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Mercredi 15 février 2006

**Standing committee on
justice policy**

Energy Conservation
Responsibility
Act, 2006

**Comité permanent
de la justice**

Loi de 2006 sur la responsabilité
en matière de conservation
de l'énergie

Chair: Shafiq Qadri
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
JUSTICE POLICY**

**COMITÉ PERMANENT
DE LA JUSTICE**

Wednesday 15 February 2006

Mercredi 15 février 2006

The committee met at 1019 in room 228.

**ENERGY CONSERVATION
RESPONSIBILITY
ACT, 2006**

**LOI DE 2006 SUR LA RESPONSABILITÉ
EN MATIÈRE DE CONSERVATION
DE L'ÉNERGIE**

Consideration of Bill 21, An Act to enact the Energy Conservation Leadership Act, 2005 and to amend the Electricity Act, 1998, the Ontario Energy Board Act, 1998 and the Conservation Authorities Act / Projet de loi 21, Loi édictant la Loi de 2005 sur le leadership en matière de conservation de l'énergie et apportant des modifications à la Loi de 1998 sur l'électricité, à la Loi de 1998 sur la Commission de l'énergie de l'Ontario et à la Loi sur les offices de protection de la nature.

The Chair (Mr. Shafiq Qaadri): Colleagues, welcome. As you know, we're here for clause-by-clause for Bill 21, An Act to enact the Energy Conservation Leadership Act, 2005 and to amend the Electricity Act, 1998, the Ontario Energy Board Act, 1998 and the Conservation Authorities Act.

There are some technical details that I need to just advise our members of. The bill consists, as you are aware, of three sections and, at the latter part, four schedules. We need to actually approve schedules A, B, C and D before we can move to the approval of sections 1, 2 and 3.

In any case, we're going to schedule A, section 1. I understand we have our first amendment, being proposed by Mr. Hampton of the NDP. I would invite you to bring forth opening comments on that, Mr. Hampton. This is motion 1 for schedule A.

Mr. Howard Hampton (Kenora–Rainy River): That's right. This is our first proposed amendment. It's section 2.1 of schedule A to the bill, which is section 2.1 of the Energy Conservation Leadership Act, 2006.

I move that the Energy Conservation Leadership Act, 2006, be amended by adding the following section:

“Tenancy agreements preserved

“2.1 Nothing in this act permits a landlord to alter or amend a residential tenancy agreement to which the Tenant Protection Act, 1997 applies without the consent of the tenant.”

In other words, landlords shouldn't be able to do unilaterally through this act what they cannot do unilaterally through the Tenant Protection Act.

The Chair: Mr. Hampton, I'm sorry. Procedurally, I've just been advised that we actually need to approve sections 1 and 2 of schedule A. Your proposal is for a new section 2.1.

So I will now just call the committee's attention to schedule A, section 1, for which no amendments have so far been proposed. Any comments or questions on that unamended schedule A, section 1? Seeing none, all those in favour? Any opposed? Schedule A, section 1 is carried.

We now proceed to schedule A, section 2, for which also no amendments have been so far proposed. Any questions and comments? Seeing none, all those in favour? Any opposed? I declare schedule A, section 2 now also carried.

Mr. Hampton, we now proceed. I will yield the floor to you once again for the same proposal of amendment 1 for schedule A, section 2.1, new section.

Mr. Hampton: I move that the Energy Conservation Leadership Act, 2006, be amended by adding the following section:

“Tenancy agreements preserved

“2.1 Nothing in this act permits a landlord to alter or amend a residential tenancy agreement to which the Tenant Protection Act, 1997 applies without the consent of the tenant.”

The Chair: Any questions and comments?

Mr. Jeff Leal (Peterborough): I certainly believe that this amendment is not necessary, as schedule A does not propose to override or replace the existing requirements under the Tenant Protection Act, 1997. The one section that would allow designated goods, services or technologies to be used, despite restrictions or loss, specifically provides that the provisions cannot be used to override an act or regulation. This would include protections under the current Tenant Protection Act, 1997. So we will be opposed to this amendment.

The Chair: Any comments? We'll proceed to the vote. All those in favour of NDP motion 1? All those opposed? I declare motion 1 lost.

We'll now proceed to motion 2, again by the NDP.

Mr. Hampton: I move that section 3 of the Energy Conservation Leadership Act, 2005, as set out in section 3 of schedule A to the bill, be amended by adding the following subsection:

“Due regard for the protection of public health etc.

“(1.1) In designating goods, services and technologies, the Lieutenant Governor in Council shall have due regard for the protection of public health and safety and the environment.”

If you note, this motion is based on the recommendation of the Pembina Institute, which spent a fair amount of time outlining the fact that you have to remember that we are dealing with people’s health and safety in terms of whatever kind of metering we might want to put in place.

The Chair: Any further questions and comments?

Mr. Leal: I again suggest that this amendment is unnecessary. The development of regulations under this legislation would include consultations to ensure input from experts and stakeholders and to ensure consideration is given to any potential impacts, including public health, safety and the environment. Where there are valid health, safety or environmental issues for a barrier or restrictions to energy conservation, these reasons will be given due consideration in the drafting of the regulations that will occur. We will not be supporting this amendment.

The Chair: Any further questions and comments? Seeing none, we’ll proceed to the vote. All those in favour of NDP motion 2? All those opposed? I declare the motion lost.

We’ll proceed now to consideration of section 3 of schedule A, for which no amendments have been proposed. Are there any questions and comments? Shall section 3 of schedule A carry? Any opposed? I declare section 3, schedule A, carried.

With the indulgence of the committee, if I may have consideration in block for schedule A, sections 4 to 12, inclusive, if that’s the will of the committee. Seeing no objections, may I then ask for the vote? All those in favour of schedule A, sections 4 to 12, block consideration for which, incidentally, no amendments have been proposed? All those in favour? Any opposed? I declare those carried.

We will now consider schedule A, the preamble, for which no amendments or suggestions have been offered so far. If there are any questions and comments? Seeing none, all those in favour of adopting schedule A, the preamble? Any opposed? I declare that carried.

Shall schedule A carry? Any opposed? No? Carried.

We’ll now proceed to consideration of schedule B, section 1, for which we have government amendment number 3 proposed, and I invite a government speaker.

Mr. Leal: I move that the definition of “smart meter” in subsection 2(1) of the Electricity Act, 1998, as set out in section 1 of schedule B to the bill, be struck out.

The Chair: Any questions and comments?

Mr. Hampton: This is bizarre, to say the least. The government has been talking about smart meters for three years now. In fact, if you do a search, smart meters seem to be about the only thing you talk about when you use the words “energy efficiency” and “energy conservation,” and here you’re going to wipe out the definition of a smart meter. Without a definition, is anything a smart meter? Is any meter a smart meter?

Mr. Leal: I’ll ask Rosalyn from the ministry, Mr. Hampton.

The Chair: Fine. We’ll ask ministry officials. As you’re well aware of the protocol, please identify yourself and your designation. Please proceed.

Ms. Rosalyn Lawrence: Rosalyn Lawrence, director of consumer and regulatory affairs at the Ministry of Energy. There is a motion following this one which replaces the definition of “smart meter.” The original bill had talked about time of use and—

Interruption.

Ms. Lawrence: James, sorry. Go ahead.

Mr. Leal: James is our legal counsel for the Ministry of Energy.

Mr. James Rebob: Good morning, Chair and committee. I’m honoured to be here. My name is James Rebob. I’m counsel with Ministry of Energy. I was just informing Ms. Lawrence that we have deleted the definition, choosing, rather than defining it in the statute, to use our existing regulatory authority to define the definition of “smart meter” when the technical around smart meter matures.

1030

The Chair: Any further questions and comments?

Mr. Hampton: So it’s the position of the Ministry of Energy that the government is going to talk about smart meters, and when somebody says, “What’s a smart meter?” your response is, “Well, we haven’t defined that yet. We don’t know.”

Mr. Rebob: With respect, Mr. Chair and Mr. Hampton, the technical on smart metering is maturing every day, every moment that we deal with procurement. We will be defining it as shortly as possible through regulation.

Mr. Hampton: Yes. I just said you don’t know. You don’t know what a smart meter is. You’ve been talking about it for three years and you don’t know what a smart meter is yet. You can’t define it. It might be this; it might be that; it might be something else.

Mr. Leal: We’ve seen a fairly broad scope of how one might be able to define a smart meter. The technology is certainly emerging on one front. I defer to the pilot project in Chatham-Kent, where they actually retrofitted existing meters in the pilot study of about 1,000 homes in Chatham-Kent. They developed a unique approach to retrofit existing meters, and that aspect is out there. There are other technologies that are evolving. So I think it’s appropriate to give some flexibility in this particular area.

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke): I share Mr Hampton’s concerns. There is no doubt that technologies are evolving and will continue to evolve. We still call them “cars.” Technology has changed quite a bit over the years—there’s no question—but we still call them “cars.” People can define a car and it won’t be that much different from what they talked about 50 years ago, as far as what the definition of it is. Are we saying that a smart meter is not going to mean “a metering device that measures and records electricity consumption or use based on its time of use”?

The operation of the meter and the ability of it to perform tasks is going to improve as we go forward, I'm sure, just like everything else does, computers etc., but I'm not sure that people shouldn't have a definition of what a smart meter is. I'm also prepared to see what's coming forward. You say there are amendments that actually deal with that.

Ms. Lawrence: I think the feedback we had in consultations with stakeholders of our own throughout the bill was that the metering device portion of the definition was too limiting, because much of the smartness derived from the communication system, so it's our intent to develop that in a regulation. The time-of-use portion of the definition is very appropriate. It's a matter of capturing, beyond the meter itself, the system that goes with it.

The Chair: If there are no further comments, we'll proceed to consideration. Seeing none, all those in favour of government motion number 3 for schedule B, section 1? All those opposed? I declare that motion carried.

We'll now proceed to consideration of government motion number 4.

Mr. Leal: I move that the definition of "smart metering initiative" in subsection 2(1) of the Electricity Act, 1998, as set out in section 1 of schedule B to the bill, be struck out and the following substituted:

"'smart metering initiative' means those policies of the government of Ontario related to its decision to ensure Ontario electricity consumers are provided, over time, with smart meters;"—

The Chair: —("initiative des compteurs intelligents"). Thank you, Mr. Leal. We'll now proceed to questions and comments.

Mr. Hampton: That's about as clear as mud. You just wiped out the definition of smart meter, and now you're saying "'smart metering initiative' means those policies of the government of Ontario related to its decision to ensure Ontario electricity consumers are provided, over time, with smart meters." This amendment makes about as much sense as the last amendment. The government has been talking about smart meters for three years. Now you want to take out even the vaguest definition of smart meter, and you want to say that a "'smart metering initiative' means those policies of the government of Ontario related to its decision to ensure Ontario electricity consumers are provided, over time, with smart meters." This is starting to look like fear of the absurd, to say the least.

Ms. Lawrence: I think that the substantive change in this definition—in the original draft of Bill 21, "smart metering initiative" was very narrowly defined to include Ontario households. The government's policy is for residential and small business consumers to be equipped with smart meters. The change is simply to ensure that we don't limit it to just residential.

Mr. Hampton: Where does it say that in the bill that's printed? I don't see that anywhere in the bill as printed.

Mr. Rehob: The reference to "household" was in the previous definition of smart meters, which was contained in Bill 21, as tabled. It's within the definition of "smart metering initiative," as it was proffered at that time.

Mr. Hampton: So your only change here, in your view, is to take out the term "household."

Ms. Lawrence: That's correct.

Mr. Rehob: To ensure it's not limited to the household.

Mr. Hampton: This becomes more vague every day.

The Chair: Are there any further questions or comments?

Mr. Yakabuski: We're not going to spend the whole morning discussing these nuances, but perhaps they should add "'smart metering initiative' means those policies of the government of Ontario related to its decision to ensure Ontario electricity consumers are provided, over time, with smart meters, as yet undefined." I don't know. What do you think?

The Chair: If that's a formal amendment, Mr. Yakabuski, we would require it in writing. Any further questions and comments? Mr. Leal?

Mr. Leal: No, I'm fine. I'm just reflecting that there was some concern that small businesses be included, and we want to make this as comprehensive as possible, and therefore want to widen—

The Chair: Thank you. Seeing no further consideration, we'll now move to the vote. All those in favour of government motion 4? All those opposed? I declare government motion 4 carried.

We'll now proceed to consideration of the schedule, section 1. Shall section 1 of schedule B, as amended, carry? All those in favour? All those opposed? I declare section 1, section B, as amended, carried.

We'll now proceed to the consideration of schedule B, section 2, for which we have 14 proposed amendments so far. To begin with, NDP motion 5. Mr. Hampton.

Mr. Hampton: This is an amendment to section 53.7 of the Electricity Act, 1998.

I move that section 53.7 of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be amended by adding the following subsection:

"Freedom of Information and Protection of Privacy Act

"(3) The smart metering entity is designated as an institution for the purposes of the Freedom of Information and Protection of Privacy Act."

Remember, this was strongly put forward by the Pembina Institute.

The Chair: Any further questions and comments?

Mr. Leal: Mr. Chairman, I certainly agree in spirit with what Mr. Hampton has proposed here. I think protection of privacy is important. A designation for FIPPA purposes is done by regulation. Decisions on whether FIPPA or the Municipal Freedom of Information and Protection of Privacy Act are most appropriate would be made in the context of the governance structures, with regard to the smart meter entity.

The government is proposing amendments to deal with privacy issues raised by stakeholders, and we'll continue to consult with the IPC on these matters: I make reference to section 53.8, subparagraph i of paragraph 1; section 53.20 will be regulation (e) dealing with this issue.

We will deal with those matters as we get to them. James, our lawyer, can provide any additional information you may want, because this is a serious matter and we take this seriously. James, maybe I could just defer to you.

1040

Mr. Rebob: Just to add to Mr. Leal's sound analysis, the protection of privacy of the designation for FIPPA or MFIPPA purposes is done by way of regulation. It's important to understand that the structure and governance of the smart metering entity is maturing. It would be, we think, premature to designate under one versus the other statute until this structure has actually matured. We are very confident and comfortable that the amendment adding the institution to either FIPPA or MFIPPA can be done by regulation at a later time, once we have settled on the governance and structure attributes of the smart metering entity.

The Chair: Any further questions and comments on NDP motion 5? Seeing none, we'll proceed to the vote.

All those in favour of NDP motion 5? All those opposed? I declare NDP motion 5 lost.

We'll now proceed to the next motion, again from the NDP, motion 6.

Mr. Hampton: This deals with section 2 of schedule B to the bill, which is paragraph 5 of section 53.8 of the Electricity Act, 1998.

I move that paragraph 5 of section 53.8 of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be struck out and the following substituted:

"5. Except if the capacity to transfer the data exists in established telecommunications systems in Ontario, to own or lease and to operate a telecommunication system that permits the transfer of data about the consumption or use of electricity to and from its databases and telecommunication equipment and technology and any associated technologies and systems, directly or indirectly, including through one or more subsidiaries, if the smart metering entity is a corporation."

The Chair: Any questions and comments?

Mr. Leal: We won't be supporting this amendment. The government clearly recognizes the ability and existence of telecom companies in Ontario today. It is our expectation that they will play a critical role as we move forward in this area. Some areas of the province, however, are currently underserved, and Bill 21, as drafted, provides the flexibility to have the entity involved in addressing this and ensuing telecom infrastructure to make sure it's appropriate to our needs in this province.

The Chair: Are there any further questions and comments? Seeing none, we'll proceed to the vote.

All those in favour of NDP motion 6? All those opposed? I declare NDP motion 6 lost.

We'll now proceed to motion 7 from the government.

Mr. Leal: I move that paragraphs 2, 3, 4, 5, 7 and 8 of section 53.8 of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be struck out and the following substituted:

"2. To collect and manage and to facilitate the collection and management of information and data and to store the information and data related to the metering of consumers' consumption or use of electricity in Ontario, including data collected from distributors and, if so authorized, to have the exclusive authority to collect, manage and store the data.

"3. To establish, to own or lease and to operate one or more databases to facilitate collecting, managing, storing and retrieving smart metering data.

"4. To provide and promote non-discriminatory access, on appropriate terms and subject to any conditions in its licence relating to the protection of privacy, by distributors, retailers, the OPA and other persons,

"i. to the information and data referred to in paragraph 2, and

"ii. to the telecommunication system that permits the smart metering entity to transfer data about the consumption or use of electricity to and from its databases, including access to its telecommunication equipment, systems and technology and associated equipment, systems and technologies.

"5. To own or to lease and to operate equipment, systems and technology, including telecommunication equipment, systems and technology that permit the smart metering entity to transfer data about the consumption or use of electricity to and from its databases, including owning, leasing or operating such equipment, systems and technology and associated equipment, systems and technologies, directly or indirectly, including through one or more subsidiaries, if the smart metering entity is a corporation.

"7. To procure, as and when necessary, meters, metering equipment, systems and technology and any associated equipment, systems and technologies on behalf of distributors, as an agent or otherwise, directly or indirectly, including through one or more subsidiaries, if the smart metering entity is a corporation.

"8. To recover, through just and reasonable rates, the costs and an appropriate return approved by the board associated with the conduct of its activities."

The Chair: Any questions and comments? Seeing none, we'll proceed to the consideration of government motion 7. All those in favour? All those opposed? I declare government motion 7 carried.

We'll proceed to motion 8 from the NDP.

Mr. Hampton: This is section 2 of schedule B to the bill, section 53.8 of the Electricity Act.

I move that section 53.8 of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be amended by adding the following subsections:

"Exception, owning, installing etc. smart meters

"(2) Despite paragraphs 1 and 7 of subsection (1), the smart metering entity shall not own, install, verify or maintain smart meters where local distributors have the ability to do so.

"Exception, collection and transfer of data

"(3) Despite paragraph 2 of subsection (1), if on or before the day this section comes into force local distributors collect and store the data and information re-

quired by the smart metering entity, the local distributors shall continue to do so.”

The Chair: Any questions or comments?

Mr. Leal: We won't be supporting this amendment. We've agreed with the EDA that local distributors would continue to own, install, operate and maintain smart meters. Enshrining this in legislation, however, precludes many innovative business models that have been emerging with respect to the ownership and other functions. We want to encourage innovation and best-cost models for Ontario consumers. Also, this defeats the purpose of centralizing data collection and storage and would duplicate the infrastructure investment required, at the expense of ratepayers in Ontario.

Mr. Hampton: I think we heard very clearly, from a number of local distributors and from CUPE, that establishing another bureaucracy or establishing another business entity when one already exists and is already doing this work simply adds to the cost and adds ultimately to the hydro bill for the consumer. I find it interesting that the government wouldn't support this amendment.

The Chair: Any further questions and comments? Seeing none, we'll move to the consideration of the motion. All those in favour of NDP motion 8? All those opposed? I declare NDP motion 8 lost.

We'll now consider the next motion, number 9, from the PC Party. Mr. Yakabuski, I invite you to present motion 9.

Mr. Yakabuski: This is section 2 of schedule B to the bill, subsections 53.8(2) and (3) of the Electricity Act, 1998.

I move that section 53.8 of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be amended by adding the following subsections:

“Data kept private and not sold

“(2) The data collected by or on behalf of the smart metering entity or distributors related to the metering of consumers' consumption or use of electricity shall be kept private and shall not be sold for commercial purposes.

“Privacy laws apply

“(3) Nothing in this act abrogates or derogates from any act that protects the privacy of any data referred to in subsection (2).”

The Chair: Any further questions or comments?

Mr. Leal: We won't be supporting this amendment. As I previously indicated with Mr. Hampton's amendment, we are dealing with this issue and certainly believe that protection of privacy is indeed important, and as we move through the amendments, our lawyer from the Ministry of Energy has already commented about going down the road and our amendments to protect privacy of information with this data.

Mr. Yakabuski: We'll be looking forward to those amendments, because I think the ensuring of privacy is important. We'll be looking forward to seeing those.

Mr. Leal: I agree. You're absolutely correct, sir.

The Chair: Seeing no further questions and comments, we'll proceed to consideration. All those in

favour of PC motion 9? All those opposed? I declare the motion lost.

1050

We'll now consider motion 10, again from the NDP. Mr. Hampton.

Mr. Hampton: I move that section 53.9 of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be amended by adding the following subsection:

“Provincial Auditor

“(2) The Provincial Auditor shall audit the accounts and transactions of the smart metering entity.”

If I may, the government has announced with great fanfare that it thinks the Provincial Auditor should be looking at the accounts and financial transactions of other public institutions like school boards. This will be potentially a very big, very expensive entity, which will have all kinds of intrusive behaviour in terms of the lives of individual consumers. I would think that, as a bare minimum, we would want the Provincial Auditor to be able to look at the financial activities of the smart metering entity.

The Chair: Any further questions or comments?

Mr. Leal: We won't be supporting this amendment. The selection of an auditor will be made in the context of governance and structure decisions with respect to the auditor. If an existing entity is chosen to be the smart metering entity, they will already have auditing arrangements in place. I could use the example of the PUS in Peterborough, the Peterborough Utility Service, which is a municipally owned operation. If indeed that would be a part of the smart meter entity, subject to audit, it has an auditing procedure in place that's very comprehensive, since I've been through it on many occasions. That would provide the transparency and accountability to the public.

Mr. Hampton: I just want to be clear on this. If this were the Ministry of Energy engaging in this work and this activity, the auditor would quite properly be able to go in and look at the financial transactions of the Ministry of Energy. But if the McGuinty government sets up something vaguely known as the smart metering entity, it can have all kinds of costs and financial transactions and the Provincial Auditor would not be able to look at the financial activities and transactions of this.

I find it hard to believe. According to the McGuinty government, all you have to do to escape the Provincial Auditor is set up something so vague as an entity and then exclude the Provincial Auditor and you get outside the capacity of the Provincial Auditor to look at what's going on. Boy, this really sounds like it's terribly accountable here.

Mr. Leal: Frankly, we've gone to great lengths as a government to strengthen the Auditor General's position in Ontario. We've lifted the veil of secrecy on OPG, which allowed sunshine to finally shine on that particular entity. Maybe Rosalyn or James might like to comment on the auditing function.

Mr. Rebob: I would simply add to Mr. Leal's comments that, by regulation, there are a number of options that we have with respect to the creation, governance and

structure associated with a smart metering entity. Like some of the other concerns we've heard, we have the regulatory authority to address many of the issues as regards privacy. On the front of the Provincial Auditor being the auditor, we have the authority to designate an existing entity such as Hydro One or the IESO or any other entity. To enshrine in legislation that the Provincial Auditor will audit the entity would be at odds with existing practices if either of those entities, particularly the IESO, were to be audited by the Provincial Auditor or, as Mr. Leal mentioned, if the structure were to include municipally owned distributors. Their audit arrangements are already in place and have, in some cases, extremely sophisticated audit arrangements, which we would be disrupting.

Mr. Yakabuski: I'm concerned. This is a provincial initiative by the Ministry of Energy, of course. Is it an attempt to avoid the scrutiny of the auditor, who acts as the public guardian in so many ways and is the entity that people turn to when they want to know whether they're getting value for money from the provincial government. Is this an attempt to protect this entity from that? I don't know. If it's going to be under the umbrella of some auditable portion of government, that's another story, but we don't see that. I think the amendment is something the government should consider very seriously.

Mr. Leal: We certainly believe strongly in transparency. We also believe in the value of the Auditor General to scrutinize and improve transparency and make sure that there's value for money. I recall that when we became the government in 2003, the former Auditor General, Mr. Peters, produced a report that certainly contained what one might describe as a few surprises. We've gone to great lengths to make sure that as all political parties move into the election of 2007, the auditor of the day will certify the books to make sure that the transparency is there for the electorate to see.

Mr. Yakabuski: In response to Mr. Leal, who wanted to make a political statement, of course there'll be no surprises if the Auditor General doesn't get to see the books. It's pretty hard to uncover any surprises if he doesn't get to look at them. I think that's an important distinction.

Mr. Hampton: I find it really intriguing. The government wants to boast about bringing Ontario Power Generation and Hydro One under the auspices of freedom of information, the government wants to boast about its own financial accountability, but here the government wants to create a very vague institution. We know that this institution may be doing business possibly in the order of \$2 billion, but the government doesn't want the Provincial Auditor, now known as the Auditor General, to be able to go anywhere near it. I find that very revealing.

Mr. Leal: I reiterate that, frankly, if LDCs across Ontario emerge as the smart meter entity—and that's a possibility—the track record of LDCs in terms of auditing functions throughout this province is second to none. I would be careful moving in the direction of suggesting that municipal utilities have not been fully

accountable and fully transparent. They have an excellent record in that area.

Mr. Hampton: I don't think anyone is talking about the LDCs; we're talking about the government.

Mr. Yakabuski: We're talking about the smart metering entity here—that mysterious word "entity."

The Chair: Are there any further questions and comments? Seeing none, we'll proceed to the vote. All those in favour of NDP motion 10? All those opposed? I declare NDP motion 10 lost.

We'll proceed now to the next motion, government motion 11. Mr. Leal.

Mr. Leal: I move that section 53.16 of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be struck out and the following substituted:

"Obligations of distributors, etc., re: installing meters

"53.16(1) When a distributor or any person licensed by the board to do so installs a smart meter, metering equipment, systems and technology and any associated equipment, systems and technologies or replaces an existing meter, the distributor or person shall use a meter, metering equipment, systems and technology and associated equipment, systems and technologies of a type, class or kind prescribed by regulation or that meets the criteria or requirements prescribed by regulation or mandated by a code issued by the board or by an order of the board for the classes of property or classes of consumers prescribed by regulation or required by the board.

"Same

"(2) A regulation, code or order referred to in subsection (1) may require that a distributor or other person take certain actions and may require that the actions be taken within a specified time.

"Exclusive authority of board

"(3) A regulation referred to in subsection (1) may provide the board with exclusive authority to approve or authorize the meters, the metering equipment, systems and technology and associated equipment, systems and technologies after a prescribed date.

"Obligations of distributors, etc., re: procurement, contracts or arrangements

"(4) When a distributor or any person licensed by the board to conduct the activities referred to in subsection (1) enters into a procurement process, contract or arrangement in relation to the smart metering initiative, the procurement process, contract or arrangement shall meet the criteria or requirements prescribed by regulation or mandated by a code issued by the board or by an order of the board."

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The Chair: Any questions or comments? Seeing none, we'll proceed to consideration. All those in favour of government motion 11? All those opposed? I declare government motion 11 carried.

We'll proceed to the next motion, PC motion 12. I invite you, Mr. Yakabuski, to present PC motion 12.

Mr. Yakabuski: I move that section 53.16 of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be amended by adding the following subsection:

“Consumer choice

“(3) Despite subsection (1) and any regulation under this act or code issued by the board or order of the board, a consumer shall be provided with choice in the type of smart meter to be installed in respect of the consumer’s premises, including but not limited to a choice between a one-way and two-way smart meter.”

The Chair: Any discussion, questions or comments on this particular motion 12?

Mr. Leal: We will not be supporting this motion. The government is committed to procuring meters in a manner that best ensures quality standards at the lowest possible cost through economies of scale and in a consistent manner across the province to ensure technical harmony. Beyond the base system and architecture, we anticipate that consumers will have abundant choice to tailor smart metering to their own particular needs and situations through innovative product offerings and others. For example, when we were in the great city of Chatham, I referred to the retrofit project, all at a cost of \$1.29. They incorporated technology that would allow them to retrofit existing meters. So there’s a wide range of activities out there, and we wouldn’t want to restrict consumers in making their choices.

The Chair: Any further discussion? Seeing none, we’ll proceed to the vote. All those in favour of PC motion 12? All those opposed? I declare PC motion 12 lost.

We’ll proceed now to the next motion, government motion 13. I invite you to present it, Mr. Leal.

Mr. Leal: I move that part IV.2 of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be amended by adding the following section:

“Sub-metering: condominiums

“53.16.1(1) Despite the Condominium Act, 1998 and any other act, a distributor and any other person licensed by the board to do so shall, in the circumstances prescribed by regulation, install a smart meter, metering equipment, systems and technology and associated equipment, systems and technologies or smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies of a type prescribed by regulation, in a property or class of properties prescribed by regulation at a location prescribed by regulation and for consumers or classes of consumers prescribed by regulation at or within the time prescribed by regulation.

“Non-application of registered declaration

“(2) If a smart meter or smart sub-metering system is installed in accordance with subsection (1) in respect of a unit of a condominium, the distributor, retailer or any other person licensed to conduct activities referred to in subsection (1) shall bill the consumer based on the consumption or use of electricity by the consumer in respect of the unit despite a registered declaration made in accordance with the Condominium Act, 1998.

“Priority over registered declaration

“(3) Subsection (2) applies in priority to any registered declaration made in accordance with the Condominium Act, 1998 or any bylaw made by a condominium

corporation registered in accordance with that act and shall take priority to the declaration or bylaw to the extent of any conflict or inconsistency.

“Exclusive authority of board

“(4) A regulation referred to in subsection (1) may provide the board with exclusive authority to approve or authorize, after a prescribed date,

“(a) the smart meter, metering equipment, systems and technology and any associated equipment, systems and technologies; and

“(b) the smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies.”

The Chair: Any questions and comments? Seeing none, we’ll proceed to consideration of the government motion. All those in favour of government motion 13? All those opposed? I declare that motion carried.

We’ll proceed to the next motion, government motion 14.

Mr. Leal: I move that section 53.17 of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be struck out and the following substituted:

“Prohibition re: discretionary metering activities

“53.17(1) On and after November 3, 2005, no distributor shall conduct discretionary metering activities unless the distributor is authorized to conduct the activity by this act, a regulation, an order of the board or a code issued by the board or it is required to do so under the Electricity and Gas Inspection Act (Canada).

“Definition

“(2) For the purpose of this section,

“‘discretionary metering activity’ means the installation, removal, replacement or repair of meters, metering equipment, systems and technology and any associated equipment, systems and technologies which is not mandated by the Electricity and Gas Inspection Act (Canada), by regulation, by an order of the board or by a code issued by the board or authorized by a regulation made under this act.”

The Chair: Any discussion, questions and comments on government motion 14? Seeing none, we’ll proceed to the vote. All those in favour of government motion 14? All those opposed? I declare that motion carried.

We’ll proceed now to motion 15, from the NDP.

Mr. Hampton: This deals with section 2 of schedule B to the bill, which is part IV.2 of the Electricity Act, 1998.

I move that part IV.2 of the Electricity Act, 1998, as set out in section B to the bill, be amended by adding the following section:

“Tenancy agreements preserved

“53.17.1 Nothing in this part permits a landlord to alter or amend a residential tenancy agreement to which the Tenant Protection Act, 1997 applies without the consent of the tenant.”

Once again, the rationale for this is to ensure, in whatever the government decides to do here, protections for tenants that are written into the Tenant Protection Act, 1997, are not otherwise overridden or disturbed via the back door.

Mr. Leal: I think I've already commented on this in a very clear and precise fashion. Nothing in Bill 21 alters the Tenant Protection Act. It will continue to apply in these situations. We'll be working with tenant groups and municipalities and other interested groups to ensure that we can address multi-residential rental units over the medium term.

One of the things I'll be doing over the next little while is meeting with these groups and looking at some ideas to address some of their particular concerns; for example, setting up, particularly in social housing, energy storage units, which allow energy to be stored when it's purchased at a lower level and then utilized traditionally when they would be utilizing electricity at higher price areas. Again, one of the best examples of that is the LDC in Peterborough, which has launched this initiative of energy storage units.

The Chair: Any further discussion?

Mr. Leal: Mr. Yakabuski doesn't like me to get Peterborough on too often, but I want to—

Interjection.

The Chair: Seeing no further formal discussion, we'll proceed to the motion. All those in favour of NDP motion 15? All those opposed? I declare NDP motion 15 lost.

We'll proceed to government motion 16.

1110

Mr. Leal: I move that clause 53.18(1)(b) of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be struck out and the following substituted:

“(b) under any contract that relates to a procurement that was entered into by the crown or an agency of the crown pursuant to a request for proposal, a draft request for proposal or another form of procurement solicitation referred to in clause (a).”

The Chair: Are there any further comments, questions, discussion? Seeing none, we will proceed to the vote. All those in favour of government motion 16? All those opposed? I declare government motion 16 carried.

We will proceed to the next motion, government motion 17. Mr. Leal.

Mr. Leal: I move that subsection 53.20(1) of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be amended by adding the following clause:

“(e.1) governing the collection, use and disclosure of information relating to consumers' consumption or use of electricity, including personal information.”

The Chair: Any further questions and comments? Seeing none, we will proceed to the vote. All those in favour of government motion 17? All those opposed? I declare government motion 17 carried.

We will proceed to government motion 18. Mr. Leal.

Mr. Leal: I move that clauses 53.20(1)(j) and (k) of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be struck out and the following substituted:

“(j) governing smart meters and the installation and maintenance of smart meters, metering equipment, systems and technology and any associated equipment, systems and technologies;

“(k) identifying actions to be taken by the smart metering entity, distributors and other persons licensed by the board in respect of the installation of prescribed meters, metering equipment, systems and technology and any associated equipment, systems and technologies at prescribed locations throughout Ontario or for prescribed classes of properties and prescribed classes of consumers in priority to other locations or classes of property or classes of consumers and prescribing the time within which such actions must be taken;

“(k.1) prescribing the date for the purpose of subsections 53.16(3) and 53.16.1(4), as the case may be;

“(k.2) prescribing criteria or requirements that the procurement process, contract or arrangement must meet for the purpose of subsection 53.16(4);

“(k.3) governing the installation of smart meters and smart sub-metering systems for the purposes of section 53.16.1, including sub-metering equipment and technology and any associated equipment, systems and technologies;

“(k.4) prescribing the circumstances in which smart meters or smart sub-metering systems shall be installed under section 53.16.1, including sub-metering equipment and technology and any associated equipment, systems and technologies, the property or classes of property in which they are to be installed, the consumers or classes of consumers for which they are to be installed and the time by or within which they must be installed;

“(k.5) authorizing activity as discretionary metering activity for the purpose of section 53.17.”

The Chair: Any discussion, questions and comments? Seeing none, we will proceed to the vote. Those in favour of government motion 18? All those opposed? I declare government motion 18 carried.

We will proceed to the next motion, government motion 19. Mr. Leal.

Mr. Leal: I move that clause 53.20(1)(n) of the Electricity Act, 1998, as set out in section 2 of schedule B to the bill, be struck out and the following substituted:

“(n) approving, with respect to a class of consumers, meters or a class of meters and metering equipment, systems and technology and associated equipment, systems and technologies to be installed by a distributor or a person licensed by the board to do so, including approving or fixing the maximum costs of the meters and metering equipment, systems and technology and associated equipment, systems and technologies and specifying criteria which any one of them must meet.”

The Chair: Any further questions, comments, discussion? Seeing none, we will proceed to the vote. All those in favour of government motion 19? All those opposed? I declare government motion 19 to have carried.

I thank the committee for the consideration of the 14 amendments for schedule B, section 2, and now ask, shall section 2 of schedule B, as amended, carry? Any opposed? I declare section 2, schedule B, as amended, to have carried.

I advise the committee that we have no presented amendments for schedule B, section 3, so I'll move

directly to the consideration of that. Shall section 3 of schedule B carry? Any opposed? That's carried.

We'll now proceed to the full consideration of schedule B, as amended. Shall schedule B, as amended, carry? None opposed? Carried.

We'll now proceed to the consideration of schedule C, section 1, for which we have three amendments proposed, beginning with government motion 20. Mr. Leal.

Mr. Leal: I move that the definition of "smart meter" in section 3 of the Ontario Energy Board Act, 1998, as set out in section 1 of schedule C to the bill, be struck out.

The Chair: Any further questions, comments, discussion? Seeing none, we'll proceed to the vote. Those in favour of government motion 20? Any opposed? I declare that motion to have carried.

We'll proceed to the next motion, government motion 21. Mr. Leal.

Mr. Leal: I move that the definition of "smart metering initiative" in section 3 of the Ontario Energy Board Act, 1998, as set out in section 1 of schedule C to the bill, be struck out and the following substituted:

"smart metering initiative" means those policies of the government of Ontario related to its decision to ensure Ontario electricity consumers are provided, over time, with smart meters;" and the equivalent en français.

The Chair: Any questions, comments or discussion? Seeing none, we will move to the vote. Those in favour of government motion 21? Those opposed? I declare government motion 21 to have carried.

We will proceed to consideration of motion 22 from the NDP regarding new subsection (2). Mr. Hampton.

Mr. Hampton: I move that section 3 of the Ontario Energy Board Act, 1998, as set out in section 1 of schedule C to the bill, be amended by adding the following subsection:

"Tenancy agreements preserved

"(2) Nothing in this act permits a landlord to alter or amend a residential tenancy agreement to which the Tenant Protection Act, 1997 applies without the consent of the tenant."

The Chair: Are there any further questions or comments?

Mr. Leal: I've already spoken on this. This will not interfere with the provisions of the Tenant Protection Act, 1997.

The Chair: Any further discussion, questions, comments? Seeing none, we'll proceed to the vote. All those in favour of NDP motion 22? All those opposed? I declare NDP motion 22 to have lost.

We've now completed the consideration of amendments for section 1, and I therefore ask, shall section 1 of schedule C, as amended, carry? Any opposed? I declare section 1, schedule C, as amended, carried.

We'll now move to consideration of schedule C, section 2, government motion 23. Mr. Leal.

Mr. Leal: I move that paragraphs 4 and 5 of subsection 28.3(2) of the Ontario Energy Board Act, 1998, as set out in section 2 of schedule C to the bill, be struck out and the following substituted:

"4. Conditions identifying arrangements and agreements, including procurement, service or operating arrangements or agreements, to be entered into by the smart metering entity, distributors, transmitters, retailers or other persons and providing that the arrangements or agreements must contain specific conditions, restrictions, criteria or requirements relating to the arrangements or agreements.

"5. Conditions providing for circumstances in which the smart metering entity shall provide a person with access to information and data relating to consumers' consumption or use of electricity collected pursuant to paragraph 2 of section 53.8 of the Electricity Act, 1998, including conditions relating to the protection of privacy."

The Chair: Any further questions or comments? Any discussion? Seeing none, we'll proceed to the vote. All those in favour of government motion 23? Any opposed? I declare government motion 23 to have carried.

We'll proceed to the next motion, government motion 24. Mr. Leal.

Mr. Leal: I move that paragraph 7 of subsection 28.3(2) of the Ontario Energy Board Act, 1998, as set out in section 2 of schedule C to the bill, be struck out and the following substituted:

"7. Conditions providing the minister with exclusive authority to approve the base design, requirements, specifications and performance standards for smart meters, metering equipment, systems and technology and associated equipment, systems and technologies or classes of smart meters, equipment, systems and technology to be installed for prescribed classes of property and prescribed classes of consumers.

"8. After a date prescribed by regulation made under the Electricity Act, 1998, conditions providing the board with exclusive authority to approve the base design, requirements, specifications and performance standards for smart meters, metering equipment, systems and technology and associated equipment, systems and technologies or classes of smart meters, equipment, systems and technology to be installed for prescribed classes of property and prescribed classes of consumers."

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The Chair: Discussion? Questions? Comments? Seeing none, we'll proceed to the vote. All those in favour of government motion 24? Any opposed? I declare government motion 24 to have carried.

Having considered the proposed amendments for section 2, I now ask, shall section 2 of schedule C, as amended, carry? I declare that section of schedule C, as amended, to have carried.

There are no proposed amendments so far for schedule C, section 3, so I ask directly, shall section 3 of schedule C carry? That's carried.

We'll now proceed to the consideration of the next. There no proposed amendments for section 4, schedule C, so I move directly, shall section 4, schedule C carry? Carried.

I now move to consideration of the next proposed amendment for schedule C, section 5, government motion 25.

Mr. Leal: I move that section 78 of the Ontario Energy Board Act, 1998, as set out in subsection 5(1) of schedule C to the bill, be amended by adding the following subsection:

“Orders re recovery of smart metering initiative costs

“(3.0.3) The board may make orders relating to the ability of the smart metering entity, distributors, retailers and other persons to recover costs associated with the smart metering initiative, in the situations or circumstances prescribed by regulation and the orders may require them to meet such conditions or requirements as may be prescribed, including providing for the time over which costs may be recovered.”

The Chair: Are there any questions, comments, discussion points?

Mr. Yakabuski: It sounds to me like the consumer’s getting ready to be hit here. We’ve been talking about the costs of this program for a long time. The government doesn’t seem to really have any idea what this is going to cost, but I think the consumers of the province could be in for one of those surprises that Mr. Leal speaks of. Hopefully, it’s not too egregious, but it looks like the consumer and the taxpayer will be paying the bill here.

Mr. Leal: I do appreciate and respect the comments put forward by Mr. Yakabuski. Again, I defer to the fairly extensive pilot that was initiated in Chatham-Kent. All-in costs with Chatham-Kent were \$1.29 for their smart meter initiative.

Mr. Yakabuski: Can we take that as a commitment as to what the cost of this will be?

Mr. Leal: Those numbers have been verified by a very, very distinguished accounting firm, Deloitte. Here at Queen’s Park we often have different bureaus of statistics that are putting out information, but when you have a comprehensive pilot like we have in Chatham-Kent and their results are verified by, as I said, a very distinguished accounting firm, I think that provides an opportunity for consumers throughout the rest of the province to glean appropriate and accurate information on what the cost might be.

Mr. Yakabuski: I would assume that you’re making a commitment to the people of Ontario, then, that you’ll be able to do this for \$1.29 a meter. We’ll be watching for that and appreciate those statements there. We certainly know that you guys are at least as good as Chatham-Kent Hydro, no?

Mr. Leal: I think the pilot in Chatham-Kent certainly provides a very detailed opportunity as to what the costs might be for smart metering.

The Chair: Any further questions, comments, discussion? Seeing none, we’ll proceed to the vote. All those in favour in government motion 25? Any opposed? Thank you. I declare government motion 25 to have carried.

Having considered the proposed amendments for that section, we will now ask directly, shall section 5 of schedule C, as amended, carry? Carried.

We’ll proceed to the next section, schedule C, section 6, government motion 26.

Mr. Leal: I move that subsection 88(1) of the Ontario Energy Board Act, 1998, as set out in section 6 of schedule C to the bill, be amended by adding the following clause:

“(g.6.2) in respect of orders relating to the ability of the smart metering entity, distributors, retailers and other persons to recover costs associated with the smart metering initiative for the purposes of subsection 78(3.0.3).”

The Chair: Any further questions, comments or discussion? Seeing none, we’ll proceed to the vote. All those in favour of government motion 26? All those opposed? I declare government motion 26 to have carried.

We’ll now proceed to the consideration of that section. Shall section 6 of schedule C, as amended, carry? Carried.

We’ll proceed to the next section, schedule C, section 7, government motion 27.

Mr. Leal: I move that clause 112.1(b) of the Ontario Energy Board Act, 1998, as set out in section 7 of schedule C to the bill, be struck out and the following substituted:

“(b) section 25.33, 25.34, 26, 27, 28, 29, 31, 53.11, 53.13, 53.15, 53.16, 53.16.1 or 53.17 of the Electricity Act, 1998, or any other provision of that act that is prescribed by the regulations.”

The Chair: Are there any comments, questions or discussion on this final proposed amendment for clause-by-clause? Seeing none, we’ll proceed to the vote. All those in favour of government motion 27? All those opposed? I declare government motion 27 to have carried.

Shall section 7 of schedule C, as amended, carry? Carried.

There are no proposed amendments for section 8, so I’ll move directly, shall section 8 of schedule C carry? Carried.

Now for consideration of the entire schedule C. Shall schedule C, as amended, carry? Carried.

We’ll, with the committee’s will, block consideration of sections 1 and 2 of schedule D, for which no amendments have so far been proposed. Shall those sections of schedule D carry? Carried.

Shall schedule D carry? Carried.

We’ll now proceed to the consideration of the block sections. If it’s the will of the committee, we’ll consider sections 1, 2 and 3 en masse. Shall those sections carry? I declare those sections to have carried.

Shall the short title of the bill carry? Carried.

Shall Bill 21, as amended, carry? Carried.

Is it the will of the committee that I report the bill, as amended, to the House today? Carried.

If there’s no further business of the committee—seeing none, I declare clause-by-clause committee consideration adjourned.

The committee adjourned at 1129.

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