



**HOUSE OF COMMONS  
CANADA**

**CHAPTER 7, "SPECIAL EXAMINATIONS OF  
CROWN CORPORATIONS - 2008," OF THE SPRING  
2009 REPORT OF THE AUDITOR GENERAL OF  
CANADA**

**Report of the Standing Committee on  
Public Accounts**

**Hon. Shawn Murphy, MP  
Chair**

**MARCH 2010**

**40th PARLIAMENT, 3rd SESSION**



---

Published under the authority of the Speaker of the House of Commons

### **SPEAKER'S PERMISSION**

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Standing Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Additional copies may be obtained from: Publishing and Depository Services  
Public Works and Government Services Canada  
Ottawa, Ontario K1A 0S5  
Telephone: 613-941-5995 or 1-800-635-7943  
Fax: 613-954-5779 or 1-800-565-7757  
publications@tpsgc-pwgsc.gc.ca  
<http://publications.gc.ca>

Also available on the Parliament of Canada Web Site  
at the following address: <http://www.parl.gc.ca>

**CHAPTER 7, "SPECIAL EXAMINATIONS OF  
CROWN CORPORATIONS - 2008," OF THE SPRING  
2009 REPORT OF THE AUDITOR GENERAL OF  
CANADA**

**Report of the Standing Committee on  
Public Accounts**

**Hon. Shawn Murphy, MP  
Chair**

**MARCH 2010**

**40th PARLIAMENT, 3rd SESSION**



# **STANDING COMMITTEE ON PUBLIC ACCOUNTS**

**40th PARLIAMENT, 3rd SESSION**

## **CHAIR**

Hon. Shawn Murphy

## **VICE-CHAIRS**

David Christopherson

Daryl Kramp

## **MEMBERS**

Josée Beaudin

Earl Dreeshen

Derek Lee

Bev Shipley

Hon. Stéphane Dion

Meili Faille

Andrew Saxton

Terence Young

## **CLERK OF THE COMMITTEE**

Joann Garbig

## **LIBRARY OF PARLIAMENT**

**Parliamentary Information and Research Service**

Maria Edwards

Alex Smith

# **STANDING COMMITTEE ON PUBLIC ACCOUNTS**

**40th PARLIAMENT, 2nd SESSION**

## **CHAIR**

Hon. Shawn Murphy

## **VICE-CHAIRS**

David Christopherson

Daryl Kramp

## **MEMBERS**

Bonnie Crombie

Andrew Saxton

Meili Faille

Bev Shipley

Derek Lee

John Weston

Pascal-Pierre Paillé

Terence Young

## **CLERK OF THE COMMITTEE**

Joann Garbig

## **LIBRARY OF PARLIAMENT**

**Parliamentary Information and Research Service**

Andrew Kitching

Alex Smith

# **THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

has the honour to present its

## **THIRD REPORT**

Pursuant to its mandate under Standing Order 108(3)(g), the Committee has studied Chapter 7, “Special Examinations of Crown Corporations – 2008,” of the Spring 2009 Status Report of the Auditor General of Canada and has agreed to report the following:

## INTRODUCTION

Crown corporations are distinct legal entities that are either wholly owned by the Government of Canada or are wholly owned by other Crown corporations. There are almost 50 Crown corporations. These corporations employ over 92,000 people and manage more than \$185 billion in assets.

Part X of the *Financial Administration Act* outlines the governance and financial management requirements for Crown corporations. This Act requires Crown corporations to have independent audits of their annual financial statements, which in most cases are conducted by the Office of the Auditor General (OAG). In addition, most Crown corporations are required to have a special examination carried out by the OAG at least once every ten years.<sup>1</sup>

The results of special examinations are reported to the Crown corporation's board of directors. Crown corporations are now required to make special examination reports available to the public by posting them on their website. The OAG has recently begun to include a chapter on the main points of special examinations in the Auditor General's report to Parliament.<sup>2</sup>

As Crown corporations have only recently been required to make special examinations reports publicly available, these reports have not received much attention from the public or from Parliament. In order to enhance the accountability of Crown corporations, the Public Accounts Committee decided to hold a hearing with two of the Crown corporations that were subject to special examinations completed in 2008—the Great Lakes Pilotage Authority and VIA Rail Canada Inc. This was a first for the Committee. On 7 October 2009, the Committee heard from the following representatives from the OAG: Sheila Fraser, Auditor General of Canada; Nancy

---

<sup>1</sup> See Part X, section 138 of the *Financial Administration Act*. Formerly, special examinations were carried out at least once every five years. This was amended by the *Budget Implementation Act 2009*, section 374.

<sup>2</sup> Auditor General of Canada, May 2009 Report, Chapter 7, *Special Examinations of Crown Corporations—2008*.



Cheng, Assistant Auditor General; and René Béliveau, Principal.<sup>3</sup> From the Great Lakes Pilotage Authority, the Committee heard from Robert Lemire, Chief Executive Officer; Réjean Ménard, Secretary/Treasurer; and Douglas Smith, Chair, Board of Directors. From VIA Rail Canada Inc. the Committee heard from Paul Côté, President and Chief Executive Officer; Robert St-Jean, Chief Financial and Administration Officer; and Christena Keon Sirsly, Chief Strategy Officer and Official Languages Champion.

## **BACKGROUND**

Special examinations are a form of performance audit where the scope is set by law to include the entire corporation. The objective of a special examination is to provide an opinion of whether the Corporation has systems and practices in place to ensure that assets are safeguarded and controlled; financial, human, and physical resources are managed economically and efficiently; and operations are carried out effectively. Should the special examination find any major weakness in the key systems and practices of the corporation that could prevent it from achieving its objectives, the OAG would report it as a significant deficiency.

At the start of a special examination, the corporation's audit committee receives the audit plan, which includes the criteria that will be used in the audit. When the special examination is complete, the OAG submits its report directly to the corporation's board of directors, and the reports are subsequently placed on the corporation's website.

In 2008, the OAG began including the main points of special examinations in its spring report to Parliament. In the 2009 Report, the OAG provides information on eight special examinations completed in 2008. Five of these examinations found no significant deficiencies, and three had one or more significant deficiencies. The Crown corporations that were found to have one or more significant deficiencies were the Federal Bridge Corporation Limited, Great Lakes Pilotage Authority, and VIA Rail Canada Inc. The Public Accounts Committee decided to focus on the special examinations of the latter two organizations.

---

<sup>3</sup> House of Commons Standing Committee on Public Accounts, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Meeting 32.

## **GREAT LAKES PILOTAGE AUTHORITY**

### **A. Background**

The Great Lakes Pilotage Authority (the Authority) was created in 1972 under the *Pilotage Act*. The Authority's mandate is to establish an efficient pilotage service within the Great Lakes region in the interests of safety. The Authority has a role as both a regulator and a service provider. The Authority is empowered to designate compulsory pilotage areas, determine ships or classes of ships that are subject to compulsory pilotage, set tariffs to be paid to the authority, and define the conditions for issuing licences and pilotage certificates. The Authority employs licensed marine pilots who take over from ship captains at their request or where their ships are subject to compulsory pilotage. The Authority is financially self-sustainable through the tariffs it charges for its pilotage services.

The *Great Lakes Pilotage Regulations* stipulate that ships of more than 300 tons are subject to compulsory pilotage. The Regulations exempt Canadian ships if they navigate only on the Great Lakes or inland waters of Canada and are under the conduct of a Canadian master or deck watch officer. As a result, compulsory pilotage applies mainly to foreign ocean-going ships. More than 60 % of ships navigating on the Great Lakes are exempted from compulsory pilotage. The Authority issues exemptions on the basis of annual declarations by shipping companies, which state that their officers meet the requirements set out in the Regulations. The Authority does not check the competencies and qualifications of Canadian masters and deck watch officers of ships granted exemptions.

The current system of exemption dates from 1972; it was intended to be temporary but has remained in place. This issue has been examined numerous times and most reports and studies make recommendations to strengthen the requirements for issuing exemptions.

## **B. Significant Deficiency**

In its special examination, the OAG identified a significant deficiency with respect to the current practice of exempting Canadian ships from compulsory pilotage.<sup>4</sup> In the opinion of the OAG, the Great Lakes Pilotage Authority does not have an effective mechanism to provide it with reasonable assurance that Canadian masters and deck watch officers have the necessary competencies and qualifications to ensure the safe passage of ships in compulsory areas. The OAG recommended that the Authority should implement a more effective mechanism to address this issue.

The Authority agreed with the recommendation. The Authority's Chief Executive Officer, Robert Lemire, stated that the Authority "concur[s] that a more stringent exemption or certification system would strengthen the authority's ability to ensure the future safety and efficiency of the navigation system. The authority continues to work with Transport Canada and the major stakeholders to address this deficiency."<sup>5</sup>

According to Mr. Lemire, the Authority is currently in the final stage of drafting amendments to the Regulations. Mr. Lemire described the proposed amendments, which will change approximately 25 words in the Regulations, as follows:

The proposed regulatory amendments will see, after due verification of credentials, existing officers now on the exemption list issued pilotage certificates for the Great Lakes. This will allow them to continue the current practice of operating Canadian vessels in the Great Lakes without the requirements of authority pilots. It is proposed that all officers requiring a pilotage certificate after the transition period will be subject to the Great Lakes pilotage regulations requirement of an examination.<sup>6</sup>

Mr. Lemire stated that the Authority hoped to have the amendments published before the end of the year. In the meantime, the Authority has started an audit process, looking at the trips, training, certification, and incident rates of Canadian deck watch officers. The Authority has completed audits on about 15 % of the officers, or 60 individuals.

---

<sup>4</sup> Auditor General of Canada, *Special Examination Report—Great Lakes Pilotage Authority*, 11 April 2008, paragraph 27.

<sup>5</sup> Meeting 32, 15:40.

<sup>6</sup> *Ibid.*, 15:40.

The Committee supports the move to strengthen the system for ensuring that Canadian deck watch officers have the necessary qualifications and competencies. However, there is some reason to be skeptical that this issue will be resolved in a timely manner. The Chair of the Authority's Board of Directors, Douglas Smith, told the committee that upon starting his position, he "was greeted with a file of letters from a number of transport ministers admonishing my predecessor for not getting the issue resolved."<sup>7</sup> The special examination notes that in 2004 the Authority submitted to Transport Canada draft amendments to the Regulations, but these amendments did not receive support from all key stakeholders.<sup>8</sup>

While Mr. Lemire told the Committee that he does not believe there are currently safety concerns, he also noted that the Authority is not following the requirements of the *Pilotage Act* with regard to Canadian ships. Also, if the Authority does not believe that a ship is safe enough, there is no provision in the Regulations to stop it. The Committee believes that it is time to resolve this issue once and for all. The Committee recognizes that the Authority can only propose regulatory amendments, and it is up to the Minister of Transport to move forward with those amendments. However, the Authority remains responsible for ensuring that it has an effective mechanism to provide it with reasonable assurance that Canadian masters and deck watch officers have the necessary competencies and qualifications. As the Committee would like to ensure that the Minister moves forward with regulations and to monitor progress in this regard, it recommends:

---

<sup>7</sup> Ibid., 15:45.

<sup>8</sup> *Special Examination Report—Great Lakes Pilotage Authority*, paragraph 35.

## **RECOMMENDATION 1**

**That the Minister of Transport continue the government's efforts to amend the *Great Lakes Pilotage Regulations*, as proposed by the Great Lakes Pilotage Authority.**

## **RECOMMENDATION 2**

**That the Great Lakes Pilotage Authority report to the Public Accounts Committee by 31 March 2010 on the progress of adopting amendments to the *Great Lakes Pilotage Regulations*.**

The Authority is proposing a three year phase-in period for the amendments to the Regulations, which means that even if they were adopted soon, the current system would remain in place for some time. Consequently, the Committee agrees with the Auditor General when she urged the Authority to continue its audit activities on the qualifications of Canadian deck watch officers. This would help ensure that the declarations made by shipping companies on the qualifications of their deck watch officers are indeed accurate.

### **C. Setting Tariffs**

The Authority is expected to operate on a self-sustaining financial basis, and in order to do so, it charges tariffs for its pilotage services. The Authority sets its tariffs on the basis of expected traffic volumes, and a significant decline in traffic could have a significant impact on the Authority's self-sufficiency.

The special examination states that the Authority reported losses totalling \$6.5 million from 2002 to 2007, and had a cumulative deficit of \$3.4 million in December 2007. The OAG notes that the Authority's income consistently fell short of budget forecasts in this period.

Mr. Lemire told the Committee that for 2009, the Authority is anticipating a deficit of \$1 million, due to a 30 % decrease in traffic as a result of the recession. As the Committee is concerned about the Authority's financial sustainability, it recommends:

### **RECOMMENDATION 3**

**That the Great Lakes Pilotage Authority provide a plan to the Public Accounts Committee by 31 March 2010 of how the Authority intends eliminate its cumulative deficit and maintain financial sustainability.**

#### **VIA RAIL CANADA INC.**

##### **A. Background**

VIA Rail Canada Inc. (the Corporation) was incorporated in 1977 under the Canada Business Corporations Act. To date, the Corporation is not governed by any framework legislation. VIA Rail operates passenger rail service on behalf of the Government of Canada through an annual approved corporate plan. VIA Rail provides service to almost 450 communities across Canada with 480 train departures a week on a railway network of 14,000 kilometres of tracks, most of which are owned by private sector companies. VIA Rail has about 3,000 employees and in 2007 had revenues of approximately \$285 million and government funding of \$200 million.

In September 2007, the government approved an approximately \$690 million medium-term investment plan to ensure the Corporation's long-term viability and to improve its financial results by increasing ridership through improvements to passenger rail services, including higher train frequencies and enhanced on-time performance and speed.

##### **B. Status Report**

Through its special examination, the OAG looked at, among other things, VIA Rail's management of rail assets, security, strategic planning, information technology, and environmental management.<sup>9</sup> The OAG determined that, on the whole, the Corporation had a number of good systems and practices. Generally, it had good:

- governance practices,
- performance indicators and reporting of information,

---

<sup>9</sup> Auditor General of Canada, *Special Examination Report—VIA Rail Canada Inc.*, December 2008.

- risk management practices, and
- environmental management systems and practices.

However, the special examination also found a number of weaknesses that need to be addressed, including:

- The corporate and operational risk management systems had not yet been fully integrated.
- The implementation of the environmental system had not yet been completed.
- The Corporation does not have mechanisms to ensure that rail infrastructure owned by third parties is at all times properly maintained.
- The Corporation has no framework for identifying employee security levels based on risks associated with positions or duties.

The OAG made 14 recommendations, and VIA Rail agreed with all of them. Paul Côté, the President and CEO of VIA Rail, described the Corporation's response to the audit, "We found the approach taken throughout the 2008 special examination to be both insightful and constructive. The observations made in the report have been valuable. VIA fully supports and has already acted on each recommendation in that report."<sup>10</sup> After the meeting, VIA Rail provided the Committee with a status update on its implementation of actions to address the OAG's recommendations. Many actions have been completed. However, there are a number of areas that won't be fully addressed until well into 2010. As the Committee would like to ensure that VIA Rail makes good progress in implementing its proposed actions, the Committee recommends:

#### **RECOMMENDATION 4**

**That VIA Rail Canada Inc. provide the Public Accounts Committee with a progress report by 31 December 2010 of actions taken to implement the Auditor General's recommendations contained in the 2008 Special Examination.**

---

<sup>10</sup> Meeting 32, 16:35.

### **C. Information Technology**

A risk and threat assessment system for information technology is necessary for planning the continuity of operations in the event of unforeseen circumstances. It helps to maintain acceptable levels of risk and establishes a balance between operational needs and the security required for information technology.

In its 2003 special examination, the OAG found that VIA Rail did not have a system for identifying and assessing threats and risks to its information technology, nor did it have measures to mitigate them. In its most recent special examination, the OAG found that VIA Rail has not yet adopted mechanisms for ensuring it has a proper understanding of information technology-related risks or an appropriate management framework to ensure that its information technology is safeguarded.

As effective information technology systems are vital to the continuity of VIA Rail's operations, the Committee would like to monitor progress on this issue more closely. The Committee recommends:

#### **RECOMMENDATION 5**

**That VIA Rail Canada Inc. specifically outline in its progress report the steps that have been taken to assess and put in place measures to mitigate risks and threats to its information technology systems.**

### **D. Significant Deficiency**

VIA Rail is undertaking significant capital investments in order to limit the growth of its operating costs, increase the reliability of rolling stock and train-on-time performance, and increase the frequency of service in certain areas. According to the special examination, the Corporation intends to increase revenue by 39 % and ridership by 30 % over the 2007-2011 period. This objective is a major challenge as the Corporation does not own most of the tracks it uses and must negotiate any extra usage with the owner.



In the opinion of the OAG, VIA Rail's growth targets seem unrealistic. The OAG notes that the Corporation did not meet its projections for the 2002-2006 period. Overall train-on-time performance remained below 80 %, while ridership increased about 5 %. This resulted in a shortfall over the period of \$230 million as compared to projections.

VIA Rail's projected improvements depend on service agreements with the owners of rail infrastructure, but these agreements give rail freight carriers priority access to tracks. The Auditor General outlined the Corporation's challenge in her opening statement:

The Corporation does not own most of the railway tracks that it uses. For any extra usage, it must negotiate with the owners. The corporate plan is premised on successful completion of the current negotiations with the principal provider of access to the railway track network, within VIA Rail's prescribed funding envelope. A new service agreement is thus critical to the Corporation's ability to meet the objectives set out in its corporate plan.<sup>11</sup>

At the time of the special examination, the Corporation had not completed negotiations on new service agreements, nor had it developed strategies or assessed the impact of failing to negotiate improved service agreements.

The OAG concluded that there was a risk that VIA Rail would not be able to fulfil its corporate plan for the 2007-2011 period. The OAG recommended that in its next corporate plan, the Corporation should outline all the repercussions and issues premised in its investment plan. It should also develop alternative strategies to fulfil the Corporation's mandate within the funding provided.

In his opening statement, Mr. Côté noted that since the conclusion of the special examination, the Corporation has negotiated a 10-year train services agreement with CN, which owns most of the track that VIA Rail uses. This agreement provides stability to track access. VIA Rail is also working with CN to improve the capacity of the

---

<sup>11</sup> Ibid., 16:35.

infrastructure for increased passenger rail traffic, notably in the Windsor-Quebec corridor. In July 2009, VIA Rail announced the \$300 million VIA-CN Kingston subdivision infrastructure project in order to improve capacity and accessibility for VIA Rail trains through the Kingston subdivision and to provide guarantees on track access for future additional frequencies. In addition, VIA Rail is modernizing its equipment and refurbishing its stations. As the Committee would like to monitor VIA Rail's progress in completing its infrastructure projects on the Windsor-Quebec corridor, it recommends:

#### **RECOMMENDATION 6**

**That VIA Rail Canada Inc. outline in its progress report how much money has been spent on improving infrastructure and refurbishing stations on the Windsor Quebec corridor, as well as what projects have been completed and what projects remain to be completed.**

It is clear that VIA Rail is undertaking a number of significant steps to increase ridership and grow revenue. VIA Rail has managed to improve its train-on-time performance and in 2009 trains are running on schedule over 85% of the time. The President also noted ways that VIA Rail has sought to be more economical and increase efficiency. He said, "We regularly review our operations to identify ways in which we can reduce our dependency on government funding. In 2009, this has included realigning train capacity to demand, adjusting service delivery staffing levels, and reducing other discretionary expenses. We will also review and renegotiate purchasing contracts."<sup>12</sup>

However, VIA Rail still faces significant financial risks. Mr. Côté told the Committee that due to the recession, the Corporation is missing its targets by 12% to 15%. Over a five-year period, this could result in a difference of \$200 million between actual revenue and projections. While VIA Rail has negotiated a new train services agreement with CN, the status update provided to the Committee notes that, "Negotiations are presently underway with CN in order to obtain guarantees on track

---

<sup>12</sup> Ibid., 16:40.

access for future additional frequencies as presented in the Corporate Plan. Should negotiations not be resolved positively, the Corporation will enter into discussions with the government to evaluate the possibility of reassessing funding as needed.”

Mr. Côté told the Committee about VIA Rail’s challenges in responding to financial pressures. He said:

When demand drops, any business needs to cut costs to balance revenue shortfalls. A manufacturer, for example, will pull a product line, or postpone the launch of a new product. But for VIA, a huge portion of our costs are pre-determined, without reference to market demand. We operate mandated services, with little room for flexibility when it comes to the core costs of keeping trains running, whether people are getting on board or not.<sup>13</sup>

Thus, any significant change in revenue due to changing economic conditions or a failure to negotiate favourable terms with CN could have a substantial impact on VIA Rail’s operations, such as possibly shrinking the train network and reducing train frequency. This could seriously compromise passenger rail service in Canada. As the Committee is concerned about the significant deficiency identified by the Auditor General and the viability of VIA Rail’s plans, the Committee recommends:

#### **RECOMMENDATION 7**

**That VIA Rail Canada Inc. provide in its progress report information on the status of its plans for increased ridership and revenue.**

---

<sup>13</sup> Ibid., 16:40.

## CONCLUSION

While the OAG has conducted special examinations of Crown corporations for many years, only recently have these reports been made publicly available. For the first time, the Public Accounts Committee had a hearing on special examinations. The Committee chose to look at the special examinations of the Great Lakes Pilotage Authority and VIA Rail Canada Inc. because the OAG had concluded that both of these organizations had a significant deficiency in their systems and practices.

In the opinion of the OAG, the current system of exemption from the *Great Lakes Pilotage Regulations* for Canadian ships means that the Great Lakes Pilotage Authority does not have assurance that the deck watch officers of these ships have the necessary qualifications and competencies. The Committee agrees with the OAG that this needs to be fixed, and the Great Lakes Pilotage Authority should move forward with proposed changes to the Regulations as soon as possible.

Officials from VIA Rail told the Committee that they found the special examination process to be useful, and they had already begun to address many of the OAG's recommendations. However, the OAG was concerned that the Corporation would not be able to fulfill its corporate plan because the targets for increased ridership and revenue may not be realistic. The failure to meet these targets, along with the recession, may substantially adversely affect VIA Rail's financial situation. The Committee believes that VIA Rail, along with the Government, will need to monitor this issue carefully in order to ensure the sustainability of passenger rail service in Canada.

# APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<b><u>40th Parliament, 2nd Session</u></b>		
<b>Great Lakes Pilotage Authority</b>	2009/10/07	32
Robert Lemire, Chief Executive Officer		
Réjean Ménard, Secretary/Treasurer		
Douglas Smith, Chair, Board of Directors		
<b>Office of the Auditor General of Canada</b>		
René Béliveau, Principal		
Nancy Cheng, Assistant Auditor General		
Sheila Fraser, Auditor General of Canada		
<b>VIA Rail Canada Inc.</b>		
Paul Côté, President and Chief Executive Officer		
Christena Keon Sirsly, Chief Strategy Officer and Official Languages Champion		
Robert St-Jean, Chief Financial and Administration Officer		

# APPENDIX B LIST OF BRIEFS

---

## Organizations and individuals

---

### 40th Parliament, 2nd Session

Great Lakes Pilotage Authority

# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings (40th Parliament, 3rd Session: [Meeting No 2](#); 40th Parliament, 2nd Session: [Meetings Nos. 32, 42 and 45](#)) is tabled.

Respectfully submitted,

Hon. Shawn Murphy, MP

Chair