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ISSN 1710-9477

**Legislative Assembly  
of Ontario**

First Session, 38<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Première session, 38<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

**Thursday 16 September 2004**

**Journal  
des débats  
(Hansard)**

**Jeudi 16 septembre 2004**

**Standing committee on  
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Electricity Restructuring  
Act, 2004

**Comité permanent de  
la politique sociale**

Loi de 2004 sur la restructuration  
du secteur de l'électricité

Chair: Jeff Leal  
Clerk: Anne Stokes

Président : Jeff Leal  
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Telephone 416-325-7400; fax 416-325-7430  
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation  
Salle 500, aile ouest, Édifice du Parlement  
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Téléphone, 416-325-7400; télécopieur, 416-325-7430  
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
SOCIAL POLICY**

**COMITÉ PERMANENT DE  
LA POLITIQUE SOCIALE**

Thursday 16 September 2004

Jeudi 16 septembre 2004

*The committee met at 1003 in room 151.*

ELECTRICITY  
RESTRUCTURING ACT, 2004  
LOI DE 2004 SUR LA RESTRUCTURATION  
DU SECTEUR DE L'ÉLECTRICITÉ

Consideration of Bill 100, An Act to amend the Electricity Act, 1998 and the Ontario Energy Board Act, 1998 and to make consequential amendments to other Acts / Projet de loi 100, Loi modifiant la Loi de 1998 sur l'électricité, la Loi de 1998 sur la Commission de l'énergie de l'Ontario et apportant des modifications corrélatives à d'autres lois.

**The Chair (Mr Jeff Leal):** I'll bring this meeting of the standing committee on social policy to order. We'll continue on where we left off yesterday. First up is Mr O'Toole.

**Mr John O'Toole (Durham):** I hope there's quorum.

**The Chair:** Yes. We're fine.

**Mr O'Toole:** Gosh, I thought we were going to have an easier day. Hi, Donna, good to see you back.

**The Chair:** Welcome, Donna. Good to see you.

Mr O'Toole, please.

**Mr O'Toole:** Yes, section 28 of schedule A: I move that subsection 25.11(3) of the Electricity Act, 1998, as set out in section 28 of schedule A to the bill, be struck out and the following substituted:

"Appointment

"(3) The appointment of the first chief energy conservation officer shall be made by the Lieutenant Governor in Council and ratified by the standing committee on government agencies and the board of directors of the OPA shall appoint any subsequent chief energy conservation officer."

This amendment is intended to ensure that the appointment of the first energy conservation officer is subject to an open and accountable process, that it's subject to review by the legislative committee of government agencies. I think we made these points yesterday. It's so important to build confidence en route to establishing this new bureaucracy in energy and I move it with genuine motives of making sure that the people have confidence.

As you know, during the hearings we heard a great deal of criticism of this portion of the bill, that there wasn't any degree of separation between the authority under the OPA as well as the conservation commissioner.

I think that needs to be addressed and this might be one way of resolving this public interpretation or impression of this concordance of the two functions of the power authority and the conservation functions, which are very important to the success of your future programs.

**Mrs Donna H. Cansfield (Etobicoke Centre):** We will not be supporting this amendment. It's really important that a process be put in place that is expeditious in terms of setting up the OPA and the conservation bureau as well. Part of the reason for that is we have had many years of mismanagement around the issue in the energy sector and we feel that, if we put this forward in an expeditious way, we can manage this in a better way.

The other point that I think is really important is to recognize that within the bill itself, although we set up the first appointment, all subsequent appointments are as a result of the boards. There are very strict guidelines and they are articulated in the bill. I think we need this flexibility in the beginning to get up and going, but certainly there are restrictions in place once we are up and going.

**Mr O'Toole:** Without belabouring it, I'm hoping that Mr Marchese shows up because he usually has a lot of good comments to make.

*Interjection.*

**Mr O'Toole:** I'll take his time.

I just want to make reference again to document number 5, which was your Liberal election promise. In it, it gave a shadow of a suggestion that the Harris-Eves government was cloaked in veils of secrecy. I'm going to say here what Dalton McGuinty said prior to the election:

"Public input is essential to good government. We will ensure that you have every opportunity to offer comment on all major bills.

"Accountable agencies and appointments: We will lift the veil of secrecy on government agencies and appointments.

"Major government agencies, boards and commissions are large and important bodies."

It goes on to say that Ontario Power Generation, the LCBO and others will be empowered—"[A] legislative committee to question the heads of these government-owned agencies"; "we will publicly disclose the annual payments."

I think it's clear in your policy that this isn't a great divergence. What we're saying here is that this not to slow down the process. Quite honestly, the government

has the majority on all the committees and, as such, will pass whoever the minister tells them to pass. I understand that. But for the people to build confidence and certainty in the new appointment—the board and the directors are all appointed by the minister. This is inside baseball and it is technically carpetbagging to some extent that you'll be appointing all the cronies. I understand that; I don't endorse it.

That's what you said during the election and now you're just ramming this through. I'm glad that Howard Hampton is here, because he'll probably agree with me on this amendment, that I want the conservation officer—which is a very important function. I know there are those who want it to be separated from the OPA. All we're saying here is that the appointment of the first chief energy conservation officer shall be subject to the review of a committee of government.

**The Chair:** Mr Hampton, we're on number 35 in the list the clerk provided.

**Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot):** We're doing something as a government that has been a long time coming in this province and that's a commitment to public hearings on major pieces of legislation, which we've done. We had some conversation the other day about appointments to the IMO, and I did a little checking overnight on that. Some members of the committee insist on too strict a paradox to require this government to do something which they historically and consistently failed to do themselves.

1010

So we're listening. What we heard people saying was get on with the job of stimulating and building and protecting a culture of conservation. That's what we intend to do. I would just point out that there are numerous provisions to the legislation with respect to public input, hearings—something new for those who served in previous administrations—transparency and accountability.

I'm proud to be a member of a government that not only talks the talk but is prepared to walk the walk. I don't think we need any lectures from anybody about public participation in government. We're trying to mirror that. We're trying to mirror what we want to see in the world. The fact that we're getting on with things and that the minister is directly accountable—something we keep hearing from some of those who want to speak in opposition to the creative entrepreneurial efforts of this government to balance moving forward with hearing from people. We're actually having hearings on this bill. Isn't that new, eh? Isn't that novel? What an interesting idea, to actually take the time to hear from 147 people with diverse views and to try as best we can to balance those views off. We don't need any lectures from members opposite quoting our illustrious Premier, who, by the way, is credited this morning on the CBC with single-handedly pulling the premiers together to score an \$18-billion windfall for our national health care program. The previous government used to—

*Interjection.*

**Mr McMeekin:** There's babbling going on here.

Previous governments' idea of co-operation was to go to all the provincial/federal gatherings and, while all the other provincial premiers, including Mr Klein and the guy who does the laundry in Quebec, were slugging away with the issues, they were out in the lobby lobbing hand grenades at the feds about how nothing works.

**The Chair:** Mr McMeekin, maybe we you can steer it back to the amendment a bit. I've given you a little latitude here, but my patience—

**Mr McMeekin:** I appreciate that. My fundamental point is we're committed to listening to people and working with people and partnering and we don't need any lectures from the other side about how our government, in its effort to get on with the job, may be falling a mini-centimetre short of some ideal that the previous government never did practise.

**Mrs Cansfield:** Just two quick points. The member knows that order-in-council appointments that are made by government committees have to go through a standing committee and ultimately the House and there's a whole issue around delay. Obviously, there is a significant problem within the energy sector and we need to get on with the job.

The other that I think is important is we've already, through our appointments, depoliticized this situation by having people such as Mr Jake Epp and Mr Godsoe participate in a very meaningful way in helping us to start to formulate the strategies on energy.

**The Chair:** Any further comment? I will now put the question. All in favour of the amendment? Opposed? It's lost.

**Mrs Cansfield:** I move that subsection 25.11(4) of the Electricity Act, 1998, as set out in section 28 of schedule A of the bill, be amended by striking out "and" at the end of subclause 25.11(4)(a)(iii) and by adding the following clauses:

"(c) a detailed review of the government of Ontario's progress in meeting its goals relating to the development and implementation of electricity conservation and load management measures; and

"(d) information on any government policy or legislation identified by the conservation bureau that results in a barrier to the development or implementation of electricity conservation measures."

This provides for the chief of the conservation bureau to review the government's process and actually to report back in an independent fashion on an annual basis on barriers that still need to be identified within the government as well as the government's progress in this area.

**The Chair:** Discussion?

**Mr O'Toole:** Yes, I just want to be clear. I support the idea of someone looking at the conservation office. Are they going to report to the House is the question, or are they just going to report to the minister?

**Mrs Cansfield:** It will be a public report, through to the minister, but made public.

**The Chair:** Mr Hampton, do you have anything on this one?

**Mr Howard Hampton (Kenora-Rainy River):** No.

**The Chair:** I'll now put the question. All in favour of the amendment? Opposed? It's carried.

Mr Hampton, you're next, sir.

**Mr Hampton:** I'm having trouble keeping track of where we're at right now.

**The Chair:** We're at number 37 on the sheets provided by the clerk.

**Mr Hampton:** Schedule A, section 28 (subsection 25.11(6) of the Electricity Act, 1998: I move that section 25.11 of the Electricity Act, 1998, as made by section 28 of schedule A to the bill, be amended by adding the following subsection:

“Forecast and assessments

“(6) The conservation bureau shall develop forecasts and assessments of the potential contributions of energy conservation and load management to the adequacy and reliability of energy supply, and the chief energy conservation officer shall include those forecasts and assessments in the annual report under subsection (4).”

It seems to me that if the government is serious about energy conservation and load management, that needs to be a subject of the annual report and it needs to be an integral part of the question of reliability of energy supply. If you're not going to consider these things and they're not going to be subject to the annual report, then it seems they're very superficial indeed.

**Mrs Cansfield:** Recognize that under Bill 100, the conservation bureau already submits its annual report to the minister and that the conservation bureau is an integral part of the OPA in its integrated system plan. The OPA's objects and its characters in conducting planning and conservation must, under the legislation, provide that information relating to medium- and long-term electricity needs of Ontario currently. So there is no need; this is already covered by the OPA.

**Mr Hampton:** So put it in the annual report. Make it specific. Make it clear. Put it in the annual report.

**Mrs Cansfield:** As I may state again, it is already within the objects of the OPA. It's already defined in those objects; it's not necessary.

**The Chair:** Further discussion?

**Mr O'Toole:** Just briefly, I've always been quite satisfied with the role of the IMO that exists today, of Dave Goulding and the staff working there, and I assume their projections and forecasts today will be just replicated by the OPA. That's what I assume. They publish those. They're public documents. They're on their Web site, and all the rest of it. You can see their four-year, five-year, 10-year forecasts on supply and commenting on supply adequacy and reserve margins. All that stuff that exists today in the IMO, will that exist on the OPA Web site and other venues to access information?

**Mrs Cansfield:** The objects of the IESO—IEMO—now remain the same in terms of short-term forecasting. The OPA will be medium- to long-term, and there's absolutely no question that they will work together in a

very integrated fashion around developing a strategy for energy.

**Mr O'Toole:** So is it the IESO that does it or the OPA that does it? The IMO, is it still going to exist? The IMO still exists. Is there a new name or something?

**1020**

**Mrs Cansfield:** Right, it's being changed to the Integrated—

**Mr O'Toole:** Electricity system management?

**Mrs Cansfield:** Sorry. It's the IEMO.

**Mr O'Toole:** They're changing the name and the business cards.

**Mrs Cansfield:** It's the IESO.

**Mr O'Toole:** So the IESO is going to do it?

**Mrs Cansfield:** Which is the IMO. It's a change of name.

**The Chair:** Further discussion? I'll now put the question. All in favour of the amendment? Opposed? It's lost.

Mrs Cansfield?

**Mrs Cansfield:** Thank you, Chair. I move that section 25.12 of the Electricity Act, 1998, as set out in section 28 of schedule A to the bill, be struck out and the following substituted:

“Stakeholder input

“25.12 the OPA shall establish one or more processes by which consumers, distributors, generators, transmitters and other persons who have an interest in the electricity industry may provide advice and recommendations for consideration by the OPA.”

This is similar to a consulting mechanism that will be used by the IESO.

**The Chair:** Further discussion?

**Mr O'Toole:** On this I'm quite concerned because we did have an amendment yesterday which really eliminated two advisory committees and combined them into one. I gather that's a redundant motion. Yesterday, Ms Wynne moved a motion that really said we're going to subordinate two advisory committees—one to the OPA and one to the IESO, I think—that are going to act as one.

**Ms Kathleen O. Wynne (Don Valley West):** Yes.

**Mr O'Toole:** Is that what this amendment does? “One or more processes by which consumers,” or whatever. I just want to be clear. This seems a bit redundant to me, really.

**Ms Wynne:** I believe this is a separate process. This gives the OPA the authority and mandate to put other processes in place to talk to other people who might be interested in advising them.

**Mrs Cansfield:** It's a process whereby they can consult very broadly with the public. That's what this amendment is for.

**The Chair:** Further discussion? I will now put the question. All in favour of the amendment? Opposed? It's carried.

Mrs Cansfield?

**Mrs Cansfield:** Thank you, Chair. I move that subsection 25.13(1) of the Electricity Act, 1998, as set out in

section 28 of schedule A to the bill, be struck out and the following substituted:

“Staff and assistance

“25.13(1) Subject to the bylaws of the OPA, a panel established by the board of directors may use the services of,

“(a) the OPA’s employees, with the consent of the OPA; and

“(b) persons other than the OPA’s employees who have technical or professional expertise that is considered necessary.”

This amendment actually requires the panel to obtain the consent of the employer prior to any access to the staff for their technical advice.

**The Chair:** Further discussion?

**Mr O’Toole:** We’ve raised this. We’re going to start to repeat ourselves a little bit, I suppose, because the sections have some repetitiveness when you’re dealing with the OPA or the IESO. I think the intention here is to tighten the openness of accountability. By that I mean that to get to any person in the OPA, you really have to go through the OPA board. You can’t talk to any employee without consent of the OPA.

I just wonder where any future whistle-blowing legislation, which I support, would stand in this consent to talk or to someone else freely divulging information about risk of supply or uncertainty in price or other questionable, often very guarded, pieces of information to the public?

**Mrs Cansfield:** If and when any type of whistle-blowing legislation does become an opportunity for discussion, then we’ll have the opportunity to discuss that in reference to this particular legislation.

**The Chair:** Further discussion? All in favour of the amendment? Opposed? It’s carried.

Mr Hampton?

**Mr Hampton:** I move that subsection 25.13(3) of the Electricity Act, 1998, as made by section 28 of schedule A to the bill, be struck out.

**The Chair:** Discussion?

**Mrs Cansfield:** We believe that the same exemptions that are granted to other crown operations regarding confidential information relating to market participation should obviously be extended to the OPA as well.

**Mr Hampton:** This is just a general point. We’re talking about the province’s electricity future here. We know some of the problems that have happened on this front before. We believe there ought to be more openness.

**Mrs Cansfield:** We actually believe that the OPA should not be in a position that it would prejudice significantly the competitive position, or more, interfere significantly with any contractual negotiations of a person or organization. So we reiterate that this is extended to other crown corporations regarding confidentiality and it should be no different for the Ontario Power Authority.

**Mr O’Toole:** I think this is important. OPA is not a crown corporation, as Mrs Cansfield said in her remarks. So that’s wrong. It isn’t a crown corporation; it’s really a

kind of subordinated group to the minister, technically. He appoints the directors, everybody, without any public scrutiny at all. This really is a veil of secrecy around, in some cases, information that the conflict commissioner or somebody would have to determine whether it was appropriate to remain unavailable from freedom of information requests.

I understand market situations where proprietary information and market trading and those kinds of things need to be guarded. But in open competition, at the end of the day—I believe you would say that the contracts we made with the 407, for instance, were commercial contracts and as such they are proprietary and are not available for freedom of information.

What is that in terms of this? I’m told the OPA has really no credit. Technically the credit is on the back of the government. If you read the Dominion Bond Rating assessment of the OPA, it really says that all the debt belongs to the people of Ontario. We were told they would have no risk in capital. They would just be a transaction agent between a contractor and the provision of the contract. If there was any risk, that would be inherited by the government.

Some of that stuff needs to be clearly available to the public. I think this is just a blanket statement that you can’t get any information that they deem to reveal trade secrets or scientific, technical, labour relations, all this stuff. It’s not available.

Not only do you appoint everybody, but any scrutiny is not available to the public and you’re going to hide behind this commercial transaction secrecy stuff. Good luck to you. I hope some of the cronies you appoint to these things are more forthright. The people of Ontario need to know that. I have no problem with power at cost and no problem with these kinds of needs for the market and conservation, but Mr Hampton makes a very good point.

**Mr Hampton:** If I may, I remember certain Liberal MPPs going on at length about the former government’s automatic exemptions from the freedom of information legislation, saying this was entirely inappropriate and that much of this information did not deserve an automatic exemption.

Let’s be clear: What the Liberals are now setting up is not an organization that has the accountability and responsibility of a crown corporation. What you’re setting up here is something very much akin to the Margaret Thatcher era in Great Britain, where quasi-independent, unaccountable bodies made decisions that affected people’s lives and they later found out that there were very few, if any, accountability mechanisms. That’s what you’re setting up here. All this amendment does is say, “There shall not be an automatic exemption,” that where someone thinks there should be an exemption, they can make the case. But in dealing with what is the fundamental economic infrastructure of the province, a whole bunch of appointed people, who are otherwise not accountable to the public and not accountable to the

Legislature, will not be able to claim automatic exemption.

**1030**

I suggest you read some of the speeches made by your own members over the last five or six years who said exactly this: that there should not be an automatic exemption, that all of the comings and goings of this outfit should not automatically be exempted from freedom of information, that there should be an application process, that they should have to justify what information would not be made available to the public.

After all, no matter how you cut it, this will be the people's electricity; this will be their hydro bill. Trying to do it all behind closed doors, with appointed people who are otherwise not accountable, I think is going to create a very dangerous precedent.

**Mrs Cansfield:** I did not say it was a crown corporation. I said it should have similar exemptions as crown corporations.

**Mr Hampton:** Margaret Thatcher would be proud of you.

**Mrs Cansfield:** I think the other that's important to acknowledge—and I'm going to read this so that it's in the record:

"The OPA's creditworthiness is supported by: (1) the draft legislation (Bill 100), which provides the OPA with a strong ability to meet its obligations, including contract payments; (2) the OPA's minimal counterparty risk given that its only direct counterparty will be the Independent Electricity Market Operator (IMO), to be renamed the Independent Electric System Operator (IESO); and (3) the implicit support from the province given that the OPA is the province's creation and the fact that electricity is an essential commodity," which gives us an A, high, rating from the Dominion Bond Rating Service and others. I think that's an important object to recognize.

The fact is that if you want to negotiate, you cannot make your negotiations public. So we reiterate that we have similar conditions in other situations and we are going to sustain those within this organization as well.

**The Chair:** Further discussion? I will now put the question. All those in favour of the amendment? Opposed? It's lost.

**Mr O'Toole:** I move that section 28 of schedule A of the bill be amended by striking out section 25.17 of the Electricity Act, 1998.

The Ontario consumer is going to be subject to paying more fees for electricity as a result of new layers of bureaucracy that are being created here. We've already heard in conversation this morning that the IESO, the OPA, the IMO and all those organizations that exist today are somewhat being bumped up by another level of bureaucracy.

Clearly this section, despite what Ms Wynne said yesterday, authorizes "the Minister of Finance to purchase securities of or make loans to the OPA at such times and on such terms and conditions as the Minister of Finance may determine subject to the maximum principal

amount and to any other terms" that may be specified "by the Lieutenant Governor in Council."

I think they should operate today—we should know the budgets that are required within the Ministry of Finance under the Ministry of Energy for the regulation and the functions of the Ontario Energy Board, the IMO, for that matter all the resources for energy and energy conservation that exist today. I want to know what the increase is going to be here, because this clearly gives the Ministry of Finance the ability to go out and get more money, whether it's through bonds or just raising taxes.

You'll probably go with the one of raising taxes. I understand that. Hopefully you don't use health care dollars for taxes. We saw in your new health tax that it basically was buying all kinds of things: bridges and various things like that. I question this. The people of Ontario are at some risk here of not just more bureaucracy but higher costs.

**Mrs Cansfield:** In essence, this motion would eliminate the ability of the minister to make loans to get the OPA up and going. In fact, later on in the legislation you'll see there are amendments that enable the recouping of those costs to get the OPA up and going. I don't understand why you wouldn't want to get this organization up and going in order to get new supply, which is a critical need. I think I've heard both the NDP and the Progressive Conservatives say repeatedly that we are in a crisis in energy and that supply is one of those crises. It seems to me it's a delay tactic to get something up and going that we in fact require.

**Mr McMeekin:** It's frustrating. We hear a lot out on the street in the real trenches, not inside the baseball halls here in the Pink Palace, about running government like a business, about correcting some of the obvious miscued practices of the past.

I hear the member opposite trying to tie the hands of a government here that wants to move ahead, wants to be prudent, wants to put in place the mechanisms that are going to be needed to finally run this enterprise in an effective way that will benefit all the stakeholders, which are the people of Ontario, of course.

It's no secret what happens when governments fail to be prudent in this regard. We've seen some ample evidence of the failure to do this, at least with the previous administration—it might go further, but at different economic times; I think it is limited to the previous government. I mean, the shambles we found ourselves in by not having sound business practices in place speaks not volumes but libraries. I just want to put that on the record, in terms of moving this province forward.

**Mr Hampton:** While I may have some problems with Mr O'Toole's amendment, I think he does raise a relevant issue here. I just want to remind the Liberals that as you decry what the former government did, you all voted for it en masse, not just once but several times.

I think this is the nub of the issue: When the Conservatives said that the privatization and deregulation of hydroelectricity was the way to go, they basically said that decisions would be transferred to the private sector

and that private sector bureaucracies, whether it be, in those days, Enron or TransAlta or Brascan, would make the decisions. So costs would flow from what had been crown corporations and decisions would flow not from crown corporations any more, but they would all be made by the private sector.

Now the new Liberal government seems to be saying we're still going to have these private sector bureaucracies: TransAlta, Brascan and others. They all have very large bureaucracies. As we all know, the corporate heads of those bureaucracies will demand their \$2-million- and \$3-million-a-year salaries, just as Eleanor Clitheroe demanded that kind of salary when it was announced that Hydro One was going to be privatized. Yet, there's going to be a larger public bureaucracy than ever before. There's going to be the OPG, Hydro One, the renamed IMO, the enlarged and expanded OEB and a new bureaucracy, the OPA. All of this will have to be paid for on the hydro bill. So you have the worst of the private sector bureaucracies, all the folks down on Bay Street who want the \$2-million and \$3-million salaries and the 20% profits and the fees and commissions—they'll all be in line—but you're also going to have all these new folks who want the big salaries and the expense accounts and the big offices. This will all be paid for on the hydro bill.

That's what's fundamentally wrong here. While I may disagree, in part, with Mr O'Toole's way of dealing with the problem, it is a big problem. You're going to have the biggest private sector bureaucracies, with all of their excesses. Who knows, Eleanor Clitheroe may wind up getting her big pay through becoming the next president of TransAlta. If she couldn't get it through privatization of Hydro One, she may go to Brascan or TransAlta and get it that way.

So you'll have the worst of the private sector bureaucracies and all of their costs, and you're going to have an even bigger public sector bureaucracy. The poor small business person, the homeowner and the person who has to pay the hydro bill will have to pay for all that. That's the nub of the issue.

1040

**Mrs Cansfield:** I'd just like to reiterate that the task force that was put together by the previous government and came up with a number of recommendations, including the recommendation of the Ontario Power Authority, was in fact made up of a number of people from a variety of sectors, including small business, small retailers and not-for-profit agencies, in addition to suppliers, generators and others. So, in fact, they were the ones who came up with the suggestion and the recommendation that this government needed to put in place a power authority with the authority to secure long-term supply, because there hadn't been a strategy for energy in this province for a long, long time.

**Mr O'Toole:** We could go on about this a little bit. As Mr Hampton has also reinforced, I really think the nub of the issue is the fact that these are higher fees for more bureaucracy. A small bit of coordination between the roles of the Ministry of Energy and the IMO could possibly, and probably will, do much of this.

Even if we look back at other sections of the bill, the OPA has to submit a fee schedule and an operating budget to the minister to establish its fees and be approved by the minister. It's sort of like a shell game. If you look at subsection 25.17(2), it says, "The Minister of Finance may pay out of the consolidated revenue fund any amount required for the purposes of subsection (1)." In other words, you can either put it on the rate, as Mr Hampton said, or you can put it on the tax base, because that's where the consolidated revenue fund basically comes from: some form of tax revenue.

It's just a signal for the consumer to be prepared and be aware that the price for electricity is going up, not just because of the cost of electrons and fuel, but for the addition of a new level of bureaucracy—and perhaps an unnecessary level, as well.

**Mr McMeekin:** In either event, however it's eventually costed out, it's going to be shown, unlike some of the practices of previous governments that did off-book borrowing that nobody knew about and wasn't reported on and was denied all the way through. I think that's an important observation to make.

The other observation I would make in passing—I said this yesterday and I'll repeat it again—is that you're damned if you do and you're damned if you don't on this file.

**Mr Hampton:** That's what happens when you're on both sides of the fence.

**Mr McMeekin:** That's what happens when you try to depart from two rigidly held ideological positions, neither one of which makes sense, and come up with a balanced perspective that puts the need for longer-term, prudent fiscal economic and energy planning first and foremost. That's what this government is trying to do.

That's why, and I say this with respect, of the 147 people who came and made presentations to this committee—and I was scooting down and trying to assess, are they supportive of the bill? Do they want the government to be more interventionist? Some of the free-wheeling, free enterprisers here said, "Just get out of our way. Let us run the whole thing."

About 87% of the presenters, from my recollection—maybe 85% or 89%—including, by the way, virtually all of the alternate energy folks who came forward, basically liked the thrust of the bill, liked the fact that we were getting on with planning, that we were going to partner with people, that we were taking a balanced rather than an ideological approach, that the ministerial oversight was going to be included and that the conservation culture was going to be foremost.

They had some quibbles here and there. Where it's wise, we tried to reflect those in the changes. But let's understand that a broad cross-section who came forward from all across this province didn't share the narrow ideological perspective of some in this room.

**The Chair:** Further discussion? I will now put the question. All in favour of the amendment? Opposed? It's lost.

**Mrs Cansfield:** I move that part II.1 of the Electricity Act, 1998, as set out in section 28 of schedule A to the bill, be amended by adding the following section:

“Reimbursement of costs incurred by the crown

“25.17.1 (1) The OPA shall reimburse the crown or, if so directed by the Minister of Finance, an agency of the crown for costs relating to the OPA, a procurement contract, an initiative described in clause 25.30(4)(a) or a matter within the objects of the OPA, if,

“(a) the costs were incurred by the crown or an agency of the crown after January 20, 2004 and before the board’s first approval of the OPA’s procurement process under subsection 25.29(4); or

“(b) the liability of the crown or an agency of the crown for the costs arose during the period described in clause (a).

“Payment of reimbursement

“(2) The OPA shall make the reimbursement by making one or more payments in such amount or amounts at such time or times as may be determined by the Minister of Finance.

“Minister’s determinations final

“(3) The determinations of the minister under subsection (2) are final and conclusive and shall not be stayed, varied or set aside by any court.”

In essence, this allows the OPA to reimburse the crown or an agency of the crown for costs and liabilities dealing with the RFP process and, in addition, until such a procurement process is agreed to by the OEB, costs relating to those in the future.

**The Chair:** Discussion?

**Mr O’Toole:** I would just like Mrs Cansfield to give us an interpretation of what this actually means. Are these to do with the non-utility generating contracts or other commitments of disabling the coal plants and all those financial background transactions? There will be all kinds of hidden costs in writing off those assets. You’ve written off some of the coal plants now. In the current year, actually, you took a loss of I think it was \$400 million or something like that; I forget the number. You have done that and there will be more of those kinds of transactions.

I’m just wondering what this really means: “the liability of the crown or an agency of the crown for the costs arose during the period,” as in clause (a), which says, basically, January 20, 2004. I’m just not sure what this means. We may call Mr Jennings or some of the staff here, because this is fairly technical. I have no idea what it is.

**Mrs Cansfield:** I’ll give you an explanation. The amendment creates a new obligation on the part of the Ontario Power Authority to reimburse the crown or an agency of the crown for costs and liabilities incurred with respect to procurement processes or activities undertaken from January 20, 2004, which is the date of the RFP process this government has in place, to the time at which the OPA has established a procurement plan that has been agreed to by the OEB, which is part of the legislation that is in the future.

So what it has to deal with is the reimbursement of the costs for the RFP process that is currently underway and for costs incurred once a procurement process by the OPA has been approved by the Ontario Energy Board in the future. It deals specifically—

**Mr O’Toole:** Strictly with the RFP process?

**Mrs Cansfield:** For the first part and then, as you recall, in the legislation, the Ontario Power Authority has to put in place a procurement process and it must go the Ontario Energy Board. Once that procurement process has been put in place, then it’s the reimbursement of those costs as well.

**Mr O’Toole:** Thank you for that explanation. Now that we have that and we’re approving it, could you table with this committee the RFP costs for the first 300 and 2,500 megawatts and maybe even some technical background on the process? I have kind of followed it a bit. You’ve had, I believe, 4,000 megawatts subscribed to under the first RFP for 300 megawatts. The whole process of reviewing all those bids and determining, and a whole group of consultants figuring out who has the best price, the lowest cost and all of this kind of stuff—I would love to know what that cost. Wow. I don’t know what law firm did it, but, man, they made a fortune. Is there any chance you could table that stuff?

**Mrs Cansfield:** I’d be happy to take your request to the ministry.

**The Chair:** Good.

1050

**Mr Hampton:** Mr Chair, I think it’s more than just taking the request to the minister. I think the consumers of Ontario deserve some information about how much all this is going to add to the hydro bill. From the announcements that have been made, we know that the government has gone out and hired some very high-priced consultants. You’ve held not just one or two processes, but I think you’re now into three or four processes. All of this, it appears, is going on the hydro bill.

I think it should be a matter of openness to consumers. What are they paying for? What is going to end up on their hydro bill from what already appear to be a number of repetitive processes involving some very high-priced consultants?

**Mrs Cansfield:** I just reiterate that it’s with respect to liabilities and costs incurred with procurement activities identified in the RFP and once a procurement is put in place by the OEB. It’s a procurement process for recovery of costs.

**Mr Hampton:** We’re simply making the demand that since this is the people’s hydro and their hydro bill and they’re going to pay for it, the information of how much the procurement process has cost already be made available to the public.

**Mrs Cansfield:** I think I stated that I would take that request to the minister.

**Mr McMeekin:** I suspect there’s no problem with that. That seems like a reasonable request to me, so I look forward to that too. I just want to make the observation that, again, you’re damned if you do and you’re damned

if you don't. All across this province, we're hearing people say, "Get on with it. We don't want a government that's just lean and mean. We want a government that's keen and green." They finally got a government that's keen and green, that wants to look at alternative energy.

*Interjection.*

**Mr McMeekin:** Well, I'd rather be green, prudent, practical and moving forward progressively than grey, tired and dysfunctional, in terms of economic management, Mr Chair.

That having been said, I want to—

**Mr Hampton:** Don't talk about your federal cousins that way.

**Mr McMeekin:** Well, our federal cousins are looking pretty darned good this morning, I'll tell you, as we once again pull another hot iron out of the fire on health care in the interests of people across this country.

All of that being said, there's some short-term cost to turning the boat around. There's some short-term cost to beginning to change the culture of incompetence that's existed on this file for so long. There's some short-term cost listening to people and taking the steps you need to put that culture of conservation and that keen and green emphasis there. Not only do I want to see the short-term costs on that, but I want to have the minister become increasingly convinced of the long-term benefits. The fight on this side of the House for those of us who are maybe a little keener and greener than some is to make sure that continues so we continue to make progress there. I want to see more of those 4,000 megawatts that have—

**Mr Hampton:** If more nuclear energy is green, that's going to be a hell of a sales job.

**Mr McMeekin:** I didn't say that. In fact, if you knew anything at all about my background, you wouldn't say something so damned silly.

All that aside, we've got short-term cost for long-term gain. I said yesterday that the jury is out, including this personal jury, on the nuclear stuff. I think we need to be looking seriously at the mix. By the way, Mrs Cansfield, that's a big part of what this planning process is all about, isn't it: to revisit, or maybe to visit for the first time in 10 years, the actual mix here? So we'll keep moving forward, in spite of the naysayers on this.

**Mr O'Toole:** I just want to put on the Hansard record here—I think it's been a very open discussion. I appreciate the candour of Mrs Cansfield. I'm not certain, on day one, that I'll be permitted, under our new leader, who will be elected this weekend—it's my hope it will be John Tory. I would only say this: This would probably be my first question to the minister. It's not putting you on notice. It is, I think, an open discussion. I'll be getting a copy of that from Hansard—that's a formal request—so I can read precisely what Mr McMeekin said, or at least part of it. The minister will disclose to the public, because we've locked the door with the privacy information and with the minister appointing everybody.

We have no idea what the price is going to be. We can only assume it's going to be—Howard, what would you

think? I think that if the price is 5.3 now, then seven-cent power is about where we're going. What do you think? Not that that's good or bad. I don't want to alarm the people of Ontario, but that's almost double. Take your bill today—the people of Ontario are who I'm speaking to—and if it's 4.8 cents or 4.3—it used to be; that's what they voted for and they broke that promise. Now we've got it at five point something and we've got these new fees—we're not sure what they are. They can't tell us. We know now that some of it is going to be subsidized through the consolidated revenue fund, which is more taxes on licences—fishing licences, drivers' licences. It's certain that the economy is going to have an impact here, and I'm waiting for the minister's answer on this one. Boy, oh boy, just the cost of these RFPs and the dinners for two or the fundraisers—boy, oh boy.

**Mr Hampton:** I await the government sales job as it tries to convince Ontarians that more nuclear power is cleaner and greener, because that is certainly where you're headed.

**The Chair:** I will now put the question. All those in favour of the amendment? Opposed? It's carried.

Shall schedule A, section 28, as amended, carry? All in favour? Opposed? It's carried.

Ms Cansfield, please.

**Mrs Cansfield:** I move that subsection 25.18(4) of the Electricity Act, 1998, as set out in subsection 29(2) of schedule A to the bill, be struck out and the following substituted:

"Board deemed to approve recovery

"(4) The OPA's recovery of its costs and payments related to procurement contracts shall be deemed to be approved by the board."

**The Chair:** Discussion?

**Mr O'Toole:** Well, a lot of it may sound repetitive, because we dealt with the fees and schedules for the IESO. Now we're dealing, in section 25.18, with the fees and charges of the OPA. It says here, "The OPA may establish and impose fees and charges to recover..." It's not for electricity, it's for bureaucracy. And no criticism intended of the civil servants; they're under the direction of the now government, which is bigger government and more expensive government. More cost, less service. I see it in health care recently with the announcement of these new networks. It frightens me to say bigger isn't better.

I can't support this section. I'm disappointed, because there is some merit in this bill, but this isn't one of the sections.

**Mr McMeekin:** I just want to be clear: It frightens you to say bigger isn't better? I'm confused. He's got a double negative. Does that mean bigger is better?

**Mr O'Toole:** You have to dwell on it for a while.

**Mrs Cansfield:** Maybe I can be of some help. The Ontario Power Authority must develop a procurement process and go to the Ontario Energy Board for approval of that process. Once the process is developed, inherent in any process is a budget. This simply says that because they've already gone there—and as you know, it's a

highly regulated board—there's no reason to go back. That is simply what it says. It's deemed approval because they've already been there with their process and their budget. It's simply an amendment that says—the stakeholders themselves were suggesting it was just a duplication.

1100

**Mr Hampton:** I have a question. Since it would appear that this will likely amount to substantial amounts of money, will this information be made public by the Ontario Energy Board, and when will it be made public?

**Mrs Cansfield:** Maybe I could ask Mr Jennings around the obligations of the OEB in terms of public hearings, because my understanding is that their process is open; it is public. They are currently holding a significant number of hearings now.

**The Chair:** Mr Jennings, could you just identify yourself for Hansard, please?

**Mr Rick Jennings:** I'm Rick Jennings, director of energy supply and competition.

In terms of the process, the Ontario Power Authority would be developing an integrated system plan. That plan would be reviewed by the OEB. They would have to approve it. We'd certainly expect that those would be subject to interveners, public hearings and submissions by other parties. Subsequent to that the Ontario Power Authority, once they have an approved plan, will develop and, say they identify resource requirements, identify a procurement process and that, similarly, would have to get approved by the Ontario Energy Board.

So they now have essentially an approved amount of resource requirements and they have an approved process. They would go out and, say it was similar to the RFP process we have now, they would get individual submissions, individual contracts negotiated. Those contracts would not then be subject to further review by the OEB because they were developed and negotiated inside this already approved resource plan and procurement process. Partly that is in place because companies that would want to negotiate these would want to have assurance that having followed the plan and the process, they would be able to complete the agreements.

**Mr Hampton:** I think this section addresses something else. We dealt with some of the financial aspects of this earlier, I think, in some of the amendments. I said at that time, "I don't think you want to know the details of individual contracts." But by God, since people are going to be paying for this, they ought to know at least on an annual basis what the overall cost of this is going to be. Here it seems that the OPA will have to come forward to the Ontario Energy Board with its proposed expenditures and revenue requirements for the year. I would assume this is its expenditure for running its own operations, whether it be to obtain a consultant over here or add more staff over there or whatever. The nub of the issue is that they will have to set out a budget every year for their own operations. I'm asking a simple question: Will this be made available to the public? Will the public know how much the OPA's cost of operation is each year for its own purposes?

**Mr Jennings:** Yes, that certainly will be public. But this deals with the contracts. The contract costs will be part of the monthly settlements. So, similarly, that will be available. In terms of what the actual change in the wording is, the original one was, "The Board shall approve the OPA's recovery of costs relating to procurement contracts." Basically it says a similar thing other than that they're deemed to be approved by the board. In other words, it isn't really a change from the bill as it was originally structured.

**Mr Hampton:** And you're telling us this will all be public information?

**Mr Jennings:** The Ontario Power Authority—

**Mr Hampton:** The details of individual contracts are not the issue.

**Mr Jennings:** No, but the overall payments that are made under these will be—essentially, the IESO would have them on a monthly basis.

**Mr Hampton:** Including the operational costs? Because this seems to speak to the operational costs of the OPA.

**Mr Jennings:** Yes. The OPA's operational costs have to be approved by the OEB, and that would be in a public process. Whether they have hearings or just submissions, it will depend on whether they see that that's all necessary. But certainly, just like the IMO now, they have an annual report, they have a budget that is approved and they have approved basically what they recover from customers. All that information is public.

**Mr O'Toole:** I appreciate the staff's technical response to these areas that are very critical. I have some confusion here. The OEB's is a rate review function, is it not? As I understand it, the rates will be reviewed annually by the Ontario Energy Board, and otherwise, in emergencies, I guess.

**Mr Jennings:** Yes. The power authority—I believe it's set out in a provision of the act—has to get prior approval for their budget, their revenue requirement.

**Mr O'Toole:** That's not what I'm talking about. I'm saying that if electricity is going to cost so much and there's a rate filing or application for a rate from the OPA or whoever, the government is going to direct that, technically. Really, there's no question. They're going to say, "Power should be 5.3," or whatever it's going to be and make it fit. I believe it's public policy. It has been. You might say it's power at cost. I don't think we'll ever know that.

Here is my question: If the OPA is going out and doing contracting, and they're doing RFPs and then they're reviewing, is the Ontario Energy Board involved in any of the reviews for these forward contracts to build, install and operate?

**Mr Jennings:** The OEB has to approve the plan that sets out the resource requirements.

**Mr O'Toole:** That's not price; that's just resource.

**Mr Jennings:** Yes, and then they will have to approve the procurement process. In other words, they would say, "We're going to do a competitive RFP or we're going to do some other process." The OEB would have to approve

that. Once they have actually gone out and had the process, then it's negotiation between the parties.

**Mr O'Toole:** The OPA and the suppliers, the bidders?

**Mr Jennings:** Yes. So the resource has been approved, the process has been approved and then there will be negotiations.

**Mr O'Toole:** So we're going to come out of it with a market price—I don't disapprove of that—which the OEB is not really going to have a role in. They're going to say, "This is the fee schedule which is approved," and that should be transparent.

**Mr Jennings:** Yes.

**Mr O'Toole:** It's going to have an RFP process, which should be independent and transparent. They're going to say, "Yes, this looks like all the checks and balances are in place."

Thirdly, when the OPA eventually contracts short- and long-term supply and peaking supply, there will be a variety of prices that will be mixed. Whether it's renewable at seven cents or heritage resources at four cents, they're going to come up with the price. Who actually sets that price? Does the OEB have any role? After you synthesize all the RFPs, all the base supply, all the nuclear refurbishment and have all that down, who is actually going to see about the price?

**Mr Jennings:** The costs under the contracts would get passed through to customers on a monthly basis. In terms of when the Ontario Energy Board is setting the rate plan price, they will have to factor in their forecast of those costs. In terms of developing the rate plan for the small customers, that's going to reflect their assessment of the wholesale price and the various mix of contract and regulated prices.

**Mr O'Toole:** That's good. I appreciate your being here. Ultimately, what we are really trying to drive here is, if price—after some outrage, we backed away from our original plan for rejigging the electricity supply marketplace. We backed off because of public outcry.

Power at cost might be the right thing to do in the longer or medium term, but if government backs off on this—if they have a supply problem and they don't have the stuff coming on line, people still need electricity. Regardless of what the OEB or anybody else says, they've ignored the OEB rulings for years under Ontario Hydro. They just had the hearings and ignored it; the government said, "Here's the rate." In fact, the NDP cancelled the debt retirement. The SDR was cancelled. That is the repayment of the accumulated debt.

We ran into the same problem ourselves as government. The public would not tolerate the price. Even if all the mechanics fit together in the nice little puzzle that they do, public policy—which is government's role—dictated the outcome. Some would say we blinked. Some would say we failed on price. But that's the point I'm trying to make here. This is the issue entirely, because they're going to go out and they're going to purchase a lot of new renewable power. Good. It's going to be expensive power because of pure economics, to start with. In the longer term, wind might come down in price,

gas prices may not go through the roof. There is so much uncertainty for forward contracting. We complain about the 407 contract and the hidden backroom clauses. I'd love to see some of these contracts. I'd like to see some of these contracts on price. If they build in escalators on world market price, if they build in all these prices—we have no idea what the price is.

**1110**

**Mr Jennings,** you work for a living. I just read this stuff in the Globe and Mail. I never read the Star. Am I way off base here? I'm not trying to create uncertainty or outrage for the public. The public is a price-taker. They have no choice.

**Mr Jennings:** I'll comment that the RFP process the government has instituted—and we would assume that the power authority would look at that in the future. The request for proposals has been public, draft contracts have been made public, and then there's a process for qualification. So the process itself—

**Mr O'Toole:** Is good, yes. No problem.

**Mr Jennings:** —is quite transparent. Through the government's Web site, people are able to ask questions. All the questions of clarification and issues go through that Web site.

So I can speak to the process we have in place, which is that the form of the contracts—not what's ultimately negotiated—is made public.

**Mr O'Toole:** Right. And, really, at the end of the day, the OEB is going to approve some blended price, technically, of heritage assets and new purchase agreements, and that will be adjusted periodically to reflect the other part of the market, the costs of fuels and inputs?

**Mr Jennings:** Yes.

**Mr O'Toole:** OK. Well, that's good. I understand it. I just need to know that there's some way—and I'm saying it to Mrs Cansfield, primarily—that the residential consumer can absorb the impact of rapidly escalating price. That's the deal here. At the end of the day, if you've got 5,000 people on the front lawn here, I don't care how many people at the energy board have PhDs, it won't mean a thing. For years, the government has chickened out, backed away and said, "Look, it's going to be—" and they told Hydro. What do you think Hydro had debt for? Because they never paid what it really cost.

I am predicting today that when they have the short supply, they can't bring on the replacement 7,500 megawatts by 2007. Good luck. They'll have to fix prices.

**Mr Hampton:** It's already 2009, John.

**Mr O'Toole:** Well, whatever. They can't possibly—anyway, we're off into never-never land.

**Mr McMeekin:** I appreciate the update on your reading habits, John. I always thought you were well read.

*Interjection.*

**The Chair:** Mr McMeekin, you have the floor.

**Mr McMeekin:** Yes, thanks very much.

Every once in a while there's a real spark in what Mr O'Toole says, a real gem, something that sparks and catches my attention.

**Mr O'Toole:** It gets you upset.

**Mr McMeekin:** No, no. In fact, I mean this sincerely, John, as an affirmation. A moment ago you were waxing quite eloquently, I thought, about some of the decisions that had been made and their potential impact. I can say, for those who may be interested, that we supported the previous government's energy bill. I think at second reading we raised 14 key questions which we felt at the time weren't adequately answered. At third reading we didn't support it, just for the record. We did support the concept of the cap. I know our honourable colleagues from the New Democratic Party, wanting to protect all working people across Ontario, didn't do that. And in hindsight they may have been right; I don't know. But it's hindsight I want to—

**Mr Hampton:** It was phony, as you demonstrated so quickly.

**Mr McMeekin:** As the reference to being revenue-neutral, I think, proved as well.

But I thought I was hearing the honourable member opposite say that, in hindsight, maybe it should have been done differently. By the way, we admit we made a mistake on the 4.3 cents. We're very up front. In hindsight, that was the wrong way to go, and you, I think, have just given some prima facie acknowledgement of the same. I'm wondering if, in hindsight, you now agree that your government's legislation on the 4.3-cent-plus cap, in terms of not promoting conservation and not generating any additional supply, was in fact a mistake. Is that what you were saying to us? Because if it was, I've got a lot more respect for you than I—

**The Chair:** We'll give Mr O'Toole a chance to respond to that. Mr Hampton next and then Mr O'Toole.

**Mr McMeekin:** I ask that respectfully, Mr Chairman.

**The Chair:** Absolutely.

**Mr O'Toole:** I would say I can't speak on behalf of the government. These are very complicated issues. We have a change in leadership, and I'm not trying to bring all the politics into it, but almost every member—and I can quote for you. Mr McGuinty said, on CFRB on November 13, "So we've got to maintain rate relief for our ratepayers" and taxpayers. In the sense of all parties, including the NDP, we're talking about children at home on ventilators or people needing other medical services requiring electricity. It became a life-and-death issue.

Agriculture in my area is a huge issue. Farm operations whose bill would be like \$2,000 a month went to \$4,000 a month and they had no way of recovering the cost. Whether it's small business, medium-sized, little marketplaces with coolers and stuff, it was probably worse than some of the other protestations we had, because it affected every level of people, especially those least able to pay or respond. It wasn't like cable TV. You couldn't just say, "Take it out of my house."

There's a threshold there in public policy. We as elected people need to make sure that the most vulnerable are protected, and in some cases that includes—and you saw it as well—the ability to pay on this type of product.

So, yes, it's a raging argument to this day whether or not we did, but we had a supply problem. We had

Pickering in the midst of no recovery. We had lots of inefficiencies in the system. We had a blackout. We had the worst possible weather conditions. It's like the sky was falling.

**Mr McMeekin:** You know I agree with you on the vulnerable side. That's why I supported you yesterday when we talked about that. That having been said, I'm thinking you're now going back the other way. Had we made provisions for vulnerable folk, low income, those on ventilators etc, we could have done that, I think, in hindsight rather than benefit everybody. Was it the right thing to do or the wrong thing?

**Mr O'Toole:** I think it's all based on thresholds of consumption, basically. I'll be quite honest here. I generally agree with this bill in the broadest sense of power at cost, promoting conservation, giving consumers tools where they can respond, real smart meters where they are price manipulators, moving usage off peak and stuff like that. I think that's important.

**Mr McMeekin:** It's not perfect. It needs some improvements.

**Mr O'Toole:** Here's the key, though: I think there are thresholds where some people just won't have the time, ability or resources to do it. If they have to spend \$800 to save 20 bucks a month, they won't do it. Some people can't pay the bill as it is. So how do you deal with that? Here's what I'm saying: maybe 800 kilowatts an hour is the wrong threshold; maybe it should be 1,000, and if you use less than 1,000, you get a rebate. That's one group of consumers.

Then you get the small business band and the large business band—

**Mr McMeekin:** Yes. I like that. It's another approach.

**Mr O'Toole:** —and there are different rate issues and policies with respect to each of those consumer groups. But I think the residential side is the only real price-taker. They have no leverage. They can't cogenerate. There are no tools in this bill to give them the ability to put on solar panels and get credits for it, to have all kinds of tax relief or even capital tax relief.

**The Chair:** Mr O'Toole, we're starting to wander here. Let's get back to the amendment.

**Mr O'Toole:** I'm just saying it's very complicated. There are three thresholds: there are the small consumers, the medium and the big; three different processes.

**Mr McMeekin:** We're heading in the right direction. Generally you like the thrust and you're moving away from the phony level.

**Mr Hampton:** I just want to go back to something Mr O'Toole said earlier, that debt payments were suspended. I'd encourage him to read the 1995 annual report of Ontario Hydro. It was signed by someone named Bill Farlinger, whom I think Mr O'Toole knows well. Mr Farlinger said in the report that Ontario Hydro at the time had reduced its cost structure substantially, that it had achieved a significant profit in its 1995 operations, that it had paid down \$2 billion in long-term debt and, going forward, it would be able to pay down significantly more long-term debt in terms of its reduced cost structure and

its revenue stream. So I'd encourage him to read that, because I know Mr Farlinger would want him to know that.

1120

**The Chair:** Any further discussion? I will now put the question. All in favour of the amendment? Opposed? It's carried.

Shall schedule A, section 29, as amended, carry? Opposed?

**Mr O'Toole:** I have a notice.

**The Chair:** Right, and you're going to speak to it now.

**Mr O'Toole:** That's right. The opposition recommends voting against section 29 of schedule A to the bill. We've really spent a lot of time on this, so I won't prolong it.

The reason for notice rather than motion: This notice, which recommends voting against the section, is provided instead of a motion to strike it out. The reason is that parliamentary procedure requires that the committee vote against the section rather than pass a motion to strike it from the bill.

So the motion is the method of getting rid of section 29, which is the ability of the OPA to establish, impose and collect fees. Basically that's what it does.

It's really intended to protect consumers as there is already operating money within the Ministry of Energy and its subordinated agencies. Whether it's the IMO function, the energy board function, if you're going to make all of those organizations much bigger, much more sophisticated and much more engaged in consulting—high-priced, high-cost consulting—I urge members to really reflect here and say, "We can do more with less. We can do without this ability of the OPA to raise more money," which is either taxes or rates, either one of the two.

**Mrs Cansfield:** This part of the legislation actually deals with the OPA's ability to deal with their procurement process. In essence, what you're saying is that you don't want that to happen, and we can't support that.

**The Chair:** Further discussion? I'll now put the question. All in favour of schedule A, section 29, as amended?

**Mr O'Toole:** Pardon me. You haven't called the question on my motion yet.

**The Chair:** Right.

*Interjection.*

**Mr O'Toole:** It's a notice. So you don't vote on a notice? Pardon my ignorance here of parliamentary procedure. That's why we have the high-priced legal clerk.

**The Chair:** The clerk has just given us direction, Mr O'Toole.

We'll now move on. Shall schedule A, section 29, as amended, carry? All in favour? Opposed? It's carried.

**Mr O'Toole:** I move that section 25.19 of the Electricity Act, 1998, as set out in section 30 of schedule A to the bill, be struck out and the following substituted:

"Review of requirements

"25.19 (1) At least 60 days before the beginning of each fiscal year, the OPA shall submit its proposed expenditure and revenue requirements for the year to the board for review.

"Board's powers

"(2) The board may approve the proposed requirements or may refer them back to the OPA for further consideration with the board's recommendations.

"Same

"(3) In reviewing the OPA's proposed requirements, the board shall not take into consideration the remuneration and benefits of the chair and other members of the board of directors of the OPA.

"Hearing

"(4) The board may hold a hearing before exercising its powers under this section, but it is not required to do so."

Speaking to the amendment, The approval of fees, as I've said, should be removed in accordance with the above omission of section 29 with respect to collecting fees. So all this amendment does is negate the ability of the OPA to collect fees for taxes.

**Mrs Cansfield:** This proposed amendment actually suggests to me less scrutiny for the Ontario Power Authority as opposed to more scrutiny, which I find interesting, considering that there has been such a strong position taken on transparency. I guess I need some explanation as to why you would prefer less scrutiny for the OPA when we're looking for more scrutiny.

**The Chair:** Mr O'Toole, I know you can provide some background here.

**Mr O'Toole:** Just a little bit. We feel the OPA is a new organization and, as such, an unnecessary organization. If you look at 25.19(1), it says, "60 days ... beginning of each fiscal year ... shall submit its proposed expenditure and revenue." In other words, it's going to have a budget. All the minutiae that we've talked about, RFP costs and all this kind of stuff, it's going to submit it to the minister and the minister is going to approve it, basically. What we're saying here is that they can submit that, and we believe there's enough revenue in the general revenue fund today to cover that, because you're reshuffling other functions. In fact, you're probably duplicating some of them.

I wonder. I've said it 15 times now. I thought clarifying the function and role and giving even more power to the existing IMO is really what you're doing. In the forecasting, you're going to use IMO staff. They've done a terrific job, in my view, quite objectively, at arm's length. The procurement part was the problem. I agree, there wasn't really an established authority outside of the minister or OPG doing some other thing. When you're bringing in new renewables, and you didn't want OPG to just take over and build bigger and more and all the rest of it, that part could have easily been added to the IMO. They have a budget, and they may have needed some more budget.

I think you have enough money in the budget now. All you're doing is using this as an opportunity to make the

bureaucracy bigger and make the consumer pay more. You're going to call it the cost of doing business, and I'm going to call it a tax increase or a rate increase.

**Mrs Cansfield:** So the suggestion is that it would come through the tax base, as opposed to the rate base. So you're for more taxes, are you?

**Mr O'Toole:** If you read your bill, you will see that it can be recovered through the CRF or it can be recovered through rates. That's clear, if you look at section 25.17. I am for much more scrutiny and accountability. What I'm for is not raising taxes and having balanced budgets. That's what I'm for. If you read even Erik Peters's report, I would say that government has two choices: to increase taxes or reduce services. You have to be very cautious in what services you reduce and what services you're in.

So that's what I stand for. I say that we're at the threshold of tolerance for small businesses and families that are struggling to make ends meet. You're imposing more costs on them: not just the health tax, but electricity is going up, insurance is going up, everything is going up. Everybody wants more; I understand that. But there has to be some—the role of government is really to make difficult decisions, not easy decisions. The easy decisions are to blame someone else or to create more debt.

**Mrs Cansfield:** Mr Chair, I think we should go back to the amendments.

**Mr O'Toole:** Well, I am. I'm trying to explain to you. You have enough money in your budget today to do what's being done. I think it's completely unnecessary to impose more fees or taxes by another name.

**The Chair:** The point has been made, Mr O'Toole. Any further discussion? All in favour? Opposed? It's lost.

Mrs Cansfield, please.

**Mrs Cansfield:** I move that subsection 25.19(1) of the Electricity Act, 1998, as set out in section 30 of schedule A to the bill, be struck out and the following substituted:

“Review of requirements and fees

“25.19(1) The OPA shall, at least 60 days before the beginning of each fiscal year, submit its proposed expenditure and revenue requirements for the fiscal year and the fees it proposes to charge during the fiscal year to the board for review, but shall not do so until after the minister approves or is deemed to approve the OPA's proposed business plan for the fiscal year under section 25.20.”

In essence, this amendment requires that the Ontario Power Authority obtain the minister's approval of their business plan before making application to the Ontario Energy Board for proposed fees and revenue requirements. It also allows for open public hearings before the board on the OPA's proposed budget.

**The Chair:** Further discussion?

**Mr Hampton:** I guess the question that arises is, if the OPA has to have the minister's approval, doesn't this bring politics right back into the issue of hydroelectricity operations? It would seem to me, much of the government's rhetoric has been that this would all be deter-

mined publicly, that it would be determined according to the observations of the Ontario Energy Board. But now, as I look at this, it seems that before the Ontario Power Authority can even go forward to the Ontario Energy Board, the minister can say to them, “No, you can't take this forward. Your expenditures are too high,” or “Your revenue requirements are too high.” So how does this balance with the statement that this will all be determined now, not politically but according to public hearings and financial information?

1130

**Mrs Cansfield:** Government sets broad policy for initiatives within their mandate, and this is to ensure that those broad policy perspectives are followed. The idea is that the proposed plan is submitted to the minister to ensure that it follows the direction the government has set in developing a strategic plan for energy within this province, something that hasn't been there for some time. It is no different than any government setting broad policy initiatives.

**Mr Hampton:** This doesn't say anything about broad plans. It says “its proposed expenditure and revenue requirements for the fiscal year and the fees it proposes to charge during the fiscal year...” It doesn't say anything about broad plans; it says everything about fees.

**Mrs Cansfield:** But it's in the context of the initiative developing the strategy for energy within this province. The policy is set by government.

**Mr Hampton:** And this doesn't say anything about policy. It doesn't say anything about guidelines. It's very clear: It's about fees.

**Mrs Cansfield:** No, it actually says that the OPA must go forward with it, so that it fits within that policy.

**Mr McMeekin:** Briefly, this is about management by walking around. It's about management by staying in touch. It's about public accountability and the link between an unfettered process and something that has a guarantee that there will be a protector of the public interest there. There are clearly ideological positions that can be staked out. I know the member opposite would not want a completely unbridled market system, a completely unbridled, out-of-control planning process. He'd want something that made sense. Virtually everybody who came and made presentations to us on this said, “Walk that balanced line,” and that's what we're doing here.

Again, you're damned if you do and you're damned if you don't. Two motions ago there was not enough oversight—you know, “You need to be more involved”—and now it's, “You're too involved.” The knee-jerk seems to be to oppose everything, even when it makes sense. Frankly, that is what makes people so darn cynical about political folk.

**Mr Hampton:** I repeat my question. Nowhere in this section does it say anything about policy, nowhere does it say anything about policy guidelines. This is all about the minister getting involved in setting fees for the Ontario Power Authority. I think the plain reading of this tells one that despite the government's claims that it's going to take the politics out of setting hydro rates, that's

exactly what's going to continue to happen here. The Ontario Power Authority would not be able to go even to the Ontario Energy Board and make its case without first getting the clearance of the minister's office—that is, political clearance—and the minister could say, "I see your proposed fee structure, I see your proposed rate structure, I see what you're proposing here in terms of expenditure and revenue requirements, and I'm going to disallow it."

It seems to me that is a complete contradiction of what the government is saying, that politics will no longer play a role in the determination of fees, of revenues or expenditures on hydroelectricity.

**Mrs Cansfield:** I reiterate again, I think the broad policy statements that are made by the minister must fall under the proposed plan for the OPA and that's what this requirement is, that the proposed business plan goes to the minister to ensure that it stays within the mandate that's set up by the government—nothing more and nothing less. You may read into it as you please, but that's exactly what the amendment says.

**Mr Hampton:** It doesn't say anything about broad policy. It doesn't say anything about policy guidelines. It talks about fees.

**Mrs Cansfield:** It doesn't have to. My understanding is that the role of government is in fact to develop policy. Maybe it's different for you.

**The Chair:** Any further discussion? I will now put the question. All in favour of the amendment? Opposed? It's carried.

**Mrs Cansfield:** I move that section 25.19 of the Electricity Act, 1998, as set out in section 30 of schedule A to the bill, be amended by adding the following subsection:

"Transitional, 2005 fiscal year

"(6) Despite subsection (1), the OPA shall submit its proposed expenditure and revenue requirements for its 2005 fiscal year and the fees it proposes to charge during that fiscal year to the board for review not later than 30 days after the minister approves or is deemed to approve the OPA's proposed business plan for the 2005 fiscal year under section 25.20, but shall not do so until after the minister approves or is deemed to approve the proposed business plan."

**The Chair:** Discussion?

**Mr McMeekin:** An actual business plan—it will be interesting to see the arguments that someone will garner to oppose this sensible addition to the government's approach.

Business plan—minister reviews it. Fiscal plan—minister reviews it. Boy, it sure sounds like a transparent and accountable way of doing business to me. But I'm sure there will be some argument against it.

**Mr Hampton:** It sounds to me like the minister is going to be involved more than ever in setting fees and proposed charges. This sounds to me like more evidence of exactly what the government says is not going to happen in the future.

**Mrs Cansfield:** In essence, this amendment provides some flexibility on the 60-day timing requirement for the

Ontario Power Authority's application to the Ontario Energy Board for the transitional year 2005. The reason for this is that we recognize that new board members and possibly some senior staff will need some time to develop their initial business plan and budget for subsequent years.

**The Chair:** Further discussion? I will now put the question. All in favour of the amendment? Opposed? It's carried.

Mrs Cansfield?

**Mrs Cansfield:** I move that section 25.20 of the Electricity Act, 1998, as set out in section 30 of schedule A to the bill, be struck out and the following substituted:

"Business plan

"25.20(1) At least 90 days before the beginning of its 2006 and each subsequent fiscal year, the OPA shall submit its proposed business plan for the fiscal year to the minister for approval.

"Minister's approval

"(2) The minister may approve the proposed business plan or refer it back to the OPA for further consideration.

"Deemed approval

"(3) If the minister does not approve the proposed business plan and does not refer it back to the OPA for further consideration at least 70 days before the beginning of the fiscal year to which it relates, the minister shall be deemed to have approved the OPA's proposed business plan for the fiscal year.

"Transitional, 2005 fiscal year

"(4) The following rules apply in respect of the OPA's proposed business plan for its 2005 fiscal year:

"1. The OPA shall, within the time period specified by the minister, submit its proposed business plan for its 2005 fiscal year to the minister for approval.

"2. If the minister does not approve the proposed business plan and does not refer it back to the OPA within 20 days of receipt, the minister shall be deemed to have approved the proposed business plan."

**The Chair:** Discussion?

**Mr O'Toole:** I apologize. I have read this, and I am a little concerned about it because this deemed approval stuff is just one more way of exempting elected accountability: "Well, we were unavailable," or whatever. It's just another case of these fees being passed on to people. It's difficult to endorse this at all.

1140

**Mr McMeekin:** This is an opposition dream, to be able to take something good and label it as evil no matter what the minister does. The minister is hung out to dry here if he acts and gives direction to the OPA—"You said you weren't going to be political"—notwithstanding that he may be protecting the legitimate interests of consumers and trying to advocate for more green energy or whatever it is. Of course, if he doesn't act, he doesn't care. He's just sloughing it off. Regardless of what approach is taken here—talk about being straight up. There's nothing cleaner, straighter, more accountable or upfront than this.

I'm sure that regardless of what happens, given the seemingly fixed ideological perspectives on the other two sides of the House, the minister will be criticized. And do you know what? That's OK. We understand that real leadership means taking bold decisions, not predicated on how they're going to be reflected in the polls but how they're going to advance the cumulative long-term good of both this sector and a strengthened economy throughout Ontario. So I really applaud the minister for this.

I'm an interventionist, I confess. I'm not one of those free market, free-wheeling, just let the private sector—I think the government needs to maintain some control, and I think the minister does this nicely. The wink is there but the nod isn't, and I think that's really important. I think that's responsible government at its best.

**The Chair:** Further discussion? I'll put the question. All those in favour of the amendment? Opposed? It's carried.

Mr Hampton, please.

**Mr Hampton:** I move that section 25.23 of the Electricity Act, 1998, as made by section 30 of schedule A to the bill, be amended by adding the following subsection:

“Contract details

“(1.1) The annual report must include sufficient details of the OPA's contracts to inform the public of the effect the contracts will have on the price of electricity.”

**The Chair:** Discussion?

**Mrs Cansfield:** Currently, it's the Ontario Energy Board's responsibility to provide the information to consumers about price. So I see no reason to support this amendment.

**Mr Hampton:** We've just heard how the OPA's procurement processes and contracts signed are going to have a significant impact on price. So in the interests of public disclosure and public information—we're not asking that the particular contracts be disclosed, but surely the public of Ontario, the people of Ontario, the small businesses of Ontario, the school boards of Ontario, the hospital boards of Ontario, the manufacturers of Ontario, who are going to be paying the hydro bill, should have information in the annual report telling them what will be the impact on the price of hydro of processes undertaken by the OPA or contracts signed by the OPA.

It seems to me that if the government wants to talk about openness and people knowing the real price of electricity, this is elementary. This simply tells the people on an ongoing basis, “This is the effect of the contracts signed this year by the Ontario Power Authority. This is the effect on the hydro price of processes undertaken by the Ontario Power Authority.” I can't understand why the government wouldn't want this information to be available to the hydro consumers of the province. It seems to me it simply promotes full transparency. You know what processes, you know what contracts the OPA has signed and then you are told what will be the effect on the hydro bill. That seems to me to be very clear transparency. It seems to me that's what the minister in

his rhetoric has been talking about, and yet the government doesn't want this information made available to the public.

**Mr McMeekin:** I support what Mr Hampton said. I'll support the amendment, although I suspect there is a clearly articulated reason not to. But notwithstanding, I think your argument makes sense.

**Mrs Cansfield:** Actually, if you recall, just in the previous legislation, the Ontario Power Authority must go to the OEB with its contracts and procurement process, which is approved by the OEB. It is the responsibility of the Ontario Energy Board, in setting its annual rate plan, to provide consumers with the information, and they do that in a variety of ways. You heard earlier that there actually are hearings underway now. So this is not necessary. It is happening now.

**Mr O'Toole:** I'm going to be supporting Mr Hampton on this. To simplify all of this discussion, what the consumer wants to know in the annual report is the cost of electricity per kilowatt hour. It would seem to me to be reduced down to its simplest piece of information for the consumer. They want to know the price per kilowatt hour.

If that's published, I think the openness and transparency that you use in most—Dalton used it in most of his speeches. This will be one time you could deliver it. Mr McMeekin is on the right track here and I'm confident that Mr Ramal, and you as parliamentary assistant, will be sending a signal, “We want that.” It's one amendment. You could say you adopted at least one amendment of the opposition. We've worked and listened and we're just trying to be helpful here. If you support this, I think you're moving a long way toward finding some accommodation in this bill.

**Mr Hampton:** I can't understand the reticence. This simply would put the information in the annual report. It would be like the annual report of the auditor. Everyone looks at the annual report of the Provincial Auditor because it tells them this is how this is functioning. This would simply take the operations of the Ontario Power Authority—it would not disclose information from individual contracts—and it would ensure how this affects the price of electricity that every consumer is going to be paying on their hydro bill. That's in the annual report.

It just seems to me that it is the ABC of accountability: These are the activities engaged in, this will be the impact on the price of electricity and here it is in the annual report, where everyone can see it. You don't have to understand the IMO or what used to be the IMO's Web site. You don't have to understand the difference between average cost, marginal cost and blended cost. It's simply there. These are the activities undertaken, this is the impact on the price of electricity and it's in the annual report so that everyone can see it.

**Ms Wynne:** I just want to make a comment. The reason I'm not supporting this amendment is that it's my understanding that it's the OEB's job to do this, that this information will be available. So I'm not arguing for the information not being available. I'm saying, let's make it

clear whose job it is and let's not duplicate. Let's not confuse people by providing information in one place and information in another place. Let's make it clear whose job it is and then let's make it happen. So I'm not supporting this amendment because I believe we've already got it covered by the OEB delivering that information.

**Mr O'Toole:** It's sort of like the one-place-to-look theory. I believe we're both saying the same things, and going a long way toward finding accommodation here is this—we heard earlier from Mr Jennings that on the contracts and costs and all of those things, the OEB does not approve the rate, actually. What it does is approve the fees and then it approves an RFP process. The RFP process will result in secret negotiations, similar to what happened in Ottawa—no, I'm not trying to be smart here. These will be commercial negotiations, and the commercial negotiations will result in a price that the OEB will deem to have approved, because they approved the process and the fees, and it turns out that these bidders came up with a number that was 5.8 cents a kilowatt hour under these conditions, or six or seven cents a kilowatt hour.

All we're asking for here is the one place to look. Let's say I'm reading the annual report for the OPA. I would see, as I would in a shareholder document—in the annual statement I have to look through all the pages, and at the bottom it says “price per share” or “unit value.” That's what I want to know. It's just like a shareholder needs to know, “Are my shares up or down?” I don't care about all the commercial transaction stuff. That's really for the auditors to figure out. For the convenience of the consumers, I implore you to support Mr Hampton's motion here for clarity and transparency by having the price of electricity stated in the annual statement of the OPA. I don't think it's much to ask.

1150

I think Ms Wynne is siding a little bit on this one. I'd be surprised if she doesn't, because it seems to me that what she said is here. It's already done by the OEB. What if it's in two documents? It's not going to hurt anybody.

**Mr Khalil Ramal (London-Fanshawe):** I just want to go on the record to say that I'm in support that the consumer has a right to know the pricing and everything but we are not looking for duplication, more work and more confusion. That's why I'm not supporting this amendment.

**Mr O'Toole:** Did Mrs Cansfield give you those rules?

**Mr Ramal:** Nobody gave me anything. I believe it's the right thing not to confuse the people of Ontario. It's already in place.

**Mrs Cansfield:** Remember, the OEB has the responsibility of developing the regulated rate, which is part of the hybrid model, by March or April of next year, not earlier. So it's their responsibility to provide not just some but all the information to consumers. It makes far more sense for them to do their job, which is exactly that. They have all of the access to the information to provide to consumers. It's not an issue of not providing the

information or having it available; it's ensuring that it's in the right place so that it's all together.

**Mr O'Toole:** I think this is really at the customer level, our constituents' level, large or small. This is a pretty important piece of information. You mentioned that the OEB will approve a regulated rate, a blended rate of some sort, technically. I really feel that there's nothing in this that prohibits the OPA from publishing that number, even if they were to say, “In our plan, our plan is for rates to be like this.” I understand that the OEB will approve the fees they charge, directed by the minister, by the way, because he has oversight on all of those organizations.

You know the trouble we had with transparency of the electricity bill. People were staggered to see these new lines on the bill. A debt retirement charge: That freaked them out. They didn't realize they were paying it as part of the rate. Also line loss charges: People today still wonder what this factor of 1.03 is on their bill. It is the cost of the loss of electrons in transmitting from the generator.

**The Chair:** Fifteen per cent.

**Mr O'Toole:** Yes. On the bill, I know today that I pay a blended rate. It wouldn't matter if I shut the fridge down at home. I'm paying all of the cost of creating all these electrons for the month, basically. That's what I'm paying, plus the transmitter, the distribution charges—all of those charges. You've increased each one of them. You've got the cost of administration. There's going to be a charge on the bill now for the consumer to pay for these meters. I think it's going to be collected through the LDC. So we need to have one place to look. On the annual statement, if I know I'm paying for electrons or electricity, which includes all these things—RFP costs and operating costs and all this stuff. I hope people are watching today, because I predict the price is going to be a nice, round six cents a kilowatt hour, which is about 25% more.

**Mrs Cansfield:** Is it better than a billion-dollar debt?

**Mr O'Toole:** The billion-dollar debt wasn't actually—the numbers were actually calculated over a six-year time frame. It had to do with supply adequacy. So that's a whole different debate. When you look halfway through a fiscal year at a tourism operation, if you looked at a tourism operation in the winter, and if it was a summer operation, their expenditures to revenues wouldn't match.

**The Chair:** We can debate the tourism industry on some other occasion. Mr Hampton, please?

**Mr Hampton:** I just want to point out the inherent contradiction here of the McGuinty government. You have the Minister of Energy saying that prices should be transparent, that people should know what they're paying. It's very clear that the Ontario Power Authority is going to play a very big role in signing long-term contracts, and yet the McGuinty government doesn't want people to know what the price is going to be on an annual, ongoing basis. It seems to me that despite all the rhetoric about openness and transparency, this is going to

be more mud, that the consumer will have a very difficult time knowing what the longer-term trends of electricity prices are going to be because the government will refuse to disclose that.

If what the price is on an annual basis has to be disclosed, sufficient details of the OPA's contracts to inform the public of the effect the contracts will have on the price of electricity, people will be able to know, "Boy, electricity is going to get a lot more expensive. I guess I shouldn't build that big house, or I guess I should look at some energy efficiency measures." By not putting this information out in the annual report, you're denying people the price signals they need to make intelligent decisions. It shoots a hole, totally, in your arguments and your press releases about openness and transparency and people knowing what the price of electricity is.

This is where the real price is going to be. This is where people are going to be able to tell: Is the price of electricity going up? Is it going down? Is it staying even? The OPA will determine much of this in long-term contracts and you're not going to make that information available to people.

**Mrs Cansfield:** Mr Chair, just for the record, that simply isn't true. The OEB has the responsibility for providing consumers with the information. The suggestion that Mr Hampton has made is inaccurate.

**Mr Hampton:** We'll see.

**The Chair:** Any further discussion? I will now put the question. All in favour of the amendment? Opposed?

**Mr O'Toole:** Recorded vote.

#### Ayes

Hampton, McMeekin, O'Toole.

#### Nays

Cansfield, Jeffrey, Ramal, Wynne.

**The Chair:** It's lost.

It being 12 o'clock, we'll recess until 1 o'clock this afternoon.

I'd just like to inform members that, looking at the rest of the amendments, it appears we won't be able to take the tour of the IMO in Clarkson this afternoon. I've asked the clerk to cancel the bus, which will mean that the committee budget will have to absorb the cost of that cancellation. We will reschedule the visit, because I think it's very important that we have a tour of IMO. We'll move forward on that.

We'll see you back at 1 o'clock.

*The committee recessed from 1158 to 1307.*

**The Chair:** We'll bring the standing committee on social policy to order. Mr O'Toole, then, on page 54?

**Mr O'Toole:** Section 32 of schedule A: I move that clause 25.28(2)(c) of the Electricity Act, 1998, as set out in section 32 of schedule A to the bill, be struck out and the following substituted:

"(c) the phasing-out of coal-fired generation facilities or the conversion of coal-fired generation facilities to clean coal technology; and".

What I mean by this, as a note of explanation, is I think it's going to be difficult and important to try and achieve the goal of eliminating the current technology of coal by 2007. Now, whether that's doable is questioned by many of the experts, but I think we have to look at reality, which is looking at energy resources.

Clean coal technology is improving on a daily basis, as can be demonstrated in other parts of the world. It has even fewer pollutants than natural gas or other alternative energy forms. In addition, it would force us to start purchasing—in the event of shortages, if we started purchasing power from the US to fill the supply gap, undoubtedly, we'll be reliant on coal-fired generation in the US. So I think that Canada and Ontario need to keep that option open. As I said earlier in the clean coal discussion, the Minister of Energy and the Minister of the Environment should set stringent regulations on emission targets. And if these new technologies cannot meet or exceed those targets, it should not be allowed on the grid. But if it can be, it shouldn't be eliminated as a right. I think it may form part of the solution in the future. I just think we should leave that alternative open there and yet not reduce the goal of trying to clean the environment.

**Mrs Cansfield:** Unfortunately, there still is the issue of CO<sub>2</sub> emissions, and that significantly impacts Kyoto and clean air, so we won't be supporting the amendment. Certainly, I would suspect as well that if there is any technology—every person I've spoken with in the coal industry has indicated that while you can clean the SO<sub>x</sub> and the NO<sub>x</sub>, you still can't deal with the CO<sub>2</sub>. Maybe when the day does come when there is some type of technology out there that is cost-efficient and reasonable to use, we'll be able to avail ourselves of it. But until such time, there really isn't clean coal.

**The Chair:** Further discussion? I'll now put the question. All in favour of the amendment? Opposed? It's lost.

We'll go back to number 51. Mr Hampton?

**Mr Hampton:** Thank you, Mr Chair. I'm sorry I was a bit late. I had a couple of other things I had to quickly take care of.

I move that section 25.23 of the Electricity Act, 1998, as made by section 30 of schedule A to the bill, be amended by adding the following subsection:

"Unit price information

"(2.1) The annual report must include unit price information for each of the procurement contracts in effect during the fiscal year."

You don't have to identify the contract. Again, if you want to send price signals to industry, to consumers, to business, it seems to me that whatever procurement contracts are in effect during the year, someone should be able to look at the annual report and say, "Well, there were 15 contracts. One of those contracts was for 4.9 cents a kilowatt hour, another was for 5.1, another was for 5.3." Again, without disclosing which contract, which

company, it simply tells people, "This is where the price of electricity is headed; this is what's being negotiated."

It seems to me this is also part and parcel of the public being able to hold the Ontario Power Authority accountable. If, all of a sudden, you see contract prices jumping up to six and seven cents a kilowatt hour, I think the consumers of Ontario, who will have to pay the bill, deserve to know that. They don't need to know which companies. I would assume that the power authority is likely going to sign, over the course of, say, four or five years, a number of agreements. Simply saying there is a contract in place and it calls for unit price of 4.7, another contract in place and the unit price is 4.9 and another contract in place and the unit price is 5.1, and having that presented in the annual report, is information the public should have. It won't identify the economics of a particular company. It won't identify the bidding relationships or anything like that. It just says, "This is the price." If the government is really interested in being open and transparent, this kind of information should be in the Ontario Power Authority's annual report.

**Mrs Cansfield:** Certainly, I don't see why total payments may not be possible in terms of being provided in the annual report. As I understand, the IMO—the new IESO—currently actually publishes such items on its Web site, so I don't see why this is required.

The other is that it may be an issue of a development point in taking it under advisement. But actually, the confidentiality issues are a concern. I think that since total payments might be in the future, and the IMO currently is in a position where they do put things such as this on the Web, this would be something for further consideration in the future.

**Mr Hampton:** The IMO does not put individual contract prices on the Web. Keep in mind that the OPA is going to be doing something different. The OPA is going to be signing long-term procurement contracts. Those long-term procurement contracts are going to have a lot to do with setting the price. Simply tell people: "This is where the price is headed. For the next 20 years, this is the kind of price scenario we're looking at." Why would you want to deny that information to the public?

Again, you're dealing here with the OPA's accountability. If the OPA suddenly starts signing contracts at 8.5 or nine cents a kilowatt hour, I would think the public might want to know that—might need to know that—and should know that.

**Mrs Cansfield:** I'm not suggesting the information would not be available. I'm suggesting alternatives for the information. If you recall, the OPA must put together its business plan and procurement processes and go to both the minister and the OEB for approval. So it may be part of that process, but it has yet to be determined.

**Ms Wynne:** I think there's another issue here. As I understand it, Mr Hampton, there's an issue about the word "unit." The unit price is not static, and it may be, as Mrs Cansfield has said, that as we go forward we can find other language. It's not that the government is averse to having the information available; it's to pin down

exactly which price you're looking for. My understanding is that in these contracts the prices are determined by formula and the technical problem is to actually pin down what the unit price is. That's my understanding. I stand to be corrected, but I think that's part of the problem we're dealing with here. There isn't one price but a range of prices or a price determined by formula that's not static.

**Mr Hampton:** Then it would seem to me that if you're dealing with a price that may vary from 7.3 cents a kilowatt hour to 7.7 cents a kilowatt hour this year, you would disclose that. You wouldn't have to disclose the company. You'd simply acknowledge that there are other variables that might play, but the price will somehow move back and forth from here. Not being able to know what the price is—saying we can't publish the unit price because we don't know what it is—I think the public would need to know that too, or ought to know that.

**Ms Wynne:** I think the point I'm making is that "unit price" is probably the wrong language. I think we need to find different language. I don't know if the parliamentary assistant wants to add to that, but my understanding is that we need to find different language to move forward.

**Mrs Cansfield:** There's a fair comment on the issue of the formula of the unit price.

I think the other issue as well is that if you start publishing an individual price or unit price, does that become the price in a further negotiation? That's why I say I don't believe there would be any difficulty in terms of publishing the totals, but I think there are some legal issues that need to be resolved before we move forward on something as significant as this.

**Mr Hampton:** I remain unconvinced as to why the public shouldn't know the unit prices of long-term contracts. When it comes down to the individual consumer, they're going to be asked to pay a unit price.

**Mrs Cansfield:** Mr Hampton, I think I've said it three times now: Nobody is opposed to that; we need to find the correct mechanism whereby—

*Interjection.*

**Mrs Cansfield:** That's correct.

**The Chair:** Further discussion? I will now put the question. All those in favour of the amendment? Opposed? It's lost.

Shall schedule A, section 30, as amended, carry? All in favour? Opposed? It's carried.

Mr Hampton?

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**Mr Hampton:** I move that subsection 25.28(1) of the Electricity Act, 1998, as made by section 32 of schedule A to the bill, be struck out and the following substituted:

"Integrated power system plan

"(1) Once during each period prescribed by the regulations, or more frequently if required by the minister or the board—"

**The Chair:** Excuse me, Mr Hampton. We're on number 52.

**Mr Hampton:** I'm sorry. I moved it over too quickly.

**Mr O'Toole:** You assumed it would fail.

**Mr Hampton:** Yes.

I move that subsection 25.27(2) of the Electricity Act, 1998, as made by section 31 of schedule A to the bill, be struck out and the following substituted:

“Forecast and assessments

“(2) The OPA shall incorporate the forecasts and assessment of the conservation bureau regarding energy conservation and load management into its assessment of the adequacy and reliability of electricity resources.”

If I may just speak to this, it simply ensures that energy conservation and load management is taken seriously in any assessment of adequacy and reliability of electricity resources. What's the use of having a conservation bureau that is working away at conservation if their assessments of conservation capability and load management are not going to be taken into account by the OPA and incorporated into their forecasts and assessments?

**Mrs Cansfield:** That's exactly our argument as to why the conservation bureau will be embedded in the OPA, because it is within the OPA's mandate to actually forecast and deal with the issues of conservation. But ultimately the minister will set the overall targets for conservation for the province, which is clearly outlined in this bill. In fact, what we're doing is saying to you that we've already got this within the OPA mandate. The targets will be set by the minister and the OPA does get their directions from the minister.

**Mr Hampton:** In response, this has nothing to do with embeddedness and it has nothing to do with targets; it has everything to do with the conservation bureau doing their work seriously and being able to come up with reliable information as to conservation prospects, load management prospects and then having that incorporated into the OPA's forecasts and assessments. If you don't have that structurally in legislation, it suggests to me you're not really taking conservation and load management seriously. The OPA can then say, “Oh, yes, we hear what the conservation bureau says, but we don't have to regard that information.” Either you take conservation and load shifting seriously, in which case it gets built right into the OPA's assessments and forecasts, or you don't take it seriously. If you take it seriously, it seems to me, you put it in legislation: “They shall take this into account.”

**Mrs Cansfield:** I think I've outlined the position that in fact we believe this is within the OPA's mandate, that they will work in an integral fashion with one another. There are public forums whereby, through an annual report, the conservation bureau will be able to identify existing barriers to determine whether or not the government is meeting its priorities. It's all very public, it's very open, it's very accessible, so I see no reason to change the legislation. We in fact have another process in place where the Ontario Energy Board as well will be a part of approving the procurement process for the OPA. The OPA has, within its mandate, as I said before, conservation. You'd clearly have to live on another planet if you didn't think conservation was a cornerstone of the Liberal platform in the last eight to 10 months. So you know it is embedded in our philosophy.

**Mr Hampton:** If you're serious, put it in the legislation.

**Mrs Cansfield:** We are serious. It is in the legislation. It's in the OPA mandate.

**The Chair:** Further discussion? I will now put the question. All in favour of the amendment? Opposed? It's lost.

Shall schedule A, section 31 carry? All in favour? Opposed? It's carried.

There are no amendments to schedule A, section 33. Shall—

**Mr Hampton:** Hang on, I still have—

**The Chair:** Yes, you do, Mr Hampton. My apology.

**Mr Hampton:** I move that subsection 25.28(1) of the Electricity Act, 1998, as made by section 32 of schedule A to the bill, be struck out and the following substituted:

“Integrated power system plan

“(1) Once during each period prescribed by the regulations, or more frequently if required by the minister or the board, the OPA shall develop and submit to the board an integrated power system plan,

“(a) that is designed to ensure the adequacy and reliability of electricity supply through the following, in the following order of priority,

“(i) energy conservation and efficiency and load management,

“(ii) the use of renewable energy sources,

“(iii) the use of clean energy sources;

“(b) that will protect public safety and the environment, and promote economic and environmental sustainability in the generation, transmission and distribution of electricity; and

“(c) that encompasses such other related matters as may be prescribed by the regulations.”

If I may speak to this, it seems to me that if you're serious about energy conservation and efficiency and load-shifting, you put it in the legislation. If you're serious about the use of renewable energy sources, you put it in the legislation. If you're serious about the use of clean energy sources, you put it in the legislation, so that it's clearly understood what the OPA must do and the framework they must go through is clearly understood. Once again, this shall be submitted to the board in the form of an integrated power system plan.

Otherwise, if these things aren't in the legislation, it seems to me that rhetoric about energy conservation and efficiency and load-shifting, rhetoric about renewable energy sources and rhetoric about clean energy sources is just that. Either you're doing this or you're not. If you're doing it, put it in the legislation so that the direction the OPA must follow is clear.

**Mrs Cansfield:** It's always interesting to hear rhetoric from a previous government that actually cancelled conservation programs.

This amendment does not provide for the flexibility that is required. It doesn't identify the definitions of what clean energy is. It actually speaks to a prioritization as opposed to the flexibility that we need in terms of that supply.

Everybody has recognized that it's going to be a mixed supply that's required. You can't have all of one or the other. We need to find some time and some balance. This certainly doesn't permit any of that. As I said, to add to that, it doesn't even provide the necessary—what do you mean by “load management? What do you mean by “clean energy”? It means one thing to another and something to someone else. So at this point, I'm not able to support this amendment.

**Mr McMeekin:** I can't support this. I think he kills the whole green energy sector. If you're making decisions about supply based on efficiency, first and foremost, there may well be some provision of supply that objectively is less efficient but of higher value because of some other decisions that a government makes. So when you put that as your first priority and the others are to be sequential, I think what you're doing, ironically, is knocking off the very goal that you espouse wanting to head toward. I think that's bizarre. I wouldn't support it on that basis alone.

**Mr O'Toole:** I would just like to refute what Mrs Cansfield said. It's absolutely false, if you look at what we did. In fact, in your last budget you cancelled the sales tax rebate on the Energy Star energy-efficient appliances. So we did incent conservation but we also looked at generation. The coal plan that we had was far more realistic, and after long consultations, it is our government that actually made the plan to shut down the Lakeview plant, the coal-generation plant, next year, not your government. It's our government that actually commissioned the Toronto utility to bring on stream the wind generation, several at Bruce, as well as the Pickering station wind generation.

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I'd like to make sure that you understand the long road of travesty. If you want to look further back and become acrimonious about this, it probably goes back to when Howard Hampton was Minister of Natural Resources and cancelled the contract with Manitoba. It actually goes back to Maurice Strong. It goes back to a lot of mismanagement that really started under David Peterson when they screwed up the Darlington nuclear restart/cancel. So let's keep it in perspective.

Yes, there's a lot of work to do. This bill goes part of the way—

**Mrs Cansfield:** Mr O'Toole, I think you're protesting too loudly. I was referring to Mr Hampton and not to you.

**Mr O'Toole:** I have the floor, Chair.

**The Chair:** Mrs Cansfield, please. Mr O'Toole, what I would ask is that you stick to the amendment.

**Mr O'Toole:** I am. Mrs Cansfield, you can probably yell louder than I can, and I understand that, but the truth is hard for you to take. When you say things that are false, I must correct the record.

**Mrs Cansfield:** I didn't say—

**Mr O'Toole:** Yes, you did.

**Mrs Cansfield:** No, I didn't. It referred to Mr Hampton.

**Mr O'Toole:** You said our government cancelled conservation plans.

**Mrs Cansfield:** I was speaking about Mr Hampton, Mr O'Toole.

**The Chair:** Thanks, Mr O'Toole.

**Mr O'Toole:** Thank you for listening.

**Mr Hampton:** I have a responsibility to respond. Mrs Cansfield would be wise to read the comments of the former energy critic for the Liberal Party in 1990, 1991, 1992 and 1993, one Dalton McGuinty, who said conservation was too expensive for Ontario.

**Mrs Cansfield:** May I please respond?

**The Chair:** Mrs Cansfield, you have the floor.

**Mrs Cansfield:** Thank you. First of all, Mr O'Toole, I was not referring to you, actually, I do say; I was referring to Mr Hampton. I lived through that particular dynasty and things such as the social contract. That's what I was referring to.

In fact, I applaud the select committee on renewables. The challenge was, unfortunately, that you didn't do enough with it. Having said that, it was an excellent report.

**The Chair:** Further discussion? I will now put the question. All in favour of the amendment? Opposed? It's lost.

Mr Hampton, you're on again.

**Mr Hampton:** I move that subsection 25.28(2) of the Electricity Act, 1998, as made by section 32 of schedule A to the bill, be amended by striking out “and” after clause (c), by adding “and” after clause (d), and by adding the following clause:

“(e) the protection of the environment and public ... safety and security.”

Again, this simply speaks to making sure that protection of the environment, public health, safety and security are recognized as priorities in the bill and legislatively.

**The Chair:** Mr Hampton, I think when you introduced your amendment, you may have left out the word “health.” I think you want that included, right?

**Mr Hampton:** Yes, “the protection of the environment and public health, safety and security.”

**Mrs Cansfield:** In our own amendments for the purposes section, we have already addressed these issues of safety, sustainability, reliability, conservation and certainly cleaner energy sources, so we see no need for this amendment.

**The Chair:** Further discussion? I will now put the question. All those in favour? Opposed? It's lost.

Shall schedule A, section 32, carry? All in favour? Opposed? It's carried.

There are no amendments to schedule A, section 33. Does it carry? All in favour? Opposed? That's carried.

Ms Cansfield, please.

**Mrs Cansfield:** I move that subsections 25.30(4), (5) and (6) of the Electricity Act, 1998, as set out in section 34 of schedule A to the bill, be struck out and the following substituted:

“Transition

“(4) Despite subsection (2), the minister may direct the OPA to assume, as of such date as the minister considers appropriate, responsibility for exercising all powers and performing all duties of the crown, including powers and duties to be exercised and performed through an agency of the crown,

“(a) under any request for proposals, draft request for proposals, another form of procurement solicitation issued by the crown or through an agency of the crown or any other initiative pursued by the crown or through an agency of the crown,

“(i) that was issued or pursued after January 1, 2004 and before the board’s first approval of the OPA’s procurement process under subsection 25.29(4), and

“(ii) that relates to the procurement of electricity supply or capacity or reductions in electricity demand or to measures for the management of electricity demand; and

“(b) under any contract entered into by the crown or an agency of the crown pursuant to a procurement solicitation or other initiative referred to in clause (a).

“Release of the crown, etc

“(5) As of the day specified in the minister’s direction under subsection (4), the OPA shall assume responsibility in accordance with that subsection and the crown and any crown agency referred to in that subsection are released from any and all liabilities and obligations with respect to the matters for which the OPA has assumed responsibility.

“Deemed compliance

“(6) The following contracts shall be deemed to be procurement contracts entered into in accordance with any integrated power system plan and procurement process approved by the board:

“1. A contract entered into by the OPA following a procurement solicitation or other initiative referred to in clause (4)(a).

“2. A contract referred to in clause (4)(b).

“Same

“(7) The OPA shall enter into any contract following a procurement solicitation or other initiative referred to in clause (4)(a) if directed to do so by the Minister of Energy, and that contract shall be deemed to be a procurement contract that was entered into in accordance with any integrated power system plan and procurement process approved by the board.”

If I could speak to this, the amendments to this section actually enable the RFPs or contracts to be transferred from the crown or a crown agent to the OPA at different times rather than all at once. It actually expands the scope of what may be transferred to the OPA to include any initiative by the crown or a crown agent relating to electricity supply, capacity or demand management. It enables the Minister of Energy to direct the OPA to enter a contract that the government has previously negotiated.

**The Chair:** Discussion? I will now put the question. All in favour of the amendment? Opposed? It’s carried.

Shall schedule A, section 34, as amended, carry? Carried.

Since there are no amendments to schedule A, sections 35 and 36, I would move and ask if they would be carried at this time. All in favour? Opposed? They’re carried.

Mr Hampton, you’re proposing a new section in schedule A: section 36.1.

**Mr Hampton:** That’s right. I move that schedule A to the bill be amended by adding the following section:

“36.1 The act is amended by adding the following section:

“First Nations

“25.33 Where the government of Ontario has established any program by which municipalities assist low-income consumers in paying for electricity, a band within the meaning of the Indian Act (Canada) is entitled to participate in the program.”

By way of explanation, we now have the anomaly in Ontario whereby the government has established a special low-income assistance plan for someone living in an organized municipality but First Nations are not able to participate in this. In fact, if I can quote the minister, the minister said that if people living on an Indian reserve are having trouble paying their hydro bills, they should go and talk to Ontario Works and see if Ontario Works will use their discretion to help them. It seems to me that this creates a highly unequal and discriminatory situation. If there is going to be a low-income assistance plan, it should apply to all people in Ontario. It certainly shouldn’t exclude First Nations, as it does now.

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**Mrs Cansfield:** Mr Chair, if I may reply. In fact, it does include all groups as of this time. If you contact the ministry of Community and Social Services, that has been remedied. All groups are included. This amendment is not necessary.

**Mr Hampton:** We’ll see very shortly. I’ve got a number of First Nations calling me, reporting that individuals in their community can’t get the assistance. They’re told to go down to the Ontario Works office and plead with Ontario Works. I don’t think that’s equal treatment by any means. But we’ll see.

**Mrs Cansfield:** I’m sure I could get you the correct information to pass on to your constituents.

**Mr O’Toole:** Does that mean you support this amendment, so that it’s in writing?

**Mrs Cansfield:** No. It’s been changed by the issue that all groups are included.

**Mr O’Toole:** It just clarifies it, really.

**Mrs Cansfield:** Nobody is excluded.

**Mr O’Toole:** Where does it say that in section 25.33?

**Mrs Cansfield:** It’s not part of this act. It’s part of—

**Mr McMeekin:** We don’t want to marginalize anybody.

**The Chair:** Is there a way, Mrs Cansfield, we could get some definitive information on this before the committee finishes our deliberations today? Maybe we can stand this one down if we could get some information that would satisfy all members of committee.

**Mrs Cansfield:** We can do that.

**The Chair:** Mr Hampton, can we stand this down?

**Mr Hampton:** That's fine.

**The Chair:** Mr O'Toole, is that acceptable?

**Mr O'Toole:** That's great; excellent.

**The Chair:** We'll now deal with schedule A, section 37. There are no amendments to that. Shall schedule A, section 37, carry? Opposed? It's carried.

**Mrs Cansfield:** Section 38 of schedule A to the bill, subsection 29(1) of the Electricity Act, 1998. The government recommends voting against section 38 of schedule A to the bill.

Reason for notice rather than motion: This notice, which recommends voting against the section, is provided instead of a motion to strike it out. The reason is that parliamentary procedure requires that the committee vote against the section, rather than pass a motion to strike it from the bill, if the committee wishes to have it removed from the bill.

**Mr O'Toole:** Any debate on this? "A distributor"—that's the local distribution company—"shall sell electricity to every person connected to the distributor's distribution system, including a purchaser of electricity under a retail contract of a type prescribed by the regulations who requires additional electricity to satisfy his or her total electricity needs, unless the person has advised the distributor in writing that the person does not wish to purchase electricity from the distributor."

I don't get why you're eliminating this. It clarifies that the LDCs must sell electricity to everyone who is connected to the system.

**Mrs Cansfield:** A number of the local distribution companies have raised concerns with respect to the capital and operating costs as well as the operational complexities associated with this implementation of split supply. The LDCs, for example, would need to distinguish between the amount of green electricity supplied by the retailer relative to the purchaser's total demand at any given point. The OPA, working with the minister's directive, will establish a system-wide renewable target and will be active in the fostering of green power in the renewable industry. So in essence, voting against this is to help work with the LDCs to find a more appropriate mechanism. This was an issue raised by the local distribution companies themselves.

**The Chair:** Wasn't this raised by the LDC group in Ottawa when they made their presentation?

**Mrs Cansfield:** It's actually been raised by all the local distribution companies across the province in terms of dealing with split supply. So what we're saying is that we're listening to you and we'll find a better way to do business.

**Mr O'Toole:** It says here, I think, that everyone connected to the grid has the right to receive electrons, unless, as it says in the last line, the person has advised the distributor in writing that they want to get off the grid. Otherwise, there may be some reason not to connect a new plant, a new factory, a new greenhouse, because the LDC doesn't have enough electrons under its current

contracts or whatever. To me, I feel more comfortable with it being in here, so that it means anyone that's connected to the wires has the right to expect that they'll be sold electricity, the exception being that they have said in writing they want to be off the grid.

What if you have what you call distributed generation? That could be a case more for Howard, where you'd have a pulp and paper plant that wants to co-generate and set up their own distribution system for excess electricity. I think the person at the end of that logging road should have the right to buy the electrons. That's all I'm saying. If you take it out, what guarantee do people have that they have access to the grid, to the system? I'm just seeking clarification. I'm not in confrontation here in any way.

**Mrs Cansfield:** Right. The existing act says, "A distributor shall sell electricity to every person connected to the distributor's distribution system," except a person who advises "the distributor in writing that the person does not wish to purchase electricity from the distributor." That is what is being stricken out.

The problem is, the local distribution companies have said to us that with the price freeze they've had and the fact that they couldn't collect their third tranche, they are in tight financial shape. This is an additional cost to them, and they need to find a better mechanism to work. We've said to them, "We're listening to you, and we will sit down." The minister will deal with developing the renewable targets, and we will work with the local distribution companies to find a mechanism that works for them. It doesn't say that we're not going to deal with the green energy issue. We are. We've made that commitment. It just says, in fact, that we'll work with our partners to find a better way to provide.

**Mr O'Toole:** I guess the remote parts of Ontario—it's very expensive to deliver those electrons down the logging roads. If you are saying, "Well, the LDC says, 'I just don't want to sell them electricity,'" who the hell's going to service them? I don't really have enough information here to say that this issue is addressing something the LDCs brought up that won't prevent people from purchasing electricity.

**Mrs Cansfield:** But this deals, if I may, with renewables. It's not dealing with anything but the renewable energies. It's the issue of the split supply. So we're just trying to find a better way so that people, in fact, can deal with it.

**Mr O'Toole:** I am looking at section 38, and there's no word "green" in here.

**Mrs Cansfield:** That was the intent. That's why we're withdrawing this, so we can find a better way to do it.

**Mr O'Toole:** All right. I think I've made my point, that if someone's cut off the grid, through no request of their own, this section here doesn't protect anyone.

I'd like to have that explanatory note. I think it'd be helpful in the future if I knew why I listened to that section.

**Mrs Cansfield:** Certainly.

**The Chair:** Further discussion? Shall schedule A, section 38, carry? Opposed?

*Interjection.*

**The Chair:** Yes, you want to vote against it. I have to ask if it's carried. It's not going to be carried, so you're voting against it.

**Mrs Cansfield:** We have.

**The Chair:** Shall schedule A, section 38, carry? Opposed? It's lost.

**Mrs Cansfield:** I move that section 29.1 of the Electricity Act, 1998, as set out in section 39 of schedule A to the bill, be struck out and the following substituted:

“Conservation measures

“29.1(1) Subject to section 71 of the Ontario Energy Board Act, 1998, and such limits and criteria as may be prescribed by the regulations, a transmitter, distributor or the OPA may provide services that would assist the government of Ontario in achieving its goals in electricity conservation, including services related to,

“(a) the promotion of electricity conservation and the efficient use of electricity;

“(b) electricity load management; or

“(c) the promotion of cleaner energy sources, including alternative energy sources and renewable energy sources.

“Same

“(2) Nothing in subsection (1) allows a distributor or transmitter to generate electricity by any means except through an affiliate approved by the board under section 71 of the Ontario Energy Board Act, 1998.”

**1350**

If I could speak to this, in essence, this bill provides greater clarity around the local distribution companies' ability to offer direct services related to conservation, energy efficiency, load management, renewable and alternative energy sources. As a matter of fact, most LDCs have an affiliate currently. Some stakeholders may have interpreted the current language to mean that the LDCs may own their own generation directly, and they have raised those regulatory concerns, so we have clarified that issue.

**The Chair:** Further discussion? I will now put the question. All those in favour of the amendment? Opposed? It's carried.

Shall schedule A, section 39, as amended, carry? Opposed? It's carried.

Mr Hampton, you have a new section 39.1.

**Mr Hampton:** That's right. I move that schedule A to the bill be amended by adding the following section:

“39.1 The act is amended by adding the following section:

“Restrictions on deposits

“30.1 (1) A distributor shall not require a low-income consumer to pay a deposit before providing the consumer with electricity.

“Regulations

“(2) The Lieutenant Governor in Council may make regulations defining ‘low-income’ consumer for the purposes of subsection (1).”

We're already seeing situations where low-income consumers are simply unable to pay a sizable deposit. In fact, the deposits, in some cases, that are being required are well beyond a person's ability to pay. It seems to me this is one of the issues that is going to become more and more serious. The time to do something about it in legislation is now.

**Mrs Cansfield:** There's no question this is an issue for the government as a whole. We're very aware of the challenges that people with modest incomes face. In fact, I have been travelling around the province, working with local distribution companies, addressing primarily this issue, and small businesses have a very modest profit line as well. We recognize that it's part of our responsibility to work with people to enable them to use their energy more efficiently.

But in fact, this is enabling legislation and it really doesn't address or define the low-income customer. When it comes down to the security deposits, the Ontario Energy Board actually now has some province-wide rules. That is a standard that has been in place for some time. The board will continue to monitor, and they have the responsibility of monitoring, the local distribution companies' security deposit issues. I recognize they can be significant. If that standard requires changing, then it is incumbent upon the OEB to adjust that standard to meet the needs.

Regarding the low-income earners, as I indicated, everyone I've spoken to recognizes this is a serious concern and it's not restricted to any particular part of the province. As you know, we have entered into a number of initiatives to try to help people address this. Certainly we've just put in place a current initiative that will help address the replacement of appliances for folks with modest incomes. That will start in one area and then we hope to have that right across the province by this fall or early in the winter. That's through the housing associations.

So, for us, the legislation is not intended for what you've put here as an amendment. We recognize the challenges that are faced and we are dealing with them. But, in fact, this is enabling legislation and doesn't go to defining what is or what is not a low-income consumer. If you like, we could probably give you a copy of the different type of initiatives that are under way, the same as the low-income assistance from social housing.

**Mr McMeekin:** I think that would be helpful. I'd like to see that. I appreciate the assurance of the government, that the minister is reflecting on this important issue that has been raised. The argument that was raised is it's not appropriate here, but it is being looked at. Is that fair to say?

**Mrs Cansfield:** That's correct. It is being looked at.

**Mr McMeekin:** OK. I've written to the minister myself, because Mr Hampton's right, these are the kinds of human-face issues we see from time to time. I have some responsibility for the seniors' portfolio and as recently as two days ago was asked by seniors to reflect on this important issue—not specifically the deposits but the whole issue of energy affordability.

That said, and I don't know if this is the place or not, but being we're all hopefully in tune and non-partisan in terms of vulnerable seniors and low-income folk who may have some difficulty with changes, particularly when not that many years ago we were telling everybody to live better electrically—it was cheap and all that sort of stuff—I'm less concerned about the deposits than I am about the ability to cut off the source of power into homes. I know that at one point, in response to some queries raised publicly in the House, the then government—I give them credit for this—moved to preclude arbitrarily shutting off the power of low-income vulnerable seniors and others. I think that provision ran out. I don't think that's in effect any longer. I'm wondering if the parliamentary assistant—we raised this in some of our background stuff, Donna. I wonder if you have any comments on that. Will the ministry be looking at this particular issue, hopefully with a view to providing some assurance that those who, for whatever reason or combination of reasons, simply can't make things work—often they have young kids, people with unusual circumstances—are somehow going to be protected and their power isn't going to be shut off? I'm very concerned about that.

**Mrs Cansfield:** I believe everybody in this room is, Mr McMeekin, to be quite honest with you.

The ministry has entered into a partnership or coalition, if you like, with the Canadian Environmental Law Association to specifically look at dealing with low-income and how they can work with local distribution companies on the demand side in terms of conservation to help these folks, and they are identified; as I indicated as well, dealing with social housing, again finding ways and means in terms of metering. We find in our analysis—presumably most folks know this—that unfortunately the lower your income, typically the higher proportion you pay in relation to energy. Part of it is because in the past we've had low-income housing and we've had it electrically heated. The challenge now, of course, is that the equipment is old, as are their appliances etc. So it's incumbent on all of us to find opportunities where we can help folks who live on modest means.

It's going to take a very concerted effort on behalf of all of us to work together. I know that when I was in Peterborough, we met with the association in Peterborough. As I say, I've been across the province. We are currently working with professional engineers, people from interior design, Hydro One, the ministry and NRCan on a small business initiative, looking at how we can help in terms of supplying the audits but having the costs covered, both by NRCan and local distribution companies.

We're making a concerted effort in that area in particular. I think the reason is obvious: We need to help those who are less fortunate and do not have those tools readily at hand. All of us recognize that is something we need to do. As I indicated, this legislation isn't specific to that, because it's enabling, but that does not preclude that

any one of us is not looking at ways and means to help those who are more disadvantaged than we are. If people have ideas other than what we've proposed—and I can tell you that the distribution companies have come up with a significant number of those proposals, along with others from the community, including the large local distribution companies—I'd be delighted to hear them, because that's part of our conservation initiative.

**Mr Ramal:** I just want to be on the record as sharing that concern with Mr Hampton, especially about low income and the security deposit, because this is a very serious issue in my riding of London-Fanshawe. So many people complain about it. Actually, I learned a couple of days ago about many people being cut off hydro because they didn't have the money for a security deposit or to pay the bill, because they have low incomes.

I don't want to be against this motion, which means I'm against the low-income or supporting the deposit. I'm against it because it's not related to Bill 100. Also, I was pleased when I listened to parliamentary assistant Donna Cansfield's explanation of how we can deal with this issue with different mechanisms. I'm looking forward to hearing more details from the assistant minister of energy to take to my riding of London-Fanshawe.

**1400**

**Mr Hampton:** Gee, since all the government members are concerned about the problem, I can't imagine why they wouldn't want to include this section in the bill to say very clearly to distributors, "You can't demand a security deposit of someone who clearly doesn't have the money."

**Mr McMeekin:** I just want to say again that I'm more concerned about—and we've had a commitment to look at this. The deposit is something the government is saying doesn't belong in the act, but we are going to give a commitment to revisit that issue, as well as the issue of the suspension of access to service. I appreciate that initial assurance very much.

I just want to say, for those who may not understand the importance, how it works now. You get a call in the constituency office from somebody who may be just coming home from the hospital or something and they need a little extra heat. Maybe they're living out in a rural area in my riding. Perhaps there has been some history of failure to meet the financial obligations and, yes, maybe it has run over three or four months, and you've intervened. Then somebody comes along and cuts it off.

Nine times out of 10, if we jump through enough hoops we can get it back on again. But it sometimes takes a day and a half or two days of my time. I don't mind doing it, because it's important. But the personal intervention depends on whether or not you have a good relationship with the local distribution company. God help you if you don't, or if you don't have a good relationship with a CCAC and you need some help with a long-term-care situation.

The point I'm trying to make is that it shouldn't have to be that way. There should be some basic protections

from each according to their means to each according to their needs. I think Jesus was the first one who said that.

All of that aside, I think there needs to be a way to—

**Mr Hampton:** I think it was Karl Marx.

**Mr McMeekin:** He read his Bible, obviously. People forget he was quite an interesting and well-read man.

I'm being told to wrap it up. I don't think it should have to work that way. I don't think it should depend on whether Mr Hampton or Mrs Cansfield or Ms Wynne or Mr McMeekin has a particularly good relationship with some bureaucrat in the system somewhere that it gets turned back on.

**Mr Hampton:** I just want to point out to members that the current policy of Hydro One is that where somebody's hydro has been disconnected, they don't connect again until the bill is paid in full, including any penalty and a security deposit. For all kinds of folks that means they might as well kiss their hydroelectricity goodbye, because they would never have the disposable income to pay all that. That's the situation people are facing.

**The Chair:** Shall schedule A, section 3.1, carry? All in favour? Opposed? It's lost.

There are no amendments for schedule A, section 40. Shall it carry? Opposed? It's carried.

Mrs Cansfield, please.

**Mrs Cansfield:** I move that subsections 33(5), (6) and (7) of the Electricity Act, 1998, as set out in section 41 of schedule A to the bill, be struck out and the following substituted:

“Review by the board

“(5) The board,

“(a) may review any amendment to the market rules within 15 days after receiving a copy of it under subsection (2); and

“(b) shall review an amendment to the market rules within 15 days after receiving an application under subsection (4) for review of the amendment.

“Stay of amendment

“(6) No application for review of an amendment and no review by the board of an amendment under this section shall stay the operation of the amendment pending the completion of the board's review of the amendment unless the board orders otherwise.

“Same

“(7) In determining whether to stay the operation of an amendment, the board shall consider,

“(a) the public interest;

“(b) the merits of the application;

“(c) the possibility of irreparable harm to any person;

“(d) the impact on consumers; and

“(e) the balance of convenience.”

We tried to make this language plainer than it was. I know that it's difficult, but the amendments actually ensure that a board review of market rule amendments on its own volition does not stay the operation of an amendment. It also ensures that these timelines actually do correspond with the board's powers to revoke amendments, which is in subsection 33(3) and subsection 34(2.2).

**The Chair:** Further discussion? I'll now put the question. Shall this amendment carry? Opposed? It's carried.

Shall schedule A, section 41, as amended, carry? All in favour? Opposed? It's carried.

Since there are no amendments for schedule A, sections 42, 43, 44 and 45, shall they carry? Opposed? Carried.

We now go to schedule A, section 46.

**Mrs Cansfield:** I move that section 46 of schedule A to the bill be struck out and the following substituted:

“46.(1) Subsection 37(1) of the act, as re-enacted by the Statutes of Ontario, 2002, chapter 1, schedule A, section 6, is amended by striking out ‘IMO-administered markets’ and substituting ‘IESO-administered markets.’”

(2) Subsection 37(16) of the act, as enacted by the Statutes of Ontario, 2002, chapter 1, schedule A, section 6, is repealed and the following substituted:

“Submission of report

“(16) The panel shall submit the report to IESO, the board and any other person that the panel considers appropriate.”

This is just an amendment to correct the drafting reference from the IMO to the IESO.

**The Chair:** Discussion?

**Mr O'Toole:** Subsection 37(1)—I'm just looking here: Should that be (16) or (1)? It says here “(16) of the act.” Next, 46(2), 37(16): Is that a typo or is that correct? Where is that in here? I'm on page 29.

**Mrs Cansfield:** I'm just checking.

**Mr O'Toole:** It's just a technical thing.

**Mrs Cansfield:** Can I ask counsel?

**Mr O'Toole:** It doesn't refer to that in the subsection.

**Mr Steve McCann:** Steve McCann, counsel, Ministry of Energy. I think in this motion, 46(1) is just to correct a minor drafting oversight in which a reference had been left in the Electricity Act to the IMO-administered markets. That should have been changed to the IESO-administered markets, which this does. So that's just an updating matter.

Subsection (2) really just leaves in place the existing—

**Mr O'Toole:** Yes, I follow that.

**Mr McCann:**—matter that's already in Bill 100.

**Mr O'Toole:** That's fine. There's no subsection 37(1) in this bill.

**The Chair:** Any further discussion? I will now put the question. All those in favour of the amendment? Opposed? It's carried.

Shall schedule A, section 46, as amended, carry? All in favour? Opposed? It's carried.

There are no amendments to schedule A, sections 47, 48 and 49. Shall they carry? Opposed?

**1410**

**Mrs Cansfield:** It's 49.1.

**The Chair:** I'm sorry. There's a new section 49.1.

Should 47, 48 and 49 carry? It's carried.

Mrs Cansfield, a new section, 49.1.

**Mrs Cansfield:** I move that schedule A to the bill be amended by adding the following section:

“49.1 Part IV.1 of the act is amended by adding the following section:

“Power to acquire land and property

“53.6(1) Ontario Power Generation Inc may, without any further approval and without the consent of the owner, enter upon, take possession of, expropriate and use such land, property, waters, water privileges, water powers, rights of access and roads, buildings and works as in its opinion are necessary for the purpose of the expeditious development and construction of works for the conveying of water by subsurface tunnels from the Niagara River to any existing or future power generation facilities and ancillary works at Niagara.

“Same

“(2) Subsection (1) applies,

“(a) despite any provision of this or any other act;

“(b) despite the devotion or deemed devotion of the land or property to a municipal or other public use;

“(c) despite the power of the owner of the land or property to take land compulsorily;

“(d) despite the origin, nature or sources of the owner’s title to or interest in the land or property; and

“(e) despite the manner by which the land or property was acquired by the owner or any of the owner’s predecessors in title.

“Easements continue until release

“(3) Despite any provision of any other act, if Ontario Power Generation Inc acquires an easement through, over, under or otherwise affecting any land, the land shall continue to be subject to the easement and the easement shall be binding upon the owner and all subsequent owners of the land until Ontario Power Generation Inc grants a release.

“Acquisition of whole parcels

“(4) Ontario Power Generation Inc may acquire a whole parcel of land of which only a part may be acquired under the authority of this section, together with any right of way to it if the parcel is separated from the works, if Ontario Power Generation Inc reasonably believes that the whole parcel may be obtained at a more reasonable price or there is a greater advantage to acquiring the whole parcel instead of only the part and Ontario Power Generation Inc may later sell and convey all or part of the excess land as it considers expedient.

“Expropriations Act application

“(5) If a power exercised under subsection (1) does not constitute an expropriation, Ontario Power Generation Inc shall provide compensation to the owner based on market value as provided by the Expropriations Act.

“No court action

“(6) No action or exercise of a power by Ontario Power Generation Inc under this section shall be restrained by injunction or other process or proceeding in any court.

“Definitions

“(7) In this section,

“‘easement’ means an easement, right of way, right or licence in the nature of an easement, profit à prendre or other incorporeal hereditament;

“‘land’ means any real property and includes any estate, term, easement, right or interest in, to, over, under or affecting real property;

“‘owner’ includes a mortgagee, lessee, tenant, occupant, a person entitled to a limited estate or interest in land and a guardian, committee, executor, administrator or trustee in whom land or any property is vested;

“‘property’ means property of any kind, other than land, and includes any interest in property;

“‘works’ includes all property, plant, machinery, buildings, erections, constructions, installations, materials, devices, fittings, apparatus, appliances and equipment for the generation, transformation, transmission, distribution, supply or use of power.”

**The Chair:** Discussion?

**Mr O’Toole:** Just a question: Does this only apply to the Niagara tunnel project or does it include broader powers of expropriation?

**Mrs Cansfield:** The amendment provides for a limited power to Ontario Power Generation to expropriate lands for the Niagara tunnel. We guarantee land rights, and the scheduling is certainly required to expedite—

**Mr O’Toole:** But it’s just the Niagara tunnel project.

**Mrs Cansfield:** That’s correct.

**The Chair:** Any further discussion? Shall schedule A, section 49.1, carry? Opposed? It’s carried.

There are no amendments to schedule A, section 50. Shall it carry? Opposed? It’s carried.

Mrs Cansfield, please.

**Mrs Cansfield:** I move that section 51 of schedule A to the bill be amended by adding the following subsection:

“(1.1) Subsection 114(1) of the act, as amended by the Statutes of Ontario, 2001, chapter 23, section 69 and 2002, chapter 23, section 3, is amended by adding the following clause:

“(a.1) prescribing classes of persons for the purposes of subsection 7(4).”

**The Chair:** Discussion? I’ll put the question. Shall this amendment carry? Opposed? It’s carried.

**Mrs Cansfield:** I move that subsection 51(3) of schedule A to the bill be struck out.

**The Chair:** Discussion? I’ll put the question. All in favour of the amendment? Opposed? It’s carried.

**Mrs Cansfield:** I move that subsection 114(1.2) of the Electricity Act, 1998, as set out in subsection 51(7) of schedule A to the bill, be amended by adding the following clause:

“(a.1) prescribing classes of persons for the purposes of subsection 25.4(4);”

**The Chair:** Discussion? I’ll put the question. All in favour of the amendment? Carried.

Mr O’Toole?

**Mr O’Toole:** I move that clauses 114(1.2)(c), (d) and (e) of the Electricity Act, 1998, as set out in subsection 51(7) of schedule A to the bill, be struck out.

In that respect, it goes back to the original arguments I’ve been making about the fees being collected on behalf

of the OPA. Therefore, regulations are not required in this instance if the previous attempts I've made to prevent the OPA from levying fees have failed. I ask your indulgence in furthering that argument by supporting this amendment.

**The Chair:** Discussion?

**Mrs Cansfield:** In essence, this would really just take out three of the required regulations that would give the OPA authority for fees, and certainly we can't support that amendment.

**Mr O'Toole:** It's clear that the intent here is to raise the cost of electricity through fees.

**Mrs Cansfield:** If I may, Chair, in fact I think the issue that's important is to recognize that we believe the costs should be recovered through the rate base and not through the tax base, as is being suggested.

**The Chair:** Further discussion? I will now put the question. All in favour of the amendment? Opposed? It's lost.

**Mrs Cansfield:** I move that subclause 114(1.3)(f)(xii) of the Electricity Act, 1998, as set out in subsection 51(8) of schedule A to the bill, be amended by striking out "distributor or retailer" and substituting "distributor, retailer or generator."

**The Chair:** Discussion? I now put the question. All in favour of the amendment? Opposed? It's carried.

1420

**Mrs Cansfield:** I move that subclause 114(1.3)(f) of the Electricity Act, 1998, as set out in subsection 51(8) of schedule A to the bill, be amended by adding the following subclause:

"(xiv) requiring the financial corporation or the OPA to provide information to the IESO or the board for the purposes of section 25.31 or a regulation made under this clause."

**The Chair:** Discussion? I will now put the question. All in favour of the amendment? Opposed? It's carried.

Shall schedule A, section 51, as amended, carry? All in favour? Opposed? It's carried.

We can now move to schedule A, sections 52, 53, 54, 55, 56, 57, 58 and 59, since there are no amendments. I will move that those sections in schedule A be carried. All in favour? Opposed? They're carried.

**Mr Hampton:** I move that section 161.4 of the Electricity Act, 1998, as made by section 59 of schedule A to the bill, be amended by adding the following subsection:

"Termination of IESO-administered markets

"(3) The Lieutenant Governor in Council shall make regulations terminating the IESO-administered markets, and establishing transitional provisions for that termination."

If I may speak to this, I think Mr O'Toole would admit that the IMO-administered markets did not work very well under the former government. In fact, they worked so badly that the government had to bring in a price cap. Members of the committee heard from Professor Thomas of the University of Greenwich, who said that when you're already facing a situation of electricity shortage,

administered markets don't work very well. In fact, you often create the conditions for very high electricity prices.

So I'm merely suggesting that members of the committee recognize what the former government felt only too painfully when the administered markets shot up to 40, 50, 60 cents a kilowatt hour and recognize the wisdom of Professor Thomas, who said that so-called administered spot markets aren't working very well anywhere in the world. Here's a chance to get out of this problem now by this simple amendment, which New Democrats strongly recommend.

**Mrs Cansfield:** We do not agree with this amendment. The IESO-administered markets are a part of the hybrid model, and the hybrid model is the way the Liberal government is going.

**The Chair:** Further discussion? All in favour of the amendment?

**Mr Hampton:** I find the contrast interesting. Before the election, Mr McGuinty said power would remain in public hands—

**The Chair:** Opposed? The amendment is lost.

Shall schedule A, section 59, carry? All in favour? Opposed? Carried.

Do we have the information regarding our First Nations people yet? We can't move—

*Interjection.*

**The Chair:** It's coming, so we'll go back to schedule A, section 60, when we get that information. We're moving there right now. Mr Hampton, you're up first.

**Mr Hampton:** I move that section 1 of the Ontario Energy Board Act, 1998, as made by section 1 of schedule B to the bill, be amended by adding the following paragraphs:

"3. To promote the following, in the following order of priority, in a manner consistent with the policies of the government of Ontario:

"i. energy conservation and efficiency and load management,

"ii. the use of renewable energy sources, and

"iii. the use of clean energy sources.

"4. To protect public safety and the environment, and promote economic and environmental sustainability in the generation, transmission and distribution of electricity."

Let me be clear. I tried earlier to get these stated purposes adopted into the bill. Government members responded by saying, "Oh, this is in the nature of the Ontario Energy Board." Well, if it is, then let's put it clearly within the mandate and the objectives of the Ontario Energy Board. The government says in its press releases that it wants to promote energy conservation and efficiency and load management, that it wants to promote the use of renewable energy resources, that it wants to promote the use of clean energy sources. Then put it in the OEB's mandate by clearly putting it in the legislation.

**Mrs Cansfield:** In our own amendments to the purposes section of the bill, we've already addressed the issues of safety, sustainability, reliability, conservation

and cleaner energy sources. The minister will determine the targets for renewable energy and will ensure that those targets are met. I think we've had this discussion many times today, and the position of the government is still the same. We believe we've addressed these issues. We have concerns around the definitions and the issue of prioritization, where we would require more flexibility.

**Mr McMeekin:** The hierarchy is still wrong. You're still contradicting parts (b) and (c) by insisting on following a sequential priority listing. I think that's the fourth time I've said that in the last two days, so I won't go on any more than that.

**Mr O'Toole:** Just quickly, the first amendment that the government moved during these deliberations was with respect to adding the word "safety" to the overarching purpose clause of clause 1(a). There's no such amendment here that I see at this point under schedule B.

Now, the purpose clause specifically addresses schedule A. If you look at the explanatory notes in there, this is the part where you're adding "safety." I don't support Howard's priority list, as we have discussed before, but I would think it would be prudent if you added the word "safety" into "The board, in carrying out its responsibilities under this or any other act ... shall be guided by the following objectives:

"1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service."

You just want to add the word "safety" there. It would be a friendly amendment.

Schedule B is not addressed in the first amendment. It's only schedule A. I don't know; perhaps it's just an amendment drafting error.

**The Chair:** Further discussion? All in favour of the amendment? Opposed? It's lost.

Mrs Cansfield, please.

**Mrs Cansfield:** I move that section 1 of the Ontario Energy Board Act, 1998, as set out in section 1 of schedule B of the bill, be amended by adding the following subsection:

"Facilitation of integrated power system plans

"(2) In exercising its powers and performing its duties under this or any other act in relation to electricity, the board shall facilitate the implementation of all integrated power system plans approved under the Electricity Act, 1998."

**The Chair:** Discussion?

**Mr O'Toole:** If I may, I understand the need to integrate a plan and the rest of it, but the Ontario Energy Board is supposed to have a very autonomous position in terms of public protection and access to renewing not just rates but even the mandate, technically. It might seem in the public interest that this doesn't quite go far enough. It mandates that the board shall facilitate the integration of the power system plan. That means the government's really telling the Ontario Energy Board what to do, at the end of the day. So I can't support this government motion. There's supposed to be a certain amount of autonomy with the Ontario Energy Board, as we would

have in any quasi-judicial function, whether it's the Ontario Municipal Board or other quasi-judicial tribunals, whatever.

**1430**

**Ms Wynne:** I just want to flag this amendment for the folks who came and spoke to us and had a concern about conservation being central to everything we do in the sector and the new bodies that are being set up and the new system.

This amendment actually embeds conservation in the actions of the OEB, because it closes the loop between what we've done in the Electricity Act and what the OEB is to do. The plan comes forward based on the directives, it's submitted to the OEB, and embedded in the plan are the conservation directives. So this is an important amendment, and it certainly addresses the concern that was expressed. I know we all heard the concern that conservation be part of everything we do. This amendment addresses that.

**Mr O'Toole:** I would just wonder, if the Ontario Energy Board is going to be—what is the implementation if these 800,000 smart or dumb meters are going to be forced on the people of Ontario? At what cost, who pays for it, and can I appeal to the Ontario Energy Board saying, "I don't want one of those at this generation of the technology, a voltmeter or any of the suppliers"? I'm not sure exactly what's happening with the smart meters, but is the Ontario Energy Board able to comment on the rollout of the smart meter plan of the Liberal Party or is the consumer just going to have another \$400 to \$800 bill whacked on them?

**Mrs Cansfield:** I'd be more than delighted to chat with you after this session. This amendment deals with closing the loop on an integrated power plan; it doesn't speak to smart metering.

**Mr O'Toole:** Ms Wynne's comment provoked my discussion. Implied or implicit in all of this is this conservation culture strategy, blah, blah, blah. The Ontario Energy Board has to be reviewing rates. Ultimately it's its main function. In those rates there's a fee set that we've talked about, which I'm opposed to, which is just new taxes or new rates. They won't be called rates; it will be quoted as something else, but it will be rates ultimately. Now we're going to have this integrated power system, part of which will be this culture of conservation. How are you going to do that? You're going to do that through the smart meters which give the consumer some ability to respond to off-peak and on-peak costs. The consumer isn't really getting any access here at all except that they're going to pay. Really, in here, whether Ms Wynne or you believe it, all of that's going to show up in the price.

My question was very simple: Is the Ontario Energy Board or any advocacy group going to be able to comment on the validity of the smart metering system? Because there's lot of literature to say it's not very smart.

**Mrs Cansfield:** This really doesn't have anything to do with this amendment per se. I would be happy to have a discussion with you, if time permits, on the whole

concept of smart metering. In fact, there is significant literature that says it does work. So we have a difference of opinion, but I think we should stick to the amendment and not get off on another tack.

**The Chair:** Any further discussion? All in favour of the amendment? Opposed? It's carried.

Shall schedule B, section 1, as amended, carry? Carried.

We now have a new section. Schedule B, section 1.1.

**Mrs Cansfield:** I move that schedule B to the bill be amended by adding the following section:

"1.1 Section 2 of the act, as amended by the Statutes of Ontario, 2002, chapter 23, section 4 and 2003, chapter 3, section 3, is amended by adding the following paragraph:

"5.1 To facilitate the maintenance of a financially viable gas industry for the transmission, distribution and storage of gas."

**The Chair:** Discussion? All in favour of the amendment? Opposed? It's carried.

Shall schedule B, section 2, as amended, carry? Opposed?

Mrs Cansfield, number 78. I'm sorry.

**Mrs Cansfield:** I move that section 4.3.1 of the Ontario Energy Board Act, 1998, as set out in section 2 of schedule B to the bill, be amended by adding the following subsection:

"Appointment

"(1.1) The board's management committee shall appoint the members of the Market Surveillance Panel."

**The Chair:** Discussion?

**Mr O'Toole:** Just a question. Subsection (2), with respect to conflicts on this Market Surveillance Panel—this section just says the board can appoint it. Does the application of any conflict still apply?

**Mrs Cansfield:** I'm sorry?

**Mr O'Toole:** If you read subsection (2), the membership of the Market Surveillance Panel speaks to material interest or market participants or agents of. You went to some pains before to exempt yourself from these restrictions, perceived or real conflicts. I'm not sure—I haven't looked ahead at the amendments, but—do you follow me?

**Mrs Cansfield:** I believe so.

**Mr O'Toole:** It just means the board is appointing the Market Surveillance Panel.

**Mrs Cansfield:** That's correct.

**Mr O'Toole:** I understand that. So I expect that the membership will still have to comply with real or perceived conflict rules as they exist here. Is that right?

**Mrs Cansfield:** That's correct.

**The Chair:** Any further discussion? I would now put the question. All in favour of the amendment? Opposed? It's carried.

Shall schedule B, section 2, as amended, carry? All in favour? Opposed? It's carried.

**Mrs Cansfield:** I move that section 3 of schedule B to the bill be struck out and the following substituted:

"3. Section 4.4 of the act, as enacted by the Statutes of Ontario, 2003, chapter 3, section 9, is repealed and the following substituted:

"Stakeholder input

"4.4 The board shall establish one or more processes by which consumers, distributors, generators, transmitters and other persons who have an interest in the electricity industry may provide advice and recommendations for consideration by the board."

**The Chair:** Discussion?

**Mrs Cansfield:** No.

**The Chair:** I would now put the question. All in favour of the amendment? Opposed? It's carried.

Shall schedule B, section 3, as amended, carry? All in favour? Opposed? Carried.

We now have a new section.

**Mrs Cansfield:** We do.

I move that schedule B to the bill be amended by adding the following section:

"3.1 Subsection 4.10(1) of the act, as enacted by the Statutes of Ontario, 2003, chapter 3, section 11, is amended by adding the following clause:

"(f) governing the composition and functions of the Market Surveillance Panel and the appointment, removal and remuneration of members of the Market Surveillance Panel."

**The Chair:** Discussion? I would now put the question. All in favour? Opposed? Carried.

Shall section 3.1 carry? All in favour? Opposed? Carried.

**Mrs Cansfield:** I move that subsection 11(1) of the Ontario Energy Board Act, 1998, as set out in section 4 of schedule B to the bill, be struck out and the following substituted:

"Liability

"(1) No action or other civil proceedings shall be commenced against any of the following persons for any act done in good faith in the exercise or performance or the intended exercise or performance of a power or duty under any act or regulation or for any neglect or default in the exercise or performance in good faith of such a power or duty:

"1. A member of the board.

"2. An officer, employee or agent of the board.

"3. A member of the Market Surveillance Panel.

"4. An officer, employee or agent of the IESO acting on behalf of the Market Surveillance Panel."

**The Chair:** Discussion? I'll now put the question. All in favour of the amendment? Opposed? It's carried.

**1440**

**Mrs Cansfield:** I move that schedule B to the bill be amended by adding the following section:

"4.1 The act is amended by adding the following section:

"Directives re: commodity risk

"28.2 The minister may issue, and the board shall implement, directives approved by the Lieutenant Governor in Council directing the board to take such steps or develop such processes as may be required by the

directive to address risks associated with customer billing and payment cycles in respect of the cost of electricity at the retail and at the wholesale levels and risks associated with non-payment or default by a consumer or retailer.”

**The Chair:** Discussion? I will now put the question. All in favour of the amendment? Opposed? It’s carried.

Shall schedule B, section 4, as amended, carry? All in favour? Opposed? It’s carried.

Mr Hampton, please.

**Mr Hampton:** This is amendment 83.

I move that section 5 of schedule B to the bill be struck out and the following substituted:

“5. Subsection 30(1) of the act, as re-enacted by the Statutes of Ontario, 2003, chapter 3, section 25, is repealed and the following substituted:

“Costs

“(1) The board may order a person to pay all or part of another person’s costs in a proceeding or process.

“Costs prior to commencement

“(1.1) The board may award reasonable costs to a person prior to the commencement of a proceeding or process.

“Restrictions

“(1.2) Awards under subsection (1.1) may only be made in relation to matters,

“(a) that affect a significant segment of the public; and

“(b) that, in the opinion of the board, affect the public interest and not just private interests.

“Matters to be considered

“(1.3) In deciding whether to make an award under subsection (1.1) the board shall consider whether,

“(a) the person represents a clearly ascertainable interest that should be represented in a proceeding or process;

“(b) separate and adequate representation of the interest would assist the board and contribute substantially to the proceeding or process;

“(c) the person does not have sufficient financial resources to enable it to adequately represent the interest;

“(d) the person has made reasonable efforts to raise funding from other sources;

“(e) the person has an established record of concern for and commitment to the interest;

“(f) the person has attempted to bring related interests of which it was aware into an umbrella group to represent the related interests at the hearing;

“(g) the person has a clear proposal for its use of any funds which might be awarded; and

“(h) the person has appropriate financial controls to ensure that any funds are spent for the purposes for which they were awarded.”

If I may speak to this, this is really dealing with the issue of intervener funding. As I have said before, the decisions that are going to be made here are going to affect people greatly; whether they can pay their hydro bill; whether in fact their business, going into the future, is sustainable; environmental issues as to whether the proposal put forward agrees with the stated purposes of the act or is in line with the stated purposes of the act in

terms of energy conservation, energy efficiency, clean energy sources or alternative energy sources.

What this is really setting out is that there has to be a mechanism before the board so that public interest groups can apply for intervener funding and can have their costs covered. The Ontario Energy Board should not just be a place where energy titans go, all of them having huge budgets, and simply have their issues decided. There are public interest issues to be decided. There are environmental interests to be decided. There are low-income interests to be decided. There are general consumer interests to be decided. People who apply to the board to represent those interests and meet these criteria should have their costs covered.

**Mrs Cansfield:** The board currently has a discussion paper that is out dealing with the cost award issue. Certainly, we are proposing our own amendment which would deal with the issue that “The board may order a person to pay all or part of a person’s costs of participating in a proceeding before the board, a notice and comment process under section 45 or 70.2 or any other consultation process initiated by the board.” So we don’t feel this amendment is required.

**Mr McMeekin:** Notwithstanding that—and I agree with that—we would want to make sure that the minister was aware of the specific suggestions. I think there’s some useful stuff here, although I did notice that Mr Hampton left out any reference to the cost of this being reflected in some report so that those reading it would know what the impact on energy cost was. But he’s consistently raised that with other issues.

*Interjection.*

**The Chair:** Mr McMeekin, you have the floor. Continue.

**Mr McMeekin:** I’m not finding fault, I’m just pointing it out in passing. But I think there’s some other good stuff here that should be referred.

**The Chair:** Further discussion?

**Mr O’Toole:** You say there’s a discussion paper on intervener funding?

**Mrs Cansfield:** The OEB currently has a discussion paper out on the cost awards.

**Mr O’Toole:** And it does consider intervener funding; that is, entitling and paying for providing resources to—

**Mrs Cansfield:** Yes, it’s covering the whole issue.

**Mr O’Toole:** Is there a deadline for submission on that discussion paper?

**Mrs Cansfield:** Unfortunately, I don’t know, but I’ll find out for you.

**Mr O’Toole:** Yes. Actually, it’s a very controversial area. I know there are those on the conservation and green energy side who will expect that and they will hold your feet to the fire because there’s no evidence: the anti-nuclear, the anti-coal, the anti-energy, the “freeze-to-death-and-starve-in-the-dark” group.

**Mrs Cansfield:** Thank you, Mr O’Toole. I’ll just state that we will get the discussion paper submission deadline for you, and actually for all members.

**Mr O’Toole:** I wouldn’t mind having a copy. It’s probably on the Web site, I’m sure.

**The Chair:** We'll make sure you get it, Mr O'Toole.

Any further discussion? All in favour of the amendment? Opposed? It's lost.

Mrs Cansfield, please.

**Mrs Cansfield:** I move that subsection 30(1) of the Ontario Energy Board Act, 1998, as set out in section 5 of schedule B to the bill, be struck out and the following substituted:

"Costs

"(1) The board may order a person to pay all or part of a person's costs of participating in a proceeding before the board, a notice and comment process under section 45 or 70.2 or any other consultation process initiated by the board."

**The Chair:** Discussion? I will now put the question. All in favour of the amendment? Opposed? It's carried.

Shall schedule B, section 5, as amended, carry? All in favour? Opposed? It's carried.

Since there are no amendments for schedule B, sections 6 and 7, shall they carry? All in favour? Opposed? They're carried.

**Mrs Cansfield:** I move that section 8 of schedule B to the bill be amended by adding the following subsection:

"(2.1) Subsection 70(2) of the act, as amended by the Statutes of Ontario, 2003, chapter 3, section 47, is amended by adding the following clause:

"(m) requiring licensees, where a directive has been issued under section 28.2, to implement such steps or such processes as the board or the directive requires in order to address risks associated with customer billing and payment cycles in respect of the cost of electricity at the retail and at the wholesale levels and risks associated with non-payment or default by a consumer or retailer."

**The Chair:** Discussion? I will now put the question. All in favour of the amendment? Opposed? It's carried.

Shall schedule B, section 8, as amended, carry? All in favour? Opposed? It's carried.

**Mrs Cansfield:** I move that clause 71(2)(c) of the Ontario Energy Board Act, 1998, as set out in section 9 of schedule B to the bill, be amended by striking out "use" and substituting "promotion."

1450

**The Chair:** Discussion? Shall the amendment carry? Opposed? It's carried.

Shall schedule B, section 9, as amended, carry? All in favour? Opposed? It's carried.

Mr Hampton, we expect that information from community and social services within about 10 minutes or so.

There are no amendments to schedule B, section 10. Shall that carry? Opposed? It's carried.

Mrs Cansfield, please.

**Mrs Cansfield:** I move that subsection 78(3.1) of the Ontario Energy Board Act, 1998, as set out in subsection 11(1) of schedule B to the bill, be struck out and the following substituted:

"Annual rate plan and separate rates for situations prescribed by regulation

"(3.1) The board shall, in accordance with rules prescribed by the regulations, approve or fix separate rates for the retailing of electricity,

"(a) to such different classes of consumers as may be prescribed by the regulations; and

"(b) for such different situations as may be prescribed by the regulations.

"Same

"(3.1.1) The first rates approved or fixed by the board under subsection (3.1) shall remain in effect for not less than twelve months and the board shall approve or fix separate rates under subsection (3.1) after that time for periods of not more than twelve months each or for such shorter time periods as the minister may direct."

**The Chair:** Discussion?

**Mr O'Toole:** This comes back to Mr Hampton's badgering on the earlier point of having the price certainty issue for people budgeting on an annual basis. The public sector is a good example. It says for 12 months, and the subtlety of this is that at the very end it says, "or for such shorter time periods as the minister may direct." Oops, we have a problem here. He can, all of a sudden, jack up the rates. I'm not surprised, because you did that right after the election. I'm not supporting this but I'm not surprised by it either. It's just more taxes by any other name.

**The Chair:** Further discussion?

**Mrs Cansfield:** If I may, it has nothing to do with taxes. It has the opportunity for the OEB to set electricity plans on more than just an annual basis. You can sneak that word in wherever you like, but there are some places where it's just not appropriate.

**The Chair:** I will now put the question. All in favour of the amendment? Opposed? It's carried.

Shall schedule B, section 11, as amended, carry? All in favour? Opposed? It's carried.

Since there are no amendments to schedule B, sections 12, 13, 14, 15, 16, 17, 18, 19 and 20, I would move that they carry. All in favour? Opposed? Carried.

Mrs Cansfield.

**Mrs Cansfield:** I move that subsection 79.11(1) of the Ontario Energy Board Act, 1998, as set out in section 21 of schedule B to the bill, be amended by striking out "subsections 88(2.1) and (2.2)" and substituting "subsections 88(2.1) to (2.3)."

**The Chair:** Discussion? I now put the question. All in favour of the amendment? Carried.

Shall schedule B, section 21, as amended, carry? Opposed? It's carried.

Shall schedule B, section 22, carry? All in favour? Opposed? Carried.

We now have a new section, 22.1.

**Mrs Cansfield:** I move that schedule B to the bill be amended by adding the following section:

"22.1 The act is amended by adding the following section:

"Form of invoice for prescribed classes of consumers

"79.17(1) The minister may require that invoices issued in respect of electricity to consumers who are

members of a class of consumers prescribed by the regulations be in a form approved by the minister.

“Different forms

“(2) The minister may approve different forms of invoice and may specify the circumstances in which each form shall be used.

“Errors

“(3) No defect, error or omission in the form or substance of an invoice issued in respect of electricity to a consumer referred to in subsection (1) invalidates any proceeding for the recovery of the amount payable under the invoice.”

**The Chair:** Discussion?

**Mr O’Toole:** I guess the controversial issue is the invoice, for two reasons: first, for the consumer and transparency; and second, for the LDCs to modify their software to accommodate time of rate and all these other things and how they’re going to do that. Is there going to be any money to help the LDCs develop the software, and where’s that money coming from, or is there going to be a uniform software package provided for LDCs? This is a big issue at the local level: to be able to respond to these price-takers and price-setters. Has there been any discussion on that? We tried to streamline the invoices—arguably, not successfully. Is there anything going on with the standard invoice?

**Mrs Cansfield:** A pilot project has been going on for some time in Hamilton, I believe, where they’ve looked at finding ways and means to simplify the bill and make it less onerous.

Certainly, throughout the hearings we heard time and again—and as I’ve been speaking with the LDCs myself—that this is one of the issues. There are two, actually. One is finding a way to simplify the bill so that it makes some sense, and the other is dealing with the collection of data. That has been taken under advisement by the OEB in their discussions with the local distribution companies, because they recognize it is a challenge.

**The Chair:** By the way, I think the committee heard from Mr Charles Caccia in Ottawa about a simplified form that’s being used by Hydro-Québec. I think he gave us an example of it when he made his presentation. It may be in the package somewhere.

**Mr O’Toole:** I wish I had it, because it’s a big issue locally.

**The Chair:** Any further discussion? Shall new section 22.1 of schedule B carry? All in favour? Opposed? It’s carried.

Mr Clerk, maybe I’ll just get you to distribute this. It’s information from community and social services in regard to Mr Hampton’s inquiry.

**Mr McMeekin:** For the record, the previous government did have a working group looking at invoice forms. There was actually some profile to that. The election intervened, and I don’t think that ever saw the light of day. There may be some helpful material there, which I’m sure the energy folks have. As we enshrine the minister’s responsibility to continue to look for simpli-

fied billing forms, just that footnote: There may be some useful stuff there.

**The Chair:** Thanks, Mr McMeekin. We’ll just wait a moment so that members of the committee can read this information.

**Mrs Cansfield:** Could you remind us what page the motion is on that we have to refer back to?

**The Chair:** It’s on—

**Ms Wynne:** Page 58?

**The Chair:** Yes. It was the new section introduced by Mr Hampton.

**Mr Hampton:** This is consistent with what the people of the First Nations have been telling me. They’re having their power cut off. They ask, “Is there any assistance for me to pay my hydro bill?” They’re essentially told, “Well, you should go to the Ontario Works office and beg them for discretion.”

Nothing is in place here. In fact, what it says is that we’re at the stage where a proposal is supposed to be submitted to community and social services. We’re already in mid-September, and I’m quite sure nothing has happened.

What’s going on in Ontario right now is that if you live off a First Nation, you have access to an emergency energy fund; if you live on a First Nation, all you can do is go to Ontario Works and beg. That’s what’s happening right now.

**1500**

This doesn’t say that anything else is happening. There’s a proposal. There are no details. It looks as if the proposal amounts to taking the very limited amount of money that is there right now for an emergency energy fund and just spreading that further. That doesn’t solve the problem. In fact, what it probably means is what was, at best, a meagre fund to begin with now becomes even more stretched.

**The Chair:** We’ll go back. It’s on page 58.

**Mrs Cansfield:** I read the word “additional” in there. Maybe you don’t.

*Interjection.*

**Mrs Cansfield:** Right. The challenge we have is, first of all, we’re dealing with Bill 100 on electricity, and certainly this is with the Ministry of Community and Social Services.

**Mr Hampton:** An additional \$50,000?

**Mrs Cansfield:** It says “by investing an additional \$50,000 to be managed....” So it’s additional. You indicated that it was part of the other. I’m just stating that it’s additional.

Also, the Ministry of Community and Social Services has indicated they will give a far more in-depth briefing or analysis. They just didn’t have the time to do it in the short period of time.

Again, I reiterate that there are other programs. We are trying to address this issue. It’s not being ignored. We’ve said it over and over again. There are other ministries that are involved and we cannot support this amendment as it stands. It has been addressed. Mr Hampton doesn’t like how it’s been addressed. That’s unfortunate for Mr

Hampton, but we are doing what we believe is the best we can do at this time.

**Mr Hampton:** I'll wait to see how satisfactory all those people who live on reserve who are having their power cut off feel with \$50,000 spread across a couple hundred First Nations across the province. This isn't a solution. From a First Nations' perspective, this is more like an insult. Fifty thousand dollars? Give me a break.

**The Chair:** I will now put the question.

**Mr O'Toole:** We're voting on Howard's amendment, right?

**The Chair:** Yes.

**Mr McMeekin:** My gut tells me that Mr Hampton's making a good point about the figure here. While I can appreciate the fact this bill isn't specifically designed to deal with this, I would ask, for the record, that this be revisited by the ministry which has carriage of it, as well as the minister, to see if the \$50,000 is adequate. I suspect, as he has suggested, it's inadequate.

**The Chair:** Further discussion? I will now put the question.

**Mr O'Toole:** Can I have a recorded vote?

**The Chair:** All in favour of the amendment?

#### Ayes

Hampton, O'Toole.

#### Nays

Cansfield, Jeffrey, Ramal, Wynne.

**The Chair:** Is Mr McMeekin an abstention? It will be duly noted.

Shall schedule A, section 60, as amended, carry? All in favour? Opposed? It's carried.

Ms Wynne, I think you're up again.

**Mrs Cansfield:** The other Ms Wynne?

**The Chair:** I'm sorry. Mrs Cansfield, please.

**Mrs Cansfield:** Chair, I think the clerk would like to make a comment first.

**The Chair:** We're just a little ahead of ourselves. I just want to go back to schedule A for a second. The whole schedule A, as amended, does it carry? All in favour? Opposed? It's carried.

I would then ask, schedule B, sections 23 and 24, since there are no amendments, shall they carry? Opposed? They both carry.

**Mrs Cansfield:** If the clerk could make a comment first, please.

**Ms Catherine Macnaughton:** Legislative counsel.

**Mrs Cansfield:** Legislative counsel, I'm sorry.

**Ms Macnaughton:** There's a slight numbering kerfuffle in the next motion. It refers to adding two clauses, (z.2.1) and (z.3.1). Those should read "(z.11)" and "(z.12)"

**Mrs Cansfield:** Thank you.

I move that section 25 of schedule B to the bill be amended by adding the following subsection:

"(10.1) Subsection 88(1) of the act, as amended by the Statutes of Ontario, 2002, chapter 1, schedule B, section 10, 2002, chapter 23, section 4, 2003, chapter 3, section 56 and 2003, chapter 8, section 11, is amended by adding the following clauses:

"(z.11) prescribing classes of consumers for the purposes of section 79.17 and information that must or may be included on invoices issued in respect of electricity to consumers in one or more of the prescribed classes;

"(z.12) respecting the manner in which invoices issued in respect of electricity to consumers who are members of a class of consumers prescribed for the purposes of section 79.17 are to be provided to those consumers."

**The Chair:** Discussion? I will now put the question. All in favour of the amendment? Opposed? It's carried.

Shall schedule B, section 25, as amended, carry? All in favour? Opposed? It's carried.

There are no amendments to schedule B, section 26. Shall that carry? All in favour? Opposed? It's carried.

Mrs Cansfield, there's a new section, 26.1.

**Mrs Cansfield:** I move that schedule B to the bill be amended by adding the following section:

"26.1 The act is amended by adding the following section:

"Reaffirmation of existing contracts

"Application

"88.9.1 (1) This section applies in respect of contracts for electricity between retailers and residential consumers that are entered into or renewed on or after June 15, 2004, and before the day prescribed by the regulations.

"Contract ceases to have effect if not reaffirmed

"(2) A contract for electricity to which this section applies ceases to have effect on a day determined under the regulations unless the consumer under the contract reaffirms the contract in accordance with the regulations.

"Recovery of overpayments

"(3) A consumer may recover an amount paid under a contract that ceases to have effect under subsection (2) if,

"(a) the amount was paid before the contract ceased to have effect; and

"(b) the amount was paid in respect of electricity that was to have been supplied after the contract ceased to have effect.

"No cause of action

"(4) No cause of action arises as a result of a contract ceasing to have effect under subsection (2).

"Regulations

"(5) The Lieutenant Governor in Council may make regulations,

"(a) prescribing a date for the purposes of subsection (1);

"(b) governing reaffirmations of contracts for the purposes of this section;

"(c) prescribing rules for determining the day as of which a contract ceases to have effect if it is not reaffirmed."

**The Chair:** Discussion? I'll now put the question. All in favour of this section? Opposed? It's carried.

Shall the new section, 26.1, carry? All in favour? Opposed? It's carried.

Since there are no amendments to schedule B, sections 27, 28 and 29, shall they carry? All in favour? Opposed? Carried.

Finally, shall schedule B, as amended, carry? All in favour? Opposed? Carried.

There are no amendments to schedule C, sections 1, 2 and 3. Shall they carry? Opposed? Carried.

#### 1510

Shall section 3 carry? All in favour? Carried.

We are now at the end of the bill.

Shall section 1, as amended, carry? All in favour? Opposed? It's carried.

Shall section 2 of the bill carry? All in favour? Opposed? It's carried.

Shall section 3 of the bill carry? All in favour? Opposed? It's carried.

Shall Bill 100, the Electricity Restructuring Act, 2004, carry? All in favour? Opposed? It's carried.

Shall Bill 100, as amended, carry? All in favour? Opposed? Carried.

Shall I report the bill, as amended, to the House? All in favour? Opposed? Carried.

**Mr O'Toole:** I just wanted to acknowledge, out of courtesy, the work of the staff on a very technical bill. There are parts of this bill I agree with and parts I have difficulty with because it's technical, I suppose. We wish you luck in trying to achieve your objectives because we all live in Ontario.

I'd like to also put on the record that I've received hundreds of faxes—most of you probably received them—from people who are quite upset with Bill 100. Most of them are anti-nuclear, anti-coal, but I think out of courtesy it's acknowledged that we're all listed here, Ms Wynne, Ms Cansfield and the rest of us, as well as Howard Hampton. They are all listed here, so it's an acknowledgement of that.

I would wonder what the next step is. This is first reading. It's an amended bill. It goes back to the House. You spoke about a great degree of urgency on this. You never adopted one amendment by the opposition, not one. Not a single amendment was even really listened to. I believe that Mr McMeekin did vote for a couple of them, but that's maybe because he's a bit of a renegade, or "advocate" is a better word. So what's the plan here? Are you going to ram this thing through, time allocate it and all that stuff? It sounds like you haven't got time to review any of the appointments. There is no review by the agencies, boards or commissions; there is nothing. The minister is just on a breakaway here. What is the timeline? You're the parliamentary assistant to the minister, and I think the parliamentary assistant to the Premier is here too. No, she's not.

**Mrs Cansfield:** The House returns on October 12, and as you know it will be up to the determination of the House leader how bills are back in the House.

Although it may be that we did not accept the amendments from either of the opposition parties, I can assure

you that having met with hundreds of stakeholders—and I mean hundreds; you can look at my schedule, along with the minister's chief of staff—we have listened to and incorporated significant amendments from those stakeholders. They come from a variety of customers, small business, generators and suppliers. It may be that your amendments didn't see the light of day but I can assure that you many others did. In fact, we did go out and purposely seek folks to find out exactly how they felt about the bill. You heard, as we did, that the vast majority of people were pleased with the bill. If they had the options in terms of offering some changes, we accepted those, many of whom we met with after, in addition to, the public sessions. So I can assure you this bill reflects many, many significant changes that came from a variety of stakeholders across this province.

**Mr McMeekin:** I'd build on that briefly by indicating the obvious: Given the concern to get this sector healthy and vibrant and moving forward, we anticipate, when we bring it back to the House, that there'll be a lively debate. But there'll be co-operation and we'll move on with this. Obviously we'll deal with whatever unfolds as it unfolds, but we're fully anticipating that there'll be a shared sense of purpose on this and that we'll be moving ahead quickly with this important piece of legislation.

That having been said, I want to just reference that on several occasions—I can think of at least six off the top of my head without even referencing it back—there were significant suggestions made that frankly informed us. While there were some technical reasons perhaps for not including them in the bill, several of us did ask on several occasions that suggestions made, information shared, recommendations, ideas be referenced and referred back. I'm sure Mrs Cansfield has made some notes on those helpful points.

Finally, just by way of personal reflection, winding up this particular task is, for me at least, a little bit like leaving summer camp. I feel I've grown close to a lot of people here, including a lot of the presenters. I want to echo some of the generic comments of Mr O'Toole with respect to the folks, right from Mr Arnott, the clerk and his staff to the legal counsel, Anne Marzalik, who did some wonderful research over there, who answered a lot of questions that maybe she wished hadn't been asked but she went the second mile to do that, to all the presenters. I think there were 147 or so of them. We sojourned up to Ottawa, down to Windsor, over to Orono; we've gone to the gas plant, Darlington. We're heading, hopefully, at some point to the IMO office. So we've done a lot of that and it's been a really good learning experience for me, at least, and I suspect—I see some heads nodding—for some others as well. It's been very helpful.

Bringing all the talents together is a good way to do business as a government, and pooling them and hopefully achieving together what maybe we can't do apart. I want to say all that, and I guess I want to offer a particular vote of thanks to the ministry staff and Mrs Cansfield, the parliamentary assistant, and Ms Wynne, in her absence the other day, who led us so capably, at least on the government side, through the amendments. I want

to compliment, obviously, those from the opposition who made a significant contribution.

In closing I want to particularly thank you, sir. I know you had a lot of things on your mind this summer, with the horrendous experience you had down in your riding. You somehow found a way to balance that off and make sure we were—

**Mr O'Toole:** He wasn't here half the time.

**Mr McMeekin:** But he made sure he was covered off. Any information I needed he was able to provide anyway. So we appreciate the fact that you're here and that you stayed in touch even though you had pressing issues there.

All in all it's been a positive experience. We hope the people of Ontario, who ultimately are the beneficiaries of what we achieve together here, turn out to be as pleased with this as I hope some of us on this side of the House are.

**The Chair:** Mr McMeekin, thank you for your very kind words. On behalf of myself, the mayor and members of county council in the Peterborough community, I want to say thank you for all the inquiries I got from my friends on all sides of the House after the flood of July 15 as to the situation in Peterborough. It goes to show that when tragedy hits, when a major crisis hits a community, we're all together and there is no partisanship. Everybody comes together in the best interests of our community. I do want to thank you for the inquiries I had from everybody.

**Ms Wynne:** I want to echo many of Mr McMeekin's sentiments. You've offered them very eloquently. Thank you.

I just want to make a couple of points. In terms of the amendments the government put forward, I want to reinforce what Mrs Cansfield said about the sentiments and ideas that were brought forward by stakeholders being incorporated into our amendments. I think it's really important that we make it clear that that's exactly what did happen in many of our amendments.

The second issue is that many of the concerns that were brought forward by stakeholders were very important to the electricity sector, and we're going to have to deal with them, but they couldn't be addressed in this bill, which is enabling legislation to set up a structure. But having had this discussion, it puts issues on the table that we're going to have to struggle with and that the structures that are being set up are going to have to grapple with. So it's been an incredibly important exercise from that perspective in terms of informing the public discourse on the electricity sector going forward, and that's important. It doesn't matter what party you're with; that's an important issue going forward.

I want to just add the comment that the stakeholders have raised issues that—I've got a stack of paper that has come out of this process. I'll be holding on to that, because those issues are going to be dealt with for many years to come. Thank you very much.

**Mrs Cansfield:** Thank you, Chair. Along with my colleagues, I wanted to say thank you to you as well, and to the staff who have been so helpful to some of us who

are new at this as we go through the process, and also to the ministry staff for having done such a superb job in putting this work together. It's difficult, it's onerous, and I know both gentlemen across the way have been through this process before, so they probably have a great appreciation of the challenges the staff in fact do face. Admirably done, everyone over at the Ministry of Energy. Please convey that back.

I wanted to restate that Bill 100 is enabling legislation, and a lot of things happen in regulation. The commitment has been made by the minister to continue to listen to the stakeholders themselves around the issues of the regulations as they come forward. That's why you're finding that the regulations are coming out a few at a time, as we continue with those stakeholder discussions. This is particularly important. As the minister says, it's often a work in progress.

What we hope to have at the end of the day is an energy strategy for this province that stands the test of time, regardless of who is in the government. In fact, we have an obligation and we owe that to the people of Ontario, so that they can have the stable, reliable prices in energy they need in order to live in this province. That's our objective.

I also wanted to say to the two gentlemen—and we were with Rosario just a couple of days—that I don't enjoy the barbs, obviously, but I enjoy the discussion, because I get an opportunity to learn. The barbs you can keep, the bad manners you can keep. The barbs I don't like, but the information I do like. You have good information to share with us and that's particularly important, because energy is owned by all of us, not just by some of us.

**The Chair:** Mr Hampton?

**Mr Hampton:** I think it's all been said.

**The Chair:** Mr O'Toole?

**Mr O'Toole:** Not to prolong this, but I'm very interested in this file myself, for sure—whether or not I'm the critic, that doesn't really matter—mainly because it's important to my riding. I have sat on every committee, even at the regional level when I was a regional councillor, and I've pursued it here. I have a lot of respect for people like Sean Conway and others who I know have been in the role of energy critic on the other side when we were government.

I would only say that I would hope in an ongoing sense—this whole bill is just a series of significant regulations, big time. There are more questions than answers here. This is a framework. It's empowering, enabling legislation. I'm wondering what the format will be, outside of the House and question period, of trying to probe and find out the implementation of some of the regulations. I know they get gazetted and it becomes a whole bunch of minutiae. You think this is technical; wait until you start reading regulations. I can't, without a lot of support, and we don't have that because you have all the money now. The NDP now has more money per person than we do. And I'm not whining, I'm just saying.

There are two things I've dealt with this summer. One is the Ontario Securities Commission and the regulations

within the OSC. I'm fascinated by that whole area. I think they should set up a select committee, because that's so important. And here, energy transcends the environment, natural resources, the economy, economic development, the whole deal. I think there should be a legislative format outside of question period—where we get into some of the partisan need to earn headlines—where we can learn from each other and understand the direction and even be helpful. Howard has a book out on it. We don't have one yet but we're thinking of it, right after John Tory gets in.

**Interjection:** We've already had this in the press.

**Mr O'Toole:** I really think it's so important. Fundamentally, it's an economic policy area. There are a lot of key stakeholders in the economy and it would be important for us to have a format that's not so confrontational as question period. Ms Cansfield, I bring that up to you as an idea. We had two select committees on energy as a

government. Whether we did it well or not, it's so complicated it's hard to execute the minister's wishes. It may be a good way of vetting in a public forum, outside of the big question period deal. I bring that up as an idea, because I learned tremendously. We heard from the top experts. That's really what we're able to do, understand and integrate, and you can articulate what the plan is and maybe the people will pick it up.

**The Chair:** I just want to thank the two clerks I've had the opportunity to deal with, Anne Stokes, and you, Mr Arnott, the Clerk's staff, members of the committee—tremendous co-operation—and from the minister's staff in the ministry. Thank you for your valuable assistance to us through our deliberations.

At this time, the standing committee on social policy stands adjourned.

*The committee adjourned at 1526.*



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Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot L)

Mr Khalil Ramal (London-Fanshawe L)

Ms Kathleen O. Wynne (Don Valley West / Don Valley-Ouest L)

### **Substitutions / Membres remplaçants**

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Mr Howard Hampton (Kenora-Rainy River ND)

Mrs Linda Jeffrey (Brampton Centre / Brampton-Centre L)

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