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Wednesday 6 June 2012

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Mercredi 6 juin 2012

**Standing Committee on
Estimates**

Ministry of Energy

**Comité permanent des
budgets des dépenses**

Ministère de l'Énergie

Chair: Michael Prue
Clerk: Valerie Quioc Lim

Président : Michael Prue
Greffière : Valerie Quioc Lim

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ESTIMATESCOMITÉ PERMANENT DES
BUDGETS DES DÉPENSES

Wednesday 6 June 2012

Mercredi 6 juin 2012

The committee met at 1619 in room 151.

MINISTRY OF ENERGY

The Chair (Mr. Michael Prue): The meeting is called to order. We are here to resume consideration of the estimates of the Ministry of Energy, vote 2901. As of the last date and again today, there is a total of five hours remaining. It was with the official opposition, who had five minutes and still has five minutes of its 20-minute rotation.

However, we have a motion before the committee. We're now in the hands of the committee. I'm given to understand that there are a series of amendments that are being proposed. Mr. Harris.

Mr. Michael Harris: Thank you, Chair. Knowing we had a fulsome day of discussion on the motion yesterday, I think there's agreement on this side to move forward. Obviously, we want to continue the work of the committee and make sure we've got proper use of the minister's and his deputy's time. I would ask that you or we call the question on the motion.

1620

Ms. Lisa M. Thompson: Hear, hear.

The Chair (Mr. Michael Prue): You're moving the previous question?

Mr. Michael Harris: Mr. Leone's original motion.

Mr. Grant Crack: Mr. Chair, can we have a 20-minute recess?

The Chair (Mr. Michael Prue): On the previous question?

Mr. Michael Harris: I called the question, though.

The Chair (Mr. Michael Prue): Yes. This is the calling of the question. If you agree, this would simply limit the debate. The debate would be over. If you disagree, it's quite simple to vote no. Do you need a 20-minute recess to determine whether to vote yes or no?

Mr. Grant Crack: I think we do.

Mr. David Zimmer: It's a serious matter.

The Chair (Mr. Michael Prue): All right. There is a motion made. That's the motion, and if you want to—

Interjection.

The Chair (Mr. Michael Prue): Okay. The clerk has reminded me that we don't always use Robert's Rules of Order, on which I consider myself quite an expert. We do use the parliamentary rules, and it is the prerogative of the Chair, he reminds me, to simply rule the motion that

has been made by Mr. Harris out of order if I believe that there has not been sufficient debate at this point. Given that we have four motions extant right here in my hand that are about to be made, it is obvious that there is a will for more debate, so I am at this time going to say no, okay?

I would then proceed. Are there amendments to be made? Mr. Moridi.

Mr. Reza Moridi: I have a motion, Mr. Chair, to make.

The Chair (Mr. Michael Prue): Yes. If you'd read it into the record. Have they been—

Interjection.

The Chair (Mr. Michael Prue): Oh, they are being provided. All right. If you'd just wait for a moment until everyone has one, and then—

Mr. David Zimmer: Chair, have you got a copy of the motion that this is the amendment to?

Interjection.

Mr. David Zimmer: Aha.

The Chair (Mr. Michael Prue): I trust that everyone now has the motion. Mr. Moridi, would you please read the motion into the record?

Mr. Reza Moridi: I move that the motion be amended by deleting the words, "This is after the minister attempted to invoke the sub judice principle which the Chair ruled was out of order for compelling and correct reasons on the advice of the clerk."

Mr. Chair—

The Chair (Mr. Michael Prue): Just hold on. Everyone now has the motion. It's read into the record. Mr. Moridi has the floor.

Mr. Reza Moridi: Thank you, Mr. Chair. The Chair didn't rule the sub judice principle out of order in relation to the committee's proceedings. This ruling was specifically in relation to a motion put forward by a member of the government with respect to certain lines of questioning. In so doing, the Chair made several references to the ability of the minister to invoke sub judice and other areas of privilege where he felt it necessary and appropriate. The motion, as drafted, implies the minister ignored a clear ruling of the Chair that sub judice could not be invoked before the committee, which misrepresents both the ruling of the Chair and the position of the minister.

In the past few or number of meetings we've had in this committee, the minister and his senior staff who

were present at every meeting here in this committee answered every question put forward by the members of the committee. The minister and his senior staff gave us full information about the status of energy production in the province of Ontario in various areas of the energy mix. When we look at our energy mix in the province of Ontario, we see renewables, we see various hydroelectric power stations, and we have a number of nuclear reactors in operation at three different sites. Actually, it was in the news today that there are technologies in place that we might be able, in the near future, to harness hydrogen energy as well, which is very promising.

On the nuclear side, Mr. Chair, I may remind the committee that the day before yesterday actually, June 4, people celebrated the 50th anniversary of the production of nuclear energy in this province, which is very interesting that—

Mr. Rick Nicholls: Point of order, Chair?

The Chair (Mr. Michael Prue): Excuse me, we have a point of order.

Mr. Rick Nicholls: Listening to my respected colleague, I question what this has to really do with the motion that has been put forward. Therefore I would, certainly, encourage him to just move the question.

Mr. Reza Moridi: Well, I moved the question. I'll get to that—

The Chair (Mr. Michael Prue): He has moved the question. He's entitled to speak to it.

Mr. Reza Moridi: I'm speaking to the motion.

Mr. Peter Tabuns: He moved the amendment. That's what he's talking about.

The Chair (Mr. Michael Prue): Yes, you have moved an amendment, and the amendment is to delete the words. I think you should, if you can, confine yourself to why it's necessary to delete these words, not to explain about the 50th anniversary of nuclear power.

Mr. Reza Moridi: I'm going to get to the point that the minister and the ministry—

Mr. Rick Nicholls: Quickly. It's almost Thursday.

Mr. Reza Moridi: Yes—has been doing a good job in terms of making sure that the electricity flows in our power lines every single moment. Many times I have referred to electricity and its importance to our economy as the importance of blood in our veins, saying that if the blood doesn't flow in our veins, we are dead; and if electricity doesn't flow in our power lines, our economy is dead. We are so dependent upon the flow of electricity in our power lines. For that, of course, the production of electricity becomes very, very important.

One major area of our electricity generation is nuclear. We are one of the pioneers of the nuclear industry in the whole world. Actually, our technology—

The Chair (Mr. Michael Prue): If I could, Mr. Moridi; I tried to be very fair, but your motion has nothing to do with this. If you would speak to the amendment. The amendment is to delete the lines.

Mr. Reza Moridi: Yes. I'm going to get to that point, Mr. Chair.

The Chair (Mr. Michael Prue): Well, please hurry.

Mr. Reza Moridi: I'm just trying to say that the minister has answered all questions in relation to questions which, basically, were proposed in this meeting.

Again, the minister and his senior staff at the ministry, they've been doing their best to make sure that we all have power in our power lines, that electricity flows in our power lines every single moment. For doing that, the ministry—this province, actually—has long standing in the area of various technologies.

I talked briefly about nuclear, but if you take into consideration our hydroelectric production facilities in Ontario, we are the first jurisdiction in the world to have a publicly owned utility. This was after Sir Adam Beck commissioned Niagara hydro power. It's very interesting that in Ontario people refer to electricity as hydro, because of, I guess, the hydro power in Niagara Falls at the turn of the last century, 1906. It's very interesting, Mr. Chair, to remember that when Sir Adam Beck commissioned his—

The Chair (Mr. Michael Prue): Mr. Moridi, the Chair is trying to be very patient here, but your amendment is trying to delete two sentences. You've given us a rationale why you want it, and if you could speak to the rationale of why this is a good idea. If I could be of some assistance: "It is a good idea to delete these two sentences because," and then you would be speaking to the issue.

Mr. Reza Moridi: Well, Mr. Chair, I'm speaking to the point that—

Mr. Rick Nicholls: There's no point. There is no point.

Mr. David Zimmer: Well, don't interrupt him. If you keep interrupting him, he's never going to get through his thing.

1630

Mr. Rick Nicholls: Well, sir, I think we understand the rationale; it's very clear. The other stuff, it's like he's penalty killing right now; he doesn't have to penalty kill.

Interjections.

The Chair (Mr. Michael Prue): Order. Order, please—through the Chair. I have requested, and I'm requesting again, for Mr. Moridi to speak to his amendment.

Mr. Reza Moridi: Mr. Chair, the amendment basically, as I read—I'm going to read again:

I move that the motion be amended by deleting the words "This is after the minister attempted to invoke the sub judice principle which the Chair ruled was out of order for compelling and correct reasons on the advice of the clerk."

The Chair didn't rule the sub judice principle out of order in relation to the committee's proceedings. This ruling was specifically in relation to a motion put forward by a member of the government with respect to certain lines of questioning.

The Chair (Mr. Michael Prue): Mr. Moridi, the Chair has—I've never invoked this in all my time in the Legislature, but you are being repetitive, and the rules specifically state you are not to be repetitive. You've already read this into the record; now you're reading it

into the record again with the same exact words. I'm sorry; I'm going to have to—

Mr. Michael Harris: Call the question.

The Chair (Mr. Michael Prue): No, I'm not calling the question. There are other people who may want to debate. I'm going to ask that you be finished.

Is there further debate?

Mr. David Zimmer: Sorry, I didn't hear what you said, Chair.

The Chair (Mr. Michael Prue): I've stated that he has now finished what he has to say. Is there further debate? Mr. Zimmer.

Mr. David Zimmer: Thank you. Well, I think this is an important matter that this committee is dealing with right now. The main motion is very important, and the amendment is very important.

So, to put it in layman's language, what has happened here is that the main motion, which the amendment addresses—the thrust of the main motion is that the minister ought to release a lot of information about the Oakville and the Mississauga power plants. A motion was brought earlier to compel the minister to answer those questions surrounding the costs of not proceeding with Oakville and Mississauga. In the course of that, the main motion asked for some quite specific information. The minister took that under advisement and indicated, pursuant to that first motion, that he would address the matters raised in that first motion, the matters being that the motion asked for essentially the financial details surrounding the costs; that the various negotiating parties—that is, the government and the folks who are about to undertake the building of those plants—what their discussions were about and, if anything was going to be paid, who is going to pay what and what the general terms of that were.

The general response, to put it in layman's terms, of the minister was that certain information relevant to the Oakville and the Mississauga power plants was of such a sensitive nature—because the various parties to that transaction, the commercial entities, the government entities and others, were in the midst of negotiations—that it was premature at this time, in the midst of those negotiations, to disclose that information because, in the minister's opinion and in the research that the minister did and the advice that the minister sought from his officials, the disclosure of that sensitive information on the narrow point of the financials surrounding the negotiations would have the effect of impairing the negotiating position of the province. To the extent that the negotiating position of the province is impaired and the province, because that information is disclosed to adverse parties—that is, parties who have another interest in opposition or apart from the minister or the ministry, the government—ultimately the parties, the people that pay the penalty of the effect of that information coming out prematurely would be the people of Ontario, the taxpayers of Ontario.

The Chair (Mr. Michael Prue): Mr. Zimmer, again, we have an amendment. You're speaking to the main motion, and the main motion comes after the amendments.

Mr. David Zimmer: Yes, I'm coming that way.

The Chair (Mr. Michael Prue): Okay, please.

Mr. David Zimmer: It's important to know, Chair, what the amendment is trying to address in the main motion. So it's important that everybody understand the thrust of the main motion and everybody understand what the amendment then is trying to address in the main motion, so that it's fair for the taxpayers of Ontario, it's fair for the government of Ontario and it's fair to the other parties in this negotiation.

So we've got the amendment in front of us, but I have to go back to the main motion. I've got the main motion in front of me, and the key point that is really the sensitive point here that seems to have got everybody's bee in a bonnet here is the penultimate paragraph—"penultimate" means the second-last paragraph on the main motion—and it's in quotes, of the motion that was brought by Mr. Leone. I'm quoting:

"Despite that order, as a directive of the committee and despite giving ample time to comply"—so the minister said he would comply, and he in fact complied on May 30—"the Minister of Energy, the Honourable Christopher Bentley, MPP, for London West, on behalf of the Ministry of Energy, responded in writing to the committee on May 30, 2012, which included the following excerpt"—and this is what the core of the problem here is with the main motion and that our amendment is trying to address.

"In light of the confidential, privileged and highly commercially sensitive nature of these issues, it would not be appropriate for my office or the ministry to disclose information that would prejudice these ongoing negotiations and litigation."

That quote is taken from Minister Bentley's written response to this committee dated May 30, 2012, addressed to the Chair of the committee. The letter addressed the motion that the committee passed.

The motion's taken out just this one sentence here which I've just read: "In the light of the confidential, privileged and highly commercially sensitive nature of these issues, it would not be appropriate for my office or the ministry to disclose information that would prejudice these ongoing negotiations and litigation."

Now, the thrust of what the opposition parties are trying to do here is to take that single sentence and say that the Ministry of Energy, this minister in particular, Minister Bentley, is somehow trying to thwart the work of the committee and that that single sentence of his in which he speaks of the highly confidential, privileged information affecting the negotiations—he's not prepared to release that narrow band of information, if you will. It has to be considered in the context of the minister's full response because I don't want to leave the impression—and I'm certain that neither the minister, nor the ministry, nor the government, wants to leave the impression that in any way the minister or the government or the ministry is trying not to co-operate with this committee, not to release every bit and piece of information that may be of help to the committee and may inform the work of this committee.

However, there are limits to what the minister is prepared to release. So the question then becomes—because they’re trying to hold the minister in contempt for this sort of stuff—is the minister’s response on that narrow issue of the privileged and highly commercially sensitive nature of the negotiations in any way thwarting the work of this committee? So I asked myself the question.

1640

Well, the minister sent a four-page detailed response, single spaced, in which he outlined his argument, his position on why he was not prepared to release that narrow piece of information having to do with surrounding negotiations, but in addition, in the letter, covers all sorts of other things that the minister and the ministry are prepared to do to assist the work of the committee.

So before we vote on this narrow piece of whether withholding those documents, which are privileged and commercially sensitive on a particular set of negotiations, the position not to release those is contemptuous, let’s have a look at everything else, all of the other detail surrounding what the minister is prepared to do.

I think a fair-minded person, fair-minded members of this committee, fair-minded members of the public, will see that when you consider the entire context of what the minister’s response on May 30, 2012, was to this committee’s request and they see his detailed analysis and everything else that he’s prepared to do—

Ms. Lisa M. Thompson: Chair, excuse me.

The Chair (Mr. Michael Prue): Only if it’s a point of order.

Ms. Lisa M. Thompson: Point of order.

The Chair (Mr. Michael Prue): Okay, point of order—

Ms. Lisa M. Thompson: With all due respect, we need to be focused on the amendment that’s on the table right now as opposed to wandering all over the motion. We should be debating the specific lines that they want to take out of the motion as opposed to delving into other paragraphs etc.

The Chair (Mr. Michael Prue): I have asked Mr. Zimmer to do exactly that. I think your point of order is well taken, but he has a certain degree of latitude which he is exercising in his most lawyerly way to, I hope, eventually get to that point.

Mr. David Zimmer: Yes. We’re getting there, but I welcome any interruptions and will deal with them.

The point now that I’m going to move to is getting to the core of it. I think you have to consider not just the minister’s response that you’ve excerpted from his letter of May 30, 2012, that one sentence, but what else has the minister said in response to the committee’s directive to him to release all of the information.

Here’s what the minister said, May 30, 2012:

“Mr. Michael Prue, MPP, Chair

“Standing Committee on Estimates

“Legislative Assembly of Ontario

“Toronto, Ontario

“M7A 1A2

“Dear Mr. Prue:

Mr. Rick Nicholls: Oh, please.

Mr. David Zimmer: Hmm?

Mr. Rick Nicholls: Please.

Mr. David Zimmer: I’m sorry. I can’t—

Mr. Rick Nicholls: Please.

Mr. David Zimmer: Please. I’m happy to help you, but please what?

The Chair (Mr. Michael Prue): Order, please. Please continue, Mr. Zimmer.

Mr. David Zimmer: I really am.

Interjection.

Mr. David Zimmer: All right?

“Dear Mr. Prue”—and it’s important to consider the full letter, because I think when people see what’s in the full letter and when the full letter is reflected in Hansard, right-thinking people will say to themselves, “You know, this minister exercised his responsibilities properly and fairly”—properly because he’s protecting the interests of Ontario and fairly because he’s respecting the authority, the challenges and the work that this committee wants to do.

What did the minister say? “I’m writing in response to the May 16, 2012, estimates committee motion brought forward by MPP Robert Leone”—am I pronouncing that correctly?

Mr. Michael Harris: Leone.

Mr. David Zimmer: Leone, yes. Thank you—“under standing order 110(b) directing the Minister of Energy”—

Interjection.

Mr. David Zimmer: I’m sorry I even have to ask my fellow colleague—

The Chair (Mr. Michael Prue): Order, please. Mr. Zimmer, you have the floor.

Mr. David Zimmer: I don’t want anybody to interrupt me because the committee has to understand this and the people who read Hansard have to to understand it and if anybody’s watching the television, they should understand it, too. So, before I was interrupted—albeit by my own member, but you’re forgiven—“under standing order 110(b) ... directs the Minister of Energy as well as the Ministry of Energy and Ontario Power Authority to produce ... all correspondence”—and this is highlighted—“in any form, electronic or otherwise, that occurred between September 1, 2010, and December 31, 2011, related to the cancellation of the Oakville power plant as well as all correspondence, in any form, electronic or otherwise, that occurred between August 1, 2011, and December 31, 2011, related to the cancellation of the Mississauga power plant.”

The minister went on to say—I’ve known him for a number of years now, and I know he truly believes this—

Mr. Michael Harris: Chair, a point of order—respectfully, a point of order.

The Chair (Mr. Michael Prue): Yes, I have another point of order from Mr. Harris.

Mr. Michael Harris: Under standing order 23(d)—members unnecessarily reading verbatim reports of the

Legislative debates or other documents—I'd ask that you rule.

Mr. David Zimmer: Let me speak to that, Chair, because I think you do raise an important point. You know, what I really—

The Chair (Mr. Michael Prue): First, you don't need to defend it. You have the right to refer to it. It's not being repetitive. Please continue.

Mr. David Zimmer: Thank you.

The minister said, "I respect"—emphasis on respect—"the authority"—emphasis on authority—"of the committee and its interest in receiving this information." He agrees with the committee. "The committee has an important role to play with respect to review of the ministries' operations and is entitled to ask questions and seek answers.

"As previously discussed with the committee, over the last number of sessions, there are confidential, privileged and commercially sensitive issues involved with both the Oakville and Mississauga power plants. There is also ongoing litigation with respect to the Mississauga power plant."

So now we've got the three issues here: confidential documents, privileged documents dealing with sensitive issues, and of course the litigation—there are cases going on in the court.

"In response to the committee's motion, the Ministry of Energy has undertaken a search for the requested correspondence." It's not as if the minister or his officials or the ministry or the deputies or anybody else has just blatantly ignored the committee's request. They've undertaken a search for the requested correspondence. After that comprehensive search, the minister goes on: "It is clear that these files are indeed confidential and in many cases the documentation is subject to solicitor-client privilege, litigation privilege and/or is highly commercially sensitive."

It would be an entirely different thing if this motion and the nature of the request went to the minister and he, off the top of his head, in a sort of flip and flamboyant way, said, "No, I'm not giving up anything." What the minister did was he went back to his officials and he ordered a comprehensive search of their files. They analyzed the files, and the advice and the position taken was a carefully considered position: "We can't release that information for the reasons of solicitor-client privilege and commercial sensitivity in the midst of negotiations."

The minister goes on: "Disclosure of these documents is anticipated to have a negative impact on the resolution of these files in light of ongoing, confidential discussions, as well as litigation, in these files."

That's the responsibility to the people of Ontario: that the minister not create a situation in which his actions, in releasing documents into the public forum, via this committee into Hansard and so on, have a negative impact on these very sensitive and—you know, there are significant amounts of money and position involved. I would think that all members of this committee, be they Liberal

members, be they NDP members, be they Conservative members, would have the best interest of Ontario's negotiating position in mind when they're asking the minister to order up these commercially sensitive documents, to the detriment of the province's negotiating position.

1650

The minister goes on: "The realities of the sensitive discussions that are occurring, as well as ongoing legal issues, cannot be forgotten as the committee pursues its objectives." So we've got two things that we've got to keep in mind. We've got the responsibility of this committee to, if you will, get to the bottom of things. The minister recognizes that. The competing or balancing or flip side of the coin is the reality of what effect the disclosure of these confidential documents and so on would have on Ontario's negotiating position.

The minister then goes on, because he addresses this problem now. In taking the decision, is this a set of documents or is this information that I can fairly and properly release or is it not? It's a judgment call. The committee wants it. Should I give it to them? Negotiating position, Ontario's position, maintaining our best negotiating position: Perhaps I should not give it to them. How does the minister go about striking the right balance there that's fair to everybody and recognizes the minister's responsibility to fulfill his obligations?

The minister goes on to talk about his analysis.

Excuse me, could you get me a glass of—my throat's gone dry.

The Chair (Mr. Michael Prue): It is an absolutely appropriate time, because you have now exhausted your 20 minutes.

Mr. David Zimmer: My 20 minutes are up? Well, I'll come back, because I want to go through the rest of this. But thank you very much, Chair.

The Chair (Mr. Michael Prue): Further debate? Mr. Craitor.

Mr. Kim Craitor: I'm pleased to have a chance to just say a couple of words. Fortunately I was here during most of the estimates and had a chance to listen to the questions being asked by my colleagues on the other side. I remember listening, and certainly you have every right to ask the questions; there's nothing wrong with that.

But I recall, as I was listening to the minister's responses, my days on city council. Suddenly it hit me that I had seen or been involved in three or four—many of us in this room come off city councils—kind of similar situations where we were being asked for information at a council meeting by the public, which they have every right to do.

One of the things we always did was ask for advice from our legal department, from the people who have that kind of expertise and can share with us, is this the kind of information we're allowed to give out? Would it have any effect on what's going on with negotiations? We had some situations involving negotiations of property. Things hadn't quite gone the way we had hoped, so there

was a demand from the public to provide all this type of information.

As was just said so eloquently a few minutes ago by my colleague, when I read the letter from the minister, it reminded me of a number of reports we received from our solicitor when I was a councillor in Niagara Falls. I could have just kind of moved it around and it would have been quite similar, which was that, based on our best advice to the minister—in my case, it was based on the best advice to the mayor and the council—we’re recommending that it would not be in the public interest at this point to release that type of information. All the rationale was given, as we’ve heard here: We’re dealing with commercial interests, we’re dealing with sensitive information, we’re dealing with negotiations.

So I’m always trying to be very open-minded when I sit on this side, because I am one of those who believe in transparency; I think we all do. I always have, and I always will.

Interjection.

Mr. Kim Craiton: You can chuckle all you want, but it’s just a fact. If you go back to the Falls and ask, yeah. From all sides of the House, I just believe in that.

So I’m saying, in my own way, as I read the letter from the minister, he was getting the best advice he could from the ministry staff, who were saying, “Here’s what we’re suggesting you can do, and here’s what we’re suggesting you can’t do.” Then he has to make a decision, just like I did as a city councillor, or the council around the table. We had to make a decision when our solicitor said, “No, you can’t release this.” Maybe it sounds like you should, and it may appear to be not transparent, but it will have a negative effect or some significant effect on the negotiations that are taking place because there’s a different point of view.

I’m not saying it because I’m sitting on this side. I’d wholeheartedly defend it if I went back into Niagara Falls and stood up in front of the public there, or Niagara-on-the-Lake or Fort Erie, the areas I represent—that the minister got the best advice that he could, that he was prepared to share certain amounts of information based on advice, but with the greatest respect for what my colleagues are asking on the other side, it’s just something that he can’t release.

To me, the minister has followed something that I would have followed, whether I was a minister up here or even when I was a city councillor for 13 years. That was the protocol that we always followed to get the best advice before we made a decision. I believe that the minister’s explanation as to why he’s not able to provide you with what you’re looking for—and again, as I say, you have a right to ask for it—and as I used to hear at city council, it’s in the best interests of the residents of Niagara Falls that we’re not able to release this kind of information. The minister is making the same explanation here: It’s in the best interest of the people of Ontario. He has assured us—and I know it will happen—that when it comes to a conclusion, when this finally comes to a conclusion, then all that information can be released.

I won’t ramble on, but I’ll say the concern I have—and I sincerely believe it—is that, again, you have a right to ask for the information, but I truly believe that some of the information you’re asking for, if we release it, will have an effect, and it can be used by those who are negotiating with us who have a different point of view.

I do believe that we’re doing the right thing in saying that we can’t at this point—it will come out, and the minister said a number of times it will come out. But at this point, it is not in the best interests. That’s the reason, Mr. Chair, that I’m supporting the amendment that we’ve put forward, not for political reasons, but because it’s the right thing to do for the people of Ontario.

Having said that, I will stop there.

The Chair (Mr. Michael Prue): Further debate? Mr. Harris.

Mr. Michael Harris: I’d just like to call the question.

Mr. Grant Crack: There should be further debate.

The Chair (Mr. Michael Prue): Well, he’s entitled to again call the question.

Mr. Grant Crack: A 20-minute recess, please.

Mr. David Zimmer: No, no, wait, wait. He had his hand up, Chair, for further debate—

Mr. Michael Harris: And I was recognized—

The Chair (Mr. Michael Prue): No, I didn’t see his hand up before his.

Mr. David Zimmer: Oh, are you debating?

The Chair (Mr. Michael Prue): Yes, and his debate called the question. He put his hand up.

Mr. David Zimmer: All right, then call further debate again.

The Chair (Mr. Michael Prue): Well, no. He’s called the question. I’m going to allow the question to be called this time because everything is becoming quite repetitive.

Mr. David Zimmer: Well, no, Chair, with respect—a point of order on this, with respect: Look, the minister gave a detailed, a comprehensive and a thought-out response and analysis as to why he was not prepared, on a very narrow ban, to release certain information. It’s not fair for this committee or for the Chair of the committee not to have the full context of the minister’s response. As I said in my remarks, if the minister had said when he got the request, “All right, I got it. I’ve got nothing to release, end of story”—that’s not what happened. There’s a four-page letter here that I want to put into the Hansard record and I want to go through—

The Chair (Mr. Michael Prue): It is.

Mr. David Zimmer:—and point out; I want to read it into the record, I want to make some comments on it and show that the minister has taken his responsibilities seriously and he’s taken a response that’s fair. Before we vote on the amendment on this narrow one sentence here, the committee and the public have to know what the minister’s response was, in fact—because you’ve taken a one-line response from a four-page letter. That’s not fair to the minister, that’s not fair to the government, that’s not fair to the work of this committee.

The Chair (Mr. Michael Prue): Mr. Zimmer, you are out of order. This is not the issue. The amendment before

us is very clear. It is to delete one line, not what the minister said. All of the documents—and you’ve made this statement: The document was submitted to the committee and is part of the record. The entire document is already in the record. Your point is not well-taken. Therefore, I am going to recognize—

Interjection.

The Chair (Mr. Michael Prue): The question has been put. This is becoming extremely repetitive. No one is speaking to the issues. They are speaking to the main motion, so we might as well deal with the main motion. If you want a 20-minute recess, you have one.

Mr. Grant Crack: Point of order first?

The Chair (Mr. Michael Prue): Point of order.

Mr. Grant Crack: I think Mr. Zimmer is making some good points, Chair. If he was just reading verbatim out of the report, that would be a different story, but he’s also providing his perspective on some of the comments that are being made. I think it’s more than appropriate that at some point we get to hear Mr. Zimmer out, and his position on some of the response from the minister.

The Chair (Mr. Michael Prue): Mr. Zimmer was heard out. He spoke for 20 minutes and he never once referred to the amendment that was before us.

Mr. David Zimmer: On the contrary, Chair, I read it into the record several times. I quoted it.

The Chair (Mr. Michael Prue): I’ve made my ruling. Do you want a 20-minute recess?

Mr. Grant Crack: Yes, absolutely.

The Chair (Mr. Michael Prue): Thank you. Then there is a 20-minute recess for the vote.

The committee recessed from 1701 to 1721.

The Chair (Mr. Michael Prue): The meeting is resumed. I’m required now at this point to ask the question. Shall the question now be put?

All those in favour of putting the question? Opposed?

Okay, it’s 4-4 again. I can just vote or I can give a rationale, and I want to give a rationale.

This is a difficult job being Chair of this committee. There are a number of 4-4 votes all the time. We have a responsibility, not only to the people of Ontario but to the people who are in this room. The estimates committee is required to undertake 90 hours of in-depth questioning of a number of ministries. After I don’t know how many days, we are now at the 10th hour of the first ministry, and it is frustrating to me, as the Chair, knowing that the minister is here, the deputy minister is here, two assistant deputy ministers are here—or maybe three; I can’t remember all the titles—senior staff to support them, people, and we are arguing about things that aren’t even contained within the body of the amendments that are being made. This is a huge waste of public resources.

Now, it would be very easy for me to end the debate and just vote with the mover of the motion, but I am given to understand, and I am given some hope, that if I vote no, this amendment will be put to a vote and there will be meaningful debate on the remaining motions. I am a man of endless hope, and if that is in fact the will of what will be done, and that what will be done here will

be correct, I am going to, at this time, cast my vote in the negative and allow for continuing debate.

But, in so doing, what I also want to do at this point, to ensure that there is no more public wastage of time, is that I am going to ask that the minister and the entire entourage who are here need not be here, and I will dismiss them for today and until such time as we are ready to proceed in what the estimates committee is supposed to do, and that is to ask questions and put the minister and ministry to account. If we are not going to do that, then there is no sense in wasting your time.

So you are free to go, and we will let you know when this committee has finished with this motion.

Hon. Christopher Bentley: Thank you very much, Mr. Chair. You’ll notice that we are taking you up on your invitation.

The Chair (Mr. Michael Prue): Now, we are back, then, to the amendment made by Mr. Moridi. Just so everyone is clear what the amendment is, he has moved that the motion be amended by deleting the words “This is after the minister attempted to invoke the sub judice principle which the Chair ruled was out of order for compelling and correct reasons on the advice of the clerk.”

Is there any—I hate to ask this, but is there any debate on this amendment? Mr. Zimmer.

Mr. David Zimmer: Briefly, Chair, I wanted to continue with this letter. The minister went on in his letter to talk about how he approached this threshold issue and how he came to the decision to limit what he was prepared to release.

“As a threshold issue in response to the motion, you had to determine whether MPP Leone’s motion was in order. In your May 16 ruling, you noted the committee’s right to ask for documents. You also noted that I”—meaning the minister—“have the right to ‘either decline giving that documentation or giving voice to that documentation during his answering of the questions.’”

“You further stated that I ‘may choose to answer the question in such a way as not to prejudice the province in any way.’”

That’s the essence of the matter.

“Moreover, you indicated that you expected me to approach my response in this way.”

The minister specifically recognized the admonition of the Chair. “Moreover, you indicated that you expected me to approach my response in this way.” And the minister, in good faith, paid attention to your admonition, Chair.

I’ll just be another two minutes or so.

“In light of the confidential privilege and highly commercially sensitive nature of these issues, it would not be appropriate for my office or the ministry to disclose information that would prejudice these ongoing negotiations and litigation.

“I also note that these very commercially sensitive negotiations between OPA, the government and Trans-Canada—”

Mr. Rob Leone: Mr. Chair, point of order.

The Chair (Mr. Michael Prue): A point of order.

Mr. Rob Leone: I note that the member, Mr. Zimmer, decided that he was going to be very brief and decided to read verbatim a letter into the record, which contravenes standing order 23(d). I'd ask the Chair to rule on this. I also wonder what, if anything, this has to do with the amendment that has been put forth by Ms. Piruzza.

I ask you to rule that this member is out of order for the kinds of statements that he is trying to enter into the record.

Mr. David Zimmer: Chair, I'm half a sentence away, and then I'm finished.

The Chair (Mr. Michael Prue): If that's all there is, half a sentence, please, go ahead.

Mr. David Zimmer: —“the negotiations between TransCanada Corp., OPA, Greenfield South Holdco Corp. and Greenfield South Power Corp. collectively have been carried out on a without-prejudice basis, thus both the government and OPA have legal obligations not to disclose the contents of these negotiations at this time.

“However, I am able to provide a chronology on both plants and outline why the decisions were made to locate them.”

I'll stop there. I may speak later on other matters.

Mr. Grant Crack: Mr. Chair, can we have a 20-minute recess, please?

The Chair (Mr. Michael Prue): A 20-minute recess? Well, I guess it's—yes. You're entitled to it.

Mr. Grant Crack: Thank you.

Mr. Rob Leone: Don't we get to vote on that?

The Chair (Mr. Michael Prue): No, before every vote, just so members—perhaps newer members—would know, before every vote people are entitled to a 20-minute recess to consult. I need to find out, though, before actually getting to that, are there any other speakers?

Ms. Tracy MacCharles: I want to speak.

Mr. Grant Crack: I'd like to say a few words, Mr. Chair.

The Chair (Mr. Michael Prue): Well, then, why were you asking for the adjournment—for the recess, excuse me.

Mr. Grant Crack: I need a break.

The Chair (Mr. Michael Prue): Come on. In good faith, I have agreed to vote against putting the entire question—

Mr. David Zimmer: No more speakers.

The Chair (Mr. Michael Prue): Do you need a 20-minute recess before you vote? All right, that's the rule: 20 minutes. We'll be back here at 10 to 6 in order to vote on this amendment.

The committee recessed from 1730 to 1750.

The Chair (Mr. Michael Prue): It is now 5:50. We have a vote on Mr. Moridi's motion. All those in favour, please signify in the affirmative. Opposed? That's unanimous.

All right, further debate? I recognize Mr. Moridi first. Go ahead.

Mr. Reza Moridi: I have a motion, Mr. Chair. I move that the motion be amended by deleting the words “that the standing committee on estimates asked questions of

the Minister of Energy on May 9, 2012, about the Oakville and Mississauga power plants. The minister refused to provide specific answers, citing the answers would be, and I quote, ‘commercially sensitive.’”

It's not essential to the context of the motion to review the normal question-and-answer procedures of the committee. As pointed out by the Chair on several occasions, it is within ordinary practice and parliamentary tradition for individuals appearing before committees to raise issues of privilege and confidentiality in response to questions asked by committee members. Including this language in the motion could leave the impression that the minister violated parliamentary tradition and practice. That's why I'm making this amendment to the motion. Thank you.

The Chair (Mr. Michael Prue): Thank you. Further debate?

Ms. Tracy MacCharles: Yes, Chair?

The Chair (Mr. Michael Prue): I saw Mr. Leone and then Ms. MacCharles.

Mr. Rob Leone: Well, you know, I would hope that if the members on the governing side wish to continue debate on putting forth amendments, they table all these amendments right now, and let's have a debate on all of them. I hope that that would be appropriate. Certainly, they're debating something today that in fact their federal cousins, in particular the member Scott Brison in the federal Parliament—essentially, the same motion has been put forth to a committee that they are in fact now disagreeing with, which I find quite remarkable, Mr. Chair. That's why I'm hoping that you would agree that we put the question once again so that we end the charade that this committee has now engaged in.

The Chair (Mr. Michael Prue): Well, first of all, you've spoken, so you can't move the putting of the question. Secondly, the motion is in order. The motion, Mr. Leone, that you yourself put before the committee is debatable and amendable. Members have that authority to do so, and provided it's not out of order—and this one is not out of order—then it is debatable. So I'm going to allow further debate.

Ms. MacCharles.

Ms. Tracy MacCharles: Thank you. I'm glad to be here today. I want to assure the Chair and all the members of the committee that I am here with a genuine interest. As I was saying to a number of the members on the break, in my riding of Pickering–Scarborough East, we have the Pickering nuclear reactors and more broadly, in Durham and Clarington, we have the Darlington refurb project, which we've all heard about.

I guess the main and first message that I want to make about this motion and the reason I think it is a good motion is that, like our other motions, we're trying to move quickly but carefully when we talk about energy in Ontario. As my colleague Mr. Zimmer said earlier, I get worried when—

Interjection.

The Chair (Mr. Michael Prue): Excuse me, Mr. Harris, that would be a point of privilege. Have you not received a copy of the motion?

Mr. Michael Harris: Okay, I see it here now.

The Chair (Mr. Michael Prue): Okay, I'm sorry to interfere.

Ms. Tracy MacCharles: No worries.

The Chair (Mr. Michael Prue): He didn't have a copy.

Ms. Tracy MacCharles: Okay, does everyone have it now?

The Chair (Mr. Michael Prue): Everyone has it.

Ms. Tracy MacCharles: All right. The first point I wanted to make is the importance of treading carefully when it comes to energy in Ontario and releasing the right information at the right time. This is why I think this is a good motion, as the others are, because something very, very unfortunate happened in my riding of Pickering–Scarborough East during the election, when unauthorized materials were circulated by my opponent in the election suggesting that I was promoting that one of these power plants—either Oakville or Mississauga; I'm not sure which one—be relocated to the riding of Pickering–Scarborough East. To this day, I am answering many questions about this information that was circulated.

Just by putting out an unauthorized flyer during the election suggesting that I was advocating for something I absolutely had no intention to do, and have never given that impression, has caused no end of problems, especially in a riding like mine, where there are two nuclear reactors. So we need to take great care when we talk about energy in Ontario, and we need to be very careful and clear in our communications.

This motion, in particular, I think is important. When I look at Mr. Leone's motion, where he says, "The Standing Committee on Estimates asked questions of the Minister of Energy on May 9, 2012, about the Oakville and Mississauga power plants. The minister refused to provide specific answers, citing that the answers would be ... 'commercially sensitive.'"

Mr. Chair, this claim by Mr. Leone goes to the very heart of what is wrong. The minister in no way refused to answer questions, as I understand it. He has answered each and every question that has been put before him. It's a case, in some circumstances, that the minister's answer was indeed due to the extreme sensitivity of the ongoing negotiations and litigations involving these two facilities that he could not release certain facts and information. Again, I go back to this inappropriate campaign document that was circulated to each and every household in Pickering–Scarborough East suggesting that I was promoting the relocation of one of those plants to my riding. I say with all honesty how that creates so many problems in a constituency like mine, where there are two nuclear reactors.

We are trying to promote good energy policy in Ontario. We're trying to strike a balance between nuclear energy and renewable energy and continuing, of course, to get rid of the dirty coal plants. That strategy, that important message, that message of balance cannot resonate properly if information is not handled properly. This is a

very complex file. It's a complex sector. Releasing information prematurely or without the right kind of context can cause incredible problems.

Getting back to this motion and Mr. Leone's motion, it is, as I understand it, within ordinary practice and parliamentary tradition for individuals appearing before committees to raise issues of privilege and confidentiality in response to questions asked by committee members. It's very appropriate to do so, and I would submit and call on the opposition again to put aside any partisan issues and recognize that their actions could potentially jeopardize these processes to the detriment of Ontario taxpayers. That's where I'm coming from, as the member for Pickering–Scarborough East.

I think it was the Oshawa board of trade that had a nuclear conference, and I attended on behalf of the government. It was—

Mr. Rob Leone: Mr. Chair, point of order?

The Chair (Mr. Michael Prue): Mr. Leone, what is your point of order?

Mr. Rob Leone: I'm hoping we can confine comments to the amendment to the motion rather than the main motion as much as possible.

The Chair (Mr. Michael Prue): Okay. We are just about out of time, so I'm going to rule on this and then we're going to be finished for the day.

I would remind members that this is an amendment to the main motion. The amendment is to delete these couple of lines, but the main motion—I have already ruled, as I am required to rule, whether this is in fact a point of privilege. It is not up to this committee or to me as Chair to determine the point of privilege. All that happens is that a letter goes to the Speaker. What we are debating is—the change is not whether the motion is well-founded or not, but what changes we want to make to the motion. That's all the debate is about. That's all we're doing: fixing up the motion.

I leave that with you. The motion is well-founded, Mr. Leone, and I would ask members when we come back on the next occasion to confine your statements to the amendment or amendments that will be put forward. If I can just use a parliamentary trick, and it's a good one, "It is appropriate to vote for this motion because...." You're talking about the motion or the amendment and not about the main body, okay? So you have to say, and the best thing to say is, "This is appropriate to pass this because there is an error here or this wasn't said," or something to that effect. Then we can get on with this fairly quickly.

Ms. Tracy MacCharles: Thank you, Chair.

The Chair (Mr. Michael Prue): Okay, and with that—

Ms. Tracy MacCharles: Oh, I'm not finished.

The Chair (Mr. Michael Prue): No, but you will have the floor. If you are here on the next occasion, the floor will be ceded to you.

Ms. Tracy MacCharles: Thank you. I look forward to that, Chair.

Mr. David Zimmer: Chair, just—well, I just want to ask a question, but finish off.

The Chair (Mr. Michael Prue): I'm just going to adjourn for the day and state that we will be back here again, dealing entirely with the motion and any amendments that come, next Tuesday at 9 o'clock in the morning—

The Clerk pro tem (Mr. Katch Koch): At 8:45.

The Chair (Mr. Michael Prue): At 8:45 in the morning. Are you sure it's 8:45?

Interjection.

The Chair (Mr. Michael Prue): Well, we did it once in order to accommodate—

The Clerk pro tem (Mr. Katch Koch): I'll double check.

The Chair (Mr. Michael Prue): He'll double check it. It's either 8:45 or 9 o'clock. You will get adequate notice. We will be meeting Tuesday morning, we will be meeting Tuesday afternoon, we will be meeting

Wednesday afternoon, and we will be meeting four times over the summer.

Mr. David Zimmer: Oh.

The Chair (Mr. Michael Prue): Oh, yes. The minister's staff will not be called but will be on standby every single day that we are here, and they will be given 15 minutes' notice to appear. That's going to take some considerable time, and if we don't finish in that time, they will be called before the committee again when we return in September and until we're done.

Okay, so this is a lot of public resources out there. Please be mindful, because the decision is not even being made by us; it's being referred to the Speaker, who may or may not even want to go with it.

All right, having said that, the meeting is adjourned until Tuesday morning.

The committee adjourned at 1803.

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Mr. Reza Moridi (Richmond Hill L)
Mr. Peter Tabuns (Toronto–Danforth ND)
Ms. Lisa Thompson (Huron–Bruce PC)
Mr. David Zimmer (Willowdale L)

Also taking part / Autres participants et participantes

Ms. Tracy MacCharles (Pickering–Scarborough East / Pickering–Scarborough-Est L)

Clerk pro tem / Greffier par intérim

Mr. Katch Koch

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