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Lundi 2 novembre 2015

Standing Committee on General Government

Strengthening Consumer
Protection and Electricity
System Oversight Act, 2015

Comité permanent des affaires gouvernementales

Loi de 2015 pour renforcer
la protection des consommateurs
et la surveillance
du réseau d'électricité

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Monday 2 November 2015

Lundi 2 novembre 2015

The committee met at 1400 in committee room 2.

**STRENGTHENING CONSUMER
PROTECTION AND ELECTRICITY
SYSTEM OVERSIGHT ACT, 2015
LOI DE 2015 POUR RENFORCER
LA PROTECTION DES CONSOMMATEURS
ET LA SURVEILLANCE
DU RÉSEAU D'ÉLECTRICITÉ**

Consideration of the following bill:

Bill 112, An Act to amend the Energy Consumer Protection Act, 2010 and the Ontario Energy Board Act, 1998 / Projet de loi 112, Loi modifiant la Loi de 2010 sur la protection des consommateurs d'énergie et la Loi de 1998 sur la Commission de l'énergie de l'Ontario.

The Chair (Mr. Grant Crack): It being 2 o'clock, I'd like to call this meeting to order. This, of course, is the Standing Committee on General Government.

Today, we're here to hear from the public regarding Bill 112, An Act to amend the Energy Consumer Protection Act, 2010 and the Ontario Energy Board Act, 1998. I'd like to welcome all members of the committee and all the presenters here this afternoon.

We are conducting our business today on order of the House. I would just like to remind the members that we will hear from the presenters for five minutes each, followed by nine minutes of questioning, up to three minutes from each of the three parties.

SUMMITT ENERGY

The Chair (Mr. Grant Crack): We'll get down to business. At 2 p.m., which is now, we have, from Summitt Energy, Mr. Jeff Donnelly, who is director of regulatory affairs and compliance; and Mr. Noble Chummar, who is counsel. Gentlemen, I'd like to welcome you here this afternoon on behalf of my colleagues. You have five minutes.

Mr. Jeff Donnelly: Good afternoon, Chair. As mentioned, my name is Jeff Donnelly. I'm director of regulatory affairs and compliance for Summitt Energy. I would like to thank you on behalf of Summitt Energy for giving us this opportunity to speak before you this afternoon.

I just want to give you a bit of background on Summitt Energy to start with. Summitt Energy is a provider of

energy choice options for residential and commercial customers here in Ontario. Summitt Energy offers fully hedged electricity and natural gas products, including green energy components such as renewable energy certificates and carbon offsets.

In the province of Ontario, Summitt Energy provides tens of thousands of consumers a variety of energy plans, including fixed rate, flat rate, green and LED light bulb energy-savings options.

Summitt Energy employs over 200 people in six Ontario-based office locations. Summitt Energy's objectives are contributing to Ontario's economic success and improving consumer education, protection and consumer choice.

Summitt Energy supports the government's efforts to improve consumer protection. We would like to take this opportunity to discuss some of the proposed amendments in Bill 112 that will enhance consumer protection while ensuring consumer choice and keeping a viable retail energy market within Ontario.

Currently, Bill 112 is proposing to provide additional consumer protection for energy consumers by, amongst other things, eliminating door-to-door sales, extending cooling-off and verification requirements, and describing how sales representatives are remunerated.

The proposed elimination of residential door-to-door sales effectively eliminates the verification requirements and the need to extend the cooling-off period because a supplier will no longer be able to negotiate a contract with a consumer in person at the consumer's home.

The current exemptions under the Energy Consumer Protection Act do not require verification for contracts entered into over the Internet, through direct mail solicitation or as a result of the consumer contacting the supplier. Summitt Energy is of the position that these exemptions should remain in the legislation, as they are consistent with similar exemptions found in other retailer energy markets, notably the British Columbia Code of Conduct for Gas Marketers, which has currently been amended and will take effect on November 10.

In British Columbia, the retail market has experienced very similar residential consumer protection issues as we have in Ontario over recent years. They have proposed and do not require verification for agreements that are entered into over the Internet or as a result of a consumer's response to a direct mail or marketing campaign. In fact, article 33 of the Code of Conduct for Gas Marketers

has recently been amended to clarify that a verification is not required if the consumer executes the agreement with no contact by a salesperson through any means. They specifically provide examples of in person, telephone or online.

The British Columbia Utilities Commission has also further amended their code, which will come into effect this month, to allow electronic verification for those agreements that were entered into with the presence of a salesperson. It's an additional option for verification.

Consumers who have contacted a retail supplier have researched their options and have made a conscious decision to obtain their energy supply from the retail supplier. Consumers who choose to enter into an energy contract currently must acknowledge reading and receiving the price comparison and disclosure forms. To impose an additional requirement to require them to complete an additional telephone verification script, which currently has to happen several weeks after entering into a contract, is an unnecessary barrier for allowing consumer choice.

Currently in British Columbia, they have a 10-day cooling-off period for retail agreements that involve a salesperson. Similar provisions also apply in the Consumer Protection Act of Ontario; namely, recently in Ontario they've extended cooling-off provisions for door-to-door sales pertaining to hot water heater sales.

Alternatively, Summitt Energy's position is that if verification is required for all contracts, we do not believe that it would be the ministry's intent to provide a cooling-off period for a consumer-initiated contract, whether commercial or residential, that does not involve a salesperson.

If verification is required for all contracts, Summitt would like to propose that section 17 of the Energy Consumer Protection Act be amended to specifically address the timing of verifications for consumer-initiated and Internet transactions. By amending the application section of section 17 to reflect that a cooling-off provision is not required for consumer-initiated sales, you essentially eliminate the undue burden for a consumer to enter into a contract which they've entered into by self-initiation—having them wait for several weeks in order to effectuate such an agreement.

Bill 112 also proposes to define how a salesperson can be remunerated. Summitt Energy believes that the elimination of door-to-door sales effectively addresses any perceived issues of how residential sales representatives are paid because retail suppliers will no longer be permitted to enter into door-to-door contracts at a consumer's home.

The proposed provision, as it is worded, would also affect commercial sales, and Summitt does not believe that it is the ministry's intent to effectuate commercial sales in this way. Performance-based commercial sales compensation is widely accepted in other industries. It must be noted that commercial sales, for the most part, are scheduled, planned and, in most cases, consumer-initiated, involving intelligent, informed individuals.

The Chair (Mr. Grant Crack): Thank you very much. I apologize to have to cut you off. I gave you a little leeway as well there.

We'll start with the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much for coming today, Mr. Donnelly and Mr. Chummar. If I could sum it up maybe, am I correct in saying that three of the things you have concerns with are the verification, the confirmation, particularly if it's a contract or a purchase that was initiated by the consumer—

Mr. Jeff Donnelly: That's correct.

Mr. John Yakabuski: Did you also make comments with regard to the ability to—with remuneration by commission?

Mr. Jeff Donnelly: Yes, that's correct.

Mr. John Yakabuski: That is a concern?

Mr. Jeff Donnelly: Yes, specifically in relation to remuneration, it would be pertaining to commercial sales specifically. Currently, the way that section 9.3 is written, it applies to all consumer sales. I don't really think that the spirit of the drafting of the legislation is meant to affect how commercial sales are conducted, and should primarily be addressing the residential sales issues that we've had in the past.

Mr. John Yakabuski: Well, essentially, your belief is that if commissions are not allowed in your business, they shouldn't be allowed. Or if they are allowed in other businesses, they should be allowed in your business.

Mr. Jeff Donnelly: Yes, it's a widely acceptable practice for commission-based sales in commercial industries.

Mr. John Yakabuski: Right; we do it in various sectors. Also, I think you made comments about the 20-day cooling-off period, if I may call it that; that that should be either shortened—

Mr. Jeff Donnelly: Yes. Currently, right now, it's a 10-day cooling-off period. It's proposed to extend it to 20. If verifications are something that goes through with the bill, requiring verifications for any contracting with any consumer, it's a little bit unreasonable to require a 10-day, or even a 20-day cooling-off period, for that matter, for an agreement that has been self-initiated by a consumer over the Internet. Essentially, what would happen is—

Mr. John Yakabuski: If they want something and they—

Mr. Jeff Donnelly: They want it and they want it right away, and now you're going to make them wait 20 days, right?

Mr. John Yakabuski: If I order a pair of running shoes from SportChek on the Internet, I want them as quick as I can get them.

Mr. Jeff Donnelly: You want them as fast as you can get them.

Mr. John Yakabuski: Not that I'd be doing much running in them, though. But your point is that if the consumer has initiated it, it makes no good sense for them to have to wait 20 days for that contract to be fulfilled.

Mr. Jeff Donnelly: Right. The whole purpose of—for instance, if you look at the Consumer Protection Act with dealing with the water heaters, that extension was given because of the issue the industry was experiencing with high-pressure sales at the door. That's essentially eliminated if we eliminate residential door-to-door sales.

Mr. John Yakabuski: So as an energy retailer, if I can call you that, a reseller of energy as retailer, you're okay, then, with the elimination of door-to-door sales on energy contracts? You're prepared to accept that part of it, which is the biggest part affecting, I think, the consumer here? You're good with that?

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Mr. Noble Chummar: If I could speak on behalf of Summitt, and you'll be hearing from a number of other retailers today, I think that the politics behind this is the high-pressure door-to-door sales. I believe I can speak on behalf of Summitt that they have swallowed that pill and they have agreed with the position that the government has taken in this legislation, but by doing so, some of the provisions have become somewhat duplicative and unnecessary. Mr. Donnelly has addressed the three issues that are of concern to Summitt Energy, and I believe—

The Chair (Mr. Grant Crack): Okay. Thank you very much. We appreciate that, Mr. Yakabuski.

Mr. John Yakabuski: Holy—what did I get: 12 seconds?

The Chair (Mr. Grant Crack): Well, you got about three minutes and 30 seconds.

Mr. Tabuns.

Mr. Peter Tabuns: Gentlemen, thank you for being here this afternoon. The first question I have is, where does Summitt Energy get its energy from that it's reselling to ratepayers?

Mr. Jeff Donnelly: Well, we are involved in energy contracts with wholesalers, and we purchase and hedge our energy products to ensure that whatever we are supplying to consumers is protected. We only offer fixed-rate program pricing, so—

Mr. Peter Tabuns: I think you kind of missed my question. Who are you buying from?

Mr. Jeff Donnelly: Who are we buying from?

Mr. Peter Tabuns: Yes.

Mr. Jeff Donnelly: We are buying from a wholesaler.

Mr. Peter Tabuns: Which wholesalers?

Mr. Jeff Donnelly: We purchase our electricity and gas through BP.

Mr. Peter Tabuns: Through BP? I didn't know BP generated electricity here in Ontario. Do they? Or are you talking about Bruce Power?

Mr. Jeff Donnelly: No. To answer your question, all of our electricity is purchased through BP. It is not acquired through any of the generation or transmission facilities that are under contract with the provincial government.

Mr. Peter Tabuns: Since I understand that most generation in Ontario is connected to the IESO grid, which generators? Are you providing power from the

United States or Quebec, or are you providing it from Ontario?

Mr. Jeff Donnelly: You're probably asking the wrong person, because I only deal with the consumer protection and regulation issues for the company.

Mr. Peter Tabuns: Okay. The OEB says that people pay 15% to 65% more for power from retailers. What percentage over the local distribution company rates do your customers pay?

Mr. Jeff Donnelly: An educated guess as far as percentage they would pay over what the local distribution rates are? That's kind of a two-pronged question and a two-pronged response, because we currently can provide consumers with fixed-rate electricity contracts at rates as low as four cents a kilowatt hour. The problem is that our consumers who sign up with a retail energy provider are forced to pay the global adjustment, which is currently sitting at over nine cents a kilowatt hour, so if you add the nine and the four together, you've got 13 cents, even though that electricity is not being produced or provided through any of the government contracts to which the global adjustment is supposed to apply.

Mr. Peter Tabuns: You know, the global adjustment covers payments to just about every generator in Ontario. Are you telling me you are getting your power from out of province?

Mr. Jeff Donnelly: I couldn't answer that question.

Mr. Peter Tabuns: So you charge more than people would get if they paid money to their local distribution company. What's the value of the service that you offer?

Mr. Jeff Donnelly: I think it's not that we charge more. I think our fixed-rate products are competitive. Like I said, they are down to even four cents a kilowatt hour for a fixed-rate agreement. The problem is that consumers who sign with an electricity retailer are, in essence, forced to pay the global adjustment charge over and above, where if you're with a default service provider, the global adjustment is blended into your rate. So it's kind of a difficult question to answer. It's a situation that we're put into in our energy industry in this province, one which doesn't exist anywhere else in, you know, the United States, the northeastern seaboard.

The Chair (Mr. Grant Crack): Okay, thank you very much. We appreciate it. We will move to the government side: Ms. Hoggarth.

Ms. Ann Hoggarth: Thank you for your presentation. I noticed in your brief that you said that Summitt Energy believes it is in the best interests of consumers, government and industry to work collaboratively. I believe you're right about that and I think that these hearings are part of that.

I'm a little concerned that no matter what part of the company you're with, you don't know where you purchase your power. That is a concern to me.

How effective do you think the Energy Consumer Protection Act has been at reducing the amount of consumer complaints about electricity retailers?

Mr. Jeff Donnelly: I believe the Energy Consumer Protection Act has been very efficient in dealing with

consumer issues that have happened in the past. Since its inception in 2011, there have been several new provisions put in place to help protect consumers, to ensure that they're doing their best to eliminate those unscrupulous sales reps. There are several compliance processes and regimes in the complaint process. If you look at the actual complaint numbers from the OEB report that was put out, they're very clear that they have been significantly reduced over the five-year period.

Ms. Ann Hoggarth: Okay, thank you. Apart from the measures that are being considered in this bill, what other steps is the electricity retail sector taking to improve transparency in their sales and marketing tactics?

Mr. Jeff Donnelly: Well, I think currently all of our marketing and sales material is reviewed and approved by the OEB, whether it be proactively or reactively through audits and inspections. We at Summit—I can tell you that for the term that I've been there, just over two years, we have taken a proactive approach to ensure that we have as much transparency and accountability as possible to the consumer, that they fully understand what they're paying when they sign up with a retailer; that they will have to pay the global adjustment charge on top of their fixed-rate program; what their options are for getting out of a program; cancellation provisions and so on and so forth.

Ms. Ann Hoggarth: Thank you.

Mr. Jeff Donnelly: You're welcome.

The Chair (Mr. Grant Crack): Thank you very much. I really appreciate you two gentlemen coming before committee this afternoon. Thanks for your insight.

Mr. Jeff Donnelly: Thank you very much, Chair.

The Chair (Mr. Grant Crack): You're quite welcome.

MR. TOM ADAMS

The Chair (Mr. Grant Crack): Next we have Mr. Tom Adams. Welcome, Mr. Adams. You have five minutes.

Mr. Tom Adams: Thank you, Mr. Chairman, for the opportunity to comment on Bill 112. My name is Tom Adams. I'm an independent energy researcher. My focus is changes to the Ontario Energy Board.

Members, I hope you will agree that effective public utility regulation is essential to balance the interests of utility investors and consumers in the long-term public interest. Due process is a tried and true starting point for effective public utility regulation. There can be no due process without respect for the law.

What is the current state of due process at the Ontario Energy Board and how would Bill 112 affect due process in the future? The government fails to comply with the governance requirements of the existing Ontario Energy Board Act. Since July 2010, the Ontario Energy Board has violated section 4.1(6), section 4.2 and section 5 of its own legislation. These three sections are at the heart of the OEB's governance structure. They say that the OEB must have two vice-chairs; that these vice-chairs

must sit on the management committee, with the chair directing the board's internal affairs; and that the board must have a chief operating officer. The 2014 memorandum of understanding between the OEB and the government and also the OEB's bylaw number 1 both explicitly require this structure to be observed.

Why should we expect regulated entities to comply with the law when the regulator itself does not? How can the public interest be protected when the regulator flouts the law? Rather than remedy this situation, Bill 112 continues a trend we have seen, with both the Ontario Energy Board over almost 10 years and since 2012 at the National Energy Board, towards ever-greater ministerial-directed powers. Under Bill 112, the minister will have the authority to control consumer representation. The minister will be able to bypass OEB review for new transmission projects. Even more than is the case today, the underlying factors driving power rates will be guided by lobbyist intrigues at Queen's Park, rather than debated and decided in open hearings.

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Sections 71 and 73 of the existing legislation wisely prevent utilities from getting into unregulated businesses, recognizing the peril to ratepayers of commingling regulated and unregulated activities. The OEB worked for about 10 years to strengthen regulation by developing rules separating the regulated from the unregulated. Utilities have lobbied energetically since the legislation was put in place constraining that activity. Now, coincident with the sale of Hydro One, Bill 112 unwinds that hard-won separation.

In response to the public's concern over the sale of Hydro One, the government says, "Don't worry. The OEB will be the independent price-setter." This claim is captured in the title of the legislation: the Strengthening Consumer Protection and Electricity System Oversight Act. However, the bill's contents directly contradict its own title. The bill shifts powers from the regulator to the minister's office, gives the minister puppet strings over consumer representation, does nothing to correct the crippled regulatory governance that exists there, and weakens oversight by allowing regulated and unregulated businesses to commingle.

Bill 112, in its current form, may do far greater harm to the public interest than that described in the recent report of the Financial Accountability Officer.

The Chair (Mr. Grant Crack): Thank you very much, sir; we appreciate that. We shall move to the third party. Mr. Tabuns.

Mr. Peter Tabuns: Thank you very much, Mr. Adams, for being here today.

The section of this bill, 4.4.1, in which the board is given power to "establish one or more processes by which the interests of consumers may be represented in proceedings before the board": You have, I think, seen processes in other jurisdictions. What other processes are there?

Mr. Tom Adams: A process that's typical in several other jurisdictions—Newfoundland is one that I've

watched carefully in recent years—is to have a government-appointed ratepayer advocate. Newfoundland does have a long history of both very effective public utility regulation and a successful public ratepayer advocate position. It's a respected position.

The current advocate, however, is a guy by the name of Tom Johnson. He signed on to a recent capital program that's going on right now that is about to cause an over 50% increase—permanent increase, for the next 50 years—in the cost of power for customers in Newfoundland and Labrador. This highlights, in my mind, a risk of having all the eggs in one basket, having a monopoly, really, on consumer advocacy.

Consumer advocacy in Ontario has historically been a very decentralized activity: commercial consumers, residential, industrial, often with different perspectives within those customer groups. They're frequently represented in gas and electricity regulatory hearings and have been for a really long time, going back to the 1980s. Many of these representatives have elevated expertise that's difficult to obtain.

We have a successful structure in Ontario. It needs work. It always needs work. But simply empowering the minister to replace all the existing structure is, to me, a very risky undertaking.

Mr. Peter Tabuns: Okay. Thank you for that.

The other concern you expressed, regulations on allowing electrical utilities to engage in unregulated activities: Can you give me an example of jurisdictions where that's currently the case and what the impact is?

Mr. Tom Adams: We've had it in Ontario. The natural gas utilities, at one time, were dominant players in the water-heating market. What we saw in that instance, not with Union Gas but with what was then called Consumers Gas: They played a game with flowing through their tax credits, their capital cost allowance, which made the apparent cost of gas water heater rental appear very low. When the Ontario Energy Board started to investigate and tried to pull apart those businesses—regulated from unregulated—out of concern that revenues were going to the shareholders and costs were going to the ratepayer, they got into a protracted, multi-year litigation with the utility over how to unwind that commingling of the tax regimes of these enterprises.

The Chair (Mr. Grant Crack): Okay. Thank you very much. I appreciate that.

We'll move to the government side: Mr. Delaney.

Mr. Bob Delaney: Thank you, Chair.

Mr. Adams, are you still a researcher for the PC Party?

Mr. Tom Adams: No.

Mr. Bob Delaney: In 2014, were you one of the co-authors for the PC Party energy white paper?

Mr. Tom Adams: Yes.

Mr. Bob Delaney: Okay. Do you believe now, as you believed then, in the broadening of ownership of Hydro One and OPG?

Mr. Tom Adams: Yes, I do.

Mr. Bob Delaney: Thank you, Chair. Those are all the questions we have.

The Chair (Mr. Grant Crack): Thank you, Mr. Delaney. We shall move to the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much. Thank you very much, Mr. Adams, for joining us today.

If my memory serves me correctly, I think it was the introduction of Bill 100 several years ago by the current government that—when they brought that bill in, it was to depoliticize the energy sector. Some of the things you've raised today with regard to ministerial directives and the government apparently taking a more active role in doing the job of what should be done by arm's-length organizations: Would you categorize our situation today as being depoliticized from where it was 10 years ago, or actually more politicized than it was then?

Mr. Tom Adams: It's more politicized and more prone to prompt changes of direction.

Mr. John Yakabuski: Just to clarify Mr. Delaney's question: Would I be correct in saying that you are contracted—or requested—to apply your experience and energy expertise on behalf of many different people and organizations from time to time?

Mr. Tom Adams: My door is always open.

Mr. John Yakabuski: So it would be not unusual for someone other than the PC Party to contact you looking for information on energy or some analysis or advice on what might be pertinent policies going forward?

Mr. Tom Adams: That's very common. It is part of my daily work.

Mr. John Yakabuski: There you go.

On the ratepayer advocate, the OEB was established, essentially, to be the ratepayer advocate back in the years of Davis, to be a watchdog on behalf of the consumers in the province of Ontario.

As we see it today, is that organization less able to do that? You're talking about it not following its own laws. Is that organization less able to act in that regard, to be the protector, so to speak, that it was intended to be when it was envisioned?

Mr. Tom Adams: I think if you look over the history of the energy board, its role was to be the honest broker between the interests of the regulated industries versus consumers. It wasn't there to just advocate for one side. That process, to work, requires the process to have a level of integrity and professionalism that at one time was very widely recognized—internationally recognized. It was a leading institution. I don't think that can be said now.

The Chair (Mr. Grant Crack): Okay. Thank you very much. I appreciate that. I believe that's it.

Thank you very much, Mr. Adams, for your insight and for coming before committee this afternoon.

WATAYNIKANEYAP POWER

The Chair (Mr. Grant Crack): Next we have, from Wataynikaneyap, Margaret Kenequanash, who is the chair, and an adviser, Mr. Ron Stewart. We welcome you both.

Again, welcome, and you have five minutes.

1430

Ms. Margaret Kenequanash: Good afternoon. My name is Margaret Kenequanash. I'm chair of Wataynikaneyap Power. I'm an indigenous woman from North Caribou. I'm here with Ron Stewart, who's our special adviser to our project.

First, I want to thank all the members of the committee for giving me the opportunity to speak to you today with regard to Bill 112. Specifically, we are here to speak to section 18 of the bill, which proposes to amend the Ontario Energy Board Act with a new section 96.1, which assigns responsibility regarding electricity transmission lines to the Lieutenant Governor in Council.

The lack of suitable power supply in remote First Nation communities is a crisis. In spring 2015, there were 10 remote First Nation communities in Ontario on connection restrictions as a result of diesel generators approaching capacity, and we also have six independent power authorities. With this restriction, a community cannot connect new homes, develop new community infrastructure or pursue economic development opportunities. As a result, the power supply crisis is exacerbating already poor living conditions and compromising the basic need for shelter, water and food for community members, particularly the elderly and children.

There are some diesel generation projects that are out there, but they are extremely expensive and it takes years of planning and approvals. Continued use of diesel generation to power First Nation communities is financially unsustainable, environmentally risky and inadequate to meet community needs.

In the face of this crisis, our communities mobilized and, in 2008, we created Wataynikaneyap Power, a ground-up built initiative with mandates and supports from our communities and leadership. Wataynikaneyap in our language means "Line that brings light," and it was named by our elders. The Wataynikaneyap project was formed by 20 First Nations in partnership with industry and government, and it is unprecedented.

Speaking as an indigenous person, the support and mandate for this project is premised on ownership. The overall vision for our indigenous peoples is to own major infrastructure such as Wataynikaneyap that will be a catalyst to control our destiny and change the landscape of how we do business in the future. No major development will take place without the meaningful involvement and consent of our people.

Our company intends to develop, own and operate new transmission facilities that will connect remote First Nation communities to the grid. The company's goal is to provide reliable and accessible power to residents, businesses and industry in the region, realizing opportunities for First Nations.

Ontario's Far North has tremendous natural resource potential. The availability of an adequate power supply would also support renewable generation, development and training, and mining. We have been working with our partners, FortisOntario and RES Canada, to develop the project, and 20 First Nations will remain majority owners and become 100% owners over time.

Wataynikaneyap is one project in two phases. Phase 1 is a new 300-kilometre, 230 kV transmission line to Pickle Lake. The existing line is more than 70 years old and is prone to frequent lasting power outages.

Mr. John Yakabuski: Seventy?

Ms. Margaret Kenequanash: The existing line is 70 years old—the E1C line.

This has an impact on the production rates of the Musselwhite mine, which is in partnership with First Nations around that area.

Phase 2 is a 1,500-kilometre line of 115 kV and lower-voltage transmission line to connect 16 First Nations north of Pickle Lake and Red Lake.

According to PricewaterhouseCoopers, building and operating transmission in these communities is expected to save \$1 billion compared to continued diesel generation. In addition, the Wataynikaneyap transmission project is estimated to create 769 to 1,000 jobs during construction and over \$900 million in social value. The connection of our remote communities has been identified as a priority in Ontario's Long-Term Energy Plan. Strongly supported by the fact that this project would, in turn, lead to the connection of remote communities, our communities and partnerships expect to achieve that. It only makes sense that our communities wish to own, control and benefit from the development in their homelands. This project will also share in the benefits with the rest of Ontario and Canada.

Clearly, this is a major undertaking, but one with immeasurable benefits. There is no logical reason why our communities here in Ontario should be relying on diesel for our electricity. We want to grow; we want to prosper. The project would allow this to happen.

For this reason, we support amending the Ontario Energy Board Act with the addition of section 96.1, which would allow the Lieutenant Governor in Council to declare through an order in council that the construction, expansion or reinforcement of certain transmission lines is needed as a priority project.

The Chair (Mr. Grant Crack): Could you wrap up quickly, please?

Ms. Margaret Kenequanash: Pending the passage of Bill 112, Wataynikaneyap Power would submit that both phases of the project be priority projects for the government of Ontario.

In closing, I want to thank you for this opportunity to present to the committee and provide our voice and support for this bill's passage. We are happy to answer any questions, if you have any.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Kenequanash.

We'll move over to the government side: Ms. Kiwala.

Ms. Sophie Kiwala: Thank you so much, Margaret, for your wonderful presentation. Well done; I'm not sure if you've done this before, but great job.

Ms. Margaret Kenequanash: Thank you.

Ms. Sophie Kiwala: Thank you as well, Ron, for being here today.

It's very, very exciting for me personally to see you here and to welcome you to the committee. I think it's absolutely critical that we engage with our First Nations communities. We continue to do that more and more, so it's very exciting.

I just want to highlight that the proposed legislation will enable the government to identify priority transmission projects to ensure that critical transmission infrastructure is built in a timely manner. This seems like it's a very good fit with your co-operative.

My question for you is: How will the ability of the government to identify priority transmission projects help achieve important policy objectives like the grid connection of remote First Nations communities?

Mr. Ron Stewart: Mr. Chair, through you, it'll be of considerable assistance because this is a policy to get off the diesel and get connected to the grid. It's not all traditional reinforcement of the grid, or an extension to the grid; it really is a policy matter to assist the First Nations communities to get on the grid. So I think this particular kind of legislation is really helpful in that regard in terms of implementing such policy.

Ms. Sophie Kiwala: Very good.

What benefits will First Nations communities in Ontario's northwest see as a result of being connected to the electricity grid? I know that there are many, but, just for the purpose of the committee, I'd appreciate your response to that.

Ms. Margaret Kenequanash: I think, currently, our situation is that our communities are swapping houses to connect energy. So, as a result of that, there is stunted growth in the community. The population still grows, but in terms of pursuing any economic business opportunities, infrastructure development or community development, that's pretty much at a standstill. When the community has access to reliable energy, then there is going to be expansion for that.

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But not only that: As a result of this project, we are currently preparing our communities to be project-ready, to be able to do and carry on this \$1.35-billion project that we want to pursue. As a result of that, we're looking at what sort of existing businesses we have, what sort of economic development opportunities we are going to be able to do—not only us, but in partnership with other industry and government, continuing in that role that we play today, and of course creating employment and training opportunities, and hopefully expansion of proper infrastructure in the community so that our communities can receive the basic commodities of life that everyone enjoys in Ontario and Canada.

The Chair (Mr. Grant Crack): Okay. Thank you very much. We appreciate that. We'll move to the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Ms. Kenequanash, for joining us today. I see your 20 First Nation partners here. Are all of them currently serviced by diesel generators?

Ms. Margaret Kenequanash: Of the 20 First Nations in partnership, four of those are already on grid connection.

Mr. John Yakabuski: Okay, four on grid connection.

Ms. Margaret Kenequanash: Yes, and 16 of those are on remote, which is diesel.

Mr. John Yakabuski: Right.

Ms. Margaret Kenequanash: And out of the 16, there are 10 HORCI communities and six IPAs.

Mr. John Yakabuski: Okay, thank you.

Section 96.1 would give the Lieutenant Governor in Council, essentially the cabinet, the authority to identify priority projects, but it doesn't compel them as to what projects would be priority. It would still be up to yourselves and other advocates to ensure that the government has seen this as a priority. So I see this as part of your visit today: bringing to the attention of some of us who wouldn't otherwise be aware necessarily the extent of your concerns; also, in bringing forward this issue to us, how extensive it is and that it is something that you would like to see the government begin to act on as soon as possible.

So in the winter months, or any time, how do these First Nations, the most remote ones—I have to look that up again and get my glasses on. But let's say way up there in Bear Skin Lake First Nation, how would diesel fuel get to them?

Ms. Margaret Kenequanash: Well, depending on climate change, because that's starting to have impacts now, usually it will be transported by winter road. The majority of that winter road will be on ice or lake. So that creates a potential high risk for environmental. Our community has tried to take advantage of the winter road because it's less costly, but if the climate change impacts continue, then there's a short window of opportunity for them to transport the diesel fuel by road, so they have to fly it in, which doubles the cost, usually.

Mr. John Yakabuski: So if the supply is exhausted before the winter road is—well, did you have enough fuel to get through this season? We're not there yet—

Ms. Margaret Kenequanash: Normally, the communities would try to provide enough fuel to last them a season, for the winter road season and over the summer, until the next winter road.

Mr. John Yakabuski: Right.

Ms. Margaret Kenequanash: At times, our communities run out, so they have to fly in fuel.

Mr. John Yakabuski: Then it has to be flown in at a considerable cost.

Ms. Margaret Kenequanash: Yes.

Mr. John Yakabuski: Thank you very much for bringing these concerns to the committee. I appreciate that.

Ms. Margaret Kenequanash: You're welcome.

Mr. Grant Crack: Thank you. We shall move to Mr. Tabuns.

Mr. Peter Tabuns: Ms. Kenequanash, thank you very much for your presentation today. Also, good to see you again.

I've heard about this project in the past. Can you give me some sense of the history of this proposed extension and why it has not been done in the past?

Ms. Margaret Kenequanash: Well, I could start from 1905, when our treaties were signed, but I won't go that far.

Mr. Peter Tabuns: Okay, so it's long-standing.

Ms. Margaret Kenequanash: Basically, when it comes to energy, I know that in the early 1990s, mid-1990s, there was a number of communities that formed a group called G10. They identified some regional issues that they wanted to partner in and pursue and work on. One of the issues was energy. Unfortunately, in 1995 or so, it fell through; it didn't work out.

In 2007-08, Goldcorp was in partnership with other First Nations in the surrounding area and brought up the issue that they wanted to expand their mine life and therefore needed additional energy because of the 70-year-old line in the EIC that was causing them problems. What happened was that the chiefs in the partnership arrangement said, "We will not put it under the auspices of this IBA. We will work on it separately."

From there, the engagement started amongst the 10 First Nations who were originally on there, and then it ended up being 13. It has been eight years on the go.

The partnership discussions amongst First Nations took some years to form. Then, of course, we moved it up to bringing the project on the map with the provincial government and also with the federal government, and ongoing work with industry and then recently formed a partnership arrangement with Fortis-RES, who is going to be our partner in developing this project.

Mr. Peter Tabuns: So it won't be Hydro One that's developing this transmission project?

Ms. Margaret Kenequanash: Not specifically Hydro One. I understand there's an arrangement that they're having discussions with the Chiefs of Ontario in terms of the purchase of a share. That's all I know about that; don't ask me any questions about that. But I do know that there was a decision by the chiefs that they would pursue that option.

With the partnership that we've arranged, we went through a competitive process with various transmitters in Ontario. We picked the best partner that we thought would promote the vision of our people, which is ownership, because the premise of this project is ownership.

Mr. Peter Tabuns: Have the partners gone through a regulatory process for review of the project to date?

Ms. Margaret Kenequanash: We have done a regulatory review through our legal counsel. In terms of our partners, we're going through the process of doing the transmission licence applications and also reviewing the leave-to-construct application—all those things that the regulatory system has.

This has been a huge learning curve for our First Nations, because it's a very complex issue. The energy sector in Ontario is very complex. Trying to understand it and, at the same time, informing the communities and educating them on the process, and vice versa—edu-

cating the government and the regulatory system on our First Nations needs—is also a challenge at times.

Mr. Peter Tabuns: And the—

The Chair (Mr. Grant Crack): Thank you very much. I wish I could, but I can't.

Thank you, Ms. Kenequanash and Mr. Stewart, for coming before committee this afternoon. Much appreciated.

Ms. Margaret Kenequanash: Thank you.

Mr. Ron Stewart: Thank you.

ELECTRICITY DISTRIBUTORS ASSOCIATION

The Chair (Mr. Grant Crack): From the Electricity Distributors Association, we have Mr. Raymond Tracey, who is the chair. Also, Teresa Sarkesian, I believe, is the vice-president. We welcome you both. You have five minutes.

Mr. Raymond Tracey: Good afternoon, Chair and members of the standing committee. My name is Raymond Tracey. I am the chair of the Electricity Distributors Association, the EDA. With me to my right is Teresa Sarkesian, our VP of policy and government affairs.

The EDA is the voice of Ontario's locally owned electrical distributors, or LDCs, which deliver power to 75% of Ontario's electricity consumers. I'm pleased to have the opportunity, on behalf of the association, to discuss Bill 112, an important piece of legislation for our industry and our consumers.

To begin, I would like to commend the effort being taken to protect consumers' rights under this bill. The proposed changes to the Energy Consumer Protection Act which ban retailer contracts at the door are a step in the right direction. The stricter parameters around contract verification, penalties and the cooling-off period are also very prudent. However, EDA recommends that a review be scheduled after three years to adequately assess retailer compliance to determine if further restrictions are necessary.

I also want to share with you how this important piece of legislation can push our industry forward and benefit the communities we serve.

The proposed amendments to section 71 and the repeal of section 73 of the Ontario Energy Board Act represent significant opportunities for trusted, well-managed local distributors and their affiliates to offer additional high-quality services to their customers. Section 71, in particular, enables LDCs to go beyond electricity distribution, something the EDA had long advocated for. We know that expanding an LDC's scope of business will make the whole system more efficient by using existing assets more intelligently through the introduction of more innovative solutions. It also means that shareholders will have more control and flexibility over the future of local utilities.

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To realize this potential, the EDA encourages the committee to ensure that the legislation provides for a

transparent and reasonable approval process at the Ontario Energy Board—the OEB—to evaluate new scope opportunities. The OEB plays a critical role in our system, and we acknowledge the importance of regulating competitive services within utilities. However, the legislation should aim to make the expansion of appropriate LDC scope plans a routine process when the expansion is based on well-developed business plans. If the legislation passes—and we hope it does—we encourage the OEB to work with LDCs on a reasonable and achievable process for these approvals.

Regarding section 73 of the OEB Act, the EDA offers its full support to government on its decision to repeal it. Removing restrictions on the type of business activities LDC affiliates undertake puts them on a level playing field with their private counterparts, which also creates efficiencies. The EDA does not support any further changes to Bill 112 that would seek to limit or curtail any future business opportunities and services offered by the affiliate businesses.

The EDA also notes that in December 2012 the OEB, in a precedent-setting case involving an affiliate of Enersource Hydro Mississauga, confirmed that LDC affiliates have the right to compete and conduct businesses outside the licensed territory of a distributor. As proposed in Bill 112, the EDA believes that there should be no role for the regulator in non-regulated affiliates of LDCs beyond ensuring the separation of the business units themselves.

In our consideration of other provisions of Bill 112, the EDA would like to provide the following two comments. Regarding the proposal enabling the OEB to appoint a supervisor to oversee management of an LDC if it determines the utility has failed in key obligations, the EDA recommends establishing and providing a timeline and process for such an action to the industry and a directive to the OEB.

Secondly, on the proposed amendments concerning the obligations of directors and senior officers of utilities, the EDA reminds the committee members that LDCs and their boards are already under the purview of Ontario's Business Corporations Act and other acts. Therefore, we suggest that these proposed changes align with the requirements under relevant legislation.

In closing, we thank you for the opportunity to provide comments on Bill 112. We are encouraged about these positive steps that will assist ratepayers and will help LDCs develop new business models to improve their service and create efficiencies, for the benefit of all Ontarians.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Tracey. We appreciate your comments. We shall start with, from the NDP, Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Chair.

Mr. Tracey, Ms. Sarkesian, thank you for being here today. The first question I have is around the electricity retailers. My understanding is that you've done a study in the past showing how much extra Ontarians were paying because they were availing themselves of the services of

energy retailers. How much money are our ratepayers paying that they shouldn't be paying?

Mr. Raymond Tracey: I think our information, which Dr. Dewees, as well as others—we believe that it's in the area of \$130 million on an aggregate basis. I think our data, along with other data that's been given in the industry about this, is somewhat supporting each other. So it's not just coming from our information, but it's also coming from other stakeholders in the industry.

Mr. Peter Tabuns: Okay; \$130 million matters.

Mr. Raymond Tracey: Put it this way: Could we build a lot of infrastructure for \$130 million?

Mr. Peter Tabuns: Yes, I think you can.

The provision of power by these companies—what actual value does it provide to ratepayers?

Mr. Raymond Tracey: Just for clarity, what do you mean by “the provision of power”?

Mr. Peter Tabuns: Sorry. When energy retailers are selling electricity to ratepayers, what value do they provide for that extra \$130 million a year that Ontarians are paying on their electricity rates?

Mr. Raymond Tracey: I don't know if I'm in a position to answer that question, because I'm not a retailer and I don't speak for what their actual offering is. All I can say is that Ontario has a very complex wholesale and retail marketplace. I think Ontarians struggle each day trying to figure out exactly what an electricity cost is, and anything we do to complicate that is probably not in their best interests.

Mr. Peter Tabuns: Okay. Thank you for that. In terms of section 71 and the ability of municipal electrical utilities to engage in other businesses, can you tell me what kind of businesses people are discussing getting involved in?

Mr. Raymond Tracey: I think there's a range of businesses that are out there as opportunities. There are actually quite a few success stories right here in Ontario through affiliates, and it's not just looking at traditional types of services. Our industry, like every industry, is faced with innovation opportunities, different technologies and different solutions.

Given what we have in front of us in Ontario, which is a fairly complex market, as well as higher energy prices, consumers are looking for other options in terms of services and products they can utilize to help manage their electricity bill. I think that affiliates of LDCs are in a very strong position to assist customers in managing that.

Mr. Peter Tabuns: We're talking about energy-related activities rather than business activities outside of energy; is that correct?

Mr. Raymond Tracey: Up to this point, I think any affiliates' interests would be related to energy- or utility-type services. That's currently where we sit today in terms of our authorization. The expansion of scope on the affiliate side is going to broaden that, but you're going to see most likely participants stay in what they know well. It's typically services around and about the utility industry.

Mr. Peter Tabuns: And the regulation as it currently exists: What problems have utilities encountered dealing with this restriction on their ability to engage in a variety of business activities?

Mr. Raymond Tracey: As we look at the evolution of electricity, you're looking at microgrids; you're looking at beta generation; you're looking at distributed generation and distributed storage; and you're looking at intelligent vehicles and smart energy stations. All these things create a different world for what consumers are looking for, and I think that LDCs, whether within their LDCs as an expansion of current scope or through affiliates, are clearly looked at as proven providers of good infrastructure and reliable service and reliability. So, as a result, I think consumers will probably look to them for some of these other services if these opportunities are presented.

The Chair (Mr. Grant Crack): Thank you very much. Appreciate it.

Mr. Peter Tabuns: Thank you.

The Chair (Mr. Grant Crack): We'll move to the government: Ms. Hoggarth.

Ms. Ann Hoggarth: Thank you for your presentation. The legislation as it currently stands restricts the business activities of affiliates of municipally owned local distribution companies but does not include any such restrictions on the business activities of non-municipally owned LDCs. Do you not believe that allowing municipally owned LDCs to be on the same footing as privately owned LDCs makes sense in terms of allowing for equal treatment of all LDCs, regardless of who they're owned by?

Mr. Raymond Tracey: I think we clearly support that position. At the end of the day, we all have shareholders. All shareholders have equal rights, being an owner and as a business—running our businesses, it's our job to run them most effectively and efficiently. By having the same playing field as any other business, regardless of their owner, allows us to have a level playing field and lets the market determine who's the best provider of those services.

Ms. Ann Hoggarth: Great. Just one additional question: Are there any additional amendments to the Energy Consumer Protection Act that you would think would help to further protect Ontario consumers?

Mr. Raymond Tracey: I think you're making some very prudent steps in the right direction. Ontario has a very complex marketplace of wholesale and retail electricity. I think we have a complex structure in how we want to structure time-of-use rates and many other things that I think will bring benefit, but we have to reduce confusion in the marketplace. So any steps you do to make sure there's less confusion for the end consumer, whether they're looking at a retailer contract or at supply from their LDC, I think is important. I believe it's prudent because, up to this point, I think consumers have been confused and, as a result, there have been a lot of concerns. I think you're trying to address some of those concerns as part of this legislation.

Ms. Ann Hoggarth: Thank you, Mr. Tracey.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Teresa and Mr. Tracey—Raymond—for joining us today.

Mr. Raymond Tracey: Thank you.

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Mr. John Yakabuski: The first part of your proposal or your presentation today deals with section 71, and it's pretty self-explanatory about wanting to expand the scope of services offered by LDCs. At one time, were you able to offer some of these other services?

Mr. Raymond Tracey: When we were restructured back in 1998, we were multi-utility providers—water, hydro. Obviously, we were narrowed down to specifically electrical distribution. Since that time, this would be the first real, I think, change in the market space where we would look outside of just maintaining distribution assets for our customers.

Mr. John Yakabuski: Right. So you would be looking at the rental or whatever, leasing rental of water heaters, stuff like that, energy-efficient products, thermostats, these kinds of—

Mr. Raymond Tracey: I think many of those type of services will probably remain in affiliates. We should see holding companies whose sister company is an LDC, not really of the LDC in terms of a structure. So I think you can see those remain in traditional affiliate relationships, which we have sufficient regulation under. I think the opportunity we might see of expansion of scope within the LDC infrastructure is smarter intelligence within the grid itself. So example: In order to connect a high penetration of electrical vehicles in an area, it may be more beneficial for the LDC to be the provider of the charging stations so we can charge them—

Mr. John Yakabuski: Like a Plug'n Drive or something like that.

Mr. Raymond Tracey: Yes—and make them efficient so we can get as much penetration as possible and optimize the utilization of the grid.

Mr. John Yakabuski: Okay. Between yourself and your affiliates, would it be fair to say that if you're granted all these things, all the proposed amendments, we may have no need for energy retailers here in Ontario?

Mr. Raymond Tracey: Well—

Mr. John Yakabuski: Because we're not going to have door-to-door sale of contracts. That's going to be gone.

Mr. Raymond Tracey: Again, I see most of the LDC services that we talk about, whether it be scope or affiliates—not really any LDC or affiliate plays in the space of retailers. Maybe at one time, but I think all of those have been removed. I think the type of services we'll be involved with are more related to the infrastructure, smart utilization of the grid, and enablement of new technology so that we can have better penetration and better optimization.

When you speak of retailers, you're talking about buy-sell agreements, and that will be up to whoever wants to participate in that, but I don't see that being the uptake of much of our industry, that's for sure.

Mr. John Yakabuski: No, I don't expect you're going to be doing it because you do business directly. You are the distributor.

Mr. Raymond Tracey: What I don't see is doing it through affiliates or otherwise. That's not our uptake. A different type of players want to be in that business.

The Chair (Mr. Grant Crack): Thank you very much. We really appreciate you both coming before committee this afternoon.

Mr. Raymond Tracey: Awesome; thank you.

COMMUNITY ENTERPRISE NETWORK INC.

The Chair (Mr. Grant Crack): Coming up next, from Community Enterprise Network Incorporated, is Mr. Jeff Mole, president. Welcome, Mr. Mole.

Mr. Jeff Mole: Thank you, Mr. Chair.

The Chair (Mr. Grant Crack): I haven't seen you for a while—a couple of weeks.

Mr. Jeff Mole: It hasn't been that long.

The Chair (Mr. Grant Crack): Welcome. You have five minutes, sir.

Mr. Jeff Mole: Good afternoon. My name is Jeff Mole, president of Community Enterprise Network Inc. Our mission is to help build the capacity to develop community enterprise in Ontario and give Ontario communities the tools they need to participate in public sector procurement in a way that profits will be reinvested in Ontario. We are a not-for-profit, in the business of helping communities.

I'm here today to speak in support of Bill 112. However, we would ask the committee to consider amending the bill to achieve greater value and protection for consumers. We believe the bill should amend the Broader Public Sector Accountability Act to help facilitate the mobilization of communities and financial resources for the developing of the capacity of community enterprise in the delivery and generation of electricity.

In a news release on February 19, 2015, the Premier indicated she wanted to make Ontario a leading jurisdiction in North America for social enterprise. A community enterprise is a not-for-profit corporation that meets a need and provides benefits. A community enterprise provides an alternative to privatization of public services. This alternative offers greater value for taxpayers and ratepayers by reinvesting profits in Ontario.

We propose that, instead of privatizing Hydro One, the government consider selling Hydro One to a community enterprise. This may be a more effective way of raising the funds to build infrastructure while reducing the size of government. This alternative is possible when community enterprise has the policy tools and the strategic investments to build the capacity to deliver public services.

A community enterprise is run by a group of people who get together to develop a business that creates jobs and generates economic activity with a view to investing surplus, or profits, as you might call them, for the betterment of Ontarians. Community enterprise delivers comparable services while reinvesting surplus revenues in education, health care and community betterment.

The government launched a social enterprise strategy for Ontario in 2013. This strategy is the province's plan to become the number one jurisdiction in North America for businesses that have a positive social, cultural and environmental impact while generating revenue. To meet the goals of this strategy, we believe the government needs to take a strategic look at community enterprise for all government procurement. We encourage the government to have a conversation with us about our community enterprise model and to establish a community enterprise act.

In our experience, mobilization and access to affordable capital are the main hurdles to building a strong community enterprise sector in Ontario. Our goal is to work with government to help overcome these hurdles by recruiting directors, raising funds, and building membership to help grow the community enterprise sector in Ontario. We can't do it alone. We need a government that understands the need for strategic policies that support the growth of the community enterprise sector for the delivery of public services. Accordingly, we encourage members to amend Bill 112 to help facilitate the mobilization of communities and financial resources for the development of capacity in the delivery and generation of electricity.

In the alternative, we encourage the members of this committee to bring forward a community enterprise act. This act would help facilitate the mobilization, again, of communities and financial resources for developing capacity to play a part in the delivery of publicly funded services. Trade agreements are bringing increased competition from abroad for government procurement opportunities. Now is the time to give communities adequate tools to do the jobs that governments have chosen to outsource or privatize. This is a conversation that is long overdue.

I look forward to your questions and a motion to amend this bill. I would welcome a question on the role of the Ontario Energy Board in setting rates as well. Thank you.

The Chair (Mr. Grant Crack): Thank you, Mr. Mole.

We'll start with the government. Mr. Delaney?

Mr. Bob Delaney: Thank you, Chair. We have no questions for this deputant.

The Chair (Mr. Grant Crack): Thank you.

We shall move to the official opposition. Mr. Yakabuski?

Mr. John Yakabuski: Thank you, Mr. Mole. I'm not sure that your presentation today is really directed at Bill 112, but I do have your petition and wish you the very best with that.

Your other idea with regard to a different bill that you mentioned: I would suggest you make that motion to the government, and perhaps they'll bring something forward.

Mr. Jeff Mole: Perhaps we could schedule a meeting, then.

Mr. John Yakabuski: I'm sure they will.

Other than that, I don't think that your presentation has to do with Bill 112. I have no direct questions because I don't see it as being pertinent to Bill 112.

Mr. Jeff Mole: To your point, I did actually look at what the purpose of the bill was, and there is no actual purpose specified within the bill. So I looked to the title, and the title of the bill indicates that they are looking to provide—how does it go?—greater value and protection for consumers. By developing the social enterprise sector in the generation of electricity and in renewables, for example—the government, when they brought out the Green Energy Act, said they wanted communities involved in the development of energy projects. By doing so, the profits are then reinvested for the betterment of the community, which provides a higher return on investment for the ratepayer. The ratepayer has been paying big money for renewable energy projects, but yet the people of Ontario don't get a good return on investment. By ensuring that communities own and manage—it's like the First Nations that were just here before us. Ensuring that communities can own renewable energy projects ensures that those profits, if you will, can be reinvested for the betterment of communities, and that provides better value for the consumer.

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Mr. John Yakabuski: Thank you.

The Chair (Mr. Grant Crack): Mr. Tabuns?

Mr. Peter Tabuns: Mr. Mole, thank you for being here today. Mr. Yakabuski asked the questions that I was going to ask, so I'm good.

Mr. Jeff Mole: Thank you, Mr. Tabuns. Thank you, Mr. Chair.

The Chair (Mr. Grant Crack): Thank you, Mr. Mole, for coming before committee this afternoon.

ONIT ENERGY LTD.

The Chair (Mr. Grant Crack): Next we have, from Onit Energy Ltd., Mr. Balaban, who is the president and chief operating officer. I believe you have an associate with you, so we welcome you, sir. Please introduce yourselves.

Mr. Noble Chummar: Thank you, Mr. Chair. I spoke with the Clerk earlier. I'm Noble Chummar, counsel to Onit Energy as well.

The Chair (Mr. Grant Crack): Thank you.

Mr. David Balaban: Thank you.

Good afternoon. I'm David Balaban, president and chief operating officer of Onit Energy. On behalf of Onit, we'd like to thank the committee for the opportunity of allowing us to share our position regarding Bill 112.

Onit markets to small and mid-size commercial customers—not residential—throughout Ontario. We commenced marketing in April 2014 and currently have 5,000-plus customers under management and a growing workforce of 50 individuals. Onit believes that Bill 112 will have a direct effect on voter choice regarding energy procurement in Ontario.

I'll be covering three main areas today: (1) eliminating high-pressure door-to-door sales for residential consumers; (2) verification calls; and (3) commissioned sales, and how reasonability applies to all three.

(1) Eliminating high-pressure door-to-door residential sales: It's reasonable. There have been significant problems regarding residential door-to-door in the past, and we have no issue with this change. Our business model does not include residential customers and the high-pressure sales associated with it.

(2) Verification: Is it reasonable to include Internet and online enrolments as part of the verification protocol? We believe it is unreasonable, especially with commercial customers. Why? It's not a high-pressure sale. Onit schedules appointments, dispatches field agents to our customers, discusses the program and, should they choose to enrol, the commercial customer does so online. Internet-enrolled customers are all provided a copy of their contract, price comparisons and disclosure statements as mandated. They have to do multiple steps to acknowledge before they are on-boarded.

To have them verified 10 days after the fact is onerous for both the client and for us. It's unreasonable, 10 days later, to have them listen to us read a five-page script and answer 25 questions. Business owners do not have time to do this. Not only that, but based on current rules and billing cycles, regulated electricity consumers have up to 120 days—that's four months—to cancel their contract, without penalty, from the date of enrolment. We feel they are well protected.

(3) To our last point, compensation: Bill 112 defines how salespeople in the energy industry are compensated. Onit believes: (a) This was intended to apply to residential consumers and residential salespeople and not the commercial customer; and (b) it borders on undemocratic and could potentially cause enormous concerns for voters in Ontario.

Garnering sales by its very nature is incentive-based. I don't know of any company that pays its commercial sales force a predetermined salary. Singling out the retail energy industry is unfair. It's the cornerstone of multiple businesses: manufacturing, real estate, financial and insurance companies alike. Again, we submit that the modification to Bill 112 to include commercial sales is unintended as the bill eliminates high-pressure residential door-to-door sales, which was the main intent.

In summary, we support your decision to eliminate high-pressure sales at the residential door; we wish to have Bill 112 exclude Internet and online agreements; and we want to retain incentive-based commission programs for commercial agents.

Handled professionally, with the government and retailers working together hand-in-hand educating con-

sumers, we can provide them with choice—and choice is good. Take telecommunications: Many of us remember paying over a dollar a minute for long-distance calls to the States. There was no choice; now we have choice, and choice is a whole new ballgame.

The energy industry is going through its own challenges today. Peak power rates have increased 8.7% in the last six months and 25% this year.

Choice is good. The voters will choose to remember this government if energy choice is no longer a choice. Thank you very much.

The Chair (Mr. Grant Crack): Thank you. We'll start with the official opposition. Mr. Yakabuski?

Mr. John Yakabuski: Thank you very much, David, for joining us today. Your submission was quite similar to the one from Summitt Energy, except you engage only in commercial contracts, correct?

Mr. David Balaban: That's correct. We chose, as a business model, not to get involved in the residential market.

Mr. John Yakabuski: Right, so door-to-door really hardly applies and doesn't affect you.

Mr. David Balaban: Insofar as we book appointments with our clients and go visit them. That's how we apply our business model.

Mr. John Yakabuski: Right. So you have a previous—

Mr. David Balaban: We book appointments.

Mr. John Yakabuski: You call; you see if they're interested. If they're interested, you set up an appointment.

Mr. David Balaban: That's correct.

Mr. John Yakabuski: Okay. You don't just walk in and—

Mr. David Balaban: No, sir.

Mr. John Yakabuski: It's too risky. You're not likely to be able to meet the person who could actually sign the contract anyway, right?

Mr. David Balaban: That's the point with our business on the commercial side. Doing that, small business owners today don't have time for ad hoc—

Mr. John Yakabuski: So you're not affected by the door-to-door part of this legislation, but you're here because you feel some of this legislation is overly restrictive to a sector of the economy, and that is secondary retailers of energy contracts.

On the commission side, I happen to agree. My wife's a commissioned salesperson; she sells real estate. I don't know that anybody is saying that she should somehow be sold—although she'd love it if it was universal and you got paid the same amount for selling a house in Barry's Bay as you do for selling one in Toronto. I think she would like that. Forget about this commission business; just give her—

Mr. Mike Colle: They could have the same prices in Barry's Bay, too.

Mr. John Yakabuski: Yes, let's just give her the 20 grand for selling a house; we'll take it.

Mr. Bob Delaney: Twenty?

Mr. John Yakabuski: Maybe more.

Anyway, I understand the principle. Where do you think the government is on this? If they want to ban the use of commissions in this sector of the economy, what do you think their reasons are? Do they want to see this sector disappear completely? Do you think that that might be the motivation?

Mr. Noble Chummar: If I can answer that, Mr. Yakabuski: Having spoken with government and having reviewed the legislation, we believe that the new draft of the legislation simply doesn't take into account the fact that there is a distinction between residential and commercial.

And number two, it doesn't take into account the fact that the bill itself is eliminating door-to-door sales. In terms of the compensation side of things, it seems like an onerous measure that was included to drive that political point home, but removing door-to-door sales and making it exclusively voluntary/commercial sales makes that particular provision redundant.

The Chair (Mr. Grant Crack): Okay. Thank you very much. We appreciate that. We'll move to Mr. Tabuns from the third party.

Mr. Peter Tabuns: Mr. Balaban, thanks for being here today.

Mr. David Balaban: Thank you, sir.

Mr. Peter Tabuns: The first question is one that I asked an earlier presenter. Where do you get your electricity from?

Mr. David Balaban: We have a special arrangement with Shell Energy North America, and they either buy from Bruce Power or Brookfield.

Mr. Peter Tabuns: Bruce or Brookfield?

Mr. David Balaban: Yes.

Mr. Peter Tabuns: Okay. I understand the economics on the retail end. I've just seen an awful lot of reports. What is it that you give to commercial customers that makes your service valuable to them?

Mr. David Balaban: We give a commercial customer choice. Basically, we provide them with choice. We have fixed contracts for natural gas as well as power, and we have basically a HOEP-plus product which, again, gives the consumer choice. We strongly believe that mandating specific rates is unreasonable, so we provide that choice for the customer.

Mr. Peter Tabuns: Are you able to provide power at a lower cost to your customers than they can get from the local distribution utilities?

Mr. David Balaban: That's a good question. We did an analysis. This year, a customer on our HOEP-plus product would have saved—and I'm talking about a small commercial customer using about about 150,000 kilowatt hours in an equal mix of on-peak and off-peak—about \$1,200.

Mr. Peter Tabuns: Okay. Thank you.

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The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. I'd like to thank you—

Mr. Mike Colle: Ahem.

The Chair (Mr. Grant Crack): Is it a point of order?

Mr. Mike Colle: It's my turn to ask questions.

The Chair (Mr. Grant Crack): Oh yes, that's correct. Mr. Colle. Sorry, folks.

Mr. Mike Colle: Sorry to interrupt.

The Chair (Mr. Grant Crack): Go ahead, Mr. Colle.

Mr. Mike Colle: I guess, Mr. Balaban, that the point you're making is that this bill should be amended to separate the energy retailers' treatment in the residential sector and your commercial sector.

Mr. David Balaban: That's correct, sir. We feel strongly that the number of complaints and the confusion have been done at the residential door, and that's why we support eliminating door-to-door for residential consumers. We don't feel the same way at the commercial door; it's a different sale and it's a different customer. Now that we've eliminated the high-pressure sales tactics on the residential consumer, we feel that the commercial customer should have different treatment.

Mr. Mike Colle: Okay. In terms of the verification: I heard you say that you think it's onerous to have this 10-day verification period, where you have to read over all the litany of things you have to be certainly aware of—but hasn't it been increased from 10 to 20 in this act?

Mr. David Balaban: Potentially—

Mr. Mike Colle: Or is it different for commercial?

Mr. David Balaban: No, it's the same for commercial as for residential. That's why we're calling into question the whole verification protocol.

Mr. Mike Colle: So the commercial customer right now, if this bill was passed, would have up to 20 days to basically change their mind, right?

Mr. David Balaban: Correct. If it's a small-volume electricity customer who is regulated, they'd have pretty much four months—30 days after their first bill—to change their mind, which equates to almost 120 days.

Mr. Noble Chummar: And in that time, there's this verification concept that—it's bizarre. Basically, it's a five-, six- or seven-page script. Someone would pick up the telephone, contact that customer, be they commercial or residential, and basically go through that script and say, "Hello. How are you doing? We understand that you"—it just doesn't make sense in this particular circumstance. It made sense, perhaps, when door-to-door sales were the ongoing norm, but with the elimination of door-to-door sales—it didn't affect this retailer anyway—the verification concept just simply doesn't make sense.

Mr. David Balaban: Specifically, when a customer, by his or her own accord, logs on to the Internet, enrolls in his or her spare time—which can be when business hours are up, if they have a change, or after hours at their own leisure—they've consciously ordered something. Not unlike your SportChek example earlier today, they want it now.

Mr. John Yakabuski: They've already been delivered.

Mr. David Balaban: They've already been delivered. That's correct.

Mr. Mike Colle: Also, in terms of the commission thing: Generally, how do you pay your salespeople now? How do they get paid? Salary? Commission?

Mr. David Balaban: They are paid commission. We have two sets of people: telemarketers who make the calls are basically a hybrid of a base as well as a commission, and the field agents are strictly commission.

Mr. Mike Colle: So you feel that if the commission were taken away, you'd almost lose that traditional incentive salespeople have to hustle and get more customers?

Mr. David Balaban: I think every commercial salesperson in this province "hustles," from real estate to financial managers of hedge funds. It's just part and parcel of what they do.

Mr. Noble Chummar: The intent of the legislation, we believe, is that it was trying to disincite people from doing that at a doorstep. This is an entirely different scenario, where a sophisticated commercial customer has asked for this person to come into a boardroom—perhaps this person is an engineer or an energy consultant of some sort—and fully understands what he or she is entering into, and the transaction takes place. By disinciting people, it's just not smart for business.

The Chair (Mr. Grant Crack): Okay, thank you very much. We appreciate you two gentlemen coming before committee this afternoon.

Mr. David Balaban: Thank you.

The Chair (Mr. Grant Crack): Thanks for your insight.

CANADIAN RITERATE ENERGY

The Chair (Mr. Grant Crack): Next we have Canadian RiteRate Energy. I believe we have Mr. Tim Nerbas as president, and Imran Noorani, who is the director of regulatory. We welcome you both, gentlemen. You have five minutes.

Mr. Tim Nerbas: My name is Tim Nerbas. I am the founding partner and president of RiteRate, a Cricket Energy company. I'm a chartered professional accountant and a chartered financial analyst with over 30-plus years of related energy retail experience, including 15 years of direct retail experience with Enbridge and RiteRate.

I wish to thank each of you for attending today, and in particular the Ministry of Energy for allowing RiteRate, a really great company, to share the real and present unintended consequence of Bill 112: We'll be out of business.

Why is RiteRate a really great company? Since inception back in 2004—online only, never door to door, never outbound telemarketing, never auto-renewed, no hidden costs: all examples of going above and beyond existing legislation. Result: an A-plus rating with the Better Business Bureau and an average of one OEB complaint per year, with emphasis on "one OEB complaint per year."

What's wrong with Bill 112? We have two issues. I'll talk on one, Imran the other.

Here's the first: giving my online natural gas customers more time to cancel for free, no questions being asked. It's now four to five months, or almost a full winter of natural gas supply, on my dime. Ouch. Give that option to the customers of two online brands you know; one is called Amazon and the other one is called TD Ameritrade. Result? Serious impairment and wipe-out. Here's why. Amazon, in the retail industry—apply Bill 112: Buy your winter boots in December, wear them all winter and give them back to Amazon in April. I'm sorry, but that's true. TD Ameritrade, financial industry leaders—people I admire; Even my dad worked for TD—apply Bill 112: You buy your stock at a hundred bucks, watch the stock market for four to six months and then give it back to them, but only if the stock price is less than \$100, thank you. Mind-boggling.

At this time I'd like to introduce Imran Noorani, RiteRate's director of regulatory.

Mr. Imran Noorani: Good afternoon, everyone. I'm here to discuss Bill 112's second issue that we have, which is verification of all contracts. I think it's an unintended consequence.

Currently in Ontario, as the rules currently are, agreements that are signed up online do not need verification because the understanding is that they're signed up online, through somebody's own volition, making a choice, and there's no sales pressure involved. The reality is, a ban on door-to-door sales helps address any issue related to fraudulent sales that might arise, let's say, out of an iPad, because it could be an online sale. So the exploitation issue, and the requirement to verify every agreement, is actually dealt with through the ban of door-to-door sales.

In Ontario, the Consumer Protection Act has a remote exemption, so if somebody enters into an online agreement they don't need to be verified. If somebody is in BC, BC also says that there's an exemption for online requirements. In 2012, the OEB actually did issue a bulletin explicitly stating that any agreement that is signed up online is exempt from verification because there is no undue sales pressure involved in the process.

For RiteRate, if we now have to verify every agreement, we would lose 60% of our business in the first year; we wouldn't be able to justify our existence; we would go out of business entirely. And we'd have to now start doing telemarketing phone calls to verify agreements, which nobody enjoys.

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Fundamentally, this is bad policy in Ontario, and it's exacerbated because there are other legislative actions happening as well. Bill 112 will be followed by an amendment to regulation 389/10, which has 10 measures that will be introduced to the energy sector. Additionally, the OEB is also currently introducing 13 additional measures. The intent of all of this combined is to wipe out the segment.

We currently have a declining market for natural gas, which is why it's really easy for anybody doing an analysis—a limited analysis—on natural gas agreements

and electricity agreements in a declining market to say that there's no value. They've cut out the other component. In 2006, around the time of Hurricane Katrina, people were saving a lot of money. The result of this legislative change will be taking consumer choice away from them—the opposite intent of deregulation in 1987.

This policy is almost like a scorched-earth policy. One thing that I regularly experience—well, not regularly, but I do experience—is racism, because I am a brown man born and raised in the Middle East. Bill 112 is essentially using the same philosophy, which is that every marketer and every retailer out there is there to deceive everybody and to steal money from their pockets. Our existence and our complaint records and our ratings show that this is not the case.

Really, at the end of the day, this bill isn't protecting consumers; it's taking choice away from consumers and telling them that the government knows what's best for them when it comes to energy.

The Chair (Mr. Grant Crack): Okay, thank you very much. We appreciate your comments. We'll start with the government: Mr. Dickson.

Mr. Joe Dickson: Thank you, gentlemen. I'd just like to ask clarification. You indicated that there has only been online service provided by you—

Mr. Tim Nerbas: Yes.

Mr. Joe Dickson: —in the sales and marketing end; no door-to-door.

Mr. Tim Nerbas: Yes.

Mr. Joe Dickson: No telephone solicitation.

Mr. Tim Nerbas: Yes.

Mr. Joe Dickson: So the only thing I don't see is a halo over your head and a pair of wings as you've just come down from heaven.

Mr. Tim Nerbas: Not true.

Mr. Joe Dickson: That's true?

Mr. Tim Nerbas: It's the model that we chose to run 12 years ago, yes.

Mr. Joe Dickson: So the question then is, apart from the measures considered in this bill, what other steps is the electricity retail sector taking to improve transparency in sales and marketing, knowing that you're not in sales and marketing?

Mr. Imran Noorani: When it comes to electricity specifically, we actually have a great profile of experience between us and the other staff as well. I actually did work for the Ontario Energy Board, and I worked on the case of pricing—time-of-use pricing. The only product that we actually offer provides true value. We have an online tool as well that we've developed in addition to the OEB's tool which basically profiles if a person would benefit being on our program or not.

Again, contrary to what the OEB report said, and Bruce Sharp's report actually suggested, because he didn't look at other products—he only looked at fixed products—we actually educate our customers in a lot of detail. We actually do profiled analysis of customers; we spend time with them on the phone. When it comes to

increasing transparency in the sector, we can discuss the global adjustment, but really, it's not our charge.

Mr. Joe Dickson: Last question: lowest complaint record, averaging—and that's on your brochure—one complaint per year. Is that per town, per city, per province?

Mr. Imran Noorani: No, just period. One complaint per year.

Mr. Joe Dickson: One, period.

Mr. Imran Noorani: Yes. We were averaging one complaint per year. That is correct.

Mr. Joe Dickson: That's all my questions, Mr. Chair. Thank you, gentlemen.

The Chair (Mr. Grant Crack): We shall move to the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Tim and Imran. Just for clarification, I have to ask you—one complaint per year. That's amazing, but can you give me an idea of how many contracts we're talking about?

Mr. Tim Nerbas: Yes, sure. Being through the entire cycle twice—

Mr. John Yakabuski: An average.

Mr. Tim Nerbas: Yes. High: 30 homeowner contracts, less than 50,000 cubic metres a year. Low: eight.

Mr. Imran Noorani: Sorry; we're talking thousands.

Mr. Tim Nerbas: Eight thousand, sorry, yes. We started with zero, of course.

Mr. John Yakabuski: So from 8,000 to 30,000 contracts through the cycle, and you average one OEB complaint per year.

Mr. Tim Nerbas: Yes.

Mr. John Yakabuski: That's pretty remarkable.

You really were passionate when you came here.

Mr. Tim Nerbas: Sorry.

Mr. John Yakabuski: No, no, not sorry. I really appreciate that, because I think sometimes people come to committee and they don't want to be as blunt as maybe they should be. You're not saying that this bill, because of some of the pieces in this bill which will affect everybody in this sector—that this is going to make it difficult for you in business. You are saying that this bill, if all of the clauses are enacted without some amendments, will put you out of business?

Mr. Tim Nerbas: Yes. Off the residential business, yes.

Mr. John Yakabuski: Off the residential business.

Mr. Tim Nerbas: Yes.

Mr. John Yakabuski: Do you believe, and I'm asking you for your opinion on this, that this bill is designed by the government to put this sector out of business?

Mr. Tim Nerbas: I will call it and describe it as I did in my opening: It's an unintended consequence of Bill 112, because if I was the only retailer in Ontario with my track record, there would never be any large enough complaints at the OEB to challenge the legislation.

Mr. John Yakabuski: Are you hopeful that the government will entertain reasonable amendments to this bill?

Mr. Tim Nerbas: Hopeful? I pray.

Mr. John Yakabuski: Thank you very much. I appreciate your presentation.

Mr. Tim Nerbas: You're welcome.

The Chair (Mr. Grant Crack): Mr. Tabuns?

Mr. Peter Tabuns: Mr. Nerbas, Mr. Noorani, thank you for your presentation. First question: What's your split between commercial and residential customers, if you have a high of 30,000?

Mr. Tim Nerbas: Customer counts, utility account numbers: 99% homeowner, 1% commercial; volumetric: 55% residential, 45% commercial.

Mr. Peter Tabuns: Okay. What's your source of electricity that you're selling to the public?

Mr. Tim Nerbas: We do not sell fixed-rate electricity. So it is the MEU. We sell HOEP—wholesale energy market price.

Mr. Imran Noorani: We're sourcing through the IESO.

Mr. Tim Nerbas: Yes, all of it.

Mr. Peter Tabuns: That's helpful. Okay. Thank you.

You tell me that you discuss people's energy use, their electricity use, and you identify those who will benefit from what you are selling and those who won't. So what savings do people see and why is it that you are able to offer savings when the analyses that we've been presented with show, in general, much higher prices from retailers?

Mr. Imran Noorani: The way the RPP is currently structured in Ontario, time-of-use price is mathematically calculated with a profile usage of an average homeowner using 64% of their electricity off-peak, 18% on-peak and 18% mid-peak. When you have, let's say, a business or when you have, let's say, somebody who is retired, they're at home during the day, somebody with young children or their parents are now living with them—in these scenarios their on-peak and mid-peak profiles are higher than the average. When their on-peak and mid-peak profile is higher than the average, they are better off being on a wholesale and pass-through off the market grid. The only way that they would have that access in Ontario is if they were roughly 25 homes in size, and so we give customers access to this by pooling them all together as if they were one big, large buying customer.

Mr. Peter Tabuns: Okay. Thank you.

The Chair (Mr. Grant Crack): Thank you both, gentlemen, for coming before committee this afternoon. It's much appreciated.

Mr. Tim Nerbas: Thank you.

ONTARIO ELECTRICAL LEAGUE

The Chair (Mr. Grant Crack): Next we have the Ontario Electrical League: Mr. Dave Ackison, who is the chair. We welcome you, sir.

Mr. Dave Ackison: Thank you very much, Mr. Chair, and good afternoon.

The Chair (Mr. Grant Crack): Good afternoon. You have five minutes.

Mr. Dave Ackison: My name is Dave Ackison. I am a licensed electrical contractor from Peterborough. I am the current chair of the board of directors of the Ontario Electrical League. The Ontario Electrical League is a non-profit provincial organization of companies and organizations in the electrical contracting industry from communities across Ontario. Our members include licensed electrical contractors, electricians, municipal utilities, electrical inspectors, distributors, manufacturers and their representatives, consulting engineers, educators, service companies, and, together, our members employ more than 12,000 workers in the electrical industry in Ontario.

I am pleased to have the opportunity to be with you today and share the Ontario Electrical League's comments on Bill 112, the Strengthening Consumer Protection and Electricity System Oversight Act. I am going to focus my remarks specifically on sections 15 and 16 of Bill 112.

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Let me first address section 15, which removes the restrictions in section 71 of the Ontario Energy Board Act that prohibit a municipality-controlled local distribution company from doing business other than the transmission or distribution of electricity, except through a separate company.

If enacted, this change allows the Ontario Energy Board to authorize a local distribution company to engage in work such as repairing street lighting, for example. The Ontario Electrical League opposes the removal of these restrictions for two reasons.

First thing, engaging in non-transmission or non-distribution work such as repairing street lighting can only be undertaken by an electrical contractor with a licence from the Electrical Contractor Registration Agency of the Electrical Safety Authority. An ECRA-ESA licence ensures that the electrical contractor is qualified to do the required work, which protects both the electrical worker and the public.

Local distribution companies are not licensed by ECRA-ESA. If the restriction in section 71 is removed, this will allow the Ontario Energy Board to authorize these non-ECRA-ESA licensed companies to do this type of work and put both electrical workers and the public at risk.

Second, the operation of local distribution companies is effectively subsidized by the ratepayers in a municipality, including the cost of their staff, trucks, equipment and other supplies. If the restriction in section 71 is removed, the companies will have a ratepayer-funded competitive advantage which, when competing for business against private sector companies like mine and other Ontario Electrical League members—it is not fair and not acceptable for municipal hydro ratepayers to subsidize their local distribution companies to compete with private sector companies. This only results in an unfair competitive advantage and higher rates for electricity customers.

Let me speak to section 16 of Bill 112, which repeals section 73 of the Ontario Energy Board Act. Section 73

of the act restricts the types of activities that municipality-controlled local distribution companies can engage in. The Ontario Electrical League opposes the repeal of section 73. As we noted earlier, removing restrictions on local distribution companies gives them an unfair competitive advantage when competing with our members for electrical contracting work.

The Ontario Electrical League believes that fair, honest competition is in the best interest of hydro ratepayers across the province. Mr. Chair, I urge the members of this committee to amend Bill 112 by removing sections 15 and 16 and maintaining the current restrictions on local distribution companies, as outlined in the Ontario Energy Board Act.

Maintaining these restrictions protects electrical workers and the public. It protects hydro ratepayers from unnecessary rate increases and prohibits unfair competition with the private sector.

Thank you for the opportunity to make these remarks.

The Chair (Mr. Grant Crack): Thank you; we appreciate that. We shall move to the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Mr. Ackison, for joining us today and giving us a different perspective on sections 15 and 16 of Bill 112.

To be honest with you, this is the first I've heard of the concerns of the Ontario Electrical League. We generally have good communication, so I'm pleased that you're here today and would want to hear more about how this might affect you, because obviously the EDA was on the other side of that argument when it came to removing those restrictions from section 71.

Since Bill 112 was tabled, have you had the chance to approach persons in the minister's office with your concerns with how this may affect your members and their ability to compete for their work?

Mr. Dave Ackison: No, we have not as of yet. Everything has moved along very quickly.

Mr. John Yakabuski: Yes. You realize that amendments have to be tabled by Thursday, and the bill will be going through clause-by-clause very soon. Basically what you're saying is, if we repealed sections 15 and 16, that would restore more of a competitive balance for your members. We do appreciate and respect the work that your members do. We've all got members of the Ontario Electrical League in our constituencies. We know the good work you do, so that is quite frankly something that does concern me when I hear this coming before the committee.

Is there anything else you wanted to point out with regard to those sections that may be helpful for us to understand what kind of amendments may be necessary?

Mr. Dave Ackison: What we're talking about is, a power line technician is a voluntary trade; an electrician is a compulsory trade. Under the voluntary trade part, a labourer or a person who is not trained could do the work of the electrical industry through the retailer.

Mr. John Yakabuski: So, today, your members would do a lot of this work?

Mr. Dave Ackison: Yes.

Mr. John Yakabuski: They would be contracted to do it?

Mr. Dave Ackison: My company does up to—some years, up to 50% of my business is repairing street lights: whole line and sidewalks. You can have street lights along the walkways where, if the work is improperly done, they can become live, and you wouldn't know until it's raining. It has happened in many communities.

Mr. John Yakabuski: Okay. Well, thank you very much for your input today. We'll certainly take all of that under consideration. Appreciate that.

The Chair (Mr. Grant Crack): Thank you. Mr. Tabuns.

Mr. Peter Tabuns: Mr. Ackison, thank you very much for your presentation today. What percentage of street lighting work, for instance, is done in Ontario by private contractors as opposed to municipal or local distribution company staff?

Mr. Dave Ackison: I can only guess that—in my town, almost 80% of it in Peterborough is done by contractors.

Mr. Peter Tabuns: And the other 20% is done by?

Mr. Dave Ackison: By the utility on an emergency basis, etc., or within their scope or on their lands.

Mr. Peter Tabuns: Okay. Like Mr. Yakabuski, this is the first I've heard of this as a potential issue. Have you seen interest on the part of local distribution companies to actually take over this work?

Mr. Dave Ackison: Yes. Over the years, they've tried many times to take over this work from us.

Mr. Peter Tabuns: And what has prevented that from happening?

Mr. Dave Ackison: The minister. At different times, we talked at different hearings, and I met up with the ministry and we spoke to what would happen to electrical contractors who are doing this type of work.

Mr. Peter Tabuns: Okay. I don't have further questions for you, but I do appreciate you bringing our attention to this.

The Chair (Mr. Grant Crack): Thank you very much; appreciate that. We shall move to the government: Mr. Delaney.

Mr. Bob Delaney: I'm interested in picking up from Mr. Tabuns and exploring in a little bit more detail your statements around whether some of the local distribution companies would prefer to use their own people rather than your people. Would you expand a little bit on the rationale? If, hypothetically, there was someone from a local distribution company sitting where you are, what would they be saying for their rationale about wanting to take over work that's done by an independent contractor?

Mr. Dave Ackison: They would say that they have the equipment, etc. They figure that they could do the work. Whether they're trained for it or not, they work on high-voltage lines, but they work on high-voltage lines for the municipality. They don't work on it for the private sector. So I would say that they just figure they don't have to go through the training, the ECRA licensing that

the Electrical Safety Authority has. That avoids all that, so the cost of it is—and the training is not there.

Mr. Bob Delaney: My own electrical utility, which keeps in close touch with me, often makes a point about the degree to which they emphasize training, certification and safety. Could you expand a little bit on on what basis you make the statement that they don't have to go through the training? Why would they not either choose to or want to or be required to?

Mr. Dave Ackison: Again, the 434 is a voluntary licence, and it is the lineman's ECRA licence. They are not trained in fixing street lights or any other type of apparatus as far as it goes, except for their transmission systems, whereas 309A is an all-encompassing licence that is allowed to do all that part of it. We take our five years of apprenticeship, our training, and we are brought up through that part of repairs, fixing lighting, and trained to solve that problem.

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On the utility side, they use a third party, which, when they use the third-party company, if I'm not mistaken, that part of the company can be licensed through ECRA, and they must have a master licence and an electrician on staff on that part. That's not the retailer or the LDC themselves going in.

Mr. Bob Delaney: Okay. Thank you, Chair.

The Chair (Mr. Grant Crack): Thank you, Mr. Ackison, for coming before the committee this afternoon.

Mr. Dave Ackison: Thank you very much.

The Chair (Mr. Grant Crack): You're welcome.

JUST ENERGY

The Chair (Mr. Grant Crack): Next we have, from Just Energy, Mr. Davids, who is the executive vice-president and general counsel, and also Ms. Ruzycski, vice-president of regulatory affairs. We welcome both of you to committee this afternoon. You have five minutes.

Mr. Jonah Davids: Good afternoon, committee members. My name is Jonah Davids and I am the executive vice-president and general counsel for Just Energy. Joining me is Nola Ruzycski, our vice-president of regulatory affairs for Canada.

Just Energy is a provider of energy solutions to residential and commercial customers through fixed, variable and flat-bill electricity and natural gas products, green energy products, such as renewable energy certificates and carbon offsets, as well as innovative energy management tools, such as smart thermostats and solar products for residential customers. Just Energy operates in 20 jurisdictions across Canada, the United States and the United Kingdom, servicing approximately two million customers. Just Energy employs over 1,200 people, 800 of whom are employed in 11 offices throughout Ontario. We're a partial owner of ecobee inc., a smart-thermostat developer headquartered here in Toronto.

As a company, we are committed to continuing to bring value to Ontario customers in the form of innovative energy management technologies and products, such

as our flat-bill product, which combines a smart thermostat with a single monthly cost to consumers, no matter their usage, protecting them from events such as the polar vortex. We appreciate that customers want choice in helping them manage rising energy bills, and know that Just Energy is in the best position to develop products quickly and effectively that will do so. We support efforts to improve consumer protection as well. That said, we are concerned that Bill 112, as it is drafted, will limit consumer choice and make it near impossible for innovative companies to bring new energy management solutions to Ontario.

Just Energy recommends striking subsection 4(1) and sections 6 and 7 in their entirety. Bill 112 amends the ECPA to require verification of customer-initiated contracts, such as online contracts, and extends the contract verification cooling-off period from 10 to 20 days. Applying verification requirements to customer-initiated contracts such as online enrolments is unnecessary to accomplish the objective of improved consumer protection and is actually counter-productive to providing the consumer with the ability to independently choose the best option for him or her.

With the prohibition on in-person, at-home sales under the bill, contracts will be initiated at the outset by the consumer making his or her own choice in his or her own time. If the consumer is exercising their independent choice to seek out and enter into an energy retail contract, owners' verification procedures 20 days after selecting the product are unnecessary.

Applying the contract verification for online enrolments and extending timelines does not enhance consumer protection in any measurable way, but instead puts roadblocks in the way of Ontario consumers having their energy management choice satisfied. In fact, the BC Utilities Commission has recently amended their code to provide that no verification is required for customer-initiated contracts. This is the present law in Ontario and we see no need to change it, especially since customers can cancel their contract 30 days after they receive their first bill, with no exit fees.

We also note that the bill regulates how salespeople are compensated—you've heard this from others—with the possibility of prohibiting the payment of commissions. Since the alleged aggressive behaviour at the consumer's door has been addressed with the prohibition on in-person at-home sales, we believe it is unnecessary for the government to interfere with private businesses' compensation structures.

Accordingly, we recommend that section 9.3 of the bill should be struck in its entirety. However, if the committee is unwilling to strike this section of the bill, we recommend that the bill be clarified to include the word "residential" before the word "consumers" in section 9.3 so as not to unintentionally capture an essential form of compensation to salespersons selling to businesses in the province. Without this change, we are very concerned that suppliers will cease to provide the choice to businesses in the province, thereby limiting the

ability of Ontario-based businesses to manage their energy supply.

Just Energy is committed to working with the province to enhance consumer protection. However, without the changes I have mentioned, this bill will dilute consumer choice and make it difficult for this province to be on the forefront of new, innovative, value-added products which retailers are in the best position to provide.

Thank you for your time and attention to this matter. I welcome any questions you may have.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate your comments.

We shall move to Mr. Tabuns.

Mr. Peter Tabuns: Thank you very much for your presentation today. As I've asked other retailers, where do you get your power from?

Mr. Jonah Davids: We have contracts with Bruce Power, Shell, BP—a number of parties.

Mr. Peter Tabuns: Okay. What do you charge for power?

Mr. Jonah Davids: I guess it depends on the product. As we mentioned, our flat-bill product is a flat rate that includes a smart thermostat, a flat bill for your power and a flat bill for your gas. I think the current price—Nola, you can correct me if I'm wrong—is an \$89.99 monthly charge for all those three.

Mr. Peter Tabuns: For those who are not on that flat rate, what's the charge per kilowatt hour?

Mr. Jonah Davids: That's the only product we currently sell in Ontario to residential customers. For commercial customers, it would vary, depending on the negotiations with those customers. I think we've offered that product for about two years now.

Mr. Peter Tabuns: Okay. The value that you actually give to customers—we've been told by the Ontario Energy Board and others that private retailers charge a substantial premium for the power they provide to customers. What value do you actually give to customers who sign up with you?

Mr. Jonah Davids: I think that, as I mentioned in the presentation, the current product, which we call our flat bill—we call it "unlimited" in other jurisdictions—offers the customer peace of mind that, no matter the volumetric usage that they have—so if there's a polar vortex and consumption skyrockets—they'll pay the flat price, plus, in the case of Ontario, they get a smart thermostat so that they can control their demand and usage. If they go up to the cottage and forgot to turn off their air conditioning in their house, they can do that from their phone. The smart thermostat, the ecobee smart thermostat, helps learn their usage and helps control demand.

We think value can be seen in a lot of those types of products. Retailers like us, we're constantly looking for new products. We're looking at a product that can help customers understand which appliances in their home are using how much energy and whether it's efficient, based on other people within their jurisdiction using that. These are the types of things that we're constantly pushing at.

Mr. Peter Tabuns: If you weren't selling, or getting contracts signed, on a door-to-door basis, what sort of marketing would you be doing on a door-to-door basis?

Mr. Jonah Davids: Sorry, I guess I don't understand. The door-to-door basis would be banned—

Mr. Peter Tabuns: But you're still allowed to market door to door, under this bill.

Mr. Jonah Davids: Oh, sorry; like the advertising marketing? To be frank, that depends on what the regulations say, but we would probably go to the door and maybe educate the customer about the smart thermostat. I'm not the marketing person, so I'm probably not in the best position to answer that at this point. There may still be door-to-door interaction, depending on what the regulations look like.

Mr. Peter Tabuns: Do you use direct mail marketing?

Mr. Jonah Davids: Not a lot. We have in the past—I don't think in Ontario very much, but we certainly have used it in some of our other jurisdictions, and maybe from time to time in Ontario. We do a lot of online as well.

Mr. Peter Tabuns: Thank you.

The Chair (Mr. Grant Crack): We shall move to the government: Mr. Colle.

Mr. Mike Colle: I guess you're saying the same thing about this 10- to 20-day increase for the verification period being really unnecessary, because you said that a customer can cancel that contract after 30 days anyway.

Mr. Jonah Davids: At 30 days, actually, after they receive their first bill. That could be—as, I think, some of the others—about 120 days after they signed up, depending on when they get enrolled and when the contract switches over and when they get billed. But yes, the customer can do that without any exit fees.

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Actually, Just Energy had that policy before the ECPA. It's currently the law under the ECPA for power contracts. We do it for gas, and I think the bill amends it to do it for gas as well.

Mr. Mike Colle: In terms of the commission: You would want to keep the possibility of paying your salespeople the commission on the commercial side—or both?

Mr. Jonah Davids: To be honest, it's questionable who the salespeople are if there's the ban on door-to-door on the residential side. I do think that it's unnecessary to have any prohibition on commissions to salespeople, whether it's residential or commercial. Certainly, on the commercial front, I feel that it's an unintended consequence of the bill that commercial salespeople wouldn't be able to earn commissions.

Mr. Mike Colle: How long have you been involved with the retail end of energy sales?

Mr. Jonah Davids: I've been with Just Energy for eight years.

Mr. Mike Colle: I don't know if you're familiar, but over the last 15 years—whenever this started—one of the most common complaints we got from our constituents

was about the incredible, aggressive tactics of door-to-door energy salespeople: forging signatures, writing up applications under dead people's names, lying about their rates, and especially preying on seniors. In all my years, I've never had as many complaints about any issue as I have with this abuse of door-to-door energy sales. It was just a flood. So you can see why, in this legislation, we're trying to put an end to those aggressive, unethical tactics.

Do you think that is going to end? Has enough been done in this bill to end those people? I'm not saying your company has been doing it, but certainly my constituents have been hounded by these door-to-door people for years.

Mr. Jonah Davids: Obviously, we don't condone that behaviour. Just Energy has had numerous policies and a compliance program in place to deal with fraud, as you mentioned. We have a seniors' policy where we will not sell to a senior at the door. They're welcome to purchase our product, but they would have to call in directly.

I think the ECPA was working very effectively to deal with these types of complaints. The OEB report and the report that that was based on showed a drastic reduction in complaints over the past four years.

I think that banning door-to-door sales for energy contracts will certainly eliminate the complaints of that nature that you'd be receiving, and I don't think that having an online verification will add anything to that.

The Chair (Mr. Grant Crack): We'll move to the official opposition. Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much for joining us today. We've met before.

First of all, you folks are good with the provisions in the bill that put an end to selling contracts at the door?

Mr. Jonah Davids: That wouldn't be our first choice, but we understand the government's position, and we're willing to accept that.

Mr. John Yakabuski: So you're good with that.

Mr. Jonah Davids: Yes.

Mr. John Yakabuski: Your other products, like that air conditioning one you were talking about, where we could control that from our home, our iPhone or smart phone—I don't have a cottage, but supposing I did and I was at the cottage and I remembered that I didn't turn down the air conditioning; I could control that. If I wanted one of those, I'm not getting it for at least 20 days under this bill, right?

Mr. Jonah Davids: Well, if you want it combined with the flat-bill product that we've put together, yes. If you were to go online and enrol for it, you would have to then wait 20 days and then receive a call and answer a 26-question questionnaire without asking a single question—because if you ask a question on that call, they can't enrol you. Most people would probably ask a question. So, in the end, it's probably effectively killed that type of sale for us.

Mr. John Yakabuski: But if I could find that product somewhere else, other than through an energy retailer like yourself, I could go ahead and buy it.

Mr. Jonah Davids: You could, but the one thing that I'll point out is that the government has been pushing for demand management for a long time. Just Energy, in the past two years, with these smart thermostats, has installed tens of thousands here in Ontario—

Mr. John Yakabuski: But I could get it somewhere else, and so the only loser would be you and your ability to sell me that product, because I could go procure it somewhere—someone else could sell me that product—but by legislation you wouldn't be able to sell it to me for 20 days.

Mr. Jonah Davids: Correct; if we combined it with an energy contract, yes.

Mr. John Yakabuski: Right. And how many of your salespeople are on commission?

Mr. Jonah Davids: In Ontario, I would say that probably 90% are.

Mr. John Yakabuski: And that's not unusual?

Mr. Jonah Davids: No.

Mr. John Yakabuski: Do they all sell exactly the same amount?

Mr. Jonah Davids: No.

Mr. John Yakabuski: So some people, in fairness, work harder than others—

Mr. Jonah Davids: Correct.

Mr. John Yakabuski: —and are compensated better as a result of that?

Mr. Jonah Davids: As they develop their skills, yes. Absolutely.

Mr. John Yakabuski: So if you were unable to pay people by commission, like, I said, my wife is paid—human nature—would that likely have a detrimental effect on the effort that's being put out by a lot of salespeople, if they have nothing to look forward to for working harder?

Mr. Jonah Davids: I think it would have a detrimental effect on our business as well. I think that it would be a challenge to find good salespeople who want to sell effectively and properly. They would go to another industry to do that because they want to make commission.

Mr. John Yakabuski: Right.

The Chair (Mr. Grant Crack): Thank you both for coming before committee this afternoon. We appreciate it.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair (Mr. Grant Crack): Next we have on the agenda, from the Ontario Public Service Employees Union, president Mr. Thomas, and political economist Mr. Robinson. We welcome the both of you, gentlemen.

Mr. Bob Delaney: Chair, before this deputation starts—

The Chair (Mr. Grant Crack): Is this a point of order?

Mr. Bob Delaney: Yes, it is a point of order. I would like the Chair to ensure that the deputants actually speak to the bill.

The Chair (Mr. Grant Crack): I shall do my best.

Interjection.

Mr. Michael Harris: He said you'd better speak to the bill, or you're getting kicked out.

The Chair (Mr. Grant Crack): Mr. Thomas, the floor is yours.

Mr. Smokey Thomas: I rest my case about democracy and freedom of speech.

The Chair (Mr. Grant Crack): You have five minutes, sir.

Mr. Smokey Thomas: Good afternoon. My name is Smokey Thomas, president of OPSEU. With me here today is our political economist, Randy Robinson. We're very happy to be here to comment on Bill 112, the Strengthening Consumer Protection and Electricity System Oversight Act.

Our union represents 130,000 working Ontarians in a wide variety of jobs right across the public sector. As a union leader, I'm concerned about wages, but I'm just as concerned about prices. For OPSEU members, a higher price for electricity has the same effect as a wage cut. It's the same for all Ontarians.

My first comment, for the record, is that it is clear to me that this bill exists because the government's plan to privatize Hydro One actually reduces public oversight of the electricity system and weakens consumer protections related to electricity. That's what Ontario's independent legislative officers said six months ago, and it's still true today. Bill 112 doesn't change that in any substantial way.

I don't see how this bill protects anyone from higher electricity prices. Minister Chiarelli seems to be of the view that the Ontario Energy Board's role as an independent regulator ensures that customers won't be gouged by the new profit-making Hydro One.

There's just one problem: Electricity prices keep going up; in fact, they went up yesterday. I believe the Ontario Energy Board does a good job, but it has no real way to control costs in the electricity sector. If government wants smart meters or private companies building gas plants, then those costs will be passed on to the consumers. That's a fact.

In addition to what the minister says, some Liberals say the privatization of Hydro One will make prices go down. Both Beaches–East York MPP Arthur Potts and “Acting Premier” Ed Clark have suggested that private sector discipline will result in cost savings that will be passed on to consumers. I don't see how. In a natural monopoly, the only motivation for a private company to cut spending is to be able to keep the proceeds. That's what the new Hydro One hopes to do. We have already seen their thoughts on the long-term tax break the Liberals are giving them, which our Financial Accountability Officer calls a “tax shield.”

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The Hydro One prospectus states that, “Management believes that these net cash savings will not result in a

corresponding reduction in its revenue requirement in future rate applications to the Ontario Energy Board.” In other words, Hydro One managers think that they get to keep the money. It’s reasonable to assume that if they find other cost savings, they would expect to keep that money as well.

At the moment, what happens to money from tax breaks and cost-cutting, and how those relate to electricity rates, is at the discretion of the OEB. It shouldn’t be. As the electricity system becomes increasingly privatized, Hydro rates become increasingly subject to political pressure from private investors. We need to insulate the OEB from that pressure.

Consumer protection, which Bill 112 is ostensibly about, continues to take a back seat to the government’s real goal: the transfer of wealth from the citizens of Ontario to the high rollers who go to cocktail parties with Ed Clark.

I just want to make one final point related to consumer protection. Through our membership in the Keep Hydro Public coalition, we have just sent a lawyer’s letter to the Ontario Energy Board. The letter says two things: First, we are calling on the OEB to conduct its own review of the privatization of Hydro One. Second, we are alerting the board that the government is in violation of the Ontario Energy Board Act. Section 86 of that act requires the new Hydro One Ltd. to seek leave of the OEB before taking over control of the old Hydro One assets. That has not happened.

The Ontario Energy Board works hard to protect electricity consumers. We believe it has an important role to play at this historic moment.

We propose an amendment to Bill 112 that would protect consumers and prevent the new Hydro One from cutting costs in a way that could harm the long-term stability of the system. The amendment would simply say that any revenues freed up as a result of tax breaks or cost-cutting must either be reinvested in the electricity system or returned to consumers.

Now, to be clear, our union remains unconditionally opposed to the privatization of Hydro One. The history of privatization in Ontario has been a history of epic failures, one after another.

Last week, our Financial Accountability Officer reported that selling 60% of Hydro One will cost government money, not save it money.

Last year, our Auditor General reported that Ontarians were paying billions of dollars too much by using public-private partnerships to build major infrastructure, and the government’s response to all of this has been to ignore thoughtful criticism. Indeed, 80% of Ontarians oppose the sale, and the Premier’s response was, “Oh, well.”

Thank you. I’ll be happy to take questions.

The Chair (Mr. Grant Crack): Thank you very much. We shall start with the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Mr. Thomas, for joining us today at the Bill 112 hearings. Clearly, you are very, very upset about the government’s

plan to sell Hydro One. Do you think that their intentions for selling Hydro One are simply because they want a whack of cash up front to help with their fiscal situation in the next year or so, or do you think they genuinely believe that Hydro One is going to be a more efficient utility should at least a portion of it be sold off?

Mr. Smokey Thomas: I think they’re desperate for money. They want to balance the books by 2018, whatever that year is, and I think that they’ll do anything. I think that the sale of Hydro One is just the government’s “Drink the Kool-Aid” of “Private is better” without evidence. I’ve not seen any evidence here put forward to us of what they’re saying, that this is going to be good for Ontario. So I think they want the immediate cash. I think the office of the accountability officer said it best: “short-term gain for long-term pain.” To ignore those sorts of things, the losses down the road, is just, in my mind, unconscionable. In their heart of hearts I don’t think most Liberals—privately, some of them say to me they don’t want to sell Hydro, but they’re just told to shut up.

Mr. John Yakabuski: That’s what they’re being told out of the Premier’s office?

Mr. Smokey Thomas: That’s what we hear when we lobby them. Those guys they call “goons”—I call them “professional hecklers.” I’ve had some interesting conversation with backbenchers, yes.

Mr. John Yakabuski: And you believe that most of the members of the Liberal caucus are opposed to the cabinet decision to sell Hydro One?

Mr. Smokey Thomas: Well, they always were when they were in opposition—

Mr. Bob Delaney: Chair, on a point of order: This is not only not even close to the bill, this is way over the line in both imputing motive—

Mr. John Yakabuski: This is what he talked about. You’re cutting into my time here.

Mr. Bob Delaney: Then ask questions about the bill—in both imputing motive and in suggesting—well, I’m going to stop with imputing motive. I’m going to go on that because that is directly contrary to the standing orders.

Mr. John Yakabuski: I am speaking to the presentation by the deputant. No one interrupted the deputant. I think I have a right to ask him those questions.

The Chair (Mr. Grant Crack): Thank you, Mr. Yakabuski. To the point of order, I would ask that Mr. Yakabuski refer his questions towards Bill 112.

Mr. John Yakabuski: I would refer to the presentation by the deputant, and I would hope that he would be allowed to answer.

Do you believe that most members of the Liberal caucus are opposed to this sale?

Mr. Smokey Thomas: Yes, I do; from distant history and from recent history.

Mr. John Yakabuski: So this is cabinet-driven to salvage the financial mess that they’re in?

Mr. Smokey Thomas: Yes, I believe so. Deb Matthews told me they’re looking for every nickel they can find and we ought not get in their way: words right to

me directly in a meeting with them. They want every nickel they can find to try to balance the books, and I'd say that they're making a lot of bad decisions; and this is an epic bad decision.

The Chair (Mr. Grant Crack): Thank you very much.

Mr. John Yakabuski: Thank you very much for—

The Chair (Mr. Grant Crack): Pass it over to Mr. Tabuns, please.

Mr. Peter Tabuns: Smokey, thanks for coming here today. We appreciate you contributing a few words to the debate that we're having.

Perhaps you could speak to the fact that I don't see this bill actually substantially increasing the control of the OEB to rein in any excess with Hydro One now that it's going to be privatized.

Mr. Smokey Thomas: No, I don't think it does that at all. We think it's window dressing, and that it doesn't do anything to substantially protect the customer.

I do like the fact that it gets rid of that door-to-door sales pitch, right? They're annoying if nothing else, and have hornswoggled a lot of people. I applaud that part of the bill. Randy, you had a thought to go further on that: to perhaps out-and-out outlaw all of those contracts. Just make them get rid of those contracts that people signed at the door, because nobody has ever saved money on them.

I actually made the mistake of signing one when they first came out, and oh boy—anyway, I got out of it as soon as possible. I had a heck of a time getting out of it.

Mr. Peter Tabuns: Yes, most people do. Randy?

Mr. Randy Robinson: I'll just add, on the Ontario Energy Board, that what we're saying here today about Bill 112 is that this is an opportunity to strengthen the energy board, because we've seen that with the utilities coming forward with new ideas for increasing costs, the energy board really has very seldom been able to contain those, which is why we see prices going up and up. So what we're proposing, if we're going to have a privatized Hydro One, which is the biggest piece that's being privatized right now—there are many other privatized pieces—is that this legislation should be amended so that it specifically says that if there are tax benefits that this company receives or if there are cost savings that they achieve, those actually should go either back into strengthening the electricity system or reducing rates for consumers. That's our amendment that speaks directly to Bill 112, which is apparently about protecting consumers.

Mr. Peter Tabuns: I can see the logic of the amendment that you're putting forward. You don't seem to have a lot of confidence, though, that the OEB will actually be able to contain the actions of a privatized Hydro One. Are you worried about regulatory capture—that over time the regulator will come to be a servant of the industry rather than in any way a check on it?

Mr. Smokey Thomas: I think any reasonable person who reads this would draw that conclusion.

Mr. Peter Tabuns: I have no further questions. Thank you very much.

The Chair (Mr. Grant Crack): We shall move to the government. Mr. Delaney.

Mr. Bob Delaney: Are you familiar with the Society of Energy Professionals?

Mr. Smokey Thomas: Yes.

Mr. Bob Delaney: Are you familiar with the Power Workers' Union?

Mr. Smokey Thomas: Yes.

Mr. Bob Delaney: How do you reconcile the fact that those two collective bargaining units are fully in support of the government's plan to partly privatize—

Mr. John Yakabuski: Point of order, Chair.

The Chair (Mr. Grant Crack): Okay, Mr. Delaney, point of order from Mr. Yakabuski.

Mr. John Yakabuski: I want to respect Mr. Delaney's freedom to interrupt us on a point of order, that we're not talking about the bill, but then he wants to do exactly that—exactly that. Bob, if you want to—

Mr. Bob Delaney: If the member opened the door and the Chair let him walk through it, then I am perfectly happy to take the same liberties.

Mr. John Yakabuski: Oh, so it's okay if you want to do it—

The Chair (Mr. Grant Crack): Okay, order, please.

Mr. John Yakabuski: So it's not a matter of principle; it's a matter of politics.

The Chair (Mr. Grant Crack): Mr. Yakabuski, through the Chair.

Mr. John Yakabuski: Pardon me, Chair. Sorry.

The Chair (Mr. Grant Crack): Thank you.

Mr. Bob Delaney: Thank you, Chair.

The Chair (Mr. Grant Crack): Mr. Delaney, on the point of order from Mr. Yakabuski, I would remind you to refer to Bill 112.

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Mr. Bob Delaney: How do you reconcile that the Power Workers' Union and the Society of Energy Professionals fully support the government's measures?

Mr. Smokey Thomas: Well, they got money.

Mr. Bob Delaney: They got money?

Mr. Smokey Thomas: Well, they're getting shares in the deal, right? So they get a piece of the action. I read in the paper—don't know if it's true, but I read in the paper—that they're being loaned money so that they can buy more shares. I guess that's the price of—

Mr. Bob Delaney: Are you asserting that something either illegal or improper is taking place?

Mr. Smokey Thomas: No, and don't try to put words my mouth there, Bob. You know better than that.

Mr. Bob Delaney: Are you asserting that something either illegal or improper is taking place?

Mr. Smokey Thomas: No, not at all. You asked me what I thought. I answered.

They signed a collective agreement that gives them shares; that's their right. I read in the Globe, I believe it was, that they're going to be loaned money to buy more shares, so of course, I guess, that's what prompted their support of the deal.

Mr. Bob Delaney: Do you believe that the Ontario Securities Commission's enforcement procedures have teeth, yes or no?

Mr. Smokey Thomas: Which?

Mr. Bob Delaney: Do you believe that the enforcement procedures of the Ontario Securities Commission have teeth, yes or no?

Mr. Smokey Thomas: I really don't know. I don't know that much about the Ontario Securities Commission.

Mr. Bob Delaney: Okay. You've made an assertion that someone has told government caucus members what to think about public policy matters. Would you please identify this person?

Mr. Smokey Thomas: I'll ask them first.

I will tell you what they were told. They were told—

Mr. Bob Delaney: In other words, there is no person.

When was such an edict issued? Apparently, such an edict was issued. Would you please tell me when it was issued?

Interjections.

The Chair (Mr. Grant Crack): Order. Please, order.

Mr. Smokey Thomas: Bob, you're grasping at straws. I'm not going to tell you. I will tell you that when people went in to lobby the government on various issues, our people were told by some MPPs, "Well, we were told not to meet with you, but I'm going to meet with you anyway." I'm not going to burn those people. If you really want to know, you can ask me later. Perhaps I'll tell you and perhaps I won't.

Mr. Bob Delaney: Thank you, Chair. Apparently, there was no edict issued. There was no person who said anything and there was no such event. As well, the gentleman has passed comment on—

Interjections.

The Chair (Mr. Grant Crack): Order. Your time is up.

Mr. Smokey Thomas: That's the ultimate act of desperation, Bob. That's all I've got to say—

The Chair (Mr. Grant Crack): Thank you very much, gentlemen.

Mr. Smokey Thomas: Maybe this gets me out of the P3 conference today, because I asked a question—

The Chair (Mr. Grant Crack): Thank you. We appreciate you coming before committee this afternoon.

ELECTRICAL CONTRACTORS ASSOCIATION OF ONTARIO

The Chair (Mr. Grant Crack): Next on the agenda we have the Electrical Contractors Association of Ontario. We welcome Mr. Freeman as a representative and Mr. Calabrese, the vice-president from Black and McDonald. We welcome you both, gentlemen. Perhaps it won't be as lively as the last one, but you are the last deputant for the day, so enjoy. You have five minutes.

Mr. Aaron Freeman: Thank you so much, Mr. Chair, for the opportunity to appear on this bill. We would like to thank the standing committee for the opportunity to

speak. We will be confining our remarks to sections 15 and 16 of the bill. I will be delivering these remarks on behalf of Jeff Koller, who is the executive director of the ECAO, who on short notice, unfortunately, was unable to make this appearance.

Section 15 creates an exemption mechanism to allow LDCs, under what are called "special circumstances" in the bill, to enter markets that lie outside of their core regulated business. Section 16 would repeal section 73 of the OEB Act, which currently limits the types of business that a municipally owned LDC affiliate can undertake.

I'll be speaking about how these provisions will increase costs to ratepayers while my colleague Peter Calabrese will speak on the related issue of how private enterprise is placed at an unfair disadvantage when LDCs enter these markets.

Currently, if an LDC wishes to enter a market such as street lighting, it must do so through a separate affiliate. These affiliates are governed by an affiliates code which requires the LDC to undertake separate bookkeeping and accounting. This is to protect ratepayers.

Street lighting is of particular interest to LDCs, and they have attempted to gain direct access to this market no fewer than seven times over the past decade. The OEB has clearly underscored the risks to ratepayers associated with granting LDCs unrestricted access to street lighting and other non-distribution activities. The OEB has clearly stated that there is no connection between street lighting and electricity distribution, and there is no legal, structural or practical reason for distributors to engage in this non-distribution activity.

I should note that while the affiliates code provides some accountability and transparency, these provisions fall well below the rigour of ratepayer protection measures in most other North American jurisdictions. A new study we're releasing today by PricewaterhouseCoopers examines five comparable jurisdictions from the US and Canada, including Alberta, which is known as the least-regulated jurisdiction in Canada. All of these jurisdictions require completely separate accounting when a utility enters an unregulated market like street lighting, and their standard for asset valuation is one of fair market value rather than what the PwC terms the less stringent standard in Ontario, which is generally the fully allocated cost standard.

Bill 112 would make Ontario's ratepayer protection regime even weaker, by creating a new mechanism for LDCs to apply for an outright exemption from the requirement to separate the books. The standard for this OEB exemption would be for "special circumstances," a term that is left completely undefined in the act.

According to the PwC study, sections 15 and 16 of Bill 112 would have the following impact:

"The internalization of unregulated services would lead to an effective relaxation of the rules governing transfer pricing between a local distribution company and its affiliates that conduct unregulated services. This may lead to an over-allocation of costs to the regulated service and/or an over-allocation of revenues and income to the

unregulated services.” This is the important part, and the less technical part. It says, “Should this happen, it would result in additional cost burdens being placed on ratepayers and raise the possibility for local distribution companies to either engage in predatory pricing or generate excess profits.”

The PwC study estimates the potential cost to ratepayers of these sections of the act to represent a rate increase of up to 1.9% in addition to recent and projected rate increases. In dollar terms, this amounts to an overall cost to consumers of up to \$304 million.

To avoid these rate increases, and the unfair market practices that cause them, our recommendation to the committee is to vote down sections 15 and 16 of the bill at clause-by-clause. These provisions are not consequential to other sections, and can easily be severed from the rest of the bill.

I would now like to invite my colleague to add a minute on some of the market impacts of these provisions.

Mr. Peter Calabrese: Thank you. Just to echo the comments of my colleague, thank you for allowing us to appear before this committee. I would just like to say at the outset that my comments are on behalf of the ECAO and no contractor in particular.

From our point of view as electrical contractors, our concern with these provisions of the bill is that it could place existing electrical contractors at an unfair disadvantage in a competitive market. As line contractors, in particular, we have a lot of capital invested in our assets to perform the work, such as line work, street lighting work etc., that we have had to gain over the years. Allowing a public utility—an LDC—to become a direct competitor, when they already have these assets that were funded by the rate base, would definitely put them at a cost advantage. They also have other advantages over us, which would be—just their name and, in the eyes of the consumer, they may have more credibility than a small contractor whom the consumer might not know.

From that point of view, as contractors in private business, we welcome good competition. We’re not afraid of it. We endorse it, but what we don’t want is unfair competition, where there could be some subsidy from the regulated side of the business to the non-regulated side of the business.

The other point that I’d like to make as a ratepayer is that in the construction business, there’s always a lot of risk. We take on contracts on a daily basis where we put our company’s assets at risk. In the case of a loss on a contract, my question would be: How does that get reflected to the rate base, if something goes wrong on a contract and it then negatively impacts the LDC?

The Chair (Mr. Grant Crack): Okay. Thank you very much. I appreciate it. I gave you quite a bit of extra time.

We’ll start with Mr. Tabuns.

Mr. Peter Tabuns: Thanks, Mr. Freeman and Mr. Calabrese for your presentations.

I was curious about this section when I looked at it earlier today and before we had the first presentation. Is

street lighting really the issue that is being contested in this, or are there other electrical contracting or electrical construction or maintenance matters that are also being contested?

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Mr. Aaron Freeman: I can only speak to the past. In the past, it has really been about street lighting. That has been where most of the activity has been, and that’s where LDCs are on the record—it’s a matter of public record—that they want better direct access to these markets.

What we’ve said is, “No problem.” It’s no problem to use your various advantages, the competitive advantages that you have as a regulated monopoly—stable cash flow, a brand, all of those things—but you have to do it through an affiliate. The reason that’s important is that it provides a separation on the books, to make sure there are some safeguards, however inadequate, that the cross-subsidization doesn’t take place.

We have issues with that. We think that should be done with stricter standards, on a fair-market-value basis. Bring on the competition. Just make sure that there are safeguards around it. What we are saying is, don’t create a mechanism for them to skirt that and go directly through the LDC itself, where there are even fewer checks and balances to protect ratepayers.

Mr. Peter Tabuns: Okay. Before I leave this issue, though—street lighting is the bulk of the concern that your sector has, the ECAO?

Mr. Aaron Freeman: It has been in the past. We don’t know what other sectors LDCs want to get into.

Mr. Peter Calabrese: It could be line work. Distribution line work on private property, for instance, could become part of the work that they intend to pursue.

Mr. Peter Tabuns: Don’t the LDCs do their own line work now?

Mr. Peter Calabrese: Yes, they do. We’re talking about line work for other customers. For instance, if one LDC decides that they want to go into the business, and another LDC is contracting out the line work, then it could put us at an unfair disadvantage.

Mr. Peter Tabuns: Okay. Thank you.

The Chair (Mr. Grant Crack): We shall move to the government: Mr. Delaney.

Mr. Bob Delaney: Mr. Tabuns and I seem to be curious about some of the same things with yourselves and some of your predecessors—

Mr. Peter Tabuns: Or worried.

Mr. Bob Delaney: —or worried—concerned, interested; whatever word you choose.

You’ve spoken about street lighting. If I gather correctly from the thrust of your deputation and a similar one earlier, you’re talking about a shift in the nature of the market in which you’re now competing. Am I summarizing that correctly?

Mr. Aaron Freeman: There has been a lot of activity around street lighting in the past. The LDCs have made it a lobbying priority for them to gain greater access to that market and to have mechanisms, presumably like the one

in sections 15 and 16, that will enable them to have better access to that market.

I'm not sure if I answered your question, but—

Mr. Bob Delaney: Well, not quite. Maybe neither of us correctly grasps what we're trying to explore here.

As the market continues to evolve forward, we're likely to see, for example, integration in commercial, institutional and residential settings of renewable energy—probably principally solar—along with, in years to come, storage batteries that would allow a fundamental shift in the nature in which power is consumed by the residential, institutional and commercial customer.

Looking forward rather than backward, do you have any concerns in this area, relative to what is being expressed in the bill?

Mr. Aaron Freeman: Our concern would mainly be around when an LDC wishes to enter those markets that you're talking about. If it goes beyond their core business, their regulated business, which is distribution, they should be required to have safeguards around their activity, to ensure that ratepayers are protected, that there are separate books, that the valuation of assets is done properly, through correct standards, and that there is a fair marketplace to compete in, so that private actors can compete on an equal footing. Otherwise, you're going to end up with higher prices, and it's really the ratepayers who are going to need to bear the brunt of that.

Mr. Bob Delaney: Okay. I now think I get better the point that you were trying to make. Thank you, Chair.

The Chair (Mr. Grant Crack): We shall have the member from Nipissing, Mr. Yakabuski—the final of the day.

Mr. John Yakabuski: So we're unlimited in time, then, I guess?

The Chair (Mr. Grant Crack): For you, sir, I'll consider that.

Mr. John Yakabuski: Just so I can get this—your concerns are very similar to the Ontario Electrical League's, that your members are going to be affected significantly by this change, should it be enacted.

My question is, were you contacted prior to the tabling of this bill? Were you contacted by the ministry to say, "Look, this is what we're planning to do. We know this is of significant interest to you. We know"—as you say, the OEB has ruled on it in the past. Were you contacted by the ministry to be briefed that this significant change, and how it might affect you and your members, was coming forward?

Mr. Aaron Freeman: We were not. I would say that when we contacted the ministry and the minister's office about this, it became pretty apparent that they didn't see the impact that it would have on our sector in this way, and that's why we brought it to their attention.

Mr. John Yakabuski: Have they indicated that they're amenable to amending the legislation?

Mr. Aaron Freeman: No, they're not.

Mr. John Yakabuski: They've indicated they're not?

Mr. Aaron Freeman: Correct.

Mr. John Yakabuski: So they weren't aware of the impact. You've made them aware of the impact. They've said, "Go fly a kite into the electrical wires."

Mr. Aaron Freeman: Not in those words.

Mr. John Yakabuski: No, but as much—

Mr. Aaron Freeman: I don't want to put words in their mouth, but they would probably say that they have a different view of how this will play out.

Mr. John Yakabuski: So they weren't aware of it, but now they have a different view. Really, you've been able to make no progress with the ministry on this matter.

Mr. Aaron Freeman: I would say they gave us a hearing but, no, we've made no progress in addressing this problem.

Mr. John Yakabuski: What kind of impact, do you think, in dollars and cents and jobs numbers—have you given it some thought, how this may impact your members, and to what extent, across the province and in the 71 LDCs, or whatever it is?

Mr. Aaron Freeman: According to PricewaterhouseCoopers, it would add up to \$304 million to the rate base. It's a cost to ratepayers.

Mr. John Yakabuski: But what impact will that have on your members?

Mr. Aaron Freeman: We can only speak to that anecdotally. I don't know if—

Mr. Peter Calabrese: Yes, we haven't really looked at that with any—

Mr. Aaron Freeman: Yes. Anecdotally, we can certainly provide you with instances where we think there has been an unfair intrusion into the private marketplace without adequate accountability standards to ensure that ratepayers are protected and that the private market is protected.

Mr. John Yakabuski: So you feel that it's an unfair marketplace. The municipalities in each of those own the streetlights, but you feel the LDC will have a completely unfair advantage with regard to you in being able to get those contracts for replacement, repair etc.

Mr. Aaron Freeman: That unfair advantage already exists. The affiliates code is not a rigorous standard. We did a jurisdictional scan of other jurisdictions in North America. We weren't able to find anyone that used the same standards as Ontario. They were all stronger, and they virtually all used fair market value—separate books; a firewall between the two operations—and that makes sense, because you've got to regulate it in an unregulated market, both being controlled by the same entity, regulated activity and unregulated activity. So you need those safeguards.

All other jurisdictions that we looked at—and some of them are canvassed in the PwC study—demonstrate that they use a much stricter standard of fair market value as opposed to the Ontario standard, which is known as the fully allocated cost. It's a weaker standard that we believe permits marginal cost pricing.

If an LDC has a bucket truck lying in its parking lot, underutilized—which I think should be a concern, if they're not optimizing their assets—it can go and service street lighting. Essentially, you just have to count on the

books—the LDC would just have to count the marginal cost of that, which would be gas, even though there is a schedule that exists at MTO for them to follow in terms of how to allocate that asset, and you incorporate the amortized cost of the asset into that cost. That schedule exists. It's very easy to follow. They choose not to, and we're concerned that this opens the door for them to do that with even fewer safeguards.

The Chair (Mr. Grant Crack): Okay. Thank you very much. I really appreciate that.

Mr. John Yakabuski: I appreciate your comments in clarifying that. Thank you very much.

The Chair (Mr. Grant Crack): Thank you very much. I thank you, gentlemen, for coming before our committee this afternoon. It's much appreciated.

I'd just like to remind members of the committee that there are no more scheduled delegations before our committee today and/or for Wednesday, but the deadline for filing amendments will be noon on Thursday, November 5.

Mr. Peter Tabuns: There are no other deputations, no other presentations?

The Chair (Mr. Grant Crack): There are no other presentations.

Mr. Peter Tabuns: Okay.

The Chair (Mr. Grant Crack): I'd like to thank the members for their good work this afternoon. I want you to have a great evening. We'll see you soon.

This meeting is adjourned.

The committee adjourned at 1640.

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