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**Official Report
of Debates
(Hansard)**

Wednesday 10 December 2003

**Journal
des débats
(Hansard)**

Mercredi 10 décembre 2003

**Standing committee on
justice and social policy**

Ontario Energy Board
Amendment Act (Electricity
Pricing), 2003

**Comité permanent de la
justice et des affaires sociales**

Loi de 2003 modifiant la Loi
sur la Commission de l'énergie
de l'Ontario (établissement
du coût de l'électricité)

Chair: Kevin Daniel Flynn
Clerk: Susan Sourial

Président : Kevin Daniel Flynn
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICY

Wednesday 10 December 2003

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES

Mercredi 10 décembre 2003

*The committee met at 1000 in committee room 1.*ONTARIO ENERGY BOARD
AMENDMENT ACT (ELECTRICITY
PRICING), 2003LOI DE 2003 MODIFIANT LA LOI
SUR LA COMMISSION DE L'ÉNERGIE
DE L'ONTARIO (ÉTABLISSEMENT
DU COÛT DE L'ÉLECTRICITÉ)

Consideration of Bill 4, An Act to amend the Ontario Energy Board Act, 1998 with respect to electricity pricing / Projet de loi 4, Loi modifiant la Loi de 1998 sur la Commission de l'énergie de l'Ontario à l'égard de l'établissement du coût de l'électricité.

The Chair (Mr Kevin Daniel Flynn): If you can take your seats, I'll call to order. We have a quorum I think.

Interjection.

The Chair: I'd just like to have one.

Mr Peter Kormos (Niagara Centre): Point of order, Chair: It's entirely irrelevant as to whether or not there's a quorum.

The Chair: I realize that.

Mr Kormos: The Chair has called the meeting to order. It's for the Chair to call the meeting to order, with all due respect, at the time indicated and then it's for the committee to deal with whether or not there is a quorum, with respect.

The Chair: Thank you. In this case we do have a quorum and I have called the meeting to order.

We are here to consider Bill 4, An Act to amend the Ontario Energy Board Act, 1998 with respect to electricity pricing. We're going to start with a five-minute statement from each of the parties, as agreed.

Mr Klees, I was going to go to the official opposition first. Would you prefer to wait for—

Mr Frank Klees (Oak Ridges): I think that would be appropriate.

The Chair: You would like to go first?

Mr Klees: No.

The Chair: OK. Mr Kormos, you will wait?

Mr Kormos: Yes, it's the government's bill. Let them pitch it.

The Chair: Who will be speaking on behalf of the government first? Five minutes, Donna.

Mrs Donna H. Cansfield (Etobicoke Centre): Thank you very much, Mr Chair. I was anticipating that my colleagues would go first, though.

Mr Kormos: Why?

Mrs Cansfield: Why not?

I'd like to make some comments about the bill, in essence to deal with the overall issue and the overall message, which is that the existing price of 4.3 is not sustainable in the long term and that in fact the cost of the rising debt and, in addition to that, the anticipated cost of sustaining that price, is not something that this government can hold as a conscionable way of doing business. In essence, the first part of the strategy on electricity addresses that issue.

I'd like to indicate to all present that this is just the beginning of a very long-term strategy involving the electricity market as well as dealing with conservation issues and the concepts around environmental, societal and economic benefits and sustainability.

There are a variety of methods and issues that we'll be looking at, and certainly within agriculture they have identified the different kinds of ways and means by which they wish to conserve, and I think they have also identified the fact that the 4.3 was not acceptable to them as well, that there were alternatives they were prepared to sit down and speak to, in particular to differential pricing on peak and off-peak periods.

The issue around education is critical and it's something that is going to change, not only in terms of culture but in behaviour. That is something that is not going to happen in the short term. That is something that is going to happen in the long term, and there will be a very comprehensive approach to that. It is not dealt with in this bill. It will be dealt with in the future. All this bill does is identify that in fact education is a critical component, so that we're looking at the short term, medium and long terms.

We're also looking at the issue of investments for the long term. As the minister had indicated yesterday, there is a place for both public and private in terms of the strategy. I believe also that he had indicated previously many times that in fact the issue of coal will be off the table by 2007. So obviously the three words he uses constantly are "supply," "supply" and "supply."

There is no question—everybody has been very straight up—that this is going to be a cost that has to be borne by all sectors if we're going to deal with the real price of electricity. If you look at those who have come

forward in support of lifting this cap, you'll see that there is a litany of people and associations, from not-for-profit business to large corporations and small businesses as well, that say we need a far more comprehensive energy strategy in this province than we currently have and that we need to look to a long-term sustainable goal for energy as well in this province. So we need to find a way to build our capacity, we need to find a way to have sustainability, and we need to look at how we can work together to make a difference in terms of ultimately what the decisions will be for energy in this province.

As I indicated before, this bill addresses initially the cost of energy and returning it by the year 2005 to the Ontario Energy Board, which will be the regulator in a nonpoliticized way in dealing with the regulated market price of energy so that people can have a stable, sustainable market price, as opposed to the volatility that they've had in the past.

Certainly all of the people I have spoken with—and we've had a significant amount of input from the industry itself, from the local distribution companies, from consumers, from advocates, from conservationists—have, without a doubt, indicated the need to look at conservation as an important component of the energy strategy in this province.

I know also that a number of the issues that have been brought forward by recommendation will be dealt with in regulation, if they have not already been dealt with in regulation, and that will be coming forward in the new year.

So again, we're pleased to have this bill in committee and we believe that it addresses the new and emergent needs of electricity pricing in this province.

The Chair: Thank you, Donna. Is the official opposition prepared to proceed with its five minutes?

Mr Cameron Jackson (Burlington): Thank you, Mr Chairman. I think it needs to be put on the record, the express concern of many Ontarians that the genesis of this bill emanates from a broken promise made by the incoming government. This is a serious broken promise. As I have indicated on the floor of the Legislature, this was a deliberate decision on the part of the government. It was deliberate and it was wilful and it was deceptive to suggest throughout an election, as was the performance of the Liberal members in government, that they support a cap, that they support consumer protection, to convince Ontario voters that this was exactly what they would do once they became government. It has been confirmed from a variety of sources that this government's intention was to not fulfil that election promise; in fact, quite the opposite.

It is not good public policy, no matter how you sugar-coat it, when you blindside the voters of this province. Perhaps their growing cynicism with the approach this government takes is reflected in the lack of interest being shown by the public in participating in public hearings and in making any written submissions to the government or to this committee.

Any comments that we might make that contribute to furthering the bill would be pointless, because we don't

support this bill. We believe the cap should remain in place for the prescribed period of time, until such time as we have put in place those elements that, in fairness, the government speaks to but doesn't include in the bill. Those deal with consumer protection, ensuring greater supply, to equip consumers with the instruments that empower them to be effective consumers and conservers of energy. This is not going to occur within the time frame set out in this legislation; therefore, it is bad legislation.

1010

We have several amendments that we are prepared to present, based on public input. We will speak to those if called upon, but frankly, this is poor policy built on a broken promise to the voters of Ontario.

Mr Klees: Is there any time left?

The Chair: About two minutes left, if you'd like to speak, Mr Klees. Go right ahead.

Mr Klees: To follow up on my colleague's comments, just to reiterate, I suppose the one thing that we don't disagree with is that there has to be an exit strategy from the cap that was put in place by our government.

We have to remember the reason for that cap. No one wanted to put a cap in place. There were some extenuating circumstances. It has been referred to as the perfect storm of energy, with incredibly high temperatures, with generation capacity at probably its lowest point in the history of the province. The convergence of those events resulted in skyrocketing prices at a time when the market had been opened. We, as a government, came forward with a strategy that was very, very specific, and that was to protect the vulnerable people within our province: the seniors, people on fixed income, and small and medium-sized businesses, who could not cope with the spikes that resulted from the convergence of those events.

We said from the very beginning that there has to be an exit strategy. We put the exit strategy out to 2006. We said that we would be able to lift that cap, and would, when there was sufficient generation capacity within the marketplace to bring balance to the marketplace. My concern with this legislation is that it not only pre-empts the promise that was made by the Liberal Party during the election campaign, but I believe it also pre-empts the reality of the circumstances we face in this province. We don't have the generating capacity yet. I don't believe that it will be in place in sufficient time to deal with the potential problems that will be caused.

We heard from presenters to this committee who expressed concern regarding those same groups—seniors, people on fixed incomes, small and medium-sized businesses, and the farming community. There will be problems. These people will be facing fiscal challenges. I believe that this government is being irresponsible in moving forward with this legislation.

I do hope that at least the amendments that we're putting forward will be accepted by this committee, will be an opportunity for this committee to demonstrate clearly that this government is open to having input from the public, from the opposition, to ensure that legislation

that is passed in this place—while we don't agree with this in principle—at least is made better than it is and protect vulnerable people. I will be observing the proceedings here to see what happens with these amendments, to see whether this government is serious about doing government in a more democratic and open way.

The Chair: Mr Kormos, five minutes.

Mr Kormos: Thank you kindly. I say to Mr Klees, you won't observing them long because it's not going to take long for this to be wrapped up. In fact, we have but this morning for clause-by-clause consideration, and that includes consideration of the Conservative amendments, and that's after a pathetic three hours and 35 minutes or so of public hearings. That's pretty darn near unprecedented. So once again the Liberals have a first here at Queen's Park. Mr Gravelle can correct me if I'm wrong. He has been here a little longer than his colleagues on the committee. If I'm wrong, Mr Gravelle will be sure to point out when there has been a bill that has received less public hearing when in fact public hearings have been committed. Do you understand what I'm saying, Mr Gravelle? When the government of the day has committed itself to public hearings, as yours did, I'm not aware of public hearings being any shorter. There have been times when the government has said, "There will be no public hearings." I understand that. I can't recall a single occasion in which the government committed itself to public hearings, as yours did, and there was less time. For the life of me, I just don't understand.

That's hyperbole on my part; it's rhetoric. I do understand it, and I think I understand it full well.

The problem, you see, is that this is what happens when you time-allocate bills. This bill was rushed into committee because that's what the time allocation motion said, right? It had to go to committee immediately. That meant that there were no effective public notices around the public's right to participate, which is just as well, because there was only, as I say, three and a half hours, give or take, for the public to participate. So it would all be pretty inherently contradictory. If you had had proper advertising, you would have had far more people than would occupy but three and a half hours, give or take.

The other remarkable thing, of course, is that you've got a 7 o'clock deadline for filing amendments. The Tories, to their credit, although they don't appear to be particularly responsive to any given submission—and that's fair enough. There's nothing wrong with that, because really it's the government's job to respond to the submissions at the end of the day—isn't it, Mr Hardeman? Of course it is. It's the government's job. You know that. You were in government for the last eight and a half years, give or take. It's the government's job.

How, for the life of me, can this government and its committee members—I do want to pay tribute to Ms Anne Marzalik, the research officer who has been assigned to this committee hearing. You realize what you made her do? She had to work last night, prior to the committee resuming this morning, to prepare her

synopsis of submissions. Amongst other things, the style around this committee hearing is grossly unfair to these hard-working staff. I suppose Ms Marzalik's saving grace was that there were so few submissions because, of course, you only had three and a half hours allotted, give or take, for public hearings.

Mr Klees: Six, Pete.

Mr Kormos: When? Ten to 12—

Mr Klees: Six people.

Mr Kormos: Yes, six people. As I say: three hours, three and a half hours, give or take. We had to listen to Mr Duncan with his prepared statement—which was, I suspect, thoroughly anticipated by all opposition members. I am so pleased about the shots he took at the NDP in the course of his submissions, because it signals to me, as a New Democrat, and to the public that there's some concern by this government about the NDP, which of course is reinforced by this government's heel-dragging on giving the New Democrats meaningful participation. We're going to get it one way or another, if we have to burn the House down, so to speak, in a most proverbial way.

I hope you guys are proud. For some of you, it's your first time sitting on a legislative committee, and I congratulate you. But at the same time, you should be oh-so-proud on your first occasion sitting on a legislative committee, because over the course of the next several weeks, people are going to be saying, "What?" When you go back home, they're going to say, "There were committee hearings? I never knew about them." You're going to say, "Well, they were advertised on the legislative broadcast channel for several hours throughout the course of the night."

If you're one of those people like me who's up at 3 in the morning and you're clicking through the clicker and you run out of infomercials and pass by the legislative channel, you pause for the briefest of moments at 3 in the morning, sitting there in whatever you happen to be wearing at 3 in the morning—I don't want to discourage any of you by detailing my scenario, but there it is. At 3 in the morning, I can't sleep, I've got the clicker, and I find, my goodness, there's a committee hearing tomorrow morning at 10 o'clock. That's big. That's really big of you guys. That's really inclusive. That's really democratic to let people know at 3 in the morning that they can make a submission at 10 that same morning. By God, that's openness. That's democratic and reformist by anybody's calculation of it, ain't it, Mr Gravelle?

When you get back home, you're going to be confronted with folks who are going to say, "What committee hearings? How come nobody told me? You're my MPP. You should have told me there were committee hearings. That's why we elected a government member. You guys were campaigning on the basis of, 'Elect a government member so you've got the inside track.'" The people are going to say, "We elected the government member; where's our inside track? How come I never knew about these committee hearings? You're lifting the cap; you promised you wouldn't."

Not that that promise was the right thing to promise, but you promised you wouldn't. You travelled the province—

The Chair: Are you wrapping up?

Mr Kormos: Yes, I'm wrapping up. Of course I am. I know it's five minutes.

You travelled the province, you travelled your ridings, and promised to keep the cap at 4.3. You break the promise and you deny the public access to committee hearings.

The Chair: Thank you, Mr Kormos.

Mr Kormos: I'm knocking the house down here.

1020

The Chair: OK, are there any comments, questions or amendments and, if so, to which sections or schedules? I note that there are no amendments to sections 1 through 4. Would you like to collapse those and vote?

Mr Kormos: No, no, no. We're discussing it clause by clause.

The Chair: OK, I was giving you the option. Obviously you don't want to, so let's go to section 1.

Any comments or questions to section 1?

Mr Kormos: Perhaps the parliamentary assistant could explain to us—because this section appears to replace a repealed section—what the impact of this amendment is.

Mrs Cansfield: It's the legal precedent for the rest, I presume. I'll ask legal counsel to explain it to you.

Mr Kormos: Sure. Then maybe you could cover the politics of it for us.

Mrs Cansfield: I'd be happy to.

Mr Kormos: Why don't we cover the politics first and then we'll deal with the legality later.

Mrs Cansfield: No, you actually asked a legal question first. We'll do it first.

The Chair: The question has been asked. You're going to get an answer.

Mr Kormos: Maybe. Don't be presumptuous.

The Chair: You're going to get an answer. You may not like it.

Mr Stephen McCann: My name is Steve McCann. I'm in the legal services branch of the Ministry of Energy, and with me is my colleague, James Rebob, who is also in the legal services branch.

If I understand the question, we're dealing with section 1 of Bill 4, and the question was, what does it do or what is the purpose? What it does is amend section 78 of the Ontario Energy Board Act, which deals with the authority of the Ontario Energy Board to fix rates for the distribution of electricity. It in effect creates further modifications or conditions to the manner in which the board fixes rates, by adding a new subsection (5) to section 78, which would require the board to approve or fix separate rates for situations that are defined in the regulations, and in a new (5.0.1) would indicate that "In approving or fixing just and reasonable rates for the retailing of electricity in order to meet a distributor's obligations under section 29 of the Electricity Act," the board is to comply with the regulations made under regulation-making power.

I should just point out that section 29 of the Electricity Act is essentially the section that obliges distributors to provide electricity to their customers in their service area when there is no retail contract in place with an electricity retailer.

The reference then is to regulation-making powers which are contained later in the bill. I guess we'll get to those, but just for reference, they're in section 11—(g.4) and (g.5) would be the regulation-making powers.

Mr Kormos: Having said all that, there already was a subsection (5) of section 78, which was repealed by the last government. Does the subsection (5) which is now amending section 78 by replacing the repealed subsection (5) replace the subsection (5) that was repealed, or is it a variation on the subsection (5) that was repealed?

Mr McCann: My recollection—I don't have the repealed section handy here. I believe it deals with a different subject matter, but we could check on that, I think relatively promptly.

Mr Kormos: I think that's important, don't you, parliamentary assistant?

Mrs Cansfield: It's a question you've asked. It needs to be answered. We'll get the answer for you.

Mr Kormos: If you could assist, I'd be pleased to hear from you.

Mrs Cansfield: I believe that the legal branch of the ministry is doing an admirable job.

Mr Kormos: Chair, then, can I ask the parliamentary assistant what the policy motive was behind restoring subsection (5)—not the legal issue, the policy issue.

The Chair: You can certainly ask. Mrs Cansfield?

Mrs Cansfield: I'm sorry, you'll have to clarify that for me. I don't understand your question.

Mr Kormos: I'm asking for the policy motive behind this amendment.

Mrs Cansfield: With the LDCs providing electricity?

Mr Kormos: No, the policy motive behind section 1 of your bill, which is the amendment to section 78 of the act with subsection (5).

Mr Brad Duguid (Scarborough Centre): Refer it to staff.

Mrs Cansfield: Yes, I think I will. If I could ask staff—

The Chair: The question has been asked. Mrs Cansfield has referred it to staff.

Interjection.

The Chair: You can ask the question, Mr Kormos. Who answers it I think is up to the respondent.

Mr Kormos: I'm just protecting the independence of the civil service.

Mrs Cansfield: If in fact there was a question like this, you should have asked the minister when he was here the other day. Having said that, we now have somebody here who can answer that question for you.

Ms Rosalyn Lawrence: My name is Rosalyn Lawrence. I'm the director of the consumer and regulatory affairs branch with the Ministry of Energy.

Those regulation-making authorities are designed to allow for regulations that would support a two-block

pricing structure as well as the ability to set rates around time of use of electricity.

Mr Kormos: If I may ask the parliamentary assistant, I understand what the role is from a policy perspective. How is this policy perspective consistent with the campaign commitment made by the Liberals, yourself included, in the campaign on which you were elected?

Mrs Cansfield: Very consistent, Mr Kormos, because I campaigned on responsible government. Certainly, responsible government means dealing with the issues at hand, and a \$5.6-billion problem is an issue at hand.

Dealing with this in particular, it's a response to all of the people we met within the electrical sector as well as consumers who were looking at options to be provided. This certainly is a policy that provides a variety of options. It looks to interval metering; it looks to time of use; it looks to alternatives that can be put in place. So it's well within the policy of this government in terms of responsible government.

Remember that the whole idea of the cap was that it was to be debt-free and revenue-neutral. It is neither. It increased the debt and it cost us money.

Mr Kormos: Ma'am, we knew that the cap had cost at least \$600 million, if not more, at the time of the election call. That was public information that was acknowledged by indeed even the Conservatives, that there was a price tag attached to the cap. You say it's consistent. I'm asking you, in view of the fact that we all knew the cap had a cost inherent in it, that it was acknowledged even by the government—this wasn't anything around which there was any obfuscation—is it then consistent with your promise to maintain the cap, this amendment today?

Mrs Cansfield: It's consistent with our promise of responsible government. Remember, this is one part of a very large issue around electricity. The other, of course, is the Epp report, OPG. I mean, the issues go on and on. It's quite consistent with the policy of the Liberal government for responsible government.

Mr Kormos: Was it responsible for you and other Liberals to campaign on the promise to maintain the cap?

Mrs Cansfield: Mr Kormos, if you want this debate in the House, it probably would be a better place to have it, instead of trying to debate the debate all the time.

Mr Kormos: No, you moved time allocation. We can't debate this in the House.

Mrs Cansfield: My colleagues across the way agreed to that particular way of doing business. If you had these questions to ask, you should have asked them before, when you had the opportunity.

Mr Kormos: Chair, point of order—

Mrs Cansfield: I have answered his questions.

Mr Kormos: Chair, we're here to put questions—

The Chair: There's no point of order. You can make comments, you can make amendments, and if you have questions—

Mrs Cansfield: I have answered your questions.

Mr Kormos: That's what clause-by-clause consideration is.

The Chair: That's exactly what we're doing.

Mrs Cansfield: The challenge is, Mr Kormos, you don't like the answer.

Interjection.

The Chair: No, no, and I'm certainly not chastising you from the chair for asking them.

Mr Kormos: Of course not.

The Chair: Keep asking. You may not like the answers, and we'll move on, but keep asking.

Mr Kormos: No, we won't move on until we're finished asking the questions. That's the problem with time allocation.

The Chair: We'll move on as the Chair dictates we'll move on. It's my job to make progress on this issue.

1030

Mr Kormos: Oh, really, Chair? On a time-allocated motion? No. You are the servant of this committee, Chair.

The Chair: We will proceed. You have the floor.

Mr Kormos: Of course I do.

Ms Cansfield, the thing is, you're here today to answer the questions. This is what the committee process is all about. This is what clause-by-clause consideration is. I'm asking you now whether it was responsible for you to promise your constituents that you would maintain the cap during the course of the election or during the period of the election campaign.

Mrs Cansfield: Mr Kormos, I guess you don't hear me. I have answered your question. I promised my constituents responsible government when I knocked on the door, and this is responsible to the issue at hand: an \$800-million problem. I think the comment was, "It's in a mess." It is in a mess. We need to deal with it, and we are dealing with it. So I've answered your question, not once, not twice, but three times now.

Mr Kormos: Let's try four. Did you not tell your voters that you would support the maintenance of the cap?

Mrs Cansfield: The Liberal platform was that they would support the price of the cap in addition to the fact that there would be responsible government. You're suggesting that irresponsible policy should continue, because it's irresponsible policy. I'm suggesting to you that the better policy is responsible government, and you just don't like the answer, sir.

Mr Kormos: I'm suggesting to you that Liberals voted for the cap. When they voted for the cap, they knew it was going to cost money, and irresponsible election promises are worthy of consideration and remark as well. Wouldn't you agree with that?

Mrs Cansfield: Of all people, I would think you would, because I recall the social contract with a great deal of—

Mr Kormos: Don't talk to me, Ms Cansfield, about that one. I'm on the side of the angels.

Mrs Cansfield: Right; I don't think so. When you talk about—

Mr Kormos: Let's see you break with your government on this one.

Mrs Cansfield: Excuse me, but it was your government's policy around the social contract. Having said

that, I don't think your particular party can throw slings and arrows at this. The fact of the matter is, it's responsible government to deal with an issue at hand. We are dealing with it, and that's the end of the question. It's been answered.

Mr Kormos: What I take from this, then, is that you're equating your breach of the promise to keep the cap to the NDP breach of its commitment to labour unions not to break contracts.

Mrs Cansfield: Those are your comments. What I was suggesting was that probably you would know better than most people around the issue of keeping bad policy. Having said that, I'm saying to you again, and for the last time, that this government is dealing with an issue at hand that's in a mess, and it is doing it as responsible government. You don't like the answer, and that's unfortunate.

Mr Kormos: Chair, if I may, the parliamentary assistant is earning \$15,000 a year above the base salary? Help me. I haven't bothered looking at the pay schedule. It would be academic. You're up into the \$100,000 club. To the parliamentary assistant: Can I ask her what amendments are being proposed by the government to this bill today?

Mrs Cansfield: There are no amendments being proposed to this bill by the government.

Mr Kormos: Can I ask the parliamentary assistant what was the net effect of the modest number of participants who attended the public hearings yesterday on the government's position?

Mrs Cansfield: The net effect?

Mr Kormos: Yes.

Mrs Cansfield: Would you define "net effect"?

Mr Kormos: What was the result? Did the participants not provoke any consideration of any amendments to the bill?

Mrs Cansfield: There were very positive results actually. I met with the Ontario Federation of Agriculture afterwards, and we have set up a meeting in January to discuss a number of the issues they identified in their paper, which will be their third meeting with us; also, we will be meeting in January with Chris Winter, who is very interested in working on the conservation end. So it was very positive. Having met with Ms Andrew, I think three times as well, it's been a very productive opportunity.

Mr Kormos: I'm glad the committee facilitated your booking schedules. I want to know, though, if any of the submissions made by any of the participants resulted in any contemplation of amendments to the bill.

Mrs Cansfield: I discussed the issues with the minister after the meeting, and I'm telling you now there are no amendments coming forward from the government on this bill.

Mr Kormos: You discussed them with the minister?

Mrs Cansfield: I did.

Mr Kormos: And the minister said what?

Mrs Cansfield: There are no amendments coming forward on this bill.

Mr Kormos: Did the minister say, "Those people can go pound salt," or did he say, "We'll deal with their issues later," or did he say there wasn't enough time to address their issues? What was the drift of it?

Mrs Cansfield: I just finished telling you that we have in fact agreed to meet with a number of the participants yet again in the new year to discuss some of their options and ideas. The minister knows what occurred at this meeting yesterday, and I'm telling you again there are no government amendments coming forward on this bill.

Mr Kormos: I understand. One final question on this motion: Is the language just the beginning of a long-term strategy, code language for, "We have no idea what the policy is going to be"?

Mrs Cansfield: Those are your words, not mine.

Mr Kormos: No, those are yours. I wrote them down while you said them: "just the beginning of a long-term strategy."

Mrs Cansfield: Absolutely. Of course it is. I think if you listened to what the minister said in the House, this is the first, it is the beginning of a long-term comprehensive strategy to deal with the challenges of electricity in this province. Of course, I would suspect, and you've been in government a lot longer than I have, that you know that supply in particular takes 10, maybe 15 years in some cases to deal with. Given the fact that there has been no supply dealt with in the last eight years, then certainly I would suspect you would like to have a long-term comprehensive strategy rather than a quick-fix band-aid solution.

Mr Kormos: Thank you, Chair.

The Chair: Thank you, Mr Kormos. Are there any further questions, comments or amendments on section 1?

Mr Klees: I just want to follow up very briefly on the issue of the rate cap and the understanding that the parliamentary assistant has of that cap, which the Liberal Party voted for, as Mr Kormos indicated previously. The reason I think it's important that we get clarification for this is that since the election of this government, I have consistently heard reference to the fact that this cap has a cost to it. As Mr Kormos mentioned earlier, it was always anticipated that there was going to be a cost to this cap in the early days while we were still dealing with a shortage of generating capacity, which is the reason the original policy of the cap had a time frame up to 2006.

When the previous Liberal Party, then the official opposition, voted in favour of that policy, it was clear to all in the Legislature at the time that there would be in fact a debt accruing under this rate cap policy. It was also discussed at the time, and with the assistance of the Ministry of Energy staff, industry consultants and the industry at large and its various stakeholders, it was also agreed that, given the addition of generating capacity that would come on stream as a result of the energy policy that would be put in place as contemplated by the government of the day, the cost for generating would decline as a result of competition in the marketplace, that the wholesale and retail prices would in fact be modified

and that over the period of time, it would be a revenue-neutral result.

There was no secret during the time the Liberal Party was campaigning and while the parliamentary assistant was knocking on those doors, there was no doubt in anyone's mind that there was in fact a cost attributed to this rate cap. Here we are today, and I was listening very carefully to the parliamentary assistant when she gave this explanation, as I've listened, by the way, to the Minister of Energy and others when they gave the explanation for an about-face on this commitment to keep this cap, this broken promise. Why was this promise broken to all those vulnerable stakeholders, who still, I suggest are very much exposed to fluctuating prices?

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The reason that I heard was, "We opened up the books and we somehow found out that there is this cost"—\$600 million or \$800 million, depending on the time of the day someone is speaking to it—"so in the interest of responsible government, we simply cannot keep our promise to keep this rate cap in place."

I say to the parliamentary assistant that her party knew this cost was there when they voted for this rate cap. They certainly knew when they were campaigning that there was a cost. What happened in the space of 48 hours that now we break that promise because this reality of the \$600 million, or whatever amount you may want to use, is the immediate cost? My question to the parliamentary assistant therefore is, if in fact the \$600 million was known and certainly is not a reason for lifting the cap, why did the government decide to break that promise? Because you can't argue the \$600 million. That was knowledge going in. Why?

Mrs Cansfield: I believe, sir, that it was \$800 million.

I'm going to quote something to you. It's a conclusion. "Ultimately, a lack of political will to pass higher and economically justified electricity prices on to consumers and restructure the generation market to attract private investment is responsible for the current disarray of the province's electricity sector." That's the C.D. Howe Institute's analysis of the very bad policy.

Mr Klees: What was the date of that?

Mrs Cansfield: That is December 2003. It very clearly articulates the challenges and the problems that we faced as we became government. It is irresponsible to continue on in that vein.

I reiterate: in order to deal with the issue at hand—because you are right; the initial analysis was that it would be revenue-neutral and it would pay down the debt. The fact of the matter is that it didn't work. So to continue something that isn't working, to have others subsidize the electricity costs, is not responsible. It does not encourage conservation and it does not look at the realistic issues facing electricity. The \$800 million was one part of the puzzle. There are many parts to it.

I really do suggest you read it, because I know the Tory government uses the C.D. Howe Institute, or has in the past, considerably. They have done a very strong

critique of the previous government's policies dealing with the electricity sector.

Mr Klees: Does the parliamentary assistant acknowledge that the rate cap was never intended to be revenue-neutral after one year?

Mrs Cansfield: You may not have been in the House when I gave my remarks originally. I agree that in 2006 there was the intent of the Tory government to lift it. The NDP at one point didn't even want caps, then they did, and then they said they didn't or something. So there's no question that people knew 4.3 was not sustainable. The difference is the timing. We're saying it's not sustainable now, you're saying it's not sustainable till 2006, and that's the difference. The 4.3 is not sustainable. Actually, if you listened to the Ontario Federation of Agriculture yesterday, they said the same thing. Virtually every briefing we've had has said exactly the same thing.

Mr Klees: You don't have to argue the point with me that a rate cap is not good for the market. I'll be the first one to support that. What I'm saying to you is that it's a matter of what that exit strategy is when the rate cap comes off, and what the effect is going to be on the stakeholders, on the consumers, on the various vulnerable people we have subjected to this new-found Liberal policy, which is to immediately pop this rate cap. I would have been one, and was one, as my colleagues know, to argue for an exit strategy that would remove that rate cap as soon as possible, prior to 2006, when it is reasonable.

If you look at the policy, it was to ensure that we have the generating capacity in place, to ensure that we have competitive rates coming forward into the marketplace. I don't see your additional generating capacity in place today. I don't see it in place at the time that this rate cap policy you're proposing today will be in place.

My point is very simply this: I think it's a mistake. I think it's a mistake, first of all, to come forward with a policy that does not protect the very people the original policy your party voted for intended to protect.

I warn you today that you will have people at your door. I say to the parliamentary assistant, you will have people at your door, whether it's the farming community, whether it's seniors, whether it's people in your own constituency. When they get the bill, you know the bill will be much more than just the \$20 or \$30 you're projecting, because you have not calculated into that all the additional costs for delivery charges and what the LDCs will do with the new-found latitude you're giving them in this legislation. I warn you, you will have seniors coming to you and you will have small business people coming to you saying, "Ms Cansfield, we cannot pay this bill." And at that point in time it will be too late, because you will have set in motion a policy that is irreversible in time to save people from financial difficulty. That's the warning I want to put to you.

I know what the mantra is. The mantra is the cap hasn't worked because it cost \$800 million. Folks, you're here fresh from where you came from. The only thing I'd caution you against is, don't fall into the trap of coming in, whether it's simply to a committee here or going into the Legislature, and just taking the notes that are given to

you from the ministry or from your political staff at the Premier's office or in the minister's office. Don't fall into the trap of simply repeating what you're told to say. Keep in mind why you came here in the first place. You came here to protect the people who elected you. You came here out of a motivation to make government better, to bring truth to government. I compliment you for that. It's not an easy road; it's very tough. Your biggest enemy in this place, I'm telling you right now—Ms Wynne smiles—are the very people you need to work with. Challenge them on the issues before you simply recount word for word what you're told.

This mantra of the cap having to come off because the cap didn't work is empty rhetoric. The cap was never meant to work revenue neutrally within a year. It was intended to average out over a period of time, to 2006, aided and abetted by the generating capacity and the settling down of a marketplace. That was the original intention.

I would much rather you say, "Yes, we made the promise. Frankly, it was an irresponsible promise, and we're not going to keep that promise, because now we've changed our mind." That's straightforward. I can buy that. I understand it. I think it's unfortunate, but it's simply saying, "We made a mistake." Why don't you just say that? That gives traction.

I'll leave that, but I think it's important as you move forward that you simply take this on. I shouldn't give you this advice, but you'll get a lot more credit as individual members of the Legislature, and, frankly, you'll get more credit as a government if you just simply say, "The promise was irresponsible. We realize it was an irresponsible promise. We're breaking it because we think there's a better way to go." That I can buy. Don't carry on with this mantra. Your minister has spent a lot of time in this place and he's picked up some bad habits along the way. Don't you do the same.

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The Chair: Thank you, Mr Klees. Mr Kormos, do you have further questions or comments?

Mr Kormos: That's sort of like being lectured by your delinquent uncle after he's released from the pen, telling you not to smoke, drink and hang out at pool halls. But in any event, the fact is that your delinquent uncle has good advice to give, notwithstanding that he just did four years for armed robberies.

Interjection.

Mr Kormos: Exactly. As long as he goes to his meetings, he's going to be on the straight and narrow.

I should have asked you this when I was talking to you before, Mrs Cansfield, the parliamentary assistant. Is this new proposal going to be revenue-neutral?

Mrs Cansfield: No. People are going to pay, as we've already indicated, the price of electricity. To sustain the cap is irresponsible.

Mr Kormos: But the new cap: is it going to be revenue-neutral?

Mrs Cansfield: It's not the same plan that was put forward, because you based your plan on the fact that the

money generated out of OPG would pay down the debt. The fact of the matter is, they generated zero this year. So it's not the same plan.

Mr Kormos: I understand it's a different plan. That's why it's an amendment. Is it going to be revenue-neutral?

Mrs Cansfield: All this is going to do is lift the rate until the Ontario Energy Board puts in a regulated market by May 1, 2005. This is the first phase of a long-term strategy dealing with electricity issues in this province.

Mr Kormos: Your government isn't implementing a new cap?

Mrs Cansfield: Well, 4.7 to 5.5 is a cap.

Mr Kormos: That's right, so it's a new cap. Is this cap going to be revenue-neutral?

Mrs Cansfield: The cap is only on until April 1.

Mr Kormos: I understand. Is it going to be revenue-neutral?

Mrs Cansfield: I guess I don't understand what you're asking.

Interjection.

Mrs Cansfield: It's actually going to reflect the price of the electricity that people use; 60% of the households use about 1,000 kilowatts per month.

Mr Kormos: I understand. Is this cap going to require subsidy, as the current cap requires subsidy?

Mrs Cansfield: Yes.

Mr Kormos: Yes, it will. How much?

Mrs Cansfield: I don't know how much it would be.

Mr Kormos: You've got to know those things.

The Chair: Would you prefer to have staff answer this question?

Mrs Cansfield: No. Actually, it was one of the things that I didn't remember. It's the fact that, with the price rate, if the price goes down, the differential will be rebated back to the consumer. But it won't be rebated in terms of a cheque. In all probability it would go on to their bill.

Mr Kormos: What's anticipated?

Mrs Cansfield: It's anticipated that we've erred on the high side of the price of electricity and that there would be a rebate.

Mr Kormos: So you're anticipating a rebate?

Mrs Cansfield: As the market stands now, with the price of electricity.

Mr Kormos: So you're basically overcharging consumers?

Mrs Cansfield: No. What we're doing is trying to find something that's realistic and that reflects the true price of electricity. As you and I both know, that market is very volatile, isn't it? It goes up and down.

Mr Kormos: But in the planning process, you are telling me that you expect this to be a cap that results in a rebate at the end the road.

Mrs Cansfield: We're hoping it will be revenue-neutral, but if it turns out that there is money, it will be returned to the consumer. That was indicated in the minister's opening statement.

Mr Kormos: So you're saying at least it's going to be revenue-neutral, possibly even with the prospect of a rebate to consumers.

Mrs Cansfield: That's right. We hope so.

The Chair: OK, Mr Kormos. Mr Hardeman, do you have questions or comments?

Mr Ernie Hardeman (Oxford): On the same issue, I was under the understanding as I read the bill and reviewed it on behalf of my constituents that what the government was doing was increasing the cap. In your opinion, the process, although you promised to do it, is not sustainable, so we're going to raise the cap. The major difference in this legislation is to raise the cap. I'm going to assume from this that you are raising the cap to be more realistic so it will average out, with the open market, that the price that people are paying across the board from day to day will, at the end of the year, pay for the total amount of energy they consume.

Mrs Cansfield: That's correct. The difference is that we erred on the high side, so that if there is any change—

Mr Hardeman: I guess that's really my problem on behalf of my constituents. I'm going to be honest about it. A lot of my constituents are having real concerns about removing the cap, because they were promised that until 2006, 4.3 cents was all they would have to pay.

They are also realistic, and they realize that eventually someone is going to have to pay for the power they use. They say, "I can understand that someone would come forward with a plan to make sure that whatever we're doing in this province is sustainable." But it's a real problem when I have to explain to people that "Not only are we going to try to make sure this is sustainable, but we've made special efforts to put the cap high enough, so we're going to charge you more than the power is worth. If that's not so, if we are way over, we'll give some of it back, but in the meantime you're going to have to pay 5.5 because we may see some increase. We may not get the type of conservation we had hoped, we may not get the type of investment in generation we had hoped, so that may be the cost, on average, at the end of the time frame. So you go ahead and pay 5.5 until we decide whether that's too much, and if it's too much, we'll give it back to you."

Mrs Cansfield: It might be 5.4; it might be 5.52. You and I both know the spot market is volatile, and that's one of the reasons why the OEB will be the regulator for a market price by May 1, 2005. So you have to take a good estimate. It isn't an extreme estimate. It was an estimate based on the current market at the time the bill was written. The minister indicated that if the energy price goes lower, that would come back in the form of a rebate to the customers. I don't understand why this is a difficulty, because you're not looking at an extreme of four or five cents; you're looking at points. It may very well be that if it's higher, we'll absorb the difference; if it's lower, it goes back to the customer.

Mr Hardeman: I guess my concern is based on your comment that, "We erred on the side of being too high."

Mrs Cansfield: Well, of being cautious.

Mr Hardeman: My constituents aren't prepared to have their hydro bill be set based on, "We erred on the side of being too high, and if it is too high, we will rebate it, maybe."

Mrs Cansfield: You and I both know, if you were to explain to your constituents, that you don't have a solid price for electricity, that the spot market is volatile. It goes up and down; it peaks and valleys. So you can't give a consistent—

Mr Hardeman: I guess my problem is that I did explain that to my constituents a number of months ago when we all agreed, both sides of the House, that 4.3 cents until 2006 was going to be that number, and they agreed with me. Now we're saying, "No, no, we've seen the first year of that." As everyone knew, and as was explained by my colleague, the first year it was going to cost a lot of money, but by year four of the same process, the generation and sale was going to be lower than the 4.3 and it was going to pay some of that back.

The government has decided that in their opinion that's not the case, so we're going to have to increase the floor price. That's really what this bill is all about. So they increased the floor price and then we had the parliamentary assistant saying to this committee, after the presentation was made by all the people—incidentally, the federation of agriculture didn't say they agreed with just raising the price to 5.5. Their point was quite clear. They wanted a two-tier pricing system that would at the end of the day bring it back down to 4.3 cents, which they're presently paying. For the farming community, that's where they believe the average will come.

I think that's really where I have my concerns about your comments that "We are erring on the side of being too high and that we will rebate it if we need to." They believe that if you price it properly at value and on time of consumption and so forth, the price will be at 4.3. They don't believe they should pay 5.5 for the first year and then find that half of them have gone into bankruptcy because they can't afford to pay their hydro bills and then find out, "I'm sorry—well, it's actually good news, isn't it, folks? You're going to get some of this back, because we didn't need to charge 5.5; we only needed to charge 4.5 to make it work." I'm really concerned that you're setting it at the high end and expecting my consumers to pay that, and if you're wrong give it back.

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Mrs Cansfield: Again, if you read the bill, it says 4.7 and 5.5 based on the usage. You cannot give an absolute in the electricity market. I'm sure you also told your constituents about the debt load and the fact that the policy wasn't working and that the cap was not realistic and that they were paying prices for electricity that couldn't be sustained—because certainly I said that to my constituents.

Again, I'm telling you, we've heard from a variety of people that they wanted the cap lifted, and it's had extraordinary support. The government has put in place a policy whereby they have started an initial phase into a long-term strategy for electricity pricing in this province. The final market price will be the responsibility of the Ontario Energy Board, which has to come, I think, by May 1, 2005, with a regulated price that will be non-politicized, so that people in fact can have a determined

market value and it's not volatile. That was stated over and over again by Mr Duncan, the minister.

Mr Hardeman: Just to finish off, I, the same as every other member from both sides of the House, told my constituents that we were going to keep the cap till 2006. I didn't do that as a Conservative member. Every person, including the individual who ran in Oxford for the Liberal Party, made the commitment to our community that the 4.3 was where it was going to be till 2006. That's what I told them and yes, we did explain, as I'm sure you did, that that policy was creating a debt in the fund because in the first year it was not the price of hydro. I think everyone knew that. It was on the Internet; it was a common thing. You could check every hour the price of power being bought and sold.

So yes, I did tell my consumers that, and they even understand that times change and that things are a little different and that maybe you could do a market analysis on it now and say, "No, 4.3 cents is not the right number. We can't make that sustainable, even over that period of time. We've done this consultation and we've investigated it, and everybody in the know understands that that's not going to be able to be done."

To help me and tell my constituents, I would like to know what it is that we found out—just in the hydro market, not in the general provincial budget; this never was part of the general provincial budget—that changed between the time that my good friend was saying, "We will keep that promise and we will cap that hydro rate"—what changed to when we came to Queen's Park and we had a new government and they decided, "No, our word is not our bond. We have found all this information out as it relates to the hydro market that says we can't make this sustainable." I'd like to know what it was that made that decision, that it was worth breaking your promise, because I think you're a person of great integrity and I think you'd want to keep that promise, but you've decided you can't. I'd like to know what information you have that says you can't keep that promise.

Mrs Cansfield: Essentially, people in Ontario have been paying an unrealistic price for electricity. The true cost of electricity has not been reflected in the cap. Virtually all parties have agreed the cap is unrealistic. The difference is the timing. You cannot continue to sustain the debt. No matter where you place it, ultimately the taxpayer in Ontario pays for it. If you continue with an unrealistic cap, you continue to raise the debt. That is not responsible government, especially when I consider listening for years to a government that kept saying they were going to get rid of and eliminate the debt.

The fact of the matter is the debt has increased; it has increased substantively. To sustain a policy that continues to do that is unrealistic in being a good, fair, responsible government for the people of Ontario. As much as they want to reflect true costs in their electricity—and we've heard that consistently—I can tell you the other that I have consistently heard, and I'm sure others here have, is that they do not like debt either. So there's your answer. The fact of the matter is there's a

policy in place that is not sustainable. The cost of electricity did not reflect the true costs, and we're dealing with it in a responsible way.

Mr Hardeman: One final comment. I keep hearing—and the parliamentary assistant's doing it continually, relating the issues we're talking about here with the cost of the rate cap in the hydro regime. We're equating that with the other finances of the province. Is there an intent of the government at some point in time to use the excess of the 5.5 to help pay for other services in government? Is the hydro consumer at some point going to be asked to have their rates cover the costs of some of the other promises that we're presently having trouble keeping?

Mrs Cansfield: The consumer will be asked to deal with the true cost of electricity and to work with this government on the demand side in terms of finding ways and means to conserve electricity, so that instead of being the highest consumers in the world of that particular commodity, we may in fact be one of the lower ones.

The Chair: Mr Jackson and then Mr Kormos.

Mr Jackson: My question is for staff. On Monday I had a meeting with one of your ADMs, Mr Pospisil. He was very helpful and informative. At the time I had asked him, as I did the minister yesterday, for a more detailed breakdown of the mitigation fund as it relates to the net effect of the cost of the subsidy on a month-by-month basis. I was wondering if you came today prepared to share that with us, as I was advised we would have access to that information.

Ms Lawrence: I'm afraid I don't have that with me, but I will follow up with Mr Pospisil and make sure that's delivered this afternoon.

Mr Jackson: There have been several questions raised about the assumptions that staff made in advising the government. Clearly, the minister lacks the expertise to tie down the number of 4.7 cents or 5.5 cents; this would have been generated by the ministry. Are any of you before us today in a position to advise how those caps were arrived at?

Ms Lawrence: We can bring in the economists for a more detailed explanation, but I think in part they are based on price projections from market participants and independent consultants, who suggest that over the near term, in the coming months, the price will range from about 4.7 cents a kilowatt hour on the low end to about 5.8 cents a kilowatt hour on the high end. The 4.7 cents that was chosen for the first 750 kilowatt hours is very much the low end of that price forecast. It's also close to what the market price has been in year two of market opening since May 1 of this year, which is on average about 4.8 cents, I believe. The 5.5 cents is roughly half-way between the 4.8 cents we've seen so far in year two and the 6.2 cents average price in year one of market opening.

Mr Jackson: Can you advise this committee as to the full costs of mitigation to date, since it was a piece of retroactive legislation to place the cap on? Remind me of the date of that, and do you have the breakdowns of the cost to the consolidated revenue fund of the province of Ontario for those periods?

Ms Lawrence: I don't have the breakdowns with me; we'll have to bring those back.

Mr Jackson: But do you know the net amount?

Ms Lawrence: The net cost of the program has been about \$800 million.

Mr Jackson: Over how many months?

Ms Lawrence: Since market opening.

Mr Jackson: Which was?

Ms Lawrence: May 1, 2002.

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Mr Jackson: So you will be prepared to provide what the annual, had this cap stayed in place—you would be in a position to give us the projections as to what that would cost in this fiscal year, which expires March 31, 2004, and you'd be in a position to give us your projection, should this current legislation remain, of what your ministry is advising finance in preparation for its budget numbers, which we know is currently occurring?

Ms Lawrence: We will ensure that there's someone here this afternoon who can provide a more detailed breakdown on costing and financials.

Mr Jackson: Thank you.

The Chair: I'm just wondering, is it possible to get that information before we recess at 12 o'clock?

Ms Lawrence: We can try and round it up right now.

The Chair: It would be my preference that we do that. Mr Jackson, are you finished your questions?

Mr Jackson: Yes, thank you, Chair.

Mr Kormos: It's interesting, because you talk about the cost of the cap going back to the opening of the market on May 1, 2002, yet the cap wasn't enacted until all hell broke loose with consumers out there, and was done in the fall, just prior to the winter season.

The Chair: Mr Kormos, we may have sent the person out of the room who may be able to provide you with the answer.

Mr Kormos: We have. I'll be darned.

The Chair: I think it was just a coincidence. You surely can keep going, but I think the person who will be answering your question is on the phone in the hallway right now. I leave it in your hands.

Mr Kormos: I should ask the parliamentary assistant. We're going to get back to that in just a minute. You understand what I'm asking. You say the \$800 million is attributable to that whole period of time. But as I recall, there were some phony rebates: "The cheque's in the mail?" What was it, \$100?

Ms Kathleen O. Wynne (Don Valley West): It was \$75.

Mr Kormos: So it was a token, a gesture of a rebate that was retroactive. It wasn't a pure retroactivity of the rebate, because there wasn't a calculation, was there?

Mr McCann: I think Ms Lawrence is trying to establish the facts to bring back before the committee. I don't have them, and I think we should let her do that.

Mr Kormos: Yes, we're going to wait for her.

Now, Ms Parliamentary Assistant, going to the regulations—because the regulations are referred to in both parts of this amendment in section 1, both subsection (5)

of section 78 and subsection (5.0.1) of section 78. First of all, can you tell us whether the regulations have been drafted? I suspect not.

Mrs Cansfield: No, they're not drafted.

Mr Kormos: And that's not unusual. Can you tell us what the situations will be that are referred to in subsection (5)?

Mrs Cansfield: The type of regulations that can be made? Is that what you're asking?

Mr Kormos: The situations. Subsection (5) refers to "situations." The regulations will outline those situations.

Mrs Cansfield: I'm sorry. I've got two different section 5s here.

Mr Kormos: Section 1 of the amendment, which—

Mrs Cansfield: Right. Of the amendment, you're looking at?

Mr Kormos: Section 1 of the amendment, which amends—

Mrs Cansfield: It says "the consumer holds a valid registration number"—are you looking at that amendment?

Mr Kormos: Section 1 of the amendment, of your bill.

Mrs Cansfield: This amendment? Ah, the act. OK. I'm sorry. I thought you were speaking to the amendment.

Mr Kormos: Well, no. Your bill is an amendment to the act.

In section 1, it refers to subsection 78(5), which is replacing the repealed subsection 78(5), and then it refers to subsection (5.0.1). Both of them refer to the regulations. Subsection (5), which is going to be reinserted back into section 78, talks about "situations," describing the different situations. What are those different situations that the regulations will be addressing?

Mrs Cansfield: I'll ask the legal counsel.

Mr Kormos: I think it's important for us to know. It's not an unfair question, by any stretch.

Mr McCann: First of all, I should point out that these regulations will apply to section 78 of the legislation, which is the general authority of the Ontario Energy Board to make rates. So the situations could be many different types of situations. I think "situation" is a broad word. But, for example, in the regulation-making power itself, which is in section 11(g.4), it talks about situations being defined with reference to amounts of electricity used and times when electricity is used. So you could, for example, have what I think are referred to as time-of-use regulations that could deal with a rate structure that had different rates depending on the time of day, and the amounts of electricity could refer to, for example, the blocked prices that we've talked about, up to a certain number of kilowatt hours per month. The significance here is that that system would be brought forward to the Ontario Energy Board, which would then be required to build in the structures in fixing just and reasonable rates under section 78.

Mr Kormos: My concern is that we're buying a pig in a poke here. Without those regulations, exactly what is it that this bill is going to do for consumers via the Ontario

Energy Board? Do government members have any of the same difficulties I have in buying a pig in a poke in this regard? If we don't know what those are, as staff rightly told us, it could be anything from basically soup-to-nuts situations as a very broad definition. Gosh, Chair, is it prudent to pass legislation without knowing what its real impact is going to be? I put that to you.

The Chair: I don't think it's my role to answer that, but thanks for the question anyway.

Mr Kormos: I was looking to you for leadership and direction.

The Chair: I'm ensuring the progress of the business of the committee, including yours. I think you're doing a wonderful job.

Mr Kormos: You're going to be frustrated at 12 noon, because it's over then. She's gone. You know that?

Mrs Cansfield: I think what it's trying to do, and my colleague is correct, is be more sensitive to the needs in terms of times and amounts. It deals with such things as interval metering, identifying types of consumers. It's not unusual, obviously, for a bill to be passed and then the regulations to come. I've been around long enough to know that much.

Mr Kormos: But when that used to happen, Liberals used to be joining me in squealing and howling and talking about jackboot governments.

Mr Kim Craitor (Niagara Falls): I never did that.

Mrs Cansfield: I never did that either.

Mr Kormos: You weren't here. When Mr Gravelle was on committees with me, he would echo my declarations of jackboot tactics on the part of the government and oppressive anti-democratic strategies and using the force of the majority to ram through legislation when they, the government, the Tories, didn't even know the impact it was going to have.

Maybe I'm just a creature of habit, but I'm concerned now that we're being hoodwinked here. Maybe if the parliamentary assistant could assure us that some of the situations will be addressed. For instance, depending upon the time when you use your electricity—what's that phrase?

Mrs Cansfield: Time of use.

Mr Kormos: Time of use. Can you assure us that time of use is going to be one of the situations addressed?

Mrs Cansfield: What I can assure you is that those types of options will be looked at, and that's why there is provision here to give us the authority to deal with those particular kinds of situations. Looking at interval metering, there are different kinds of metering; there's not just one.

Mr Kormos: I get the message. This is a "trust us" bill. You couldn't trust them for what they promised during the election campaign. Gosh, I'm worried now. Hold on to your watches and your wallets, folks.

Ms Wynne: In the bill, in section (g.4), it says that the situations are defined with reference to amounts of electricity used and times when electricity is used. There's no need for the parliamentary assistant to reassure you that those are the definitions of the situation. It says it in the

legislation, and then the regulations will further define the times. But it refers to those things in the legislation.

The Chair: Mr Kormos, any further questions before I go to Mr Hardeman?

Mr Kormos: Yes, just the one. I want an assurance that regulations will be put forward and what those regulations will address. That's precisely the point.

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Mrs Cansfield: I agreed and I said to you that the regulations will provide the authority to deal with those types of situations and with the consumers. It says it specifically in here, and I'm just saying to you there are a variety of options that are out there in terms of time of use, interval metering, high loads, peak loads—those kinds of things.

Mr Kormos: "Trust us," she says.

Mrs Cansfield: We do have rather good people working for us.

Mr Kormos: They were working for the Tories for the last eight years too.

Mrs Cansfield: Different direction, though.

The Chair: Mr Hardeman, do you have questions or comments?

Mr Hardeman: Yes. I wholly support the need for regulations to allow certain things to be recognized, like time-of-use and interval meters. We have one of those prepaid meter systems in my riding. It works very well for conservation. Presently the legislation doesn't allow for those to be recognized, and I much appreciate that being put forward.

As I'm sitting here listening to debate, I'm having some real concerns as to how far the regulations could go in allowing the energy board to totally disregard the cap altogether. Could the time of use be 24 hours a day and the defined consumer be everyone, and all of a sudden we have, by regulation, eliminated the process of capping? That would be of concern to me, as to how broad that regulatory power is, that we could now supersede the main body of the legislation by defining the whole marketplace as special circumstances and removing the cap. I'd just ask someone from staff to assure me that that's not possible.

Mr McCann: I think under section 78 of the Ontario Energy Board Act, the board has a very broad power of a quasi-judicial nature to hold hearings to determine rates. I just say that by way of background.

The purpose of the regulation here would be to structure the board's approach to that in some manner so that the regulation—I think the fairest thing to say is that the regulation would provide a certain structure as to how the board set rates in terms of these situations, time-of-use and tiered pricing. I don't think the regulation-making power is drafted so broadly that it could be used to—

Mr Hardeman: To clarify, if six months or three months into this process the Minister of Energy decided—we've seen the change in the last three months in the position of the Minister of Energy. If he has that same change of heart in the next four months and decides that he wants to eliminate caps altogether, can he pass a

regulation that allows that to go to the energy board without it coming back legislatively, and eliminate the cap totally?

Mr McCann: As we'll see, I guess, in other sections of the bill, the rate jurisdiction, if I can put it that way—the jurisdiction to fix rates for all aspects of the distribution of electricity—can be returned to the Ontario Energy Board very quickly, if that were to be the decision that's made. At that time, the board would in fact have authority over all aspects of rates, including the commodity price aspect. So I guess you could say that wouldn't be a cap. But what I think is important to realize is that the Ontario Energy Board's authority is to fix just and reasonable rates, which is a phrase that has a long history in the regulation of energy in Ontario. It's intended to be a rate that's fair to all participants.

The Chair: Mr Hardeman, anything further?

Mr Hardeman: That's fine.

The Chair: Mr Klees?

Mr Klees: To the parliamentary assistant, I heard you say earlier that it's the government's intention to move to a regulated market by May 1, 2005. My question is the definition of that. In your opinion, where does that leave competition in the marketplace, if you in fact are moving to a regulated market?

Mrs Cansfield: The minister, in the bill, asked that the Ontario Energy Board, by May 1, 2005, have the responsibility to come up with a fair market price for energy and a determination of how that would happen. Mr Wetston will undertake to do that. That is part of the request of the bill. So in terms of that kind of definition, you'll have to wait until the Ontario Energy Board holds its hearings and comes up with its fair and just approach to finding, as we said, a nonpoliticized market price for energy.

Mr Klees: The definition, though, of a regulated market versus a deregulated market is very substantive. There is a huge difference. In a deregulated market we have open competition; we have an opportunity for competition. We have retailers now involved who invested literally billions of dollars in this province; we have companies that have in the hundreds of thousands of customers. What I'm hearing you say is that essentially by 2005 those companies will be put out of business in the province of Ontario.

Mrs Cansfield: No, that's not what I said at all. That's on the generation side. On the generation side, if you listened to what the minister had indicated, there is a task force that will be reporting that actually has all of the renewable, the four different types of generator folks on this. It has been meeting for some time and will, I think, come to conclusions by the end of December for the minister that will deal with the supply side and options. I think you also heard the minister say that there would be a panel—I'll call it a blue ribbon panel, my term—of people in the electricity sector to give advice, and you also would have heard him say that there is a place for both public and private in dealing with generation.

My remarks earlier were just to speak to what the responsibility of the Ontario Energy Board would be, but

in terms of the generation, that's all part of what will be forthcoming in the new year.

Mr Klees: Actually, I'm not speaking about generation at all; I'm speaking about retail. I'm speaking about commodity price to the consumer.

When you say there will be a regulated market, which is what caught my attention, I think we need some clarification. Are you talking about a regulated market for the commodity to the consumer? Are you talking about a regulated market for wholesale? What are you talking about?

Mrs Cansfield: I apologize; it's my error. I didn't mean to suggest to you that it was a regulated market in terms of a fixed-price commodity. That's not what the Ontario Energy Board is supposed to do. It is to be regulated by the energy board but it is not a regulated market, so in terms—I apologize. The terminology is new. The acronyms are—there's a litany of them. What I meant is that they have the responsibility for dealing with it in a regulated way, but it's not a regulated market. That is May 1, 2005; they have that. It could be earlier, but that's the determination date.

Mr Klees: We'll cut you the slack on that, but you understand that there are really huge implications—

Mrs Cansfield: Yes, I appreciate that, and I also appreciate that you did cut me a little slack on it. It's a very complex industry and, as I said earlier, there are no quick-fix solutions here. You have identified, and justifiably so, many people who will be impacted and affected. I think it's important and prudent for all of us to take that into consideration as we move forward. I'm hoping there will be those opportunities to listen, and listen wisely.

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Mr Klees: Just one last comment on this: From the conversations we've had, I think it's becoming obvious to everyone that essentially what we have here, as my colleague put it, is really another cap, a raised limit on the cap in the interim until you get to the next phase of your policy. You also, of course, are still exposed to incurring substantial costs to the taxpayer, because if in fact the actual price of electricity—and it is possible that we could end up with another set of circumstances that spike these prices. Who knows what it might be? God forbid, but it could happen. If in fact that does happen, the same kind of unexpected circumstances converging, it could very well be, even under this revised cap you're putting forward, that the cost to the taxpayer could be an additional \$600 million. Would you agree?

Mrs Cansfield: I could paraphrase what I've read, and I concur with it and it's something I've heard consistently in all the briefings, and that's the fact that there wasn't action by the previous government, and that there's a waning of private-public sector interest in the generation side in Ontario—and that's on the supply side—while exposing the province to its financial obligations far in excess of the direct cost of the retail price freeze. In essence, again, it wasn't sustainable. We were sustaining a debt, but at the same time, we were not encouraging the generation that needs to occur. By lifting

the cap, by putting in the interim until April 1, we have sent a signal to the community that generation is very much a part of the government's agenda.

Mr Klees: Ms Cansfield, I understand that very well. Essentially, what you're doing with this legislation is actually accelerating the privatization of generation in the province—which, by the way, I have no objection to. In fact, I believe in and have been an advocate in the past for the need for the private sector to step into the marketplace and help with building the generation capacity in this province. What essentially you have done and are doing with this legislation is that you're accelerating what we as a government were intending to do over the period of time to 2006. The reason we moderated that time frame was because we wanted to ensure we had put in place the appropriate consumer protection mechanisms so that we don't have a fallout in that period of time while there might be those spikes.

My caution to you is that by listening to the stakeholders who are saying to you, "Yes, we'll come into the province of Ontario. We will build the generation. We will go into public-private partnership arrangements with you," or whatever, by accelerating that time frame, as you have done, you are putting at risk not only the groups we referred to earlier, but you're also putting at risk the taxpayers of the province of Ontario.

You speak eloquently about the need to do this because of the debt, the \$800 million that has been created in this fund that's there to even out the costs. I suggest to you, and I believe your advisers will tell you, and the consultants and the energy experts will also tell you, that circumstances could well happen this coming year, that this cap that you have in place could cost you half a billion, \$800 million. Is it possible?

Mrs Cansfield: I think the comments earlier around trying to find a price between the 4.7 cents and 6 cents—that was something that the economists and the people within the ministry indicated would be fair in terms of finding a cap that we could set—

Mr Klees: The same economists, by the way, who gave advice to the previous government about the 4.3-cent level.

The Chair: Let Ms Cansfield finish her—

Mr Klees: I thought she was finished.

Mrs Cansfield: That's OK. I acknowledge that they're the same folks. The difference is that debt is debt, and you cannot sustain it. The true cost of electricity was not being reflected, so we were not encouraging people to conserve. Actually, our consumption in electricity has gone up by 20%. We have to look at those factors. What is sustainable?

Mr Kormos: Chair?

The Chair: Is this a point of order?

Mr Kormos: No. It's a response and a question to Ms Cansfield.

The Chair: OK. I don't think you're on the list right now. I certainly will go to you when your turn comes.

Mr Kormos: Then it is a point of order.

The Chair: OK. I can't wait to hear it.

Mr Kormos: If this government keeps heating Queen's Park with electric space heaters, like we've got here behind us—

The Chair: That is not a point of order, Mr Kormos.

Mr Klees, I interrupted you. Do you have any further questions?

Mr Klees: I think I'm pretty well there. I wanted to get confirmation, which I got, from the parliamentary assistant that the taxpayers, under this scheme that's being put forward, are still very much at risk; that it's a matter of providing a level of protection, which is why they've built a staging into this process. They do recognize that there should be some level of protection. They're simply saying, "Well, we're going to lift the ceiling. We are going to abandon some people in the process." But this government knows full well, as the same consultants and industry experts advised the previous government, that it's very possible that they're going to now be facing the same potential of incurring additional debt for the taxpayer. This is not Nirvana here. They haven't pulled the rabbit out of the hat to solve the energy challenges that we've got in this province.

I'll wrap up my comments by saying that no one agrees more that we need a good exit strategy from a cap. No one agrees more that we need to have incentive in this province for additional generation. I certainly agree that there's a role for the private sector to play in that building of generation capacity and that there's a role, obviously, for the private sector and competition to play on the retail side as well.

My concern with this legislation the government is putting forward is its timing and its unwillingness, really, to admit that there are vulnerable people who are going to be negatively affected by the acceleration of the time frame.

It may well have been that we would be ready to do this at the end of 2004 or 2005, once we know that we have additional generation coming on stream so that we can begin to see the marketplace functioning and we have some confidence that the capacity's there, that there will be a balancing of the marketplace. That is why we are bringing forward some amendments here: to hopefully build some of that protection in. We hope that the government will be receptive to those, and we'll carry on.

The Chair: Mr Jackson, would you like to ask your questions again? It appears we have the person here who may be able to answer them, if you could maybe summarize the questions for the benefit of us all.

Mr Jackson: The questions are the ones I raised the other day with respect to what the actual cost is to the consolidated revenue fund for the mitigation strategy for the 11-month period from May 1, 2002, to March 31, 2003. What is the actual? And what is the actual for April 1, 2003, to October 31, 2003? That would be a seven-month measurement; I suspect that is the measurement that Erik Peters looked at. Therefore, what was the 12-month projected for April 1, 2003, to March 31, 2004, which would be that fiscal year's impact on the consolidated? To your knowledge, has that final number been modified because of price fluctuation and usage

fluctuation? The first two are actuals; the third one is a projected.

The additional question following on that is what was projected for April 1, 2004, to March 31, 2005, in terms of it, because it matters little the size of the cap; it matters what your projected for the price would be. That would then determine either how much subsidy our government was offering under our cap or how much subsidy the new government is offering under its revised cap.

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Mr Shane Pospisil: I should probably introduce myself. I'm Shane Pospisil. I'm assistant deputy minister, Ontario Ministry of Energy. Mr Jackson and I had a good meeting the other day. We spent a couple of hours going through Bill 4, and there are a lot of questions, and obviously there are a couple more again today. Having missed the context of the previous discussions, I take it we've talked a little bit about the rationale behind the Electricity Pricing, Conservation and Supply Act that was passed last November, fixing the commodity price of electricity at 4.3 cents a kilowatt hour. Obviously, what Bill 4 aims to do is set out a new two-block pricing structure that will replace that.

The 4.3-cent price cap that was actually put in place last November on the commodity cost has created a fairly significant fiscal pressure for the government. It's coming from two areas: first, the fact that the market price of electricity has been considerably higher than the 4.3-cent cap; and second, the government's commitment to honour the retail contracts that were out there at the time. There are two pressures there that have to be dealt with.

In terms of market prices since market opening, Mr Jackson, I walked you through some of these numbers the other day. In the first year since market opening, the average price was 6.2 cents a kilowatt hour. So the legislation last November had a fixed price of 4.3 cents. Generators were continuing to get the market prices, which averaged 6.2 cents a kilowatt hour over that period. I think those numbers probably underscore the fiscal impact in year 1. Year 1 did have some severe weather patterns associated with it, both in the summer—I think we all remember the summer of 2002, some fairly long stretches of very hot, humid weather. The winter was very cold weather. Further compounding the problem was return-to-service delays in some of our nuclear capacity, so we had tightness in supply and we had very severe weather. Again, the average price over that first year market opening, the 12 months, was 6.2 cents a kilowatt hour. Again you can relate that back to the 4.3 cent cap and instantaneously see the pressure.

In the second year since May 1, 2003, we've been running about 4.8 cents a kilowatt hour, reflecting again the fact that the weather hasn't been as severe. We've seen some capacity come back on stream. The 4.8 cents a kilowatt hour on average is still higher than the 4.3-cent cap.

Getting back to the essence of the question that was raised—and these numbers I'm going to give you are from the Ontario Electricity Financial Corp, which really

gets into the details of this. Mr Jackson, they would be the source of any month-to-month breakdowns you'd look for at a later date, but the overall numbers are from the OEFC. The total cost of the price freeze to November 1, 2003, is \$1.74 billion. Part of this cost has been offset by a previously planned rebate from Ontario Power Generation in the market power mitigation agreement, which is a proportioned rebate that OPG provides for market prices over and above 3.8 cents a kilowatt hour. It's a very complicated arrangement. We could probably arrange a couple of hours to walk you through that if you're interested. There is a rebate that offsets that \$1.74 billion, and the net cost to the government is \$800 million from May 1, 2002, through to November 1, 2003. So in response to the magnitude of the fiscal pressure, at a gross level it's \$1.74 billion and net it's \$800 million.

In terms of looking out over the next several months—and I think we're all aware too that in the original program that was introduced last November, certainly the positioning on the program was that over the four-year duration of the program market prices would eventually even up and it would be neutral over the four years of the program. I'm giving you numbers for the first 18 months of the program, and it's obviously not neutral: \$1.74 billion is not neutral; \$800 million net cost is not neutral.

In terms of looking out over the next couple of years, all we can do is look at the market prices we see unfolding in Ontario's electricity marketplace. We've looked at a scenario where the market price averages at 5 cents a kilowatt hour; that's one of the scenarios we've looked at. The 5 cents a kilowatt hour would lead to another \$300-million cost in each of the next two fiscal years. Obviously, if someone wants us to model 4.8 cents, 4.7 cents or 5.5 cents, we can certainly do that. But we've looked at 5 cents a kilowatt hour in each of the next two fiscal years, and the cost associated with that, given the current formula and structure of the program, is \$300 million in each of the next two years.

Just a general comment as well in terms of where the ministry sees prices over the next couple of years; we're not a forecasting group, but obviously for part of the exercise behind Bill 4 we relied on some external forecasts. There are a lot of people out there who do this for a living, some very reputable forecasting agencies. We've seen numbers for the next year to 18 months in Ontario anywhere from 4.7 cents to 4.9 cents a kilowatt hour. We also know the risks associated with severe weather patterns. We saw that in year 1 since market opening, where the average price was 6.2 cents a kilowatt hour; that's hot, humid summers and then colder than expected winters. That's obviously a contingency we have to plan for.

When you look at the incremental costs of new generation that's going to be coming on stream in Ontario, we're typically looking at natural-gas-fired generation, cogeneration facilities. The cost of bringing that incremental supply on stream right now is 6 cents to 7 cents a kilowatt hour. That's not unique to Ontario; those numbers would be similar in Alberta. You're bringing on new gas-fired generation, and gas prices are set in the

North American market. We kind of know what the capital and construction costs are, and a lot of folks on Bay Street would tell you that the cost of that power right now is going to be 6 cents to 7 cents a kilowatt hour.

So when you look at the price range we've set in the two-block structure, the rationale obviously for the lower end, 4.7 cents, relates to what we've seen the last number of months with moderate weather patterns both summer and winter and also given the existing supply-demand fundamentals we see; so that's the lower end of the spectrum. When you look at the 5.5-cent block price we've set, obviously that's reflecting where we've been in the first year. It's probably a little lower than where we were in the first year, but it's also looking ahead to the cost of incremental supply coming on stream in Alberta; that's where the market is. We think the two blocks we've picked certainly fit within that forecasting range. At the end of the day should we look at ourselves having a surplus, that's going to be credited back to consumers after the first year through the OEB mechanism.

So again, when you look at our block price structure, the two prices we've set, 4.7 cents and 5.5 cents, certainly fit within that forecasting parameter and some of the work we've done in that area. Again, the forecasting range we've been operating in, dealing with some of the private sector forecasts and looking at the cost of incremental supply, is 4.7 cents to 5.8 cents.

It was just pointed out to me that I said our forecasting range was 4.7 cents to 4.9 cents. The broader range we're operating in is 4.7 cents to 5.8 cents. That's the forecasting range, obviously the 5.8 cents reflecting severe weather patterns and the 4.7 cents is kind of where we've been over the last number of months.

The Chair: Mr Jackson, do you have further questions?

Mr Jackson: I still am seeking the answer as to what the impact is on the consolidated revenue fund, the 11-month period. How much of the \$800 million over 18 months came off the province's books ending March 31, 2003? That was my question. How much has the current cap cost this year, in-year, fiscal year to date? I suspect that number is closer to \$300 million is all it's costing taxpayers this fiscal year and not the \$800 million, which would be misleading, because that is the accumulated effect of a measurement inside the four-year period. I'm just wanting to get an honest assessment of what this cap is costing us currently if we're going to move to a new cap, which begs the other question I raise, which is, what is the difference between 4.3 and 4.7 in terms of moving that cap, and what will its impact be? You can project that number based on consumption, because it has nothing to do with the price you're going to charge. I simply ask you how much it will cost to subsidize between 4.3 and 4.7.

1150

Mr Pospisil: Just in response to your first question, again, what is the fiscal impact from May 1, 2002, to November 1—

Mr Jackson: March 31, 2003. You need to speak to us in terms of the bills we pay as the government. If

we're going to hear the words "deficit" and "debt"—we have to deal with the government's deficit and debt each year. We know that we balanced the books. The current Treasurer Sorbara has admitted that he balanced the books with the first year of the cap. So the government was able to meet its responsibilities to balance the books with the most expensive period of time for this cap. It is less costly to taxpayers, if we want to use it in that context. It has been less of a cost since April 1, 2003. The committee needs to know because of the revenue-neutral claims that were made by the previous minister and your ministry with respect to what the impact was on the consolidated revenue fund. That's really what I want to get at here. I'm not challenging that the accumulated net effect is \$800 million. I want to know, how much was the first 11 months of the program? If that was \$550 million and the last seven months is only \$250 million, that I'd like to know.

The Chair: OK, so the figure you want is from May 1, 2002, to March 31, 2003. That's the first figure you want.

Mr Jackson: Well, I want all three. I read all three into the record. Then I would request the difference between 4.3 and 4.7.

The Chair: Let's go through them one by one. The first figure requested is from May 1, 2002, to March 31, 2003.

Mr Pospisil: We're going to have to go back. In terms of how we track that information within the ministry—and I would say the same is probably true for our colleagues over at the OEFC—we track everything on an annual year relating to the market opening date of May 1, 2002. You'll notice a lot of the data I presented are from May to May. So that's the format in which I have the information today. We can certainly slice and dice the numbers and get them to you over the time frames you're looking at. That would really be a task for the Ontario Electricity Financial Corp.

Mr Jackson: With all due respect, the first two numbers currently are in the hands of the Ministry of Finance. These are actual payouts. These are already reported in the books. That's all I'm asking. I just assumed that they did you the courtesy of advising you how the \$800 million was broken down. I have to assume that they are involving you before they pay this bill. I don't think our number crunchers over in finance were sitting there, poring over the database from the esteemed group you've referenced who do projections. This is based on the actual payout for hydro, correct?

Mr Pospisil: Yes.

Mr Jackson: So the actual payout by the treasurer of Ontario to subsidize this is a matter of public record. I'm hoping you're aware of this, given that you're advising the minister of the day about where to place this cap, and the treasurer needs to know in advance what the exposure of the government of the day is in this area. We're moving the cap. We will reduce that exposure. But this committee has the right to know to what extent is the exposure.

Mr Pospisil: I think at one level, Mr Jackson, I've answered that question. I've just answered it over a slightly different time frame than the specific question you're addressing. I've given you numbers for May 1, 2002, to November 1, 2003; I've given you a net amount of \$800 million. In response to your question, "How much does it cost?" I've given you a gross number over that time frame, I've given you a net number over that time frame; now you're asking me to provide information on some breakdowns of that, which we will endeavour to do. I do not have those with me today. We can certainly do that. That is public information. It's available; we can respond very quickly. I just don't have the exact numbers for those specific time frames. We can get them to you, no problem.

The Chair: Thank you. Mr Jackson, is there anything further?

Mr Jackson: When can we anticipate somebody in energy calling finance to clarify these numbers? It is within your purview and responsibility to be able to give this committee a number between 4.7 and 4.9; I dare say you can probably work it out with a pencil and paper. When can we anticipate having that?

Mr Pospisil: I think we can have something to you by the end of the day.

Mr Jackson: Before we—

The Chair: We're meeting again at 4.

Mr Jackson: We need to know that before we approve the actual number.

Mr Pospisil: What you're going to find with the question you're asking—I've given you the overall numbers. Now I'm probably going to give you a couple of different sets of numbers that, when you add them together, will add up to the \$800 million; or on the gross side will add up to the \$1.74 billion.

Mr Jackson: Let me make a subjective comment. The question has to be raised, as a public policy question, the degree to which the actions contained in Bill 4 will impact the provincial budget. That's a fair statement. We are in no position right now to be able to give an answer—there's no one in this room; nor has the minister at any point indicated what the exposure of the government is under the new rate regime. We have not heard what the current in-year exposure is—never once—and we've asked for it. At the press conference, the minister was asked the question; he said, "I'll get back to you with that."

We need that information to determine whether or not the—we're taking on faith that the 4.7 to the 5.8 number will achieve a certain revenue-neutrality or it will achieve something closer to the projected true rate of the cost of buying electricity. We've had no financial information to confirm that fact. Nor have we had a presentation other than to suggest that in the opinion of some experts out there, that's where the rate would be. You've given us gross rates, and it's quite fascinating. We've gone from 6.2 to 4.8. That is a huge difference when you've got a cap at 4.3. If the rate drops to below 4.5 or 4.7, we could be going through this entire upheaval and the cost to the government to do the upheaval can hardly be justified,

save and except that the purpose of this bill then becomes not to adjust the price, which we're subsidizing, but to allow the local distribution companies to come in and pick up their billion dollars as quickly as possible. That would in effect be the whole purpose of this bill. And that is not what the government's intended purpose, or stated purpose, was with this legislation. It was that consumers pay a higher rate, but if that real rate is going to be as close to the 4.3—so that is why we need to know what the cost projection is of the difference between 4.3 and 4.7. That's a fairly reasonable request and not hard to figure out, given that you've been playing a blended rate of 4.8 for the last seven months. We need those numbers and we need them right away.

Mr Pospisil: We'll endeavour to get those different time frame numbers back to you as soon as possible. We'll have to work through the Ontario Electricity Financial Corp, which has the specific mandate for that.

One point of clarification, Mr Jackson: The forecast range we have is not exclusively based on the expert advice we've received from these forecasters I referenced. Again, when you look back at average prices in the market over that time frame, we've got 12 months in the first year at 6.2 cents. We don't need forecasters to tell us what that was; the marketplace has told us that's where it was in year one. Again, that was 6.2 cents. We've seen 4.8 cents a kilowatt hour since May 1, 2003. It's not a forecaster telling us that; it's the marketplace telling us that's the average over that time frame.

We would expect that those two benchmarks—year two really shows us a year with moderate weather conditions—

Mr Jackson: Shane, with all due respect, you're repeating yourself. I took university statistics, as you did. So we can agree. If you can get me the numbers, I'm not going to need a tremendous amount of assistance interpreting them as a politician.

The Chair: You've undertaken to get those numbers.

Mr Pospisil: Yes.

The Chair: We've got about two minutes left. Cam, there are a couple more questions. You can keep going if you like.

Mr Jackson: Prior to his arrival, in the initial request for information I stated that I wanted to know what your projected forecast numbers are that you have to give your ministries—not you specifically—that you send over to finance so that finance can, in the budget, determine what its potential exposure is. That's a requirement. There is a number, a base number, which was provided and that finance has, that explains what the potential exposure is for this fiscal year. In tandem with that is the actual. I asked earlier that I would like to know what the advice to finance was, what would be the projected number and what the actual is, and see just how far our variances are.

That's a legitimate question because it will show us the degree to which both your ministry and finance understand the impacts of the mitigation. It's unfair to indite a cap with a number which in its first year was hit fairly severely—there have been no reports in the media of how light the impact has been in the last few months.

You'll recall from our meeting on Monday, and my conversation with the minister on three occasions publicly, the mitigation strategy actually has been, in specific months, revenue-neutral. In fact, there was a \$100,000 amount to the positive in terms of how the mitigation strategy works. I believe this committee deserves the right to know that. If I were a Liberal, I'd want to hedge myself ever so slightly if I thought for one moment that moving this cap higher was essentially going to move the market price higher artificially, because the effect of a cap is to have a chilling effect on the price. We know that's happening out there.

The Chair: It's 12 o'clock.

Mrs Cansfield: Chair, just before you close, I'd like to make a very quick comment. I'd like to thank the staff for being here and being available. I don't need to mention it to everyone, but obviously staff are here to provide good advice, and you do. The government makes the policy of the day, as did the previous government. You are professionals, and your responsibility is to give us your very best advice, and that you do as well. I know, as I said and reiterated earlier, it's complex. There are no quick-fix solutions here. Your advice has been good and it's sound. I would just like to put that on the record and thank you for your support and for helping to answer the questions.

It's unfortunate that we didn't have an opportunity, since the previous government knew that we had a short period of time that you had agreed to—if we'd had that request along with your amendments, maybe we could have saved a considerable amount of time this morning.

Mr Jackson: Point of order, Chair.

The Chair: There is no point of order. It's recess.

The committee recessed from 1203 to 1602.

The Chair: We can call the committee to order again. As per the time allocation motion passed by the House on Thursday, December 4, 2003, the standing committee on justice and social policy shall meet at the call of the Chair for two days for the purpose of public hearings and clause-by-clause consideration of the bill. The committee may meet from 10 am to 12 noon and again following routine proceedings until 6 pm on each of the two days. At 4 pm on the second day, those amendments which have not yet been moved shall be deemed to have been moved and the Chair of the committee shall interrupt the proceeding and shall cause there to be one final 20-minute waiting period for the purpose of calling in the members and shall then immediately, without further debate or amendment, put every question necessary to dispose of clause-by-clause consideration of the bill. The committee shall report the bill to the House not later than the first sessional day that reports from committees may be received following the committee's second day of consideration of the bill.

In the event that the committee fails to report the bill as provided in paragraph 6, the bill shall be deemed to have been passed by the committee and reported to and received by the House.

As it is now 4 pm, I shall recess the committee for 20 minutes and then I will put the questions.

The committee recessed from 1603 to 1623.

The Chair: If we can call the committee back to order, we are on section 1. Shall section 1 carry?

Mr Kormos: I want a recorded vote, please.

Ayes

Brownell, Cansfield, Duguid, Gravelle, Wynne.

Nays

Jackson, Klees.

The Chair: The section is carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

We are now on section 5.

Mr Jackson: We have an amendment.

The Chair: Subsection 5(1) of the bill, subsection 79.4(1.2) of the act. Shall the amendment carry?

Mr Jackson: I should move it.

The Chair: I think they're deemed to have been moved already.

Mr Jackson: We'd like to speak to the amendment. Are you moving the Conservative Party motion that would amend subsection 5(1)? That is the one that is before us.

The Chair: My understanding is that amendment is now on the floor. It's deemed to have been moved and it's on the floor. You don't, unfortunately, have the ability to speak to it.

Mr Jackson: Don't tell me this is in the programming motion?

The Chair: I'm sure you'll find it is. It's not my programming motion; it's the programming motion we've been given.

Mr Klees: I'd be interested in seeing it.

The Chair: Absolutely.

Mr Michael Gravelle (Thunder Bay-Superior North): On a point of order, Mr Chair: I just want to be clear. Are we now voting on the Conservative Party amendment or are we voting on the section of the bill? I want to be sure we understand that.

The Chair: What we will be voting on are the amendments to section 5 of the bill.

Interjection.

The Chair: That's right. They're introduced by Mr Jackson.

Mr Gravelle: I just want to make sure all the members are clear on what we are voting on.

The Chair: We'll do them individually, and then we'll go and vote on section 5, either as amended or as it exists now.

Dealing with the first amendment to section 5, that's subsection 5(1), subsection 79.4(1.2), shall the amendment carry?

Mr Jackson: This is a recorded vote.

The Chair: Do you want a recorded vote?

Mr Jackson: I want all of our amendments recorded.

Ayes

Jackson, Klees.

Nays

Brownell, Cansfield, Craitor, Duguid, Gravelle, Wynne.

The Chair: The amendment is lost.

Moving on to subsection 5(1), subsections 79.4(1.3) and (1.4), shall the amendment carry?

Interjection.

The Chair: We're dealing with the second amendment, and you want a recorded vote for each and every one of them?

Mr Jackson: Yes, please.

Ayes

Jackson, Klees.

Nays

Brownell, Cansfield, Craitor, Duguid, Gravelle, Wynne.

The Chair: That amendment is also lost.

Mr Klees: Mr Chair, while I realize there is no debate on this, I wonder, just for the benefit of the committee, if the parliamentary assistant would mind providing a rationale for their voting against this particular amendment.

The Chair: I don't think I would entertain that at this point in time. I'm trying to stick to the rules we've been given. The next time we go through this process, perhaps we should all pay a little bit more attention to the rules that have been given to us. At this point in time I'd prefer that not take place.

Mr Klees: I think we've got lots of time, actually.

The Chair: The point I'm trying to make is that I can't.

Mr Klees: By unanimous consent?

The Chair: I don't think you have unanimous consent, and I don't think we can override instructions from the House by unanimous consent in any event. I'm not trying to be difficult.

Mr Duguid: How does the parliamentary assistant know why I'm voting against this amendment?

The Chair: This is interesting, but the point is there is no debate in this particular circumstance. We're dealing with subsection 5(1), subsections 79.4(1.5) and (1.6).

Mr Klees: Recorded vote.

Ayes

Jackson, Klees.

Nays

Brownell, Cansfield, Craitor, Duguid, Gravelle, Wynne.

The Chair: That amendment is lost.

Shall section 5 carry? All those in favour? Opposed? That section is carried.

Shall section 6 carry? All those in favour? Opposed? That section is carried.

Shall section 7 carry? All those in favour? Opposed? That section is carried.

Section 8: Shall section 8 carry? Those opposed?

Section 9: Shall section 9 carry? Opposed? Section 9 is carried.

Section 10: Shall section 10 carry? Those opposed? That is carried.

Section 11: We're dealing with an amendment to subsection 88(2.4) of the act. Shall the amendment carry?

Mr Klees: A recorded vote, please.

The Chair: Recorded vote.

Ayes

Jackson, Klees.

Nays

Brownell, Cansfield, Craitor, Duguid, Gravelle, Wynne.

The Chair: Shall section 11 carry? Those opposed?

Moving on to section 12: Shall section 12 carry? Those opposed? That is carried.

Section 13: Shall section 13 carry? Those opposed? That also is carried.

Section 14: Shall section 14 carry? Those opposed? That carries.

The long title: Shall the long title of the bill carry? Those opposed? That carries.

Shall Bill 4 carry?

Mr Jackson: A recorded vote.

Ayes

Brownell, Cansfield, Craitor, Duguid, Gravelle, Wynne.

Nays

Jackson, Klees.

The Chair: The motion carries.

Shall I report the bill to the House? Those in favour? Those opposed? That also carries.

Thank you very much. We are adjourned.

The committee adjourned at 1632.

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Mr Stephen McCann, AG, legal services branch, environment and energy

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