

MEMO

DATE: Oct 3, 2012

TO: Colin Andersen

CC: Ziyaad Mia, Mike Lyle

FROM: Kristin Jenkins

RE: **Aug 22 Meeting with Jesse Kulundren on OPA's Mississauga and Oakville Power Plant Documents**

Yesterday, you asked that staff go through the documents that have already been disclosed as well as the second set that will be disclosed in relation to the Estimates Committee motion because Ministry staff now say that they did not instruct OPA staff to exclude attachments to correspondence where the correspondence does not mention Oakville or Mississauga.

As you are aware, both Ziyaad and I have been clear that this is in fact what Jesse Kulendran told us to do at the meeting on Aug 22. After our meeting yesterday, I followed up with Ziyaad who reminded me that at the Aug 22 meeting, Jesse requested that we go page by page through OPA's non-privileged Oakville documents. During this page flip Ziyaad and I put post-it notes on the documents based on the direction Jesse was giving us during the meeting. These post-it notes have never been removed from the documents.

Not only is it apparent from the post-it notes that Jesse directed the OPA to exclude attachments where the correspondence itself was not responsive, it is also clear that Jesse directed us to exclude SWGTA. I have the documents and can show them to you.

**Ontario Power Authority
Second Disclosure to the Estimates Committee
Key Messages & Questions and Answers
October 1, 2012**

Key Messages

- OPA today disclosed documents that should have been disclosed on Sept 24 with the other documents related to the cancellation of the Mississauga and Oakville power plants.
- The documents were not intentionally left out. It was a mistake which we moved quickly to correct when we discovered it.
- We notified the clerk of the Estimates Committee on Sept 27 and since then have been assembling the documents with the assistance of a third-party document management expert.
- OPA's best efforts fell short. We apologize to the members of the Estimates Committee and the Legislature for overlooking these documents.
- OPA staff realized that there were additional documents when they were carrying out due diligence on the process used to assemble the documents disclosed on Sept 24.
- We left out correspondence from three former and two current employees and did not include some relevant search terms.

Questions and Answers

Why are you only disclosing these records now?

Some records were overlooked in the original search. We left out three former and two current employees and did not include some relevant search terms. This was not done intentionally. Our best efforts feel short. We made a mistake. Once we realized it, we moved quickly to correct it. OPA notified the clerk of the Estimates Committee on September 27. We have been assembling the additional records since then with the assistance of a third-party document management expert.

Did the government ask you to leave out these documents?

No. This was not done intentionally. Our best efforts fell short. We made a mistake. Once we realized it, we moved quickly to correct it.

These additional documents are at the heart of the motion that was introduced on Sept 25 and voted on Oct 2. How could you not have spoken up before now?

We informed the clerk of the Estimates Committee on Sept 27 that there were additional documents to disclose to the committee. We have been assembling the documents since then with the assistance of a third party document management expert.

Did the government approve the OPA disclosures? Did they review the documents before they were disclosed to the committee?

The government did not see the additional documents before we disclosed them. The government did review the 27,000 pages before they were released. The government also provided the OPA with direction on what should be considered responsive to the Estimates Committee motion.

What was the direction provided by government?

The documents needed to be correspondence from September 1, 2010 to December 31, 2011 that referenced the cancellation of the Mississauga and Oakville power plants.

What were the search terms that were left out?

The search terms were Oakville Generating Station, OGS, Oakville power plant, Oakville gas plant and Keele Valley. Documents that included the acronym SWGTA while searched were left out of the first disclosure. None of this was intentional. Our best efforts fell short. We made a mistake. Once we realized it, we moved quickly to correct it. OPA notified the clerk of the committee on Sept 27. We have been assembling the additional records since then with the assistance of a third-party document management expert.

Wasn't Oakville Generating Station the actual name of the power plant and SWGTA the name of your procurement process? How could you leave them out?

It was an oversight. It was not intentional. Our best efforts fell short. This disclosure was a massive undertaking. Last month, OPA purchased software to assist with these types of large document requests. This software was used to search for the additional documents. And, we hired a third-party document management expert to assist with the additional disclosure.

Did the software detect the missing documents?

No, OPA staff realized that there were additional documents when carrying out due diligence on the process used to assemble the documents released on Sept 24. We notified the clerk of the Estimates Committee on Sept 27 and moved quickly to identify and assemble the documents with the assistance of a third-party document management expert.

Who are the employees that you left out?

Three former employees and two current employees were left out. This was not intentional. Our best efforts fell short. We made a mistake. Once we realized it, we moved quickly to correct it.

Did you leave out Ben Chin?

Yes, Ben Chin was one of the former employees. This was not intentional. Our best efforts fell short. We made a mistake not searching former employees. Once we realized it, we moved quickly to correct it.

Who is the third party document management expert?

We have hired Goodmans. The firm's head of document management provided advice and assisted in assembling the documents. Goodmans does not do any other work for the OPA.