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P.O. Box 527
Ottawa, Ontario
K1P 5V6

C.P. 527
Ottawa (Ontario)
K1P 5V6

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DISCUSSION PAPER NO. 281

The Urban Transportation Development Corporation: A Case Study of Government Enterprise

by Christopher J. Maule

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Council Secretary
Economic Council of Canada
Post Office Box 527
Ottawa, Ontario
K1P 5V6

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Résumé

LA SOCIETE DE DEVELOPPEMENT DU TRANSPORT URBAIN - Etude d'une entreprise publique

La Société de développement du transport urbain (SDTU) a été mise sur pied par le gouvernement de l'Ontario au début des années 70. Elle poursuit les objectifs suivants: (1) créer, pour les organismes canadiens de transport urbain, des possibilités de recherche et de développement, afin de donner lieu ensuite à des installations de production à l'intention des municipalités canadiennes; (2) faire en sorte que les innovations mises au point soient intégrées aux systèmes traditionnels; (3) exploiter et commercialiser les résultats des programmes de recherche et de développement dans le secteur privé partout au Canada; (4) coordonner les activités de recherche dans les secteurs industriel, commercial et universitaire, et (5) s'assurer que les municipalités ontariennes ne se heurtent pas à un monopole dans la fourniture d'équipement.

Le personnel de la SDTU, qui était de 40 au début, comptait 1 000 employés en 1983-1984. D'autre part, en 1983, les ventes ont atteint 86 millions de dollars, les revenus nets, 1,6 million et l'actif, 150 millions. L'organisme se propose de concevoir, développer, fabriquer et administrer d'importants systèmes de transport en commun pour le grand public, en offrant des services d'études et de planification, des possibilités de recherche et de développement, des installations de fabrication, ainsi que des services d'aide aux projets et de gestion. Etant donné son intégration verticale, la SDTU peut fournir "clés en mains", si les clients le désirent, un système de transport en commun, ainsi que des services d'exploitation et d'entretien.

Le gouvernement de l'Ontario a choisi une entreprise publique comme instrument de sa politique, sans avoir étudié dans le détail les diverses possibilités. La présente étude de cas examine deux arguments en faveur du recours à une entreprise publique. Premièrement, les conditions du contrat pour un nouveau système de transport urbain sont complexes et présenteraient des problèmes au moment des négociations gouvernementales avec un fournisseur indépendant. Deuxièmement, une entreprise publique peut plus facilement orienter les occasions de bénéfices industriels vers des firmes ontariennes, surtout si l'on a l'intention de limiter les soumissions publiques. Aucun de ces deux arguments en faveur des entreprises publiques ne semble très convaincant.

La forte expansion de la SDTU, bien au-delà de ses limites initiales, trouve son explication dans la conjonction des intérêts des politiciens, des bureaucrates du domaine des transports et des gestionnaires de la compagnie, surtout après l'échec, en 1974, du projet Krauss-Maffei visant à mettre sur pied un système de transport urbain fondé sur la technologie de la sustentation magnétique. Cette communauté d'intérêts s'est d'ailleurs trouvée renforcée par les relations de travail étroites entre le premier ministre de l'Ontario et le président de la SDTU.

Il a été question, ces dernières années, de privatiser cet organisme. Une telle décision n'irait pas sans difficulté. Il faudrait en effet faire une évaluation de cette société, qui poursuit à la fois des objectifs sociaux et privés, puis choisir l'acheteur. Le gouvernement ontarien pourrait hésiter à vendre la SDTU à des acheteurs étrangers ou à une compagnie d'une autre province, comme la société Bombardier.

Enfin, il y a aussi la question de savoir de qui relèverait la société. L'étude montre en effet que ses responsabilités fonctionnelles s'inscrivent actuellement dans un vaste cadre à la fois formel et informel, mais que ce dernier est en grande partie inefficace à cause de la nature des renseignements financiers fournis et des conditions des contrats que conclut la société.

Abstract

THE URBAN TRANSPORTATION DEVELOPMENT CORPORATION
A Case Study of Government Enterprise

The Urban Transportation Development Corporation (UTDC) was established by the Government of Ontario in the early 1970s. The objectives of the corporation were: (1) to establish a research and development (R&D) capacity for urban transportation systems in Canada, so that there would be domestic production facilities for Canadian municipalities, (2) to permit the results of new developments to be integrated with conventional systems, (3) to exploit and market the results of the R&D programs through the private sector in Canada, (4) to coordinate research activities in the industrial, commercial and academic sectors, and (5) to ensure that Ontario municipalities do not face a monopoly situation in the supply of equipment.

By 1983-4, UTDC had grown from 40 to over 1,000 employees, with 1983 sales of $86 million, net earnings of $1.6 million and assets of $156 million. The corporation states that it will design, develop, manufacture and operate mass transit systems by offering planning services, R&D, design services, manufacturing facilities, as well as project and management services. It has become a vertically integrated enterprise capable of providing a turn-key mass transit system plus operation and maintenance services if the customer requires it.

The Government of Ontario selected a government enterprise (GE) as the policy instrument without explicit consideration of available alternatives. The case study examines two arguments for the use of a GE, one that the contract terms for a new urban transportation system are complex and would present problems in government negotiations with an arm's length supplier, and two, that targetting industrial benefits to firms in Ontario is easier to undertake through a GE, especially if limits are to be placed on the use of public tenders. Neither arguments for a GE are found to be wholly persuasive.

The evolution of UTDC, to a size far in excess of the intentions noted when the corporation was formed, is explained in terms of the way in which the self-interest of the politicians, transportation bureaucrats and corporate management coincided, especially after the demise in 1974 of the Krauss-Maffei project for an urban transportation system based on magnetic levitation

technology. The coincidence of interests was strengthened by the close working relationship which existed between the Premier of Ontario and the President of UTDC.

Privatization of UTDC has in recent years been mentioned. Problems with such a move would include the difficulty of evaluating a corporation which fulfills social as well as private objectives, and the selection of a buyer. The Ontario government might be reluctant to sell UTDC to foreign buyers or to a firm such as Bombardier located in another province.

Finally, the process of corporate accountability is noted. It is shown that there is an extensive formal and informal accountability process, but that the process is largely ineffective, because of the nature of the financial information which is provided, and because of the terms of the contracts entered into by the corporation.

I. INTRODUCTION

I. INTRODUCTION

The Urban Transportation Development Corporation (UTDC) was chosen for study as an example of a risk-taking government enterprise (GE). A snapshot of the corporation in 1983-4, compared with one in 1973-4, reveals many differences, and it is the evolution of UTDC from its origin in the early 1970s which deserves particular attention. The rationale for the corporation and the associated actual or implied market failures have altered over time, as the organization has become not only an instrument of provincial government policy, but a part of the political process.

At the outset, UTDC is described as it exists now in terms of size, diversification, vertical integration, organizational form, directors and managers. The present will then be contrasted with the early years of the corporation in order to discuss the rationale for the establishment and use of a GE. Subsequent sections will deal with product development, legal aspects and accountability. A final section summarises the issues of interest to the Economic Council of Canada.

UTDC in 1983-4

The 1983 UTDC Annual Report (p. 7) notes that,

> UTDC has become a world-scale supplier of urban transit systems, equipment and services. We have joined the ranks of the 500 largest industrial enterprises in Canada, with 1983 sales revenue of $86 million, net earnings of $1.6 million, assets of $156 million and an order book worth $1,500 million in Canadian dollars.

The Report goes on to note that UTDC "is establishing itself as a technological product leader" which is learning "to market and package our broad public transit product line for world distribution".

The range of products and services offered for sale is presented in <u>The UTDC 1984 Catalogue</u>. The corporation will design, develop, manufacture and operate mass transit systems by offering planning services, research and development (R&D), design services, manufacturing facilities, project and management services. The total offerings suggest a vertically integrated enterprise, which is capable of providing a turn-key mass transit system plus operation and maintenance if the customer desires it. The corporation is also able to provide any one of the services or stages separately, and has done so.

UTDC consists of a group of companies: the parent company is the Urban Transportation Development Corporation Ltd., which has five wholly-owned subsidiararies:

<u>Metro Canada Ltd.</u> - acts as the prime contractor and project manager to oversee the design, construction and delivery of transit systems and products in Canada.

<u>Metro Canada International Ltd.</u> - performs the same functions as Metro Canada Ltd., but for international sales.

<u>UTDC Research and Development Ltd.</u> - pursues development activities in transportation technology, power distribution, alternate fuels and a wide range of transportation components.

<u>UTDC Services Inc.</u> - provides a full range of contracted services in transit management, operations, personnel training and maintenance.

<u>UTDC (USA) Inc.</u> - provides corporate representation in the U.S. market.

In addition, UTDC Ltd. owns a manufacturing group of companies which are organized as follows:

UTDC Ltd. (80%)　　　Hawker Siddeley Canada Ltd. (20%)

Rail Trans Industries of Canada Ltd. (100%)

Venturetrans Manufaturing Inc.　　　Can-Car Rail Inc.

(Kingston, Ontario)　　　(Thunder Bay, Ontario)

The manufacturing group has two plants, one at Kingston and one at Thunder Bay. These plants are jointly owned by UTDC and Hawker-Siddeley through Rail Trans Industries. This is the one instance of UTDC having a joint venture with a private sector enterprise (PE). In other instances, UTDC contracts with PEs for goods and services.

The legal nature and significance of the UTDC organizational set up is discussed in Part III. Here it can be noted that the parent company has eleven members on its board of directors, all outsiders except for Mr. Kirk W. Foley, the President and Chief Executive Officer. Under Mr. Foley there are six corporate officers, of which five are vice-presidents for marketing, sales, corporate affairs, administration and finance, plus a secretary. Each subsidiary has its own set of officers with Mr. Foley being on the board of each firm. The sole shareholder of UTDC is the Minister of Transportation and Communications, acting on behalf of the government of Ontario.

The 1983 snapshot reveals a corporation of substantial size with over 1,000 employees, vertically integrated and diversified within the transportation equipment and systems sector, with some geographic diversification and organised through a group of corporations including an investment partnership with a private sector firm. Whatever UTDC was intended to be at the outset, this is the configuration which exists at present [1].

UTDC in 1973

Ten years prior to 1983, the corporate embryo was forming. Full details of conception and birth will be dealt with below, while here we can examine the embryonic development. In 1973, the government expected that the corporation would have 40 employees, perhaps rising to 70 in periods of peak work load (compared with 1,000 in 1983). The 1974 financial statements showed assets of $11.3 million, income of $590,000, and a net loss of $928,000 (compared with 1983, assets of $156 million, revenue of $86 million and net earnings of $1.6 million).

The nature of the embryo is best gleaned from statements made by politicians and officials at the time. The provincial government, led then as in 1983 by Premier William Davis, stated that it was creating an organization which would assist in implementing the following transportation and related objectives: (1) to establish an R&D capacity in Canada so that there would be domestic production facilities for Canadian municipalities, (2) to permit the results of new developments to be integrated with conventional systems, (3) to exploit and market the results of the R&D programs through the private sector in Canada, (4) to coordinate research activities in the industrial, commercial and academic sectors, and (5) to ensure that Ontario municipalities do not face a monopoly situation in the supply of equipment [2].

This statement indicates the market failures which the government felt did or might exist, and why government intervention was needed. Consideration of alternative instruments to a GE was not apparent in the debates, so that the reasons for the choice of a GE are not given but can perhaps be implied. Before doing so, it is useful to recall the circumstances of the 1960s and early 1970s in order to understand the government's thinking on questions of transportation policy and thus show how, and possibly why, UTDC was conceived. This digression is necessary before addressing the questions of market failure and appropriate instrument choice.

<u>Background to UTDC</u>

One of the responsibilities of provincial governments is to provide transportation infrastructure and services, including those in urban areas. Such responsibilities have long been recognised as belonging to government, because of externalities associated with the reduction of congestion and pollution. Governments intervene to supply low cost, often subsidised, public transportation services for use by individuals and by private sector firms.

In the 1960s, the Ontario government was attempting to devise policies to cope with the burgeoning growth of automobile traffic, and the movement of persons to central work places in urban areas. The province had promoted or built an intercity highway system, including the dual lane divided highway 401 from Windsor to the Quebec border, GO trains which carried commuters to and from Toronto, a subway system in Toronto, as well as intercity and intraurban bus systems in most cities.

In 1963, the Ontario Municipal Board approved the application by Metropolitan Toronto to construct the Spadina Expressway in Toronto. This decision meant that the government would be encouraging greater use of the automobile as a means of urban transit, and less reliance on the alternative modes of bus, light rail or subway. On June 3rd, 1971, Premier Davis, in one of his first major statements as Premier, announced the cancellation of the Expressway project, noting that

> If we are building a transportation system to serve the automobile, the Spadina Expressway would be a good way to start. But if we are building a transportation system to serve people, the Spadina Expressway is a good place to stop [3].

The government had concluded that the negative externalities caused by commuters' use of cars would be aggravated by construction of the Expressway. At the same time, the government had to provide some alternative for the voters, which it did by offering "apppreciably greater financial assistance for rapid transit services" [4]. The new policy thrust was outlined in a statement by the Premier on November

22nd, 1972 - see Exhibit 1. UTDC, originally named the Ontario Transportation Development Corporation (OTDC), became the vehicle to facilitate the implementation of the second objective in this statement, namely "the development at Provincial expense of a prototype and operating demonstration of a new form of intermediate capacity transit system". Other points in the statement would impinge on the operations of UTDC, such as the 75% subsidies to municipalities which could give the government leverage in directing municipalities to purchase equipment and systems developed by UTDC.

One further background factor is the establishment by the Ontario Department of Transportation and Communications (DTC), in 1970, of a task force on transportation technology to review the status and development of new transit systems concepts and technology. The report of the task force noted that, "the intermediate capacity transit-system was identified as the primary transit need, as a secondary or feeder system supplementing subways in large urban areas, or as a primary system in cities of intermediate size" [5]. Late in 1971 the Premier announced that a study would be undertaken leading to the implementation of a demonstration 'intermediate capacity' project of about one mile at the Canadian National Exhibition (CNE) Grounds in Toronto.

DTC invited eight transit system developers to participate in the first phase of the project, which was to provide detailed information about the systems by March 17, 1972. The chosen eight are listed in Exhibit 2. Three, Ford, Hawker Siddeley and

EXHIBIT 1

A SUMMARY OF PROPOSED TRANSPORTATION POLICIES IN ONTARIO

The Province will shift emphasis from urban expressways to a variety of transportation facilities, which will put people first. This policy will be implemented through a six-point program:

First, subsidies of 75% for the purchase by municipalities of buses, streetcars and trolley buses, and related facilities;

Second, the development at Provincial expense of a prototype and operating demonstration of a new form of intermediate capacity transit system together with a subsidy program of 75% to assist municipalities in applying the system to meet their needs;

Third, subsidies for programs to alter demand for transportation at peak times such as the encouragement of flexible working hours to spread peak loads in major cities;

Fourth, subsidies of 50% to urban areas for upgrading and expanding computer controlled traffic systems;

Fifth, continuation and expansion of studies in cooperation with municipalities in order to maximize the use of existing roadways through the study of such means as one-way streets, delivery and parking policies;

Sixth, an intensification of Provincial efforts and resources devoted to the coordination of transportation planning among the municipalities in Ontario.

SOURCE: A Statement by the Hon. William Davis, An Urban Transportation Policy for Ontario, Nov. 22, 1972, p. 20.

EXHIBIT 2

EIGHT SYSTEMS CHOSEN BY THE ONTARIO DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS TO BID ON AN URBAN TRANSPORTATION SYSTEM

System Name	Design Concept	Automatic Command/ Control	Suspension	Propulsion
Alden "StaRRcar" (USA)	PRT	Yes	Rubber tires	Rotary AC motors, hydrostatic drive
Ford "ACT"	Line-haul or PRT	Yes	Rubber tires	Rotary DC motors
Transportation Technology Inc. (USA)	PRT	Yes	Air cushion	Linear induction motors
Uniflo (USA)	PRT	Yes	Air cushion	Linear Air Turbine
Bertin "Aero-train" (France)	Line-haul	Optional	Air cushion	Rotary or linear induction motors
Urba "30/100" (France)	Line-haul	Optional	Negative pressure air cushion	Linear induction motors
Hawker Siddeley Canada (Canada)	Line-haul with off-line stations	Optional	Rubber tires	Linear induction motors
Krauss-Maffei "Transurban" (Germany)	Line-haul or PRT	Yes	Electro-magnetic	Linear induction motors

SOURCE: Ontario Ministry of Transportation and Communications Research and Development Division, Intermediate Capacity Transit-Ontario's Program, Feb. 1974, p. 6.

Krauss-Maffei were selected to proceed to phase two. Ford withdrew stating that it was not in their corporate interest to re-design their system to meet Ontario's specifications. The other two firms received payments of $50,000 each to submit technical design proposals and bids, which they did on schedule by February 1, 1973. Krauss-Maffei AG of Munich, West Germany was chosen and was awarded a $16 million contract for the Transit Demonstration System in the CNE grounds to be operating by the opening of the CNE in the summer of 1975,

The reason for recounting these details is that one of UTDC's original purposes was to hold the license rights for magnetic levitation (maglev) acquired from Krauss-Maffei. The circumstances leading up to UTDC thus include the general provincial government responsibility for urban transportation, the particular decision to cancel the Spadina Expressway, the announcement of a new direction for provincial transportation policies, and the associated activities of the supporting ministerial organization, the DTC, in providing an assessment of the alternatives leading to the selection of 'maglev' technology and Krauss-Maffei as the contractor.

Thus, UTDC was not the outcome of some form of immaculate conception, rather it was created as a result of a series of deliberate government and bureaucratic initiatives. Moreover, the corporation was initially a small part of a wider set of provincial government initiatives on transportation policy.

Why UTDC?

In the context of the early 1970s, the provincial government's thinking about transportation is clear on the need for government intervention, but is not made explicit as far as the reasons for the choice of a GE as opposed to alternative instruments. One set of alternatives suggested for high technology activity are [6]:

1. more generous R&D tax incentives and a broader definition of R&D for tax purposes;
2. more comprehensive R&D subsidies;
3. more government R&D contracts;
4. more government-inhouse R&D and/or a greater effort to find commercial applications for the results;
5. regulations requiring Canadian affiliates to MNE's to do more R&D;
6. formation of Crown corporations or mixed enterprises to engage in commercial high technology activities.

The arguments for general government involvement in urban transportation services will not be dealt with here, except to note that the social costs of congestion and pollution externalities are reasons frequently given for government intervention. Clearly the nature of the intervention makes a difference in the roles played by government, the private sector and individual commuters. Thus a government may provide highways and parking facilities and license taxis thereby encouraging the use of cars and possibly buses, or subsidise and/or provide bus and train services. The individual arrives at work in Toronto and in Los Angeles with assistance from government in each case, but the nature of the assistance varies. As a result, the individual travels using various combinations of PE, GE and government support. The cancellation of the Spadina Expressway reflected the government's decision that a different kind of assistance was needed, one that relied less on individual use of automobiles.

The legislative debates indicate that the government felt that market failures may also exist in the undertaking of R&D in urban transportation equipment, especially that which could be integrated with existing systems in Ontario and in Canada; that the various sources of technical expertise may fail to communicate effectively with each other without government prodding; that industrial benefits to Canada will spin-off in a manner which might not otherwise occur without UTDC; and that municipalities are likely to face monopoly suppliers of equipment in the absence of a GE, despite the fact that DTC contracted with eight transit systems developers to bid on a system in 1972.

These implied market failures do not address the reason for the choice of a GE. Clearly the government could have contracted with PEs as it did originally with Krauss-Maffei, and with the seven other PEs listed in Exhibit 2. Contract specification could have required that PEs produce transit systems which would fit into existing systems and priorities, and contracting could have specified local sourcing, so that industrial benefits accrued to Canadian or to Ontario firms. Poor liaison between industrial and academic expertise in Canada seems a weak reason for a GE when there already existed examples of such liaison in the Transportation Development Centre of the Federal Government, the Canadian Institute of Guided Ground Transportation at Queen's University in Kingston, Ontario, and cooperation that had previously taken place between PEs on projects such as the Turbotrain and the LRC Train.

One explanation of the need for a GE which needs to be examined is contractual complexity [7]. It may be difficult and costly for the government to specify all the terms and conditions required for new technology to be developed, for the technology to be consistent with existing transportation systems and for industrial benefits to be spun off in Ontario. Government administrators might be presented with an impossible task of monitoring the fulfillment of these requirements, and thus one alternative was to delegate these complex responsibilities to a GE. This may not eliminate the problem, but it might reduce it and the associated costs.

The contractual complexity argument is perhaps more appropriate when the nature of the output is considered. If the government only wanted products, then contracting with PE might be feasible, but if the government wanted the development of transportation systems, i.e., products as part of an operating system including infrastructure, operation and maintenance, and if these systems were to utilise new technology, then a GE might be the best way to reduce transaction costs. Certainly firms like Bell Canada argue that combining R&D, equipment production and operating service in one vertically related organization is conducive to developing new technology and incorporating it in the existing telecommunications system. The complexity-of-contract-terms in urban transportation systems is an issue to which we will return in Section II after further details of UTDC have been examined.

One other reason for Ontario's choice of a GE should be noted. Expenditure on urban transportation is a provincial responsibility and a major item in provincial budgets. Other provincial jurisdictions in Canada use this expenditure leverage to promote in-province industrialisation. The Ontario government may have felt that it needed a provincial presence in this market if benefits were to accrue to the province. Moreover it might have been able to sell transportation equipment outside of Ontario, although initially this was not so. The government of Alberta, for example, purchased light rail systems from European suppliers for Edmonton and Calgary. The idea of provincial preference and sales to the rest of Canada is given credence by the fact that the original corporation was called the <u>Ontario</u> Transportation Development Corporation, until its name was changed to the <u>Urban</u> Transportation Development Corporation. An unsuccessful attempt was made to get the federal and other provincial governments to invest in UTDC at the time the name was changed.

The federal nature of Canada created situations that lead to provincial policies which tend to fragment the market. This creates a political reason for a GE, rather than one associated with market failure, if a provincial GE as opposed to a PE can overcome the fragmentation. In fact the policy promotes failure if economies of scale cannot be achieved by the firms because of fragmentation of production as each province goes its own way.

The nature of market failures, especially the contractual-complexity argument can be examined in the light of the types of projects in which UTDC has been involved since its inception.

II. PRODUCT DEVELOPMENT

II. PRODUCT DEVELOPMENT

UTDC has been principally involved in two areas, the development of transit equipment and of transit systems including equipment. The difference is that in the first instance the product is developed for use in an existing system, while in the latter case the total system has to be designed and developed. While R&D occurs in both instances, transit system development is more complex and provides greater opportunities for the use of new technology.

The Krauss-Maffei 'maglev' technology and the Intermediate Capacity Transit System (ICTS) are examples of UTDC's involvement in system design and development, while the Light Rail Vehicles (LRV) program was concerned with the production of equipment for use with existing infrastructure.

In November 1974, soon after the formation of UTDC, the Ontario government announced that the West German government had withdrawn its financial support for Krauss-Maffei, and that Ontario's contract with Krauss-Maffei would be terminated. By early 1975, UTDC had drawn up a plan which was to lead to the development of the ICTS. The government thus continued its support of UTDC despite the demise of the 'maglev' project.

The ICTS project has now reached the stage of having signed contracts for the system's installation in Vancouver, Detroit and Scarborough. A 1 km section of the 21.4 km track in Vancouver has been opened for free demonstration rides. None of the three projects has reached the stage of commercial revenue operation, but all are under construction.

The ICTS involves the use of a wheeled vehicle travelling on a specially constructed dedicated guideway. The vehicle is driven by linear induction motors and controlled by a computerised system which allows the vehicle to be driverless if desired. The system is new in the sense that it combines existing technologies in a configuration which has not been previously used [8].

While the ICTS was being developed, UTDC was active in producing LRVs or streetcars for the Toronto Transit Commission (TTC). One hundred and ninety-six of these cars were produced. This project began in 1974 with a proposal by UTDC to develop new vehicles for the Toronto street system. The TTC issued a letter of intent to purchase, and then with UTDC prepared vehicle specifications and requirements leading to a preliminary design which was completed in 1975. Prototype vehicles were developed by a Swiss firm during 1976 and tested in Austria and Switzerland in 1977. Street testing took place in Toronto in 1978 [9]. The vehicles were then produced by Hawker Siddeley at Thunder Bay between 1979 and the end of 1981 [10].

In 1983, a contract for 50 custom-designed articulated LRVs was signed to supply the city of San Jose, in Santa Clara County, California. A further contract for 52 articulated LRVs for Toronto has also been made. Besides streetcars, UTDC now supplies subway cars: a contract was signed with the TTC in 1983 for 126 cars to be used on the Toronto subway and Boston is being supplied with 54 cars.

The buyer-side of the market is of note in all three contracts. For the ICTS, the buyers are B.C. and Ontario municipal authorities and the City of Detroit; for the LRVs and subway cars the buyers are the TTC and Santa Clara County. In a number of these cases the Ontario government is represented on both sides of the market, as the supplier through a GE, UTDC, and as a customer through funding provided to the TTC and municipal authorities. In the Vancouver, Detroit and Santa Clara projects, the Ontario government is committed to providing guarantees totalling $435 million [11]. In these circumstances, the possibility exists for the government to fund the project, provide a market for it and through fare setting influence the use or success of the equipment in commercial operation. For these reasons, it will be difficult to measure the financial success or performance of the projects which have a high degree of government involvement on both sides of the market.

In the case of individual pieces of equipment such as LRVs or subway cars, it is relatively easy for a GE to perform or contract out for the design of the equipment and to contract out for the manufacture of the vehicles. In essence this happened for the first 196 TTC LRVs. The design work was done by a combination of UTDC and a Swiss firm, while manufacturing took place in Hawker Siddeley's Thunder Bay plant before it was acquired by UTDC. The 126 subway cars will be built for the TTC in the same plant which is now 80% owned by UTDC and 20% by Hawker Siddeley.

The ICTS was designed by UTDC, which also produced and tested the prototype on its Kingston test track. The vehicles are now being assembled in UTDC's plant at Kingston, while UTDC is also the contractor for the guideway construction and will provide training and maintenance services for the system.

With a system's approach, especially where the system is new and untried in commercial operation, there may be an argument for GE as an appropriate instrument on the grounds that it is difficult to transfer the technical knowledge on an arm's length basis to an independent contractor. The coordination of the design, production and operation of the system may be more cheaply performed by a vertically integrated firm, in this case a GE.

The reason for the use of a GE in the first place may be associated with R&D type market failures noted above: the reason a GE is used at subsequent stages may be due to the costs of technology transfer and contractual complexity. It would have been extremely difficult to specify the terms of the contract leading to the ICTS, and government would probably not be allowed to sign, or would be criticised if it did sign, an open-ended contract with a PE, where the terms and conditions were not clearly stated. An alternative explanation would be that once the prototype has been designed there is a reluctance on the part of the managers in UTDC to let go of the project due to a belief that they are the only persons who can follow the project to successful completion. The politicians might support such action due to their understanding that through influencing purchasing decisions, they could orchestrate conditions to make the project actually succeed or appear to succeed [12]. It appears that UTDC has had the continued blessing of the Premier of Ontario who has had confidence over the years in and a close working relationship with the president, Mr. Foley.

A counterargument to the above is that governments contract with private sector firms for complex equipment in the case of defense spending for aircraft, ships and tanks [13]. While there are similarities between the ICTS and defense spending, there is also the difference that with defense contracts much of the R&D may already have been undertaken by the firms before governments decide to buy. With the ICTS, there was the need to contract to perform the R&D which resulted in the system design.

Another aspect of UTDC is that, through the use of a GE, the government can select suppliers without engaging in a tendering process. This was the case for subway cars and LRV's purchased by the TTC, and would have been difficult to effect if the contract had been made with a government department[14]. Thus, a GE may provide the government with flexibility, and allow it to distribute business to those firms it wishes to support. The redistributional potential from UTDC is primarily to the benefit of selected Ontario-based manufacturers, and, since its expansion, to its own employees who now number in excess of 1,000. The communities of Kingston and Thunder Bay are the chief beneficiaries, the former now represented by a cabinet minister.

III. LEGAL ASPECTS AND ACCOUNTABILITY

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LEGAL STRUCTURE AND CORPORATE OBJECTIVES

There are two relevant pieces of legislation in the Revised Statistics of Ontario for 1980, one establishing the Ontario Transportation Development Corporation (OTDC) and the other creating the Urban Transportation Development Corporation (UTDC). In practice, OTDC is inactive and UTDC has taken over the responsibilities and assets of OTDC. Subsequent subsidiaries created by UTDC do not appear in the Statutes, and are set up without reference to or direct approval from the legislature. This becomes an issue in determining how subsidiaries provide accountability to the legislature for their activities.

The two pieces of legislation establishing OTDC and UTDC are reproduced in Appendix A. OTDC is a corporation set up under the Ontario Business Corporations Act and subject to most, but not all of the provisions of that Act. It is expressly stated that OTDC is neither an agency of Her Majesty nor a Crown Agency, but the ownership provisions result in a majority of the shares having to be owned by the provincial government. The objectives of the corporation are all embracing and notably include reference to manufacturing as well as to the design, development, construction, testing and operation of transportation systems. This is an important point because in the course of legislative debates and in statements by corporate officials, it was frequently stated that the corporation would not engage in manufacturing nor compete with the private sector, despite manufacturing being included as an objective in the legislation.

The legislation regarding UTDC is much shorter. This corporation received its letters patent on October 10th, 1974, under the federal Canada Corporations Act. Again the legislation states that UTDC is neither an agent of Her Majesty at common law, nor a Crown Agency within the meaning of the Crown Agency Act. It is stated that the corporation may issue guarantees which can be paid out of the Consolidated Revenue Fund of Ontario.

Both pieces of legislation suggest that the government is attempting some degree of arm's length relationship with the two corporations, so that they are not treated like any other Crown corporation or agency, and the process of corporate accountability may be different. Further explanation of the reasons for the legislative format and the significance of the objectives can be gleaned from the legislative debates, committee hearings, and corporate statements. To some extent the explanations vary with time, as reasons are provided for actions already taken.

The debate on the OTDC Act took place on June 7, 12, 21 and 22, 1973. An amendment to the OTDC Act in 1974 permitted UTDC, which was created in 1974, to assume activities and projects of OTDC. The discussion during the 1973 OTDC debate reveals that the provincial government felt that it was creating an organization which would assist in implementing the transportation and related policies noted above (see UTDC in 1973, Section I).

Two additional points in the 1973 debates are worthy of note. First, the legislative and organizational form of OTDC was suggested as being akin to the federal government's Canada Development Corporation, an entity which is not subject to the Financial Administration Act [15]. Second, it was stated that OTDC would hold the rights to Krauss-Maffei's 'maglev' technology, which became known as 'Transurban' and 'GO-Urban', and differs from the 'maglev' technology developed for intercity travel, and that the corporation would undertake consulting services and R&D on other forms of urban transit, such as buses and light rail vehicles (LRVs or streetcars). The breadth of the product or service mandate was fairly clear; the depth was fuzzy in terms of whether OTDC would engage in manufacturing. The ideology of the goverment was against OTDC becoming a manufacturer and competing with the private sector. However, the legislation made provision for that eventuality which has in fact come to pass.

The expected size of OTDC in 1973 was 30 to 40 employees to provide the in-house capability. At times it was suggested that the pressure of work might increase this number to 70, but most of the work would be farmed out to the private sector. This was the government's response to concerns that too much research might be done in-house [16].

On October 22, 1973, Premier Davis announced that Mr. R. Rowzee, Chairman of Polysar, a federal GE, would become chairman of OTDC, and on November 12th, the appointment of seven other directors was announced. Mr. Foley, the President, became a director in 1974. Between 1974 and 1981, all but one, Mr. Paul Desmarais (Power Corporation), of these nine directors remained as directors of UTDC. In 1982, one of the eight resigned and four new directors were added. By 1983, UTDC had eleven directors, seven of whom had been with the corporation since 1974.

One reason for the incorporation of UTDC under federal law in 1974, was the desire to encourage participation by the federal and some provincial governments in the corporation's equity. Wider ownership participation was felt to be desirable because of the limited size of the Canadian market. A nationally-owned corporation might find it easier to do business in all provinces, and R&D costs could be spread over the total Canadian market. It might also serve to discourage the establishment of provincial preferences and inter-provincial trade barriers. In fact, national ownership was not realized, and provincial procurement fragmented the market. Alberta, as noted, purchased a German light rail system for Edmonton and Calgary, while Quebec tends to support Bombardier as an equipment supplier. The one major provincial breakthrough is UTDC's contract to supply the ICTS to the City of Vancouver, B.C. UTDC and Bombardier did form a consortium to bid (unsuccessfully) on a transit project in Singapore in 1984.

In 1974, UTDC became the active subsidiary of OTDC, assuming all the objectives and assets which had been ascribed to OTDC. From 1974, it is the activities of UTDC which will be followed, while OTDC became an inactive corporation.

Thus far we have noted the objectives of the corporation as set out in the legislation and as discussed in the legislative debates. The corporation's own view of its original objectives in 1973/74, as presented by its management in 1981, was

1. To develop innovative transit alternatives
2. To create a Canadian centre of excellence
3. To stimulate development of industry
4. To maximize return from research and development
5. To avoid direct competition with the private sector[17].

Such generally worded objectives are difficult to evaluate in terms of actual performance. Some qualitative attempt can be made regarding points 1 and 5. The fifth point is interesting in that it states the recurring theme that UTDC would not try to replace what the private sector was already doing. Whether this meant Canadian and foreign based private enterprise, or only Canadian-owned firms is unclear.

There were two other occasions in November 1974 to gain some appreciation of how the objectives of UTDC were viewed at the outset. When the Krauss-Maffei contract was cancelled, opposition spokesmen argued that the government should terminate altogether its interest in 'maglev', and should concentrate its resources on alternatives such as bus and light rail. The opposition argued that the government was hanging on to 'maglev' as a face saving gesture. In reply, the government stated that they wanted time to reassess the situation, and that there might be the possibility for cross-fertilization of 'maglev' technology with the light rail (streetcar) program. In fact, the cross-fertilization came about subsequently with the use of the 'maglev's' linear induction motors in the ICTS. Reference was also made in the debates to the problems experienced by new technology in the BART (subway) system in San Francisco and in the experiment at Morganstown, West Virginia, in order to show that UTDC's situation was not unique [18].

A few days later on November 19th, 1974, in a confidence motion connected with the demise of Krauss-Maffei, an NDP spokesman claimed that the West Germans had known for six months to a year that 'maglev' technology was neither economical nor safe for the slower speeds associated with intraurban use, but might be suitable for intercity use. The government claimed that its decision to terminate the contract was made as soon as it had received the appropriate advice from West Germany [19].

The timing of contract termination a few weeks or months earlier or later is perhaps less important than the fact that the government did make the decision. In one sense it was forced on them by the action of the West German Government. However, there are other instances where government enterprises hang on for too long, usually at the expense of the taxpayer and in order for the politicians and bureaucrats to save face [20].

Since 1974, the legal form of UTDC has remained unchanged, except that in 1980 it received a Certificate of Continuance under the federal Canadian Business Corporations Act (CBCA). At this time, the original objectives of UTDC, as carried over from the 1973 OTDC Act, were dropped from its charter, thus leaving a very short act as presently found in the Revised Statutes of Ontario. The CBCA allows a corporation to have broad terms of reference and a detailed listing of objectives is not required.

PRIVATIZATION

In the Fall of 1983 there was speculation over whether UTDC should remain government-owned or be sold to private investors. If GEs are created because of market failure, then privatization might imply the absence or removal of such failure. Mr. Foley, UTDC's President, was reported in a newspaper interview to have questioned whether the corporation should be government-owned or sold, because it "was generating elements of profit that could be considered in the future as self-sustaining"[21]. The issue was raised twice in the committee hearings, and each time the Minister of Transportation and Communications suggested that it was up to the shareholder not the corporation's management to decide whether the shares would be sold. In the case of a wholly-owned private enterprise, the senior management would be unlikely to discuss selling the shares unless it had permission to do so from the shareholder. Thus, it is interesting to speculate why the management of a wholly-owned GE felt comfortable in discussing such a topic.

The second point to consider is whether the perceived market failures which led to the creation of UTDC had disappeared. The president's words are cautionary, that "there are elements of profit" which "could be considered in the future as self sustaining". Only time will tell whether the elements become pervasive and sustainable, but on the basis of the financial data presented below, it appears optimistic to suggest that UTDC would be attractive to private investors. The offer of shares to the public would certainly be an interesting and useful test of the government's use of a GE in this area.

Mr. Foley made another statement in these committee hearings that "as I understand my mandate and my job, (is) to maximize the benefit for the taxpayers of Ontario and to protect the assets of the corporation" [22]. Such a statement is difficult to operationalize. The taxpayers could benefit from revenue collected by the treasury from the sale of shares to private investors. However, if there are indirect benefits to taxpayers as transportation users and from industrial spin-offs, because of market failure associated with R&D, then these taxpayers might well lose if that market failure still exists. In short, if a GE was needed to perform or promote R&D, that general need probably still exists, so that if UTDC is privatised, some other policy instrument will have to take its place or supplement the privately-owned corporation. The alternative may be more efficient and effective, but there would undoubtedly be changeover costs associated with a different policy approach. Such changeover costs may be a reason why policies persist when their effectiveness is no longer apparent.

Privatization of GEs is an interesting process in this and in other cases. It could be said to imply the absence or removal of a market failure, or the appearance of a government failure, or a government failure that is worse than the market failure. A government's decision to privatize is recognition that such action is a policy instrument. Thus government may decide to own the facilities, regulate private enterprise, or contract with private enterprise, in this case an enterprise which was previously government-owned [23].

In sum, the ten-year debate surrounding UTDC has gone from arguing for the need for a GE, to justifying its expansion, and now to speculating about a change through privatization. In the last instance, it appears that the speculation is being undertaken by corporate management without the approval of the shareholder. The separation of ownership from management appears to have reached an unusual extreme, because with UTDC ownership is concentrated in one owner, and not dispersed. In private sector firms, the separation usually occurs where ownership is dispersed. The seeming independence of UTDC's management may exist because of personal relationships between the president and the premier. The president of UTDC reports formally to the Minister of Transportation and Communications, but this may not be the vital reporting linkage. An understanding of the operations of a GE needs to consider personalities and their relationships, as well as the formal linkages [24].

ACCOUNTABILITY

A private corporation is accountable to its shareholders through an elected board of directors. The directors have a duty to exercise care and skill in carrying out their functions, as well as fiduciary responsibilities to act honestly and in the best interests of the firm [25]. Directors may be corporate outsiders, or insiders, who are simultaneously officers of the corporation. They set corporate policy which is then carried out by management at all levels under the direction of the senior officers. One of the key committees of the board is the audit committee, which examines and oversees the audit procedures of the corporation.

Accountability refers to the process which disciplines the behaviour of the corporation. Besides the formal audit, other disciplinary forces operating on a private sector firm are (1) competition from firms producing similar goods and services, (2) vertical competition from suppliers and buyers on the other side of the market (countervailing power), (3) the threat of potential competition from new firms which may enter the market, and (4) competition from substitutes and/or technological change, such as word processors for typewriters, aluminum for steel in beverage cans, or public transit for private cars [26].

The pressures on a corporation to perform are a combination of its position in the marketplace, and the formal process of accountability which is required by law. The accountability and pressures on UTDC have both similarities and differences with a typical private sector firm. The sole shareholder of UTDC is the Ontario government which votes the shares to appoint the board of directors according to the requirements of the federal Business Corporations Act. The provincial Minister of Transportation and Communications (MTC) is the sole shareholder and responsible cabinet officer, although the selection of board members is probably a cabinet approved decision with major input from the Premier. The cabinet in turn is accountable to the public through the political process. Ultimately , the voters own the corporation, but control it through their elected agents, the politicians.

Formal Financial Audit

UTDC's audit procedure was outlined in some detail as a result of hearings before the Public Accounts Committee (PAC) on June 10, 1982. In its 1981 hearings, the PAC had decided to ask the Provincial Auditor to review the past financial statements of UTDC. This review covered the period December 31, 1975 to December 31, 1979, and was attached to a letter, dated June 11, 1981, from Mr. F.N. Scott, the Provincial Auditor, to the Chairman of the PAC. Additional material arising from UTDC's Auditor's Report for 1980-81 was also provided to the members of the PAC [27].

The audit procedure involves information compiled by the financial staff within UTDC, the actual audit performed by an outside firm, Cooper's and Lybrand, reviews by the audit committee of the Board of Directors and by the full Board, and review of this audit by the Provincial Auditor. This last review may then become the subject of hearings before the PAC, as occurred on June 10, 1982.

Mr. Foley, in summarizing the audit process, stated that Coopers and Lybrand maintain a continued review of UTDC's practices and procedures throughout the financial year which ends on December 31st. The formal audit begins in February or March and is completed in April or May, at which time it is reviewed both internally within the corporation as well as by Coopers and Lybrand. UTDC management may then discuss specific items with Coopers and Lybrand, including meetings with senior principals of the audit firm. The next step is for the audit committee of the Board to meet, usually in private, first with Coopers and Lybrand, and subsequently with senior management of UTDC. The audit committee then reports to a full meeting of the Board to approve the financial statements, after which "the annual shareholders' meeting is held to review the financial accounts of the corporation, its audit practices, and all bylaws and resolutions of the board of directors" [28]. Once the accounts have been approved by the Board, a 'management letter' may be sent to the President of UTDC by Coopers and Lybrand requesting explanations for various financial practices. It was the contents of the 'management letter' for the 1980 fiscal year that was discussed by the PAC in June 1982.

In the PAC hearings, the Provincial Auditor noted that his office can review the work of Coopers and Lybrand, but he stated, "...that we are once removed from the subject matter, we are not the auditors of the corporation, and our communications are with the auditors of the corporation [29].

The Audit Act, 1977, gives the Provincial Auditor the power to review the accounts of UTDC. According to Section 1(e), UTDC is a Crown controlled corporation because 50% or more of its issued and outstanding shares are owned by the government of Ontario. Sections 9(3) and 9(4) give the Provincial Auditor the power to review the auditor's report. However, as the Provincial Auditor noted, his staff does not have first hand access to the information on which the financial accounts are based.

One issue which has arisen was whether the Provincial Auditor has the power to review the audited accounts of UTDC's subsidiaries. In a letter, dated June 29, 1981, from the Provincial Auditor to the Deputy Attorney General, the Provincial Auditor interpreted Section 1(e) of <u>The Audit Act</u> to apply to wholly-owned subsidiaries of Crown controlled corporations, on the grounds that the subsidiaries were controlled by a parent company which was itself Crown controlled. The Deputy Attorney General replied, in a letter dated July 21, 1981, that

> It is our view that there is some difficulty in characterizing the subsidiaries of the two corporations you refer to as Crown controlled corporations. It is our view that ownership of the shares of the subsidiaries would be held to be vested in the parent corporations and not in Her Majesty in right of Ontario. This interpretation is not free of doubt. I would recommend that the matter be clarified by an amendment to the legislation.

Again we are dealing here with the audit process rather than the issues raised during the process and relating to particular aspects of financial reporting. On the one hand, the process appears to be more demanding than that to which a private enterprise would be subjected - certainly far more severe than in the case of a closely-held private firm. On the other hand, the ease with which subsidiaries can be spawned, and the legislative veil which seems to hide them from public scrutiny, may permit the owners and managers to weaken the accountability exercised through the audit process. The type of legislation used to establish UTDC as a GE has influenced the extent to which full accountability can be exercised. A formal statement outlining UTDC's relationship to the Ontario government is set out in Appendix C.

Evidence from 1974

The Committee on Supply examined the estimates of the Ministry of Transportation and Communications on November 14, 1974. These hearings clearly illustrate the problems which MPPs have in raising questions about OTDC - see Appendix B. In effect the Minister states that although he is responsible for OTDC, the corporation does not receive funding that is part of his Ministry's estimates. He then directs the members to address questions in writing directly to the corporation [30]. Later on the Minister states that he does not know how much money OTDC spent during the fiscal year [31], and invites the MPP to attend the corporation's annual meeting as a spectator, since the government is the only shareholder.

These circumstances show that when setting up OTDC by a Special Act of the Legislature, no procedure was laid out to make the corporation accountable, other than to make an annual report to the government through the Minister. Because no funding was provided by the Ministry that year, no discussion of the corporation could take place during the committee hearings on estimates. In subsequent years the affairs of the corporation were discussed with the estimates of the Ministry. The legislated form of the corporation and its financial relationship to the government determine the way in which accountability can be exercised.

Financial Data

Opposition MPPs and other outsiders request information on particular contracts awarded and on the salaries of the individual managers, for example how much Cooper's and Lybrand is paid for auditing UTDC, and how much the president, Mr. Foley, is paid. These items of expenditure tend to be reported in aggregate totals and not published separately, unless requested during question period or in writing. Sometimes an answer will be forthcoming, at others a response is given, typically, that the information is confidential and release of it would be competitively disadvantageous to UTDC. For example, it has been stated that publicizing the salaries of senior management would facilitate potential employers in raiding these employees. However, it was pointed out that an employee would likely reveal such information to a 'headhunting' firm anyway [32]. Moreover the details could probably be obtained from a payroll clerk within the corporation. This type of information would not typically be disclosed by a private sector firm.

Moving from the details of individual small contracts to those of major financial items, the Legislative Research Service found that "The total Government of Ontario investment in UTDC and its programs is very difficult to determine" [33]. On questioning, Mr. Foley reported that up to 1982, the Ontario government's capital investment in UTDC was $36.6 million ($6m in 1973/4, and $30.6 million in 1980/1), and that the Ministry of Transportation and Communications had had contracts with UTDC worth $63.1 million, mainly in connection with developing the ICTS program. Investment plus contracts thus totalled about $100 million by 1982 [34].

This type of information should be available from the annual financial reports of UTDC, and perhaps can be extracted, but with considerable difficulty. These reports are summarized below to show what they reveal since 1975. The annual report for 1973 dealt with OTDC and 1974 was a transition year to UTDC. In 1973, shares of OTDC were issued to the provincial government for $6 million of cash and another $5 million for the licence rights for 'maglev' technology: the $6 million represents the first cash investment in the corporation by the government.

It is easier to show a consistent series for balance sheet data from 1975 to 1983 - Table 1. These figures indicate that

Table 1

UTDC - Summary Balance Sheet Data, 1975-1982

Items	1983	1982	1981	1980	1979	1978	1977	1976	1975
Current Assets	43,112	27,621	51,088	8,322	12,883	25,840	16,265	13,066	4,819
Other Assets	112,982	84,977	40,919	56,689	51,231	68,938	28,235	15,566	3,887
Total Assets	156,094	112,598	92,007	65,011	64,114	94,778	44,500	28,632	8,706
Current Liab.	15,623	14,249	11,150	18,159	12,482	23,063	12,214	11,011	2,412
Other Liab.	41,539	44,542	40,193	26,894	45,792	66,055	44,952	17,051	2,196
Share-holders' Equity	55,436	53,807	50,704	19,958	5,840	5,660	-12,666	570	4,098
Total Liab.	156,094	112,598	92,007	65,011	64,114	94,778	44,500	28,632	8,706

Source: UTDC Annual Reports, 1975 to 1983.

total assets rose from $8.7 million to $156.1 million: shareholders' equity declined to a negative $12.7 million in 1977, rising to $55.4 million in 1983. The rising deficits connected with the ICTS program caused the negative equity position to occur. This was altered in 1978 when an income debenture of $29 million owed by UTDC to the Ministry of Transportation and Communications (MTC) was cancelled. The debenture had been the instrument used up to June 1978 to finance the early stages of the ICTS program; after June 1978, the MTC funded the program on "a fee for service arrangement involving the sale of ICTS technology to MTC for payment of development costs" [35]. The other major increase in shareholder's equity came in 1981, when the government purchased an additional 12,240,00 common shares for a cash payment of $30.6 million, using funds allocated to the government's BILD program [36].

Another interesting comparative statistic from UTDC's balance sheet is 'other assets' (non-current assets). In 1976, 'other assets' of $15m consisted mainly of purchase commitments related to the LRV contract (196 vehicles) for the TTC ($9m) and deferred development costs for various projects ($3.2m). By 1978, deferred production expenses were $39.8m and fixed assets $15.6m out of 'other assets' of $68.9m. Fixed assets fell to $4.3m in 1979 but were reappraised upwards and were recorded at $18.9m in 1980, while deferred production expenses were $37.8m (out of total other assets of $56.7m). In 1983, deferred contract costs were $61.8m, fixed assets $31.8m and development and design costs $18.6m (total other assets of $113.0m).

Thus over the years the principal assets, other than current assets, of UTDC were work in progress on design and development, spending to-date undertaken on contracts such as the Vancouver ICTS program, and fixed assets such as the Kingston test centre. Coopers and Lybrand questioned UTDC's accounting treatment of deferred costs in the 1974 OTDC and in the 1975 UTDC Annual Reports. The accounting treatment was changed in 1976 according to the auditor's advice. UTDC was given a clean bill of health by the auditors until the 1979 Annual Report, when a $6.5 million claim by UTDC against MTC was noted. This sum represented the higher cost of contracting with Hawker Siddeley than Bombardier for the TTC contract for 196 LRVs.

Comparable income statement financial statistics from 1975 to 1983 are difficult to extract from the published financial statements of UTDC, because of different categories used for revenues and expenses. Income statement data are consistent from 1980 to 1983. However the net profit or loss figure by year since 1975 appears as set out in Table 2:

Table 2

UTDC - Net Profit/Loss, 1975 to 1983

	Profit($000)	Loss($000)
1975		9,267
1976		6,625
1977		13,236
1978	18,234	
1979	180	
1980		698[a] or 1,675[b]
1981	146	
1982	3,103	
1983	1,629	

[a] From 1980 Annual Report, p. 17.
[b] From 1981 Annual Report, p. 16.

The major turnaround from a loss of $13.2m in 1977 to a profit of $18.2m in 1978 was due primarily to the cancellation of the $29 million income debenture held by MTC.

It would require a detailed accounting analysis to evaluate the procedures used to report UTDC's financial position. For the layman, the accounts are not easy to follow and to interpret from year to year. This is partly due to the nature of the firm's activities, where R&D has to be expensed and payments received and made for projects that take place over a number of years. However each year accounts were produced, were audited and presented publicly, and were commented on by the auditors with adjustments made in the light of the auditor's remarks.

It is difficult to say whether a comparable private enterprise would have been able to continue for ten years, substantially in a loss position each year. UTDC had the government as the sole shareholder, and one which was also the principal customer. Up to Jan. 1st, 1980, about 96% of funding and contracts for UTDC came from the government of Ontario [37]. After that date funding came from the Vancouver and Detroit ICTS contracts, and the dependence on the Ontario government lessened. However both these contracts required other types of government commitment, a $300 million performance bond and a $50 million warranty bond in the case of the Vancouver contract, and a $43 million performance bond and a $31 million payment bond in the case of the Detroit contract. The $300 million bond is guaranteed by the Province of Ontario [38].

UTDC is a closely-held corporation owned by the government on behalf of Ontario voters. A closely-held private enterprise would not be subject to such detailed public financial scrutiny, although it would be made accountable to its investor-owners. The difference occurs because the government acts as an agent for the voters who have the right to know how government revenues from taxation and borrowing are being spent. While the audit process has weaknesses, such as the treatment of subsidiaries of UTDC and consistency of reporting over the years, these could be rectified and the disciplining force of the audit strengthened. However, it will always be the case that management has control over the information supplied to the auditors, and this will give them some flexibility in what and how the information is presented.

The audit process is somewhat antiseptic in its approach. For example when Coopers and Lybrand questioned in 1979 whether UTDC would collect on about $6 million from MTC, which was in dispute, no mention was made that this related to an amount that the government had agreed to pay, and eventually did pay, in forcing UTDC to accept a higher bid from Hawker Siddeley, an Ontario-based firm than a bid made by Bombardier, a Quebec-based firm.

Committee Hearings

The financial affairs of UTDC are discussed each year in the legislative committee which deals with the estimates of the MTC. In the early years of the corporation, this was the

Committee on Supply, and at other times the estimates have been examined before one or other Standing Committee. The president of UTDC, Mr. Foley, usually appears with the Minister on these occasions to answer questions. From the outset, in 1973, Mr. Foley participated actively in the discussion, usually providing substantial details on the ongoing operations of the corporation. Since 1979, Mr. Foley has prepared a detailed presentation which is made available to members of the committee. Some of the information in the prepared presentation is similar to data in UTDC's annual report, but over the years a considerable amount of additional information has been provided, including details of individual contracts. The presentations include information on problems associated with particular UTDC contracts. For example, it was noted that the LRVs (streetcars) produced for the TTC had problems associated with (1) derailed vehicles, (2) inadequate insulation protection for wiring against road salt, (3) ventilation discomfort to passengers, and noise and vibration problems [39].

The data provided in these presentations are more detailed than could be obtained by an individual shareholder from a private sector corporation with publicly listed stock. The details may be more than an individual committee member has time to absorb, unless he or she has staff assistance. In addition, the committee's time is a limiting factor on how detailed the discussion of UTDC can be. However, considerable information does exist on the public record, and it is used by individual members of the legislature in question period and in legislative debates, as well as in the committee's discussions on estimates. The information is also available to others who may have an interest in the corporation, notably journalists and consultants.

The operations of UTDC have also been the subject of discussion before the legislature's Public Accounts Committee (PAC), as discussed in an earlier section. It should be noted that the extent of public explanation and justification of actions taken, is greatly in excess of what would normally occur in the case of a private sector firm and of most GEs [40].

Informal Procedures

Thus far we have shown that UTDC has an audit committee of its board of directors, and is subject to an annual audit by Cooper's and Lybrand, whose report may be reviewed by the provincial Auditor General. In addition, the operations of UTDC are discussed annually before the appropriate legislative estimates committee, and at times before the Public Accounts Committee.

We can now move to a description of less formal accountability procedures. Members of the legislature take part in debates concerning UTDC, and may raise questions about the corporation, usually to the Minister or Premier. Certain opposition members tend to take a keen interest in UTDC, either because this is the responsibility which their party has given them, or because the firm's operations affect their ridings, for example Kingston and Thunder Bay in terms of UTDC plants, and

Toronto, Scarborough and Hamilton in terms of purchasers of UTDC products.

A particular interest in UTDC has been taken by Mr. Eric Cunningham, the former MPP for Wentworth North. He has been active in legislative debates, question period and in committee hearings. In March 1983, Mr. Cunningham held a press conference at which he distributed a collection of material highly critical of UTDC. One segment of the material characterized UTDC as a 'Decade of Waste', while another listed a 'History of Unusual and Questionable Activities' [41]. Mr. P.H. Stevenson, UTDC's Vice-President Corporate and Public Affairs, responded to the material saying that it contained "erroneous, misleading and often malicious information concerning UTDC" [42]. It is not our purpose to referee and adjudicate this exchange, but rather to examine how such publicity arises and the extent to which it can act as a disciplining force on the corporation.

An individual opposition MPP, such as Mr. Cunningham, must use his time and staff to become familiar with the corporation and related activities. An MPP's priorities will determine the time and interest given to UTDC. At the same time, there are outside interested parties who may feed the MPP information about UTDC, because the MPP has a public platform from which to speak, and one which may attract media attention. Interested parties may include competitors, suppliers and customers of UTDC. For example, there was a proposal to install an ICTS system in the Hamilton area, a move which was resisted by some local residents. These people would be interested in using an opposition MPP who was critical of UTDC, and would provide assistance to him. Other interested parties might include engineers and consultants, who favoured the use of different technology for urban transit, and journalists who follow the corporation and need an MPP to ask questions during question period. In all these examples, the MPP and the interested party may be able to trade favours, thereby promoting each others' interests. This may assist the MPP in becoming a more effective critic and a stronger disciplining force on the corporation.

UTDC's response to Mr. Cunningham's (March 1983) criticism was made on a point by point basis. While a private corporation or a government department would have made some response, it is the writer's judgement that it would have been done in a more summary fashion [43]. The exchange served to highlight for the public, via press coverage, the activities of UTDC and undoubtedly reinforced for management the public nature of the corporation.

The issues which were debated in this exchange included the following. These are presented without discussing the merits of each side:

1. That UTDC had expanded its mandate beyond that originally given by the legislature.
2. That UTDC technology is being forced on to certain Ontario municipalities.
3. That UTDC is a spendthrift and wastes money.
4. That UTDC expertise is questionable, and its technology unproven.
5. That UTDC undermined a private sector organization Hawker Siddeley.

Each set of issues is of interest because of what it implies about a GE, and the contrast with a private corporation. For example, it is unlikely that the mandate of a private enterprise would be questioned by outsiders, nor would it be criticized regarding the technology which it was using and its relationship with competitors. If such criticism was warranted it would be focussed on the rate of return being earned by the firm. In contrast, the profitability of UTDC is seldom questioned directly, because of its mandate which may delay for months or years the opportunity to earn profits.

The first issue (listed above) implies that a GE will have an identifiable mandate which is narrower than many private sector firms. In practice, however, while the stated objective is narrow, there are usually unstated objectives such as the GE being expected to fulfill social objectives, e.g., industrial spin-offs in Ontario. In the second case, the question of forcing technology or products on to a customer (municipality), can arise where the supplier and customer have the same controlling interests, i.e., a GE selling to a government financed customer. A private sector firm would be in this situation where the firm was vertically integrated or a conglomerate and was trading with itself.

The items of waste attributed to UTDC include the provision of housing, cars, and club membership to corporate staff, and the salary levels of senior executives. While all these items may be at issue in a private enterprise, it is unusual for outsiders to be aware of the level of detailed expenditures that is discussed in the case of UTDC. That is to say, waste can occur in both private and government enterprise. The opportunities to monitor the waste in the case of a GE is often greater as far as small items are concerned. When these smaller items can be associated with individual executives (e.g., salaries, housing, cars) they become grist for partisan political debate.

It may be that a GE is made more accountable than a private enterprise for minor items of expenditure, but less accountable for major items such as the choice of technology to be developed and exploited. Legislative and journalistic critics find it easier to discuss salary levels, yacht club membership fees, and subsidized mortgages, than to determine whether the choice of 'maglev', linear induction or monorail technology is appropriate. In a private enterprise the correct choice of technology and the pressures to minimise costs are reflected in the bottom line performance. If the right decisions are made, the corporation survives and flourishes, if not, the discipline of commercial failure will cause the assets to be sold and reallocated to other uses. The private sector firm adopts internal procedures to reduce costs, but these are seldom witnessed by outsiders including the shareholders. The internal operations of UTDC have been more clearly visible to outsiders.

The final issue noted in the Cunningham-UTDC exchange, that the UTDC forced a private sector enterprise out of business, has a peculiar dimension in the case of a GE. A private enterprise may weaken a competitor as a result of competitive actions, but it is only when unfair methods of competition are used that a type of market failure is said to occur. The allegations against UTDC are based on its failure to select Hawker Siddeley to build the ICTS equipment, and its decision to establish a UTDC-TIW joint venture to build the cars in a new plant in Kingston. The merits of the case cannot be evaluated with the available evidence. However it should be noted that the reverse occurred in the case of the TTC contract for 196 LRVs, where the government ordered UTDC to award the contract to Ontario-based Hawker Siddeley, as opposed to a cheaper bid from Quebec-based Bombardier. The circumstances of the LRC and ICTS may be used to fulfill objectives other than profit maximization. If Hawker-Siddeley was chosen in one case and not in the other, the question is how would the contracts have been awarded if a private enterprise as opposed to a GE had been the purchaser. These circumstances also suggest that a firm such as Hawker-Siddeley, although privately-owned is highly dependent on government contracts, both with respect to its rail and aicraft business. The distinction between a GE and a private enterprise is clear in terms of ownership, but in other ways both types of enterprise may be heavily influenced by government, if they operate in certain markets.

Other UTDC watchers include journalists, consultants and former employees of UTDC, who may now be in new positions. A Toronto transportation consultant, Mr. Howard Levine, has assisted opposition MPPs in preparing questions and comments on

UTDC. Particular journalists in Toronto have followed UTDC's progress over the years. Their reports, undoubtedly with inputs from corporate insiders, and from consultants have brought publicity to bear on the corporation, and have given rise to questions raised in the provincial legislature. Journalists also obtain information from suppliers and customers of UTDC as well as from competitors like Hawker Siddeley, Bombardier and even foreign-based firms. In addition, representatives of UTDC can be expected to leak information to the press when this could be beneficial to the corporation.

In sum, UTDC is made accountable for its actions through a combination of formal and informal mechanisms. The information which is spun-off in one circumstance is often available to other users such as journalists and consultants. The opposite situation also exists whereby journalists and consultants provide information for the legislative processes. The quality of the information is partly dependent on what information the corporation chooses to reveal, as is also often the case in regulatory hearings. However, the writer's impression is that considerably more detailed information about individual contracts, and internal administrative procedures is available from UTDC than from most private sector firms or from government departments. There are some notable exceptions. For a number of years the salaries of individual senior executives were not revealed, except as an aggregate total, and no details of other forms of remuneration were available. One reason given was that such information would make it easier for executives to be bid away by other organizations. In the estimates hearings in 1982, the Minister of Transport finally revealed that the President of UTDC was paid $96,000, which compares with $87,576 paid to the premier of Ontario. Diagrammatically, the accountability process can be shown - see Exhibit 3.

Market Pressures

If we expand the concept of accountability to include the disciplining forces of the market place on the corporation, then the question arises as to whether these forces are attenuated or altered in any way because UTDC is a GE. Porter suggests five sets of forces operating on a private sector firm, from competitors producing the same products or services, from suppliers and customers, from potential competitors and from substitute products or services [44].

1. The identification of UTDC's direct competitors depend on the product or service being considered. For example, there are many domestic and foreign firms providing transportation consulting services. In the case of the ICTS vehicles, these could have been contracted out and built by Bombardier or Hawker Siddeley in Canada, or by a number of foreign firms. The streetcars (LRVs) were designed by UTDC in conjunction with a Swiss firm, and built by Hawker Siddeley: it is likely that all the design work could have been contracted out as well. If foreign equipment manufacturers are considered, then firms such

<u>Exhibit 3</u>

Accountability Process for UTDC

Voters

Legislature

Premier and Cabinet

Minister of Transportation
and Communications

Board of
Directors

Provincial Auditors — UTDC — Estimates Com(MPPs)
Public Accounts Com
(MPPs)

Legislative Staff

Journalists
Consultants
Suppliers
Customers
Competitors
Unions
Public Interest Groups

as Ford, Boeing, Kawasaki, Siemens and MATRA can be viewed as competitors. However, if the government of Ontario decides to use its own chosen instrument, UTDC, then the competitive pressure from these firms is attenuated.

2. Apart from financing which has come primarily from a variety of government sources, there have been numerous suppliers to UTDC depending on the contract being considered. In UTDC's reply to Mr. Cunningham's statements, an appendix was included listing project subcontractors - Exhibit 4. A variety of firms were used for these projects: some firms appear more than once in the above totals.

Exhibit 4

Subcontractors For UTDC Projects

Project	Nos. of Subcontractors
Scarborough Project	
Vehicle subsystems	13
Vancouver Project	
Vehicle subsystems	28
Guideway equipment	8
Consulting services	11
Detroit Project	12

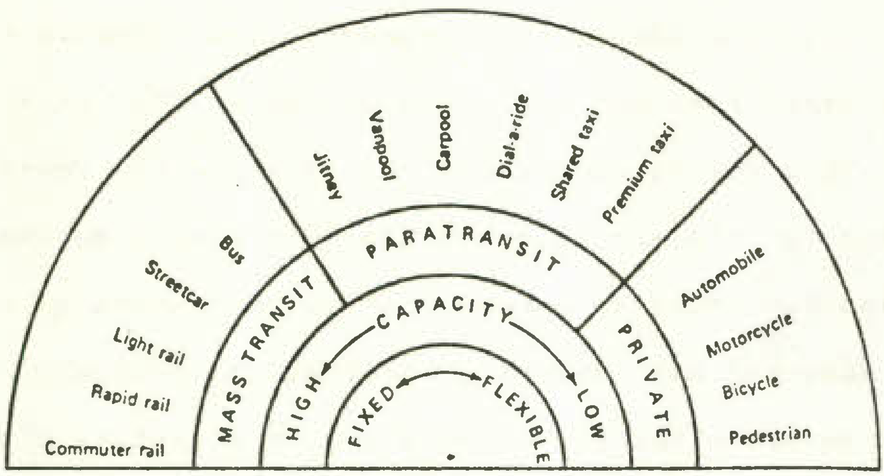
UTDC has had to engage in business with these firms, and there is no reason to believe that UTDC would be treated differently, as a customer, than a private sector firm. There is one striking exception to the foregoing in the case where UTDC was ordered by the provincial government to award the LRV contract to Hawker Siddeley although Bombardier was the low bidder.

3. The customers of UTDC are primarily municipalities. In the case of Ontario government financed organizations and municipalities, the competitive pressure from buyers can become attenuated where they are pressured to accept UTDC as a supplier. This was alleged to be the case for the Scarborough contract and for the extension of the GO trains from Oakville to Hamilton and Pickering to Oshawa. Again the merits of each case cannot be assessed with existing information. However, such circumstances allow for the attenuation of competitive pressures where government is involved both as a seller and buyer, and where UTDC is viewed as a chosen instrument by the provincial government.

4. The disciplining forces of potential competitors and substitutes can be considered together. The substitutes for urban transit include a wide range of alternatives from pedestrians to mass transit - see Exhibit 5. Firms associated with each of these alternatives are potential competitors, and each alternative is a substitute. The existence of these alternatives suggests that it is difficult to argue that urban transit would not exist without a GE such as UTDC. The question is whether urban transit services would be provided as efficiently without UTDC.

Exhibit 5

SPECTRUM OF OPTIONS IN URBAN TRANSPORTATION MODES



SOURCE: G.E. Gray and L.A. Hoel, Public Transportation Planning and Management, (New Jersey, Prentice-Hall, 1979), p. 206.

IV. SUMMARY AND CONCLUSIONS

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The following observations are directed at four areas of concern to the Economic Council of Canada, the reasons for the choice of a GE, the evolution of the corporation, privatization, and accountability procedures.

1. Choice of a GE

At the outset, UTDC's mandate was worded broadly and interpreted narrowly. With time, the broader mandate has been adopted as the corporation has expanded from 40 to 1,000 employees through a combination of vertical integration, and diversification. The reasons for the choice of a GE will be related first to the corporation's origin before other considerations intruded.

The history of UTDC does not reveal that alternative policy instruments were considered by the government at the time the corporation was created. The discussion leading up to UTDC suggests that the strongest argument justifying government intervention is the contractual complexity associated with the research, development, production, delivery and maintenance of new urban transportation systems which would fit in with the existing systems in Ontario. One aspect of the government's objectives was that there should be industrial benefits directed to firms in Ontario. An alternative policy would have been for the government to specify its requirements and to contract with private sector firms to achieve these objectives. The contracts would have been complex and might have required a special agency within a Ministry to specify and monitor the terms and conditions. Such an agency might have been a GE. In effect, this seems to have been the thinking at the outset, namely that UTDC would act as a catalyst in the acquisition of new urban transit systems, do some research (with about 40 persons), and hold the rights to the 'maglev' technology. Development work and manufacturing were to be contracted out to private sector firms. If UTDC had continued to operate in this way, then the contractual complexity argument is a possible reason for using a GE.

However, UTDC developed into a larger enterprise and one which engaged in activities where contracting out was no longer as difficult. In the case of the LRVs or streetcars, UTDC did contract out for their manufacture, but for the ICTS, the corporation has internalised much of the assembly and some of the manufacture. One argument to support contractual complexity regarding the ICTS is that if UTDC developed the technology in-house it might be difficult to transfer the 'know-how' as opposed to the drawings, to an independent firm on an arm's length contractual basis. Such a transfer might require the developmental team actually moving to the firm awarded the contract to do the work. This type of reasoning is used by telephone companies to justify their ownership of research and development and manufacturing operations. A counter argument is that governments do contract out for technically sophisticated equipment in the case of defense purchases for aircraft, ships and tanks, and offset agreements are negotiated so that local firms can receive industrial benefits.

Another reason given for the choice of a GE is that it is the most effective way to target industrial benefits to firms in Ontario, in a manner that does not require an open tendering process. The following examples illustrate practices engaged in by UTDC and the government.

(a) UTDC was instructed by the Ontario government to source 196 streetcars from Hawker Siddeley in Thunder Bay as opposed to accepting a substantially lower bid from Bombardier in Quebec.

(b) The Toronto Transit Commission has contracts, which were not tendered, with UTDC for 126 subway and 52 articulated streetcars.

(c) The City of Scarborough switched from a light rail system to the ICTS after work had commenced on the light rail system. The Ontario government agreed to pay for the additional costs of using the ICTS.

(d) The extension of the GO Transit network will use a type of ICTS vehicle. This means that commuters will have to change trains because the extension and the existing systems will not use the same tracks or vehicles.

(e) The government of Ontario is providing performance bonds for UTDC contracts in Vancouver, Detroit, and Santa Clara, California.

A department of government might have difficulty in awarding such contracts without tenders, and could be embarassed politically if it did so, when its estimates were debated in the legislature. A GE, such as UTDC, appears to have greater freedom in its contracting procedures and thereby eases the process of dispensing industrial benefits to Ontario firms. This procedure is plainly visible to other provinces who may reciprocate by giving preferences to their local firms where their purchasing allows it. Widespread use of such policies will fragment the Canadian market and undermine the ability of Canadian-based firms to realise economies of scale.

Finally, it has been suggested that it was necessary for the government to establish UTDC because transit equipment manufacturers were not sufficiently innovative [45]. The implication of this statement is that the Ontario government could establish from scratch a GE which would be more innovative than existing Canadian and foreign firms. This viewpoint can be assessed on a preliminary basis by noting the following: first, UTDC originally received bids from eight manufacturers (see Exhibit 2) before choosing Krauss-Maffei's 'maglev' technology. Second, private enterprises were responsible for introducing new technologies in the BART (subway) system in San Francisco, and in the transit experiment at Morganstown, West Virginia; and third, UTDC has competed against U.S., European and Japanese firms for contracts in California, Singapore and England. It does not appear, from these examples, that there is an absence of innovative activity in this industry, or that the industry is substantially less innovative than other industries. Moreover in Canada there were at least two firms, Bombardier and Hawker Siddeley, that produced transit equipment. Even if these were not as innovative as they might have been, it is by no means clear that a GE was necessary to stimulate innovation, other than perhaps operating in the way UTDC was first conceived to act as a catalyst. Once UTDC expanded into manufacturing and assembly, it was clearly the case of a GE competing with existing well-established PEs.

In sum, the government's original decision to establish a GE seems to have been taken without consideration of alternative policy instruments. A case can be made for using a GE based on contractual complexity if this is applied to that part of UTDC's mandate dealing with developing or acquiring new technology and spreading the benefits to Ontario-based firms. The latter activities would probably have been more difficult to achieve if the government had been forced to tender publicly. No judgement is being made here on the desireability of provincial governments directing their purchases in this way. Rather the attempt is to show why the government of Ontario chose a GE, and what aspects of the literature of the firm are consistent with this choice.

2. Evolution of UTDC

A number of factors seem to be relevant in explaining why UTDC has expanded. First, it should be recalled that the corporation's legislated objectives included "to undertake the design, development, construction, testing, operation, manufacture and sale of all or any part of transit systems related to public transportation" (see Appendix A-3, Sec. 4(c)). At the outset, the politicians played down this objective and emphasised another one, "to encourage and assist in the creation, development and diversification of Canadian businesses, resources, properties and research facilities related to public transportation" (see Appendix A-3, Sec. 4(b)). With this emphasis, the private sector would not feel threatened, especially as UTDC's board of directors included two strong private enterprise supports, Mr. Paul Desmarais of Power Corporation and Mrs. Sonja Bata of Bata Industries. The seeds of future expansion were however embedded in the corporate objectives, even if they were not stressed at the outset.

A second event to be considered is the demise of the Krauss-Maffei experiment. This was an embarrassment for the politicians, their bureaucrats and UTDC's management, and presented two main choices, one to terminate UTDC, or two to allow it to regroup and pursue a different strategy in line with its objectives. Once the second alternative was chosen there arose an implicit committment by the government to provide strong support for UTDC, or else there was the possibility of experiencing two setbacks in the same policy area using the same policy instrument. Corporate management was aware of the potential embarassment facing the politicians and could use this as a lever to expand the range of activities in which UTDC was engaged. Thus the self-interest of the politician could be nurtured while promoting the self-interest of management to expand the corporation. The two groups became dependent on each other. Failure would be detrimental to both and the thought of failure can be used by management to argue that success requires corporate growth.

The mutuality of political and management interests, (which stems from a particular event in the life of UTDC), is probably common to all GEs and helps explain why, once created, a GE takes on a life of its own and is difficult to reverse or terminate unless some glaring embarassment forces the politicians to act. Giving birth to a GE is much easier than burying, and probably privatising it. The impetus which a GE acquires is partly due to control over information. Regardless of the reporting and accountability procedures instituted, the GE controls the flow of information, and when that information relates to technical options and commercial possibilities, the management of the GE is assumed to be the experts, and its views are listened to by the politician.

In the case of UTDC, the Premier of Ontario was not only the political father of the corporation, but, according to secondary sources, sustained throughout his premiership a close working relationship with and respect for the President of UTDC. From conception, at least until the end of 1984, there had been only one Premier of Ontario and one president of UTDC. The Premier trusted his appointee and provided the corporation with the requests that it made. The President in turn appeared supportive of the Premier, and engaged in speeches and appearances before legislative committees, which generally provided good public relations for UTDC and for the government's transportation policy.

These are idiosyncratic aspects of UTDC which may explain why it grew. It may also be useful in contemplating whether it would have grown as it did, if there had been either a change of government or a change of party leadership. The latter may now be observed as the premiership of the ruling Ontario conservatives changed hands in 1985. The mutuality of political and management interests and the difficulties of terminating a GE have been seen in other contexts, such as the Federal government's continuing support for Consolidated Computer Ltd., until, after Federal assistance of over $100 million, the plug was finally pulled and the remains of the company were sold off. This is not to suggest that UTDC is in the same situation, but unwillingness to let go may explain why it has grown with government support.

A third reason for UTDC's growth is a function of the market circumstances for urban transportation equipment, where at least within Ontario, the provincial government supplies equipment through a GE, provides funding for the equipment purchased by municipalities, and can influence the use of the equipment by commuters according to its policies affecting competing transportation services, such as expressways and the use of automobiles. If UTDC is viewed as part of the province's urban transportation policy, its existence and growth may be viewed as consistent with several aspects of government policy. In this role, the corporation may be supportive of other bureaucratic interests and in return receive their support. The mutuality of interests already seen between politician and corporate management, may be repeated between corporate management and other elements of the provincial transportation bureaucracy. Both aspects of mutuality can be used by management to promote and expand the corporation.

Political, bureaucratic and corporate insiders are the only people who can definitively explain why UTDC grew as it did. The difficulty with their explanations is that they tend to provide only those reasons which can cast them in a favourable light. From an outsider's perspective, the previous discussion seems to be a plausible explanation of why UTDC grew, stressing the importance of understanding the interacting self-interests of the parties involved. Some of the factors are very definitely idiosyncratic, such as the relationship of the Premier of Ontario with the President of UTDC, and the demise of the Krauss-Maffei experiment. Others are perhaps more general, such as the mutuality of interests that develops between the management of a GE, and the associated politicians and bureaucrats.

3. Privatization

While UTDC was conceived and born, and has survived to adolescence despite an almost fatal infant illness, the possibility of adoption has been mentioned. Corporate adoption or privatization was first mentioned publicly by the Prsident of UTDC, somewhat to the distress of the responsible minister who felt that this was a policy decision to be discussed first at the political level. The President of UTDC may have been instructed to speculate on selling the corporation, but it appears again from the outside, that he took the initiative in response to a reporter's question, but perhaps mindful that the premiership of Ontario could soon alter, and the corporation's main political support would be removed.

Why would privatization be considered? A number of possible answers can be given. First, the President of UTDC suggested that the corporation "was generating elements of profit that could be considered as self-sustaining". A review of UTDC's financial statements does not give strong support to this suggestion, at least as far as making it an attractive entity to sell. UTDC's potential will be easier to assess after the Scarborough, Detroit and Vancouver contracts have been completed and the ICTS is a proven system.

A second answer may arise from the fct that UTDC is now clearly in competition with private sector firms due to its manufacturing-assembly operation at Kingston, and its majority ownership of a manufacturing plant at Thunder Bay. Such expansion of a GE may be giving second thoughts to politicians espousing the merits of private enterprise.

A third reason may be a reaction to the general poor publicity being given to GEs, such as Canadair, De Havilland, the CBC, and Consolidated Computer Ltd., and the willingness of governments to examine the feasibility of privatization. The management of UTDC may be trying to show its willingness to consider all reasonable alternatives. Management may also be preparing for the inevitable, and in so doing try to gain the respect of those who may judge their management skills, and perhaps consider hiring them in the future.

Another aspect of privatization to consider is whether the original reasons for setting up a GE have now evaporated. The contractual complexity reason, if it did once exist, would still exist in two ways. First, the complexity of transferring the know-how connected with the ICTS from design, development through manufacturing to operation and maintenance will remain at least until the first ICTS is fully operational, and probably until the largest one, in Vancouver, has proved itself in revenue operation. And second, the ability of the government to direct benefits to Ontario-based firms would be reduced if UTDC was privately-owned. Thus, as far as the ICTS is concerned, the contracting arguments for a GE still remain. For the production of streetcars and new rolling stock, there never was a contractual complexity argument justifying the need for a GE.

This leads to a further issue of whether it would be easy to privatise UTDC. It is interesting to note that the federal Conservatives support for privatization of federal GEs was much stronger during the 1984 election campaign than once office was achieved. Some of the potential difficulties are discussed by Kierans [46], such as the problem of establishing a price for assets which have been used to achieve social objectives and will once privatized seek, unless subsidized, private objectives. An additional difficulty in the case of UTDC would be the problem of selecting a buyer. It is highly unlikely that the government of Ontario would consider selling UTDC either to a non-Canadian or to a non-Ontario firm. For example, Bombardier from Quebec might well be a bidder for UTDC's assets.

This would be viewed with concern in Ontario because of possible preferences which might be given to Quebec-based suppliers to UTDC, and because manufacturing activity might become concentrated in Quebec. A major rationale for UTDC could be lost if ownership was held outside of Ontario. A government's real reasons for a GE may become clear at the time it argues for or against privatisation.

4. Accountability

There are two main issues regarding the process of accountability to which UTDC is subjected, how the process is conducted and whether it is effective. The accountability process as depicted in Exhibit 3 is extensive, with disciplining pressures coming from the legislative process (government, opposition, debates and committees), from reports to the bureaucracy, from auditors, the media, customers, suppliers and so on. Many individuals and groups ask questions, seek information and publicly discuss the performance of UTDC. Some aspects of the corporation, such as the president's salary, executive use of limousines, and yacht club memberships receive detailed scrutiny, while others, such as the appropriateness of 'maglev' technology and linear induction motors, are beyond the expertise of most of these interested questioners.

The one piece of information which a PE can present, namely return on investment, is absent from the evaluation of UTDC, or the information is present but in such a form as to make its significance impossible to interpret. There is no easy way to determine whether UTDC is a profitable enterprise in the way a PE can be evaluated. The reasons for this include UTDC's accounting practices, the manner in which funds have been provided by the government to UTDC, the pressure on UTDC to contract with Ontario-based suppliers despite higher costs of so-doing, and the financial commitments provided by the government of Ontario for sales made by UTDC outside of the province. The result is that the formal and informal mechanisms of control cannot evaluate the overall performance of UTDC, and therefore questions tend to be raised about small parts of the organization which individual questioners do understand. There may be pressures on UTDC to perform efficiently and to minimize costs regarding particular operations or transactions, but extremely weak pressure for the overall enterprise to operate efficiently. Moreover the inefficiency may be great as in the case when the GE is instructed by its owners, the government, to purchase from a particular (intra-provincial) supplier, even though the price is several million dollars higher than from an alternative supplier. In this example, the disciplining force would be operating in a perverse manner as far as efficiency is concerned, although the government would argue that industrial benefits were accruing to the province.

The issue of measuring the real financial performance of the GE presents a problem for privatization. The government, as seller, would have difficulty in establishing a selling price, and the potential purchaser would have even greater difficulty, determining from the outside, whether the price was a fair one.

The UTDC case seems to show that the process of accountability is extensive and in some ways more elaborate than that imposed on a PE. However, the effectiveness of the process is weakened, if not undermined, by the absence of relevant financial information to judge the performance of the firm.

In sum, the UTDC case shows that once a government decides to create a GE, the organization gains a life and will of its own and becomes part of the political process. If the management is politically skillful, it can cause the GE to grow with the help of political and bureaucratic supporters. It does this by ensuring that political and bureaucratic self-interest coincide with the management's self-interest in corporate growth. The government has the ability, if it wishes to exercise it, to limit the growth of the GE. The possibility of termination by privatization also exists but once the GE has been in operation for a number of years, this too may be a difficult transaction to contemplate and to complete. Todate, UTDC has made the political process work in its favour. It will be interesting to find out whether a change of Premier or a change of government will generate sufficient pressure to bring about major changes to this GE.

Footnotes

1. Details from corporate materials.

2. Debates of Ontario Legislature, June 7, 12, 21 and 22, 1973.

3. Statement (Press Release) by Premier Davis in the Legislature of Ontario, June 3rd, 1971, p. 4.

4. Ibid., p. 3.

5. Department of Transportation and Communications, A Study for the Selection of an Intermediate Capacity Public System, January 1972, p. 1.

6. D.G. McFetridge, "Some Thoughts on Crown Corporations: A Discussion of Issues Raised at the Symposium on Crown Corporation Performance", mimeo, 1984.

7. See T.E. Borcherding, "Towards a Positive Theory of Public Sector Supply Arrangements", in R. Prichard et al., Crown Corporations (Toronto, Butterworth, 1983), pp. 152-163.

8. See I.A. Litvak and C.J. Maule, The Light Rapid Comfortable (LRC) Train and The Intermediate Capacity Transit System (ICTS), Research Report No. 84, University of Toronto/York University Joint Program in Transportation, Toronto, Dec. 1982, pp. 71-120.

9. UTDC, Annual Report, 1977, pp. 8-11.

10. UTDC, Annual Report, 1981, p. 3.

11. UTDC, Annual Report, 1983, p. 21.

12. In a recent speech to the Couchiching Conference, August 11, 1984, Senator Pittfield alludes to this problem in discussing the attitudes of politicians and bureaucrats to public enterprise.

13. I am grateful to Don McFetridge for pointing out this similarity to me.

14. I am grateful to John McManus for suggesting this point to me.

15. Debates, op.cit., June 12, 1973, p. 3056.

16. Debates, op.cit., June 20, 1973, p. 3573.

17. Extract from UTDC prepared, "Corporate History, Background and Organization", 1981, p. 1.

18. Ontario Legislature, Committee on Supply, Nov. 14, 1974.

19. Debates, op.cit., Nov. 19, 1974, pp. 5451-5485.

20. In Canada the cases of Consolidated Computer Ltd. and Microsystems International Ltd. come to mind, although neither were really GEs.

21. Ontario Legislature, Standing Committee on Resources Development, Nov. 3, 1983, p. R352.

22. Ibid., p. R364.

23. These are the three major alternatives considered by T.E. Borcherding, op.cit., pp. 99-177.

24. Donald Gordon as head of CN, and Lord Beeching as head of British Railways are two examples of strong personalities whose relationships with politicians were affected by their management styles.

25. P. Lustzig and B. Schwab, Managerial Finance in a Canadian Setting (Toronto, Butterworths, 1977), p. 29.

26. See M.S. Porter, Competitive Strategy (New York, Free Press, 1980), pp. 3-33.

27. Briefing materials prepared by Margaret Vokes, Research Officer, Legislative Research Service, Legislative Library, June 1982. Subject: Urban Transportation Development Corporation - materials for meeting of Committee on Public Accounts, June 10, 1982.

28. Foley in testimony to PAC Hearings, June 10, 1982, p. 1. The sole shareholder is of course the Government of Ontario.

29. PAC Hearings, June 10, 1982, p. 4.

30. Ontario Legislature, Committee on Supply, Nov. 14, 1974, p. S-2342.

31. Ibid., p. S-2370.

33. PAC Hearings, June 10, 1982, p. 17.

33. Briefing materials, op.cit., p. 4.

34. PAC Hearings, June 10, 1982, p. 11.

35. UTDC, Annual Report, 1978, p. 20.

36. UTDC, Annual Report, 1981, p. 22.

37. PAC Hearings, June 10, 1982, p. 11.

38. UTDC, <u>Annual Report</u>, 1982, p. 15.

39. UTDC, Presentation to Standing Committee on Regulations, Legislature of Ontario, Dec. 1981, p. 9.

40. Two further disciplining measures pointed out by H. Gilbert are 'freedom of information legislation', and customer audits of UTDC at the time of contract negotiations.

41. <u>Urban Transit in Ontario, The Real Story</u>, materials prepared by Eric Cunningfham, MPP - Wentworth North, March 1983.

42. Letter and material dated March 22, 1983, sent by P.H. Stevenson, Vice President Corporate and Public Affairs, UTDC to Members of the Press Gallery, Ontario Legislature.

43. Cunningham's material ran to 20 pages plus about 65 pages of exhibits which were mainly newspaper articles and cartoons. UTDC replied with 10 pages and about 25 pages of supporting material.

44. M.E. Porter, <u>Competitive Strategy</u> (New York, Free Press, 1980).

45. R. Soberman drew this point to my attention in comparing aircraft and transit equipment manufacturers.

46. T.E. Kierans, "Privatization If Necessary But Not Necessarily Privatization", <u>Choices</u>, Institute for Research on Public Policy, Nov. 1984.

Appendix A

CHAPTER 518

Urban Transportation Development Corporation Ltd. Act

1. In this Act, "Urban Transportation Development Corporation" means the Urban Transportation Development Corporation Ltd., a corporation incorporated by letters patent dated the 10th day of October, 1974 issued under the *Canada Corporations Act*. 1980, c. 72, s. 1. Interpretation R.S.C. 1970, c. C-32

2. It is hereby declared that the Urban Transportation Development Corporation is not an agent of Her Majesty at common law nor a Crown agency within the meaning of the *Crown Agency Act*. 1980, c. 72, s. 2. Not a Crown agency R.S.O. 1980, c. 106

3.—(1) The Lieutenant Governor in Council may, on behalf of the Province of Ontario, on such terms as are approved by order in council, enter into any covenants or agreements of guaranty or indemnity in connection with any contract of indemnity to which Urban Transportation Development Corporation is a party and may guarantee the observance and performance by Urban Transportation Development Corporation of any such contract of indemnity or indemnify any person in the event of any failure by Urban Transportation Development Corporation to perform any such contract of indemnity. Guaranteeing performance of contract of indemnity

(2) All moneys required to be paid by the terms of a guaranty or indemnity under subsection (1) shall be paid out of the Consolidated Revenue Fund. 1980, c. 72, s. 3. Payment of moneys

Source: Revised Statutes of Ontario, 1980

CHAPTER 358

Ontario Transportation Development Corporation Act

PART I

INTERPRETATION

1. In this Act, Interpretation

(*a*) "Board" means the Board of Directors of the Corporation;

(*b*) "Corporation" means The Ontario Transportation Development Corporation;

(*c*) "equity share" has the same meaning as in the *Business Corporations Act*; R.S.O. 1980, c. 54

(*d*) "Minister" means the Minister of Transportation and Communications;

(*e*) "resident Canadian" has the same meaning as in the *Business Corporations Act*;

(*f*) "Treasurer of Ontario" means the Treasurer of Ontario and Minister of Economics. 1973, c. 66, s. 1.

2. Except as herein otherwise provided, the *Business Corporations Act* applies to the Corporation. 1973, c. 66, s. 2. Application of R.S.O. 1980, c. 54

PART II

THE ONTARIO TRANSPORTATION DEVELOPMENT CORPORATION

INCORPORATION

3.—(1) The corporation with share capital known as The Ontario Transportation Development Corporation is continued. Corporation continued

(2) There shall be a Board of Directors of the Corporation consisting of nine members and the first directors of the Corporation shall be appointed by the Lieutenant Governor Board of Directors

in Council to hold office until their successors are elected by the shareholders of the Corporation.

Seat in Assembly not vacated R.S.O. 1980, c. 235

(3) Notwithstanding anything in the *Legislative Assembly Act*, a member of the Assembly who is appointed or elected as a member of the Board is not thereby rendered ineligible as a member of the Assembly or disqualified from sitting or voting in the Assembly. 1973, c. 66, s. 3.

OBJECTS OF THE CORPORATION

Corporate objects

4. The objects of the Corporation are,

(*a*) to acquire, develop, adapt, use and license patents, inventions, designs and systems for all or any part of transit systems related to public transportation and rights and interests therein or thereto;

(*b*) to encourage and assist in the creation, development and diversification of Canadian businesses, resources, properties and research facilities related to public transportation;

(*c*) to undertake the design, development, construction, testing, operation, manufacture and sale of all or any part of transit systems related to public transportation;

(*d*) to test or operate and to provide services and facilities for all or any part of transit systems related to public transportation and in connection therewith to build, establish, maintain and operate, in Ontario or elsewhere, alone or in conjunction with others, either on its own behalf or as agent for others, all services and facilities expedient or useful for such purposes, using and adapting any improvement or invention for any means of public transportation;

(*e*) to manufacture vehicles and control, propulsion and guideway systems and their appurtenances and other instruments and plant used in connection with transit systems related to public transportation as the Corporation may consider advisable and to acquire, purchase, sell, license or lease the same and rights relating thereto, and to build, establish, construct, acquire, lease, maintain, operate, sell or let all or any part of transit systems related to public transportation in Ontario or elsewhere; and

(*f*) to carry on any other trade or business that, in the opinion of the Board, can be carried on advantageously by the Corporation in connection with or as ancillary to the carrying out of the objects of the Corporation set out in clauses (*a*), (*b*), (*c*), (*d*) and (*e*). 1973, c. 66, s. 4.

CAPITALIZATION

5.—(1) The authorized capital of the Corporation is divided into, Authorized capital

(*a*) 20,000,000 common shares without par value, to be issued for such consideration as the Board may from time to time determine; and

(*b*) 50,000 special shares with a par value of one hundred dollars each, which may be issued in one or more series and, subject to the provisions of subsections (2), (3), (4) and (5) and to the filing of the statement and the issuance of the certificate in respect thereof referred to in subsection 29 (2) of the *Business Corporations Act*, the Board may fix from time to time before the issuance of a series the number of shares that is to comprise each series and the designations, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to each series of special shares. R.S.O. 1980, c. 54

(2) The holders of the special shares shall not be entitled to vote at any meetings of the shareholders of the Corporation other than the meetings referred to in subsection (5) but shall be entitled to notice of meetings of shareholders called for the purpose of authorizing the dissolution of the Corporation or the sale of its undertaking or a substantial part thereof and at all meetings of shareholders the holders of common shares shall be entitled to one vote for each common share held by them. Voting

(3) The special shares of each series shall rank on a parity with the special shares of every other series with respect to payment of dividends and distribution of assets in the event of the liquidation, dissolution or winding up of the Corporation whether voluntary or involuntary. Ranking of series of shares

(4) If the special shares of any series are made redeemable or purchasable for cancellation by the Corporation, the Redemption of shares

price at which such shares may be redeemed or purchased for cancellation shall not exceed the amount paid-up on such shares together with a premium of not more than 20 per cent of that amount and any dividends accrued and unpaid on such shares.

Variation of rights of special shareholders

(5) Subject to the provisions of subsections (2), (3) and (4), the Board, by a special resolution, may delete or vary any preference, right, condition, restriction, limitation or prohibition attaching to a series of the special shares but the resolution is not effective until,

(*a*) it has been confirmed by at least two-thirds of the votes cast at a meeting of the holders of such series of shares duly called for that purpose and at the meeting the holders of shares of such series shall be entitled to one vote in respect of each share held of such series; and

R.S.O. 1980, c. 54

(*b*) a certificate of amendment has been issued pursuant to section 182 of the ***Business Corporations Act***. 1973, c. 66, s. 5.

HEAD OFFICE

Head office

6. The head office of the Corporation shall be in The Municipality of Metropolitan Toronto. 1973, c. 66, s. 6.

BOARD OF DIRECTORS

Majority to be resident Canadians

7. A majority of the members of the Board shall at all times be resident Canadians. 1973, c. 66, s. 7.

BORROWING POWERS

Borrowing powers

8. The Board may from time to time,

(*a*) borrow money upon the credit of the Corporation;

(*b*) issue, sell or pledge debt obligations of the Corporation;

(*c*) charge, mortgage, hypothec or pledge all or any currently owned or subsequently acquired real or personal, movable or immovable property of the Corporation including book debts, rights, powers, franchises and undertakings, to secure any debt obligations or any money borrowed or other debt or liability of the Corporation; and (*d*) delegate the powers conferred on it under this section to such directors or officers of the Corporation and to such extent and manner as is set out in the by-laws or in specific resolutions of the Board. 1973, c. 66, s. 8.

REGISTERS

9.—(1) The Corporation shall appoint a registrar to keep at a location in the Province of Ontario the register of security holders of the Corporation. **Register of security holders**

(2) The Corporation shall appoint a transfer agent to keep at a location in the Province of Ontario the register of transfers of all securities issued by the Corporation in registered form. 1973, c. 66, s. 9. **Register of transfers**

VOTING OF SHARES

10.—(1) The voting rights pertaining to any shares of the Corporation shall not be exercised when the shares are held in contravention of this Act or the by-laws of the Corporation. **Voting rights not to be exercised in certain cases**

(2) The validity of a transfer of shares of the Corporation that has been recorded in a register of transfers of the Corporation or the validity of an allotment of shares of the Corporation is not affected by the holding of such shares in contravention of this Act or the by-laws of the Corporation. **Transfer and allotment of shares held in contravention of Act**

(3) If the voting rights pertaining to any shares of the Corporation that are held in contravention of this Act or the by-laws of the Corporation are exercised at any meeting of the shareholders of the Corporation, no proceeding at that meeting is void by reason thereof, but any such proceeding, matter or thing is, at any time within one year from the date of commencement of the meeting at which such voting rights were exercised, voidable at the option of the directors and shareholders by a by-law duly passed by the Board and sanctioned by two-thirds of the votes cast at a special general meeting of the shareholders called for the purpose. 1973, c. 66, s. 10. **Voting of shares held in contravention of Act**

PURCHASE OF COMMON SHARES

11. Subject to the provisions of the *Business Corporations Act*, the Corporation may purchase any of its issued common shares. 1973, c. 66, s. 11. **Purchase of common shares** R.S.O. 1980, c. 54

NON-APPLICATION OF CERTAIN PROVISIONS OF THE BUSINESS CORPORATIONS ACT

Provisions not to apply R.S.O. 1980, c. 54

12. Except for the purposes of subsection 5 (5), the provisions of sections 180 to 245 of the *Business Corporations Act* do not apply to the Corporation and the Corporation shall not enter into any arrangement, amalgamation, continuation, winding up or dissolution within the meaning of the *Business Corporations Act*. 1973, c. 66, s. 12.

GENERAL

Not Crown agency R.S.O. 1980, c. 106

13. The Corporation is not an agent of Her Majesty nor a Crown agency within the meaning of the *Crown Agency Act*. 1973, c. 66, s. 13.

Interpretation

14.—(1) In this section, "non-resident" means any person other than a resident Canadian, a corporation controlled by resident Canadians, Her Majesty in right of Canada, Ontario or any other province of Canada or an agent or nominee of Her Majesty.

Equity shares owned or controlled by non-residents

(2) The total number of equity shares of the Corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction shall not at any time exceed 10 per cent of the total number of issued and outstanding equity shares of the Corporation.

Limit of individual ownership of equity shares

(3) The total number of equity shares of the Corporation beneficially owned, directly or indirectly, by any person or over which he exercises control or direction shall not at any time exceed 5 per cent of the total number of issued and outstanding equity shares of the Corporation.

Idem

(4) Subsection (3) does not apply in respect of any equity shares of the Corporation beneficially owned by Her Majesty in right of Canada, Ontario or any other province of Canada or by an agent or nominee of Her Majesty.

Where person deemed beneficial owner of equity shares R.S.O. 1980, c. 54

(5) For the purposes of this section, a person shall be deemed to own beneficially any equity shares of the Corporation owned beneficially by any associate or affiliate of such person as such terms are defined in the *Business Corporations Act*.

Controlled corporation

(6) For the purposes of this section, a corporation is controlled by another corporation, individual or trust if it is in

fact effectively controlled by such other corporation, individual or trust, directly or indirectly, or through the holding of shares of the corporation or any other corporation, or through the holding of a significant portion of the preferred shares of a corporation or of the outstanding debt of a corporation or individual, or by any other means whether of a like or different nature. 1973, c. 66, s. 14.

Corporation may dispose of property

15.—(1) The Corporation may, where authorized by a special resolution,

(*a*) sell, lease or otherwise dispose of all or substantially all of its property and liabilities to another body corporate,

(i) which has objects similar to those of the Corporation, and

(ii) of which, the beneficial ownership of equity shares is restricted to Her Majesty in right of Ontario, of any of the other provinces of Canada, or of Canada; and

(*b*) receive, in consideration of any property so disposed, securities of the body corporate together with the assumption by the body corporate of the liabilities of the Corporation.

Corporation may transfer shares

(2) The Corporation may,

(*a*) transfer to the Minister to hold on behalf of Her Majesty in right of Ontario any equity shares that the Corporation receives under subsection (1); or

(*b*) cause to be issued to the Minister to hold on behalf of Her Majesty in right of Ontario any equity shares that the Corporation is entitled to receive under subsection (1). 1975, c. 55, s. 1.

PART III

Ontario Participation

Shares may be acquired by Ontario

16.—(1) The Minister shall from time to time subscribe for, purchase and hold shares of the Corporation on behalf of Her Majesty in right of Ontario and such holdings at all times shall be a majority of the outstanding shares of the Corporation.

Idem, registration and voting

(2) Shares of the Corporation purchased on behalf of Her Majesty in right of Ontario shall be registered in the books of the Corporation in the name of Her Majesty in right of Ontario as represented by the Minister and may be voted by the Minister or his duly authorized nominee on behalf of Her Majesty in accordance with such regulations as the Lieutenant Governor in Council may prescribe. 1973, c. 66, s. 15.

Authority to loan moneys to Corporation

17. The Treasurer of Ontario, with the approval of the Lieutenant Governor in Council and upon such terms and conditions as the Lieutenant Governor in Council may prescribe, may make loans to the Corporation and may acquire and hold debt obligations of the Corporation as evidence thereof. 1973, c. 66, s. 16.

PART IV

MISCELLANEOUS

Regulations

18. The Lieutenant Governor in Council may make regulations respecting any matter that he considers necessary relating to,

(*a*) the voting by the Minister or his duly authorized nominee in respect of shares of the Corporation held by the Minister;

(*b*) terms and conditions that shall apply to the making of loans to the Corporation by the Treasurer of Ontario. 1973, c. 66, s. 17.

Appendix B

S-2341

LEGISLATIVE ASSEMBLY OF ONTARIO

THURSDAY, NOVEMBER 14, 1974

The committee met at 3.10 p.m.

ESTIMATES, MINISTRY OF TRANSPORTATION AND COMMUNICATIONS
(continued

Mr. Chairman: The committee will come to order.

On vote 2301:

Mr. Chairman: Item 8 of vote 2301.

Hon. J. R. Rhodes (Minister of Transportation and Communications): Mr. Chairman, just before we start that item, there are two things I would like to say.

First of all I would like to apologize to you and to the committee for my, I suppose I would have to term it lack of courtesy in not notifying the committee ahead of time that I would not be available to attend the meeting on Tuesday. I regret the inconvenience it caused any of the members, and I do very sincerely apologize to you.

Secondly, as the committee members are aware I informed the House yesterday of the termination of our contract with Krauss-Maffei. There was a receipt of the interim payment from that company of $8.5 million. This payment has been received pending the final settlement of the amount to be refunded to us as a result of the termination of the contract. Under the termination agreement the final amount is not to exceed $10 million.

Today this committee will be considering vote 2301, item 8, policy development and research, which you will note has an amount of approximately $15.25 million under acquisition and construction of physical assets.

This was allotted for this fiscal year's expenditures on the TDS project. As a result of yesterday's announcement I am prepared to reduce this allotment from $15.25 million to $7 million. It must be kept in mind that the $8.5 million interim payment received from K-M, and any additions to that, will return to the consolidated revenue fund and that this ministry's estimates should contain a sufficient amount to cover expenditures incurred this fiscal year. As the expenditure for the TDS project last fiscal year was approximately $3 million, I am authorizing a reduction of this year's allotment to $7 million, so that the sum of the two years' expenditures in this item will not exceed the $10 million limit of the termination agreement.

So, Mr. Chairman, what I am saying is that the sum we are dealing with under this vote would be changed from $15.25 million to $7 million.

Mr. Chairman: Mr. Givens.

Mr. P. G. Givens (York-Forest Hill): Mr. Chairman, am I to understand that vote 2301 item 8, under policy development and research, is the heading under which GO-Urban, the late lamented GO-Urban, and the whole operation of OTDC, was lumped? Because nowhere in the estimates do we find anything under those other two headings—GO-Urban and OTDC. Is this the way you were budgeting for that?

Hon. Mr. Rhodes: Mr. Chairman, I think I should make it clear that the TDS is in this vote. OTDC does not appear in these estimates. It is a separate corporation and does not appear in the estimates.

Mr. Givens: Well if the OTDC doesn't appear in the estimates how does anybody have an opportunity to ask questions about OTDC during the course of these estimates, when the amount of money you ascribe to the project of GO-Urban alone was to be $1.3 billion? I mean that is a pretty big item. Where does one ask questions with respect to the OTDC; or GO-Urban?

Hon. Mr. Rhodes: Well GO-Urban, Mr. Chairman is a title that was given to the TDS project and what will develop from it. The OTDC does not have a vote because it operates on a commercial basis and they raise their money independently, albeit they—

Mr. Givens: No, Mr. Minister; I'll ask the question again. If I ask questions with respect to OTDC I want to know what salaries you are paying. I want to know how many people you have employed. I want to know how many people were flying back and forth to Munich. I want to know what you were doing.

I want to ask certain questions about this announcement you made to us yesterday in the Legislature. Under what vote do I discuss that?

Hon. Mr. Rhodes: On the announcement I made in the Legislature yesterday, this is the vote.

Mr. Givens: Okay.

Mr. M. C. Germa (Sudbury): Mr. Chairman, the OTDC is doing other things, other than GO-Urban. At what point in time can we get into that to ask specific questions about streetcar development, diesel bus development, electric bus development—does this come under this vote?

Hon. Mr. Rhodes: Not really; no it doesn't in the purest sense. Because as I say, OTDC does not have a vote in these estimates. They are not a part of these estimates.

Mr. R. Haggerty (Welland South): Who funds them?

Hon. Mr. Rhodes: They operate independently. They secure their money independently.

Mr. Germa: Are they not answerable to yourself or the Legislature? Is that what you are saying? That this is a completely independent corporation, independent of the Legislature?

Hon. Mr. Rhodes: The responsibility to the Legislature is to furnish the annual report that will be tabled.

Mr. Germa: At what point in time, then, do we take in your annual report? What we are looking for is an avenue to find out what OTDC is doing other than GO-Urban.

Hon. Mr. Rhodes: I would think if the inquiries could be made directly to OTDC, just as you would to the Ontario Telephone Commission; or any other of the many branches, if you will, of various ministries of government which operate independently of the government.

Mr. Givens: Supposing there had been no aborting of the agreement with Krauss-Maffei, as happened yesterday, do you mean there would be no other method of obtaining an accounting from you or your officials with respect to the ongoing relationship with Krauss-Maffei except by your production of a report and the odd question in the Legislature, and that's all?

Hon. Mr. Rhodes: No, the relationship with Krauss-Maffei, Mr. Chairman, is covered in these estimates, as I've said to you, under the TDS programme, which was the part we were directly involved in as a ministry. The other operations of the OTDC are within OTDC itself; through their own programmes, through their own funding, through their own board of directors and through their corporate standing as a corporation.

Mr. Givens: So, then, there is nothing to preclude any of the members from asking you about LRT or about any of the other operations that OTDC may be involved in?

Hon. Mr. Rhodes: As far as the ministry's involvement is concerned, you certainly can; yes indeed. But there may be developments within OTDC that I, personally, would not be aware of, other than what I would be able to ascertain, as you could well do, by contacting OTDC. I have done this and I certainly know there is nothing to preclude any member of the Legislature, or any other member of the public from doing so.

Mr. Germa: The next item, Mr. Chairman, refers to supplies and equipment. We see a phenomenal increase of 963 per cent from \$36,000 to \$383,000.

Hon. Mr. Rhodes: Some of this would have been involved in the intermediate capacity system—the TDS demonstrations. That, of course, has been substantially reduced.

Mr. Gilbert: Adding to what the minister has said, the testing that has been going on and the use of computers as part of the overall programme is included. These costs, as the minister said, are part of the TDS.

Mr. Germa: Related to TDS development or computer time?

Mr. Gilbert: Some computer time would be in there.

Mr. Germa: This TDS project seems to be permeating various parts of the budget.

Mr. Gilbert: This is the vote we are talking about, Mr. Germa.

Mr. Germa: Are we ever going to bring all these costs together?

Mr. Gilbert: That is what we have done.

Hon. Mr. Rhodes: We have done that already. That is how we determined how our costs were to recover.

Mr. Germa: Every place we go we seem to bump into some TDS costs.

Hon. Mr. Rhodes: You will in this vote because this is the vote where it is.

Mr. Germa: I hope some day we will get it all together.

Hon. Mr. Rhodes: We have put it together. You are talking about this vote. Last Thursday, Mr. Ruston and yourself, agreed we would hold it over. We did so. This is the vote where we are now talking about it. This is where you get all of the costs so far as the TDS is concerned.

Mr. Givens: Except those belonging to OTDC.

Hon. Mr. Rhodes: That is not correct.

Mr. Foley: That costs that OTDC has spent on that were charged back to the ministry and appear in this vote.

Mr. Gilbert: We have covered it in this particular vote as the Transit Demonstration System and identified it as such.

Hon. Mr. Rhodes: You would like to see where we lost some money but we didn't.

Mr. Germa: Maybe I could ask a ball park question. How much money did the Province of Ontario transfer to OTDC this year? I mean, how does OTDC function?

Mr. Givens: You want to know about the OTDC budget?

Mr. Germa: I don't know how to ask the question, but I know there must be public funding into it.

Mr. Givens: You haven't earned a nickel yet.

Mr. Stokes: Who is paying?

Mr. Germa: Who is paying Mr. Foley? Let's put it that way.

Hon. Mr. Rhodes: Mr. Foley is paid by the corporation.

Mr. Germa: Where does the corporation get its funding? The \$20 million and the engineer from McDonnell-Douglas is not going to pay it.

Mr. Givens: What is the budget of OTDC?

Hon. Mr. Rhodes: I don't know.

Mr. Germa: Then how is it funded?

Hon. Mr. Rhodes: We told you that earlier.

Mr. Germa: Is it funded by the Province of Ontario?

Hon. Mr. Rhodes: We told you that earlier, how it was funded, they fund it themselves.

Mr. Foley: The budget of the corporation is exactly that; it is a budget that is produced and managed in the corporation. The Province of Ontario subscribed to shares of the corporation a year and a half ago, and there are no funds being given to the corporation this year to carry out the investment in the light-rail programme, which I indicated was some $6 million. We are doing that on the basis of equity funding and debt funding, that will be financed on the basis of orders and designs.

Mr. Givens: What was your total budget for the year? For the 1974 calendar year. You can make such intricate explanations of so many things and stumble on that question? Really, Mr. Foley.

Hon. Mr. Rhodes: Well, Mr. Chairman, this is not in this vote. I have told Mr. Givens if he wishes the information that he should contact the OTDC directly because it is not in my ministry's budget.

Mr. Givens: But he is here—he is sitting here. Surely we are entitled to the information.

Hon. Mr. Rhodes: I would like to deal with my estimates, Mr. Givens, and with those things which relate to my ministry. This is the ministry estimates, not OTDC.

Mr. Germa: Well, Mr. Chairman, I think my question falls within those parameters. What is the amount of dollars in equity investment the Province of Ontario have with the OTDC?

Hon. Mr. Rhodes: This year, none.

Mr. Germa: Well, what was the original investment?

Mr. Foley: We didn't have any from our ministry.

Hon. Mr. Rhodes: From this ministry, I don't think there was any investment at all.

Mr. Givens: How much money did the OTDC spend this year?

Hon. Mr. Rhodes: I don't know. I've told you before, this is not the place to ask the questions. Please deal with the ministry's estimates.

Mr. Ruston: Must be the Premier's estimates then.

Hon. Mr. Rhodes: An excellent idea—try his.

Mr. Ruston: That's a last resort—we don't get very far sometimes. He's got to be responsible if nobody else is.

Mr. Germa: I would like to know before we go too far—I mean, who does the OTDC answer to? If the Province of Ontario is the major shareholder, and I presume the Province of Ontario is, then I think they have to respond to the questions from the Legislature, through the minister.

Mr. Foley: The Ontario Transportation Development Corp. is a corporation incorporated by Act of the Legislature and we make annual reports to the minister, and that must happen 18 months after our first date of incorporation. And that annual report will be submitted.

Mr. Laughren: To this minister?

Mr. Foley: Yes.

Mr. Givens: He speaks for OTDC?

Hon. Mr. Rhodes: I table the report for them.

Mr. Germa: Are you not doing more than tabling the report? Are you not answerable to the Legislature? I'd like to know the status of this corporation.

Mr. Stokes: Like Ontario Hydro, isn't it?

Mr. Germa: I mean—

Mr. Givens: Would you ask Mr. Foley how much money the OTDC spent in 1974 so far?

Hon. Mr. Rhodes: I am not asking him.

Mr. Givens: You are not talking to each other?

Hon. Mr. Rhodes: Only with those matters which relate to my ministry.

Mr. Givens: Would you mind asking him on a voluntary basis?

Hon. Mr. Rhodes: At 6 o'clock, after we break out of my estimates, I'll ask him as a personal question.

Mr. Young: How did the vote arise—the first vote to set up the corporation? Where did that money come from? Consolidated revenues of the province?

Mr. Foley: That was an Act of the Legislature.

Mr. Young: A provincial Act?

Mr. Foley: Yes.

Mr. Young: But it must have come out of the Treasury of the province at that point then?

Mr. Foley: I imagine so.

Mr. Young: It had to, there's no other place.

Mr. Foley: That's right.

Mr. Young: And the amount at that time was $6 million. Is that correct?

Mr. Foley: That's right.

Mr. Young: And then the corporation has been operating on that $6 million plus interest since that time?

Mr. Foley: Yes, and the sales of the bus and so on.

Mr. Young: Sale of the bus?

Mr. Foley: We have produced dial-a-bus. I think about 150 have been sold from which we earn revenues and royalties.

Mr. Young: You paid for them in the first place?

Mr. Foley: Not until we get a customer.

Mr. F. Laughren (Nickel Belt): Who pays for them?

Mr. Young: Who bought them in the first place?

Mr. Foley: About 30 municipalities in the province and a couple of municipalities in the United States.

Mr. Laughren: Subsidized by the ministry?

Mr. Foley: No, not a nickel.

Mr. Laughren: Is it under your subsidy programme?

Hon. Mr. Rhodes: I don't subsidize Miami or Tampa.

Mr. Laughren: Oh, I thought you meant Ontario. I wouldn't put that past you either.

Hon. Mr. Rhodes: You won't get anything past me.

Mr. Young: When those buses were sold was it an additional income to the corporation?

Mr. Foley: Yes. Outside of the initial equity subscription, we have not received any funds from the Ontario government. We operate on a total commercial basis.

Mr. Young: How did the ownership of the buses get into your hands?

Mr. Foley: We designed the vehicle, put it into a production operation, and licensed two companies to manufacture it, who in turn, pay us royalties.

Mr. Young: Where are they being manufactured?

Mr. Foley: Kitchener and Guelph.

Mr. Young: You sell the rights or whatever, and get the royalties? That accounts for part of your income?

Mr. Foley: Right.

Mr. Young: When your $6 million is spent, do you come back to the province for a further grant?

Mr. Givens: Will the OTDC pay a dividend this year?

Hon. Mr. Rhodes: I would suggest you attend the annual meeting of OTDC after you get the annual report.

Mr. Givens: I am not a shareholder.

Hon. Mr. Rhodes: Well you can attend the annual meeting as a spectator, you are a nice lad. I just hope they don't throw you out. There aren't many fellows here who will say you are a nice lad, but I will.

Mr. Givens: There has to be a better way to report to the Legislature for this organization.

Hon. Mr. Rhodes: Can we get back to the vote, Mr. Chairman?

Mr. Chairman: Mr. Stokes?

Mr. Stokes: Thank you. On vote 2101, item 8, Mr. Rathbun. You have gone from an estimated expenditure of $2.7 million in 1972-1973 to an estimate of $10.4 million in 1973-1974. You are asking for $21 million this year.

Mr. Chairman: That's been reduced.

Hon. Mr. Rhodes: You are referring to the total figure?

Mr. Stokes: Yes.

Hon. Mr. Rhodes: You have $21 million; I have reduced that figure by $8 million.

Mr. Stokes: As of yesterday?

Hon. Mr. Rhodes: It had been reduced when I walked in here today.

Mr. Stokes: Less $8.5 million?

Appendix C

Relationship of UTDC to Ontario Government

The relationship has been formalized in a memorandum of understanding which covers such things as the objectives of the Corporation; the roles of the Minister and UTDC; financial and administrative arrangements; operating relationships; and control and reporting.

With respect to the roles of the Minister and the Corporation, the Minister is required to report to the Legislature on the operations of UTDC; the Minister and the Chairman of UTDC are to coordinate policy in such a way as to further the objectives of the government; and the Corporation must review, on an annual basis, its mission, objectives, priorities, and capital programs for the ensuing four years with the Minister.

From a financial and administrative perspective, the Corporation has exclusive responsibility for its own administrative practices, and must advise the Minister and the Treasurer of Ontario before entering into negotiations or arrangements with banks on Canadian or other capital markets where the arrangements could affect the finance and debt management policies of the government. The Minister may contract with UTDC for the performance of individual projects and the Corporation is enjoined to follow generally accepted accounting practices.

In the matter of control and reporting, the Corporation must produce an Annual Report prior to September 30th of each year which the Minister must table in the Legislature. Audit by ministry staff is limited to invoicing in respect of projects commissioned by the Minister. UTDC is to be audited according to the provisions of the Canadian Corporations Act, and is subject to audit by the Provincial Auditor. Finally, the Minister may, at any time, require UTDC to file a report on any matter related to those Corporation activities related to the affairs of the ministry.

Source: Letter from Deputy Minister, Ministry of Transportation and Communications, Ontario Government, June 28, 1984.