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Tuesday 27 August 2013

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Mardi 27 août 2013

**Standing Committee on
Justice Policy**

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE POLICY

Tuesday 27 August 2013

COMITÉ PERMANENT DE LA JUSTICE

Mardi 27 août 2013

The committee met at 0902 in room 151.

MEMBERS' PRIVILEGES

The Vice-Chair (Mrs. Laura Albanese): Good morning, colleagues. I call the Standing Committee on Justice Policy to order. I am Acting Chair today, as our Chair is away on parliamentary business.

We do have our first witness here with us, but before we ask her to be sworn in by the Clerk, I would like to remind everyone that, at the last meeting, the Chair reserved on two motions, one moved by Mr. Fedeli and one moved by Mr. Tabuns.

Mr. Fedeli's motion is in order and may be debated; I would suggest that we do that and we deal with the matter at the end of the meeting, at the end of the day. Is there consensus? Yes.

Mr. Tabuns, I believe you are withdrawing your motion?

Mr. Peter Tabuns: I am withdrawing the motion that I have tabled, and I am putting replacement motions in its place.

The Vice-Chair (Mrs. Laura Albanese): So we will deal with that at the end of the day as well.

Mr. Peter Tabuns: I'm fine with that.

Mr. Bob Delaney: "Motion" or "motions"?

Mr. Peter Tabuns: I've got a book full of them, Bob—two.

The Vice-Chair (Mrs. Laura Albanese): Okay.

MS. ALICIA JOHNSTON

The Vice-Chair (Mrs. Laura Albanese): So, without further discussion, we will now ask our first witness, Alicia Johnston, to be sworn in by our able Clerk.

The Clerk of the Committee (Ms. Tamara Pomanski): 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?

Ms. Alicia Johnston: I will.

The Clerk of the Committee (Ms. Tamara Pomanski): Thank you.

The Vice-Chair (Mrs. Laura Albanese): I believe that the PCs will start. You'll be receiving questions—10 minutes from the Conservative Party, 10 minutes from the NDP, followed by the Liberals—

Mr. Bob Delaney: I believe it's 20, then 10, 10, 10.

The Vice-Chair (Mrs. Laura Albanese): Actually, it's 20 minutes. It is 20, 20, 20, then 10, 10, 10.

Ms. Alicia Johnston: Perfect.

The Vice-Chair (Mrs. Laura Albanese): I was hurrying the day along.

Mr. Victor Fedeli: Chair?

The Vice-Chair (Mrs. Laura Albanese): Mr. Fedeli?

Mr. Victor Fedeli: May I ask: Is there an opening statement?

The Vice-Chair (Mrs. Laura Albanese): A five-minute opening statement, at the most. Thank you.

You may proceed.

Ms. Alicia Johnston: Thank you, Madam Chair. Can you hear me okay?

The Vice-Chair (Mrs. Laura Albanese): Yes, we can.

Ms. Alicia Johnston: Great.

Honourable members, I appreciate the invitation from the committee to appear here as you put together your recommendations. I hope that I can be helpful in providing information about my experience during my time at Queen's Park, from January 2006 until January 2012.

During that term I was honoured to serve in the offices of four ministers and former Premier Dalton McGuinty in various communications capacities. As director of communications to the Minister of Energy, the Honourable Brad Duguid, from June 2010 to January of 2011, in addition to dozens of other communications matters I assisted in the communications functions of the announcement of the relocation of the Oakville power plant, including reviewing communications materials, preparing the minister and helping answer questions from the media.

In February of 2011, I became director of issues management and legislative affairs in the office of the Premier. Part of my role was to support the Premier in preparation for question period and for media events. Part of my job was to gather information, to ask questions and to help coordinate on dozens of items throughout the day. I also had a supportive role across government, and would be available to help other staff on communication matters when they would arise, as it did from time to time regarding the relocation of the Oakville plant and amid growing concerns from community members and members of provincial Parliament about the Mississauga gas plant.

In the fall of 2011, I took a leave from government and volunteered on the provincial election. As the director of media relations for the Ontario Liberal Party, I provided support and advice on media relations and various communications functions for the campaign on dozens of announcements and commitments, including the Ontario Liberal commitment to relocate the Mississauga gas plant.

Shortly after the election, when I had returned to the Premier's office, I informed my chief of staff that I would be moving on to other opportunities. I agreed to stay on temporarily as the executive director of communications in the Premier's office, where, working with an excellent team, we supported the Premier and the government with a number of communications functions. My involvement with the Mississauga and the Oakville gas plants at that time would have been to provide support regarding public communications, as I would on hundreds of other items across government.

As you'll recall, during that time the construction was still under way at the Mississauga site, and most of our public communication was around assuring the community that we would keep our campaign commitment to relocate the plant. I believe the committee has heard from others that negotiations around the cost of relocating those plants were still under way when I left Queen's Park in January 2012.

I look forward to your questions, but before I pass the microphone back to you I'd like to briefly relay my personal experience attending the Oakville community event when the government announced the relocation of the plant.

First of all, I remember arriving at the event, which was almost three years ago now, and feeling real, palpable anticipation in the room for the announcement. Once the announcement was made, it was followed by exuberant cheers from community members. I was drawn aback by the emotions in the community, by the moms and the dads in that small room in Oakville, one who literally broke into tears beside me. I remember thinking how those community members had fought so hard against the gas plant and how they had finally been heard. It was one of the more memorable experiences in my time serving at Queen's Park, and it would be a real reminder to me about the power of local advocacy and the important role that our members of provincial Parliaments like you play in representing their constituents.

Almost three years have passed since then and 19 months have passed since I left Queen's Park. I'm aware that a great deal has happened on this file since I left. Again, thank you for this opportunity to come before you. I look forward to answering your questions and to assisting the committee to the best of my abilities.

The Vice-Chair (Mrs. Laura Albanese): Thank you. Mr. Fedeli, the floor is yours.

Mr. Victor Fedeli: Thank you very much, Chair. Good morning. You had talked about that Mississauga announcement two years ago in June. Who planned that event, Ms. Johnston?

Ms. Alicia Johnston: Hi, Mr. Fedeli. Do you mean the Oakville announcement?

Mr. Victor Fedeli: I'm talking about the Mississauga—were you speaking of the Oakville announcement?

Ms. Alicia Johnston: I was speaking specifically of the Oakville announcement, which I think was in the fall.

Mr. Victor Fedeli: I'm going to speak specifically about the Mississauga announcement, which was held 11 days before the announcement. You were on the campaign; you were directing communications. Who planned that Mississauga announcement?

Ms. Alicia Johnston: Thank you for the question. I'm happy to address that and speak to my experience on the campaign. I was the director of media relations on the campaign. As part of my duties I would be aware of and involved to varying degrees in numerous announcements throughout the day and throughout the campaign.

On that particular announcement, it was made by the local members in their constituencies, to the local community. I didn't attend that particular event, although I did see the coverage on TV afterwards. I was certainly aware of the event, and I would have likely seen the press release before it went out, as well.

0910

Mr. Victor Fedeli: Would you have looked at it or approved the press release?

Ms. Alicia Johnston: It's a fair question, and that's something—

Mr. Victor Fedeli: Who would have written the press release?

Ms. Alicia Johnston: Thank you for asking that. That's something I thought about in anticipation of coming before the committee, and I think it's a fair question that you've asked.

Mr. Victor Fedeli: Could you just answer it, then, please?

Ms. Alicia Johnston: I'd be happy to answer your question.

Mr. Victor Fedeli: Okay. Let's get to the answers.

Ms. Alicia Johnston: Okay. As I was saying, I would typically look at media materials. I don't recall ever approving that particular press release, but I imagine I would have at least had a look at it before it went out to the media.

Mr. Victor Fedeli: I'll ask you my first question again: Who planned the event?

Ms. Alicia Johnston: I'm going to speculate on this, because I don't know the exact individuals who would have planned that announcement, but it would have been led by the local campaigns. They would have known where the best place to actually host the event was that was accessible to the media. I can't actually answer who the specific people were.

Mr. Victor Fedeli: As communications person heading up the campaign, would you have worked with Don Guy?

Ms. Alicia Johnston: Just to clarify, I didn't head up communications for the campaign; my role was director of media relations. I just want to be exact.

Absolutely, I worked with our campaign director, Don Guy, both in the 2011 and in our previous election campaign—

Mr. Victor Fedeli: Who were the vice-chairs of the 2011 campaign?

Ms. Alicia Johnston: It was chaired by Greg Sorbara, and our vice-chair was Kathleen Wynne, our current Premier.

Mr. Victor Fedeli: Okay. So, Don Guy was the director, Mr. Sorbara and Minister Wynne were the vice-chairs—she was a vice-chair—and you're saying that you believe that it was the local people who planned the event? It wasn't the campaign that planned the event?

Ms. Alicia Johnston: The central campaign was certainly involved. They were absolutely aware of the announcement, and they were involved in it. It was done locally. It was made by them. The announcement, as you know, was not made by the Premier; it was made by the local members.

Mr. Victor Fedeli: So was this an Ontario campaign event or would this have been a local event?

Ms. Alicia Johnston: I would say it was both.

Mr. Victor Fedeli: Okay.

Your role in 2010—we have document number 2, if you want to roll to document number 2; it's quite an extensive document. On October 5, 2010, you're saying, "Here is my cut at the news release." It's quite a lengthy document that's here which talks about the Oakville power plant not moving forward.

Ms. Alicia Johnston: Mr. Fedeli, I'd love to follow you. If you could actually point to me—

Mr. Victor Fedeli: Second page, document 2.

Ms. Alicia Johnston: Yes. Okay.

Mr. Victor Fedeli: Document 2 is 23 pages long, and it includes a news release; according to your email, here is your cut at it. It's quite extensive. It gets into a lot of changes—some wording changes—but, obviously, you would have understood the issue extensively, first of all in your history at the Ministry of Energy and then your later history at the Premier's office. Certainly you would have understood this issue. Is that a fair assumption?

Ms. Alicia Johnston: Thanks for that. I would say that it would be fair to say that I had some awareness and knowledge of the issue in the announcement. My job at the time—I see that it's October 2010, in advance of the Oakville announcement—typically, as director of communications would be to have awareness about the announcement and to be able to input on the communications products. That was part of my job.

Mr. Victor Fedeli: So you penned this email—it's the second page of 23—from you to Jesse Kulendran, Craig MacLennan, Sean Mullin and others—

Ms. Alicia Johnston: I believe it's actually penned—

Mr. Victor Fedeli: —Maryanna Lewyckyj, Kevin Powers; many of them we've already had here. You

penned this. This is your "cut," as you call it, at the news release.

Ms. Alicia Johnston: It looks as though, from looking at this document, that I sent it to Kevin Powers and Maryanna Lewyckyj, who both worked with me at the Ministry of Energy. They were on the ministry side, in the communications branch. So typically we would work back and forth, sharing products. They played an important role, certainly, in fact-checking, and oftentimes they would take a—I use the word "cut." They would take a first cut at products. So we would move products back and forth—

Mr. Victor Fedeli: So you would have needed some knowledge of the Oakville file in order to provide your input into the draft here.

Ms. Alicia Johnston: Yes, I would say that would be fair, that I would have—

Mr. Victor Fedeli: Sean Mullin: How often did you speak with Sean Mullin about the Oakville cancellation?

Ms. Alicia Johnston: I appreciate the question. I understand Mr. Mullin has appeared here already, so—

Mr. Victor Fedeli: We only have 20 minutes, so I'm looking for you to get right to these answers, please.

Ms. Alicia Johnston: Thank you, and I'd like to be helpful in answering your questions. I also want to be as thorough as I can—

Mr. Victor Fedeli: Please.

Ms. Alicia Johnston: —and as exact as I can.

Mr. Victor Fedeli: Please.

Ms. Alicia Johnston: I'm not sure if you're asking about specifically at this time or generally. Sean and I would have worked together over a few years on numerous matters. At the time when I was with the Ministry of Energy, it was a very interesting time—

Mr. Victor Fedeli: I just want to know: How often did you speak with Sean Mullin about the Oakville cancellation?

Ms. Alicia Johnston: That's a number that I probably couldn't come up with. I would have spoken to him numerous times.

Mr. Victor Fedeli: Okay; "numerous." How heavily involved was Sean Mullin in the Oakville cancellation?

Ms. Alicia Johnston: Sean Mullin, as I assume he testified—I unfortunately didn't get to see it—would have spoken to the fact that energy was one of the files that he carried in the Premier's office. It would have been part of his job to be involved in—

Mr. Victor Fedeli: My question was: How heavily was he involved? What would you suggest?

Ms. Alicia Johnston: I hesitate to put a scale to it. As part of his job, he needed to be focused on it.

Mr. Victor Fedeli: Who else in the Premier's office was involved in the negotiations with TCE?

Ms. Alicia Johnston: I appreciate the question. I note you say the word "negotiations." That is something I will not be an expert on because I was not a party to the negotiations. As director of communications, my job was to focus on the public communications aspect and not on any negotiations that took place. But I think you have

had, and I'm sure you will continue to have, other people testify—

Mr. Victor Fedeli: So you're not going to tell me, in your opinion, who else was involved with you?

Ms. Alicia Johnston: I'm happy to speculate and also relay what I've read in newspapers and what I'm generally aware of—

Mr. Victor Fedeli: No, I'm not interested in the newspapers. You were there. You were at the Ministry of Energy. Sean Mullin was involved, from the Premier's office. It's a simple question: Who else did you deal with in the Premier's office when you were at energy on the Oakville file?

Ms. Alicia Johnston: Just so I'm clear about your question: You want me to note who else I dealt with in the Premier's office about the energy file?

Mr. Victor Fedeli: About the Oakville. That's exactly the question. Thanks for repeating it.

Ms. Alicia Johnston: Okay. So we're not talking about negotiations anymore?

Mr. Victor Fedeli: Who else in the Premier's office did you deal with on the cancellation on the Oakville plant?

Ms. Alicia Johnston: Typically, when any announcements were taking place, we would have dealt with the communications department in the Premier's office—

Mr. Victor Fedeli: I'm looking for some names here, please.

Ms. Alicia Johnston: You'll have to give me a moment to think about who would have been in the position at that time. There's typically—

Mr. Victor Fedeli: You do remember dealing with Sean Mullin?

Ms. Alicia Johnston: Yes, absolutely.

Mr. Victor Fedeli: Okay. So who else would you have been dealing with?

Ms. Alicia Johnston: I likely would have dealt the person responsible for the government rollout, the person who keeps track of when announcements happen throughout the day, so that you're not announcing 10 things on one day and nothing on the next day.

Mr. Victor Fedeli: All right. Let's move on, then.

The crafting of that message surrounding the October 2010—I'm going back to your cut on it. A little later in the email—the next email—there's some conversation from legal people who are changing the language in your document.

Ms. Alicia Johnston: Mr. Fedeli, can you point me to which document? Are we further along?

Mr. Victor Fedeli: We're now on the fourth page. This is to you from Maryanna Lewyckyj. She's saying, "Here are the latest." There are changes from legal. Why do the legal people feel it necessary to change the language in your document?

Ms. Alicia Johnston: Is this dated October 6, and it's at 2:14?

Mr. Victor Fedeli: Yes. Page 4, October 6—

Ms. Alicia Johnston: Okay. Sorry. Mine doesn't say "page 4." Again, your question? Apologies.

Mr. Victor Fedeli: Why did the legal department feel it necessary to change the language of your document?

Ms. Alicia Johnston: That is an excellent question for the legal department.

Mr. Victor Fedeli: They're all going to be excellent questions; trust me. We're looking for excellent answers.

0920 Ms. Alicia Johnston: Great.

Mr. Victor Fedeli: I don't mean to be rude, but I have 20 minutes here and I don't appreciate the delay each time. Just let's get to the answers, please, Ms. Johnston.

Ms. Alicia Johnston: I'm delighted—

Mr. Victor Fedeli: Please, please, to the answers.

Ms. Alicia Johnston: —to be here as a guest of the committee to answer your questions. Again, that is a question that's best answered by the legal department. I'm not even aware, so I wouldn't—

Mr. Victor Fedeli: Okay; all right.

I see Jesse Kulendran, your co-worker, is listed on virtually all of these emails here. How involved was Jesse Kulendran in the ministry?

Ms. Alicia Johnston: I believe at that time, Jesse worked in the deputy minister's office. As the deputy minister would have been involved in most files—

Mr. Victor Fedeli: Most files. She wasn't a bit player. She's involved in all of these emails. In fact, on that fourth page: "Some changes to the remarks recommended by policy and Jesse." She's making changes here to the document. She would know enough about this file to make changes to this document?

Ms. Alicia Johnston: I'm reluctant to speculate about Ms. Kulendran's specific role—

Mr. Victor Fedeli: You worked with her.

Ms. Alicia Johnston: I did, but her job typically in the deputy minister's office would be to actually pass information from different policy branches in the ministry. That was her specific role. I don't want to downplay that role; it's an important co-ordinating function, but typically she would be passing information through the deputy's office, bringing—

Mr. Victor Fedeli: Well, according to this, she's making policy changes as well. That's fairly significant, in my opinion. Would you not agree with that?

Ms. Alicia Johnston: I'll leave that opinion to you. My understanding is that—

Mr. Victor Fedeli: All right.

Let's go to the back of this document 2, if you can find where it ends. It's the sixth-last page, and it's numbered page 1. It's an email from you to Ben Chin.

Ms. Alicia Johnston: Right. Is this October 7, 1:02 p.m.?

Mr. Victor Fedeli: This is, yes. Down near the bottom, it says, "Note answers on transmission at the end."

Ms. Alicia Johnston: Right.

Mr. Victor Fedeli: So you're talking about the transmission solution into Oakville. You understand that issue, then. If you're noting that there's a transmission answer at the end, you're acknowledging, then, that you understood enough to bring this up, that there's a trans-

mission section at the end here. You understand what that means?

Ms. Alicia Johnston: Yes. I believe at the time, the minister and the government was announcing to the local community that we would be not putting a plant in the community and that new transmission into the community should be able to meet the energy requirements.

Mr. Victor Fedeli: So even back as far as 2010, you knew there would be additional costs to the \$40 million and part of that cost would be transmission lines that you drew attention to. You're nodding "yes"?

Ms. Alicia Johnston: I'm about to answer your question. I knew that there would be costs to relocating the Oakville power plant—

Mr. Victor Fedeli: I just want to stop you for a second. You're probably the second person who has ever admitted that here, so I appreciate your candidness here, that there were additional costs and they were known as far back as 2010. Thank you. I appreciate that.

Let's go to document number 1; it's the first page. Do you have it there?

Ms. Alicia Johnston: I do.

Mr. Victor Fedeli: There's not much on it. Can you tell me why there's virtually nothing on this page?

Ms. Alicia Johnston: I'm delighted you asked this question. I believe the PCs actually put a press release out about this. I'm a private citizen now; I didn't have much of a forum to talk about it.

Mr. Victor Fedeli: Okay.

Ms. Alicia Johnston: There's an email that I sent from my personal Rogers account to my ministry account and it's at 11:53, so it would have been right before midnight and I think it's a day or two before the announcement. What I was sending was Qs&As, I believe, that I was working on at home. I didn't want to continue work in the office; I wanted to work at home. I didn't have a work computer at home, so I was forwarding my Qs&As to my work computer so I could forward it on to other folks.

The reason why I raise that is—

Mr. Victor Fedeli: So why is it redacted?

Ms. Alicia Johnston: —press release out at the time saying that I personally was trying to hide something, which I take exception to because, as you can see, I was just working hard on putting together materials late at night at home.

Mr. Victor Fedeli: Well, we wouldn't know that, because they're entirely redacted. So are you saying you're the one who redacted it?

Ms. Alicia Johnston: There are no redactions; there's just nothing written in the email.

Mr. Victor Fedeli: There's no attachment. It doesn't show that there was an attachment. So you sent yourself a blank email? Is that what you're saying?

Ms. Alicia Johnston: No, I was forwarding—

Mr. Victor Fedeli: Okay. It doesn't show that here. In fact, the—

Ms. Alicia Johnston: It does say "forward," actually.

Mr. Victor Fedeli: But it doesn't show any file; it doesn't show any text that's forwarded. Did you redact the text here? When you forward it, the text would actually forward with it; you could see it. Why can't we see the text here?

Ms. Alicia Johnston: Because there was no text, because I was sending an email from myself to myself, so I don't need to—

Mr. Victor Fedeli: Yes. Was it an attachment?

Ms. Alicia Johnston: Yes.

Mr. Victor Fedeli: It doesn't show here that there's an attachment. There's no signification that there's an attachment. The subject line—in fact, the word "subject" is not on the bottom email; it's been redacted as well, so we don't know that there was a topic.

Ms. Alicia Johnston: I think it's a fair question that you ask. If you look to the next email—

Mr. Victor Fedeli: Trust me; they're all going to be fair questions.

Ms. Alicia Johnston: —it's from Maryanna. She's forwarding my email to other individuals to have a look at, and she says, "Some questions on transmission were added. I'd appreciate it if you could look at the copy and see if there are any inaccuracies." I think it was just a mistake. I just wanted to clarify—

Mr. Victor Fedeli: Okay; all right. So it's a mistake.

Ms. Alicia Johnston: It was a mistake the PC Party made, and that's fine.

Mr. Victor Fedeli: No, no, no. The PC Party made no mistake. We received a file—

Ms. Alicia Johnston: Well, you put a press release out—

Mr. Victor Fedeli: —it's been completely redacted here. There's no information. The subject line—in fact, the word "subject," so we could see what the subject line actually said—is not on here. There is no document. There is no attachment. There is no signification. You'll see many, many other files that have an attachment; the icon comes up. All that has been removed from this, and it only leads us to wonder what was redacted here. We can try to take your word for it here that you were sending yourself a file to a file—

Ms. Alicia Johnston: I think you just need to look at the documents you provided. These are part of the documents that were in that email, but we don't need to discuss it. That's fine.

Mr. Victor Fedeli: Well, let's get to those documents. Your name only came up 288 times, yet virtually everybody else involved, nowhere near as deeply as you, in this—they weren't from the ministry and then from the Premier's office—are in the thousands of documents. Even in the worst-case scenario—we've been able to recreate deleted files and destroyed files—we can get up to 1,500 or 2,000 on many people. For you, we have 288 files. Can you tell me why, if you were crafting messaging for the Oakville cancellation when you were at energy and you were in the Premier's office during the negotiations for Mississauga—did you regularly delete your email?

Ms. Alicia Johnston: I'm appreciative of the opportunity to speak to this. I'd like to first address what you mentioned early on in your preamble to the question, and that is, as it relates to the number of documents—

Mr. Victor Fedeli: Yes. We have 288 for you.

Ms. Alicia Johnston: Right. I'm not sure how that measures up with others—

Mr. Victor Fedeli: I can tell you. It's shy by more than 1,000.

The Vice-Chair (Mrs. Laura Albanese): One minute.

Ms. Alicia Johnston: So, as I mentioned in my opening statement, I certainly was involved in the announcements of both relocations of gas plants. I also left Queen's Park in January 2012. At that time—

Mr. Victor Fedeli: But we only have 288 emails for you, including one here that's been redacted. Where would those Qs&As be, then, that were attached to this? Where are they?

Ms. Alicia Johnston: I believe I saw them, actually, online. There were lots of Qs&As that were part of the documents that this committee—

Mr. Victor Fedeli: How will we know that this was this one? How can we see that? If it was from you to you—

Ms. Alicia Johnston: I would look to the committee for information about their materials.

Mr. Victor Fedeli: But hear me: If you sent it from yourself to yourself, the Alicia Johnston at MEI should have a file it received, and that should have been sent to us. Would you not agree that that's not a transitory file, that that's an actual document we should have had? Not the one you sent, but the one you received—where is that one?

The Vice-Chair (Mrs. Laura Albanese): Thank you. We will pass it on now to the NDP, and we will continue the conversation after.

Mr. Peter Tabuns: Okay. Thank you, Chair.

Ms. Johnston, thank you for being here this morning. Just a few questions before I get into the main body: During the 2011 campaign, who gave you direction to pull together the Mississauga release and media documentation?

Ms. Alicia Johnston: Thank you, Mr. Tabuns. I think you ask a fair question. As I mentioned earlier to Mr. Fedeli, my job was to be director of media relations—

Mr. Peter Tabuns: I actually don't need all that. I'd like to know who told you to pull it together.

Ms. Alicia Johnston: I actually did not pull together all of the materials. That was not something that I personally was tasked with for that particular announcement.

Mr. Peter Tabuns: You had nothing to do with that announcement?

Ms. Alicia Johnston: No, I don't think that's true. I believe what I said earlier was that it's likely that I would have had a look at the press release. I don't remember signing off on it per se, and I don't remember the specific task of looking through it, but I likely would have had a look at it, as I would have most of the materials that went

out. I'm happy to speak more generally to how we would create and produce materials—

Mr. Peter Tabuns: Who gave it to you to check?

0930

Ms. Alicia Johnston: That's a great question. I can't recall who would have given it to me. It could have been the campaign director. It could have been one of the folks that worked in the communications shop. We had a great team and it was, you know, a big, open office with lots of people working there. I'd like to be helpful in answering it; I just also want to be accurate.

Mr. Peter Tabuns: You know, you're giving us a lot of filler today, and I don't appreciate it, and I don't think the committee appreciates it. You can't tell me who gave it to you?

Ms. Alicia Johnston: I'm trying to be helpful, Mr. Tabuns—

Mr. Peter Tabuns: If you can't tell me, say that.

Ms. Alicia Johnston: I'm happy to provide more context but I don't know the specific person.

Mr. Peter Tabuns: Okay, so you don't have a recollection of who gave you the material to review for a release. That's fine. I'll go to the next question.

Ms. Alicia Johnston: There would have been hundreds of announcements, so—

Mr. Peter Tabuns: Yes? So you don't remember. In the course of dealing with the Oakville plant around the time of summer of 2010 and into the announcement, who in the Premier's office did you deal with on this matter?

Ms. Alicia Johnston: So, in the summer of 2010—that was the lead-up to the Oakville announcement, which I think happened in October.

Mr. Peter Tabuns: Correct.

Ms. Alicia Johnston: So, in the summer of 2010 we actually probably weren't working on the Oakville announcement. It would have been closer to the—

Mr. Peter Tabuns: Okay, let's move into September. In the fall, in September, who were you dealing with? You were writing emails from home about media releases. Who in the Premier's office did you deal with on this file?

Ms. Alicia Johnston: I would have dealt with a number of folks. The person that I most likely would have dealt with was Sean Mullin, who was the policy adviser.

Mr. Peter Tabuns: I know that, and who else?

Ms. Alicia Johnston: I also would have worked—closer to the actual announcement time I would have coordinated with the communications planning function of the Premier's office—

Mr. Peter Tabuns: And who would that have been?

Ms. Alicia Johnston: So, at the time it would have—I'm trying to actually remember who the director of communications was at the time. I think it was before Brodhead's time. The communications planners—there were a few of them. There were three of them, so I probably would have dealt with all three of them on a daily basis.

Mr. Peter Tabuns: Okay, so you dealt with Sean Mullin and then the communications planners?

Ms. Alicia Johnston: Yes. Sean Mullin was a great help in the lead-up to that announcement.

Mr. Peter Tabuns: I'm glad he was. You have no recollection of who those three or four communications people were?

Ms. Alicia Johnston: It could have been any one of them on a particular time. I also would have dealt with the press office as well, because we would be making the announcement and coordinating the actual—

Mr. Peter Tabuns: So you can't remember the names of any of those people in communications?

Ms. Alicia Johnston: I think it's really easy for us to find the employment records of the Premier's office. I mean, it would have been any number of them because, you know—the press office was sending out the media advisory and ensuring that the press release got on the wire.

Mr. Peter Tabuns: That's fine. You have our documents in front of you?

Ms. Alicia Johnston: I do.

Mr. Peter Tabuns: Document 7: This is a lot narrower. This is a communication between you and Ben Chin.

Ms. Alicia Johnston: Right.

Mr. Peter Tabuns: The first question is, did you folks have a practice of hiring reporters to make them friendly to you?

Ms. Alicia Johnston: I'm sorry?

Mr. Peter Tabuns: Did you have a practice, did the OPA or did your ministry have a practice, of hiring people—reporters, communications people—so that they would write friendly stories about you?

Ms. Alicia Johnston: I don't believe so, and usually reporters can't be hired; their objectivity when they're reporters is very much—and my practice. That's what I—

Mr. Peter Tabuns: So why would Ben Chin suggest that someone be thrown work so that they would be feeling—

Ms. Alicia Johnston: I'm not sure what you're referring to.

Mr. Peter Tabuns: Well, why don't you read that first email, the one at the top, Ben Chin to Alicia Johnston? “We need him.” “We need him” to “feel special. We need to throw him some work. He doesn't need it, but everyone likes feeling wanted.”

Ms. Alicia Johnston: Right; okay.

Mr. Peter Tabuns: Did that strike you as unusual when you got that?

Ms. Alicia Johnston: I cannot remember receiving the email. I certainly did; it says that it was sent to me, but I have no memory of it.

Mr. Peter Tabuns: I don't know about you, but for me the idea that someone at the Ontario Power Authority would be offering work to a journalist to make them feel wanted strikes me as very strange and unusual. It didn't strike you that way? It was a common thing?

Ms. Alicia Johnston: The journalist you're speaking of is?

Mr. Peter Tabuns: You can read it. He didn't initiate this.

Ms. Alicia Johnston: I'm not sure if he was a journalist at the time or was not. I know he's not anymore.

Mr. Peter Tabuns: Okay. In the one below that, you to Ben Chin say, “Just got off the phone ... who had a few qs.

“We've got to get him out as an ‘expert’ commentator.”

So you did a fair amount of work with this journalist.

Ms. Alicia Johnston: As I mentioned, I don't believe he was a journalist at the time.

Mr. Peter Tabuns: I gather he was commenting on these matters. He's publicly known.

Ms. Alicia Johnston: Yes. He's a very bright guy and certainly was—I see I used the word “expert.” I would say he's an expert; he certainly knows a great deal—

Mr. Peter Tabuns: Yes, and a commentator. You don't remember writing this to Ben Chin?

Ms. Alicia Johnston: I don't, but it certainly says that it was an exchange between the two of us in November.

Mr. Peter Tabuns: Just in case your memory does revive itself, the bottom here—

Ms. Alicia Johnston: Just to be clear, Mr. Tabuns, I'm not denying that this exchange happened in any way, shape or form.

Mr. Peter Tabuns: I know you're not denying it. You just have no recollection of it whatsoever.

Ms. Alicia Johnston: As is the case for everybody on this committee, most of us receive many, many emails throughout the day and send them quickly. Sometimes we have a great choice of words, and sometimes we don't. This was a moment three years ago almost, so I don't really remember.

Mr. Peter Tabuns: Fair enough. At the very bottom, Ben Chin writing to you again: “Yes, I heard. All good. He's been very good throughout this, and other than CA”—and I'm going to guess Colin Andersen, but I don't know—“my only ally on SWGTA. Good thing he's here.” I assume he's talking about Amir Shalaby. Do you have any recollection of Mr. Chin not having allies on the southwest GTA?

Ms. Alicia Johnston: I do not recall thinking about that or not. I think I was impressed by Amir. He was quite helpful at the Ontario Power Authority when we had questions, and he would get back to us quite quickly.

Mr. Peter Tabuns: Did you draft the press release announcing that the Oakville gas plant would not proceed? That's documents 1 and 2 of the package in front of you.

Ms. Alicia Johnston: Sorry, I'm aware of the press release you're speaking of, but it's documents 1 and 2?

Mr. Peter Tabuns: Yes. On the second page at the bottom. It's from you to Maryanna Lewyckyj and Kevin Powers: “Here is my cut at the news release.”

Ms. Alicia Johnston: Right.

Mr. Peter Tabuns: So you remember this news release, “Proposed Oakville Power Plant Not Moving Forward”?

Ms. Alicia Johnston: I do remember the news release.

Mr. Peter Tabuns: Okay. Is it standard to include the cost of projects when you write a press release?

Ms. Alicia Johnston: That's a fair question, and there wouldn't be any standard one way or another. A news release would typically have the facts of the announcement in there and usually would contain quotes. It was formulaic in that way.

Mr. Peter Tabuns: Okay. Can I just say that we've done a lot of scrums here, and from reading your emails, you've observed or been in a lot of scrums. Reporters tend to ask questions about numbers. It's just the way they are; they're quirky. So when you go out and you aren't prepared to address a dollar issue, you're going to get further questions. But you didn't have a price in here. I'll come back to that.

Who made the decision to cancel the Oakville plant?

Ms. Alicia Johnston: It's my understanding that the Premier and the minister made the decision.

Mr. Peter Tabuns: And who told you?

Ms. Alicia Johnston: The minister and the chief of staff would have informed me at the time.

Mr. Peter Tabuns: So were you involved in any way in the discussions that led to the cancellation?

Ms. Alicia Johnston: I was not part of the decision-making that led to me then being informed about the decision to proceed with announcing it.

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Mr. Peter Tabuns: And what was the justification you were given, given that you were going to be writing the media release on this?

Ms. Alicia Johnston: I believe there were a few reasons why. I remember a few things at the time. We were in the process of putting together Ontario's Long-Term Energy Plan. This is, as you know—you've been the energy critic for quite some time—the follow-up to the IPSP. In those deliberations there was lots of work that was done—and I won't go into detail about this because, as you know, I'm not a policy expert—about the demands and the energy needs in communities across the province. So that was part of the process. It was also an opportunity to make changes—

Mr. Peter Tabuns: I think you've given me as much answer as I will find useful.

Ms. Alicia Johnston: And then there was the local community, of course, as well.

Mr. Peter Tabuns: That's fine.

Did you draft a question and answer about the cancellation of the Oakville gas plant? Those are documents 3 and 4.

Ms. Alicia Johnston: I certainly participated in creating the Qs&As—sorry; questions and answers—and the key messages. I'm not sure if I would have been the first person to put pen to paper on them, but it's absolutely fair to say that I helped.

Mr. Peter Tabuns: You played a big role in this.

Ms. Alicia Johnston: Well, it was my job, as director of communications in that office, to assist the minister and—

Mr. Peter Tabuns: That's why we think you played a big role in this.

In question 2, you ask, "How much will this cost taxpayers? How much will this increase the electricity bill of an average ratepayer?" Then you say, "We will include a full costing of the long-term energy plan when it is released."

Where did that information come from? Who told you that this would all be costed out in the long-term energy plan?

Ms. Alicia Johnston: I appreciate the question. I can't speak to who said what to me specifically, but I can provide you with some context around this. I remember, at the time, certainly the Oakville announcement was an important one, as were many other energy announcements that we were making. But as you'll recall, at the time—and Ontarians were really feeling the pinch on the cost of energy. Electricity prices had increased a lot—

Mr. Peter Tabuns: Do you know what? I'm more interested in who told you this than that context, so maybe I was imprecise in my question. Who gave you this information? Who made the decision for that to be the answer on the cost?

Ms. Alicia Johnston: On question 2 of the draft, I'm not sure of questions and answers that were prepared three years ago.

Mr. Peter Tabuns: It says, "How much will this cost taxpayers?" How much will this affect—

Ms. Alicia Johnston: I'm not sure who would have drafted that specific sentence. I'd be delighted to give you some context around why we spoke about the long-term energy plan and price.

Mr. Peter Tabuns: That's fine. I looked at the long-term energy plan. There's nothing in there about price related to this plant. So let's just go back—

Ms. Alicia Johnston: I believe the question was about electricity bills and ratepayers, so that's why I was trying to give you some context about the long-term energy plan and people's bills.

Mr. Peter Tabuns: But that isn't what I asked. I want to know who gave you direction, and you haven't answered that. At this point, I'm not sure I will get that.

Didn't you ask, when you were given this to draft, "So what's it going to cost?" This is an awfully vague answer. Didn't you press the people who were working with you to get at that cost?

Ms. Alicia Johnston: I'm sure we had discussions about the types of questions that would come up, and that's why we draft Qs&As, like we do with any announcement. Their rationale behind this specific answer in this case was to do with people's electricity bills and the fact that—

Mr. Peter Tabuns: You didn't ask anyone what it was going to cost? You didn't press?

Ms. Alicia Johnston: At the time, I was aware that future costs would be incurred and that the negotiations between the government—or, rather, the OPA as well, I suppose—and the company would need to take place and that those costs would become—

Mr. Peter Tabuns: I'm going to turn it over to my colleague for a moment.

Ms. Catherine Fife: Thank you. How much time do we have, Chair?

Interjection.

Ms. Catherine Fife: Four minutes? Thank you.

Thank you, Alicia. So just staying on the cost questioning: On October 7, 2010, you did write to David Lindsay about the announcement, and you said, "Financially it'll be muddy in the papers tomorrow." Why would it be muddy? Why did you use that language when you—you didn't have a full picture of how much it would cost; however, you did admit that you knew there would be some costing. So can you give us some insight into that language?

Ms. Alicia Johnston: Absolutely. Thank you for the question, Ms. Fife. Can you also refer me to the specific email that you reference?

Ms. Catherine Fife: Yes. It's in the email in your package. It's on—I just had it. It's from October 7. It's on pages 5 and 6.

Ms. Alicia Johnston: I've got it, yes. Okay, I see this is an email I sent to David Lindsay, who was our deputy. As a side note, it was great to work with him, not only because he was a fine deputy but just because of his political experience and—

Ms. Catherine Fife: "Muddy"—why did you use the word "muddy"?

Ms. Alicia Johnston: Looking back on this email, it's interesting—right?—because part of my job was to pay attention to the media and the media coverage and also pay attention to announcements and how it would be reported. I think what I'm doing here is I'm writing to the deputy, and I'm reporting the—

Ms. Catherine Fife: You're projecting the feedback that you're going to get for not having a figure for cancelling the Oakville gas plant?

Ms. Alicia Johnston: Actually, I think in my own words, what I'm doing is relaying what we will see, likely, on the TV screen that night, which was folks who were—I say that the room full of people had erupted "in cheers of joy and applause." I do indeed speak to the fact that there will be outstanding questions about cost, as we would have anticipated going into that announcement.

As Mr. Tabuns mentioned earlier, we did not put a price into the news release, because that price was unknown. What I was articulating was the fact that the media wouldn't have had answers to those questions, and therefore—

Ms. Catherine Fife: But you do mention further on—you say that the province "could be on the hook for millions and minister wouldn't comment about it." Why wouldn't the minister comment on it? You knew that somebody in that room, amidst the applause and the crying, was going to ask the question, "How much is this actually going to cost?"

Ms. Alicia Johnston: And I believe the media likely did ask that question.

Ms. Catherine Fife: But you've also stated that it's your job to actually inform the minister of potential questions and to provide answers so that he actually had something to respond to. Why wouldn't the minister comment? If you're the director for communications on this particular issue, you need to prepare the minister. Did you not prepare him with any kind of answer to this question?

Ms. Alicia Johnston: I think you're asking a fair question. Absolutely, it was my job to help prepare the minister for the announcement. I think, in my earlier conversation with Mr. Tabuns and also Mr. Fedeli, I spoke to the fact that the cost at that time was not known, and I would have—and would, any time in the future, not encourage people to provide facts that were not accurate.

Ms. Catherine Fife: So you had no idea, at the time of the writing of these Qs&As around the decision, that it was going to cost—what the true cost was going to be?

Ms. Alicia Johnston: That's correct, and I don't think anybody in this room knows the answer to that.

Ms. Catherine Fife: But you knew that it was going to be millions and millions.

Ms. Alicia Johnston: I believe the specific line is—I'm interpreting what I expect the media to report, which is not an exact science, and anticipating what the media are going to report. That was sort of my best guess on what I thought they might include.

Ms. Catherine Fife: But using the word "muddy," though—you clearly anticipated the fact that you were going into this situation not knowing enough about the cost and not knowing about the fallout, but somebody somewhere made the decision that it was worth the risk.

The Vice-Chair (Mrs. Laura Albanese): Thank you, Ms. Fife. We'll now move on to Mr. Delaney.

Mr. Bob Delaney: Thank you very much, Chair. Good morning, and thank you very much for being here.

Ms. Alicia Johnston: Thank you.

Mr. Bob Delaney: Just to quickly recap, you worked for the Ministry of Energy in 2010 and then moved to the Premier's office in 2011, and then left the government a few months following the 2011 election, correct?

Ms. Alicia Johnston: That's correct.

Mr. Bob Delaney: Okay. So you would have left Queen's Park prior to either deal being finalized.

Ms. Alicia Johnston: That's correct.

Mr. Bob Delaney: And you would have left Queen's Park months before the estimates committee motion that asked for documents related to the two relocations, correct?

Ms. Alicia Johnston: Yes. I actually do not know the dates when this committee was struck, but it was quite some time after I left.

Mr. Bob Delaney: Okay. So there's not a lot of point, then, in asking you about costs, as you had left Queen's Park by that point, right?

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Ms. Alicia Johnston: I would say that that's fair. My understanding—and I would emphasize the fact that I have not been following the facts of this issue as closely

as many of you have, so I would beg the committee's consideration of that fact. My understanding is the Auditor General is still looking into the Oakville case. Even though I was not here for recent events on this issue, I'm happy to be here to answer questions and to provide any insights.

Mr. Bob Delaney: Well, let's talk a little bit, then, about the Oakville plant. Again, to recap, the decision to relocate the Oakville gas-fired generation plant was made well before the 2011 election, correct?

Ms. Alicia Johnston: It was announced in October 2010, so that would have been a year before the election.

Mr. Bob Delaney: Okay. In terms of the rationale for that decision—referring to Oakville—testimony before this committee has shown that there were some serious issues with the siting of the plant, including an already-overtaxed airshed, the lack of a buffer zone to ensure the safety of residents, and the close proximity to homes and a school. Perhaps you could elaborate—and I know you did a little bit earlier—on some of the concerns that you heard and how they contributed to the decision to relocate that plant.

Ms. Alicia Johnston: I'm sorry. You're speaking specifically about Oakville?

Mr. Bob Delaney: Oakville.

Ms. Alicia Johnston: Yes, I can touch on that. I think there are probably individuals who are better equipped to speak from the local perspective, and I think you've had many of them here already. At the time, I remember Kevin Flynn was a really strong advocate and he was very vocal, and if the committee will allow me to speak frankly, that's always awkward for political parties when particular members have a different position than their own. I know for all of our political parties, that's the case: Sometimes, as local members, you need to go out on a limb and you need to stand up for your constituents and not toe the party line. I'm not a parliamentary historian, and I don't know how things have changed in that way over the years, but I remember, at the time, it was a challenge, that we were not all on the same page on a particular issue.

I think, in my opening remarks, why I wanted to make note of how that particular event was meaningful to me—this is the Oakville announcement—because it was a local community and local members changing the government's mind, and that, to me, was significant.

Mr. Bob Delaney: Okay. You've talked about your feelings on the reaction of the community when the announcement was made. Is there anything you wanted to add to some of the things you felt when the province made the decision not to proceed with Oakville?

Ms. Alicia Johnston: I think I'll just touch slightly on that. I think—and this is a very personal perspective—when I left that announcement, I certainly felt like the government had done the right thing and had moved in the public interest. That was my feeling at the time. And just from my desk at Queen's Park, I always tried to remind myself of how everything that government does and all decisions that are made affect people, and it's

important to remember those people and those faces. So it was a reminder to me in that way. I know members of this committee—you represent people in constituencies, in your communities. That is, of course, not something that you bring to your job every day, but for somebody like me, who doesn't represent a specific community but just works on behalf of all Ontarians, it's nice to be reminded.

Mr. Bob Delaney: Oakville borders my riding, and it was, in fact, a very popular decision. Another reason the decision was made to relocate the plant was that, as the long-term energy plan was updated in the summer and early fall of 2010, it became clear that the electricity that would have been produced by the plant was no longer required in the Mississauga and Oakville area because, very frankly, demand had changed, and it was determined that a transmission solution was possible. Could you tell us how those factors contributed to the eventual decision to relocate the plant?

Ms. Alicia Johnston: A little bit. I'm not an expert in energy supply and demand. There are folks far better equipped to speak to those types of questions. I was aware of the fact that the energy demands were not as high as they had been previously and that we had been able to bring online a significant amount of power. Ontario's energy mix was going through some real changes, especially on the renewables side; the energy mix was getting much more diverse with new wind and new solar coming online. There are some significant projects that OPG had been working on, as well as many gas-fired generators that had been built across the province—15, in addition to the specific projects that were in Oakville and Mississauga.

Mr. Bob Delaney: When JoAnne Butler from the OPA gave testimony to this committee, one of the comments she made was that transmission upgrades were, and are, needed in the southwest GTA—which largely means Mississauga, Oakville and Milton—with or without a new plant in the region. From what you recall, and based on your experience on the file and whatever you may remember of the long-term energy plan, would you agree with the assessment of JoAnne Butler?

Ms. Alicia Johnston: I wouldn't have the expertise to answer that question. I know that the Ontario Power Authority made the recommendations on that particular area—on where the plants would go—as they would as part of their job to do power planning across the province. I have no expertise in that area. I know there are challenges to putting in transmission lines and putting in any energy infrastructure, but certainly putting in a new, very large, gas-fired power plant in that community was not the right decision.

Mr. Bob Delaney: Let's move back to some of the things that you were doing at the time—again, referring specifically to the Oakville plant. In terms of the opposition's view of the government's decision, testimony from many members of the Oakville community—both here and elsewhere—has confirmed that both the NDP

and the Progressive Conservatives were committed to cancelling the Oakville plant.

Right at the committee, Mayor Burton told us that his citizens, to use his words, “won promises from all parties to stop the proposed power plant.” At the committee and outside it, we have a series of quotes confirming just that. In fact, on June 1, 2010, Ted Chudleigh, the PC member from Halton—you were there at the time; you may remember this—said, “The people of Oakville have told you they don’t want the proposed gas-fired power plant ... and I agree with them.” In that October in 2010, our colleague from the NDP Peter Tabuns said, “I don’t agree with the Oakville power plant.” Again, just as illustration, you must have been aware of the opposition’s position on the Oakville power plant around that time, in the fall of 2010, right?

Ms. Alicia Johnston: Yes, I was aware of that, and I remember that Mr. Tabuns was a big advocate for not having that plant move forward.

Mr. Bob Delaney: In what you’ve been following of the committee, what do you make of the two opposition parties apparently changing their mind and pointing fingers at our government for following through on the very same commitment they themselves made?

Ms. Alicia Johnston: I will not answer that question. Cautiously, I haven’t come here with any particular intentions of jousting with the opposition parties on their positions, but I will say that it was important to us—especially in the case of Mississauga, after the campaign commitment had been made—that we saw that commitment through and that we kept our promise to the individuals in those committees. I remember that being important and a priority. Of course, you—quite rightly, as many others have—pointed out that it was a position that was shared by all three of the parties.

Mr. Bob Delaney: I think that one of the differences between the three parties—something we’ve heard from numerous witnesses—was that, rather than simply cancelling the plant, paying money and getting no electricity, the best path forward after the decision was made not to move ahead with the Oakville plant was to negotiate an alternative site with TransCanada Energy.

Mr. Victor Fedeli: A point of order, Chair.

The Vice-Chair (Mrs. Laura Albanese): Mr. Fedeli.

Mr. Victor Fedeli: A point of order, Chair. Thank you, Chair. It should be noted that the gas plants were indeed cancelled, paid a fee, and we did get no power for them.

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The Vice-Chair (Mrs. Laura Albanese): That’s not a point of order, Mr. Fedeli.

Mr. Bob Delaney: In fact, witnesses have testified before this committee that renegotiation and relocation was the better path, as opposed to ripping up the original contract and paying damages without any new power produced. In fact, former deputy minister of energy David Lindsay said, and I’ll use his words, “Paying costs and getting no electricity would not be a very good business decision.”

Going back to the time that you were in government, would you agree with that?

Ms. Alicia Johnston: I think that sounds reasonable to me, but I will leave those types of determinations to others. I think certainly the auditor is a good expert on the matter. But it seems, on the surface, entirely reasonable to relocate and thus reduce the amount of exposure to taxpayers.

Mr. Bob Delaney: Mr. Lindsay, the former deputy minister, also testified about the risks of ripping up an agreement instead of renegotiating it. He stated, “if you have a contract and you don’t honour the contract, the party on the other side can sue you for breach of contract and the damages would be all the benefits they were hoping to procure.”

From the Attorney General’s office, John Kelly testified, “I’m fairly satisfied there would have been litigation,” and he was referring to if the government and the OPA had not renegotiated with TransCanada Energy on an alternative plant.

Mr. Kelly also said, “In my experience, after 40 years of litigating, if you can avoid litigation, you should. It’s a process that’s fraught with risk.”

Going back to the time you were in government, would it be fair to say that under these circumstances, the best way for the government to be sure to avoid litigation fraught with risk was to either reach a settlement on damages or to negotiate for a new plant with TransCanada Energy to find a new project?

Ms. Alicia Johnston: Thanks for the question. Again, I’m not sure I can provide expertise on that matter or look reflectively upon the whole state of events and provide an opinion. What I can tell you is that at the time, litigation was a real concern and it was certainly something that lawyers were advising us to avoid. I think you used the term “fraught with risk,” and that certainly was something that I was aware of.

Mr. Bob Delaney: Yes, I recognize that, and that’s why in asking you the questions I’m giving you a bit of a preamble, because it’s been a year and a half since you’ve been part of the government.

In terms of the Mississauga plant, the committee has heard that there was enormous community opposition to the plant, in particular in the summer and the fall of 2011 when the proponent finally secured financing and construction actually began. Our community leaders in Mississauga, including Mayor McCallion, have testified that there were serious health and environmental risks for both the southeast Mississauga and the Etobicoke areas. In fact, local advocates have worked hard to secure commitments by all three parties that they would cancel the plant if elected in the 2011 election.

Now, during that time, you were active on the campaign and I would assume that you paid close attention to the policies and the commitments of the other two parties. You would then have been fully aware that both opposition parties had pledged to cancel the Mississauga gas plant, correct?

Ms. Alicia Johnston: That's correct. I was absolutely aware that both parties had pledged to cancel the Mississauga gas plant if they were elected, and that was something that they took to people during that election. In the lead-up to the campaign, that was not a commitment that our government had made. I do recall that local members opposed the government's position at that point, and I recall the Minister of the Environment had expressed concerns. I believe he had a review going on about the air quality because there were some changes to the community in recent years. I think this was a gas plant that was procured years ago. I can't remember the exact year. I think it was 2005. Also, the Premier had publicly expressed some concerns as well.

Mr. Bob Delaney: Okay. In fact, just about every witness before this committee has confirmed that there were clear commitments made by all three parties to cancel or relocate the plant in Mississauga. Mayor McCallion said, in her words, "The impression that was certainly given beyond a doubt ... I think all parties would have cancelled it."

At the committee, we've seen election flyers and telephone robocall transcripts that confirm that these, in fact, were very clear commitments.

Given that, what did you make at the time and since of the attempt to rewrite history to have other members stand up and point fingers at our government for basically following through on the very same commitments all three parties had made to the people of Mississauga?

Ms. Alicia Johnston: Well, I think following through on the commitment is the important part of what you've just said. Looking back, I suppose the Liberal government could have gone back on their commitment and gone back on their promise and kept the power plant in Mississauga. I don't think that would have been in the public interest, and I don't think that would have been the right thing to do at the time.

I don't believe any of the parties had articulated the cost, during election time, of the relocation of those plants. I certainly wasn't aware if the other two parties had provided a costing on it.

Regardless, the commitment was made during the campaign, and the government saw that commitment through in the follow-up to it.

Mr. Bob Delaney: So as you've mentioned, with all three parties having committed that they would cancel the plant, it was, of course, the Liberals that were re-elected, and it was our government's responsibility to implement the commitment made by all three parties to, in this case, relocate the gas plant. Since construction had started at the Mississauga site, it was important to reach a deal to halt the construction as soon as possible. In your recollection, were you concerned that the longer that construction continued, the higher would be the sunk costs?

Ms. Alicia Johnston: I think that's fair to say. I think that was everybody's concern at the time. There was a desire to move quickly and to provide some reassurance to the local community that even though construction

was under way, the government—well, once the Ontario Liberal Party that had returned and become government—was keen to see that through and was committed to seeing it through. I don't know if that's answered your question.

Mr. Bob Delaney: That's good. Before the committee, former Auditor General Jim McCarter stated that increased media scrutiny of the ongoing construction had contributed to the pressure to get a deal done as soon as possible.

Adding to that pressure, of course, were some of the political games being played at the time. I remember the PCs had an event where they inflated a big red elephant beside the construction site and circulated photos to the media a few weeks after the election showing that construction was still proceeding.

The Vice-Chair (Mrs. Laura Albanese): One minute.

Mr. Bob Delaney: From your vantage point, that type of pressure—how would that have affected the Ontario Power Authority's negotiation position?

Ms. Alicia Johnston: I can only speak generally to how I felt at the time, and I felt like the opposition was working against us coming to a deal. I felt like the opposition, specifically the Conservatives at that time, enjoyed the fact that construction was still going on in that community. I personally found that frustrating because the community was very concerned about the fact that construction was continuing. The government was very concerned about the increasing costs—while that construction was going on, that costs would continue. But I understand that this is politics, and that's part of the dynamic, and—

The Vice-Chair (Mrs. Laura Albanese): Thank you. I will pass on now to Mr. Fedeli.

Mr. Victor Fedeli: Thank you, Chair. In our documents, document 6, the eighth page in, is a June 16 email. It's actually labelled down at the bottom as page 1 of that email chain. Do you have that?

Ms. Alicia Johnston: Document 6, page—

Mr. Victor Fedeli: The eighth page in. It's labelled number 1 down at the bottom. It's a June 16 email. Okay?

Ms. Alicia Johnston: I have got the email. Thank you.

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Mr. Victor Fedeli: I'm sorry?

Ms. Alicia Johnston: Thank you.

Mr. Victor Fedeli: Okay, so, "For sure. I think you've said this, but just want to be clear that the whole plant isn't going to be reviewed..."

Back on June 2011, three months before the election, it's clear that the Ministry of Energy has absolutely no plans to cancel or relocate the plant, let alone conduct any kind of a review. Is this why we understand now that the decision was purely a political decision, because, obviously, from an energy perspective, it is not going to be reviewed? Is that the understanding?

Ms. Alicia Johnston: Thanks for your question. I am trying to figure out the timeline in which this is—

Mr. Victor Fedeli: This is three months before the election. The Ministry of Energy is saying, “We’re not reviewing the decision on the plant.” Three months later—

Ms. Alicia Johnston: Which plant are we talking about?

Mr. Victor Fedeli: This is Mississauga. Three months later, the plant is cancelled. So if it wasn’t going to be reviewed and you were continuing with the construction and three months later it was cancelled, would you admit now that that is why it was considered to be, by the Premier and others, here, under oath, purely a political decision?

Ms. Alicia Johnston: I see from these emails that this is not something that I’ve written and that I’m just copied on these emails. Is that the case?

Mr. Victor Fedeli: You understand from this email that the plant is not going to be reviewed. Construction is going ahead. Do you understand that from this email?

Ms. Alicia Johnston: I understand that there’s an exchange back and forth. I believe at the time, in June, that was when the plant had started to move along. The government thought that it was not proceeding—was under that impression. The community thought it was not proceeding—

Mr. Victor Fedeli: Back in June, it says that the plant isn’t going to be reviewed. They understood it was proceeding, back in June. In fact, it was under construction.

Ms. Alicia Johnston: I believe news stories started to come out in early June. If you look two pages before in your documents, there’s actually a story here from Rob Ferguson—

Mr. Victor Fedeli: Yes, we were going to get to that later. I’m talking about the political decision. I’m asking you: You were part of that campaign team when this political decision was made. Who made the call to pull the plug 11 days before the election?

Ms. Alicia Johnston: On the Mississauga gas plant relocating?

Mr. Victor Fedeli: Yes, we’re talking about Mississauga.

Ms. Alicia Johnston: The Premier.

Mr. Victor Fedeli: Okay. Was Don Guy involved in that decision?

Ms. Alicia Johnston: In our party it’s elected officials who make decisions that are of that importance. Certainly, there are individuals who provide advice, but the Premier—

Mr. Victor Fedeli: So what were the campaign manager, Don Guy, Dave Gene and Kathleen Wynne’s roles in the day-to-day operation of the campaign, then? What specifically were their roles?

Ms. Alicia Johnston: They all had different roles on the campaign.

Mr. Victor Fedeli: That’s your answer? Don Guy told us he was the organizer of the media event. Do you feel

that that’s a correct answer? You told us earlier that it was a local event.

Ms. Alicia Johnston: If Mr. Guy saw himself as that, then I have no reason to dispute him.

Mr. Victor Fedeli: Would they have consulted then-Premier McGuinty on his decision to cancel the Mississauga gas plant?

Ms. Alicia Johnston: I’m sorry, would who have consulted the Premier?

Mr. Victor Fedeli: Don Guy, Dave Gene.

Ms. Alicia Johnston: I believe it was the Premier who made the decision.

Mr. Victor Fedeli: The fact is, on June 16 there was going to be no review; the project was proceeding despite the community resistance. Let me ask you a very simple question, then: Which party sited the plant in Mississauga?

Ms. Alicia Johnston: I don’t believe any of the political parties are involved in siting the plants. I believe that the Ontario Power Authority would have been responsible for that, and probably the Ministry of the Environment, to an extent.

Mr. Victor Fedeli: And which party sited the plant in Oakville?

Ms. Alicia Johnston: If you’re asking me which party was in government at the time, it would have been the Liberal Party.

Mr. Victor Fedeli: So the Liberal Party sited the plant? The Liberal government sited the plant in Oakville?

Ms. Alicia Johnston: I believe it was the Ontario Power Authority that sited it.

Mr. Victor Fedeli: Do you know what year the Ontario Power Authority was created?

Ms. Alicia Johnston: It’s a good question.

Mr. Victor Fedeli: And do you know the year that the decision was made to site the plant in Oakville?

Ms. Alicia Johnston: You probably know the answer to that better than I do.

Mr. Victor Fedeli: I really do. You should check that before you answer that it was the Ontario Power Authority that sited the plant there, okay?

Let’s talk about Mississauga again. The Liberal government sited the plant in Oakville and the Liberal government sited the plant in Mississauga. I want to thank Mr. Delaney for bringing up the fact that the PCs and the NDP are indeed on the record as being opposed to that. Neither party—I know I can speak for our party—would have sited it there in the first place.

When the decision was made to cancel the Oakville plant, another decision was made to locate the plant in Napanee. You’re heavily involved in discussion to site the plant in Cambridge. What happened there? It was all set. You had press releases written. You were ready to make an announcement in Cambridge. What happened?

Ms. Alicia Johnston: I’d just like to clarify that—you said I was heavily involved in decision-making. I just wanted to be clear about what my role was.

Mr. Victor Fedeli: We understand your role. What happened in Oakville? Why did the plant not end up in Cambridge? It's all put to bed. You've written a question-and-answer. You've got the mayor onside. You say it suited the energy needs. What happened? How did it end up 250 kilometres away, at great expense, in Napanee?

Ms. Alicia Johnston: You look like you're pointing to some documents, and I—

Mr. Victor Fedeli: No, I'm just asking. You know you were ready to go to Cambridge. What happened? Why didn't you end up in Cambridge?

Ms. Alicia Johnston: I was never part of any negotiations or conversations with Cambridge or any other community. That simply was not part of my job.

Mr. Victor Fedeli: So somebody told you one day, "Stop the presses. Don't release your information. We're not going to Cambridge." You didn't ask anybody, "Gee, I've done a lot of work here to prepare for the Cambridge announcement, and now you're not making it." You didn't ask anybody why it's not going to Cambridge?

Ms. Alicia Johnston: I think somebody else is probably better equipped to answer those questions. You're referring to documents about Cambridge, and I—

Mr. Victor Fedeli: I have to admit that your reputation here preceded you. Your reputation says you're a pretty effective operative, yet you can't answer basic questions here. I'm quite surprised at that today. I have to say that to you.

You were heavily involved in the pre-announcement to get everything ready to announce you're moving to Cambridge, and you don't go to Cambridge. You don't have any—is it no recollection or no understanding or no knowledge of why you didn't go to Cambridge, who pulled the plug?

Ms. Alicia Johnston: Well, Mr. Fedeli, I'm sorry to disappoint you that I'm not as impressive as you'd hoped, but as far as—you sound like you're referring to some documents. You're speaking notionally about Cambridge, Napanee—

Mr. Victor Fedeli: I'm not speaking notionally. It's document 5. You're involved in this messaging. You're moving to Cambridge. It's going to be new supply. It's all set; it's ready to go. The mayor's onside.

Ms. Alicia Johnston: Right.

Mr. Victor Fedeli: Somebody's talking to the mayor here; there are notes about that. Why didn't it go to Cambridge? What happened?

Ms. Alicia Johnston: That's a question that you should address elsewhere.

Mr. Victor Fedeli: But I'm asking you. You used to work at the Ministry of Energy, and then you worked at the Premier's office.

Ms. Alicia Johnston: I remember at the time that the government did want to relocate the plant—

The Vice-Chair (Mrs. Laura Albanese): One minute.

Ms. Alicia Johnston: —and that we did not want to cancel it outright, that that wouldn't have been in the best

interests of taxpayers on the cost side of things. I would love to be helpful in answering your specific questions about why it didn't go to Cambridge. I don't have that information for you. I'm sure that some others would be happy to provide it. My involvement on any announcement would be to prepare documents for announcements, and perhaps I was involved in those at that time. I was involved in numerous announcements. It was a busy time with the long-term energy plan. The clean energy benefit was coming out, and I know that took a great deal of my energies at that point.

Mr. Victor Fedeli: Well, I'm quite surprised today that you are able to not answer so many questions, especially about moving to Cambridge—250 kilometres away—the sole-sourced deals with Napanee and Lambton, adding a couple of hundred million dollars in transmission—

The Vice-Chair (Mrs. Laura Albanese): Thank you, Mr. Fedeli. I am sorry; I will have to interrupt you. Time is up.

We'll go to Mr. Tabuns, I believe.

Mr. Peter Tabuns: Ms. Johnston, in the fall of 2010, who was managing the cancellation of the Oakville gas plant? Was it the OPA, the ministry or the Premier's office? Who were you following on this?

Ms. Alicia Johnston: I appreciate the opportunity to speak to that—

Mr. Peter Tabuns: I don't need that part. Who were you following?

Ms. Alicia Johnston: I'm just trying to be polite, sir.

Mr. Peter Tabuns: You can drop that.

1020

Ms. Alicia Johnston: Okay. It would have been a collaborative process, like all announcements would and should be. So we would have worked—and I believe that the records that we've just looked at today show that we worked—collaboratively with the Ontario Power Authority, as well as the Premier's office. So that would have been all three. I don't believe there were any other ministries involved. Sometimes environment—

Mr. Peter Tabuns: And was any one of the three leading?

Ms. Alicia Johnston: That's a fair question for you to ask. I think the Ministry of Energy was making the announcements. I certainly felt like it was our responsibility to coordinate and ensure that people were in the loop and that information was being gathered.

Mr. Peter Tabuns: Fine. You were in the Premier's office working on communications when the settlement was announced with TransCanada on the Oakville plant. Correct?

Ms. Alicia Johnston: Can you say that again? I just want to make sure I understand your question.

Mr. Peter Tabuns: You were working in the Premier's office when the announcement was made on the settlement of the Oakville plant?

Ms. Alicia Johnston: When was that?

Mr. Peter Tabuns: In 2012. When did you leave again?

Ms. Alicia Johnston: I left at the end of 2011, beginning of 2012, so that would have happened after.

Mr. Peter Tabuns: That's fine. How closely did you work with Jesse Kulendran?

Ms. Alicia Johnston: Jesse, as I mentioned earlier, worked in the deputy minister's office during my time at energy. I think she had other roles before and after that. She had an important coordinating function for the deputy minister. I can't recall her specific job title. I don't believe she was the EA, but I'm sure you can check the records. She and a number of other Ministry of Energy staff, we worked closely with.

Mr. Peter Tabuns: Tell me again when you left the Office of the Premier.

Ms. Alicia Johnston: The beginning of January 2012 was when I left.

Mr. Peter Tabuns: So you had left before the estimates committee; you left before the settlement with the Mississauga plant.

Ms. Alicia Johnston: That's correct.

Mr. Peter Tabuns: Who was managing the communications response—the gas plants issue and the Premier's office—when you were there?

Ms. Alicia Johnston: What particular time? I had two different roles when I was in the Premier's office.

Mr. Peter Tabuns: I would say the fall of 2011 up until you left.

Ms. Alicia Johnston: Up until the election?

Mr. Peter Tabuns: Well, no. You were in the Premier's office after the election, so after the election up until the beginning of 2012.

Ms. Alicia Johnston: Right. There would have been a few of us. At that point in time, I was the executive director of communications, so I would have had some involvement and some role at that time.

Mr. Peter Tabuns: And what was your role? What was your title?

Ms. Alicia Johnston: I was executive director of communications for a few months.

Mr. Peter Tabuns: So a fairly substantial role. Were you managing the communications on the gas plant, given that you were the executive director of communications?

Ms. Alicia Johnston: I believe I addressed in my statement what my involvement would have been at that time. You'll recall that following the election the construction was continuing—

Mr. Peter Tabuns: Yes, I do.

Ms. Alicia Johnston: —at the site, so most of our communication was around reassuring local constituents that, in fact, the Ontario Liberal Party, or, rather, the Ontario Liberal government, was going to see through that commitment. So that was most of our communications at the time.

There were—as you'll also remember, Mr. Tabuns; I'm sure you had them as well—lots of questions about when the construction was going to stop, if we were going to relocate it, where it was going to be relocated to. During that time period, we didn't have a lot of answers

to those questions yet, and those, as you know, would come later, most of them after I'd left Queen's Park.

Mr. Peter Tabuns: And at one point, you were asking Sean Mullin what was going on with all of this?

Ms. Alicia Johnston: Do you have a specific document you want me to have a look at?

Mr. Peter Tabuns: I'm just double-checking. No, I don't have that document in front of me at the moment.

Ms. Alicia Johnston: Okay.

Mr. Peter Tabuns: Did you consult regularly with Sean Mullin on the state of things?

Ms. Alicia Johnston: I would consult regularly with Sean and others in the Premier's office when I was at energy. He wasn't my direct contact. I wasn't working in policy; I was working in communications. But I found him and others helpful if I had questions or needed thoughts on something.

Mr. Peter Tabuns: Okay.

Ms. Alicia Johnston: I enjoyed working with Sean.

Mr. Peter Tabuns: Document 9, in fact: You refer in this document, third email from the bottom, "I'm worried the Star is going to be a disaster and we can't wait until then." That's waiting for a briefing from energy. Why did you think the report in the Star was going to be a disaster?

Ms. Alicia Johnston: It was probably not unusual for me at the time to be worried about challenging media coverage. This is from June 2011, before the election, and this is an email exchange with me and a couple of others. I was director of issues management at the time, so part of my job would have been to—if something came up in a scrum or in preparation for question period, I'd need to be aware of an issue and provide advice to the Premier or help prepare him for question period or one of his media avails.

I think at this time, in early June, it first started to be an issue in the community. The government was under the impression—well, just nothing had moved forward. I don't want to speak on behalf of the government but I was certainly under the impression that this gas plant was not moving forward. Nothing had happened for years on it. The community certainly thought it was dead, so I believe that in early June—June 3, it looks like—this was probably me seeing it for the first time and thinking, "Wow, this could move forward and this is going to have implications for the community and for the government." I was probably trying to find out information. It looks like I'm asking for more information here.

Mr. Peter Tabuns: You are. Craig MacLennan asked Jon Feairs and Dan Levitan to bring you up to speed as soon as possible. What did they say to you?

Ms. Alicia Johnston: I wouldn't be able to tell you specifically what they told me at that time. They're individuals I would have spoken to regularly about a whole number of issues, but I imagine they would have brought me up to speed on whatever the state it was at that point. It looks like I said I thought that the gas plant was in force majeure and they probably told me it wasn't and

that the company was getting financing together, which I think they eventually did and—

Mr. Peter Tabuns: They already had it. They were starting into construction.

Ms. Alicia Johnston: There you go. That's what I would have been concerned about.

Mr. Peter Tabuns: You're following up something that's a real shock to you.

Ms. Alicia Johnston: I was surprised, yes, to be honest, Mr. Tabuns. I was surprised because—

Mr. Peter Tabuns: Yes: "I thought it was in force majeure. I hear it's not." When they talked to you, what did they say? "It's not in force majeure. Have a nice day"?

Ms. Alicia Johnston: No. I'm sure we had a longer conversation than that.

Mr. Peter Tabuns: As am I, so I would appreciate knowing.

The Vice-Chair (Mrs. Laura Albanese): One minute.

Ms. Alicia Johnston: I don't think it would have been a particularly exciting conversation except to provide me with the facts. I likely would have taken those facts and relayed them to others about where we're at, probably in the morning, the briefing to get ready for the day. I would have brought folks up to speed. I probably would have seen that article in the Toronto Star and—

Mr. Peter Tabuns: And did they say they were looking at different ways of holding up the plant?

Ms. Alicia Johnston: I would guess not; they would not have said that. Likely at this stage, we would have been simply trying to find out what the facts were and basically find out the state of the nation before we moved forward.

Mr. Peter Tabuns: Were you aware prior to the election that Mississauga was going to be cancelled or could be cancelled?

Ms. Alicia Johnston: I was not aware of the decision to cancel it until I was informed about it during the campaign.

Mr. Peter Tabuns: And was there any pre-election discussion about the cost of changing your minds on Mississauga?

The Vice-Chair (Mrs. Laura Albanese): Thank you, Mr. Tabuns. I'm sorry; the question will have to remain unanswered. We'll move to Mr. Delaney.

Mr. Bob Delaney: Thank you, Chair. Ms. Johnston, just before we get going, I've noticed in some of the questions you've been asked that history continues to change. Just to clarify, in both Oakville and Mississauga, the Ministry of Energy in 2004 issued calls for proposals for power generation in what it called the southwest GTA. However, in both cases, it was the company that chose the site—TransCanada Energy in Oakville and Greenfield Power in Mississauga. In both cases, they had to choose sites that had been zoned by the municipality as industrial or, in the case of Mississauga, industrial/power plant. This system has clearly worked in the past, but obviously did not work in Mississauga and

Oakville, which is why we're actually reviewing the siting process to ensure that things like this don't happen again.

1030

We've confirmed that you had left Queen's Park months before either deal was finalized, but again, from your experience, I want to talk a little bit about the OPA. What was your office's working relationship like with the Ontario Power Authority?

Ms. Alicia Johnston: I appreciate the question. I'm not sure if you have anything specific in mind. I think, generally, I and our office would work well with most of our energy agencies, including the Ontario Power Authority. This was certainly a challenging issue that we dealt with, and generally, I found people to be helpful and forthcoming when I had questions. I'm not an energy expert, and I would have a lot of questions, and I would ask for a lot of clarification.

One thing I would say as an aside, if you'll allow me, is that I did find it quite challenging when I worked at the Ministry of Energy that numbers, on a whole variety of things, would change for a whole variety of reasons. There are very good reasons why numbers would change; I'm not speaking specifically to the gas plants in any way, because, as you know, the issues around cost happened after I left. But I know it's a matter that this committee is looking at, and I did find it challenging when I worked there.

Mr. Bob Delaney: So, let's talk a little bit about what the Ontario Power Authority would have provided to the Ontario Ministry of Energy. Would it have included such things as the costing of agreements as the OPA knew it at the time?

Ms. Alicia Johnston: I would expect so. I wasn't involved in discussing specific agreements. I never would have looked at them.

Mr. Bob Delaney: I understand. As a communications person, you're not a policy maker; you're the policy communicator.

When asked at this committee about the Mississauga costing, Colin Andersen, from the OPA, testified, "We did provide them with the numbers. That is what you would expect." In fact, an email from Mr. Andersen from July 2011 to the energy ministry office confirms that he provided them with the \$180-million figure for the sunk cost of relocating the Mississauga plant. Then, for Oakville, Colin Andersen told the committee, "It's true that the \$40-million number was the one that was used at the time of the announcements because it was the one that was very crystallized."

So based on your experience in communications and in working with the numbers provided to you by the OPA, does it make sense to you that, when the finalized deals were announced, it was the costing done by the OPA that was provided to the public?

Ms. Alicia Johnston: I think the OPA would have been the appropriate folks to come up with the costing and to provide that to the minister at his request.

Mr. Bob Delaney: So for example, would the government or the ministry ever release a figure of any material importance without it first being fact-checked by the OPA?

Ms. Alicia Johnston: There were absolutely always fact-checking policies in place. Oftentimes, individuals—not necessarily myself—would go back and double-check, confirm and ensure that numbers were still accurate and that all the vigour that was necessary would go into determining those. That’s needed, because politicians—you folks—are out there speaking on the record and being held to account for what you say, so we would rely on others for information, as we should. That was the case, I think.

Mr. Bob Delaney: So as the emails and the testimony provided to the committee show, the numbers given to the committee by the Ontario Power Authority were, in fact, made public. After the Auditor General reported on Mississauga, our government invited the Ontario Power Authority to come to the committee and answer questions about the Oakville costs using the auditor’s analysis as a guide. At that time, they provided us with two new cost estimates—admittedly, this is after you had left—and we believe that the complexity and changing OPA estimates justify Ontario’s decision to wait for the Auditor General’s report on Oakville. Would that have been consistent with the practices that you would have followed during the time you were in the Ministry of Energy?

Ms. Alicia Johnston: It sounds reasonable.

Mr. Bob Delaney: Okay. A couple of questions about recordkeeping: Former Premier McGuinty had testified that there had been a lack of adequate training for staff in this area. In his June 7 response to the Information and Privacy Commissioner’s report, he stated, “I agree with the commissioner that, despite some efforts, we did not devote adequate resources and attention to ensuring all government staff in all ministries and in the Premier’s office were fully informed of their responsibilities.

“This inadequate training has made it difficult for staff government-wide to both understand their responsibilities regarding the preservation of public records and to exercise sound judgment in determining which records must be kept as public records and which can be eliminated.”

Does that square with your recollection that there was a lack of formal training with regard to how to properly manage the different classes of records you may have kept?

Ms. Alicia Johnston: Yes, I would say that his description is accurate to my experience.

Mr. Bob Delaney: Okay. That being said, I’m sure it was apparent to most staff that you weren’t required to keep every single record. I’m just going to give you a couple of examples. The Archives and Recordkeeping Act explains transitory records are not required to be kept. The common records series defines these records as “records of temporary usefulness in any format or medium, created or received by a public body in carrying out its activities, having no ongoing value beyond an

immediate and minor transaction or the preparation of a subsequent record.”

When we asked Secretary Wallace about his personal experience with transitory records, he told us, “from the perspective of my office and our daily email practice, a fair amount of what is provided to us, a fair amount of my routine correspondence, is essentially trivial updates or momentary information exchanges that would not be of interest to anybody in the future trying to, for policy purposes, for historic research purposes, understand the basis of current decision-making—it would be irrelevant.”

Do Secretary Wallace’s comments about transitory records make sense to you?

Ms. Alicia Johnston: Yes, they sound reasonable.

Mr. Bob Delaney: According to the act, there are many types of records that would fall into this transitory category—for example, duplicates, records of short-term value, intermediate records and draft documents. In fact, Archives Ontario even has a fact sheet entitled *The Fine Art of Destruction: Weeding Out Transitory Records*.

I want to ask you in particular about duplicate records. When we asked Peter Wallace about them, he confirmed there is no need to retain records held by another branch of government, and this includes materials prepared by Cabinet Office for a meeting with the Premier or, in fact, with the cabinet.

I would expect that a lot of what you received in the minister’s or the Premier’s office, given that you were not in a policy-making role but in a communications role, might have been—

The Vice-Chair (Mrs. Laura Albanese): One minute.

Mr. Bob Delaney: —duplicates or materials provided to you on a for-your-information basis.

Ms. Alicia Johnston: Yes. In the work that I did on the communications front, I’d receive a lot of media stories, Google alerts and whatnot. I can’t imagine that those would have been particularly useful to any other folks in the future. That was a big chunk of the types of emails that I would certainly receive.

Mr. Bob Delaney: And indeed, if you had emailed yourself something that was later incorporated into a larger document, that record you emailed to yourself would have been the definition of something transitory.

Ms. Alicia Johnston: Yes, I think that’s fair to say. If you’re speaking specifically to the email that Mr. Fedeli brought up earlier, this record was kept and was part of the public record. Qs&As are drafted for a press release—

The Vice-Chair (Mrs. Laura Albanese): Thank you, Ms. Johnston, for appearing before our committee this morning.

Ms. Alicia Johnston: Thank you, Madam Chair.

The Vice-Chair (Mrs. Laura Albanese): You may now be released.

We’re going to take a quick recess—

Mr. Victor Fedeli: Chair, before we recess, I just want to say that when I asked if the documents were

deleted—because we did not get an answer, I will be submitting a motion looking for all of Ms. Johnston’s emails from 2010 to the day that she left the government.

The Vice-Chair (Mrs. Laura Albanese): Thank you for that. We will be recessing for five to 10 minutes. We’ll be back after with our next witness.

The committee recessed from 1040 to 1051.

MR. GEORGE VEGH

The Vice-Chair (Mrs. Laura Albanese): We are back. Our next witness is Mr. George Vegh of the McCarthy Tétrault law firm, head of Toronto energy regulatory practice and adjunct professor of energy regulation at University of Toronto and Osgoode Hall law schools. Good morning, and welcome to our committee. We will ask our able Clerk to affirm you.

The Clerk of the Committee (Ms. Tamara Pomanski): 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. George Vegh: I do.

The Vice-Chair (Mrs. Laura Albanese): You may start with a five-minute presentation to the committee, and that will be followed by questions in rotation to each party of 20 minutes and then further questions of 10 minutes. Please go ahead.

Mr. George Vegh: Thank you, Madam Vice-Chair, and thank you to the committee for providing me with the opportunity to contribute to your deliberations and discussions.

I understand I have the opportunity to make a brief opening statement, so I thought I would just take a couple of minutes to make an observation on one component of your mandate, which is to make recommendations concerning planning and procurement of energy resources. I’d like to speak on this particular issue because it is something that I am more familiar with as a regulatory person, both teaching and practising in the area of energy regulation.

Specifically, I’d like to pick up on a recommendation that the IESO and the OPA addressed in their report and I understand that Mr. Campbell addressed in his discussion with your committee. That has to do with a longer-term approach to planning and procurement, which tries to move away from centralized planning and procurement towards alternative methods of planning and procurement, whether through load-serving entities or capacity markets or some other manner. I think that this recommendation has a lot to commend itself and I think that following this sort of approach would bring Ontario more into the mainstream throughout North America.

Ontario’s approach of centralized planning and procurement is unique to Ontario. Largely, it was driven by the need to replace the coal-fired facilities, which were being taken out of service—which was an extraordinary goal, and you could say that extraordinary times called for extraordinary measures. But now that we are in a pos-

ition of surplus, and certainly the coal facilities have been replaced, it’s perhaps a good time to reflect upon new ways of planning and procurement. As I said, the recommendation in the IESO/OPA report on regional planning has, I think, some important ideas.

Essentially, the movement away from central planning and procurement involves government setting goals and standards and outcomes for energy supply, but not choosing specific technologies or specific locations. It’s more of an outcome-based approach, with a focus on the ends of policy, not the means of the technology or the facilities.

So that’s really all I have to say as an opening statement, and I’m pleased to answer questions on that matter or any other matter within my knowledge.

The Vice-Chair (Mrs. Laura Albanese): Thank you, Mr. Vegh. We’ll now turn it over to Mr. Delaney.

Mr. Bob Delaney: Thank you, Chair, and good morning, sir. Thank you very much for being here. As you may know, Mr. Vegh, part of the mandate of the committee is to provide recommendations on how we can improve the siting process for large-scale energy projects, something you just mentioned a moment ago. The reason that we’ve asked you here is because, very frankly, you’ve had a distinguished career as a lawyer and as an academic specializing in energy issues. In fact, you’re considered one of Canada’s foremost experts on energy regulation.

I wonder if you could tell us a little bit more about your career, particularly as chair of the Ontario Energy Association and as general counsel of the Ontario Energy Board.

Mr. George Vegh: Sure; thank you. I was general counsel of the Ontario Energy Board from 2004 to the end of 2006. That was when the energy board was made a self-funding organization, and so they needed to establish a legal department, a secretariat’s office. It was my only real experience in public service, and I enjoyed it quite a bit. It was an interesting and important time at the OEB. As I say, I was there from early 2004 till late 2006.

When I left the Ontario Energy Board, I went back to private practice to McCarthy Tétrault, where I now am.

As you mentioned, I serve on the Ontario Energy Association board of directors. I was chair of that board, I think, from 2008 to 2009. The Ontario Energy Association, as I’m sure you are aware, represents the broad range of participants in the energy sector, including generators, distributors, transmitters, contractors, and lawyers and consultants, which is where I fit in.

Mr. Bob Delaney: Okay. At McCarthy Tétrault, what sort of cases do you handle? Are there any particular issues that you specialize in?

Mr. George Vegh: Well, I practise entirely in the energy regulation area. A lot of the files right now deal with some of the issues we’re seeing around operability of the system and integrating renewable power.

I’ve worked with the IESO. They retained me to chair an industry task force that looked for solutions to inte-

grate the market into some of the new challenges respecting operability etc. that come from renewable power and other issues around, say, surplus baseload. That was an industry-wide forum that produced a number of recommendations that I'm pleased to see are being implemented by the IESO.

Mr. Bob Delaney: You've done a fair amount of writing, and you've been a speaker relating to Ontario's energy sector. Could you tell me some of the topics you've addressed in some of the papers that you've written and some of the public appearances that you've made—without taking the entire 20 minutes?

Mr. George Vegh: Sure. I do like to write on energy regulatory issues. I find that regulation, while it gets a lot of attention in the United States, gets less academic or intellectual interest here in Canada, so I do try to contribute. Recently I've written on issues around LDC consolidation. I'm currently working on a piece around the new long-term energy plan. I'm very interested in electricity planning issues and institutional arrangements around that, and that fits into my course work as well. Just next week, I'm starting another course on energy regulation where we're looking at siting as one of the particular topics that are now topical and of interest to students, I think.

Mr. Bob Delaney: Okay. So let's get into the main course of it, then: speaking about the implications of power generation and supply mix decisions. Can you comment on how the transmission and distribution situation in Ontario has changed over the last decade and specifically talk a little bit about the reliability of the system today compared with 10 years ago?

Mr. George Vegh: I could address that at a general level. I'm not an engineer, but I have worked on some planning issues. I think the challenge facing the sector 10 years ago, of course, was that we had nuclear facilities that were out of service and had to be brought back into service, and, of course, the decision to phase out the coal facilities. That left us in a situation where there were prospective reliability concerns on a going-forward basis, and as I said in my opening statement, there was a need for the government to step in and to have a very aggressive and centrally controlled procurement policy.

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In today's environment, we're facing a different set of challenges. We have the challenge of surplus baseload generation and the challenge to bring some flexibility back into the system. As I said in my opening statement, I think the challenges of today are different than the challenges when our current institutional arrangements were put in place. We certainly don't face reliability issues resulting from a shortage of supply, and even our surplus issues don't cause reliability problems; more than that, they cause some economic efficiency issues and some transparency issues. It's a different set of issues that we're facing now.

Mr. Bob Delaney: Okay. Bruce Campbell from the IESO, whom I'm sure you've met numerous times, talked about the changes in the energy system over the

past few years. He talked about the effect that phasing out coal has had on the system. He explained that coal is being replaced by investments in gas plants, wind and solar. By way of background, as he described it, "What we've been doing is putting in place the tools and learning how to operate a very differently configured system, one that we can operate just as reliably but one that is very differently configured from what had been the practice for many years—and very low-carbon."

Could you perhaps expand on that? From your experience, how has the system had to adapt as a result of the phase-out of coal, and what challenges and opportunities have been created with new sources of electricity supply?

Mr. George Vegh: Sure. Well, I think that as Mr. Campbell—who's very knowledgeable in this area—described, coal, for all its environmental flaws, was a very flexible source of supply in the system; that is, it could go on and off as required on fairly short notice. When you take that source of flexibility out of the system, you have to replace it with other ways, and that's a challenge facing Ontario.

It's a challenge facing other jurisdictions who have moved away from coal and have less reliance on fossil fuels more generally, and that creates a supply portfolio that is less flexible. You have nuclear facilities and you have wind facilities which simply don't have the maneuverability that coal does, so you need new ways to address that. Obviously, gas-fired generation does have maneuverability; I understand that it's not as flexible as coal, but it's more flexible than the remainder of the fleet. So Ontario, like other jurisdictions, has had to find new ways to bring in flexibility to the system.

Sources of flexibility into the system now are being reviewed that hadn't been considered before. Those would include demand response as an important way to have greater customer engagement, so that customer load shifting becomes a source of flexibility on the system. The role of imports and exports can become a role of flexibility on the system. The role of storage can be a source of flexibility—that is, withdrawing power at times of excess supply and injecting it back onto the system when the power is needed. All of these three types of flexibility—and others will emerge as well, I'm sure, through smart grid technologies—will compete amongst each other for different ways to contribute to that flexibility need.

Mr. Bob Delaney: Okay. Have you participated at all in any of the discussions on the long-term energy plan?

Mr. George Vegh: I haven't in a formal way. I've advised clients, certainly, on the long-term energy plan.

Mr. Bob Delaney: Okay. What type of input or feedback would you have for the Ministry of Energy in terms of the makeup of our energy supply? To be a little bit more specific, do you think that a diverse mix, including conservation programming, is important for the mixture in the system? What role, for example, would you see natural gas playing within that? Perhaps you might be willing to expand a little bit.

Mr. George Vegh: Sure. Well, as I said in the opening statement, all of the different resources have a contribution to make. I think that if I were to make a recommendation, it would be, actually, to back off a little bit and not be so prescriptive on the government choosing which technologies should play which role. I think that central planning carries with it a number of challenges in all sectors of the economy where it has been attempted. Really, government is not, I think, the best suited to choose which technologies ought to operate at which times. I think other jurisdictions in North America have found more flexible ways to deal with that, to deal with ways to ensure environmental standards are being met, social objectives are being met, without having the government choose what type of technologies ought to operate and in what capacity.

Mr. Bob Delaney: Okay. To move to a couple of questions on public input: Some of the main feedback we heard from witnesses who had come from Mississauga and Oakville is that there could have been, and perhaps should have been, a better consultation process with local residents from the very outset of the siting process.

From your experience, what role either can or should the province play in engaging with local communities to better support energy infrastructure siting? Who might be the best agency: the proponent, the cities, the OPA? What are your recommendations for more effective ways to engage with people affected by the siting of energy infrastructure, and are public consultations enough? That's a wide enough menu. Just go at it any way you wish.

Mr. George Vegh: All right; thank you. As I said, in the report of the IESO and the OPA on planning and siting recommendations, they did suggest consideration of an alternative model of load-serving entities, which really brings the issue of meeting supply requirements to a very local level. The load-serving entity could be a local LDC; it could be contracted out; it could be another entity. But their job is to meet supply requirements in a way that meets community needs, that meets reliability needs. It moves the decisions, really, away from the central planners back down to a more consumer-focused area.

You would expect a load-serving entity to be more responsive to customer needs as they change on a local basis. I think that there's obviously a role for municipalities in that regard, and the regional planning and the local planning—that seems to be a big focus right now—to really identify what those needs are. But I think once the needs are identified, there's probably less of a role for the central agencies, I believe, in trying to meet that need, and I think that that need could be met in a more decentralized way.

Mr. Bob Delaney: A lot of the technology that we deal with is pretty much a century old, and a technology that's less than a generation old—information technology—has probably done a better job in teaching people about its terms and units of measure than electricity providers have: kilowatt hours and megawatts of generation

as opposed to gigabytes of data and the definition of bandwidth.

How might we engage ordinary Ontarians to better understand what energy is all about, other than looking at the bill at the end of the month and wondering if it's better or worse, higher or lower, more or less reliable? Do you have any thoughts on that?

Mr. George Vegh: In my own view, I don't know how necessary it is for people to become very sophisticated in their understanding of energy technology. When you think of how people use technology in other forms you mentioned—bandwidth for Internet or for cell coverage—people know enough to make comparisons in the market as to what's available. They might not know how the information or the intelligence carries through the wires, and I don't really think they probably need to know that.

If you can make energy more of a consumer-based focus, then I think consumers are likely to kind of reflect their decisions by voting with their feet for different types of supplies. Some people may be quite interested in environmental impacts; other people might be more interested in cost; others may be more interested in having some control over their use of electricity. I think that a diversity of choices is probably valuable, like we see in other forms of technology.

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Mr. Bob Delaney: All right. I want to touch on a legal question here. Among several points that have been touched on from the Ontario Power Authority and the Independent Electricity System Operator is the role of municipalities and how the municipalities can be better engaged in the siting process. In particular, some of the reports I've seen suggest a disconnect between provincial planning and local planning. For example, in Mississauga, there were several versions of the official city plan that had the site chosen by the firm promoting the Mississauga gas plant, Greenfield. It was zoned industrial/power plant, and, similarly, a site that clearly should not have been so zoned had been zoned years ago by Oakville.

I'd be very interested in hearing some of your thoughts about the responsibilities and duties of municipalities with regard to planning local energy infrastructure and particularly in the context of the Planning Act and the Ministry of Municipal Affairs and Housing's provincial policy statement. Do you have any thoughts you could share?

Mr. George Vegh: I don't have a lot of expertise in those particular pieces of legislation, but I think it is clear that municipalities are in a position to take a larger role in this, and there does seem to have been a disconnect in previous planning exercises between municipal goals and electricity goals, and they shouldn't be that difficult to reconcile.

I think municipalities do deal with a lot of infrastructure needs, obviously, in their areas. They deal with waste; they deal with water. So to treat electricity infra-

structure like other forms of infrastructure, I think, would be to normalize the treatment of electricity infrastructure.

I think, again, the idea in 2004-05 when the OPA was created was that you needed a central planner to procure electricity capacity and energy on a very aggressive basis because of the state of the energy infrastructure at the time, and it was very aggressive. It identified a lot of resources and it acquired a lot of power. But now we're in a position where I don't think the urgency is there, and you can normalize electricity infrastructure a little more, treat it like other forms of infrastructure where, of course, municipalities take a very large role.

Mr. Bob Delaney: Okay. Three what I hope are concise, closed-ended questions: Do you think municipalities should have a say in trade-off decisions between generation- and transmission-based solutions?

Mr. George Vegh: I think local communities should be involved in those trade-offs.

Mr. Bob Delaney: Do municipalities—and I realize this is kind of a sweeping statement—have the resources and expertise to make such a complex decision?

Mr. George Vegh: Well, we do have energy agencies that should be sources of information. Even if they're not, as I say, I'm not sure they should be as controlling as the current system is. It's complex information, but municipalities deal with complex information, and I think that the key role of the agencies should be to provide clear information on the trade-offs that would have to be made, and municipalities should be able to absorb that information and act on it.

Mr. Bob Delaney: Should individual municipalities have the ability to veto energy infrastructure siting decisions?

Mr. George Vegh: I think that if you try to put plants in municipalities that are not willing communities—

The Vice-Chair (Mrs. Laura Albanese): One minute.

Mr. George Vegh: —they, de facto, have a bit of a veto around that. I'm not sure whether you would take that out of the political process and move it into a legal veto, but, obviously, it works. The system works better when the municipalities are willing hosts.

Mr. Bob Delaney: Thanks, Chair. We'll pick up this line of questioning on our next round.

The Vice-Chair (Mrs. Laura Albanese): Thank you, and we'll move it to Mr. Fedeli.

Mr. Victor Fedeli: Thank you very much, Chair, and thank you, Mr. Vegh, for being here. We appreciate you being here this morning.

In order to plan and to fix this whole siting of plants, we certainly need to understand what has happened that brought us to this point today. At this stage, we're still missing key data, and that is why I have a motion that we will be hearing at the end of the day that gives us all of the Ontario Power Authority and all of the Ministry of Energy's files from January 1, 2012, to this point in time. That's the real period of time where we will determine and where we will, for the first time, learn what actually

happened, how these plants got sited in the first place and how the new plants were chosen to be sited.

It's very difficult today to talk about how to site plants in the future when we don't really know at this stage what happened in the past. I would suggest to you that we will want to determine the past undertakings before we get to talking about how to correct them in the future. I'm looking forward to my motion hopefully passing this afternoon that will get us those missing data.

I'll ask you the same two questions I ask every witness who comes here—most every witness, I should say. Mr. Vegh, do you know how much it cost to cancel the Mississauga power plant and the Oakville power plant?

Mr. George Vegh: No, I don't.

Mr. Victor Fedeli: Do you have any information as to who ordered the cover-up of documents halting this committee from getting to the truth of what happened in Mississauga and Oakville?

Mr. George Vegh: I don't know anything about the information respecting that.

Mr. Victor Fedeli: Thank you very much. I appreciate that. Thank you, Chair.

The Vice-Chair (Mrs. Laura Albanese): Thank you, Mr. Fedeli. Mr. Tabuns?

Mr. Peter Tabuns: Mr. Vegh, at any point did you do any consulting work for the government of Ontario on the closure of the Oakville or Mississauga plants?

Mr. George Vegh: No.

Mr. Peter Tabuns: Okay. Thank you. I have no further questions.

The Vice-Chair (Mrs. Laura Albanese): Thank you so much, Mr. Tabuns. We're back with Mr. Delaney.

Mr. Bob Delaney: Thank you, Chair. I think my colleagues might want to have an early lunch.

Let's go back to where we were, then. Based on your suggestions, how might provincial legislation or regulations need to be amended to make some of the changes that you and I were talking about earlier?

Mr. George Vegh: Well, I'm not really sure that legislative changes are actually that necessary. The legislation, both the OEB Act and the Electricity Act, have pretty broad regulation-making authority and directive-making authority. For example, when we talk about an integrated power system plan, as I've said, I'm not a big fan of the government choosing a technological supply mix. There's nothing in the legislation which says that they're required to do that. They're just supposed to set objectives for the sector. I think that there is fairly broad authority under the current legislation. While you may have to tweak some things, I really don't think there will be a major legislative fix required to go in any different type of direction. I think the legislation has a lot of built-in flexibility right now.

Mr. Bob Delaney: Okay. Thanks. That's actually quite helpful.

You've written extensively on Ontario's energy agencies and regulators and also about the relationships between and among them. With that in mind, I'm wondering whether you have any recommendations on how

the different agencies, corporations and arm's-length bodies that interact with one another to produce energy in Ontario could work together to improve the siting process.

Mr. George Vegh: On the siting process, I think the IESO and the OPA have worked together to put together recommendations on how the siting process can change in a manner that incorporates greater earlier engagement and municipal participation. Those recommendations, I think, are reasonable ones.

I think when it comes to the agencies more generally, there's always a lot of talk about where the agencies should be going. I do think it would be helpful to have a good discussion, perhaps through your committee, on what is expected of these agencies and really what are the goals of the agencies. Once you identify the goals of the agencies, consider the agencies as more means to achieve those goals. If the main goal now is around siting issues, I think that that could be worked more clearly into their mandates, particularly the OPA.

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We've seen the OPA, in exercising its procurement functions, in exercising its planning functions, probably put less of a concern around local factors—municipal participation, engagement and approval—and I think the recommendations of the IESO/OPA report talk about the need for a different focus on planning: one that does take local concerns on siting into account.

Mr. Bob Delaney: Okay. I'd like to talk a little bit about the relationships between some of those agencies and other entities and municipalities. One of the issues in both Mississauga and Oakville was the fact that, years prior, the sites had been zoned industrial and, in the case of Mississauga, industrial/power plant. The call for proposals was made in the summer of 2004. Two proposals were accepted, and then the two proponents just dropped off the map for five to six years, suddenly reappearing in 2010, which gave rise to both municipalities going, "Whoa, whoa; stop. This isn't compatible with the growth in the community."

How can those Ontario agencies, working in conjunction with some input from local communities, best leverage ways to improve the siting of energy infrastructure, because that's really what went wrong here?

Mr. George Vegh: As I said, I think if there was a disconnect here—there's also a matter of timing. When you mentioned 2004, I think that was prior to the agencies really being set up. I think you had RFP processes run more by the ministry. That led to the granting of contracts, and I believe siting approval was required as part of the contracts. I don't really know what the facts were with those two specific locations, but perhaps a learning from that is that municipalities do need to be better informed about energy requirements in their area so that they can more proactively identify the types of resources that they'd be prepared to accept.

Again, if you had a different model where you didn't have to have such localized procurement—say, a load-serving entity, to pick up again on the recommendation in

the Mississauga area, would have the choice of where they get their supply from. Do they want to build it? Do they want to buy it? Do they want to use conservation? Do they want to use imports? Do they want to use demand-response or other forms of technology? Allowing some more options could be helpful, and the agencies perhaps can be a source of information about what those options are on a more proactive or more prospective basis.

Mr. Bob Delaney: Okay. So let's continue with that. Some people who've come here have talked about models they've seen elsewhere in the world. Are you aware of other regional, provincial or local infrastructure planning that may be in place in other jurisdictions that Ontario could learn from or emulate or adapt?

Mr. George Vegh: I'm not an expert on siting issues in other jurisdictions, but even with that, Ontario has built a huge amount of electricity infrastructure over the last 10 years. It's not surprising that if you consider a success rate of how much plant goes in the ground versus how much is planned for, I'm not sure that by international standards it's really that low. You might have had a couple of cases of high-profile, very strong resistance to facilities, but I don't think you'd find anywhere in the world where there are no challenges, no pushback and no cancellations. Certainly across the United States, whenever there has been a goal to have greater reliance on wind, for example, you have resistance to transmission lines and you have resistance to siting issues for turbines. I think that's a natural part of the tension and balance that goes into building infrastructure. I'm not sure empirically you could say that Ontario has done that much worse than anybody else on the siting issue itself.

Mr. Bob Delaney: Okay. An open-ended question for the last bit of time that we have here this morning: Is there any other advice that you'd like to provide to the committee as we improve the process behind siting energy infrastructure? Are there any specific steps that the government or municipalities or agencies might take going forward?

Mr. George Vegh: As I said in the opening statement, I think some of the longer-term issues or proposals put forward by the IESO and the OPA with respect to load-serving entities and capacity markets as a way to mitigate against or remove the necessity for central planning and procurement should be taken quite seriously.

I'm not saying this committee will go there, but there's often a tendency to bring in more and more layers of complexities, approvals, participation and process, and I'm not sure that that is really the remedy to having things done on a more effective basis. I think if I were to have one piece of advice, it would be to try to simplify the processes we now have and incorporate more local responsibility for these decisions.

The Vice-Chair (Mrs. Laura Albanese): One minute.

Mr. Bob Delaney: Okay. Any final comments for us?

Mr. George Vegh: That's it. Thank you.

Mr. Bob Delaney: All right. Well, I want to thank you very much, Mr. Vegh. I really enjoyed your insights, and I think the committee will benefit from your expertise. I want to thank you for taking the time to come and see us today.

Mr. George Vegh: Thank you.

The Vice-Chair (Mrs. Laura Albanese): Thank you, Mr. Vegh, for appearing before our committee—

Interjection.

The Vice-Chair (Mrs. Laura Albanese): Mr. Fedeli, I don't know if you have any further questions.

Mr. Victor Fedeli: Thank you very much, Chair. I appreciate it.

Again, Mr. Vegh, I really appreciate the time that you spent here today. We would look forward to chatting with you in the future, once we understand how we got to where we are today. I'm quite certain your guidance would help us look at future plans, but what we really need to know at this point is, how did we get where we are at this point? Thank you very kindly for being here.

Mr. George Vegh: Thank you.

The Vice-Chair (Mrs. Laura Albanese): Mr. Tabuns?

Mr. Peter Tabuns: I'd like to thank you as well for being here today. I have no further questions. Thank you.

The Vice-Chair (Mrs. Laura Albanese): Thank you. You are now released.

The committee is recessed until—

Mr. Victor Fedeli: Chair? We've got 35 minutes before the lunch hour. Is it possible to deal with a couple of the motions that are outstanding and save some time at the end of the day?

The Vice-Chair (Mrs. Laura Albanese): That's up to the committee. Is there agreement on that?

Mr. Bob Delaney: I'd prefer to do it at the end of the day, to be honest.

Mr. Victor Fedeli: Are you rushing for lunch?

Mr. Bob Delaney: Touché.

Mr. Victor Fedeli: We've got a half hour here that's scheduled time. There are just two quick motions. They're just looking for emails. We can get them out of the way.

The Vice-Chair (Mrs. Laura Albanese): That's up to the committee.

Mr. Peter Tabuns: Why don't we proceed?

Ms. Catherine Fife: Let's move ahead.

The Vice-Chair (Mrs. Laura Albanese): The majority says to proceed, and we shall.

We'll deal with Mr. Fedeli's motion first, the one that was reserved. That has been deemed in order. Everyone has a copy. Are there any comments, any debate?

Mr. Victor Fedeli: Do I read the motion?

The Clerk of the Committee (Ms. Tamara Pomanski): Sure.

The Vice-Chair (Mrs. Laura Albanese): Yes, as a refresher.

Mr. Victor Fedeli: I move that the Standing Committee on Justice Policy request from the Ministry of Energy, Minister of Energy and the Ontario Power Au-

thority all documentation and electronic correspondence related to the cancellation and relocation of the Oakville and Mississauga gas plants sent, received or generated between January 1, 2012, and August 20, 2013; that search terms include any and all proxy names or code names including but not limited to Project Vapor, Project Vapour, Project Vapor Lock, Project Vapour Lock, Oakville project, Mississauga project, Oakville gas plant, Mississauga gas plant, TransCanada, TCE, Project Apple, Project Banana, Project Fruit Salad; that the documents be provided to the committee no later than September 10, 2013; and that the documents be provided in an electronic, searchable PDF.

The Vice-Chair (Mrs. Laura Albanese): Thank you, Mr. Fedeli.

Any debate? Mr. Delaney.

Mr. Bob Delaney: I do have some clarification questions around this, Chair. I am making the assumption that in making this request, correspondence pertaining to this committee is not included. In other words, you're making a request whose date overlaps the start date of this committee, and I'm assuming, Mr. Fedeli, you are not asking for documents that relate to the proceedings in this committee but relate solely to the cancellation and relocation of the plants. Is that correct?

Mr. Victor Fedeli: May I answer, Chair?

The Vice-Chair (Mrs. Laura Albanese): You may.

Mr. Victor Fedeli: I think the request and the motion speaks for itself: all documents between January 1, 2012, and August 20, 2013, that include those search terms.

The Vice-Chair (Mrs. Laura Albanese): And—

Mr. Bob Delaney: I would, then—

Mr. Joe Dickson: That didn't answer the question.

Mr. Bob Delaney: No, that didn't actually answer my question, Chair. I would like to have a ruling from the Chair—and you may wish to take some time on this—about whether or not members can request documents and correspondence relating to the operation of this committee, because Mr. Fedeli has been unclear on this, and I think we have to be very clear on it.

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The Vice-Chair (Mrs. Laura Albanese): It will have to be related to the mandate of the committee. The Chair will not rule hypothetically on the appropriateness of documents provided to a committee. Should any respondent require clarification on a request or on the mandate of the committee, I would encourage them to seek that clarification prior to responding. That is the advice I am receiving.

Mr. Bob Delaney: I would like, then, to be very clear on that. The government has no objection with providing material that responds to the mandate of the committee. Indeed, much of what's been requested here has already been provided, and the only material change seems to be to move the end date to last week. I'm not exactly sure what documents written last week are going to contribute to the mandate of the committee, but, be that as it may, the one thing I want to make very clear is whether or not the request includes documents created pursuant

specifically to the operations of this committee. I would like to get a very clear answer on that.

The Vice-Chair (Mrs. Laura Albanese): I am being advised that if they are outside of the mandate of the committee, they are not responsive.

Mr. Bob Delaney: Okay. That's a very clear answer on it.

Now, the other point I'd like to get clarification on from Mr. Fedeli is: If documents requested are duplications, do you want the same thing all over again?

The Vice-Chair (Mrs. Laura Albanese): Mr. Fedeli?

Mr. Victor Fedeli: Thank you. It is our contention that we do not have all of the documents from January 1, 2012, to August 20, 2013, from the Minister of Energy, the Ministry of Energy and the Ontario Power Authority, so I would say that the motion stands. I'm quite satisfied with the motion that was accepted by the Clerks; it will stand the way it is.

Mr. Bob Delaney: So again, I need to get some clarification on that. If a document has previously been provided pursuant to a previous undertaking, must it be provided again? That's a yes or a no.

The Vice-Chair (Mrs. Laura Albanese): Yes.

Mr. Bob Delaney: Okay. I would also like to get direction from the author of the motion. Does the author grant discretion to the ministry to do such things as removing recipes for fruitcake, banana bread and other things that are very clearly trivial?

Mr. Victor Fedeli: I would suggest to you that the motion will stand worded the way it is. This is no different than motions we've had in the past, the week before, the week before, the week before that and the week before that.

Mr. Bob Delaney: So is that a "yes" that you want banana bread recipes, if such things accidentally contain responsive terms?

Mr. Victor Fedeli: May I comment, Chair?

The Vice-Chair (Mrs. Laura Albanese): You may.

Mr. Victor Fedeli: Look, we've seen the Liberals play fast and loose and kind of cute; when something says "vapour" or "V" instead of "Project Vapour," they didn't bother including it. Under that guidance that they've worked on in the past, we never would have seen a "banana bread," because it wasn't "Project Banana." If they were playing too cute by half, I would expect them to continue under their rulings, so I have no desire to answer that kind of question.

The Vice-Chair (Mrs. Laura Albanese): And the document, again, has to be responsive to the motion.

Mr. Bob Delaney: Okay. So we understand that documents will be provided if, indeed, they are responsive to the motion, but need not be provided if they are manifestly not responsive to the motion. Is that correct, Chair?

The Vice-Chair (Mrs. Laura Albanese): Agreed.

Mr. Bob Delaney: Okay. Chair, if there are no other comments, we would just like to request a five-minute recess.

The Vice-Chair (Mrs. Laura Albanese): I have Ms. Wong, who wants to add something.

Ms. Soo Wong: Thank you, Madam Chair. I just wanted to ask the mover of the motion, with regard to the timeline of this request, given that this is a long weekend, Madam Chair—this is asking for 20 months of emails or correspondence, dated back to January of last year to this year, as of last week. Can we look at it realistically in terms of the timeline? It's about two weeks from now. This is September 10 that you're asking for, Madam Chair, with regard to this motion—that we look at another realistic date, because this is asking staff over a long weekend. Next week is a short week, okay? So let's be reasonable to each other with this kind of request. I think myself, as a member of the government, that I don't see a problem getting this kind of request, but let's be respectful in terms of timeline and in terms of all the staff involved, making sure of the documents requested by the mover. So I'd like to see if there's any kind of flexibility in terms of the timeline of this request.

The Vice-Chair (Mrs. Laura Albanese): The question is directed to the author of the motion.

Mr. Victor Fedeli: Thank you, Chair. When I brought this motion up a week ago, that would have given three weeks, and it was a reserved decision. I said at that time that this was the day after we come back from our summer break. If they weren't prepared to pass my motion, to accept my motion, when I originally asked for it, I had no intentions back then of changing the due date, so I think everybody was pretty much aware that this date was coming. It was discussed widely a week ago. I have no intention at the moment, unless we have a broad consensus, to change it, but I made it very clear last week when we brought this motion that three weeks was plenty of time.

The Vice-Chair (Mrs. Laura Albanese): And an amendment could be moved to the motion if one so wishes.

Mr. Bob Delaney: Thank you, Chair. We would need a few minutes to draft such an amendment.

The Vice-Chair (Mrs. Laura Albanese): Okay. The committee will recess for five minutes.

The committee recessed from 1137 to 1155.

The Vice-Chair (Mrs. Laura Albanese): Welcome back. We have, I believe, an amendment that needs to be moved.

Mr. Bob Delaney: Thank you, Chair. I move that Mr. Fedeli's motion be amended as follows: that the wording "no later than September 10, 2013," be removed and replaced with "as soon as possible."

The Vice-Chair (Mrs. Laura Albanese): Any discussion?

Mr. Victor Fedeli: Chair, considering that we're looking for this document on the Tuesday after we return from the long weekend, and the comment from Ms. Wong was about the long weekend, I would certainly be prepared to move the date to the Thursday of that week, giving them an additional two days. The committee meets again on Thursday the 12th, and I would look for some flexibility so that we could give them a couple of extra days. This is the same group, Chair, that put an

election on the eve of a long weekend. If it seems okay to do that, it would certainly seem more than practical to be able to find our documents by Thursday the 12th.

The Vice-Chair (Mrs. Laura Albanese): Any further comments? Mr. Delaney.

Mr. Bob Delaney: Chair, the reason for this is that when the motion was reserved last week, it was not through any action by the Ministry of Energy. It is not fair to penalize the Ministry of Energy for a decision—a correct decision, I think—by the Chair and the Clerk’s office to reserve decision to study the implications of the motion.

Secondly, many witnesses—among them the secretary of cabinet and many deputy ministers—have testified that these motions are very time- and resource-consuming. What the amendment asks is to simply be reasonable.

Thirdly, these are the same documents offered by the government way back in March, that the committee, in its wisdom, voted against.

Finally, if the opposition votes against this amendment, they are very clearly setting up the public service to fail. I would urge, Chair, that the members support the amendment. There has never been an issue with the government providing the documents requested, but what the amendment asks is that they be reasonable in giving the ministry the time to produce the documents.

The Vice-Chair (Mrs. Laura Albanese): Further debate? Yes, Mr. Fedeli?

Mr. Victor Fedeli: Thank you. We do know, as well, that the Auditor General’s report is coming out very soon. It may come out as early as the 9th of September, before this, and if it is a little bit later than that—days later than that—I think that having this information in advance will be critical to us.

I’ll ask the member across: When the auditor was last here on the Mississauga release, he said that the Liberal government was given the draft report six to eight weeks in advance. Would you be able to tell me now: Does your government have a draft report of the Auditor General’s report?

Mr. Bob Delaney: All I know is that the draft report is still in the process of being prepared.

Mr. Victor Fedeli: Do you have a copy, or does your government have a copy?

Mr. Bob Delaney: I don’t have a copy of it. I’ve had no discussion, and—

Mr. Victor Fedeli: No, I understand you don’t, but does the Liberal Party or does the Premier have a copy of the Auditor General’s report today?

Mr. Bob Delaney: The Auditor General doesn’t share any of his findings with our party.

Mr. Victor Fedeli: The Auditor General told us last time that he did share it with the Premier six to eight weeks in advance.

The Vice-Chair (Mrs. Laura Albanese): I would encourage everyone to speak to the amendment.

Mr. Victor Fedeli: I’m getting to that point. Is this to delay it until the Auditor General’s report is out? That’s

really where I’m going with this. Is the Auditor General’s—

Mr. Bob Delaney: Chair, we don’t have the report. We’re waiting for the report as well. We do not have the report.

Mr. Victor Fedeli: You miss my point. Does the Premier have the draft report from the Auditor General?

Mr. Bob Delaney: I would have no way of knowing that. To my knowledge, we do not have the report and the Auditor General’s staff is still in the process of preparing the report.

Mr. Victor Fedeli: That we’re going to receive in September.

Mr. Bob Delaney: That we’ll receive when the Auditor General tables it. I don’t have a date at which the—

Mr. Victor Fedeli: Chair, I’m prepared to go to the 12th. Thursday the 12th is the date that we can see it being done by.

The Vice-Chair (Mrs. Laura Albanese): Okay. We’ll need to vote on the amendment as it stands now before we propose any different date. All those in favour of the amendment, please raise your hand. Those opposed? The amendment is lost.

Mr. Victor Fedeli: I would be willing to put a friendly amendment on my own motion to change from September 10 to September 12. Do I need to do—in a friendly amendment?

The Vice-Chair (Mrs. Laura Albanese): I’m advised that that’s fine. So the motion would read, “no later than September 12.”

We have to vote on the amendment, I am advised.

Mr. Victor Fedeli: You can’t accept it as a friendly amendment to my own motion?

The Vice-Chair (Mrs. Laura Albanese): Can it be accepted as a friendly amendment to the original motion?

Interjection.

The Vice-Chair (Mrs. Laura Albanese): No. We’ll have to vote on the amendment.

Mr. Victor Fedeli: Okay. Then I move that as an amended motion.

The Vice-Chair (Mrs. Laura Albanese): Mr. Fedeli has moved it as an amended motion. Any discussion or debate? Mr. Delaney?

Mr. Bob Delaney: Well, Chair, it comes back to the point that I made earlier. Whether it reads September 10 or September 12, the scale, the scope and the degree of difficulty of the undertaking requested is simply not possible in that time span. All that the ministry has asked is for a reasonable time to produce documents requested by the committee. What the motion asks is, very frankly, an unreasonable amount of time. I say that backed up by the testimony of many of the witnesses who have come before us to talk about the degree of difficulty and how time-consuming and resource-intensive these document searches are.

I asked earlier whether or not Mr. Fedeli would agree to forgo obvious duplicates of existing records; he indicated he wasn’t. So this is going to be a huge, huge

undertaking, and a date of September 10 or September 12 is simply not possible in the time that the motion asks for.

The Vice-Chair (Mrs. Laura Albanese): Further comments?

Mr. Victor Fedeli: Chair, I did not comment on the duplicates; I think that instruction comes from the Clerk, and I think the Clerk's office is fairly clear on duplicates.

The Vice-Chair (Mrs. Laura Albanese): Okay. Further debate on that?

Mr. Bob Delaney: Just one final comment, then, Chair. If this is what we're going to vote on, whether it reads September 10, September 12 or tomorrow morning, the effect is the same: It does not offer the Ministry of Energy sufficient time to do proper due diligence to comply with the motion to produce all of the documents that respond to the motion, but only the documents that respond to the motion. We ask, then, that the motion be defeated. We would be pleased to support an alternate motion that does offer the ministry sufficient time to do the work asked for it.

The Vice-Chair (Mrs. Laura Albanese): Any further discussion on that? All those in favour of the amendment? Opposed? Okay. I declare the amendment carried.

Shall the main motion, as amended, carry? All those in favour? Opposed? Carried, as amended.

Now our committee will recess until one o'clock. Thank you.

The committee recessed from 1204 to 1303.

MR. KEVIN SPAFFORD

The Vice-Chair (Mrs. Laura Albanese): We're back in session. We have our next witness before us: Mr. Kevin Spafford. Welcome to the Standing Committee on Justice Policy. I will ask now our Clerk to affirm you.

The Clerk of the Committee (Ms. Tamara Pomanski): 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. Kevin Spafford: I do.

The Vice-Chair (Mrs. Laura Albanese): Mr. Spafford, you have up to five minutes for an opening statement. That will be followed by questioning, 20 minutes, by the NDP, and then the Liberals and then the PCs, 20 minutes each, and then another round of 10 minutes per party. I shall hand it over to Mr. Tabuns—oh no, the opening statement first. Please go ahead.

Mr. Kevin Spafford: Thank you. Good afternoon. I'm pleased to be here today. As the Chair mentioned, my name is Kevin Spafford. I believe you have my bio in front of you, and I don't want to take any time reviewing that. I would like to be as helpful to the committee as I can be, and with that I'll take your questions.

The Vice-Chair (Mrs. Laura Albanese): Okay. Then, Mr. Tabuns—or Ms. Fife.

Ms. Catherine Fife: Good afternoon. Thank you, Mr. Spafford, for coming to the committee today.

Mr. Kevin Spafford: No problem. You can call me Kevin.

Ms. Catherine Fife: All right, Kevin. Welcome to the committee.

Today, actually, we're going to be following some questioning that had to do with some of the messaging that came out. In your document package—I assume you have it?

Mr. Kevin Spafford: I do.

Ms. Catherine Fife: You do. On page 2 of that document, around the communications plan, you mention in the July 4, 2012, note on page 2, you say that the goals are to “successfully manage the timing and manner of release of the documents so as to limit the negative communications/issues management impact on the government.” Can you give us some insight as to what your objective was with that statement?

Mr. Kevin Spafford: Sure. Let me first say that, I think that, if you look two pages previous to that, you'll note that the memo is from David Phillips, who you spoke to last week.

Ms. Catherine Fife: Yes.

Mr. Kevin Spafford: He says, “I've attached a memo that Spaf and I drafted up re options for release of Vapour/Vapour-lock documents to estimates committee—for our 5:00 p.m. meeting.” The memo is ultimately the authorship of David Phillips; I did contribute.

I think it's important to outline my role for you. I think that will be helpful, to understand what my contribution to this memo was. I advised the House leader and the chief of staff to the House leader on the operations of the government and the Legislature, implementing the government's legislative agenda, as well as advising on parliamentary procedure.

In terms of contributing to a memo, my role was to contribute parliamentary procedure and the technical aspects of the memo. I don't have anything further to what David Phillips has suggested about the part of the memo you're talking about.

Ms. Catherine Fife: Okay, but the original email does say, Kevin, that it was you and he—David Phillips—who drafted up these options. So you were part of drafting up this strategy around dealing with this issue, right?

Mr. Kevin Spafford: I think, if you can understand that we did have an office of people, and I was involved in the drafting of this memo. But it also does outline some proposed terms for negotiating and how that would take place on the floor of the House and in committee. That's what my role was in the office.

Ms. Catherine Fife: Yes, and I'm sure that you also understand that because it says that it was you and he who drafted up these options, that's why we're going to ask you some of the questions about that document.

So when you do say that you want to “successfully manage the timing and manner of release of the documents,” shouldn't your objective have been to comply with the order from the estimates committee?

Mr. Kevin Spafford: I think if you look through the documents that were provided to the committee—I did

have an opportunity to look through some of them; obviously, they're pretty comprehensive—you would see that, from the very beginning, the government's objective was to respect the right of the committee to request documents. But the position of the government and the position of the Minister of Energy was one that was formed by looking at expert opinions and past parliamentary procedure. Other factors were taken into consideration. There were competing interests that the government and the minister believed needed to be taken into consideration. That's what formed the basis of the position.

Ms. Catherine Fife: So that's what you take away from this "managing the timing ... of the documents"? I think it's fair to say that it does seem, on the surface, that the government was more interested in "communications/issues management" than the rights of the committee, than getting the committee the information that they needed. Even today, we're still trying to get information at this justice committee.

What is more important, the government's communications issues or the rights of the committee to get the information that they need?

Mr. Kevin Spafford: Well, I do have to disagree with your assessment, Ms. Fife. I don't agree that communications took priority over other factors. I think that if you look through the documents that were provided—some of my documents—we went to great lengths to review the parliamentary procedure involved. That's what I can speak to; that was my role. I'm happy to take questions about anything you'd like to ask me about, but my role was to look at the parliamentary procedure and to help advise on that. I think it's clear that we did our due diligence in looking through past procedure and issues such as the Afghan detainee issue. We did do a full examination of that and spoke to people that were involved in that issue. That really formed a methodical approach that the government took in laying out the strategy.

Ms. Catherine Fife: So who gave the direction for this document to manage the issues? Who did you take direction from, if it wasn't Mr. Phillips?

Mr. Kevin Spafford: I haven't indicated it wasn't Mr. Phillips. I was under his direction.

Ms. Catherine Fife: So it was Mr. Phillips?

Mr. Kevin Spafford: Mr. Phillips was my chief of staff; I was directed by him. I also reported to the House leader, Minister Milloy. I understand that this memo was sent to the Premier's office, and I helped contribute to the procedural aspects of this memo.

Ms. Catherine Fife: So they gave you direction around managing the negative impact?

Mr. Kevin Spafford: They gave me direction around providing advice on the procedural impacts of the issue at play in the Legislature and committees.

Ms. Catherine Fife: Okay. So whose opinion was it that the committee should not be given the documents it requested in the time frame it set out? Could this direction have arisen without the approval of the Premier's office? Two parts.

Mr. Kevin Spafford: I have to disagree with your assessment that that was the position of the government.

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Ms. Catherine Fife: Perhaps you're looking at a different document.

Mr. Kevin Spafford: The position of the government from the very start was that there were competing interests at stake and that the committee had a right to request the documents but, based on parliamentary procedure, which forms the basis of how this place functions, that there were other competing interests at play which, in the past, had been reconciled. I think, in fact, if you look at the Speaker's ruling, he actually acknowledged that that was the case in giving the opposition and government House leaders a week to negotiate and reconcile those competing interests. It's really unfortunate that that didn't happen. I think that confirms that our opinion and the expert advice we were provided is that Parliament does have a right to ask for documents but, based on precedent, there's also an obligation to consider the other factors at play.

Ms. Catherine Fife: Are you looking at the Summary of Options and how to deal with the gas plants motion? Because if you look through this document, it's essentially a document that tries to navigate a way to not get the committee the information that they need.

Okay, I guess we'll respectfully disagree with each other, based on the information that's before us.

Can I ask you a question about going forward? Because you do list a number of strategies. It's a comprehensive document, really, to sort of, as I said, navigate through a very complex issue, looking forward, for the government at the time.

On page 2, you're trying to deal with all options around how this motion will proceed. You say, "Second, the motion could be lost if we (i) are able to successfully debate the motion through the 32 hours of summer hearings; (ii) prevent committees from sitting through early September as we negotiate the reconstitution of committees with the opposition"—I would look at those strategies as evasive ways of trying to not get the information to the committee—"and (iii) win the by-election in Kitchener-Waterloo by-election, such that we regain voting control of standing committees."

I guess my question for you is, what was your plan for the inquiry into the scandal if you had won a majority?

Mr. Kevin Spafford: I'm sorry. The plan for which inquiry?

Ms. Catherine Fife: To deal with the gas plant motion. We're still on the same document.

Mr. Kevin Spafford: Yes, so you're referring to the motion and the three tactics that are outlined.

Ms. Catherine Fife: That's right.

Mr. Kevin Spafford: But I don't understand how you're relating that to potential preparation for a future inquiry.

Ms. Catherine Fife: The question's actually very simple: If you had won a majority, would you have got

the estimates committee all the information that they requested?

Mr. Kevin Spafford: I think the Minister of Energy at the time—and I can't speculate on future Ministers of Energy. I understand that the documents were eventually provided. The minister's intention was always to release the documents in a way that protected the interests of taxpayers. That was always the intention that I understood from the Minister of Energy.

Ms. Catherine Fife: That was the direction that you got?

Mr. Kevin Spafford: The Minister of Energy provided clear direction, and testified at this committee that the direction was always to provide the committee with the information they wanted but to initiate a process of negotiation, that has been a hallmark of past legislative issues, where they come together—I would use the example of the public accounts committee here. The public accounts committee is reviewing the Ornge issue. They instituted a novel process where they came in camera to review certain documents where it may be a risk to the public if they were released.

There are numerous processes that could have been put into place—

Ms. Catherine Fife: I think those are two very different committees. But let's go back to strategic goals, still on page 2. Another strategic goal, you state, is to "reduce the risk—fiscal and otherwise—posed by the production of documents...." What does "otherwise" refer to, Kevin, if you can remember back?

Mr. Kevin Spafford: I certainly would have contributed to the procedural aspects of this document, but others would be more knowledgeable—David Phillips and otherwise—about the fiscal and other risks to the production of documents.

If I had to speculate, one of them is that in the Constitution, there's a protection for solicitor-client privilege, you may be aware, and that was another risk of producing these documents while ongoing litigation was occurring. If I had to speculate on "otherwise," I would say that might be one of them.

Ms. Catherine Fife: Okay, thank you, Kevin. My colleague Mr. Tabuns will take over.

Mr. Peter Tabuns: Mr. Spafford.

Mr. Kevin Spafford: Good afternoon, Mr. Tabuns.

Mr. Peter Tabuns: The document is interesting. My colleague has asked what would happen to this inquiry if you'd won a majority, and it's pretty clear that what you've reported out here is that this motion would not have gone forward. That was part of your strategy. Second, the motion could be lost if we won the by-election, and at no point in this document is there any suggestion that there would be any other inquiry. Your hope was that in winning the Kitchener–Waterloo by-election, you would have actually killed us off.

Mr. Kevin Spafford: Mr. Tabuns, I appreciate the question. I'm not in a position to speculate on all the permutations of this. I contributed my part to the memo, and others would be able to speak to those tactics. Again,

I'm happy to outline what my role was, and that was really to advise on—

Mr. Peter Tabuns: Can I just ask, though: In your discussions about this, did it ever come up that if, in fact, you won a majority, you would continue on with an inquiry into the gas plant scandal?

Mr. Kevin Spafford: To be honest, I can't remember having that discussion. My role in the office was to advise on parliamentary procedure. I was not privy to the larger discussions related to the by-election and those types of issues. I advised the House leader; I wasn't a member of the Premier's office.

Mr. Peter Tabuns: That's fine. Who requested this briefing note? When we look at who it was sent to: everyone in the office of the Premier, copied to you—

Mr. Kevin Spafford: I'm not sure. Perhaps there is a record of the original request that you could find, looking through the documents, but I don't have access to that anymore.

Mr. Peter Tabuns: So you were never told who this opinion was being drafted for?

Mr. Kevin Spafford: No, I didn't say that. I said that I'm not sure, and you could perhaps find out by looking through the documents. But, as I'm no longer in government, I don't have access to that.

Mr. Peter Tabuns: Just so I'm clear in my own thinking, you weren't aware at the time of who was asking for this?

Mr. Kevin Spafford: I may have been aware at the time, but, considering this was over a year ago, I'm not aware now.

Mr. Peter Tabuns: Is it your belief that this would have been used to brief the Premier?

Mr. Kevin Spafford: I'm not able to speculate on the process the Premier's office used to brief the Premier. I wasn't a member of the Premier's office; I was adviser to the government House leader.

Mr. Peter Tabuns: Who issued directions about the release of documents requested by the committee?

Mr. Kevin Spafford: The Minister of Energy.

Mr. Peter Tabuns: Who was making the final decision about document disclosure?

Mr. Kevin Spafford: Which document disclosure are you referring to?

Mr. Peter Tabuns: The disclosure of documents that we asked to be put before this committee.

Mr. Kevin Spafford: Would this be the Ministry of Energy, or the Ontario Power Authority's disclosure of documents?

Mr. Peter Tabuns: And who was making those decisions?

Mr. Kevin Spafford: About which one?

Mr. Peter Tabuns: The Ministry of Energy.

Mr. Kevin Spafford: The Minister of Energy.

Mr. Peter Tabuns: Himself. Okay.

Mr. Kevin Spafford: I believe, in consultation with the deputy minister. With regard to the Ontario Power Authority, I believe the CEO was the one who made the ultimate decision.

Mr. Peter Tabuns: Given how important these documents were, given what was at stake, would the Premier have been aware of this decision-making process? Did he have any role in the disclosure of decisions?

Mr. Kevin Spafford: I'm not sure. I wasn't privy to the discussions between the minister and the Premier or to cabinet decisions. I understand you've received a number of documents, maybe including cabinet records, so perhaps you could consult those to find out. But I wasn't privy to those conversations.

Mr. Peter Tabuns: So did the Premier know that documents were being withheld from the estimates committee when we were given our first round of documents?

Mr. Kevin Spafford: Sorry. Which documents are you referring to?

Mr. Peter Tabuns: If you remember, the Minister of Energy provided a number of documents to the estimates committee at the time, which were very deficient. They lacked large numbers of emails and other documents that were relevant to this matter. Would the Premier have been aware at the time?

Mr. Kevin Spafford: Again, I was not in a position to know that. My information came from being cc'd and contributing to an email which was—a memo was sent to the Premier's office, but I was not involved in the internal Premier's office process of briefing the Premier on any type of these matters.

Mr. Peter Tabuns: In this committee on June 18, Chris Morley stated, "It would have been entirely appropriate for them to be aware of any issue before the Legislature." That's referring to the Premier's office and referring to documents being withheld from the estimates committee. Do you have any reason to disagree with Mr. Morley?

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Mr. Kevin Spafford: No, I don't, considering that my boss, the chief of staff to the government House leader, was also the director of legislative affairs. I assume there would have been some process in place, but I'm not aware of what it was.

Mr. Peter Tabuns: Did you use the term "Vapour" in correspondence?

Mr. Kevin Spafford: I believe from the documents that you've received, there are a few cases in which I did. One is a meeting I attended with the title "Vapour," and potentially a few other pieces of correspondence with the word "Vapour" in it.

Mr. Peter Tabuns: So you received correspondence as well as using the term yourself.

Mr. Kevin Spafford: Whatever the committee has received with the word "Vapour" on it is what I would have received.

Mr. Peter Tabuns: The document you have there, document 1, is asking if you have any responsive records with the term "Vapour." Your response was, "I have no responsive records." Why did you say that?

Mr. Kevin Spafford: Mr. Tabuns, do you have the next page of this record? I believe the original email is cut off with the search parameters.

Mr. Peter Tabuns: No, I don't.

Mr. Kevin Spafford: I would have to be looking at the search parameters—

Mr. Peter Tabuns: I have your response: "I have no responsive records."

Mr. Kevin Spafford: But I don't see what the request is.

Mr. Peter Tabuns: It was with regard to Vapour, a freedom of information request.

Mr. Kevin Spafford: Sorry, what were the search terms?

Mr. Peter Tabuns: "Vapour."

Mr. Kevin Spafford: Do you have a copy of that? I don't want to speculate on something I'm not seeing.

Mr. Peter Tabuns: I don't have it in this package. We will try to get it for the next round.

Mr. Kevin Spafford: I'd be happy to answer the questions if I'm able to see the document that you're asking about.

Mr. Peter Tabuns: When you carried on your daily business with correspondence, did you keep records, as required by the Archives and Recordkeeping Act?

Mr. Kevin Spafford: I'm pleased to talk about my records management process. As you can see, you have, I believe, hundreds of my emails and documents that I was involved in producing. I did my best to maintain the records that were outlined as should be maintained and that I understood should be maintained. I think that's why you have hundreds of my records that were produced over this time period related to the gas plants inquiry.

Mr. Peter Tabuns: Were you in the room when Minister Duncan was answering questions in estimates on July 19, 2011?

Mr. Kevin Spafford: I honestly can't remember if I was in the room or if I was watching the live feed, but I would have been monitoring it.

Mr. Peter Tabuns: So one way or the other, you were aware of him speaking.

Mr. Kevin Spafford: Yes.

Mr. Peter Tabuns: Do you know how much he said it would cost to cancel the Mississauga gas plant?

The Vice-Chair (Mrs. Laura Albanese): One minute.

Mr. Kevin Spafford: Can I assume, Mr. Tabuns, you're referring to an email from your package, which is a summary from me about the minister's appearance at estimates?

Mr. Peter Tabuns: Yes, number 3.

Mr. Kevin Spafford: Okay. From what I understand, there was mention of two figures. If I'm going by my summary here, I said "180 vs 190," and I believe I would have been referring to \$180 million, which was announced by the Minister of Energy. Then, if I recall properly, a couple of days subsequent to that, the Premier made a correction that there was an unrelated contract to the same firm which they were considering a part of that payment, which is the \$190 million. I believe Minister Duncan spoke to that in his estimates appearance.

The Vice-Chair (Mrs. Laura Albanese): Thank you. Sorry, the time is up.

I will now turn it over to Mr. Delaney.

Mr. Bob Delaney: Kevin, it's good to see you again.

Mr. Kevin Spafford: Good afternoon.

Mr. Bob Delaney: Just to confirm, then: Following the 2011 election and up until this February, you served as the manager of legislative affairs in the government House leader's office, right?

Mr. Kevin Spafford: Yes, but it was until January of this year.

Mr. Bob Delaney: January?

Mr. Kevin Spafford: Yes.

Mr. Bob Delaney: Okay. In that role, who did you report to?

Mr. Kevin Spafford: I reported directly to David Phillips, who spoke to you last week, who was the chief of staff to the government House leader and director of legislative affairs in the Office of the Premier. Ultimately, I reported to the government House leader, Minister John Milloy.

Mr. Bob Delaney: Just for clarity, did you play any role in the decisions to relocate the two gas plants or in the negotiations with TransCanada Energy and Greenfield to relocate them to willing host communities?

Mr. Kevin Spafford: No. At the time, I was working for the Minister of Health and Long-Term Care.

Mr. Bob Delaney: In the government House leader's office, was your work focused more on the legislative agenda, committees and in negotiations with the opposition?

Mr. Kevin Spafford: Yes. I'm happy to provide a bit of an overview to expand on what I said before. My role was really advising both the government House leader and the chief of staff to the government House leader, and it was mainly on the operations of the government in the Legislature and committees, implementing the government's legislative agenda. We had an ambitious agenda of government legislation that we wanted to pass. Part of my role in the office was tracking and managing those bills as they moved through, working with parliamentary assistants who were the leads on the files, and the representatives in the minister's office.

Another part of my role was advising on parliamentary procedure. I think, in the documents the committee received, it's evident I was involved in advising on points of privilege and other parliamentary issues that would have come up, and that was the main focus of my role.

Mr. Bob Delaney: Okay. I get that you didn't have a role in the relocation, that you didn't have a role in determining the costs of the relocation, so many of the rest of the questions I'll have for you will be kind of process-related.

In the role that you played, you would have had some unique insight into the legislative environment during that time period. I want to start by talking a little bit about then-Minister Bentley's appearance at the estimates committee.

On May 16, just to recap, Mr. Leone moved a motion for correspondence from the Minister of Energy, the Ministry of Energy and the Ontario Power Authority regarding the two gas plants between one date and another date. At the time, sensitive commercial negotiations were ongoing with both companies.

In response, then-Minister Bentley wrote to the committee outlining that the motion was requesting documents subject to solicitor-client privilege and possibly litigation privilege. He warned that these documents were highly commercially sensitive, and Minister Bentley cautioned the committee that their release would impact ongoing negotiations.

Could you flesh out any other details regarding the issues raised by Mr. Bentley to the estimates committee in May of last year?

Mr. Kevin Spafford: Certainly. In my role of advising the House leader on the management of the Legislature and committees, I was involved in supporting Liberal members of the committee who were on the committee at the time and working with the minister's office, who were advising the Minister of Energy on his eventual response.

The Minister of Energy, based on his written letter and the issues they were going through, was concerned that there was really an issue with releasing the full set of documents without considering the other factors at play. You mentioned the commercial negotiations that were ongoing. I believe one of them was actually currently in litigation at the time, and so there were certainly broad issues about solicitor-client privilege that were at play.

I would have to say this was certainly a new context for everyone working inside government—the civil service and political staff—and I think William Bromm and others have testified to that fact, that everyone was sort of finding out information about this and trying to figure out exactly what the full context was in terms of parliamentary precedents.

For Minister Bentley, I think the consideration was that in every—certainly, the advice that was provided by experts was that the committee had a right to request information but, in fact, Parliaments and Legislatures would work with the minister, work with their colleagues, to go through the issues that are at play in terms of the protections on the information.

I mentioned before that the public accounts committee also used that tool to go in camera or use any other manner of tools. One other thing that informed Minister Bentley was that there was a federal issue with the Afghan detainee ruling, and the opposition at the time was looking to access documents about the Afghan detainee issue. There was a novel process put in place that was actually outside of the Legislature in which the opposition and government agreed to an expert panel of judges who came together and reviewed the documents and then eventually released documents that could be made public.

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That was an instrumental part, I believe, in the minister's decision. His hope was that he could work with the committee, in fact, to work out how these documents could be viewed in a way that protected the parts of the documents that could possibly compromise commercial sensitivity, which was certainly an issue.

There were certainly fiscal issues in terms of going through a negotiation. The government and taxpayers were on one side. The companies of the plants that were being relocated were on the other. To provide the companies that you're bargaining with on behalf of the taxpayers with the very information that you have at your disposal, I think, was certainly one of the prime factors that Minister Bentley had in consideration. If I had to speculate, as a lawyer himself, the solicitor-client privilege involved in an ongoing piece of legislation, which has protections in the Constitution, was another factor that should have been taken into consideration.

Mr. Bob Delaney: Okay, thank you. Bear with me, I've got a little bit of a preamble to the next one, which picks up where you left off.

At that time when the opposition was asking for commercially sensitive documents to be made public, we knew that the commitment to cancel the Mississauga plant had been made by all three parties during the immediately preceding 2011 election. Of course, shortly after re-election, our government announced its intention to relocate that facility. That decision caused the commencement of civil proceedings in both the province of Ontario and in the state of New York. Those lawsuits as well as the confidential settlement negotiations were ongoing when Mr. Leone moved his motion at estimates, which dovetails in what you've been saying.

Let's set up the next question. In terms of Oakville, again, all three parties supported the cancellation of that plant, and while no formal litigation resulted from the government's decision, the province and TransCanada Energy had been engaged in formal arbitration and confidential settlement discussions.

To tie that into what's been happening at the committee, we've had numerous independent witnesses testify here that had these documents been made public before the agreements were finalized, it would have greatly jeopardized the province's negotiating position.

Former secretary of cabinet Shelly Jamieson in fact had this to say, and I'll use her words: "It would have harmed the negotiations for sure. Nobody likes to negotiate and have all their paper about what they're talking about out before the conclusion of the deal. It's just not good practice in terms of negotiating a deal. Sometimes in our bid to publicly disclose things, we actually hurt ourselves."

To this, energy deputy minister Serge Imbrogno said, "We were being sued by EIG for ... \$300 million," and if they were able to get information that would have made their case stronger, it would have "put us at risk there. Again, negotiating with Greenfield," if they could have used this information to get leverage in negotiations, it

would have put us in a bad situation. "So, it's hard to quantify," but there were risks to the taxpayer.

When the Auditor General was here to testify, he acknowledged that similar issues arose when he testified in public accounts. He said he would be reluctant to put this type of information in the hands of the parties at that time. He also likened it to not wanting to tip your hand.

Do these expressions of concern mirror some of the concerns you yourself had or you were hearing at the time? Would you expand on it?

Mr. Kevin Spafford: Certainly. I'd say the Minister and Ministry of Energy and perhaps the Ministry of the Attorney General were really in the best position to advise on the fiscal risk and the risk to solicitor-client privilege. Those were risks that certainly were listed and flagged by both the Ministry of Energy and Ministry of the Attorney General, who were involved in those processes. I'm not an expert to be able to expand much on that.

What I would say is that—and I've alluded to this already—the government always took the approach that the committee did have the right to ask for the information, but that there is a process in place that past Legislatures and Parliaments have used to reconcile those concerns.

One of the things that I would point to back in that estimates committee is actually that the Chair at the time, Michael Prue, I believe, ruled—and I don't have it with me today—that the minister was under no obligation at the time to respond to the opposition's request. That was another element that certainly was in play with the minister in terms of trying to respond to the Chair, who was managing those files. I'm not sure if Mr. Prue has since changed his position on that ruling, but that was certainly something that impacted how Minister Bentley moved forward.

Mr. Bob Delaney: Dave Phillips wrote a memo on July 4, 2012, in which he emphasized there was a financial risk posed by the production of documents until there was a successful resolution of litigation and the other legal processes related to both of the gas plants. In every option, he lays out, depending on the outcome of these negotiations, that it's clear that the requested documents that were going to be provided to the committee in fact would be provided to the committee. In the words of Mr. Bentley when he testified before this committee, it was not a matter of if but when. In fact, the notion that there was an attempt to keep these documents hidden simply wasn't true at all. Will you comment on that?

Mr. Kevin Spafford: Yes, absolutely. I think from the get-go, Minister Bentley's approach was that the government really recognized the committee's right to request the information. As you've quoted from him, and I'll just paraphrase it again, it was really a matter of not if but when.

In terms of my role, perhaps, some light that I can shed for the committee is that while reviewing some of the Hansard from this committee, I did come across an interesting development. On three separate occasions, the

opposition referred to the fact that the committee was not presented with options to view the documents in camera. On March 7, from this committee on page JP16, Mr. Leone referred to the possibility of viewing the documents in camera and was asking former Speaker Milliken about that.

Further to that, on page JP191, Mr. Fedeli actually referred to the public accounts committee and the novel approach they had taken. He said, in his questioning of Craig MacLennan, “Was that not considered as an option for any of these documents?”

There’s another example on April 9. Mr. Leone was asking about the range of potential options for considering the committee’s request. Mr. MacLennan actually said, “I believe, from my recollection, going to sign the committee in to review the documents in camera was the second option, something that I believe we got as an idea from the Afghan detainees scenario where individuals, if I recall correctly, were almost sworn into cabinet for the day to review the documents.

“Mr. Rob Leone: So why was that option not presented to the committee?”

“Mr. Craig MacLennan: I thought it was.

“Mr. Rob Leone: It wasn’t.”

In fact, and I’m happy to provide this assistance to the committee today, those options were provided to the opposition parties on numerous occasions, and I’m glad that you do have those documents detailing how they were provided. It is disappointing that, unfortunately, those overtures were not taken up. That’s all laid out in the documents in terms of the overtures that we made. I’m not sure where the disconnect was in terms of the meetings that I was in with the House leader with the other House leaders discussing those options. But if Mr. Leone and Mr. Fedeli don’t believe they came to the committee, I think maybe that’s an issue that the committee could take up for future issues like this, when there are real concerns at stake, and the committee needs to look at all the options presented.

The parliamentary convention, as I’ve mentioned, which forms the basis of how this House functions, stated that the committee would not request or would make an accommodation to protect information that could jeopardize the important legal privileges and the interests of Ontario taxpayers. The House and committees have a right to request the documents, but the precedent shows that, in each case of those requests, they’ve also made accommodations to protect sensitive information.

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The examples go through every single textbook that you can find on parliamentary procedure. Yes, the committee has the right to request the documents, but they also have an obligation, based on precedent, to consider the factors that the minister would put forward. It’s really unfortunate that that didn’t happen in this process, and I hope the committee will make some recommendations about how to move forward on using guidelines like that for future issues.

Mr. Bob Delaney: Okay. Thank you. Again, to be specific: As soon as the Mississauga relocation arrangement was finalized and all legal matters had been settled, I understand on July 10, the minister directed his ministry to provide the committee with all correspondence related to the Mississauga facility responsive to the motion, except those records subject to solicitor-client privilege. Now, there have been some suggestions that the minister, the ministry or somebody was trying to hide the documents; if so, why would he have asked for them to be released right after the settlement was reached? Can you speak to what was going on at that time?

Mr. Kevin Spafford: Yes. I think that’s an important point that really shows that the minister was interested in producing the documents for the committee, but there were real issues at play. Once the issue of commercial sensitivity and the negotiation had concluded, he did make good on his promise that he had an intention to provide the documents, and he ended up providing those documents.

As I’ve outlined, there are issues with the protection of solicitor-client privilege. The Afghan detainee hearings took that into consideration. The panel that was set up with expert judges to review the information actually took that into consideration, and legislatures have done so in the past. That sets a precedent for looking into those issues, but the minister, as soon as the risk to Ontario taxpayers was mitigated by reaching the deal with that company, made good on his promise and released those documents.

Mr. Bob Delaney: And all of this happened weeks ahead of the Kitchener–Waterloo by-election, right?

Mr. Kevin Spafford: That’s right. I believe it was early-to-mid-July.

Mr. Bob Delaney: So any suggestion between the minister’s actions and the outcome of the K-W by-election has no basis in fact, correct?

Mr. Kevin Spafford: From my understanding. I don’t have the dates in front of me, but it was much prior to, perhaps, even the writ being dropped. I don’t have those dates with me today.

Mr. Bob Delaney: Okay. As negotiations carried on during the summer, I understand that the opposition criticized the government for—and I’ll use their word—“filibustering” the estimates motion. They alleged that the strategy was employed to prevent them from ever receiving the documents. However, when we asked Mr. Phillips about it last week, he explained that amendments were moved and debated as a way to find a good solution that respected the rights of the members to these documents while, at the same time, protecting the public interest.

He said, “At the first stage of the estimates committee process, you saw a series of amendments being moved by the government that were designed to essentially find that middle ground”—

The Vice-Chair (Mrs. Laura Albanese): One minute.

Mr. Bob Delaney: —“and to find a way to get these documents out in a way that protected the sanctity of these negotiations and allow for a process to protect solicitor-client privilege.” What were you hoping to achieve with the introduction of the amendments and the negotiations with the opposition?

The Vice-Chair (Mrs. Laura Albanese): Thirty seconds.

Mr. Kevin Spafford: I appreciate that question. The amendments that the government members chose to move at the time were really based on protecting the important protections that were at risk here. They were moved in committee by the Liberal committee members, and there was a desire to have a real debate and real acknowledgement that there were other issues at play here: as we discussed, ongoing commercial negotiation, solicitor-client privilege. The minister had referred to those in his letter as being necessary for protection.

The Vice-Chair (Mrs. Laura Albanese): Thank you very much for that answer. I will now turn it over to Mr. Fedeli.

Mr. Victor Fedeli: Thank you very much, Chair.

Certainly, your revisionist history is something that we'll visit ourselves in a few minutes. I did want to get to our document 1, which is being handed out to you here. It actually picks up on where Mr. Tabuns left off. He asked you a very simple question: Did you use the word “Vapour”? He's not asking you about documents that were turned over or weren't turned over with “Vapour.” He asked you a question which you have not yet answered: Did you use the word “Vapour” in any of your correspondence?

Mr. Kevin Spafford: Thanks for the question, Mr. Fedeli. Sorry, which document are you referring to?

Mr. Victor Fedeli: Document 1. We'll get to the document in a moment, but what I'm referring to is Mr. Tabuns's question to you—a very simple question. Did you use the word “Vapour”? He's not asking about, did you turn documents over.

So did you use the word “Vapour”?

Mr. Kevin Spafford: Thanks. I actually have to go back to the premise of your question because I disagree with it—

Mr. Victor Fedeli: It's a simple premise: Did you use the word “Vapour” in your correspondence?

Mr. Kevin Spafford: It is a simple premise. I believe it is incorrect because you said that I did not acknowledge using the word “Vapour”—

Mr. Victor Fedeli: No, no; you did not answer his question. He asked you a question—

Mr. Kevin Spafford: I don't know if Hansard can repeat it for us. I did say—

Mr. Victor Fedeli: They can't do that. He asked you a question: Did you use the word “Vapour”? You went on to talking about documents that were turned over. That's not what he asked you. Well, I'm asking you this question, then: Did you use the word “Vapour”?

Mr. Kevin Spafford: Thanks, Mr. Fedeli. I appreciate the question—

Mr. Victor Fedeli: Just answer the question, please.

The Vice-Chair (Mrs. Laura Albanese): One at a time, please.

Mr. Kevin Spafford: Thanks. I'm happy to answer all of your questions—

Mr. Victor Fedeli: But please get to it.

Mr. Kevin Spafford: I will absolutely get to it.

Mr. Victor Fedeli: I only have 20 minutes. Please get to the answer. Did you use the word “Vapour”?

Mr. Kevin Spafford: And as soon as I'm provided the opportunity to answer, I will answer your question.

Mr. Victor Fedeli: Oh, here we go; another one.

Mr. Kevin Spafford: As I told Mr. Tabuns, yes, I did use the word “Vapour,” and that's already been clearly reflected in—

Mr. Victor Fedeli: Thank you. Let's get to document 1 of 1, in the second page. You responded to the freedom-of-information, when they asked you for the request, “I have no responsive records.” If you look at page 2, they're simply asking you for “emails, memoranda, Outlook calendar invitations making reference to ‘Project Vapour’ or ‘Project Vapor’”—spelled without a “u”—“during the calendar years of 2010, 2011 and 2012,” and you tell freedom-of-information, in writing, “I have no responsive records.”

Can you tell us how that can possibly be, when you just finished saying that you used the words “Project Vapour” in correspondence?

Mr. Kevin Spafford: Certainly I'd be happy to, Mr. Fedeli. Actually, you didn't ask me if I used the words “Project Vapour”; you asked me if I used the word “Vapour.” I think there is a difference.

The email you're referring to—and I'll read the sentence: “access to the following information from the Office of the Premier: emails, memoranda, Outlook calendar invitations making reference to ‘Project Vapour’”—

Mr. Victor Fedeli: You don't have to repeat it; I've already read it.

Mr. Kevin Spafford: —“or ‘Project Vapor’”—spelled without the “u”—“during the calendar years of 2010, 2011 and 2012.” Your question to me is, did I use the word “Vapour”? The instructions provided by the Ontario public service for that search were to type in the words, in quotation marks here, “Project Vapour” or “Project Vapor.”

Mr. Victor Fedeli: So you're being cute because you have invitations to meetings on “Vapour,” but because the words “Project Vapour” weren't there, you think you're excused from that. Is that what you're saying?

Mr. Kevin Spafford: Let me say that—

Mr. Victor Fedeli: Is that what you're saying?

Mr. Kevin Spafford: I'll tell you what I'm saying, Mr. Fedeli. I don't believe it's the role of political staff to assume what a requester wants to get access to. In my opinion, that's not the role of a political staff member—

Mr. Victor Fedeli: So to you, the 1,000 files that we have where you've got the word “Vapour”—

Mr. Kevin Spafford: I'm not done, and I would appreciate it if I could finish my statement. Thank you.

I believe it's the role of the non-partial Ontario public service to maintain the FOI rules, and that's what I continue to believe. There were no records based on the search terms that I'd been provided.

Mr. Victor Fedeli: So you're sticking to that—because the word “Vapour” is here and it doesn't have “Project Vapour”? You're sticking to that, that that's why you didn't turn any documents over, why you told freedom-of-information, “I have nothing. I'm not involved in this. I have no records”—because the word “project” wasn't included? That's what you're saying today?

Mr. Kevin Spafford: That's my understanding.

Mr. Victor Fedeli: Brilliant. Brilliant. So we can understand from you—was that the philosophy taken by other people within your office, to snub their noses at the committee's request, knowing fully well what was requested? Is that your request?

Mr. Kevin Spafford: I can't speak to anyone else, and I don't believe this was a committee request; this was a freedom-of-information request, unless you're referring to a different request.

Mr. Victor Fedeli: Were there any other freedom-of-information requests that you said “I have no responsive records” to?

Mr. Kevin Spafford: I'm sure there were. I don't have them on me at the moment. I'd be happy to answer questions about any that you have received.

Mr. Victor Fedeli: So that's what it is. “You did not write the word”; you did not look for any Vapour files or anything that had anything to do with Vapour. You were all cute by calling it “Project V” sometimes, hoping that maybe we'd never know what Project V was. Is that what you're telling me?

Mr. Kevin Spafford: I'm sorry, where did I refer to it as Project V?

Mr. Victor Fedeli: I'm just saying, you being the Premier's office and those—I'll call you Liberal operatives—you resorted to calling it “V.” Were you one of the ones that resorted to calling it “V”?

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Mr. Kevin Spafford: Mr. Fedeli, I can only speak for myself. I don't recall calling it Project V. If you have a record showing that, I'd be happy to speak to it.

Mr. Victor Fedeli: So you think the fact that you have invitations here in your Outlook calendar that invite you to a meeting on Vapour, you don't have to turn that document over. That's what you're telling us.

Mr. Kevin Spafford: Those are the instructions from the Ontario public service.

Mr. Victor Fedeli: And who, precisely, gave you that instruction not to turn any files that say “Vapour” over?

Mr. Kevin Spafford: I'm happy to review the instructions provided by the Ontario public service—

Mr. Victor Fedeli: Let's go to document 2.

Mr. Kevin Spafford: —because starting in 2007, I did hold the position of legislative assistant—

Mr. Victor Fedeli: Let's just jump to document 2. I'm not going to let you waste any more of my time.

Mr. Kevin Spafford: The freedom-of-information protocols are provided by the Ontario public service—

Mr. Victor Fedeli: You were very, very pleased—Mr. Delaney, a few minutes ago, said, “‘Filibuster’ was the word used by the opposition.” I want you to look at document 2, page 1. This is an email from David Phillips to you, Chris Morley, Craig MacLennan: “We”—referring to Liberal operatives—“filibustered (in a very credible way I must say).”...

Your plan never was to turn any documents over to us, was it? You had no desire to turn any—and this is as back as March 2007. David Phillips is bragging to you, “We filibustered” in a very credible way.

Mr. Kevin Spafford: Thanks. I'm happy to talk about the public accounts committee with respect to the power plant's request for the Auditor General—

Mr. Victor Fedeli: So who made the decision—

The Vice-Chair (Mrs. Laura Albanese): Mr. Fedeli, respectfully, he's answering your question.

Mr. Victor Fedeli: He's wasting time here. He's just ragging the puck.

The Vice-Chair (Mrs. Laura Albanese): Let's speak one at a time.

Mr. Victor Fedeli: But he's wasting my time by ragging the puck, and I won't put up with that from another witness.

The Vice-Chair (Mrs. Laura Albanese): Whenever we ask a question, let's be civil to each other.

Mr. Kevin Spafford: Thank you, Chair. I'd appreciate the opportunity to answer that question.

Mr. Victor Fedeli: Were you proud of the delay—

Mr. Kevin Spafford: I'd really like to answer your original question, Mr. Fedeli, because you've provided a document here, and I believe I have the right to respond to it.

The public accounts committee can direct the Auditor General to do a review. The email you're talking about was a situation in which the Auditor General had raised concerns about beginning an audit into a process where there was ongoing litigation. So at the public accounts committee, I believe your colleagues—I'm not sure, Mr. Fedeli, if you sat on the committee at the time, but actually all three parties agreed to delay consideration of this motion because the Auditor General was on vacation in Australia, and they wanted to wait until he returned.

Mr. Victor Fedeli: I was there for some of the public accounts meetings when the filibuster did take place, and I can tell you I was not impressed. Every time we pushed to have the Auditor General give us the ruling or the report on both Mississauga and Oakville, your Liberal MPPs called for a 20-minute recess, literally ran the clock out for the session. I was there. I sat there frustrated. So please don't try to fool us today.

I want you to go to document 3. Go to page 13 of 33. I'm not going to ask you to read it. I'll read it for you. These are your options to get to your strategic goals, as Ms. Fife so aptly brought up, to manage the timing and

manner of the release, so as to limit the negative communications impact on the government:

“1. Continue moving and debating government amendments to the motion”—

Mr. Kevin Spafford: Sorry. Which page are you on, Mr. Fedeli?

Mr. Victor Fedeli: I’m reading page 13 of 33: “Continue moving and debating government amendments to the motion for the remaining four summer committee days.

“Details:

—government members continue to debate amendments and move additional amendments for the remaining 32 hours of summer committee time.

“Advantages:

—would ensure both that no documents are released and that Minister Bentley does not face five hours of public testimony in immediate aftermath of Mississauga announcement.”

Why would you even imagine that you had any options other than just turning documents over to us? What would give you that thought in your head that you could rag the puck for an entire session and not turn documents over?

Mr. Kevin Spafford: I’m happy to provide the committee with outlining the issues that were at play as the government decided on its approach. The Minister of Energy felt that the committee did have a right to request the information and receive it, and I think that’s fairly outlined throughout the documents you have, that the government has always acknowledged the right of the committee to receive the documents. But there are also other considerations at play, and parliamentary convention dictated that parliamentarians would come together to reconcile those competing interests, and that was the whole basis of the approach that the Minister of Energy took and that staff took to follow.

Mr. Victor Fedeli: The unfortunate truth is that the Speaker ruled that we were entitled to all the documents, and I understand the side deals that you and your operatives continued to try to make, but sadly they all came with a price to pay, such as “Drop this and we’ll give you that.” You always had a side deal. I was in the committee for part of it, and none of that was appreciated. The fact is, the Speaker ruled we were entitled to those documents.

So I’ll ask you again: Why would you think anything other than turning the documents over was what this committee deserved?

Mr. Kevin Spafford: I am glad that you brought up the Speaker’s ruling, Mr. Fedeli, because I think it’s important for this committee to consider as it moves forward—

Mr. Victor Fedeli: A waste of time.

Mr. Kevin Spafford: —because the Speaker did initiate a novel process, and the novel process was based on the Afghan detainee ruling and other rulings that had come in the past. This process was to bring together the House leaders for a week to negotiate and reconcile the

competing interests and the protections involved in these documents. That was really an approach that confirmed the government’s approach. It’s unfortunate that the opposition decided that, even after receiving the documents, they wanted to push ahead with—

Mr. Victor Fedeli: You can say all you want here. Your own emails tell us what you were doing. You were trying to get through all of those weeks without ever having to turn over one document. It’s in your own emails.

I want to jump—staying on document 3, go to the fourth-last page, page 30 of 33. Now we’re at a phase where the Mississauga deal has been done. Are you on that letter to Mr. Prue—“Dear Mr. Prue”?

Mr. Kevin Spafford: Yes.

Mr. Victor Fedeli: This is Ryan Dunn, writing to you and others—Andrew Mitchell, David Phillips. “Urgent—final draft

“Here is the letter that the minister is comfortable with.”

In the third paragraph, it says, “The total cost of relocation is approximately \$180 million.”

It goes down, and on the third sentence, it says, “The total relocation cost also includes ... payments ... to the original site ... construction costs, design costs and permitting costs.”

We know from the Auditor General that that real number is \$275 million, and we know that the auditor told us that you knew—not you specifically; the government knew—that OPA had spent much more than that. The OPA estimated about \$265 million, \$270 million by the time this letter was written.

If you knew that the real number was over \$270 million, why would you have gone along with a letter that tells the public the total cost of relocation is \$180 million?

Mr. Kevin Spafford: My role was to advise on parliamentary procedure and the operations of the Legislature. That’s the advice I provided to the minister’s office—

Mr. Victor Fedeli: It was parliamentary procedure. Is contempt of Parliament what you advised him, then? Was it your advice to tell the parliamentarians it was \$180 million when they knew it was \$270 million? It turns out it was \$275 million. Was that your advice? Is that what I’m hearing you say?

Mr. Kevin Spafford: The advice provided to the Minister of Energy was that there was a paramount right of the committee to request information. There was also precedent that there’s an obligation on the part of the House and committees to also take into consideration other competing interests. That was the advice we provided to the minister.

Mr. Victor Fedeli: Keeping the truth from the public—the fact that you’ve already spent over \$270 million, but publishing, “The total cost of relocation is approximately \$180 million”—you were off by \$100 million—that’s okay? Is that what you’re saying—

Mr. Kevin Spafford: Mr. Fedeli—

Mr. Victor Fedeli: —parliamentary procedure?

Mr. Kevin Spafford: I think you're giving me a little bit too much credit. When I was in the House leader's office, interacting with over 20 ministries, and was expected to know the details of financial figures—I'm not equipped to answer questions about changing costs. I think the Auditor General has weighed in. I respect the advice of the Auditor General, and I think that should be followed.

Mr. Victor Fedeli: So who would have put that number of \$180 million when the government clearly knew at that time that the number was over \$270 million? Who would have done that, then, if not you?

Mr. Kevin Spafford: Well, if you're referring to the letter we're talking about here, it looks to be from Ryan Dunn, and—

Mr. Victor Fedeli: So you're saying Ryan Dunn wrote that? Do you know if he wrote that?

Mr. Kevin Spafford: I don't know if he actually wrote this. He sent it, it looks like, on July 11. It says the minister is comfortable with this letter. It's from the minister, Chris Bentley.

Mr. Victor Fedeli: I want you to go to document 5. We'll come back to four, perhaps, later. This is from you to David Phillips, copied to a Samantha Grant.

This is: "Draft so far"—it looks like you authored it—"just have to do the section on 'the deal' in the a.m."

This is a very lengthy document. Did you craft this? Did you write this?

Mr. Kevin Spafford: Sorry. Can I just have a moment to take a look at this, please?

Mr. Victor Fedeli: Yes. It's 14—actually, that particular section is about 10 pages long—eight pages long, I'm sorry; it's an eight-page document—"Important committee details."

1400

Mr. Kevin Spafford: It looks as though I wrote and sent it, and it would have been compiled from various sources that we had on file.

Mr. Victor Fedeli: This is pretty detailed. Whoever wrote this really knew their stuff, I must say. So you're saying you wrote this?

Mr. Kevin Spafford: As I mentioned, it was compiled from different sources, some of which came from the Ministry of Energy.

Mr. Victor Fedeli: But you authored this. On page 8 of 19, the last page of this one—it's marked number 7 down at the bottom—the second-last paragraph: "The matter has been resolved—plain and simple. All the documents requested by the committee have been produced." Did you write that line?

Mr. Kevin Spafford: I can't recall if I wrote that specific line, but—

Mr. Victor Fedeli: You wrote this document. You're responsible for this.

Mr. Kevin Spafford: I authored the document.

Mr. Victor Fedeli: You authored the document. Why would you say that all documents requested by the committee had been produced when we know that under sworn testimony from two of the Ontario Power Author-

ity witnesses, including their vice-president—they said the OPA was told by the Ministry of Energy to hold back certain documents—again, they were being cute—because it didn't say exactly the right word; it said "SWGTA" for "southwest GTA." So they were told to hold back documents. It turns out they held back documents in the thousands, and two weeks later, somebody with a better conscience turned 20,000 documents over to us.

When the government knew that we did not have all the documents, why would you have written, "All the documents requested by the committee have been produced"?

Mr. Kevin Spafford: I think it is important to speak to the timelines here. I believe, if this is from September 24, that would have been the day that the documents were released—

Mr. Victor Fedeli: We got the 36,000, yes.

Mr. Kevin Spafford: —and this was a document produced by the government House leader's office, and the assurances from the ministry and the OPA were that all documents had been produced.

Mr. Victor Fedeli: So somebody knew they weren't produced, because somebody in the ministry told people at Ontario Power Authority to actually physically pull documents out. We have sworn testimony here from the vice-president of the Ontario Power Authority that that is what occurred. People within your Liberal government did indeed know we did not have all the documents; we were missing 20,000. They were coughed up two weeks later, when somebody perhaps had the sound of jail doors slamming behind them in their mind.

Why would you have written this at the time when your government did indeed know?

Mr. Kevin Spafford: I reject the premise of your question, Mr. Fedeli.

Mr. Victor Fedeli: Those are facts. It's not a premise; these are facts. We have sworn testimony to that fact.

Mr. Kevin Spafford: They're certainly your facts.

Mr. Victor Fedeli: No, no; sworn testimony.

Mr. Kevin Spafford: I know that the Ontario Power Authority also testified and the Minister of Energy at the time also testified, and it's my understanding that at that time—this was written almost a year ago—all the documents had been produced, and that was the understanding at the time.

Mr. Victor Fedeli: Go to page 13 of 19. Now we're at another document. Now we're at Oakville. It's the second page, actually, page 14, the second-last paragraph: "Over the coming days and weeks you will read and hear lots of numbers related to the cost of plant relocation. The only accurate cost to taxpayers for this relocation is \$40 million."

The Vice-Chair (Mrs. Laura Albanese): One minute.

Mr. Victor Fedeli: Now, we already know from OPA that this will be up to \$310 million, if you look at today's estimates. One of the witnesses just before you told us that they knew there were going to be additional costs.

Why would you or whomever write a letter that's going to come out from the Liberal government that says that the total cost is \$40 million when it's in the hundreds of millions? Can you tell me that?

Mr. Kevin Spafford: Looking at this email, Mr. Fedeli, I see that it's sent to the whole Liberal government, and it's authored by the Ministry of Energy. I had no particular involvement in the statement from the Minister of Energy. I was not involved—

Mr. Victor Fedeli: So you're just the delivery person of this particular one. You may have authored the "\$180 million" memo, misleading on Mississauga, but you didn't author this misleading memo on Oakville.

Mr. Kevin Spafford: This email: It looks like I forwarded it along to my boss, David Phillips, as a—

The Vice-Chair (Mrs. Laura Albanese): Thank you. We shall pass it now to Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Chair. Mr. Spafford, just going back to my earlier question on the freedom-of-information request, I believe you have a copy of the email thread with the reference to Project Vapour during the calendar years 2010, 2011 and 2012.

We checked the freedom-of-information act, and it's fairly clear in a section under "Request":

"24(2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1)."

You were not complying with the spirit of the law when you were asked for Project Vapour material, when you said you had no responsive records. In fact, you could look at it.

Mr. Kevin Spafford: Mr. Tabuns, I believe if you're referring to section 24—is that what you're referring to?

Mr. Peter Tabuns: Yes.

Mr. Kevin Spafford: Section 24, subsection 2, "Sufficiency of detail"—just so we understand each other, that's what you're referring to?

Mr. Peter Tabuns: Yes.

Mr. Kevin Spafford: It says, "If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1)."

My understanding of the act is that the institution in this case was Cabinet Office, because they are the institution designated as receiving requests for the Premier's office and the government House leader's office. There's an obligation on people who run the FOI office, the Cabinet Office, to interact with requesters.

I myself, as a political staff member, never had contact with people requesting FOIs, because there's a protection against political involvement in the FOI process. In terms of going along with the spirit of the act, you're talking about the institution informing the applicant. I would have no role informing the applicant, because the act is set up in a way that screens political involvement in requests.

Mr. Peter Tabuns: I understand that entirely, but you wrote back to the person who was coordinating the infor-

mation. Instead of saying, "I have records that are pretty close, that I, as an experienced employee, would be able to say, 'Yes, this relates to what they're asking about'"—you didn't write back and say, "I have documents that refer to Vapour." You just said, "I have no responsive documents." You took not the spirit of the law but the letter of the law, to shield yourself and to shield this information.

Mr. Kevin Spafford: Well, Mr. Tabuns, I'm happy to respond to that.

Mr. Peter Tabuns: Yes, please.

Mr. Kevin Spafford: As I've previously said, I don't believe it is the role of political staff to interpret requests from FOI requesters. That is a task that's delegated to the Ontario public service, and there's legal counsel involved in deciding what searches are done.

You have access to hundreds of my emails and documents from my time in government, and those were a result of the searches that either FOI or the committee did.

There are hundreds of FOI requests every year, and I don't believe it's the role of political staff to insinuate what a requester is looking for by changing search parameters. In fact, I don't think that that act in itself would fit within the law, of changing what a searcher is looking for.

Mr. Peter Tabuns: Well, I would say that the way this law is written, you're using literalism to block any helpful effort. You could have told the person, "I have documents that are very close but don't have the exact same term. Are those the ones that you're interested in?"

Anyway, I won't pursue that further, but I think in that instance, you should have been providing that documentation or, if you didn't provide the documentation, at least informing the FOI coordinator that you had material that probably was of interest.

Going back to Dwight Duncan at estimates, we've already talked about the number that Dwight Duncan gave when he was in estimates. You have our communication 3. You note, "campaign vs. govt commitment, 180 vs 190"—

Mr. Kevin Spafford: Sorry; do you have the page number, Mr. Tabuns?

Mr. Peter Tabuns: Document 3.

Mr. Kevin Spafford: Okay. Got it.

Mr. Peter Tabuns: Do you know how much the Auditor General has said it would cost to cancel the Mississauga gas plant?

Mr. Kevin Spafford: I understand, actually because Mr. Fedeli just referenced it—I wouldn't have the number offhand, but my note is that the auditor put it at \$275 million.

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Mr. Peter Tabuns: When you were monitoring Dwight Duncan, were you aware that he was wrong?

Mr. Kevin Spafford: I was not aware of the auditor's report at that time because it wasn't released.

Mr. Peter Tabuns: Were you aware that the numbers he was giving were not full and adequate?

Mr. Kevin Spafford: No. As a staffer in the House leader's office, I deferred to others in the Ministries of Finance and Energy as to what the costs of cancelling the plants would be. It was not my subject area.

Mr. Peter Tabuns: When you were monitoring, Dave Phillips says, "More detail to come + regular updates" through the day. Did you continue to send updates?

Mr. Kevin Spafford: I can't remember. It was over a year ago. There's potential I did. There's potential I reported in orally to a staff meeting. I can't remember this particular one. You may have my records from the rest of the day. I'm not sure.

Mr. Peter Tabuns: In document 4, the filibuster to block the motion on the Auditor General—sorry. There was a motion put forward by France Gélinas in the public accounts committee for an audit of the power plants' cost in March 2012. That was filibustered, blocked. Were you involved in the development of that filibuster plan?

Mr. Kevin Spafford: I think I've referred to the day in question before, but I'm happy to reiterate. The strategy on behalf of the government was that the auditor had expressed concerns about beginning an audit while there were certain negotiations under way. That debate was taken up by the members of the committee who decided to raise those issues. In fact, if I remember correctly, your colleague Madame Gélinas agreed with the debate that the members had put forward. That's how I would characterize how that day went.

Mr. Peter Tabuns: I would actually say Mr. Phillips characterized it more accurately as, "We filibustered," rather than just having a debate on the merits of the matter. You were trying to drive the time. That, in my discussions with Ms. Gélinas, is her experience as well, that the time got eaten up.

Mr. Kevin Spafford: Mr. Tabuns, I did actually have a chance to see this email before today. You've actually cut out my original email to this, which I think is important to the context of this. If I remember correctly from when I saw this before committee, my email talked about the original motion, that we wanted to ensure the Auditor General had a chance to express his concerns, and that the Liberal members of the committee and staff had agreed that we would try to give the auditor the opportunity to come and express his concerns. So I—

Mr. Peter Tabuns: So you filibustered.

Mr. Kevin Spafford: What's that? Sorry?

Mr. Peter Tabuns: So you talked it out. That's what you did.

Mr. Kevin Spafford: I think I would point to the part of the email where it says your colleague Madame Gélinas actually agreed with what eventually happened. I would say that that is democracy in action when parliamentarians come together and agree on a course of action.

The Vice-Chair (Mrs. Laura Albanese): One minute.

Mr. Peter Tabuns: Well, I think when you get things talked out, sometimes you agree to a deferral so it isn't

lost forever. That is not necessarily democracy in action; that's simply time management.

Whose idea was it to filibuster and block the motion on having the Auditor General look at the power plants issue?

Mr. Kevin Spafford: I'm pleased to give you a bit of an overview and hopefully help the committee understand how the operations of committees worked under our government. Members of the government—that's MPPs and staff—work together to develop a strategy. That would be the Liberal caucus members—

Mr. Peter Tabuns: I think you're straying from where I'm going. Whose idea was it to filibuster?

Mr. Kevin Spafford: I'm giving you an overview of how it works.

Mr. Peter Tabuns: I understand the overview, but generally speaking, you look around this room and you'll see that different people advise others; we talk amongst ourselves; some are leading a particular initiative, and others collaborating—

The Vice-Chair (Mrs. Laura Albanese): Thank you, Mr. Tabuns. Unfortunately, the time has expired. I will turn it over to Mr. Delaney.

Mr. Bob Delaney: Kevin, when it came to filibustering, it would seem that the real champions were the official opposition, who, according to some of the information compiled in the government House leader's office and referred to in the Legislature—since the 2011 election, it had taken an average of 52 sessional days to pass a government bill; 35 sessional days longer than the average bill during the Bill Davis second minority government.

The Vice-Chair (Mrs. Laura Albanese): Mr. Delaney, I have to remind you that we need to remain relevant to the mandate.

Mr. Bob Delaney: Okay. So if we are pursuing a discussion about this issue, pertaining to dragging it out, wasn't it the PCs who were more active in bell-ringing and stalling the Legislature than the government?

Mr. Kevin Spafford: I really wish I had the documents at hand today to talk about them, but from what I recall, the time period in which the minority government was—

The Vice-Chair (Mrs. Laura Albanese): I apologize, but the question, and therefore the answer, doesn't have relevance to the mandate.

Mr. Bob Delaney: Okay. So let's move on, then, to the estimates committee.

I'd like to quote from Michael Prue, the Chair of the estimates committee at the time that the original motion passed. One of the comments that he made was the following: "I think the minister, being a lawyer himself, knows full well that he may choose to answer the question in such a way as not to prejudice the province in any way, and I would expect him to do so."

In terms of document production, Mr. Prue stated, referring to the committee, "They have the right to ask for the documentation. The minister has the right to decline

either giving that documentation or giving voice to that documentation during his answering of the questions.”

Did that at the time give you a sense that the Chair of the estimates committee was validating the concerns that Mr. Bentley had raised?

Mr. Kevin Spafford: Certainly. And in fact, more than that at the time—I think I described before—in the context of a minority government in Ontario, not having dealt with a true minority in decades, everyone working on the issues of the day was facing new issues that were coming up.

Michael Prue’s ruling, as Chair of the estimates committee, really was a new ruling that confirmed that the minister had the opportunity to provide a response that he thought was in keeping with the committee’s right to request information, but also the protections of solicitor-client privilege and commercial sensitivity, which, in fact, was his response. So that really confirmed the approach that the minister had, based on the ruling from the Chair. Going forward from that, we understood that that ruling would have a paramount effect in terms of how the committee would operate.

Following that, I understand that the Chair made a different ruling with respect to Mr. Leone’s forthcoming motion. So that was obviously a change in the ruling that we had originally had, but it certainly formed the basis of how we are proceeding—as it should, because the Chair makes a ruling and there’s no debate; you follow the ruling of the Chair. That’s what I believe the minister was doing.

Mr. Bob Delaney: So we’ve discussed the various attempts at reaching a negotiated solution with the opposition parties regarding the contempt motion against then-Minister Chris Bentley, and one of the transition memos we’ve seen quotes Mr. Phillips as saying, “The government made several offers to the opposition to resolve the matter, but all were rejected. The opposition refused to engage in any meaningful negotiations.”

Could you talk to the committee about what offers were made to work with the opposition on this matter?

Mr. Kevin Spafford: Sure. There were a few occasions that overtures were made to find a solution and negotiate a solution to the matter. The first was during the estimates committee process, when the House leaders and staff of the House leaders met to discuss the issues. The government did offer to the opposition, and acknowledged the right of the committee, to see those records, but expressed the concerns of the Minister of Energy and tried to enter into a process where the committee could get access to the information in a way that is consistent with past parliamentary precedents.

I’ve used the example of in camera—and other committees have used that approach—and so the House leaders discussed that and staff discussed that, and we proposed that the estimates committee enter into some sort of process where certain documents could be reviewed in camera. Those were overtures made prior to the conclusion of the estimates process; unfortunately, those were not accepted.

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I think it’s safe to say that there was a drive on the part of the members of the opposition at the time to proceed with the motion and reject the overtures that were being made. The second example of that is that when the Speaker made his ruling—in September, I believe—he provided the House leaders with a week to get together and discuss, and there were high-level negotiations between the House leaders.

In those negotiations, I know that the government House leader made a formal proposal with various options of providing the documents with protections provided, and offered that process. The opposition rejected it outright and decided to instead just move ahead with contempt, and the government ended up tabling all the documents, recognizing the paramouncy of the Legislature.

Mr. Bob Delaney: Any ideas why the opposition refused to negotiate with you?

Mr. Kevin Spafford: You know, I’m not sure. As I mentioned before, there were three examples I could find, and maybe more, of Conservative members of the committee who actually would have at the time agreed to a novel process of finding a way to review these documents. Why our negotiations didn’t make their way to the committee members, I’m not sure. I think it’s an issue worth the committee’s time to look at.

Mr. Leone has made statements: “Why didn’t you offer us in camera? Why didn’t you offer us other ways of looking at the documents?” Well, that’s not, in fact, true. There were those offers made. They were made at the House leader level and at the staff level. Perhaps they didn’t get down to the caucus members of the committee at the time.

There are often many channels of how this House functions: on the floor of the committee, on the floor of the House, and then there are House leaders, and many decisions in this place are made at the House leaders’ table. It’s no less legitimate because it occurs on the second floor. Those discussions were real, they happened and they’re reflected in the documents that were provided. Unfortunately, the opposition decided not to take us up on any of those offers.

Mr. Bob Delaney: In a September 18, 2012, letter to former Premier McGuinty, the opposition House leader wrote, “It is our position that the documents should be tabled in the Legislature, unedited and unredacted.” As a reminder, the Oakville deal was not yet finalized at the time this letter was sent, and you’ve pointed out that, from the indications you’ve had, the opposition wasn’t really interested in a compromise. Any comments on that?

Mr. Kevin Spafford: I would just say again that, from my experience, we had those conversations with the House leaders and the opposition staff, and there was no willingness to discuss a conversation.

At times, there was a willingness from some of the staff who have now departed. I know one, Jeffrey Kroeker, who was a PC staff member, was really inter-

ested in the idea of in camera. He'd worked federally through the Afghan detainee issue and he was interested in it. It went up to PC leadership, and we understand it was rejected.

Mr. Bob Delaney: Okay. So instead of pursuing something that, perhaps, some of their own staff members may have recommended—

The Vice-Chair (Mrs. Laura Albanese): One minute.

Mr. Bob Delaney: —in fact, the Legislature was shut down for an extended period of time. Do you have any final comments on this?

Mr. Kevin Spafford: As I said, I would submit that I think the committee has a real role here for plowing a way forward to deal with these issues in the future. There is precedent, and in this House, at this time, ongoing committees are finding ways to protect sensitive information, such as the public accounts hearings going on with Ornge. They've made those protections available, and I think it's important to provide those guidelines. In the past, parliamentarians have come together with reason, to discuss and debate and work out a path forward for satisfying the committee.

The Vice-Chair (Mrs. Laura Albanese): Thank you. We now turn it over to Mr. Fedeli.

Mr. Victor Fedeli: Thank you, Chair. I just want to recap some of what we've learned today from these emails that we've discussed. Back in March we started off—to use the words right out of your own documents—to filibuster public accounts so that we can drag this into the summer, get through the spring and into the summer.

In July, then, we saw—a quote again from here—“to move and debate more additional amendments to fill in the remaining 32 hours.” That gets you first out of public accounts and now through estimates.

On August 3, you hoped to win the Kitchener by-election, and that kind of halts any more hearings.

Number four, in September, with respect to the committee, the decision is not to turn over any documents, and when we do get the 36,000 documents, they were redacted, deleted, some were removed and others, we learned, were destroyed, but basically the whole idea was to delay us getting our hands on documents.

Finally, when the 20,000 more documents were turned over, that brought us to the 56,000 documents from the original request. So we've seen a filibuster at public accounts, debate for 32 hours at estimates, not turning over documents at committee and finally turning over the documents at committee. When we realized that these documents proved that they really were redacted, deleted, removed and destroyed in the original 36,000, the Premier's inclination—the very next opportunity, on the Monday—was to resign and prorogue Parliament.

That's kind of what we've learned so far in the last hour, a little bit from this morning and certainly from David Phillips last week.

You're involved in a lot of this, in the cover-up aspect. The filibuster, wasting 32 hours at estimates, not turning the documents over—actually, the part that I didn't bring

up was the document that you were involved in crafting, misleading us by saying it's \$180 million, and the other one that misleads us by saying it's \$40 million.

Again, I'm going to ask you: Why? Why all that? What is it that you don't want us to know, that you went to all these pains for almost a year now or more than a year now?

Mr. Kevin Spafford: Thanks. I appreciate the timeline you provided, Mr. Fedeli. In July, in fact, the committee did pass the Ministry of Energy's estimates. The motion went forward and the minister did provide documents upon the conclusion of the Mississauga case. The whole approach to the government's strategy was that the committee had to write to request information. I think, if you've looked through my documents, and you say you have, the acknowledgement is there and has always been there that the committee has the right to request the documents.

What followed were the other factors and considerations that past Legislatures and this Legislature, in fact, have taken into consideration in how to receive those documents. As Minister Bentley said, it wasn't if, but when, and, I would add, how. I think that was an important consideration that the minister was trying to inflect into how the committee would receive documents that could put the Ontario taxpayers at risk.

Mr. Victor Fedeli: Well, I appreciate your thoughts, but quite frankly that wasn't the whole approach. The whole approach to the government strategy was—many of these are in your own words—to delay and to push this off. We have other documents that talk about, “We'll try to get it through, past the next budget. If we survive we'll deal with it then.” Every time, all we've seen from you and all of your Liberal operatives was to delay, not to give us everything, be cute with freedom of information, where, “Oh, it wasn't spelled correctly” or, “It wasn't quite thorough.” That's all we've seen from you and your fellow operatives.

Mr. Kevin Spafford: I disagree with—

Mr. Victor Fedeli: What do you think you know that we don't know?

Mr. Kevin Spafford: I disagree with your assessment, Mr. Fedeli.

Mr. Victor Fedeli: I'm just reading from your own emails and—

Mr. Kevin Spafford: I think some of the memos that you look at that I drafted, which are in the documents, the government took a methodical approach to developing a position on this that was based on the parliamentary procedures. If you look back and look through the parliamentary texts which your House leader's office probably has in their office—we looked through those and found that, yes, the committee had the right to request information. That wasn't a question. The question was, what precedent is there for respecting important precedents like legal client privilege?

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Mr. Victor Fedeli: No, we understand you took a methodical approach, but the methodical approach was to

delay at every turn. There's nothing here in any of the email provided by you or Mr. Phillips or anybody else that showed, "You know what? I think we should do this and be forthcoming to the committee." It was all about, "What little can we give them to delay us to the next day, the next week, the next 32 hours, the spring, the summer"—right up to and including the ultimate: the resignation of the Premier, the finance minister and the Minister of Energy, and prorogation. What makes you think that you have the right to stretch out something like that over the course of a year rather than be forthcoming with the information?

Mr. Kevin Spafford: I just don't see it that way, Mr. Fedeli, and I think if you look at the documents—

Mr. Victor Fedeli: Well, the documents do. The documents are pretty revealing.

Mr. Kevin Spafford: Yes, exactly, and I think if you do look through the documents, you'll see that at every stage, the government took an approach that was informed by experts, that was based on parliamentary procedure. The documents started to flow in July to the committee when Mississauga was settled and continued to flow. That was based on the expert opinion that was provided to the government and that the ministry adviser decided to take a position on.

Mr. Victor Fedeli: They only flowed when we pushed, when the Speaker said that you had to, when we proved that in the 36,000, there were redacted documents and missing documents. The only flow we ever got was after we forced it, and we got to the next stage and got another eyedropper of information. I've said this here before, we either have always been led around by the nose or allowed to spin our wheels, this little eyedropper of information—and we're getting there, mind you. We're starting to paint a picture. The recap that I did paints a pretty good picture of the cover-up and the delays we've seen.

Let me look at another chapter. Let me ask you again: Do you delete your emails?

Mr. Kevin Spafford: I kept records management—certainly I kept emails from different time periods when I was in government, based on the schedules that I was provided.

Mr. Victor Fedeli: Did you delete your email?

Mr. Kevin Spafford: You have hundreds of my emails here—

Mr. Victor Fedeli: Yes, I understand that, but did you delete email?

Mr. Kevin Spafford: —and my records management practices were in line with the schedules that are set out.

Mr. Victor Fedeli: Did you delete any email?

Mr. Kevin Spafford: In my time in government, there were transitory emails, if you understand the nature of my role. For example, in the morning, I would email opposition staff with the schedule of debate; and the schedule says that that email should be discarded, and I followed the schedule in those cases.

Mr. Victor Fedeli: Other than transitory email, did you delete any email?

Mr. Kevin Spafford: Other than transitory emails?

Mr. Victor Fedeli: Yes.

Mr. Kevin Spafford: I'd look to the schedule of records, in which there are other schedules of records that—

Mr. Victor Fedeli: It's kind of a simple question. It's just a simple question.

Mr. Kevin Spafford: Well, it's a simple question, but I think there's an answer for that, actually—

Mr. Victor Fedeli: I worry about my question, actually, asking you if you deleted transitory—

Mr. Kevin Spafford: There are a few different sections. There's advertising and promotional material, surplus duplicates—

Mr. Victor Fedeli: I want to get quickly to kevin@spafford.ca—

Mr. Kevin Spafford: —the duplicates of the email are another area—

Mr. Victor Fedeli: Excuse me Chair, I'm going to ask another question here. Kevin@spafford.ca: Is that your personal email?

Mr. Kevin Spafford: Yes, it is.

Mr. Victor Fedeli: Did you ever use that for government business?

Mr. Kevin Spafford: Sometimes at home, late at night, I didn't have a government laptop. I would send along a document—

Mr. Victor Fedeli: Do you think any of those emails should be turned over to freedom-of-information or to this committee, if they met the criteria?

Mr. Kevin Spafford: If it met the criteria of—which criteria?

Mr. Victor Fedeli: Many of the last dozen requests we've put in for email.

Mr. Kevin Spafford: I'd be happy to provide any information that the committee would request.

Mr. Victor Fedeli: Okay. We'll be bringing a motion for all the email from kevin@spafford.ca.

I notice a lot of other people are using other emails: johnmilloy@rogers.com; dlphillips01@gmail.com—

The Vice-Chair (Mrs. Laura Albanese): One minute.

Mr. Victor Fedeli: —johnmilloympp@rogers.blackberry.net; a lot of Kevin Spaffords, D.L. Phillips, melaniefrancis28@gmail.com; these aren't government accounts. What's that all about? Why are people using non-government email to have minister's letters and written submissions? What would that be for? Some of these are during work hours.

Mr. Kevin Spafford: Certainly I'm happy to discuss the use of personal email. In my case, I didn't have a government computer—

Mr. Victor Fedeli: It's 10:27 a.m.

Mr. Kevin Spafford: It's 10:27? And which—

Mr. Victor Fedeli: Somebody's emailing at 10:27 a.m. You got emails at 5:17 p.m.

Mr. Kevin Spafford: Sorry, which email are you referring to, Mr. Fedeli?

Mr. Victor Fedeli: I'm just asking: All of these emails—they're not all late at night. What advantage

would there be to using a personal email rather than a government email? Is it to usurp freedom of information? Is it to usurp this committee? Why do you think some of these people are using—

Mr. Kevin Spafford: Certainly not, and actually, in the documents you're referring to, I came back to volunteer for two days to help with the point of privilege.

Mr. Victor Fedeli: Well, that's appreciated, but why are they usurping this committee—

The Vice-Chair (Mrs. Laura Albanese): I will end it there. I'm sorry; the time is up. Thank you, Mr. Spafford, for appearing before the committee.

We will now take a recess of about 10 minutes. Is that fine? Thank you.

The committee recessed from 1435 to 1447.

SUBCOMMITTEE REPORT

The Vice-Chair (Mrs. Laura Albanese): We're back in session, and our first order of business is the report of the subcommittee, which I will ask MPP Clark to read into the record.

Mr. Steve Clark: Thank you, Chair. Your subcommittee on committee business met on Tuesday, August 20, 2013, to consider the method of proceeding on the orders of the House dated February 20, 2013, and March 5, 2013.

(1) That the Clerk of the Committee arranges for the return of the documents received from the Office of the Budget and Treasury Board of the Ministry of Finance in response to the May 7, 2013, motion passed in committee, and requests the confidential documents be separated from the non-confidential documents.

(2) That the Clerk of the Committee requests that the Office of the Budget and Treasury Board return the separated documents (confidential and non-confidential) within two weeks of this subcommittee report passing, for distribution to the committee.

I move that the subcommittee report be adopted.

The Vice-Chair (Mrs. Laura Albanese): Thank you, MPP Clark.

Any discussion? Mr. Fedeli.

Mr. Victor Fedeli: Thank you, Chair.

Mr. Bob Delaney: Do we have that on paper?

Mr. Victor Fedeli: This is the 27 boxes, Chair, that we received on May 21? That's the one we're referring to right now?

The Vice-Chair (Mrs. Laura Albanese): We will confer.

The Clerk of the Committee (Ms. Tamara Pomanski): Yes, they are.

The Vice-Chair (Mrs. Laura Albanese): Yes, they are.

Mr. Victor Fedeli: So when it says here, "arranges for the return of the documents," do you expect us to return our documents to you?

The Clerk of the Committee (Ms. Tamara Pomanski): No. I'll return the boxes they gave to me.

Mr. Victor Fedeli: Okay, so it's the boxes. The CDs that we have at the moment, we'll keep?

The Clerk of the Committee (Ms. Tamara Pomanski): Correct.

Mr. Victor Fedeli: Okay, and once we receive the new ones and compare that absolutely every file is there, only separated, we can return the original to you?

The Clerk of the Committee (Ms. Tamara Pomanski): Correct.

Mr. Victor Fedeli: Okay, that's fair. Thank you.

The Vice-Chair (Mrs. Laura Albanese): Any further comment?

Mr. Bob Delaney: Just before I do—thank you. We're good.

The Vice-Chair (Mrs. Laura Albanese): We're good?

Mr. Victor Fedeli: Maybe I have one more, Chair.

The Vice-Chair (Mrs. Laura Albanese): Sure.

Mr. Victor Fedeli: Am I allowed to say the four categories? Yes or no. Was it in the letter? Was it in the public letter, the four categories?

Interjection.

Mr. Victor Fedeli: Then what I'm just asking is for the assurance: What they're separating by "confidential" are the four either corporations or topics that were to be separated?

The Clerk of the Committee (Ms. Tamara Pomanski): I think that would be up to the ministry. Whatever they listed as confidential, they would separate out.

I think they did mention the items in their transmittal letter.

Mr. Victor Fedeli: The four names?

The Clerk of the Committee (Ms. Tamara Pomanski): Yes.

Mr. Victor Fedeli: I'm positive as well. So it's nothing more than those four names that will be—

The Clerk of the Committee (Ms. Tamara Pomanski): I'm not sure. I just know I would just request for them—that they would determine the ones that were confidential versus non-confidential.

Mr. Victor Fedeli: Hang on a second. I don't want anything new. I wouldn't want to see anything new declared confidential. It's the four topics that they mentioned. I don't have my letter here either; I apologize for not bringing it down with me.

Mr. Joe Dickson: Go get it.

Mr. Victor Fedeli: I'm sorry?

Mr. Joe Dickson: Go get it, Vic.

Mr. Victor Fedeli: No, down with me from North Bay. I just want to make sure, because if those four names are public, I'd like them recorded on here.

The Vice-Chair (Mrs. Laura Albanese): Then perhaps we can add, "in the original letter, received in the original"—

Mr. Victor Fedeli: That's fine. As outlined in the original transmittal letter, and that limits it by those four that can be listed as confidential.

The Vice-Chair (Mrs. Laura Albanese): As outlined in the original—

Mr. Victor Fedeli: Transmittal letter.

The Vice-Chair (Mrs. Laura Albanese): — transmittal letter.

Mr. Victor Fedeli: Is that fair, Chair and the Clerk?

The Vice-Chair (Mrs. Laura Albanese): I believe so. So it's going to read "and requests the confidential documents be separated from the non-confidential documents as outlined in the original transmittal letter."

Mr. Victor Fedeli: That's fair.

The Vice-Chair (Mrs. Laura Albanese): Any more comments? Shall the amendment carry? Carried.

Shall the report be adopted, as amended? Carried.

We will now deal with a motion from Mr. Fedeli, which he will now read into the record—a new motion.

Mr. Victor Fedeli: I move that the Standing Committee on Justice Policy request from the Ministry of Government Services all documents and electronic correspondence related to the cancellation and relocation of the Oakville and Mississauga gas plants, sent or received, by Alicia Johnston from 2010 until her departure from the Premier's office, including all correspondence from the aforementioned individual stored in all electronic primary and secondary storage vaults including the "Enterprise Vault," and any backup tape; that the search terms include any and all proxy names including but not limited to the following: Project Vapour, Project Vapor, Vapour, Vapor, Project Vapour Lock, Project Vapor Lock, Vapour Lock, Vapor Lock, TransCanada, TCE, Greenfield, Greenfield South, Project Fruit Salad, Project Banana, Project Apple, Oakville gas plant, Mississauga gas plant, EIG, EIG Management; that the documents and electronic correspondence be provided by September 10, 2013; and that the documents and electronic correspondence be provided in an electronic, searchable PDF.

The Vice-Chair (Mrs. Laura Albanese): The motion is in order. Any debate?

Mr. Bob Delaney: Yes, Chair. This motion asks a third party to assist the ministry in compliance. I'm not sure at this point whether the due date suggested by Mr. Fedeli is realistic. We don't have the information to know whether or not that's plenty of time or nowhere near enough time. I would point out that the committee has been advised that a search on the storage vaults, the Enterprise vault—we have been told that this is very expensive and may involve searching for documents that, as far as we know, may or may not even exist.

In light of this, I'm wondering whether Mr. Fedeli would like to narrow his search terms because he's casting such a wide net that this is either going to take one heck of a long time or he's going to ask a supplier to undertake a very expensive project with no estimate whatsoever of the time or expense required and that may or may not yield anything fruitful.

The Vice-Chair (Mrs. Laura Albanese): Any comments?

Mr. Victor Fedeli: No.

Mr. Bob Delaney: Chair, we can't support this motion as written. Due diligence would require us to ask the third party supplier how long this might take and what this might cost. I think that would be the prudent step before—I mean, we have no objection to providing any documents that the government may be able to lay hands on, but if it comes to a third party, we'd like to get an estimate of both time and expense before undertaking the effort.

Mr. Victor Fedeli: Chair, this request is virtually identical to every other request that we have made from this committee, with the exception that it's now in that Enterprise Vault, which of course we learned is where the deleted and destroyed emails went to die. With only 288 emails from this particular person, based on all of the other quantities—over 1,000—from everyone else, we have to presume that there are indeed additional emails that we're entitled to.

I am quite certain that MGS people we're requesting will come back to us if there's something extraordinary about this, as they have in the past when they first disclosed the existence of this vault.

Mr. Bob Delaney: The government has previously offered everything that responds to the committee's mandate, and I have no problem with the request on its face. What I do ask is that, prior to undertaking what could be a time-consuming and expensive search, we first ask the supplier how long might it take and what might it cost and, in fact, do the kind of due diligence that even some of the members of the opposition have said to the government, "Why haven't you done it?" The government is now saying, "Let's just do that active due diligence."

Everything that's within the government's orbit, you can have it, as you've been able to have everything else. But if what you're asking for is an activity and an outcome that has to be delivered by an independent third party that has already warned us that this is time-consuming and expensive, can we get an estimate of both the time and the cost so that we can properly manage both our deliverables and our process, not to mention our money?

The Vice-Chair (Mrs. Laura Albanese): Mr. Fedeli.

Mr. Victor Fedeli: Two points: First, Chair, Mr. Delaney is incorrect in his assumption and his statement that the government has previously offered everything this committee has asked for. We're still here looking for emails that were destroyed, deleted, redacted or we wouldn't be here—still looking for that, if indeed they had supplied this committee with everything we asked for. I recapped the process that we had to go through to get to this committee stage, let alone the delays this committee has had with the 20,000 documents that were removed. That's my first point.

My second point is, I would repeat on the record that I'm quite certain that MGS would be able to come back to this committee if there was something extraordinary about the cost or the time and report to us. It would not be unusual for that to occur. I just don't want to start that

way. We may end up there, but I certainly would not want to start that way. Those are my final thoughts on it.

The Vice-Chair (Mrs. Laura Albanese): Further comments?

Mr. Bob Delaney: Actually, I accept Mr. Fedeli's comments.

The Vice-Chair (Mrs. Laura Albanese): All those in favour? Opposed? Carried.

We will now move on to deal with two motions by Mr. Tabuns. They both have been deemed in order by the Clerks. Mr. Tabuns, if you would like to read the first motion.

Mr. Peter Tabuns: I move that the Standing Committee on Justice Policy request that the office of the government House leader produce any and all paper and electronic files and records from the period of May 16, 2012, to March 5, 2013, inclusive, related to the May 16, 2012, motion at the Standing Committee on Estimates calling for the production of documents related to the Oakville and Mississauga gas plants;

That all responsive files and records include but not be limited to: correspondence, briefing notes, emails, PIN messages, BBM messages, SMS messages, memoranda issue or House book notes, opinions and submissions, and including any drafts of or attachments to those records; and

That all submissions be tabled as searchable PDF documents—and, Madam Vice-Chair, I should have added a timeline, and I will—to be reported back in 21 calendar days.

The Vice-Chair (Mrs. Laura Albanese): In 21 calendar days?

Mr. Peter Tabuns: Yes.

The Vice-Chair (Mrs. Laura Albanese): Of the motion passing?

Mr. Peter Tabuns: Yes.

The Vice-Chair (Mrs. Laura Albanese): Mr. Delaney?

Mr. Bob Delaney: Chair, if my understanding of this is correct, and I do believe it is, the office of the government House leader is pleased to say that you can have it yesterday, because apparently you do. I think—and correct me if I'm wrong or fill in the parts that I'm missing—all of this information has already been turned over to you. What parts—help me out here. What part are we missing here that you haven't got?

Mr. Peter Tabuns: According to our staff, in fact, we don't have all this. If we have it, then I'm quite happy to have the government House leader point it out.

Mr. Bob Delaney: We are more than willing to comply. Is it possible that you could cast this net a little bit narrower, and if there is something that you believe that you don't already have, if you ask for it, we're delighted to try to help you hunt it down. But in the motion that's here, I've looked this over and discussed it with the staff of the government House leader, and they say, "We've already done this." So what part are we missing here? Is there anything that you can help us with to make this request a little bit narrower and, in so doing, not have

people give you boxes and boxes of material that may or may not be responsive to the motion? Let's assume that it is, but it's the same stuff that you already have.

Mr. Peter Tabuns: Well, my assumption, then, Mr. Delaney, is, if you already have it, that you'll have no difficulty extracting it and providing it in the form that I've requested. But I—based on reports back from our staff—don't have an indication that, in fact, we have this material.

Mr. Bob Delaney: The two motions are somewhat similar, and they both come from the office of the government House leader. Can I beg the indulgence of the committee just for a very brief recess? We are trying to say yes to this, and we're also trying to help you not have to sift through many thousands of documents that you may already have. Can I just have five minutes to ask this of staff, and perhaps we could even come back with a helpful suggestion? Or perhaps—

Mr. Peter Tabuns: I have no objection to a five-minute recess.

Mr. Bob Delaney: It'll be five minutes or less.

The Vice-Chair (Mrs. Laura Albanese): Okay, a five-minute recess.

The committee recessed from 1502 to 1511.

The Vice-Chair (Mrs. Laura Albanese): We are now back in session. Mr. Delaney.

Mr. Bob Delaney: Thank you, Chair. I have asked the government House leader's office if they would please print me off a few copies of the three-page letter that was sent to the Chair of this committee on May 21, 2013, from the chief of staff of the Office of the Premier.

Prior to getting that, Mr. Tabuns, what you would have received are all documentations and correspondence, electronic or otherwise, between January 1, 2010, and May 7, 2013, which seems to be a wider range than what you've asked for, related to the cancellation and relocation of the power plants in Mississauga, including but not limited to—and all of the qualifiers and the search terms.

You received 15 boxes of responsive documents to accompany that letter, which represents something like 30,000 pages. The chief of staff has said that the office has interpreted the committee's request very broadly, and—I'll quote from the letter—"although the government House leader's office is not formally part of the Office of the Premier, records from all staff within that office have also been included in the documents provided," which would include, as was said earlier, some 1,829 pages from Dave Phillips.

So while I appreciate the spirit with which the request has been made, would you like to stand it down for a bit to see whether or not we've already done it? Because I think we already have. If we haven't, we'll make up the difference or have a reason to discuss it. It would give me great pleasure to say that we've already met this yesterday.

The Vice-Chair (Mrs. Laura Albanese): Mr. Tabuns?

Mr. Peter Tabuns: If you will give me a moment.

Mr. Bob Delaney: Sure.

The Vice-Chair (Mrs. Laura Albanese): Sure. We'll temporarily recess again.

The committee recessed from 1513 to 1514.

The Vice-Chair (Mrs. Laura Albanese): We're back in session.

Mr. Peter Tabuns: I'd like to thank the committee for its indulgence. I'm going to double-check. I would appreciate it if this motion could be tabled and brought back at our next meeting.

The Vice-Chair (Mrs. Laura Albanese): Is the committee okay to defer the motion?

Mr. Bob Delaney: We're fine.

The Vice-Chair (Mrs. Laura Albanese): Okay. Agreed? Agreed.

Well, I believe that that concludes—

Interjection.

The Vice-Chair (Mrs. Laura Albanese): No, we have motion number 2. Mr. Tabuns.

Mr. Peter Tabuns: We'll hold them both.

The Vice-Chair (Mrs. Laura Albanese): We'll hold them both.

Mr. Bob Delaney: It was a package deal.

The Vice-Chair (Mrs. Laura Albanese): Okay. Thank you.

Mr. Victor Fedeli: Chair, before you gavel us out, I just wanted to check: We are dealing with the confidential documents today, right?

The Vice-Chair (Mrs. Laura Albanese): In the subcommittee meeting.

Mr. Victor Fedeli: Okay. Thank you.

The Vice-Chair (Mrs. Laura Albanese): This committee is adjourned, and we will proceed to the subcommittee meeting. Thank you very much.

The committee adjourned at 1515.

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