be confused with the other project that I understand your committee has reviewed, which is the project in Mississauga. That's a project that TransCanada had no involvement with. I will do my best to answer your questions. However, I am not a technical expert of any kind, especially not in the areas of electrical infrastructure, engineering or finance.

TransCanada is an energy infrastructure company focused primarily on oil and gas transportation and power generation. TransCanada operates in Canada, the United States and Mexico; has over 4,000 employees; and it owns or partially owns 20 power plants. TransCanada is the largest private sector power generator in Ontario. TransCanada's Ontario plants include Halton Hills generating station, 50% of Portlands Energy Centre, where we partner with Ontario Power Generation, and a significant partial ownership of Bruce nuclear power. TransCanada produces power from most conventional generation fuels across North America, and in Ontario, this includes natural gas and, of course, nuclear power. Part of my role is to communicate with the government on behalf of TransCanada, and this is a role that I played related to the Oakville generating station.

The Ontario Power Authority initiated a competitive procurement process for a new power plant in the southwest GTA. TransCanada responded as a contractor. TransCanada registered part of the Ford lands in Oakville as its proposed site. This land was free of any restriction related to power generation at that time.

The Ontario Power Authority announced that TransCanada was the successful bidder of the four contractors who pre-qualified. Subsequently, TransCanada signed a 20-year contract with the Ontario Power Authority. Notwithstanding the significant opposition of the town of Oakville and some from the local area, TransCanada did everything within its power to uphold its contractual obligation to build the Oakville generating station on the Ford lands in Oakville. On October 7, 2010, Energy Minister Duguid announced that the contract for the construction of the Oakville generating station would not proceed.

From day one, TransCanada's objective was to build, own and operate this new power plant on the Ford lands in Oakville, as per our contractual obligation. When it became clear that the province was cancelling the contract, TransCanada co-operated by negotiating relocation so that our shareholders would be protected and rate-payers could retain as much value as possible. These

negotiations would eventually involve the Ontario Power Authority, Infrastructure Ontario, Ontario Power Generation and the Ministry of Energy. Specifically, TransCanada entered into an arbitration agreement with the province which anticipated relocation as a best remedy for all involved with the contract.

On December 14, 2012, TransCanada signed a new contract with the Ontario Power Authority to build a 900-megawatt, combined-cycle natural-gas-fired power plant in Greater Napanee.

Thank you very much.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Breen. We'll begin with the NDP: Mr. Tabuns, 20 minutes.

**Mr. Peter Tabuns:** Thank you, Mr. Chair. Mr. Breen, thank you for being here this morning.

One of the matters that came up extensively in the emails we were provided with: You had a number of meetings with members of the Premier's office in the summer of 2010. Can you go through those meetings that you had?

**Mr. Chris Breen:** I can. Would you like me just to do that sort of in a free-ranging way, or did you have specific questions?

**Mr. Peter Tabuns:** No, first, I'd like to know how many meetings you had and talk about who contacted whom to set these up. Then I'll get into some details.

**Mr. Chris Breen:** Okay, great. The meetings that we had with political staff—I'll expand it a little bit wider, because we did have meetings with the energy minister's staff initially, and then, eventually, we had meetings with the Premier's office.

I think you asked about the Premier's office first. Our primary contact there was Sean Mullin. The most senior individual that I regularly dealt with in the Premier's office was Jamison Steeve. Those meetings came after meetings that we would have had with the energy minister and his staff. The most regular contact we had in the energy minister's office was the chief of staff at the time, named Craig MacLennan. Previous to Craig MacLennan, we had dealt with Paul Ungerman. Previous to Paul Ungerman, we had dealt with Jennifer Tuck.

I think that covers generally who we met with. The person who was my key contact with the Ontario Power Authority was a gentleman named Ben Chin. Ben was the vice-president of communications for the Ontario Power Authority. He was an incredibly helpful and responsive individual. He knew very well the political offices that we met with because Ben used to be a staffer in the Premier's office and, I believe, at one time, was also a candidate for the Liberal Party. So Ben, when you ask who set these meetings up, would have been critical to setting up those meetings.

The meetings took place on various dates that I can go through. How we got there was of course that we had a contract that we had to fulfill—obligations we had to fulfill as a contractor. We saw some obstruction in the way of fulfilling those obligations and I discussed that with Ben. It came to our attention—

**Mr. Peter Tabuns:** I apologize for one second. You discussed these obstructions with Ben Chin when?

**Mr. Chris Breen:** As they came up, so in real time. I can go back very quickly and try to get you a date.

**Mr. Peter Tabuns:** Yes, please.

**Mr. Chris Breen:** On March 30, 2009, that was when the town of Oakville passed an official plan amendment number 296, which attempted to prohibit power generation greater than 10 megawatts anywhere in the town of Oakville. That obviously would have been problematic to our project. On the same date, they passed an interim control bylaw number 2009-65. This interim control bylaw had effectively the same goal, albeit on an interim basis. So that was the time at which we sort of said, "Okay, these things are for real," and on or around that time, I would have spoken to Ben.

There's basically a two-track way of dealing with this when it happens to you. The first track is sort of the legal route, if you will, a combination of the Ontario Municipal Board and various courts in Ontario, where you go to try to appeal, if you will. I can go through more detail on that in a minute. The other route, which I suggest would be wise to go, is to also go the government route. This is what York Energy Centre did in King township when they experienced similar difficulty with the municipality there. What they successfully did was they went to the government and had the government pass a regulation under a piece of existing legislation that effectively allowed the province to exempt them from the Planning Act. This is what I had discussed with Ben.

The Ontario Power Authority obviously had no power to do that. So we quickly came to the conclusion that we'd better go talk to the Minister of Energy about this, or at least his staff, and see what their feeling is.

**0850**

**Mr. Peter Tabuns:** Okay. So you met with Mr. Chin from the OPA over those obstacles prior to talking to Sean Mullin and Jamison Steeve. Did you talk to people in the energy minister's office?

**Mr. Chris Breen:** Yes, we did.

**Mr. Peter Tabuns:** And that would have been Mr. MacLennan, or was it Paul Ungerman?

**Mr. Chris Breen:** It would have dated back initially to, probably, Jennifer Tuck, I believe, and Paul Ungerman. The first meeting that I have in my recollection here, with the minister present, happened on April 19. At that meeting, we gave the minister an update and we raised the notion of his desire or interest in enforcing the existing legislation, passing a regulation to deal with this. At that time, the minister was not committed to that path going forward.

**Mr. Peter Tabuns:** And then you decided to go to the Premier's office?

**Mr. Chris Breen:** At that point, the minister also asked us to consider alternative locations. He effectively suggested that he didn't see our way forward in the way that we had suggested through his activity and he suggested, "Why don't you guys come back and we can look at some alternatives of how we deal with this,

including alternative sites?” He was not interested in any other alternatives that involved Mississauga.

I'm just going through my notes from this meeting.

From there, we would have come back to the minister's staff, discussed this with them subsequently, and eventually, in time, through a combination of Ben Chin and Mr. MacLennan, we were advised that this is something that will have to be discussed with the Premier's office.

**Mr. Peter Tabuns:** Okay. Let's move forward to your discussions with Sean Mullin and Jamison Steeve.

**Mr. Chris Breen:** Okay.

**Mr. Peter Tabuns:** When did you first meet with them?

**Mr. Chris Breen:** The first meeting I have on my record is June 3, 2010. Finn Grefflund, who's a retired executive from TransCanada, and I met with Mr. Steeve and Mr. Mullin. At this meeting, again, they encouraged us to look at alternative locations.

It's really important for me to make one point, if I may. At every one of these meetings, we stressed each time, “Look, not only do we believe that the Ford lands in Oakville is the best site for the project; we have a contractual obligation to build it there. So notwithstanding these conversations about alternatives that you've requested, we must continue to march forward with Oakville until such a time as somebody relieves us of those contractual obligations.” So I point that out to explain to you why there may have been, apparently, two different conversations happening simultaneously.

**Mr. Peter Tabuns:** Did you believe that Jamison Steeve and Sean Mullin were negotiating with you?

**Mr. Chris Breen:** Negotiating? I think what they were—certainly not negotiating in the sense of fine-detail dollars and cents. I think what they were saying to us was quite clearly that this plant is not likely to move ahead on the site that you've chosen.

So they talked to us about possibilities on land that we own in Halton Hills, next to the power plant that exists. They talked to us about Nanticoke. They talked to us about north Oakville. And when I say, “They talked to us” about this, I think there was a combination: They would suggest sites; we would say, “What about this?” A collection of sites was beginning to come together. Over time, for whatever reason, those sites kind of fell off the table. That led, ultimately, to the cancellation announcement, where not only was it announced that our project wouldn't go ahead in Oakville; I believe it was announced at the time that there wouldn't be a project built in the GTA.

**Mr. Peter Tabuns:** And just going back, you said that Jamison Steeve and Sean Mullin said that this plant was not likely to go ahead in Oakville.

**Mr. Chris Breen:** That's right.

**Mr. Peter Tabuns:** Why was that their opinion?

**Mr. Chris Breen:** There were two themes that were recognized at the meetings. At the early meeting, so June 3, 2010, largely it was, I would say, focused on the activities in Oakville, the fact that the town was putting

up these obstructions, the fact that there was a growing organization opposed to the power plant. That seemed to be the focus of the first meeting.

As we moved on through subsequent meetings, that theme obviously remained. There was reference to Mr. Flynn, the local MPP, and his strong opposition—a private member's bill that he was trying to get some support for. Then as we got closer to the date of the actual announcement, there was a suggestion to us that the power was actually no longer needed. That would be a big part of the stated rationale for the cancellation when it was announced.

**Mr. Peter Tabuns:** You seem to have extensive notes from your meetings.

**Mr. Chris Breen:** Yes, sir, I do have—I wouldn't call them extensive; I have handwritten notes in the way that I try to take them when there's a busy conversation going on.

**Mr. Peter Tabuns:** Would you be willing to file those notes with this committee?

**Mr. Chris Breen:** Yes, sir. I would like permission to just discuss that with TransCanada subsequent to this meeting, and then get back in touch with your Clerk, if that's okay.

**Mr. Peter Tabuns:** I will move a motion at the end about a request for the notes.

**Mr. Chris Breen:** I want to stress that TransCanada has been very co-operative and supportive of my appearance here today, and I can't imagine that they'll have any difficulty with that.

**Mr. Peter Tabuns:** When you were meeting with the Premier's office, was the Ministry of Energy involved in those discussions in any way?

**Mr. Chris Breen:** The minister's staff—I don't recall them attending meetings with the Premier's staff. From my notes, it looks like we'd have meetings with Craig MacLennan and/or other staff, and on occasion his minister, and then separate meetings with the Premier's staff.

**Mr. Peter Tabuns:** Were you talking to the Ontario Power Authority at this point?

**Mr. Chris Breen:** Yes. I was in contact with Ben Chin I would almost say on a daily basis.

**Mr. Peter Tabuns:** That's a pretty high level of contact.

**Mr. Chris Breen:** It is. Ben and I—first of all, I just really found him to be an extremely intuitive character. He and I saw this storm cloud, if you will, coming a little earlier maybe than some others did. Our view was, whatever happens here, whichever track one chooses to fix this problem, these things take time, and we'd better get these issues on the table now with those who need to understand them.

It was an effort, shall I say. There's always a competition for government's attention, and on certain days, I didn't feel we were doing very well in that competition. Ben would probably describe me as an enthusiastic pursuer of his attention, if I can put it that way.

**Mr. Peter Tabuns:** An interesting way to put it.

In the summer, you were told that this plant was not likely to go ahead. How seriously did you and your board, you and your corporation, take that?

**Mr. Chris Breen:** We took it very seriously. We did everything in our power (1) to keep moving forward with our contractual obligation; and (2) to try to convince those that we were hearing that message from that this was not our preferred route, and tried to point out to them—remind them of the fact that we did indeed have a contract and that there were obligations not just on our side, but also on the government's side through the Ontario Power Authority.

**Mr. Peter Tabuns:** And in your discussions or negotiations with the staff from the Premier's office, did you enter into discussions about dollar figures, compensation, matters of that sort?

**Mr. Chris Breen:** Specific dollar figures, no. I think what I always said in conversation, when they talked about alternatives, was if you do decide to move this plant, it is going to be more expensive generally. When we came back with presentations of potential sites, we did estimates, and the engineers in our company would tell me that they weren't really estimates. Their definition of an "estimate" is—they need several months and a lot of due diligence to produce what they would call an estimate. We weren't given that kind of time. They pulled together what they could in short order. In some of those documents, which I believe are public documents now, there were estimates of the incremental cost of moving to A, B, C or D.

0900

**Mr. Peter Tabuns:** One matter that comes up with us fairly regularly is this whole question of keeping TCE whole or close to whole. Was this something that was put forward by staff from the Premier's office?

**Mr. Chris Breen:** This was put forward by TransCanada, and, ultimately—I'm looking at my notes from October 5, which I believe was two days prior to the announcement, which I think happened on October 7. Our executives who came to that meeting were very clear. They said, "We have a contract. We're seriously advising you against cancelling it, but if you do cancel it, we expect to be kept whole." They added that, "Our idea of being kept whole is just that if you don't want us to build there—we're a contractor. Just send us to another site. We'll build on the other site." But whatever incremental costs there are in doing that, that cost will be borne by the person who cancels the contract, not the contractor who received this news.

**Mr. Peter Tabuns:** In that meeting on October 5, we've had indication—notes that were second-hand, taken by ministry staff in the summer of 2011—that this was quite a heated meeting, that one of your executives got very angry with the Minister of Energy—"blew a gasket" is the term I'm sure you've heard. Can you describe that meeting, and did it appear that the minister didn't know that the contract was on the verge of being cancelled?

**Mr. Chris Breen:** There were two meetings that day. The first meeting happened with Mr. Steeve and Mr.

Mullin, and that was attended by myself, Russ Girling, who's our CEO, and Alex Pourbaix, who's the president of energy and oil pipelines.

At the first meeting, it was a very frank discussion. Mr. Steeve led on that side, and he told us, "We've decided we're going to cancel your contract." We had a discussion about that, and he indicated that—I think Friday was the day that it was to be cancelled. I think we were in there on a Wednesday. That's when our executive told Mr. Steeve exactly what they would be expecting because obviously they were going to have shareholders and a board to answer to, and they said clearly, "If you're going to do that, you should give us a letter explaining what that means to us." That was a very frank conversation; bad news, obviously, but at least it was frank and everything was on the table.

We left that meeting and immediately went down the hall to meet with the minister, Brad Duguid, his deputy, David Lindsay, and Craig MacLennan, his chief of staff. What happened in that meeting was that the minister, for whatever reason, did not speak to the definitive cancellation and the timing of the announcement. He's a very polite gentleman and it was a very polite conversation, but it really wasn't getting to the same point where the last conversation happened. My recollection is, at one point—

**The Chair (Mr. Shafiq Qadri):** One minute.

**Mr. Chris Breen:** —I actually stepped in and said, "We just came from the Premier's office. We understand that the announcement is to be made on Friday. We're going to be expecting a letter." At that point, the minister politely wrapped up the meeting, and we moved on.

**Mr. Peter Tabuns:** Okay.

**Mr. Chris Breen:** As for "blow a gasket," I think there was probably some physical body language that showed a degree of exasperation from the three of us. When we got outside, I can tell you, our CEO did say, "Well, that was strange." We had one very frank conversation, and then we went into the other room and we just seemed to be having this very circular conversation. So he was a little exasperated by that.

**Mr. Peter Tabuns:** Okay. In the discussions that you had on the morning of that day, was there any sense of the cost envelope—

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Tabuns.

To the government side: Mr. Delaney.

**Mr. Bob Delaney:** Thank you very much, Chair. Good morning, Mr. Breen. Thank you for being here today. I think you've explained pretty well how TransCanada is an important producer in Ontario's supply mix.

Just to sort of lead in: Would you provide me a very brief rundown of TransCanada's energy projects across the province?

**Mr. Chris Breen:** Across the province? Okay. Historically, we had five smaller natural-gas-fired power plants that could best be described—in northern Ontario. They were sold several years ago. Subsequent to that, there was a significant investment in Bruce nuclear power in

Kincardine. The investment was made in two steps. I believe, in the first investment, we invested about one third in two of the units; then, in a subsequent investment, I think we invested more, closer to 40%, low 40%, in two other units. We also have a power plant in downtown, in the east end, in the port lands, on which we partner with Ontario Power Generation 50-50. Then there's Halton Hills generating station. That's, I think, a 680-megawatt natural-gas-fired combined cycle plant. That's on the 401 near Halton Hills, just as you enter Halton Hills.

We of course also operate Canada's main natural gas pipeline, part of which runs through Ontario. Currently, we are in the midst of—and this is all public information—a fairly significant solar power investment. That's a turnkey sort of deal, and we're still waiting for the contractor to finish construction and have the thing fully operational, after which TransCanada would take ownership.

**Mr. Bob Delaney:** That would make you one of the biggest power suppliers in Ontario, then.

**Mr. Chris Breen:** We're one of the biggest—I think we're the biggest private investor. I think Ontario Power Generation still produces over 60% of the power in Ontario. I think some would think of Bruce nuclear as the biggest private power producer; that's probably true. By virtue of us being, I think, if not their biggest certainly one of their biggest investors, plus our other assets I described, we are certainly one of the larger private investors, if not the—I think we are the largest private investor in Ontario.

**Mr. Bob Delaney:** Beyond what you've said in your exchange with Mr. Tabuns, could you expand on TransCanada's working relationship with both the province and with the Ontario Power Authority?

**Mr. Chris Breen:** Sure. So with the Ontario Power Authority, because that's the relationship that exists contractually, I would say it has always been positive. It was strained, obviously, by this experience. The working relationship would mainly be through, apart from my relationship with Ben Chin and his successor, Kristin Jenkins—the relationship would also be through JoAnne Butler, who was the vice-president in charge of the procurement for the southwest GTA, and in time Alex Pourbaix, our president, and Colin Andersen also had meetings and had a relationship. So that's sort of the people generally involved in the Ontario Power Authority relationship.

The relationship with the Ontario government, again, has always been very positive. Again, it was somewhat constricted—maybe “strained” is the wrong word—by this situation, especially once we got to a point where we had to get our lawyers involved. As you can imagine, that often curtails conversation between us and the government. That's unfortunate because Ontario's very important to us, and we're proud of our investments here. We look forward to resolving this matter and continuing with a very positive relationship here in Ontario.

**Mr. Bob Delaney:** Setting aside Oakville, on a day-to-day basis, are you normally able to resolve issues that

occur in a long-term working relationship with both the OPA and with the government?

**Mr. Chris Breen:** I would say generally, yes.

**Mr. Bob Delaney:** Okay. Talk a little bit about the Oakville project, then. Minister Duguid, who at the time, as you noted, had the energy portfolio, testified to the committee that the decision not to move forward in Oakville was made by him and then-Premier McGuinty. From what we've been told about the decision, throughout the negotiations both sides worked hard to relocate the power plant, which I think you've been saying in your previous testimony, as opposed to, I guess, to be draconian, simply ripping up the contract and walking away. Would that be incorrect?

**0910**

**Mr. Chris Breen:** No, I think that's correct. I think that there was always a realization on the government side that they had a liability to TransCanada. That was kind of a given, as there was no clause in the contract that allowed for the termination that happened.

I remember a CEO saying one time to us, very clearly, “Look, you guys, don't get me wrong here. I'm not looking for a cheque out of the Ontario government; what I'm looking for is to build, own and operate a power plant. That's what we want to do. That's what we do around here. I don't want to go to court if I can avoid it, and I'm not asking for a cheque. I'm asking for a project equivalent to the one that was just cancelled.”

**Mr. Bob Delaney:** In the end, then, TransCanada didn't litigate because both the company and the province, if I'm grasping you correctly, negotiated in good faith on finding an alternate site. As you said earlier, you're a contractor; you wanted to build a power plant.

**Mr. Chris Breen:** That's right. Our lawyers would give you a much more eloquent explanation as to why we did not wind up in litigation. I would describe it as a desire by both sides to work this thing out into a deal where both sides get something out of it and people feel good and we can get back to a positive working relationship, and perhaps we found a way to do that in a quicker manner and a less confrontational manner than traditional litigation.

**Mr. Bob Delaney:** Essentially, an outcome that both parties kept in mind during the negotiations.

**Mr. Chris Breen:** That was certainly always on our mind. I would say that every indication coming from the power authority and the government side was that they also thought that a relocation was probably the optimal solution for everybody involved.

**Mr. Bob Delaney:** Okay. I have a few questions about the factors that led to the decision to relocate Oakville. Earlier, when the former minister, Minister Duguid, appeared before the committee, he said that part of the decision came as a result of the strong local opposition to the plant. I gather from what you say that TransCanada was also experiencing some fairly strong pushback from the town of Oakville as well as the residents. Could you give us a description, remembering back then what sort of opposition you were facing, how you felt about it and what you felt your options were?



**Mr. Chris Breen:** Sure. Initially, we had every reason to believe that we had an opportunity to move ahead in Oakville. What I mean by that is, there were a couple of years of consultation before the RFP, which was conducted by the Ontario Power Authority, and there was no objection or interim control bylaw or official plan amendment introduced by the town during those years. The zoning of the Ford lands was in place that would have allowed power generation at the time. Mayor Burton, I think, testified that he tried to keep an open mind to it initially, and that's how I would describe our initial meetings with the mayor. So that's sort of where we started.

In time, that obviously changed. Specifically, the town did pass an official plan amendment and an interim control bylaw. At the time of cancellation, we had three applications in the Ontario Superior Court to deal with that new obstructive bylaw and the official plan amendment. We had an appeal in Divisional Court to deal with an OMB decision on the interim control bylaw, and we had two appeals before the Ontario Municipal Board regarding our site plan application and a request for minor variance and consent. So that's, on paper, what we were experiencing from the town.

With respect to C4CA, Citizens for Clean Air, they were very well organized, and they made their presence known through media—social media and traditional media—and their group did appear to grow over time, and that was the means by which we heard from them and felt their presence.

**Mr. Bob Delaney:** Let's do a couple of clarification questions. The Oakville land: What was its zoning when you purchased the land?

**Mr. Chris Breen:** I'll go back a little bit here. March 26, 2009, is when we registered part of the Ford lands as our proposed site under the RFP, and at that point, it was free of any restrictions related to power generation. That was the law of the land when we registered that day.

Subsequent to that, the town moved the interim control bylaw and attempted to put in an official plan amendment. When they did that, the Ontario Power Authority actually got involved and said, "Hang on a second. We can't keep moving the goalposts here. We're going to recognize the zoning as it was back when applicants had to register their sites," which we thought was very fair. We also took that as an expression that the province indeed wanted to continue to carry through on the minister's directive, which formed our contract, and we took it as an act of good faith from the province that they intended to see this thing through.

**Mr. Bob Delaney:** Okay. In terms of the municipal bylaws that were enacted by the town of Oakville, did you feel that the province could override those bylaws, if necessary, through provincial legislation?

**Mr. Chris Breen:** Yes. What we saw was—and I can give you the specific acts. When we went in and talked to the minister about this and actually had the minister's staff in our office and had our lawyers present to the staff how this could be done—and I've got two briefing notes

here that lay out what we put before them—a few weeks later, they actually did that in King township for the York Energy Centre. So the exact date of that regulation that they passed—I'll come up with it in a moment.

**Mr. Bob Delaney:** Okay. You mentioned earlier that TransCanada had appealed the bylaws to the Ontario Municipal Board. Correct?

**Mr. Chris Breen:** That's right.

**Mr. Bob Delaney:** So you actually filed the appeal. Did it ever get to the point where the OMB made a ruling?

**Mr. Chris Breen:** At the first hearing, the OMB upheld the interim control bylaw. They stressed the fact that it was interim, and what the town was asking for was just some time so it could decide what its interests were in this matter. So they upheld that. They rejected the official plan amendment, which would have been, in my understanding, a more permanent instrument that the town tried to install.

**Mr. Bob Delaney:** How did that affect TCE's approach to the project at that time?

**Mr. Chris Breen:** At that time we knew that we had some work to do. We were still very confident that we could get through this. We were confident that there was legislation in place that would enable the province to say, "We're in charge of power generation. We have the Planning Act and the Municipal Act that we can use, and we just need to enact regulations under that to move this thing through and keep us on track with the minister's directive."

**Mr. Bob Delaney:** In other words, when you say that you were confident that you would get through this, you were confident that ultimately you would be able to build the Oakville facility where it was originally planned?

**Mr. Chris Breen:** Absolutely.

**Mr. Bob Delaney:** Okay. Had the province not intervened or had you not had your discussions with the OPA, can you tell me what additional efforts and actions TransCanada was prepared to undertake with regard to the bylaw?

**Mr. Chris Breen:** In general, I would say "any and all." We were already before two different courts with what looks like about four actions, and we were before the OMB, the Ontario Municipal Board, with two appeals. We had a contractual obligation. It was very cleanly spelled out in black and white that that was our responsibility: "You have to go through every possible channel to deliver on your obligations in this contract." And we would have done that.

**Mr. Bob Delaney:** In the absence of the actions taken by the province, in your mind you were very confident that, through the OMB, TransCanada would have had a ruling in its favour and you would have been able to proceed without further interference to constructing and operating the power plant in Oakville.

**Mr. Chris Breen:** Not just through the OMB. We had, as I said, the Ontario Superior Court and Divisional Court, and we would have taken this to whatever court was required in order to deliver on our commitments.

**Mr. Bob Delaney:** Did the legal opinions you received at the time tell you that you were on solid ground and, had all of those actions proceeded, that it is likely you would have won them?

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**Mr. Chris Breen:** Generally, yes.

**Mr. Bob Delaney:** Okay. What would have happened had the government decided to relocate the plant after construction had commenced?

**Mr. Chris Breen:** I think it's fair to say that the longer you wait in one of these situations, the more expensive your decision becomes. We had done some site preparation, but we hadn't actually advanced with installing steel, delivering turbines, pouring concrete. The later you get in the stage—it's no different than building a house. If you're going to move the house, best do it before you dig the hole, and certainly better to do it before you put up the shingles.

**Mr. Bob Delaney:** In some of the terms used before this committee during our hearings, I can interpret what you've said to mean that the sunk costs would have been dramatically higher.

**Mr. Chris Breen:** They would have been higher.

**Mr. Bob Delaney:** Okay. Were there any other costs in addition to sunk costs that would have been incurred had the plant been relocated after work commenced?

**Mr. Chris Breen:** We're dealing with a fairly speculative situation here. The sunk costs would have been higher. The costs in general would have been higher. I'm having a hard time figuring out specifically which other costs we would identify.

**Mr. Bob Delaney:** Okay. No, that's fine. That answers the question.

Another factor that contributed to the government's decision to relocate Oakville was a result of simply changing energy needs in that area. The committee has heard from a number of witnesses who said that as they were updating the long-term energy plan in the summer of 2010, it became clear that as a result of declining industrial demands and better-than-expected conservation efforts, there was a reduced energy need in the Oakville area and that the need for the electricity that the plant would have produced when it came on stream was both lower and further back in time; in other words, not as imminent as was originally anticipated. Did any of these points come up in your discussions with the government in and around this time, the summer of 2010?

**Mr. Chris Breen:** Those points were really accentuated in October, just before the cancellation.

**Mr. Bob Delaney:** At any point in the discussion did either you or anyone else at TransCanada Energy see the long-term energy plan document before it was released?

**Mr. Chris Breen:** No.

**Mr. Bob Delaney:** Thank you.

I just want to ask you about some of your discussions with the various offices. There has been a bit of discussion at the committee regarding meetings that took place between TransCanada Energy and the Premier's office, and you referenced a few of these earlier, with

Jamison Steeve and Sean Mullin. Both have testified before the committee and confirmed that they never made a direct monetary offer or a promise to TransCanada Energy. Is that correct, in your estimation?

**Mr. Chris Breen:** A direct monetary offer? I would say, that is correct. I would say that there was a discussion about being kept whole.

**Mr. Bob Delaney:** They also said—and I'm just checking your recollection here—that their role in those meetings was to listen, and that happened until they were screened out as the probability of litigation became higher.

**Mr. Chris Breen:** I would say that they did more than listen, because obviously they were the ones who told us that alternatives needed to be sought, and—

**The Chair (Mr. Shafiq Qadri):** One minute.

**Mr. Chris Breen:**—ultimately they told us that the contract was being cancelled.

**Mr. Bob Delaney:** All right. You've worked in government. Is it fairly common to have senior advisers to ministries and the Premier meet with stakeholders?

**Mr. Chris Breen:** Yes.

**Mr. Bob Delaney:** Okay. I think we'll stop there, Chair.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Delaney.

To Mr. Fedeli.

**Mr. Victor Fedeli:** Thank you, Chair. Good morning, Mr. Breen.

**Mr. Chris Breen:** Good morning, sir.

**Mr. Victor Fedeli:** I just want to have our documents distributed. While the documents are being distributed, I can confirm that we're going to start at document 2, 3, 4 and then go to document 1. You don't need to actually see them to be able to comment on them.

You referred to a meeting on April 19 with the minister.

**Mr. Chris Breen:** Yes, sir.

**Mr. Victor Fedeli:** I can tell you, we have the meeting notes—the briefing notes, actually. The discussion seems to be—the agenda is a discussion of solutions, presentation of Oakville. There are problems in Oakville. The suggested response from the Premier should be, “Thank you for briefing me. I share your concern. I appreciate that you've presented some ideas. This is an urgent issue. We're going to give this priority.” That's his notes to talk to you about back on April 19.

Then we jump to document 3, where you write to Paul Ungerman and say, “Hey, we're going to be in town in a month”—this is September 3—“around October 5. How about a meeting to catch up with the minister?” They write back and say, “Sounds good. Let's have a meeting on October 5 to catch up.”

Document 4—this is September 29: This is the meeting note for the October 5 meeting that the energy minister is going to have with you, Russ Girling and Alex Pourbaix. The agenda: “Status report by TransCanada.” This doesn't sound very urgent to me, that the minister knew of any cancellation, when the agenda is going to be

a status report by TransCanada discussion. In fact, his suggested response would be, “I appreciate the update. I share your concern about the impacts of Oakville’s actions, and want to continue to work with you to resolve a satisfactory solution.”

“This is an urgent issue; we are continuing to give this a priority attention.”

It sounds the same as the one from five months earlier. It doesn’t sound as if anything in the minister’s mind changed between the April 19 briefing notes and his briefing notes for your October 5 meeting. Would that be a fair and accurate representation?

**Mr. Chris Breen:** Yes, what you just described to me would be reflective of my recollection of the minister’s response to us at the meeting on October 5.

**Mr. Victor Fedeli:** He didn’t know anything, did he?

**Mr. Chris Breen:** I can’t say that with any certainty. I can say that if he did know, he did not speak to either the definitive cancellation or even the timing of it.

**Mr. Victor Fedeli:** I think he stuck pretty close to the notes that were prepared, to have an update. This is a status report by TransCanada.

**Mr. Chris Breen:** I haven’t read the notes, but I would be inclined to agree.

**Mr. Victor Fedeli:** I just want to confirm: You told us that Jamison Steeve from the Premier’s office is the one who told you of the cancellation.

**Mr. Chris Breen:** That’s correct.

**Mr. Victor Fedeli:** I want you to go to document 1. MB is a Michael—

**Mr. Chris Breen:** Michael Barrack.

**Mr. Victor Fedeli:** Who is he?

**Mr. Chris Breen:** Michael is a lawyer who works for TransCanada.

**Mr. Victor Fedeli:** I don’t know whose notes these are; they came from the Ministry of the Attorney General. It says, “MB: received assurance that TCE would be kept mostly whole and consideration was to keep quiet and work on alternatives.” It goes on to say, from Halyna Perun, one of the counsel, referring to her notes, “I have: TCE made it clear that needed letter that would be kept mostly whole.... Received assurance on that. Would put it in writing and quid pro quo was to lay low and work on alternatives.”

You were obviously aware that there was a letter that was being asked for. I think you referred to that in your commentary as well.

**Mr. Chris Breen:** Yes, sir.

**Mr. Victor Fedeli:** The next page goes on to say—and this is Halyna Perun again, the government’s counsel: [“I have MB says TCE ‘blew a gasket’]—we already have a deal—go talk to your bosses.”

Then “Breen says go find out what the PO said.”

Do you recall that?

**Mr. Chris Breen:** I don’t recall saying those exact words. I think what’s important to focus on is the time between the meeting that we had in the Premier’s office, where this conversation happened, and the letter that we received on October 7. There was an exchange that went

on in those couple of days over what the language in that letter would be. We were very firm about our expectations of what would go in that letter. That’s probably when I would have said—I know that I said at one conference call with a number of individuals on the phone, “This is what we were told. This is”—

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**Mr. Victor Fedeli:** By whom?

**Mr. Chris Breen:** By Jamison Steeve.

**Mr. Victor Fedeli:** From the Premier’s office?

**Mr. Chris Breen:** From the Premier’s office.

**Mr. Victor Fedeli:** Okay.

**Mr. Chris Breen:** When we were in that meeting, we insisted upon being kept whole, and Mr. Steeve responded by basically saying, “Look, we must preserve value for TransCanada. The threat of your litigation is a constant motivator.” He made several statements just short of saying, “Yes, you will be kept whole.” But when we left that room, we were convinced we would be kept whole, and then the letter that we received subsequently on October 7 satisfied us to that extent.

**Mr. Victor Fedeli:** So when it says here, “Breen says go find out what the PO said ... [HP]”—Halyna Perun—“I also have: Ben Chin checks with boss”—comes back and they have the October 7 letter” that you’re referring to, which says, “as whole as possible,” is that accurate?

**Mr. Chris Breen:** I don’t recall words “as whole as possible.” What I do recall is mainly a bunch of conference calls, some that went late into the night, and I have an email in my notes where I confirm with our side that I’d just heard from Ben Chin and that he had confirmed that the next draft of the letter would satisfy what we were looking for.

**Mr. Victor Fedeli:** And did that come and satisfy you?

**Mr. Chris Breen:** It did. We received the letter on October 7, which was the day of the cancellation, and—

**Mr. Victor Fedeli:** Can we file a copy of that letter as well?

**Mr. Chris Breen:** Absolutely.

**Mr. Victor Fedeli:** Thank you. So clearly, this was driven by the Premier’s office, not the Ministry of Energy?

**Mr. Chris Breen:** The conversation that we had was with the Premier’s office, about cancellation. Then the execution of things from there had to be with the Ontario Power Authority.

**Mr. Victor Fedeli:** Thank you.

On document 5, this is now a document that starts to talk about the cost summary. It says, paid to September of 2010, \$57 million. This would have been “Equipment, EPC, Internal, Land, Other, IDC” etc., \$57 million. Somewhere in document 1, in fact, if we go back to document 1, AP—I don’t know who AP is.

**Mr. Chris Breen:** Probably Alex Pourbaix.

**Mr. Victor Fedeli:** Yes. “We have already spent \$60 million.” Is that, the \$60 million he’s referring to, the paid to September—the timing is merely days away. This document shows \$57 million having been spent by that

time. In your estimation, would he be referring to the \$60 million that you've already spent?

**Mr. Chris Breen:** I'm not familiar with this document, but I'm looking at the flip side of it. This is an email from Terry Bennett, who was reporting directly to Alex at the time.

**Mr. Victor Fedeli:** Yes.

**Mr. Chris Breen:** It says, "Attached is a copy of the OGS cost summary," and then if you flip it over, it says, "OGS Cost Summary."

**Mr. Victor Fedeli:** Yes, Oakville generating station—

**Mr. Chris Breen:** And it appears to me to be as you've described it.

**Mr. Victor Fedeli:** So this is a TransCanada document showing that in September you've already got sunk costs in of \$57 million?

**Mr. Chris Breen:** I don't know if they're sunk costs—

**Mr. Victor Fedeli:** I may have misspoken. "We have already spent \$60 million."

**Mr. Chris Breen:** Right, and not necessarily all those costs would be sunk.

**Mr. Victor Fedeli:** Yes, I understand. It says, "and will spend \$100 million more in the next month."

So we go to the forecast for 10/10, \$73.5 million, and we go to the cancellation at 10/10—there are a couple of asterisks; I'll be fair with that—of \$131 million. They start getting into some discounting and the "Ford land is assumed" and that kind of thing with the asterisks.

These are the first times we're starting to see some numbers appear, and this would have been in October, just maybe a week and a half after you were told by the Premier's office that the project was being cancelled. So we're on the same page on the starting of the numbers here?

**Mr. Chris Breen:** I'm following what you're showing me.

**Mr. Victor Fedeli:** Yes. So let's take a big leap now all the way to April 2011, when I've got PC doc 6. It's a slide from Ontario Power Authority. Okay?

This one here says, "OPA was instructed by the government to make a second counter-proposal..." So somewhere between October and March there was a proposal made. I don't have this one file copied, but I'll refer to it. Somewhere there was a proposal made, and I understand it was a proposal of around \$450 million, almost \$500 million. I don't have the document for that; I can't seem to find that in the 56,000 documents. It obviously was rejected because the document that you have says, "OPA was instructed by the government to make a second counter-proposal to the TCE proposal of 10 March..."

"This government-instructed counter-proposal to settle was submitted on 21 April 2011. It had an effective financial value of \$712 million." I have another document from the OPA called "Government-instructed second counter-proposal," which brings it in at over \$700 million.

"On 29 April 2011 TCE rejected the government-instructed counter-proposal."

Can you shed any light on this one for me? We've had two months of witnesses here, and not one witness has acknowledged the existence of a \$712-million offer or rejection.

**Mr. Chris Breen:** Whatever offer was made, it wasn't being rejected. TransCanada's position would be that it did not represent the financial value of \$712 million.

**Mr. Victor Fedeli:** Do you know who made the offer?

**Mr. Chris Breen:** The offer that's described on this page does not reflect the offer that I'm aware of. The offer that I'm aware of is Colin Andersen's letter to Alex Pourbaix proposing that we go ahead and build a peaking natural-gas-fired plant in the Kitchener-Waterloo area, and then he goes on to describe this opportunity that he wants to offer Alex.

It was wholly unacceptable to TransCanada. I would generally say that the project was too small. I would generally say that TransCanada and the OPA disagreed on what the costs looked like. I would say that TransCanada and the OPA disagreed on what the revenues would look like. There is a back and forth of some letters here on that.

**Mr. Victor Fedeli:** It looks like the progression here would be that TransCanada made a proposal that looks pretty close to \$900 million at one point, according to the OPA; OPA makes a counter-proposal somewhere pretty close to \$500 million; it gets rejected—that was an OPA proposal. Then they call it a government-instructed second counter-proposal for \$712 million.

**Mr. Chris Breen:** And we would say that we never saw a proposal that had that kind of value in it. The proposals that we saw would not have passed the TransCanada board as stand-alone projects, let alone as replacements for the Oakville project.

**Mr. Victor Fedeli:** The one that you're saying, the Colin Andersen letter that offers that peaker: What's the date on that one? OPA says that on April 29, 2011, "TCE rejected the government-instructed counter-proposal." This is the second proposal now.

**Mr. Chris Breen:** I'm looking at a letter from Colin Andersen to Alex that's dated April 21.

**Mr. Victor Fedeli:** "This government-instructed counter-proposal to settle was submitted on 21 April... It had an effective financial value of \$712 million."

**Mr. Chris Breen:** We have a letter on the 21st suggesting the peaker plant in Cambridge. We have a response to Colin rejecting that offer on April 29.

**Mr. Victor Fedeli:** Okay. We now know that Colin Andersen is the one who sent you the government-instructed counter-proposal.

**Mr. Chris Breen:** I can tell you that I've got a letter from Colin Andersen. Who instructed it, I don't know.

**Mr. Victor Fedeli:** All I can go by is the OPA slide that says that it's a "government-instructed counter-proposal."

**Mr. Chris Breen:** I appreciate that, sir. I'm reading the exact same thing.

**Mr. Victor Fedeli:** You've provided the first clarity in two months to the fact that there actually was an offer

made on the 21st of April and rejected by you on the 29th. For that alone, I say thank you. We'll get to the bottom of who from the government instructed a counter-proposal at another date, but at least we now understand that there was a counter-offer from the government.

Why did TCE reject it?

**Mr. Chris Breen:** Simply put, we completely disagreed on the financial value of the offer. OPA thought it was much higher than our analysis showed.

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The other thing I would add is that I do believe—and I'm going to take a quick look at this letter—we also pointed out that technically, it just wasn't possible to use the turbines that were on the way to deliver the project that was described by Mr. Andersen.

**Mr. Victor Fedeli:** I saw some documents here that basically said the same thing. You can't use those turbines in Cambridge. There's some letter here I read in one of those 56,000 documents.

**Mr. Chris Breen:** It wasn't that you couldn't use the turbines in Cambridge; it's just that you couldn't get as high an output from the turbines in what's called season three as the OPA was requiring.

**Mr. Victor Fedeli:** Yes. So go to doc 7. This is after the \$712-million offer is rejected. Now we have PC doc 7, and I'll just read you the first paragraph. This is from the justice ministry:

"Halyna, I just returned a call from Michael Barrack and John Finnigan, counsel to TransCanada. In essence, they confirm that the govt. cancelled the contract and communicated that fact to TransCanada before the Minister of Energy was advised. Apparently the chief of staff (or equivalent title) in the PO told one"—I'm going to put the word "of"—"TransCanada's senior people at the time they indicated the plant would not proceed that TransCanada would be 'made whole' as to damages."

Is that your understanding as well?

**Mr. Chris Breen:** Yes. That was the impression that was left in our meeting. The meeting went—

**Mr. Victor Fedeli:** Now we're into May, by the way. We're more than half a year away.

**Mr. Chris Breen:** But I think they're going back to the meeting that was held in October, where we demanded to be kept whole and we received those answers that I described.

**Mr. Victor Fedeli:** So now we've got the justice department talking about your being made whole. So go to page 2. It's the paragraph on page 2, the fourth sentence, but it's the whole paragraph.

**Mr. Chris Breen:** Are we still on PC doc number 7?

**Mr. Victor Fedeli:** We are.

**Mr. Chris Breen:** Okay.

**Mr. Victor Fedeli:** The second sentence of that paragraph: "I think it could be argued that the govt. offered to make TCE whole when it terminated the Oakville plant (the 'make whole' being understood to be the net profits over the life of the contract) by finding another gas plant from which it could make the profits, and in return, TCE

promised not to sue, issue a press release or otherwise embarrass the govt...."

When they started talking about moving the plant from Oakville down to Bath, when was that first discussion held about that being this replacement plant?

**Mr. Chris Breen:** I don't know exactly, but it would have been, I believe, later than July 2011.

**The Chair (Mr. Shafiq Qaadri):** One minute.

**Mr. Victor Fedeli:** That \$712 million that was rejected: Did you reject it because the \$712 million—well, why was it rejected? I just need to confirm that.

**Mr. Chris Breen:** Sure. There's a letter here which describes why it was rejected. It's over two pages long.

**Mr. Victor Fedeli:** Was the financial value you needed greater?

**Mr. Chris Breen:** Yes. The subheadings are "Terms and Conditions, Issues" and "Value Issues." Those are the two umbrellas of the rationale.

**Mr. Victor Fedeli:** So \$712 million was not enough to make you whole?

**Mr. Chris Breen:** No. Our assessment would be that there wasn't \$712 million worth of value in that contract—sorry; in the offer.

**Mr. Victor Fedeli:** In the offer; okay.

How much time did you say?

**The Chair (Mr. Shafiq Qaadri):** Twelve seconds.

**Mr. Victor Fedeli:** I'll pass. I'll get you in the next 10 minutes.

**The Chair (Mr. Shafiq Qaadri):** Mr. Tabuns.

**Mr. Peter Tabuns:** Thank you, Chair. Twelve seconds is a killer; there's just no getting around it.

If I heard you correctly, the Liberal government overrode the municipal objections in northern York region about the time you were asking them to take legislative action in Oakville. Is that correct?

**Mr. Chris Breen:** On May 26, I believe it is—I just found that date; let me get this thing opened. On May 26, 2010, cabinet passed a regulation exempting York Energy Centre, who were building a project in King township—at that time the contractor was named Pristine Power—from the Planning Act.

**Mr. Peter Tabuns:** That's interesting to me, because I actually went out to the public meetings in northern York region on that plant, which I think is vastly oversized. I introduced a private member's bill to try and stop the plant. The mayors in that region opposed this. The citizens were mobilized. Short of bringing in Erin Brockovich—which they couldn't afford to do. Oakville seemed to be able to do it; more power to them.

**Mr. John Yakabuski:** Less power.

**Mr. Peter Tabuns:** Yak, don't interfere with my line.

It's the same sort of citizen anger and push, and municipal blockage. We have Julia Munro, a Conservative, representing northern York region; and Kevin Flynn, a Liberal, in Oakville. Did your people find it strange that the government was willing to bend the rules or, frankly, change the rules in northern York region in a Conservative seat and not in a Liberal seat?

**Mr. Chris Breen:** Our company would have found it strange that they enacted a regulation in King township and did not do so in Oakville.

**Mr. Peter Tabuns:** Okay. So do I.

The question of the long-term energy plan: In notes that Jamison Steeve provided, not to you but kept himself and provided to legal counsel of the province when they were reviewing what happened here, he notes that you were told—TransCanada—that the long-term energy plan was going to be finalized in mid-November and that they would be speaking to you about the different gas plant options prior to finalization of the long-term energy plan. Did he or someone else from the government come to you and talk to you before the long-term energy plan was finalized?

**Mr. Chris Breen:** No. I think the only conversations that we would have had were very general ones. They were ones where we were pushing, and we weren't getting a whole lot of reception on the other end. We had a lot of attention from that office leading up to and including the day the announcement was made. After that, it became a challenge to follow up and figure out how we were going to remedy the breach.

**Mr. Peter Tabuns:** Okay. Your communications with Jamison Steeve, Sean Mullin and Mr. MacLennan: Did you ever send emails to each other?

**Mr. Chris Breen:** Very rarely. As part of our preparation for the arbitration, we did a search for any communication. I saw very little email. Any email, for the most part, was very administrative: "What time are we meeting? Where are we meeting?", with the exception of one email, which is where we exchange, if you will—or, I said to them, "Here's the language that needs to appear in this letter in order for TransCanada to react in a positive, co-operative way and focus on relocating the plant."

**Mr. Peter Tabuns:** And was there any communication by hard copy?

**Mr. Chris Breen:** By hard copy? No.

**Mr. Peter Tabuns:** The whole question of the obstacles and barriers you were encountering: Was TransCanada worried that they would be put into a force majeure situation?

**Mr. Chris Breen:** Force majeure is a contract term, as you know.

**Mr. Peter Tabuns:** Correct.

**Mr. Chris Breen:** I don't have the definition of force majeure for the original Oakville contract. What I would say is that TransCanada were confident that they were going to eventually get to build the project on the Ford lands, but clearly we had some work to do at the Ontario Municipal Board and the various courts that I had mentioned earlier.

**Mr. Peter Tabuns:** Okay. Chair?

**The Chair (Mr. Shafiq Qadri):** Yes.

**Mr. Peter Tabuns:** If you will give me one-minute notice before I'm done here? Thank you.

**The Chair (Mr. Shafiq Qadri):** As I do.

**Mr. Peter Tabuns:** The memorandum of understanding between TransCanada, the OPA and the crown

was finalized in September 2012. It included a series of sunk costs, but it also meant that OPA ratepayers were on the hook for a number of costs. Is it your understanding that the OPA and the crown understood that it was taking on additional costs, such as gas delivery and management, capital costs related to gas line upgrades, new interconnection costs?

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**Mr. Chris Breen:** Yes, sir. By virtue of the fact that this MOU was signed by representatives of the Minister of Energy, I would assume they understood what was in the MOU.

**Mr. Peter Tabuns:** And can I assume that prior to its signing, there was back and forth between TransCanada and the other side so that everybody knew what the costs were that were coming forward?

**Mr. Chris Breen:** I know there was negotiation. I didn't sit in those negotiations. I know it would be very difficult to know with precision what costs for things like gas management and delivery would be if that hasn't been negotiated with the gas franchise company ahead of time.

**Mr. Peter Tabuns:** Did you have an estimate of how much in terms of cost had been transferred from TransCanada to the OPA with regard to gas management and the other connection fees?

**Mr. Chris Breen:** No. We had a firm number on turbines, which was \$210 million, and we had a firm number on sunk costs, which we capped at \$40 million. We turned those over to the Ontario Power Authority; they hired an independent auditor who verified those costs.

**Mr. Peter Tabuns:** Shortly thereafter, though—no, not even shortly thereafter. In terms of knowing that the province, the OPA, had assumed these costs, did you have a range of the value of these other costs, the gas management costs, for instance?

**Mr. Chris Breen:** I did not. I've heard previous witnesses here provide those ranges, I think from the Ontario Power Authority.

**Mr. Peter Tabuns:** Can you tell us how Lennox was selected as a site?

**Mr. Chris Breen:** Again, I wasn't in those negotiations. My understanding is that when Infrastructure Ontario got involved to help try to come up with a solution, at that point Ontario Power Generation was also eventually involved, and I think they had some sites that were potentials. I think they were thrown on the table and eventually Lennox was chosen.

**Mr. Peter Tabuns:** Did you have a sense from your end as to who the final decision-maker was on the Oakville cancellation?

**Mr. Chris Breen:** The most senior person I ever met with was Minister Duguid, in the ministry. The most senior person that we dealt with regularly was Mr. Steeve from the Premier's office. That's as much as I know. I've heard since what I think everyone's heard, that this did go—it was a discussion of cabinet ministers and ultimately, I think, the Premier has taken ultimate responsibility for the cancellation.

**Mr. Peter Tabuns:** Have you or TCE ever met with Kathleen Wynne or her senior staff on this issue?

**Mr. Chris Breen:** No, sir.

**Mr. Peter Tabuns:** Okay. Chair, I have—

**The Chair (Mr. Shafiq Qadri):** One minute.

**Mr. Peter Tabuns:** Mr. Breen, thank you. I very much appreciated your help this morning.

**Mr. Chris Breen:** Thank you, sir.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Tabuns. If you're yielding your time—

**Mr. Peter Tabuns:** No, I'm not. I have a motion which you've circulated, and I have a second motion—

**The Chair (Mr. Shafiq Qadri):** Mr. Tabuns, this is not the time for motions. We're hearing witnesses right now.

**Mr. Peter Tabuns:** Do I not have time?

**The Chair (Mr. Shafiq Qadri):** If you've yielded your time, then I'll move to the government.

**Mr. Peter Tabuns:** Then we will go to my motions immediately upon the resolution of questions?

**The Chair (Mr. Shafiq Qadri):** I'll look forward to it.

The government: Mr. Delaney.

**Mr. Bob Delaney:** Thank you, Chair.

During some of the questioning and during your discussion of the meetings with Mr. Mullin and Mr. Steeve, a lot of the discussion has been focused around TCE's desire to be "kept whole," which is a term that has some legal meaning. I just want to make sure we're talking about the same thing. It's my interpretation that "kept whole" means, in part, that TCE wanted to make sure the province recognized they had a contract—

**Mr. Chris Breen:** Correct.

**Mr. Bob Delaney:** —and, in listening to your discussion throughout the morning, that the best outcome for both sides was to find an alternative project that would have a similar value and allow TCE to recoup the costs already spent, as opposed to the government writing you a cheque for having done nothing?

**Mr. Chris Breen:** That's right, sir.

**Mr. Bob Delaney:** Okay. Some clarification questions on your meeting with Minister Duguid just before the plant was cancelled: Did the minister give you any overview of what the ministry's feelings and interpretations were beforehand?

**Mr. Chris Breen:** No, sir.

**Mr. Bob Delaney:** Okay. The minister testified earlier in the week that he was fully aware of the decisions being made and explained that in that meeting he deliberately stayed, as he put it, high-level, because it would be inappropriate to negotiate on that deal at that time. Would that be your recollection of the way the meeting went?

**Mr. Chris Breen:** I would say that the minister was extremely high-level in that meeting.

**Mr. Bob Delaney:** Okay. I'd like to talk a little bit about a story in the Toronto Sun on October 18, 2012. The article stated that Deb Hutton, the wife of PC leader Tim Hudak, had been paid \$40,900 from October 2009 to October 2010 by TCE. According to the OPA, that pay-

ment to her contributed to the sunk costs of relocating the project. What was Ms. Hutton's role during those 12 months?

**Mr. Chris Breen:** Ms. Hutton's role continues. For several years, she has been a supplier to TransCanada. She does research for us and some analysis from her home. She does not come to our office. She is a supplier, if you will, and she sends information and analysis in.

It should be added that Ms. Hutton reviewed this with the provincial Integrity Commissioner before she accepted this relatively small contract with TransCanada. We're pleased to have Ms. Hutton as part of our team.

**Mr. Bob Delaney:** Did she attend any meetings during the time?

**Mr. Chris Breen:** No, sir.

**Mr. Bob Delaney:** Did she provide you with any advice on negotiating or dealing with the government?

**Mr. Chris Breen:** No, sir. Her role was basically media monitoring, and she would help find public information. On occasion, she might send an email attached to that information giving us a heads-up on what she thought was contained in that media article.

**Mr. Bob Delaney:** Okay. Were you aware that, during the time that you were negotiating with the government on the Oakville plant, the PC Party was, in fact, expressing its opposition to the plant?

**Mr. Chris Breen:** I know that locally there was opposition to the plant. I don't recall any strong opposition other than—I think MPP Ted Chudleigh had made some remarks to the effect that he was opposed. I'm not sure if that was his opinion as an MPP or if that was representative of party policy.

**Mr. Bob Delaney:** Okay. Were you aware that the plant was also opposed by the Conservative Party at the federal level?

**Mr. Chris Breen:** Terence Young, the member of Parliament, made that abundantly clear to me in person one evening.

**Mr. Bob Delaney:** Did he send you anything in writing?

**Mr. Chris Breen:** I think he may have, but I didn't need his letter after I ran into him.

**Mr. Bob Delaney:** Okay. Chair, I think that sums up where the government—

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Delaney.

Mr. Fedeli.

**Mr. Victor Fedeli:** Thank you, Chair.

Can you confirm that TransCanada has already been paid \$250 million by the province of Ontario with respect to the Oakville cancellation?

**Mr. Chris Breen:** I know that the commitment is there to pay \$210 million for turbines and \$40 million for sunk costs. I am not sure that the cheque has been delivered.

**Mr. Victor Fedeli:** Where are those \$210-million turbines today?

**Mr. Chris Breen:** They are still in the fabrication mode. Mitsubishi is producing those, and I believe that is happening in Japan, if I'm not mistaken.

**Mr. Victor Fedeli:** And so they'll be turned over to you to turn them over to the government?

**Mr. Chris Breen:** No. I don't know the exact route of delivery, but it sounds to me like it would make most sense now, when they're finished, to deliver them to the site and use those turbines in the village of Bath, greater Napanee.

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**Mr. Victor Fedeli:** The "buckets of costs": Have you heard that expression in our—

**Mr. Chris Breen:** I have.

**Mr. Victor Fedeli:** In your estimation, then, what are these buckets of costs?

**Mr. Chris Breen:** I guess you'd divide them into two major divisions. One would be the cancellation costs. You just cancel the Oakville contract and you're not going to do anything else. Those, I would determine as cancellation costs. Then there's a second set of costs, which is, "We now own these turbines and we're going to need power. So let's move them down to greater Napanee and let's build a power plant there." So there are moving costs associated with that.

**Mr. Victor Fedeli:** Are those included anywhere yet?

**Mr. Chris Breen:** I can tell you about the sunk cost of \$40 million that has been capped and audited. I can tell you about the \$210 million for gas turbines, capped and audited.

The other costs are not to the account of TransCanada, if you will. A lot of those are to be determined. I understand that there's a transmission cost related to the cancellation of Oakville. I'd suggest that some combination of the Ontario Power Authority and Hydro One would be a good place to go to find out about those.

**Mr. Victor Fedeli:** Yes, we think we've heard about a dozen times—I think there are 14, maybe, references to \$200 million in transmission costs that are coming.

**Mr. Chris Breen:** Yes. I'm not aware whose estimate—

**Mr. Victor Fedeli:** That's because it's in Bath as opposed to in Oakville.

**Mr. Victor Fedeli:** Right. I'm not aware whose estimate that is. There's also an issue, I guess, of how expedited that transmission needs to be as a result of not building a new power plant in Oakville. But again, we're not the experts on that.

The other costs that are related to moving are the gas management and delivery charges that you've mentioned and have been speculated upon, I guess, or estimated, in previous testimony.

**Mr. Victor Fedeli:** The first person who brought up that number was Bruce Sharp. Do you know Bruce Sharp? Do you know who he is?

**Mr. Chris Breen:** I know who he is.

**Mr. Victor Fedeli:** He has estimated that number at—I think his number was \$316 million. The OPA has estimated that number at \$313 million to \$476 million. Do you have any understanding of gas delivery and management? Is there any light you could shed on it, talking about their two numbers?

**Mr. Chris Breen:** None that would be as helpful as other experts. I can tell you that it's to be negotiated. It has been negotiated with the franchise owner in the area, and I can tell you that the further you move away from the gas storage hub, in theory, perhaps the more expensive it gets to deliver and manage gas services.

**Mr. Victor Fedeli:** We saw the opposite of that happen in the Mississauga one, where, because they've moved the Mississauga plant to Lambton, there was an actual savings of about \$60 million in gas management. But those savings did not accrue to the government; they accrued to the contract holder, who made the extra dollars because the gas is closer to them. Would you expect that you'll pay the extra dollars because the gas is farther this time?

**Mr. Chris Breen:** In theory, and I can only say "in theory," that's something that I would hold in mind. But I would stress that whatever those costs are, they are to the account of the Ontario Power Authority. This is—

**Mr. Victor Fedeli:** Tell me that again. No, I asked you: Are you going to pay for that extra \$300 million to \$476 million, or do you expect the government to?

**Mr. Chris Breen:** The Ontario Power Authority will have to pay that cost. With respect to those costs—that is why I don't have an estimate for them. There are other power projects in Ontario where the Ontario Power Authority has chosen to take on those costs as well. I believe there's a similar arrangement at Halton Hills, where we own a power plant, and I believe there's a similar arrangement at Portlands Energy Centre, where we own half of the plant.

**Mr. Victor Fedeli:** Any other buckets of costs? Any other cost buckets that we're not aware of here today?

**Mr. Chris Breen:** The only other one that I would—well, significant one, and I don't have an estimate on it because, again, it will be to the cost of the Ontario Power Authority, will be the electric connection at site: connecting the new plant to the high-voltage lines that are very near to the—

**Mr. Victor Fedeli:** Why would that be different there than in Oakville? I don't understand that one.

**Mr. Chris Breen:** Like I said, I don't know what the difference in the price will be, but whatever the price is to connect is to the account of the Ontario Power Authority.

**Mr. Victor Fedeli:** Okay. So you agree, then, that there are buckets of costs coming?

**Mr. Chris Breen:** There's no question. There will be moving costs related to going from Oakville to Bath.

**Mr. Victor Fedeli:** Minister Bentley described the costs as huge. Would you acknowledge that, concur with him or disagree with him?

**Mr. Chris Breen:** I would say that they will be significant. "Huge" is a very difficult number to quantify. I think you've had some legitimate people, such as JoAnne Butler—who's a very experienced professional—who has been in here and given some estimates. She, of course, reports directly to Colin Andersen, the OPA—that's their CEO. They're going to have to pay these



bills. So I'd follow up with JoAnne and see when she might have more definition on those estimates.

**Mr. Victor Fedeli:** Yes, she has been in here, and the number is getting up into the—high; very high; huge—hundreds of millions.

When did your negotiations, discussions, meetings with Mullin and Steeve end?

**Mr. Chris Breen:** They ended pretty much—the last meeting was on October 5. I would have sent them an email probably on October 6, saying, “Here’s the draft language.” They would have then passed that over to the Ontario Power Authority. I don’t recall having any meetings or conversations with them after that.

From there, we dealt with the Ontario Power Authority, who found themselves in an awkward position and did their best to make the best of the situation that they found themselves in.

**Mr. Victor Fedeli:** I want to go back to that October 5 meeting. I think there’s one sentence that I hadn’t read yet. You don’t need the notes. I’m just going to read it out loud. It says here, “Meeting with Duguid.

“Ben Chin told MAG”—Ministry of the Attorney General—“lawyers, ‘Breen told me later that he was surprised the minister didn’t know, and I was also surprised when Breen told me.’” Do you acknowledge that?

**Mr. Chris Breen:** Yes, sir. I would make one point of clarification. That was the impression I was left with. I’ve since heard the minister’s testimony yesterday, and of course, that would defer with my impression.

**Mr. Victor Fedeli:** Yes. I want to just—

**The Chair (Mr. Shafiq Qadri):** One minute.

**Mr. Victor Fedeli:**—secure a couple of thoughts. In your opinion, there’s no hesitation for you to say that the direction to cancel this came from the Premier of Ontario’s office?

**Mr. Chris Breen:** I would say that every indication says to me that that’s where the decision was ultimately discussed. Then it would have gone through some form, I assume, of formal channel—

**Mr. Victor Fedeli:** To Steeve, to you?

**Mr. Chris Breen:** Steeve to me is where the decision was communicated.

**Mr. Victor Fedeli:** Okay. Thank you, Chair.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Fedeli, for your time. Thanks to you, Mr. Breen, for your deputation and presence on behalf of TransCanada Energy.

As pledged, Mr. Tabuns, you immediately and instantaneously have the floor for your motion.

**Mr. Peter Tabuns:** You’re a very good Chair, Mr. Chair.

I have two motions. I’ll read out the first, which has been circulated. Madam Clerk, I have a replacement motion.

I move that Mr. Chris Breen produce his notes related to meetings with the office of the Minister of Energy and the Premier’s office in respect of the Oakville gas plant within the next two weeks of this motion passing.

**The Chair (Mr. Shafiq Qadri):** Mr. Tabuns, just before we entertain comments on this: This motion, as

you know, offers a respectful invitation to Mr. Breen to provide his notes. I just remind the committee and all members that, as a parliamentary committee, we can subpoena those notes should we find it necessary.

With that, I would—yes, Mr. Delaney?

**Mr. Bob Delaney:** Chair, I move an amendment to the motion.

**The Chair (Mr. Shafiq Qadri):** An amendment to the motion. Do you have it in writing, Mr. Delaney?

**Mr. Bob Delaney:** I do.

**The Chair (Mr. Shafiq Qadri):** May we have it?

**Mr. Bob Delaney:** Yes.

**The Chair (Mr. Shafiq Qadri):** Could you add your amendment or read the amendment, Mr. Delaney?

**Mr. Bob Delaney:** Chair, after the words “Premier’s office,” add the words “and correspondence with Deb Hutton.”

**The Chair (Mr. Shafiq Qadri):**—“and correspondence with Deb Hutton.” Fair enough.

Are there any comments on this particular amendment?

**Mr. Peter Tabuns:** Yes. Why is that relevant?

*Interjections.*

**The Chair (Mr. Shafiq Qadri):** Thank you. Any further comments? Seeing none, we’ll vote on the amendment. Those in favour of the amendment as read, please vote. Those opposed? The amendment is defeated.

We now move to the main motion. If there are no further comments, those in favour of the amendment with reference to Mr. Breen’s notes? Those in favour?

*Interjection.*

**The Chair (Mr. Shafiq Qadri):** The main motion, unamended, so we don’t have to do this again. All opposed? The motion carries.

Mr. Tabuns, you have a second motion?

**Mr. Peter Tabuns:** I do have, and I have copies here for the committee.

**Mr. John Yakabuski:** Just while we’re looking at this motion, Mr. Breen, what do you figure the transmission would cost if we had built a power plant on the moon?

**Mr. Chris Breen:** I’m not going to go there—literally or figuratively.

**Mr. John Yakabuski:** It would be tough to keep you whole, though.

*Interjections.*

**The Chair (Mr. Shafiq Qadri):** Mr. Tabuns, I believe all members of the committee have your motion.

**Mr. Chris Breen:** Chair, I—

**The Chair (Mr. Shafiq Qadri):** Yes, Mr. Breen. You are respectfully dismissed. Thank you.

**Mr. Chris Breen:** Thank you, Mr. Chair. A reminder to the Clerk that I was asked for one specific letter. I’m happy to leave it behind.

**The Chair (Mr. Shafiq Qadri):** Thank you. We are obliged.

Mr. Tabuns, you’re welcome to enter your motion into the record. Just before you do so, I’d invite you to specify—what do you mean by “reversed”?

**Mr. Peter Tabuns:** I'll read the motion, and then I will give you clarity, Mr. Chair.

I move that the order of appearance for the three witnesses scheduled for Tuesday, April 30, 2013, be reversed. That would mean that the witness who's currently going to be at the end of the day come at the beginning of the day; the witness at the beginning of the day comes at the end of the day.

**The Chair (Mr. Shafiq Qaadri):** All right. So just for clarity, as it stands, the original list is: Liberal, PC, NDP, morning and afternoon Tuesday, and Mr. Tabuns wants it NDP, PC, Liberal. Understood?

**Mr. Bob Delaney:** Is the motion in order?

**The Chair (Mr. Shafiq Qaadri):** The motion is in order.

**Mr. Bob Delaney:** Why?

**The Chair (Mr. Shafiq Qaadri):** I appreciate what your objection is, Mr. Delaney, but I'm informed that the motion is in order.

**Mr. Bob Delaney:** Chair, the question was: Why is the motion in order?

**The Chair (Mr. Shafiq Qaadri):** Why is the motion in order? All right. Well, I will attempt to access the philosophy behind the motion if you'll give me a moment.

This is scheduling of the same witnesses as opposed to a dictation of change of witness. It's just a matter of scheduling, and apparently we could have agreed to this without a motion, off the record.

**Mr. Bob Delaney:** A five-minute recess, Chair?

**The Chair (Mr. Shafiq Qaadri):** A five-minute recess.

*The committee recessed from 1014 to 1025.*

**The Chair (Mr. Shafiq Qaadri):** Thank you, colleagues. Let's expedite this, if possible. We have a motion before the floor by Mr. Tabuns. As I had

mentioned earlier, its effect—for Tuesday, April 30—is to go from Liberal, PC, NDP to NDP, PC, Liberal. As I've already ruled, the motion is in order because it's an issue of scheduling. It's on the same day. It's a matter of order only. It's an equal number of witnesses. To date, we still do not know who these witnesses are. Net effect, it would just be as if we were ruling, for example, to move from Tuesday to Wednesday or sit during the break etc. So, that is the underpinning philosophy behind the ruling.

The motion is now before the floor. Are there any further comments before we go to the vote?

**Mr. Bob Delaney:** Chair, I think this is just unnecessary gamesmanship.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Delaney. Any further commentary?

**Mr. Peter Tabuns:** Go to vote.

**The Chair (Mr. Shafiq Qaadri):** Those in favour of Mr. Tabuns's motion with reference to April 30, vote in favour, please. All opposed? Motion carries.

We have one more issue before the committee. The lead members of each caucus have been given this particular secrecy disclosure form with reference to Infrastructure Ontario—100 pages. They will be required to sign, date and put their name on it if they are to walk out of this room with Infrastructure Ontario documents, and I understand that's been received by each caucus—most—

**Mr. Peter Tabuns:** Well, no. To be clear, I've seen the package. We are discussing whether or not we will take those documents under those conditions.

**The Chair (Mr. Shafiq Qaadri):** Thank you. If there's no further business before this committee, the committee is adjourned till next week.

*The committee adjourned at 1027.*



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#### Also taking part / Autres participants et participantes

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)

#### Clerk / Greffière

Ms. Tamara Pomanski

#### Staff / Personnel

Mr. Jeff Parker, research officer,

Legislative Research Service

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