



ISSN 1180-5218

Legislative Assembly
of Ontario
Second Session, 39th Parliament

Assemblée législative
de l'Ontario
Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Monday 29 March 2010

Journal des débats (Hansard)

Lundi 29 mars 2010

**Standing Committee on
General Government**

Energy Consumer
Protection Act, 2010

**Comité permanent des
affaires gouvernementales**

Loi de 2010 sur la protection
des consommateurs d'énergie

Chair: David Oraziotti
Clerk: Trevor Day

Président : David Oraziotti
Greffier : Trevor Day

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 29 March 2010

Lundi 29 mars 2010

*The committee met at 1414 in room 228.*ENERGY CONSUMER
PROTECTION ACT, 2010LOI DE 2010 SUR LA PROTECTION
DES CONSOMMATEURS D'ÉNERGIE

Clause-by-clause consideration of Bill 235, An Act to enact the Energy Consumer Protection Act, 2010 and to amend other Acts / Projet de loi 235, Loi édictant la Loi de 2010 sur la protection des consommateurs d'énergie et modifiant d'autres lois.

The Chair (Mr. David Oraziotti): Good afternoon, everyone. Welcome to the Standing Committee on General Government. This afternoon, we're going to have consideration of clause-by-clause for Bill 235, An Act to enact the Energy Consumer Protection Act, 2010 and to amend other Acts.

I will start with section 1 and government motion number 1. If the member would like to read the amendment into the record. Mr. Levac.

Mr. Dave Levac: Before I do that, just to acknowledge publicly that I've spoken to the opposition and will designate for the sake of all of us the technical amendments that have been put forward. I'll acknowledge them as technical in nature so that we can move things forward with an understanding that questions could still arise. I've asked that legal be here in order to answer those questions, if they do come up.

I move that the definition of "person" in subsection 1(1) of the bill be struck out and the following substituted:

"'person', or any expression referring to a person, means an individual, sole proprietorship, partnership, including a limited partnership, trust or body corporate, or an individual in his or her capacity as a trustee, executor, administrator or other legal representative or such other class of persons as may be prescribed; ('personne')"

As an explanation, partnership and a limited partnership are mentioned but not other forms of partnerships such as limited liability partnerships. The proposed change would avoid any possible interpretation that a limited liability partnership was not contemplated. So it's to include.

The Chair (Mr. David Oraziotti): Any further comments on the first amendment? Seeing none, all those in favour? Opposed? The motion's carried.

The Chair (Mr. David Oraziotti): Government motion number 2: Mr. Levac.

Mr. Dave Levac: I move that clause 1(2)(a) of the bill be amended by striking out "consumers" and substituting "energy consumers".

The current wording of clauses 1(2)(a) and 1(2)(b) is not consistent, in that clause 1(2)(a) uses "consumers" whereas clause 1(2)(b) uses "energy consumers." This is a lack of consistency. We do not want to create confusion and, therefore, we're just changing those definitions.

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? The motion's carried.

Government motion 3: Mr. Levac.

Mr. Dave Levac: I move that subsection 1(3) of the bill be amended by striking out "or duties".

This is again the same type of wording. It's incorrect to mention the duties in subsections 1(3) and 1(4). Accordingly, the word "duties" should be removed.

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour? Opposed? The motion's carried.

Government motion 5: Mr. Levac.

Mr. Dave Levac: I move that subsection 1(4) of the bill be amended by striking out "or duties". Same rationale.

The Chair (Mr. David Oraziotti): Further comment?

All those in favour? Opposed? Carried.

Government motion 6.

Mr. Dave Levac: This is one of the spoken-of technical amendments.

I move that section 1 of the bill be amended by adding the following subsections:

"Powers and duties of board re energy consumers

"(5) Nothing in this act abrogates or derogates from the powers and duties of the Ontario Energy Board as they apply in respect of energy consumers as provided under the Ontario Energy Board Act, 1998."

Currently, under the ECPA there is no provision that informs the reader of the act that the ECPA is enforced by the Ontario Energy Board. This provision is intended to inform the reader that it is indeed so. That did get brought up during consultation.

The Chair (Mr. David Oraziotti): Thank you. Any further comment?

Seeing none, all those in favour? Opposed? The motion's carried.

Government motion 7.

Mr. Dave Levac: This is again technical in nature—*Interjection.*

Mr. Dave Levac: Oh, I forgot to read the other section. I did see that. Thank you.

Sorry, opposition. I missed a section for the Hansard. Under the same heading of M6:

“Definition, energy consumer

“(6) For the purposes of subsections (2) and (5),

“‘energy consumer’ means a consumer as defined in section 2 and a consumer as defined in section 30.”

That’s as a result of an amendment we just passed.

The Chair (Mr. David Oraziotti): Now that it’s in the record, we’ll vote on it again. Any discussion?

All those in favour? Opposed? Carried. Thank you.

1420

Mr. Dave Levac: My mistake and apologies.

The Chair (Mr. David Oraziotti): Just one second, Mr. Levac. Shall section 1, as amended, carry? All those in favour? Opposed? Section 1 is carried.

Section 2: government motion number 7, Mr. Levac.

Mr. Dave Levac: This is a technical one, opposition.

I move that the definition of “consumer” in section 2 of the bill be struck out and the following substituted:

“‘consumer’ means,

“(a) in respect of the retailing of electricity, a person who uses, for the person’s own consumption, electricity that the person did not generate and who annually uses less than the prescribed amount of electricity, and

“(b) in respect of gas marketing, a person who annually uses less than the prescribed amount of gas; (‘consommateur’)

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour? Opposed? Motion 7 is carried.

Number 8: Mr. Levac.

Mr. Dave Levac: Again, it’s one of the technical ones.

I move that the definition of “gas marketer” and “gas marketing” in section 2 of the bill be struck out and the following substituted:

“‘gas marketer’ means a person who,

“(a) sells or offers to sell gas to a consumer,

“(b) acts as the agent or broker for a seller of gas to a consumer, or

“(c) acts or offers to act as the agent or broker of a consumer in the purchase of gas,

“and ‘gas marketing’ has a corresponding meaning;”—and in French.

The Chair (Mr. David Oraziotti): Any further comment?

Mr. John Yakabuski: I just want to hear him speak French.

Mr. Dave Levac: —“(‘agent de commercialisation de gaz’, ‘commercialisation de gaz’)

Mr. John Yakabuski: Very good.

The Chair (Mr. David Oraziotti): All those in favour? Opposed? The motion is carried.

Government motion number 9: Mr. Levac.

Mr. Dave Levac: Number 9 is a technical one again.

I move that the definition of “retail” in section 2 of the bill be struck out and the following substituted:

“‘retail’, with respect to electricity, means,

“(a) to sell or offer to sell electricity to a consumer,

“(b) to act as agent or broker for a retailer with respect to the sale or offering for sale of electricity, or

“(c) to act or offer to act as an agent or broker for a consumer with respect to the sale or offering for sale of electricity,

“and ‘retailing’ has a corresponding meaning; (‘vendre au détail’)

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? The motion is carried.

Government motion number 10.

Mr. Dave Levac: It’s technical in nature.

I move that the definition of “salesperson” in section 2 of the bill be struck out and the following substituted:

“‘salesperson’ means,

“(a) in respect of gas marketing, a person, who for the purpose of effecting sales of gas or entering into agency agreements with consumers, conducts gas marketing on behalf of a gas marketer or makes one or more representations to one or more consumers on behalf of a gas marketer, whether as an employee of the gas marketer or not, and

“(b) in respect of the retailing of electricity, a person who, for the purpose of effecting sales of electricity or entering into agency agreements with consumers, conducts retailing of electricity on behalf of a retailer or makes one or more representations to one or more consumers on behalf of a retailer, whether as an employee of the retailer or not; (‘vendeur’)

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? The motion is carried.

Government motion number 11: Mr. Levac.

Mr. Dave Levac: I move that the definition of “text-based” in section 2 of the bill be struck out and the following substituted:

“‘text-based’ means text capable of being read by an individual and in such form, format or medium as may be prescribed, but does not include any form, format or medium that may be prescribed as excluded. (‘textuel’)

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? The motion is carried.

Shall section 2, as amended, carry? All those in favour? Opposed? It’s carried.

Government motion number 12, section 3: Mr. Levac.

Mr. Dave Levac: I move that subsection 3(3) of the bill be struck out and the following substituted:

“Limitation on effect of term requiring arbitration

“(3) Without limiting the generality of subsection (2), any term or acknowledgment in a contract, other agreement or waiver that requires or has the effect of requiring that disputes arising out of the contract, agreement or waiver be submitted to arbitration is invalid insofar as it prevents a consumer from exercising a right to com-

mence an action in the Superior Court of Justice given under this part or otherwise available in law.”

The amendment of this wording would ensure consistency in subsection 3(2), which states specifically that part II of the ECPA applies to any contract, other agreement or waiver. In order to avoid confusion when interpreting the act it is advisable that “waiver” also be inserted into section 3.

The Chair (Mr. David Oraziotti): Any comments? All those in favour? Opposed? Carried.

Shall section 3, as amended, carry? Opposed? That’s carried.

Government motion number 13, section 4: Mr. Levac.

Mr. Dave Levac: I move that subsection 4(1) of the bill be struck out and the following substituted:

“Class proceedings

“4(1) A consumer may commence a proceeding on behalf of members of a class under the Class Proceedings Act, 1992 or may become a member of a class in such a proceeding in respect of a dispute arising out of a contract, other agreement or waiver despite any term or acknowledgment in the contract, agreement or waiver that purports to prevent or has the effect of preventing the consumer from commencing or becoming a member of a class proceeding.”

The amendment of this wording would ensure that there is consistency, again, in section 3, which states specifically under part II, “other agreement or waiver.” In order to avoid confusion when interpreting the act, it’s advisable that “waiver” be inserted in this. It’s the very same logic as the last one.

The Chair (Mr. David Oraziotti): Further comment? All those in favour? Opposed? The motion is carried.

Shall section 4, as amended, carry? Opposed? The section is carried.

On sections 5 and 6 there are no amendments. Shall they carry? Opposed? Sections 5 and 6 are carried.

Section 7, Conservative motion number 14: Mr. Yakabuski.

Mr. John Yakabuski: I move that subsection 7(1) of the bill be amended by striking out clauses (b) and (c) and substituting the following:

“(b) text-based or in an audio file format; and

“(c) capable of being read or listened to by a person.”

This amendment would allow people to enter into a contract other than in person. It could be done over the phone; it could be done by text. We think this is something that the government may have overlooked in this legislation, but it is an option there for the consumer, it’s been proposed by people in the industry as well, and it in itself, if we’re following the amendments that are proposed throughout the bill, will not in any way, shape or form reduce the enhanced consumer protection that we’re all looking for in this bill.

The Chair (Mr. David Oraziotti): Further comment? Mr. Levac.

Mr. Dave Levac: I thank the member for the logic and concede that at first blush it probably would not have an impact on the consumer, except it was the consumers

who complained to us that signing them up for five-year contracts based solely on phone conversations when the consumer had a poor command of the English language—and I know that there are other ways in which that can be verified, and that you could probably come back and say, “But it’s going to be documented,” and you could pull the text out and read it, but most consumers are likely not aware that the Electronic Commerce Act, 2000, can allow this practice to occur. So the interest of ensuring that the consumer is fully aware of the binding, legal nature of the contract of a supplier is to have the opportunity to show the contract to a spouse, to anyone else, that they heard that the rest of the conversation took place. From the deputations, we find it necessary to say no at this time.

The retailers’ request to change subsection 7(1), which requires that a document be capable of being read by the other person—they raised a concern that such a test would be hard for them to meet. Motion 15, if adopted, would remove the requirement of the person, and that’s where we are stumbling with this one, so we won’t be supporting the amendment.

The Chair (Mr. David Oraziotti): Any further comment?

Mr. John Yakabuski: Well, as I said, there are provisions in the bill such as the third party verification and everything else; and we still do have the 10-day cooling off period, which is not in any way, shape or form going to be taken away by that. So we still have those protections. This is simply an amendment that would allow ease for business to operate and to conduct business in a more fluid way, thereby offering an option. There’s nothing binding; no one has to enter into a contract this way or any other way. It simply offers an option to the consumer and to the retailer as well.

1430

The Chair (Mr. David Oraziotti): Any further comments?

Conservative motion 14, section 7: All those in favour? Opposed? The motion is lost.

Government motion 15: Mr. Levac.

Mr. Dave Levac: This is one of the technical ones. I move that subsection 7(1) of the bill be amended by adding “and” at the end of clause (a), by striking out “and” at the end of clause (b) and by striking out clause (c).

The Chair (Mr. David Oraziotti): Any further comment? Seeing none, all those in favour? Opposed? The motion is carried.

Conservative motion 16: Mr. Yakabuski.

Mr. John Yakabuski: I move that subsection 7(2) of the bill be amended by striking out clauses (c) and (d) and substituting the following:

“(c) text-based or in an audio file format; and

“(d) capable of being read or listened to by the other person.”

The logic would follow the same as amendment 14. We probably have no need to have the discussion if the

words are going to be the same, but the logic is the same as motion 14.

The Chair (Mr. David Orazietti): Further comment?

Mr. Dave Levac: Mr. Yakabuski is right: Because the audio portion of that is in here, we'll be saying no to the amendment.

The Chair (Mr. David Orazietti): Seeing no further debate, all those in favour? Opposed? The motion is lost.

Government motion 17: Mr. Levac.

Mr. Dave Levac: This is identified as a technical amendment.

I move that subsection 7(2) of the bill be struck out and the following substituted:

“Same, provision of information or document in writing

“(2) Despite subsection 6(1) of the Electronic Commerce Act, 2000 but subject to subsection (7), in this part, a requirement that a person provide information or a document in writing to another person is satisfied by the provision of the information or document in an electronic form solely if it is,

“(a) accessible by the other person so as to be usable for subsequent reference;

“(b) capable of being retained by the other person; and

“(c) text-based.”

The Chair (Mr. David Orazietti): Any further comment? Those in favour? Opposed? The motion is carried.

Conservative motion 18: Mr. Yakabuski.

Mr. John Yakabuski: I move that subsection 7(3) of the bill be amended by striking out clauses (d) and (e) and substituting the following:

“(d) text-based or in an audio file format; and

“(e) capable of being read or listened to by the other person.”

Again, the same logic as 14 and 16, and I expect the same answer from Mr. Levac.

The Chair (Mr. David Orazietti): Mr. Levac?

Mr. Dave Levac: Mr. Yakabuski is correct.

Mr. John Yakabuski: Can you just repeat that over and over again? I just love the sound of it; that's all.

Mr. Dave Levac: Take that one and put it in your next flyer.

Mr. John Yakabuski: And you can do that in an audio or text file, as well.

Mr. Dave Levac: Mr. Yakabuski is correct: We will not be supporting the amendment. That's on record.

The Chair (Mr. David Orazietti): All those in favour of Conservative motion 18? Opposed? The motion is lost.

Government motion 19: Mr. Levac.

Mr. Dave Levac: Of a technical nature, Mr. Chairman: I move that subsection 7(3) of the bill be struck out and the following substituted:

“Same, information or document in non-electronic form

“(3) Despite subsection 7(1) of the Electronic Commerce Act, 2000 but subject to subsection (7), in this part, a requirement that a person provide information or a document in writing in a specified non-electronic form to

another person is satisfied by the provision of the information or document in an electronic form solely if it is,

“(a) organized in the same or substantially the same way as the specified non-electronic form;

“(b) accessible by the other person so as to be usable for subsequent reference;

“(c) capable of being retained by the other person; and

“(d) text-based.”

The Chair (Mr. David Orazietti): Any further comments? Seeing none, all those in favour? Opposed? The motion is carried.

Conservative motion 20: Mr. Yakabuski.

Mr. John Yakabuski: I move that subsection 7(4) of the bill be struck out and the following substituted:

“Same, signing a document

“(4) Despite subsection 11(1) of the Electronic Commerce Act, 2000 but subject to subsection (7), in this part, a requirement that a document be signed is satisfied,

“(a) by an electronic signature if the electronic information that a person creates or adopts in order to sign the document is capable of being read by the person and is in such form as may be prescribed; or

“(b) by a voice signature that is,

“(i) made or verified in the prescribed manner,

“(ii) in an audio file format that can be listened to, and

“(iii) accessible so as to be usable for subsequent reference.”

It is in a different section, subsection 7(4), but again, it is the same logic: means of digitally recorded electronic voice signature as provided under the Electronic Commerce Act—one where the government, again, will probably use the same logic, but I'd be interested in hearing Mr. Levac's objection. Again, it is just about offering opportunities, giving choice and making the system fluid.

The Chair (Mr. David Orazietti): Mr. Levac.

Mr. Dave Levac: You'll be pleased to know that there's a little bit of a different logic on this one that I'm adopting: that we're drilling this down and getting closer. Some day, we may be able to move towards the direction that you're talking about, but until such time that the consumers believe that using the voice is that much safer than what it is presently, we're still not going to accept the rationale behind accepting the amendment. I will say that, given our province and the makeup of our province, the command of the English language is not consistent to the point where there's a satisfactory feeling that voice contracts are there yet. So we'll be saying no this time around.

The Chair (Mr. David Orazietti): Mr. Yakabuski, would you care to respond?

Mr. John Yakabuski: I guess my question would be that we are moving into a much more technologically advanced—we're continuously using technology to enhance and make all facets of our life more convenient and easier. I'm just not sure that, with the expectations of immigration and everything else, the English-language barrier issue is one that's going to be better off being

addressed in the future. We do have protections further in this bill, further in this act, to ensure that the consumer is protected. This simply renders another choice as being something possible in order to complete a transaction. We'll still have more amendments—some of them, I think, that you're even proposing yourselves—to enhance consumer protection. This just gives an optional choice, and no one is bound, no one has to do it unwillingly. But not to have it there, even under your own admission that we're moving more and more in that direction as technology advances, I'm puzzled by that.

The Chair (Mr. David Oraziotti): Further comment?

Mr. Dave Levac: Well, no need to be puzzled, John. It's just that we're consistent with what we've been saying at this time. I'm personally observing that somewhere down the line, there might be a better comfort level for what we're talking about.

The Chair (Mr. David Oraziotti): Conservative motion—

Interjection.

The Chair (Mr. David Oraziotti): Mr. Yakabuski?

Mr. John Yakabuski: We're ready to vote.

The Chair (Mr. David Oraziotti): Okay. Motion number 20: All those in favour? Opposed? The motion is lost.

Government motion number 21: Mr. Levac.

Mr. Dave Levac: I move that subsection 7(5) of the bill be struck out and the following substituted:

“Signature, touching or clicking on an icon

“(5) Despite subsection (4), touching or clicking on an appropriate icon or other place on a computer screen is deemed to satisfy a requirement in this part that a document be signed, if the action is taken with the intent to sign the document and the action meets such requirements as may be prescribed.”

My comment would be, “See, John? We're getting there.” It's the idea of clicking on an “I agree” icon, and that it's acceptable.

The Chair (Mr. David Oraziotti): Further comment? All those in favour? Opposed? The motion is carried.

Government motion number 22: Mr. Levac.

1440

Mr. Dave Levac: This one is technical in nature, Mr. Chair.

I move that subsection 7(6) of the bill be struck out and the following substituted:

“Intent

“(6) Intent for the purpose of subsection (5) may be inferred from a person's conduct and the circumstances surrounding such conduct, including the information displayed on the computer screen and the person's conduct with respect to the information, if there are reasonable grounds to believe that the person intended to sign the document.”

This was to bring clarity to the signature on a document.

The Chair (Mr. David Oraziotti): Any further comment? All those in favour? Opposed? The motion's carried.

Shall section 7, as amended, carry? Opposed? Section 7 is carried.

Government motion number 23: Mr. Levac.

Mr. Dave Levac: I will defer to Ms. Jaczek.

Ms. Helena Jaczek: This is another technical amendment.

I move that subsection 8(1) of the bill be amended by striking out “and shall comply” and substituting “and, in addition, shall comply”.

The Chair (Mr. David Oraziotti): Comments? All those in favour? Opposed? The motion is carried.

Shall section 8, as amended, carry? Opposed? Carried.

Section 9, government motion number 24: Ms. Jaczek.

Ms. Helena Jaczek: I move that section 9 of the bill be amended by striking out “price of electricity” and substituting “price it charges for electricity”.

The purpose of this amendment is to clarify that the power to prescribe requirements for retailer prices stated in contracts can include requirements relating to non-commodity charges such as the provincial benefit, also referred to as the global adjustment, that are included in the RPP prices paid by non-retail customers.

The Chair (Mr. David Oraziotti): All those in favour?

Mr. John Yakabuski: Let me just have a—which one are we at?

The Chair (Mr. David Oraziotti): Government motion 24, section 9.

Mr. John Yakabuski: Okay. She was using that in her explanation. I didn't see. I heard those words, “global adjustment,” and they immediately got my interest. So this is another technical amendment? I was just getting some water there, so I wasn't paying attention.

Interjection.

Mr. John Yakabuski: Okay. I need to have a look at this, then.

Ms. Jaczek, what was your explanation again with regard to the—

Ms. Helena Jaczek: I'll defer to Mr. Levac.

Mr. Dave Levac: This amendment's to clarify that the power to prescribe requirements for the retail price stated in contracts can include requirements relating to non-commodity charges which take place, such as the provincial benefit—it's also referred to in some bills as the global adjustment—that are included in the RPP prices paid by non-retail customers. So it's basically bringing all the information in front of the consumer.

Mr. John Yakabuski: So the amount of the global adjustment would be a separate line item?

Mr. Dave Levac: That's my understanding—

Interjection.

Mr. Dave Levac: No? Yes, so that you can eventually show the all-in price, but it will be separate from the actual consumption. The consumer gets to see—

Mr. John Yakabuski: Maybe if I ask the question and frame it properly, the staff will be able to answer it better. Let's just say for the sake of argument that the contract price of power was seven cents a kilowatt hour, and in that particular month the global adjustment was

three cents a kilowatt hour. They would not simply be having a price of 10 cents per kilowatt hour, there would be seven and three showing on the bill? Is that it?

Interjection.

Mr. John Yakabuski: It's the opposite. Basically, what you're saying is that you're going to meld this—

The Chair (Mr. David Oraziotti): Just excuse me for one second, Mr. Yakabuski. Mr. Levac, would it be worth having staff make comment here on this?

Mr. Dave Levac: It probably would be good just for a clarification of what you just told me.

The Chair (Mr. David Oraziotti): Do you want to just state your name for the purposes of Hansard, and then you can respond?

Mr. Dan Shear: Dan Shear. The purpose of section 9 is to address how a retailer is required to calculate the price that it charges to a consumer. It doesn't relate to how the price is presented on a bill; that is actually addressed in a different section. Section 9 could theoretically allow the government to prescribe that a retailer must include in the price that it charges a consumer both the commodity charge for the electricity itself, for example, and also, in the case of electricity, the global adjustment.

Mr. John Yakabuski: Maybe I could just ask you a couple of questions for my own clarification. Legal people speak differently than I do.

We basically have that now in electricity contracts. They are affected by the global adjustment or the provincial benefit. The consumer pays the rate that they negotiate with the electricity retailer and they also pay the provincial benefit.

Mr. Dan Shear: Yes, that's correct.

Mr. John Yakabuski: So how is that different than what we do—what you're saying to me is that they will still have to continue to calculate that into their bill.

Mr. Dan Shear: Yes. The difference is—

Mr. John Yakabuski: Now, how we address it and how it shows on the bill is going to be dealt with in another section, correct?

Mr. Dan Shear: That part is correct, but to your first question, the difference is that today a retailer can enter into a contract with a consumer and quote a price as the contract price, and that price can include, if the retailer so chooses, only the commodity component. So the consumer, under the contract, would pay that commodity price but, in addition and separately and not under the contract with the retailer, would also pay the provincial benefit, and that could create confusion for a consumer.

Mr. John Yakabuski: Right. So now you're saying that they have to know that in addition to the commodity price, they will be charged whatever the rate, be it positive or negative, of the provincial benefit through that billing cycle as well.

Mr. Dan Shear: If the regulation so provides.

Mr. John Yakabuski: Thank you.

The Chair (Mr. David Oraziotti): Anything further? All those in favour of government motion number 24? Opposed? The motion is carried.

Shall section 9, as amended, carry? Opposed? That section is carried.

There are no amendments to section 10—Mr. Tabuns, yours is coming up, 10.1. Shall section 10 carry? That's carried.

Mr. Tabuns: new section 10.1, NDP motion number 25. Go ahead.

Mr. Peter Tabuns: I move that the bill be amended by adding the following section:

“Unfair practice, door-to-door sales

“10.1(1) A supplier is deemed to be engaging in an unfair practice if a salesperson acting on behalf of the supplier goes personally to residential premises to speak or attempt to speak with a consumer for the purpose of marketing gas or retailing electricity to be provided by the supplier to the consumer.

“Exception

“(2) Subsection (1) does not apply if the salesperson visits residential premises pursuant to a previous request received from the consumer residing in the premises.”

Chair, members of the government and opposition, I'm bringing this forward because of the experience I've now had with enough of these retailers, dealing both with my constituents and others I know in the province, who say to me that the door-to-door sales are quite powerful; that they result in confusion of the public; that they put particularly the elderly, those who are less literate and new Canadians at a tremendous disadvantage.

If in fact those individuals wanted to talk to a salesman and set an appointment and had him come, I don't have a problem with that. But I would say that what we see right now, with the sales force going through this province, often results in people paying far more for electricity or gas than they should, misunderstanding exactly what's going on.

Although I appreciate some of the efforts to toughen up the rules, in the end, I think this is a Wild West that needs to come to an end. I propose that telemarketing and Internet marketing would be allowed to continue. Frankly, if people were at a shopping mall and there was a booth there, they could go over and sign up if they so desired. But going door to door puts a lot of vulnerable people at risk and, thus, I'm moving that that no longer be a condoned or accepted practice.

The Chair (Mr. David Oraziotti): Thank you, Mr. Tabuns. Mr. Levac, go ahead.

Mr. Dave Levac: You may be surprised, Mr. Tabuns, that we don't necessarily agree it should be banned altogether. With some comments we've heard over the last 18 months, we were informed and we subsequently looked into this. The industry itself was doing a review of its practices, finding best practices and improving the door-to-door opportunities. The legislation that is before us is designed to improve the disclosure and, as said by Mr. Yakabuski on a few occasions—and us—to make sure that consumer protection is the first wave that we're talking about. We believe as long as the consumer is fully informed regarding the product being sold, the industry itself is taking the steps to police itself, to improve itself

and has, indeed, made some of the recommendations that we are going to find in this legislation. We believe that with the consumer protection pieces that we put into this legislation, we can't accept the amendment.

1450

The Chair (Mr. David Oraziotti): Mr. Tabuns, go ahead.

Mr. Peter Tabuns: I just want to say that either your amendments, your bill, will be successful and the sale of these contracts will drop dramatically because most people who understand them won't sign them, or a way around will be found and we will be back here in a few years dealing with this problem again.

For those who consciously want to pay a higher price for renewable power, there's not a problem; they can go and do that. For those who understand markets and effectively hedging their energy costs, there's not a problem, and they can go out and find a company to do that. But for the vast majority of the public, for whom sorting out their retail energy bill is a small part of their lives and who can be hustled heavily at the door, I don't think there's adequate protection.

I understand what you're saying. You won't vote in favour of this amendment, but recognize the likely consequence of that.

The Chair (Mr. David Oraziotti): Mr. Yakabuski, go ahead.

Mr. John Yakabuski: Peter, I appreciate the process you go through to come up with this amendment. I guess my comment would be: If we're going to debate a bill that outlaws this type of business, I welcome the government to bring it on and we'll talk about it and we'll debate it. But your amendment would essentially have the same effect. It would ban them from continuing to conduct business in the only way that I would suggest would make the business viable.

We're not suggesting for a minute that there haven't been problems. The industry itself has clearly indicated that there have been problems. We're, in general, supportive of the initiative on the part of the government to bring in legislation that is going to be far stronger in protecting the consumer than we've ever been before when it comes to the issue of energy contracts, be they electricity or gas, but we're not at the point where we're prepared to throw the baby out with the bathwater and eliminate the industry entirely. There are an awful lot of jobs at stake, and there are people who, through their choice, want to have the certainty of knowing what the price is going to be from one month to the next or a five-year period, or whatever the time that the contract covers would be.

In the absence of wanting to eliminate that business entirely, I think that I would have to agree with Mr. Levac that we couldn't support that amendment because I think the effect of it would be just that.

The Chair (Mr. David Oraziotti): Mr. Tabuns, go ahead.

Mr. Peter Tabuns: I appreciate you taking the time to comment. I'll just say this: If, in the next year, when you go out and talk to your constituents, you ask those

who've signed up whether they signed up to give them a guaranteed price or because they thought they would be saving money, I think you will find that 90% or more of them thought that they were saving money and didn't understand that they were saving no money, but in fact signing on for a higher price than they would otherwise normally pay for the potential security that that price would not vary.

I think, John, that most of your constituents have a very different understanding of what they've signed up for, if indeed they've signed up for these contracts.

The Chair (Mr. David Oraziotti): Mr. Yakabuski.

Mr. John Yakabuski: Peter, I would not disagree that that certainly has been an issue. There is no question that that's part of what we're trying to address in this legislation. We have to ensure that when the regulations dealing with this piece of legislation are brought out, there are very serious consequences for misleading statements, should there be some. I believe that what we're talking about—and the proposals from the industry—is hard, set questions that would be asked in the verification of these contracts, such as: Did the agent purport to be representing a public utility? Did the agent guarantee savings? If the answer to any of those questions is in the affirmative, then that transaction should end immediately. That's our position, and I believe that that's probably very close to what the government's position on this would be. We're working co-operatively to try to make sure that consumer protection is paramount in this legislation, but your clause would render the whole purpose of the bill null and void. There'd be no reason to continue with the legislation because we'd render an industry out of business.

Mr. Peter Tabuns: I've made my arguments. I'd like a recorded vote.

Ayes

Tabuns.

Nays

Chiarelli, Clark, Jaczek, Kular, Levac, Mauro, Yakabuski.

The Chair (Mr. David Oraziotti): The motion is lost. We'll move to section 11, government amendment 26: Mr. Levac.

Mr. Dave Levac: I move that section 11 of the bill be struck out and the following substituted:

"Contracts, in accordance with s. 12

"11(1) No supplier shall enter into a contract with a consumer other than in accordance with section 12.

"Application

"(2) Subsection (1) applies to contracts entered into after subsection (1) comes into force.

"Classes or types of contracts

"(3) A regulation made in respect of contracts to which this part applies and any code issued by the board

or rule or order made by the board in respect of contracts to which this part applies may,

“(a) distinguish between classes and types of contracts and between consumers and classes of consumer; and

“(b) set out different requirements depending on the classes or types of contracts and the circumstances under which the contracts are made.

“Prohibition re entering, etc. certain contracts

“(4) No supplier shall enter into, renew or extend a contract with such persons or classes of persons acting on behalf of the account holder as may be prescribed.

“Contract not binding

“(5) A contract entered into by a supplier with a consumer that is not in accordance with subsection (4) is not binding on the consumer.

“Definition, account holder

“(6) For the purposes of subsection (4),

“‘account holder’ means the person in whose name an account has been established with a distributor for the provision of electricity or with a gas distributor for the provision of gas and,

“(a) in whose name invoices are issued by the distributor or gas distributor, whether on its own behalf, or on behalf of a supplier, in respect of the provision of the electricity or gas, or

“(b) in whose name invoices would be issued by the distributor or gas distributor in respect of the provision of electricity or gas, if the invoices were not issued by a supplier.”

By way of explanation on the first section, the amendment removes the redundant wording in the class/types of contracts. The explanation is that the amendment is proposed in order to improve the wording, since “classes” and “types” relates to both contracts and consumers.

Under the prohibition of entering, this replaces subsection 5. Rather than prescribing parties who can sign contracts, parties who cannot sign them on behalf of the account holder will be prescribed.

Under “contract not binding,” this subsection was simply renumbered to fit the bill.

The definition of “account holder” is admitted to reflect the change in the numbering of subsections, as we’ve done.

On the deleted sections, “consumer to be account holder” is replaced by the new subsection 4. Number 2, “same, agent of account holder”: To the extent that it is undesirable that any particular type of agent sign contracts on behalf of the account holder, that type of agent will be prescribed under section 4. The change will clarify that the intent is not to prohibit people with power of attorney or prohibit the signing of contracts on behalf of the account holder.

Ultimately, this section addresses some of the issues that were brought up by the industry regarding who can and who can’t.

The Chair (Mr. David Oraziotti): Any comments? Mr. Tabuns.

Mr. Peter Tabuns: Sorry. Would you explain that again?

Mr. Dave Levac: Which section?

Mr. Peter Tabuns: Six: the definition of “account holder.”

Mr. Dave Levac: Yes.

Mr. Peter Tabuns: Industry had difficulty with the original definition. What have you done with this definition?

Mr. Dave Levac: Under some circumstances, the power of attorney would not be of the account holder but would be acting on behalf of the account holder. Somebody who was close to dementia or the circumstances that were described under—there were some situations in the deputations. So we’ve tried to modify that enough so that there would be some flexibility built into that and it wouldn’t be defined solely to the account holder. I believe Mr. Yakabuski made reference to somebody going to Afghanistan and being the account holder. So we made some of those references.

1500

The Chair (Mr. David Oraziotti): Any further comments? Seeing none, all those in favour of government motion 26? Carried.

Shall section 11, as amended, carry? Opposed? That section’s carried.

Section 12, government motion 27: Mr. Mauro.

Mr. Bill Mauro: I move that subclause 12(1)(a)(i) of the bill be struck out and the following substituted:

“(i) contain such information as may be prescribed, presented in the prescribed form or manner, if any, and under the prescribed circumstances, if any, and”

The Chair (Mr. David Oraziotti): Any further comments? All those in favour? Opposed? The motion’s carried.

Number 28: Mr. Mauro.

Mr. Bill Mauro: I move that clause 12(1)(b) of the bill be struck out and the following substituted:

“(b) in the case of the retailing of electricity by a retailer and subject to such requirements as may be prescribed in accordance with clause (a),

“(i) contain such information as may be required by a code issued under section 70.1 of the Ontario Energy Board Act, 1998, provided in such languages as may be required by the code, and presented in the form or manner, if any, and under the circumstances, if any, required by the code, if a condition of a licence requires the retailer to comply with the code, and

“(ii) be accompanied by such information or documents as may be required by a code issued under section 70.1 of the Ontario Energy Board Act, 1998, provided in such languages as may be required by the code, and presented in the form or manner, if any, and under the circumstances, if any, required by the code, if a condition of a licence requires the retailer to comply with the code; and”

The Chair (Mr. David Oraziotti): Any further comment? Seeing none, all those in favour of motion 28? Opposed? The motion’s carried.

Number 29: Mr. Mauro?

Mr. Bill Mauro: I move that clause 12(1)(c) of the bill be struck out and the following substituted:

“(c) in the case of gas marketing and subject to such requirements as may be prescribed in accordance with clause (a),

“(i) contain such information as may be required by rules made by the board pursuant to clause 44(1)(c) of the Ontario Energy Board Act, 1998, provided in such languages as may be required by the rules, and presented in the form or manner, if any, and under the circumstances, if any, required by the rules, and

“(ii) be accompanied by such information or documents as may be required by rules made by the board pursuant to clause 44(1)(c) of the Ontario Energy Board Act, 1998, provided in such languages as may be required by the rules, and presented in the form or manner, if any, and under the circumstances, if any, required by the rules.”

The Chair (Mr. David Oraziotti): Further comment? Seeing none, all those in favour?

Mr. John Yakabuski: I’m just trying to see where the changes are. What’s the actual change, Bill, if you can tell me?

Mr. Bill Mauro: Okay. The explanation is: Section 12 provides that a contract may be accompanied by information or documents in such languages and form as may be prescribed. The amendments are required to clarify the regulation of the information in contracts and the form of that information. In particular, codes and rules are now made explicitly subject to whatever is prescribed in regulation under the ECPA. Furthermore—

Mr. John Yakabuski: I understand the explanation. I’m specifically looking at the clauses in the amendment and the clause in the current bill, and I’m struggling to find where the change is.

Mr. Bill Mauro: So I’ll finish the explanation: Furthermore, the flexibility to require retailers to provide the actual contracts to consumers in multiple languages was removed from the bill.

The Chair (Mr. David Oraziotti): Any further—you’re okay? All right.

Government motion 29: All those in favour? Opposed? Carried.

Shall section 12, as amended, carry? Opposed? That’s carried.

Section 13, government motion 30: Mr. Mauro.

Mr. Bill Mauro: I move that subsections 13(2) and (3) of the bill be struck out and the following substituted:

“Copy in prescribed form

“(2) Where a supplier enters into a contract with a consumer and the consumer is a member of a prescribed class of consumers, the supplier shall, within the prescribed time, provide the consumer with a copy of the contract in such form as may be prescribed, if the consumer requests it.

“Contract deemed void

“(3) A contract is deemed to be void in accordance with section 16, in any of the following circumstances:

“1. If no request is made under subsection (2) and the supplier fails to deliver a copy of the text-based contract in accordance with subsection (1).

“2. If a request is made under subsection (2) and the supplier fails to provide a copy of the contract in the prescribed form.

“3. If a request is made under subsection (2) and the supplier fails to provide a copy of the contract in the prescribed time.”

The Chair (Mr. David Oraziotti): Is there any comment?

Mr. John Yakabuski: I haven’t figured it out yet. What changes does this accomplish, Bill?

Mr. Bill Mauro: A technical amendment to subsection 13(2) is needed to clarify the circumstances under which subsection 13(2) applies. There is no substantive change to its application.

Mr. John Yakabuski: Okay.

The Chair (Mr. David Oraziotti): Those in favour? Opposed? Carried.

Shall section 13, as amended, carry? Carried.

Section 14, government motion 31: Mr. Levac.

Mr. Dave Levac: I move that section 14 of the bill be struck out and the following substituted:

“Requirement of acknowledgment of receipt

“14. For the purposes of this part, a requirement that a contract be delivered or provided to a consumer includes a requirement that the consumer acknowledges, in such form or manner as may be prescribed, that the consumer has received it and the consumer is deemed to have acknowledged receipt at the prescribed time.”

The requirement to deliver or provide a contract to a consumer also includes a requirement for the consumer to acknowledge it in the prescribed form or manner that he or she has received it. This amendment is proposed in order to remove the requirement that a consumer must acknowledge receipt of any other document or information from the retailer other than the contract itself: very specific to the contract.

The Chair (Mr. David Oraziotti): Any comments?

All those in favour? Opposed? That’s carried.

Shall section 14, as amended, carry? Opposed? That’s carried.

Section 15, Conservative motion 32: Mr. Yakabuski.

Mr. John Yakabuski: I move that subsection 15(3) of the bill be struck out and the following substituted:

“Timing of verification

“(3) Unless authorized by regulation, a third party may verify the contract under subsection (2) no later than the 60th day following the day on which the consumer entered into the contract.”

This is to deal with the position of the government that third party verification would have to take place—at least in the bill, it’s no earlier than the 10th day, and we did talk about that at committee. I firmly believe that the best time to verify what took place is as soon as possible after the actual happening. I think consumers would be most protected if as soon as that contract is entered into there is third party verification asking the questions that would

be prescribed in legislation, so that the person who enters into that contract is not waiting 10 days and then asking themselves, “Is that what was said?” or, “Well, I’m not sure. That was 10 days ago. That was a long time ago.” If that verification takes place as soon as possible, I’m convinced that the protection of the consumer will actually be enhanced, so that memories are not challenged, not by five days, not by 10 days; they’re challenged in a matter of minutes.

It could also be prescribed in regulation, because I know that one of the concerns that was raised about that was the fact that the agent is still in the vicinity. It could also be dealt with in regulation ensuring that the agent must leave the premises. Part of the conversation could be that the third party speaks to the consumer party in the contract and explains, “We will now be asking the agent to leave.” I know that this is practised in other jurisdictions where, when there is third party verification, the agent of the retailer at the scene must vacate, whether they go back to their vehicle or simply leave the premises. In the case of here in the wintertime, they might want to go back to their vehicle. In the summertime, they may be satisfied with simply taking a walk down the street or leaving the yard.

But I do believe that as soon as possible, when memories are fresh—and we recognize, as Peter has indicated, that we are talking about people who sometimes are not 30. They may be 65; they may be older. Depending on how that conversation 10 days later goes—I know that you could have a conversation with someone tomorrow about something that was said today, and if you use the right phrases, you can start to have them question their own memory as to the events of the day before. So I believe that third party verification as soon as possible would actually enhance consumer protection in this case.

The Chair (Mr. David Oraziotti): Mr. Levac, do you care to respond?

Mr. Dave Levac: I think it could be said that I have entered into this particular topic with a little bit of uncertainty about where the logic lands on both sides here to ensure that we’re getting the right consumer protection. I’m going to suggest to the member that there might be a different view of why that’s happening.

In a conversation we had, I was intrigued by the Texas example he shared with me, that those types of things were happening where the agent had to leave and verification was done. I would maybe offer him another rationale as to why. This might be perceived more as a company keeping track of its salespeople to ensure quality control than a contractual issue of whether the consumer is entering into the contract properly. Is it a performance appraisal to ensure that they are performing their tasks properly?

To me, there’s some fogginess between defining what that means, because one could be leaning more toward just making sure the salesmen are there and doing what they’re supposed to do and selling what they’re supposed to sell. Then, inside that is the consumer protection piece,

to ensure that the consumer is the one we’re writing this bill for and not worrying about whether this guy is performing properly or whether they’re performing properly with the consumer. I know that there is this weaving back and forth.

I want to ask him to give me a little bit of leeway and, with the committee’s indulgence, I’ll take a short recess to have a discussion with staff and see where this lands, if you’re amenable to that, Mr. Yakabuski and Mr. Tabuns.

Mr. John Yakabuski: Can I just make a short comment?

Mr. Dave Levac: Sure.

Mr. John Yakabuski: On your issue of keeping track of agents, I’m not suggesting that couldn’t very well be part of the logic. One of the challenges we’ve all heard about is the conduct of the agents themselves. If I was an employer and I had concerns or suspicions about one of my agents, the best way to nail that person and hold them accountable would be, as soon as possible after that contract was signed, while they’re off the premises but haven’t left town—until that third party verification call or whatever takes place, nothing is actually finalized—I would actually have the opportunity to say, “Do you know what? I’ve been wondering about that John fellow, and now I think I’ve got him.”

As an employer, you can’t holus-bolus fire an employee just because you think they may be doing wrong; they’ve got protection too. But if you have that third party verification on the spot and you’re asking those prescribed questions, as I’m talking about in regulation, there is no fudging. There is no leeway on the part of the company or the agent about what questions that consumer must answer on the spot, such as, “Did this agent say he was with Hydro One?” or whatever, and “Did this agent guarantee savings to you through the course of this contract?”

If we were able to do that quickly, yes, that would help the retailers, but it would also help them be more in the spirit of what we’re trying to accomplish in this bill, and that is to eliminate the rogue agent, which is part of the reason we’re here in the first place.

Mr. Dave Levac: With that, permission to recess for a few minutes? Is five minutes okay?

The Chair (Mr. David Oraziotti): A five-minute recess has been agreed to.

The committee recessed from 1514 to 1527.

The Vice-Chair (Ms. Helena Jaczek): Okay, we’re resuming discussion on PC motion 32. Further comment? Mr. Levac.

Mr. Dave Levac: As committed to my friend—and my rationale for having a recess—I wanted to discuss how this could be accomplished with some staff and legal minds.

There’s going to be some confusion and conflict with some of the amendments that we’re contemplating in front of this. There will be a difficulty in having this happen, not for the rationale presided over when we talked about confusing consumers, or the business

practices of the salespeople, but rather, as the ministry and the minister spoke to me before, about the cooling-off period—between 10 and 60 days as written—is the rationale behind the call to allow for the cooling-off period to take place independent of verification. Between those two, introducing this would be in conflict with the amendments proposed in the legislation; meaning, we're going from not doing the verification at the door to doing the verification at the door. The rationale of what we just presented in the motion we accepted was not to do it at the door.

While I appreciated deeply the logic that was presented in our discussions, heard from the industry and from you, citing the Texas example, as well, there are other circumstances mentioned from other sources that indicated that unfortunately, extremely unfortunately, beyond just simply being an employee of the company, by extension—other examples were cited in the extreme, where people were using that as a front to case the place to perform illegal acts afterwards and sharing that information with others.

That said, the government has indicated that by accepting this amendment, it would not be able to pass regulations that could actually counter itself. So they could put regulations in to discuss whether or not the person was allowed to be on the premises or not, they could put regulations in to kind of shore that up and make sure there's meat behind that, but then there couldn't be any other regulation that could remove that in the event that this does not turn out to be the consumer protection that was committed to on the idea of it happening.

With that, unfortunately, I would say to you that we were not able to come up with something that would be acceptable, I would imagine, to yourself or inside of the government. We can't accept the amendment that is proposed.

Mr. John Yakabuski: I do regret that because I absolutely, totally believe that that immediate verification would be a positive thing.

If my kids want something, the best way for them to be likely to get it from me is to say, "You know, dad, you've been busy and you've been away, but three weeks ago, you actually told us that you would do this." And I would probably say something like, "Are you sure?" And then Emily would look at Lucas and Lucas would say, "That's right," and I'd be had because I couldn't even rely on my own memory for an extended period of time over 10 days to be sure that my kids weren't snowing me. But I'll tell you, if I made a commitment to Emily and I had to verify that immediately, I'm pretty sure I'd know whether I said I would do something or I didn't say I would do something.

Using that logic, I firmly believe—because Dave, you know we still have, as far as this legislation is concerned—and all of those legal people can tell me otherwise if they'd like to—10 days to say no. Even after that third party verification, the consumer still has 10 days to look at that contract, to give that contract to a son or a daughter or a brother or a sister or a friend or a neigh-

bour, or someone who is experienced in dealing with these kinds of transactions, and say, "What do you think about it? Do you think I did good here or do you think I made a mistake?" Wherever that conversation goes is irrelevant, but the consumer then still has the right, under this legislation and under general contract law, I believe, to say, "No. Yes, I verified it"—and we have the tapes of that verification or whatever—"but I'm exercising my right to say no because I got a fourth party opinion after I signed that contract, after the third party verification. I went to talk to somebody who is not selling me anything, who is not profiting in any way from whatever my decision might be. They're just somebody who I absolutely trust is going to be working in my best interests, and they're telling me I made a bad deal. I'm saying no." Or they might tell them, "Do you know what, Mom? I think you're okay with it," the point being that we still have the right as a consumer to say no within the period prescribed by law.

The Chair (Mr. David Orazietti): Any further comment? Seeing none, all those in favour of Conservative motion number 32? Opposed? The motion is lost.

Government motion number 33: Mr. Levac.

Mr. Dave Levac: I move that section 15 of the bill be struck out and the following substituted:

"Need for verification of contract

"15(1) If a text-based copy of the contract has been delivered to a consumer in accordance with subsection 13(1) or a copy of the contract has been provided in accordance with subsection 13(2), the contract is deemed to be void unless it is verified by a person who meets such conditions and qualifications as may be prescribed.

"Persons not permitted to verify contract

"(2) Despite subsection (1), a contract shall not be verified by persons or classes of persons as may be prescribed.

"Verification in accordance with regulations

"(3) A person may verify a contract only in accordance with the regulations.

"Timing of verification

"(4) Unless otherwise prescribed, a person may verify the contract under subsection (2) no earlier than the 10th day and no later than the 60th day following the day on which a copy of the contract is delivered or provided to the consumer in accordance with section 13.

"Consumer notice that contract not verified

"(5) The consumer may, in accordance with the regulations, give notice to not have the contract verified, at any time before the verification of the contract under this section.

"Application of subsections (1) to (5)

"(6) Subsections (1), (2), (3), (4) and (5) apply with respect to contracts entered into on or after the day on which this section comes into force."

By way of explanation, Mr. Chairman, on the first section 15, the amendment is required in order to reflect the proposed rewording of section 14, which clarifies the timing of the consumer's acknowledgement of receipt. It

then becomes redundant to mention acknowledgement of receipt in this section. This amendment is technical but required due to the interconnection of many sections, which was why I didn't classify it as a technical amendment, because of the other sections. All of the section 15 changes are included in the same motion. If the amendments to the subsection are carried, we don't need to worry about the rest.

The Chair (Mr. David Oraziotti): Thank you, Mr. Levac. Any further comments?

Seeing none, all those in favour? Opposed? The motion is carried.

Shall section 15, as amended, carry? Opposed? That's carried.

Section 16: We have a replacement motion, 34R.

Mr. John Yakabuski: I don't have a copy of that motion. Oh, apparently I do. You slipped it in when I wasn't looking.

The Chair (Mr. David Oraziotti): Mr. Levac, I understand that there's some wording on the motion at the end that needs to be struck out and—34R.

Mr. Dave Levac: Yes, Mr. Chairman.

The Chair (Mr. David Oraziotti): Do you want to clarify the change?

Mr. Dave Levac: Yes. I still have to read it as a motion?

The Chair (Mr. David Oraziotti): Yes.

Mr. Dave Levac: I move that section 16 of the bill be struck out and the following substituted:

“Contract deemed void

“16(1) A contract is deemed to be void if,

“(a) at the time the consumer enters into the contract the consumer does not provide the acknowledgments and signatures required under subsection 12(2);

“(b) a text-based copy of the contract is not delivered to the consumer in accordance with subsection 13(1);

“(c) a text-based copy of the contract is delivered to the consumer in accordance with subsection 13(1) and,

“(i) the contract is not verified in accordance with section 15, or

“(ii) the consumer gives notice in accordance with subsection 15(5) to not have the contract verified;

“(d) a copy of the contract is not provided to the consumer in the prescribed form in accordance with subsection 13(2), if requested by the consumer;

“(e) a copy of the contract is provided to the consumer in the prescribed form in accordance with subsection 13(2), if requested by the consumer and,

“(i) the contract is not verified in accordance with section 15, or

“(ii) the consumer gives notice in accordance with subsection 15(5) to not have the contract verified; or

“(f) the prescribed circumstances apply.

“No cause of action

“(2) No cause of action against the consumer arises as a result of a contract being deemed to be void under subsection (1) or as a result of the operation of subsection (4).

“Refund within prescribed time

“(3) Within a prescribed number of days after a contract is deemed to be void under this section, the supplier shall refund to the consumer the money paid by the consumer under the contract.

“Consequences of contract being deemed to be void

“(4) If a contract is deemed to be void under this section, the consumer shall not be liable for any obligations under the contract or a related agreement, including obligations purporting to be incurred as cancellation charges, administration charges or any other charges or penalties.”

“Amended by striking out ‘Subsections 15(1) to (5)’ in the portion before paragraph 1 and substituting ‘Subsections 15(1) to (4)’.”

These are technical to clarify and achieve consistency with the ECPA provisions.

The Chair (Mr. David Oraziotti): Any further comment?

Interjection.

The Chair (Mr. David Oraziotti): Mr. Levac, with respect to the section at the end, it was read into the record, but I assume that that's the portion that's coming out?

Mr. Dave Levac: Correct.

The Chair (Mr. David Oraziotti): Do you want to just clarify for committee the sentence or the language that is being removed in 34R?

1540

Mr. Dave Levac: Thank you, Mr. Chairman. As a result of “R,” the wording “amended by striking out ‘subsections 15(1) to (5)’ in the portion before paragraph 1 and substituting ‘subsections 15(1) to (4)’” will not be read into the record.

The Chair (Mr. David Oraziotti): Thank you. Any further comments? All those in favour? Opposed? The motion is carried.

Shall section 16, as amended, carry? Opposed? That's carried.

Sections 17, 18 and 19 have no amendments. Shall they carry as presented?

Mr. Dave Levac: I have a technical amendment in 18 of the bill.

The Chair (Mr. David Oraziotti): Sorry. Section 17: no amendments. Shall section 17 carry? Carried.

Section 18, government motion 35: Mr. Levac.

Mr. Dave Levac: It's technical in nature, Mr. Chairman.

I move that section 18 of the bill be struck out and the following substituted:

“Renewals, extensions and amendments of contracts

“18(1) A contract with a consumer may be renewed or extended or amended only in accordance with the regulations.

“Application of subsection (1)

“(2) Subsection (1) applies to,

“(a) the renewal or extension of any contract that would, if not renewed or extended, expire after subsection (1) comes into force; and

“(b) the amendment of any contract that would have effect after subsection (1) comes into force,

“whether the contract was made before or after subsection (1) comes into force.”

The Chair (Mr. David Orazietti): Any further comments? Seeing none, all those in favour? Opposed? Carried.

Shall section 18, as amended, carry? Carried.

Section 19: government motion 36.

Mr. Dave Levac: I move that section 19 of the bill be struck out and the following be substituted:

“Cancellation of contracts

“Cancellation, cooling-off period

“19(1) A consumer may, without any reason, cancel a contract at any time from the date of entering into the contract until 10 days after,

“(a) a text-based copy of the contract, or a copy of the contract in the form required under subsection 13(2) if applicable, is delivered to the consumer; and

“(b) the consumer acknowledges its receipt in accordance with section 14.

“Same, contract does not meet requirements

“(2) A consumer may cancel a contract at any time after the date of entering into the contract if the requirements referred to in subsection 12(1) are not met.

“Same, unfair practices

“(3) A consumer may cancel a contract at any time after the date of entering into the contract if the supplier engages in an unfair practice.

“Same, other prescribed circumstances

“(4) A consumer may cancel a contract under such other circumstances as may be prescribed.

“Same, without cause

“(5) In addition to any other rights under this part, a consumer may cancel a contract at any time and without cause, but the consumer must give the prescribed period of notice of cancellation.”

Therefore, Mr. Chairman, the provisions of the bill dealing with the right to cancellation, consumer liabilities on cancellation and the right to return of payments have been significantly revised to make them easier to follow.

The revised section 19 sets out in one section all of the circumstances where a consumer may cancel a contract. Cancellation circumstances include the following: cancellation within the 10-day cooling-off period; the contract does not meet prescribed requirements as to form and content set out in section 12; the supplier engages in an unfair practice; prescribed circumstances; and without cause, provided the consumer gives the notice of cancellation within a prescribed period.

The Chair (Mr. David Orazietti): Any further comments? Seeing none—Mr. Yakabuski?

Mr. John Yakabuski: Dave, you’ve seen our amendment. While it’s not in the same section, does it have any effect that would—

Mr. Dave Levac: Yes. We’re close.

Mr. John Yakabuski: We’ve always been. It just doesn’t appear that way sometimes.

Okay. Well, we’ll be proceeding with amendment 37 anyhow. Perhaps you can—

Mr. Dave Levac: We’ll comment on it.

Mr. John Yakabuski: Yes.

The Chair (Mr. David Orazietti): Any further comment? Seeing none, all those in favour? Opposed? Carried.

Shall section 19, as amended, carry? Carried.

Section 20, Conservative amendment 37: Mr. Yakabuski.

Mr. John Yakabuski: I move that section 20 of the bill be struck out and the following substituted:

“Cancellation

“20. In addition to any other rights under this part, a consumer may cancel a contract to which this part applies at any time and without cause, but the consumer must,

“(a) give the prescribed notice of cancellation; and

“(b) pay a fee in the prescribed amount or calculated in the prescribed manner.

“Limit on fees charged

“(2) A consumer who cancels a contract is not liable for any fees in addition to the fees required under clause (1)(b).”

What we’re trying to ensure here is that we don’t get into a situation where someone can enter into a contract and then exit a contract with no obligations whatsoever. I don’t think that’s what we’re trying to accomplish here.

As I say, and as I’ve said repeatedly from the outset, consumer protection is paramount and has to be the paramount motivation of this bill. But I don’t think that we should be getting into a situation where people can enter into a contract knowing or believing, “There are no obligations on my part. I can get out without cause. All I have to do is let them know that I’m cancelling it.” I think that reverberates through our entire personal responsibility that society expects us to adhere to. In fact, I heard the Premier the other day saying, “You’ve got to keep your word.” You’ve got to keep your word.

I don’t think that this committee and this bill should be entering into a realm where we’re absolving consumers of their responsibilities. Let me make it perfectly clear: We are not talking about bringing in or doing things that allow unscrupulous operators to hose consumers; not at all. But at the same time, a consumer has to have the responsibility to ensure that they’re holding up their end of the bargain.

Back in 2002, the previous government had brought the marketplace in on electricity, and then the summer of 2002 was one that was helter-skelter and very tough on electricity consumers because of the significant increases in electricity prices. The Premier of the day, Ernie Eves, decided in November that they would close that market and bring back a regulated price for consumers. But a consequence of that was that they had to compensate all of the retailers that had entered into contracts with consumers.

When someone enters into a contract with a consumer, they’ve also entered into a contract with a supplier. They don’t produce the product. They’re brokers; they buy the

product and they market it to the consumer. Just as surely as they have a contractual obligation, if the consumer is allowed, without any penalties or obligations, to remove themselves from that contract, then I suspect that the government—in my opinion, I’m saying that this could prevent some long and onerous litigation in the future. If an energy retailer is penalized or can verify a loss as a result of having to be contractually obligated to whom-ever they bought the energy from, while the person, the customer, that they’ve sold it to is not contractually obligated to hold up their end of the bargain, then we’re going to have a total imbalance. I would suspect that somebody’s going to be challenging the validity of legislation that puts them into that position.

Again, let’s be clear: We’re doing what we can to protect consumers. That’s why you need to have all those issues taken care of in the front end as well, so that everyone understands clearly what they’re entering into.

1550

If you don’t know, don’t do it; if you’re unsure, don’t do it. Don’t get into a contract—this applies to anybody. Don’t enter into a contract unless you’re confident that the contract that you’re signing is one that you understand explicitly and you’re comfortable with its terms.

Where else is this going to apply? If you’re going to use this principle, there are a whole lot more things than just energy contracts in which the government may have to involve itself with respect to settling contractual disputes between suppliers and consumers.

I think that this amendment, while not lessening in any way, shape or form the protection on consumers, clarifies that a contract is still a contract, and that you have an obligation to fulfill your obligation in the contract, regardless of which party you are.

Mr. Bob Chiarelli: I just have a question. What do you think a reasonable fee would be for cancellation?

Mr. John Yakabuski: That’s not for me to decide. That’s something to be done in regulation. I don’t see any fees in any of this legislation, Bob. I don’t see anybody coming up with any numbers in this legislation. That’s why we pay all these people who are sitting over there: to come up with—

Mr. Bob Chiarelli: Notwithstanding that, I would still like to know what your sense of a reasonable amount would be.

Mr. John Yakabuski: I would not venture to go there, because I don’t have the expertise. I don’t have any experience in these contracts. I’m not party to one, so I don’t know what the value of one of these contracts, over a period, would be. I think it would be a stretch for me. There are people who do a lot more work in this field than I do. It would be a stretch for me to try to suggest what a fee or a remedy may be.

Mr. Bob Chiarelli: Would the prescribed fee, the cancellation fee, be prescribed in the contract?

Mr. John Yakabuski: No, I think that’s what you do in regulation.

Mr. Bob Chiarelli: But if you’re on the doorstep, talking—

Mr. John Yakabuski: Bob, I’m giving you the amendment. I’m going to end that discussion right here. I’m not the government; I’m not answering those questions. You’ll have to talk to the PA. Maybe he’s got an idea.

Mr. Bob Chiarelli: Okay, but it’s your principle, your concept. You must have some sense of it.

Mr. John Yakabuski: Well, listen, there are all kinds of principles and concepts that have been prescribed in many amendments that have been proposed or talked about. In any amendments proposed, Bob, I haven’t seen any dollar figures yet.

Mr. Bob Chiarelli: So you trust the government to come up with the right number.

Mr. John Yakabuski: It’s not a question of trust; it’s their job.

The Chair (Mr. David Oraziotti): Mr. Levac, do you want to add to this discussion?

Mr. Dave Levac: Yes, I do. Bob, are you finished? Okay. John, you had me at “hello.” If you’ll notice—

Mr. John Yakabuski: You could’ve stopped me.

Mr. Dave Levac: Well, no, you liked it. I don’t think I would want to try to stop you, John.

If you take a look at section 40, we are proposing, in motion 40, to do virtually what you’re attempting to do. Although I’m not going to remove any of your comments from Hansard in terms of disputing them, that is the intent of motion 40, and that we do—

Mr. John Yakabuski: We only get these things when we walk in here, so I haven’t had a chance to look at it.

Mr. Dave Levac: We do recognize the content of your discussion and the content of your motion, except to say that—

Mr. John Yakabuski: Maybe you can answer Bob’s question, then.

Mr. Dave Levac: That will come. The motion is similar but we’re not able to accept it because the provisions related to cancellation and penalties are to be extensively amended, and the motion doesn’t fit in that framework that we’re going to create. But the intent is accepted.

I was suggesting to you earlier that when I’m in the House and when I’m talking here, I try to find those opportunities to pull these things together. This is one of them. We’re going to ask you to be patient with motion 40. You’ll see that the same amount of thought was put into how we are trying to obtain both the balance between protecting the consumer and not having the agencies bury the fees in their margins. You’ll see that that—

Mr. John Yakabuski: I might even support the motion.

Mr. Dave Levac: I’m looking forward to that, because you had me at “hello” and I hope I don’t get you at “goodbye.”

The Chair (Mr. David Oraziotti): Any further comments? All those in favour? Opposed? The motion is lost.

Government motion number 38: Mr. Levac.

Mr. Dave Levac: I move that section 20 of the bill be struck out and the following substituted:

“Application

“20(1) Subsections 19(1) and (2) apply with respect to contracts entered into on or after the day on which this subsection comes into force.

“Same

“(2) Subsection 19(3) applies with respect to contracts entered into on or after the day on which this subsection comes into force.

“Same

“(3) Subsection 19(4) applies with respect to contracts entered into on or after the day on which this subsection comes into force.

“Same

“(4) Subsection 19(5) applies with respect to contracts entered into on or after the day on which this subsection comes into force.”

Provisions of the bill dealing with the right of cancellation, consumer liabilities on cancellation and the right to return of payments have been significantly revised to make them easier to follow. The amendments deal with transitional matters. I recommend support of the amendment.

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? The motion is carried.

Shall section 20, as amended, carry? Carried.

Government motion 39.

Mr. Dave Levac: I move that subsection 21(4) of the bill be struck out and the following substituted:

“When given

“(4) Where notice of cancellation is given other than by personal delivery, the notice is deemed to have been given to the supplier when delivered or sent in accordance with subsection (3).

“When effective

“(5) Unless otherwise prescribed, if a contract is cancelled pursuant to section 19, the cancellation takes effect on such day as is prescribed or as is determined in accordance with the regulations.

“Extended meaning of contract

“(6) For the purposes of subsections(1), (2) and (3) and 23(1), (2) and (3), the term ‘contract’ is deemed to include such other agreements as may be prescribed between the consumer and the retailer or its affiliates.”

These provisions dealing with the right of cancellation, consumer liabilities on cancellation and the right to demand return of payments have been significantly revised to make them easier to follow. Again, this is technical in nature, but I did not deem it as such and do recommend passing it.

The Chair (Mr. David Oraziotti): Any further comments?

Seeing none, all those in favour? Opposed? The motion is carried.

Shall section 21, as amended, carry? Carried.

Government motion 40.

Mr. Dave Levac: Mr. Yakabuski, this is the one I was making reference to earlier.

I move that section 22 of the bill be struck out and the following substituted:

“Cancellation fees and other obligations

“Cancellations, s.19(1), (2) or (3)

“22(1) A consumer who cancels a contract under subsection 19(1), (2) or (3) is not liable for,

“(a) any obligations in respect of the cancellation, including obligations purporting to be incurred as cancellation charges, administration charges or any other charges or fees; or

“(b) any monetary obligations under the contract respecting any period after the cancellation takes effect.

“Same, s.19(4) and (5)

“(2) A consumer who cancels a contract under subsection 19(4) or (5) is liable for,

“(a) such class or classes of obligations, including charges or fees, in respect of the cancellation as may be prescribed and no others, but in no case is the consumer liable for any monetary obligations that are prescribed as excluded from liability or for more than any prescribed amount of such monetary obligations or any amount determined in accordance with the regulations; and

“(b) such class or classes of monetary obligations under the contract as may be prescribed, respecting any period after the cancellation takes effect, but in no case is the consumer liable for more than any prescribed amount of such obligations or any amount determined in accordance with the regulations.”

In a nutshell, we’ve taken exactly what you’ve been talking about and turned it into the framework of the regulation we’re talking about, ensured that we mentioned that there is removal of cancellation fees where it’s not appropriate, but including them in the cancellation of a contract where it is appropriate.

Mr. John Yakabuski: Maybe I could ask Mr. Chiarelli a question, because I know he’s going to be supporting this amendment. So “a consumer who cancels a contract under subsection 19(4) or (5) is liable for,

“(a) such class or classes of obligations, including charges or fees, in respect of the cancellation as may be prescribed and no others,” and it goes on further.

Could you tell me what you would recommend as a fee in that case?

1600

Mr. Bob Chiarelli: We’d have to sit down and discuss it.

Mr. John Yakabuski: Touché.

The Chair (Mr. David Oraziotti): Any further comments?

Mr. John Yakabuski: I have no further comment. Thank you very much.

The Chair (Mr. David Oraziotti): Mr. Tabuns, go ahead.

Mr. Peter Tabuns: Could Mr. Levac just tell us what the appropriate charges are for cancellation and what you consider inappropriate charges?

Mr. Dave Levac: As I indicated before, when the regulatory stream is being cooked, there's going to be some consultation. There will be some input from the agencies, there will be input from consumers and there will be input from many people and sources, and then we'll be working with the government to create that. I think there are some offers from the industry to provide summaries of the types of fees that are out there. We'll take all of those into consideration, and when the regulations come out, that will be adopted.

Further, to the other possible part of your question, was that what would constitute our being able to say the fees are not charged, or is that okay?

Mr. Peter Tabuns: Which charges do you consider legitimate, and which do you consider not legitimate?

Mr. Dave Levac: That will come out as a result of this consultation.

Mr. Peter Tabuns: So you haven't determined, at this point, which of them and which column?

Mr. Dave Levac: No, there has been no determination. As a matter of fact, I think it's better to do it that way, so that if there are logical reasons why an existing charge is there, we want everyone to have the opportunity to tell us, "We don't think that one is legitimate," or if the industry comes in and says, "That is legitimate, and here's why," we want all of that put on the table.

We don't want to enter this one into a snap response to simply say there is no logic for that being there. I honestly do believe that that is the intent of why we're putting this in the stream of regulation and allowing the industry and the consumer to have a say on what those fees would be.

Mr. Peter Tabuns: Okay. I understand what you're saying.

The Chair (Mr. David Oraziotti): Anything else on this matter?

Seeing none, all those in favour of government motion 40? Opposed? Carried.

Shall section 22, as amended, carry? Carried.

The Chair (Mr. David Oraziotti): Government motion 41.

Mr. Dave Levac: I move that section 23 of the bill be struck out and the following substituted:

"Refunds on cancellation

"Cancellation, s.19(1) or (3)

"23(1) Within such time period as may be prescribed, after a cancellation takes effect under subsection 19(1) or (3), the supplier shall refund to the consumer any amount paid by the consumer under the contract.

"Same, s.19(2)

"(2) Within such time period as may be prescribed, after a cancellation under subsection 19(2) takes effect, the supplier shall refund to the consumer the amount prescribed by regulation or determined in accordance with the regulations.

"Same, s.19(4)

"(3) Within such time period as may be prescribed, after a cancellation under subsection 19(4) takes effect, the supplier shall refund to the consumer the amount, if

any, prescribed by regulation or determined in accordance with the regulations."

The right of cancellation and consumer liabilities on cancellation and the right to return payments have been significantly revised to make them easier to follow. This was a continuation of the previous motions that simply made the flow of this process a lot easier.

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? Carried.

Shall section 23, as amended, carry? Carried.

The Chair (Mr. David Oraziotti): Motion 42, Mr. Levac.

Mr. Dave Levac: I move that section 24 of the bill be struck out and the following substituted:

"Return of prepayment

"24. Within such time period as may be prescribed, after a cancellation under subsection 19(2), (4) or (5) takes effect, the supplier shall refund any amount paid by the consumer under the contract before the day the cancellation took effect in respect of electricity or gas that was to be sold on or after that day."

Very similar logic behind the last amendment, Mr. Chairman, and I suggest we approve this.

Mr. John Yakabuski: I guarantee it will be approved.

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour? Opposed? Carried.

Mr. Dave Levac: I'm glad to see everybody's hand up.

The Chair (Mr. David Oraziotti): Shall section 24, as amended, carry? Opposed? Carried.

Section 25: Mr. Levac.

Mr. Dave Levac: As committed, Mr. Chairman, this is a technical motion.

I move that section 25 of the bill be struck out and the following substituted:

"Retailer to ensure reading of consumer's meter

"25(1) If a consumer gives notice of a cancellation under subsection 21(2) with respect to a contract for the provision of electricity, the retailer shall promptly notify the distributor that the contract has been cancelled and the distributor shall read the consumer's electricity meter within the prescribed period.

"Retailer responsible for additional costs

"(2) The retailer is responsible for the payment to the distributor of any additional costs that are incurred by the distributor to ensure compliance with this section."

The Chair (Mr. David Oraziotti): Any further comments? Seeing none, all those in favour? Opposed? The motion is carried.

Shall section 25, as amended, carry? Carried. Thank you.

Number 44: Mr. Levac, go ahead.

Mr. Dave Levac: Thank you, Mr. Chairman. Another technical amendment, on section 26 of the bill.

I move that section 26 of the bill be struck out and the following substituted:

"No cause of action for cancellation

“26. No cause of action against the consumer arises as a result of the cancellation of a contract under this part.”

This reflects the reordering and the renumbering of the cancellation-related provisions, and that’s all we’re doing there.

The Chair (Mr. David Oraziotti): Any further comment? All those in favour? Opposed? The motion is carried.

Shall section 26, as amended, carry? Thank you.

Number 27, motion 45: Mr. Levac.

Mr. Dave Levac: Technical in nature, Mr. Chairman.

I move that section 27 of the bill be struck out and the following substituted:

“Right of action in case of dispute

“27. A consumer may commence an action against the supplier to recover the amount provided in subsection 28(2) and in addition may seek such other damages or relief as are provided in subsection 28(3),

“(a) if the consumer has cancelled a contract under this part; or

“(b) if the contract is deemed to be void under section 16 and,

“the consumer has not received a refund within such time period as may be prescribed after the effective date of cancellation or the day the contract is deemed void.”

This is to fix the 15-day period.

The Chair (Mr. David Oraziotti): Any further comment? All those in favour? Opposed? The motion is carried.

Shall section 27 carry, as amended? Carried.

Government motion 46: Mr. Levac.

Mr. Dave Levac: Another technical amendment.

I move that clauses 28(2)(a), (b) and (c) of the bill be struck out and the following substituted:

“(a) in the case of a cancellation under subsection 19(2), (4), (5), all of the money paid by the consumer under the contract;

“(b) in the case of a cancellation under subsection 19(1) or (3), twice the amount of the money paid by the consumer under the contract; and

“(c) in the case of a contract that is deemed to be void, twice the amount of the money paid by the consumer under the contract.”

These are cross-references and are substituted under section 19. The amendments are technical but required.

The Chair (Mr. David Oraziotti): Further debate? All those in favour? Opposed? It’s carried.

Number 47: Mr. Levac.

Mr. Dave Levac: Thank you, Mr. Chairman. Another technical amendment: I move that subsection 28(4) of the bill be amended by striking out “in the agreement” at the end and substituting “in the contract or agreement”.

That’s basically verbiage that needs to be to ensure that there is consistent language in the subsection and to avoid confusion. I really highly recommend that this one be passed.

The Chair (Mr. David Oraziotti): Right. Any further comments? All those in favour? Opposed? It’s carried.

Shall section 28, as amended, carry? Thank you.

In section 29 there are no proposed amendments. Shall it carry? Carried. Thank you.

Government proposal for a new section, 29.1: Mr. Levac, number 48.

Mr. Dave Levac: Thank you, Mr. Chairman. I move that the bill be amended by adding the following section:

“Review of part II of act

“29.1(1) The minister may require the board to review part II of the act and the regulations made under part II three years after this part comes into force.

“Report

“(2) If a review is required by the minister under subsection (1), the board shall prepare a report as expeditiously as possible on its review, and in the report, the board may recommend changes to part II and the regulations made under part II.”

This section allows the minister to order a review of part II of the Energy Consumer Protection Act three years after it comes into force.

The Chair (Mr. David Oraziotti): Any further comment? Mr. Yakabuski?

Mr. John Yakabuski: I’m just wondering, is there going to be an Ontario Energy Board after three years? You’re taking over all the responsibilities. I’m just wondering if you’re going to just disband it.

Mr. Dave Levac: To my knowledge, the answer is yes, there will be.

The Chair (Mr. David Oraziotti): Further comments?

Shall section 29.1 carry? Thank you.

Section 30, number 49: Mr. Levac, go ahead.

Mr. Dave Levac: We have a technical motion in front of you. I move that the definition of “unit” in section 30 of the bill be amended by striking out “and” at the end of clause (c) and substituting “or”.

This confirms that a unit means any, as opposed to all.

1610

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? It’s carried.

Number 50: Mr. Levac.

Mr. Dave Levac: I move that the definition of “unit sub-meter” in section 30 of the bill be amended by striking out “a suite meter provider” and substituting “a unit sub-meter provider”.

Both units of sub-metering and the smart meter is a provider—technical in nature.

The Chair (Mr. David Oraziotti): Any further comment?

Seeing none, all those in favour? Opposed? It’s carried.

Shall section 30, as amended, carry? Opposed? Okay, that’s carried.

Section 31: I don’t see any amendments there. Shall it carry? Carried.

Section 32, number 51: Go ahead, Mr. Levac.

Mr. Dave Levac: Another technical motion.

I move that subsection 32(2) of the bill be struck out and the following substituted:

“Installation of suite meters required

“(2) Such persons or classes of persons as may be prescribed shall, in such circumstances as may be prescribed and subject to such conditions as may be prescribed, have a suite meter installed by a suite meter provider in such properties or classes of properties as may be prescribed and for such consumers”—I almost got through this without laughing at how many times I’ve said “prescribed”; sorry—“or classes of consumers as may be prescribed.”

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour?

Mr. John Yakabuski: I may prescribe something,

The Chair (Mr. David Oraziotti): Thank you. Carried.

Number 52: Mr. Levac.

Mr. Dave Levac: It’s getting late. Where am I headed?

Interjection: Number 52.

Mr. Dave Levac: Fifty-two.

The Chair (Mr. David Oraziotti): Thanks, guys.

Mr. Dave Levac: Can somebody tell me where I’m prescribed?

I move that subsection 32(3) of the bill be struck out and the following substituted:

“Installation of meters prohibited”—I just looked at something different. I apologize for that.

“(3) Except”—

Interjection.

Mr. Dave Levac: Okay. Because it’s so technical, we’re pulling it.

Interjection: It only has “prescribed” in it once.

Mr. Dave Levac: I think that’s why they pulled it. There weren’t enough prescriptions.

Mr. John Yakabuski: It’s under-prescribed.

Mr. Dave Levac: I’d like to withdraw the motion, Mr. Chairman.

The Chair (Mr. David Oraziotti): Thank you. Withdrawn.

Shall section 32, as amended, carry? Carried. Okay, thank you.

Government motion number 53: Mr. Levac.

Mr. Dave Levac: I think I’m on track now, Mr. Chairman.

I move that subsection 33(1) of the bill be struck out and the following substituted:

“Use of suite meters for billing permitted

“33.(1) Subject to subsection (6), if a suite meter is installed in accordance with section 32 or in such circumstances as may be prescribed in respect of a unit of a prescribed class of properties, a suite meter provider may, in the prescribed circumstances, subject”—all right; we have to put this on TV in bloopers—“to the prescribed conditions and for the prescribed consumers or prescribed classes of consumers, bill the consumer based on the consumption or use of electricity by the consumer in respect of the unit as measured by the suite meter.”

It’s technical in nature; trust me.

Mr. John Yakabuski: It certainly is.

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Carried. Thank you.

Number 54: Mr. Levac.

Mr. Dave Levac: I move that subsection 33(3) of the bill be struck out and the following substituted:

“Use of meters prohibited

“(3) Except as provided in subsections (1) and (2), no person shall bill a prescribed class of consumers for electricity consumed in a unit of a prescribed class of properties as measured by a suite meter.”

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? It’s carried.

Number 55: Mr. Levac.

Mr. Dave Levac: I move that subsection 33(6) of the bill be struck out and the following substituted:

“Requirement to provide information

“(6) If a suite meter is installed in accordance with section 32 in respect of a unit of a prescribed class of properties for a prescribed class of consumers, the suite meter provider or such other persons or class of persons as may be prescribed shall, in the prescribed circumstances, provide the consumer or such other persons or class of persons as may be prescribed with such information as may be prescribed, at such time as may be prescribed, presented in such form and manner as may be prescribed.

“No billing of consumer based on time of use

“(7) A regulation made in respect of subsection (6) may provide that the suite meter provider shall not bill the consumer based on the consumption or use of electricity by the consumer in respect of the unit, if at the time of the billing there is outstanding non-compliance with subsection (6).”

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? Carried.

Shall section 33 carry, as amended? Carried.

Section 34; motion 56R, a replacement motion. I understand that we’re going with the original motion, not the replacement, and that right at the end of clause (u), where it says “subsection 21(7),” that’s supposed to say “(6),” and then we’re okay with the motion as presented.

Mr. Dave Levac: “Subsection (4)” rather than “subsection (6)”?

The Chair (Mr. David Oraziotti): Albert, would you like to comment on this, please?

Mr. Albert Nigro: For the record, my name is Albert Nigro. I’m with the Office of Legislative Counsel.

We just passed the motion, and unless counsel from the ministry tell me I’m misreading the motion, we need to make a regulation that extends the definition of “contract” for a motion we just made, and it was “subsection (6),” not “subsection (4).” I made a mistake when I transcribed it this morning, and I apologize to the committee for that, but it is, as I read the motion a minute ago, “subsection (6).”

Mr. Dave Levac: Mr. Chairman, could I provide counsel with an opportunity to respond?

The Chair (Mr. David Oraziotti): That's fine. Would you approach the microphone and state your name for the record.

Mr. Dan Shear: Dan Shear, legal counsel with the Ministry of Energy and Infrastructure. Yes, that is the correct interpretation. The change, as legislative counsel has indicated, is the one we would like to see introduced into that paragraph in the motion.

The Chair (Mr. David Oraziotti): Mr. Levac, do you want to read it all in with "subsection (6)"?

Mr. Dave Levac: Yes, and I've made note under (u) to say "(6)," not "(7)."

The Chair (Mr. David Oraziotti): Go ahead.

Mr. Dave Levac: I move that subsection 34(3) of the bill be struck out and the following substituted:

"Same, part II

"(3) For the purposes of part II, the Lieutenant Governor in Council may make regulations,

"(a) prescribing the amount of electricity and gas for the purposes of the definition of 'consumer' in section 2;

"(b) prescribing forms, media and formats for the purposes of the definition of 'text-based' in section 2 and forms, media and formats that are excluded from the definition;

"(c) prescribing formats for electronic information for the purposes of subsection 7(4);

"(d) prescribing requirements for the purposes of subsection 7(5);

"(e) governing disclosure requirements for the purposes of subsection 8(1);

"(f) prescribing the manner of determining the price a retailer charges for electricity and the requirements used in determining it for the purposes of section 9;

"(g) governing unfair practices;

"(h) governing consumer contracts;

"(i) prescribing the persons or classes of person acting on behalf of the account holder for the purposes of subsection 11(4);

"(j) for the purposes of subsection 12(1),

"(i) governing information required to be contained in contracts, the form and manner of its presentation and the circumstances under which the information to be provided,

"(ii) governing what information is required in the information and documents that must accompany contracts, the languages in which the information and documents may be provided, the form and manner of their presentation and the circumstances under which they are to be provided, and

"(iii) providing that such a regulation prevails over any code governing the conduct of a retailer issued by the board under section 70.1 of the Ontario Energy Board Act, 1998 or any rules that apply to gas marketing made by the board under clause 44(1)(c) of the Ontario Energy Board Act, 1998;

"(k) for the purposes of subsection 12(2), governing acknowledgments and signatures, prescribing their form

or manner and respecting information and matters to which they apply;

"(l) governing information, requirements or obligations that shall not be contained in or accompany any contract;

"(m) governing the time in which a supplier must deliver a text-based copy of a contract to a consumer for the purposes of subsection 13(1);

"(n) prescribing the class or classes of consumers that may receive a contract in a prescribed form and within a prescribed time for the purposes of subsection 13(2);

1620

"(o) governing acknowledgment of delivery of contracts and prescribing the time or the manner of determining the time in which the consumer is deemed to have acknowledged receipt of the contract for the purposes of section 14;

"(p) governing the verification under section 15, including,

"(i) the conditions and qualifications of the persons or class of persons who verified the contract,

"(ii) the persons or class or persons who are excluded from verifying contracts, and

"(iii) the notice given by a consumer under subsection 15(5) not to have the contract verified;

"(q) prescribing the circumstances in which a contract is deemed void and respecting the number of days or the manner of calculating the number of days after which a contract is deemed void for the purposes of section 16;

"(r) governing the renewal, extension or amendment of contracts under part II;

"(s) prescribing circumstances under which a contract may be cancelled under subsection 19(4) and the prescribed period of notice a consumer must give to cancel a contract under subsection 19(5);

"(t) governing the cancellation of contracts by a consumer, including governing notice of cancellation of a contract and when a cancellation takes effect;

"(u) prescribing what agreements may be included in the term 'contract' for the purposes of subsection 21(7);

"(v) respecting the class of obligations, including charges or fees and amount of the obligations for the purposes of section 22 and respecting the amount of obligations that are excluded from liability, as well as the amount of such monetary obligations or any other amount;

"(w) governing the liability of consumers who cancel a contract under subsections 19(4) and (5) and distinguishing between cancellations under subsections 19(4) and (5);

"(x) governing refunds to the consumer after a cancellation of a contract takes effect, the time or the manner of calculating the time in which a refund must be paid and the amount of the refund or the manner of determining the refund for the purposes of section 23;

"(y) prescribing the time period or the manner of determining the time period in which a refund is to be paid to a consumer for the purposes of section 24;

“(z) governing the period in which a distributor is to read a consumer’s electricity meter under subsection 25(1).”

I want to go into the Guinness Book of Records with that one.

Technical amendments are required to ensure that there is sufficient regulatory-making authority to implement the provisions of part II. That’s precisely what we made the commitment to do inside of regulations.

The Chair (Mr. David Oraziotti): Mr. Yakabuski, go ahead.

Mr. John Yakabuski: I, unfortunately, had to step out of the room. Is there any possible way that Mr. Levac could read this again?

Mr. Dave Levac: I move that subsection—

The Chair (Mr. David Oraziotti): Okay, Mr. Yakabuski. Thanks.

Any further comments? All those in favour of motion 56? Opposed? Carried.

Mr. Levac: Motion 57.

Mr. Dave Levac: I move that subsection 34(4) of the bill be amended by adding the following clauses:

“(b.1) prescribing classes of meters, classes of properties and circumstances for the purposes of the definition of ‘unit meter’ in section 30; ...

“(d.1) prescribing meters for the purposes of the definition of ‘unit sub-meter’ in section 30;”

Again, this is technical in nature to comply with the spirit with why we’re doing the regulations the way we are.

The Chair (Mr. David Oraziotti): Any further comments? All those in favour? Opposed? The motion’s carried.

Number 58: Mr. Levac.

Mr. Dave Levac: This is technical in nature, as I committed to announce.

I move that clauses 34(j) and (k) of the bill be struck out and the following substituted:

“(j) prescribing, for the purposes of section 32, the persons or classes of persons who are required to install suite meters, the circumstances in which such persons or classes of persons are required to install suite meters, the circumstances in which a suite meter provider is permitted to install suite meters, the properties or classes of properties where they may or must be installed and the consumers or classes of consumers to which the regulation may or must apply;

“(k) prescribing, for the purposes of subsection 33(1), the circumstances in which that subsection applies, the conditions to which that subsection is subject, the circumstances in which a suite meter provider is permitted to bill consumers based on their consumption or use of electricity, the classes of properties in respect of which such billing is permitted and the consumers or classes of consumers who may or must be so billed;

“(1) prescribing, for the purposes of subsection 33(2), the conditions to which that subsection is subject, the circumstances in which a suite meter provider is required to bill consumers based on their consumption or use of

electricity, the classes of properties in respect of which such billing is permitted and the consumers or classes of consumers who may or must be so billed;

“(m) prescribing classes of consumers and classes of properties for the purposes of subsection 33(3);

“(n) prescribing, for the purposes of subsection 33(6),

“(i) classes of properties and classes of consumers,

“(ii) persons or classes of persons, and

“(iii) information and the form and manner of the presentation of the information.”

The Chair (Mr. David Oraziotti): Any further comment? Seeing none, all those in favour? Opposed? Carried.

Shall section 34, as amended, carry? Carried.

Section 35: No amendments were presented. Shall it carry? Carried.

Section 36, government amendment 59: Mr. Levac, go ahead.

Mr. Dave Levac: I move that section 36 of the bill be amended by adding the following subsection:

“(1.1) Section 2 of the act is amended by adding the following subsection:

““Exception, “security”

“(1.4) The definition of “security” in subsection (1) does not apply in respect of section 30.1.”

This is technical in nature to accommodate electricity distributors as to deposit charges for electricity.

The Chair (Mr. David Oraziotti): Any further comments? All those in favour? Opposed? Carried.

Number 60: Mr. Levac?

Mr. Dave Levac: This is technical in nature as well.

I move that section 30.1 of the Electricity Act, 1998, as set out in subsection 36(3) of the bill, be amended by adding the following subsection:

“Definition

“(4) For the purposes of this section,

““security” has the meaning as may be prescribed by regulation.”

The Chair (Mr. David Oraziotti): Further comment? All those in favour? Opposed? Carried.

Number 61.

Mr. Dave Levac: I move that subsection 31(1) of the Electricity Act, 1998, as set out in section 36(4) of the bill, be struck out and the following substituted:

“Termination of service

“31(1) A distributor or suite meter provider may shut off the distribution of electricity to a property,

“(a) if any amount payable by a person for the distribution or retail of electricity to the property pursuant to section 29 or part III of the Energy Consumer Protection Act, 2009 is overdue; and

“(b) if the shutting off of the distribution of electricity to the property complies with any condition of a licence of the distributor or suite-meter provider included in the licence under clause 70(2)(d.1) of the Ontario Energy Board Act, 1998.”

This is a beneficial amendment to the electricity disconnection provision of the Electricity Act, 1998, in order to reference the appropriate Ontario Energy Board

Act provision that deals with ensuring compliance with licence conditions.

The Chair (Mr. David Oraziotti): Further comment? Those in favour? Opposed? Carried.

Number 62: Mr. Levac.

Mr. Dave Levac: I move that section 31 of the Electricity Act, 1998, as set out in subsection 36 (4) of the bill, be amended by adding the following subsection:

“Same

“(6.1) For the purposes of subsection (6), where a regulation requires that a thing be done, a step be taken or information be provided by a certain date, a distributor shall not shut off the distribution of electricity to the property before the time prescribed by regulation has elapsed.”

This new provision clarifies that an electricity distributor must not disconnect a consumer prior to the time specified in the regulation. If a regulation specifies that a consumer must take certain steps or do certain things within a time prescribed, the electricity distributor must not take action to disconnect in advance of the time so prescribed. That’s just to avoid somebody being cut off before they take the proper steps.

The Chair (Mr. David Oraziotti): All those in favour? Opposed? Carried.

Number 63.

Mr. Dave Levac: This is technical in nature again, as committed.

I move that the bill be amended by adding the following subsection:

“(6.1) Subsection 53.18(1) of the act is amended by striking out ‘a regulation’ and substituting ‘a regulation, the Energy Consumer Protection Act, 2009’.”

This is a technical amendment that’s required to ensure the smooth transition from existing smart metering provisions to the new framework of suite metering.

The Chair (Mr. David Oraziotti): Any further comment? All those in favour? Opposed? The motion is carried.

Number 64.

Mr. Dave Levac: Technical in nature again.

I move that subsection 36(7) of the bill be struck out.

The purpose of the amendment to strike it out is because it’s addressed in the previous amendment.

The Chair (Mr. David Oraziotti): Any further comment? All those in favour? Opposed? The motion is carried.

Number 65.

Mr. Dave Levac: I move that subsection 114(1) of the Electricity Act, 1998, as amended by subsection 36(1) of the bill, be further amended by adding the following clause:

“(f.0.6) prescribing the meaning of ‘security’ for purposes of section 30.1;”

1630

The Chair (Mr. David Oraziotti): Albert, do you want to add to the discussion?

Mr. Albert Nigro: Yes. If I could briefly speak on the record, there’s a mistake in the opening language. It’s

only a mistake in the language introducing the amendment and not the amendment itself. It says, “subsection 36(1)”; it’s meant to say “subsection 36(10).” If you look above it, you can see the correct reference in the motion.

The Chair (Mr. David Oraziotti): Okay. Any further comment?

Mr. Dave Levac: I don’t need to restate, right? That’s just an explanation?

The Chair (Mr. David Oraziotti): Right.

All those in favour? Opposed? It’s carried.

Shall section 36, as amended, carry? Carried.

Section 37: number 66.

Mr. Dave Levac: This is technical again in nature.

I move that clause (d) of the definition of “enforceable provision” in section 3 of the Ontario Energy Board Act, 1998, as set out in subsection 37(1) of the bill, be amended by striking out “25.35”.

It just doesn’t apply.

The Chair (Mr. David Oraziotti): Okay. Any further comment? All those in favour? Opposed? Carried.

Number 67.

Mr. Dave Levac: I move that subsection 28.7(1) of the Ontario Energy Board Act, 1998, as set out in subsection 37(3) of the bill, be struck out and the following substituted:

“Directives, gas marketers and electricity retailers

“28.7(1) The minister may issue, and the board shall implement, directives that have been approved by the Lieutenant Governor in Council in relation to the marketing of gas and the retailing of electricity in Ontario.”

The Chair (Mr. David Oraziotti): Any further comment? All in favour? Opposed? Carried.

Number 68.

Mr. Dave Levac: This is technical in nature.

I move that paragraphs 1, 2, 3, 4, 5, 6, 7 and 8 of subsection 28.7(4) of the Ontario Energy Board Act, 1998, as set out in subsection 37(3) of the bill, be struck out and the following substituted:

“1. Conditions regarding the operations and management and business practices of a gas marketer or retailer of electricity, including but not limited to the conduct of employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity.

“2. Activities, conduct, or practices that must, may or may not be undertaken by a gas marketer or retailer of electricity, its employees, agents or third parties acting on behalf of the gas marketer or the retailer of electricity.

“3. Conditions requiring or imposing standards that are required to be met by a gas marketer or retailer of electricity or its employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity, including standards related to,

“i. education, training, certification and communications,

“ii. business practices,

“iii. performance standards,

“iv. background verifications and assessments as required under paragraph 6,

“v. record keeping,

“vi. contracting, including standards related to contracting with certain specified classes of vulnerable consumers, and

“vii. such other matters as may be specified in the directive.

“4. Conditions requiring a gas marketer or retailer of electricity or its employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity to provide such information orally or in writing to a consumer or a member of a class of consumers specified in the directive, the board or the ministry or to such other person or entity as may be specified in the directive, in the circumstances specified in the directive and within such time or times as may be specified in the directive.

“5. Conditions requiring a gas marketer or retailer of electricity to meet criteria or requirements related to identification as specified in the directive, including criteria or requirements related to the identification credentials or badges or other forms of identification provided to its employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity as may be specified in the directive.

“6. Conditions requiring a gas marketer or retailer of electricity to meet specific criteria and requirements related to background verification and assessment of its employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity, including the requirement to establish a process or processes to conduct the verifications and assessments, and the criteria and requirements may include the time or times at which the verification and assessments must be performed.

“7. Conditions requiring a gas marketer or retailer of electricity to take the following steps or do the following things in respect of its employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity:

“i. To establish a process or to follow or adhere to a process or processes as are prescribed by regulations or are approved by an order of the board, for the following activities in respect of its employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity:

“A. licensing, including renewal, suspension and cancellation of licences,

“B. bonding and insurance,

“C. examination for credentials, certificates, accreditations or designations,

“D. the creation of codes of conduct, best practices and policies,

“E. requirements in relation to independence from or permissible investment in or association with the gas marketer or retailer of electricity or another licensee, and

“F. such other matters as may be specified in the directive.

“ii. To conduct, at such times as may be specified in the directive, the activities referred to in this section in relation to each of its employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity.

“iii. To ensure that its employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity adhere to the process or processes referred to in this section and, in particular, obtain any specified credentials, accreditations or designations referred to in this section by such time or times as may be specified in the directive.

“8. Conditions identifying provisions which must be included in any arrangements or agreements, including arrangements or agreements relating to the marketing of gas or the retailing of electricity with specified classes of consumers, entered into by the gas marketer or retailer of electricity or third parties acting on behalf of the gas marketer or retailer of electricity and such conditions may specify or provide that the arrangements or agreements must contain specific conditions, restrictions, criteria or requirements relating to the arrangements or agreements.”

I give high praise to my grade 3 reading teacher.

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? The motion is carried.

Number 69: Mr. Levac.

Mr. Dave Levac: Technical in nature.

I move that subsection 28.7(5) of the Ontario Energy Board Act, 1998, as set out in subsection 37(3) of the bill, be struck out and the following substituted:

“Verification

“(5) For the purposes of the verification of a contract required under part II of the Energy Consumer Protection Act, 2009, a directive,

“(a) may require the board to prepare specified information, including preparing the information in languages specified in the directive, and to do so within the time specified in the directive; and

“(b) may require that the board require that gas marketers or retailers of electricity or specified classes of them,

“(i) use the information in the manner specified in the directive, and

“(ii) take such steps as may be specified in the directive to ensure that persons engaged by them in activities related to verification use the information in the manner specified in the directive.”

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour? Opposed? The motion is carried.

Number 70: Mr. Levac.

Mr. Dave Levac: I move that subsection 42(2.1) of the Ontario Energy Board Act, 1998, as set out in subsection 37(4) of the bill, be struck out and the following substituted:

“Security

“(2.1) In exercising its authority under subsection 50(4) of the Public Utilities Act or any other act, where a gas distributor requires security for the payment of charges related to gas by or on behalf of a consumer or a member of a class of consumers prescribed by regulation, the gas distributor shall,

“(a) meet the criteria prescribed by regulation; and
 “(b) satisfy the criteria or requirements in any order made by the board or rule issued by the board.”

This amendment is to have security provisions of gas distributors and is designed to reference requirements by the OEB orders and rules, as well as regulations.

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour of number 70? Opposed? Carried.
 Number 71: Mr. Levac.

Mr. Dave Levac: This is technical in nature, Mr. Chairman.

I move that section 42 of the Ontario Energy Board Act, 1998, as amended by subsection 37(4) of the bill, be further amended by adding the following subsection:

“Definition

“(2.4) For the purposes of subsections (2.1), (2.2) and (2.3),

“‘security’ has the meaning as may be prescribed by regulation.”

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour? Opposed? Carried.
 Number 72: Mr. Levac.

Mr. Dave Levac: I move that subsection 42(5) of the Ontario Energy Board Act, 1998, as set out in subsection 37(4) of the bill, be struck out and the following substituted:

“Stopping the distribution of gas

“(5) In exercising its authority under section 59 of the Public Utilities Act or any other act, a gas distributor may stop the distribution of gas to a property,

“(a) if any amount payable by a person for the distribution or sale of gas is overdue; and

“(b) if the stopping of the distribution of gas to the property complies with rules made under clause 44(1)(b.1).”

The Chair (Mr. David Oraziotti): Any further comment?

Those in favour? Opposed? It’s carried.
 Number 73: Mr. Levac.

Mr. Dave Levac: I move that section 42 of the Ontario Energy Board Act, 1998, as amended by subsection 37(4) of the bill, be further amended by adding the following subsection:

“Same

“(10.1) For the purposes of subsection (10), where a regulation requires that a thing be done, a step be taken or information be provided by a certain date, a gas distributor shall not stop the distribution of gas to the property before the time prescribed by regulation has elapsed.”

Previously discussed.

1640

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour? Opposed? Carried.
 Number 74: Mr. Levac.

Mr. Dave Levac: I move that section 42 of the Ontario Energy Board Act, 1998, as amended by subsection 37(4) of the bill, be further amended by adding the following subsection:

“Same

“(10.2) Subsections (10) and (10.1) apply despite the Public Utilities Act.”

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? Carried.
 Number 75.

Mr. Dave Levac: This is technical in nature.

I move that subsection 37(5) of the bill be struck out.

This is providing the OMB the authority over the settling of the requirements associated with invoices issued to consumers by the gas distributors.

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? It’s carried.
 Number 76: Mr. Levac.

Mr. Dave Levac: Another one that’s technical in nature.

I move that subsection 44(1) of the Ontario Energy Board Act, 1998, as amended by subsection 37(6) of the bill, be further amended by adding the following clause:

“(b.3) relating to any matter in respect of invoices issued in respect of gas to consumers, including meeting such requirements as may be provided for by the board or being in a form approved by the board;”

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour? Opposed? Carried.
 Number 77: Mr. Levac.

Mr. Dave Levac: Another one that’s technical in nature.

I move that clause 44(1)(c.1) of the Ontario Energy Board Act, 1998, as set out in subsection 37(6) of the bill, be struck out and the following substituted:

“(c.1) relating to any matter, prescribed by regulation, in respect of gas marketers in relation to gas marketing, subject to any regulations made under this act or under the Energy Consumer Protection Act, 2009;”

The Chair (Mr. David Oraziotti): Further comment?

All those in favour? Opposed? Carried.
 Number 78.

Mr. Dave Levac: Another technical change.

I move that subsection 51(1) of the Ontario Energy Board Act, 1998, as set out in subsection 37(7) of the bill, be amended by striking out “Subject to part V.1” at the beginning.

The Chair (Mr. David Oraziotti): Any comments?

All those in favour? Opposed? It’s carried.
 Conservative motion number 78.1.

Mr. Dave Levac: Take over, John.

Mr. John Yakabuski: Just for a short period of time.

I move that subsection 78(2.3) of the Ontario Energy Board Act, 1998, as set out in subsection 37(13) of the bill, be struck out and the following substituted:

“Order re unit sub-meter provider

“(2.3) When authorized by the regulations, the board may make orders approving or fixing just and reasonable charges for unit sub-metering and a provider of a unit sub-meter that is the subject of such an order shall not charge for unit sub-metering except in accordance with the order.”

This would establish OEB oversight but only under prescribed conditions.

The Chair (Mr. David Oraziotti): Further comment?

Mr. Dave Levac: Yes. Off the top, it would, yes indeed, allow OEB oversight of sub-metering charges but only under prescribed circumstances. The government has included the option of rate regulation of the sub-metering sector, to the strength and protection of the consumer in this section.

The unit sub-meter providers currently operate as competitive businesses, with no rate regulation. However, local distribution companies installing smart meters are subject to rate regulation through the OEB.

A simpler approach that would achieve a similar effect and not immediately impose a rate regulation on the sub-metering sector would be to leave the existing section unproclaimed until it becomes necessary.

I think that that’s probably the direction that we want to go, and the government would make that commitment.

Mr. John Yakabuski: So you’re going to deal with that in regulation?

Mr. Dave Levac: It’s in proclamation. It’s whether we proclaim it or not.

Mr. John Yakabuski: Okay.

Mr. Dave Levac: Okay?

Mr. John Yakabuski: Well, listen, it’s the best that I’m going to get, because I sure as hell ain’t going to get this amendment passed. I’m looking at the numbers there.

Mr. Dave Levac: We’re unified.

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour of the amendment? Opposed? The motion is lost.

Number 79: Mr. Levac.

Mr. Dave Levac: I move that subsection 37(13) of the bill be struck out and the following substituted:

“(13) Section 78 of the act is amended by adding the following subsection:

“Order re unit smart meter provider

“(2.2) No unit smart meter provider shall charge for unit smart metering except in accordance with an order of the board, which is not bound by the terms of any contract.”

“(13.1) Section 78 of the act is amended by adding the following subsection:

“Order re unit sub-meter provider

“(2.3) No unit sub-meter provider shall charge for unit sub-metering except in accordance with an order of the board, which is not bound by the terms of any contract.”

This allows rate regulation for unit smart meter licensees or distributors and sub-meter providers to come

into force at different times by permitting each to be proclaimed separately. This insertion helps to achieve a similar objective to what you were just talking about, Mr. Yakabuski. During proclamation, that’s when that would take place.

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour? Opposed? The motion is carried.

Conservative amendment 79.1: Mr. Yakabuski.

Mr. John Yakabuski: Perhaps you’ll be dealing with 79.1 in 80, but I’ll read it into the record anyhow.

I move that subsection 37(19) of the bill be amended by adding the following clause to subsection 88(1) of the Ontario Energy Board Act, 1998:

“(g.6.0.3) for the purposes of subsection 78(2.3), prescribing circumstances in which the board may make orders approving or fixing just and reasonable charges for unit sub-metering;”

This would work with amendment 78.1 and a new provision would then be added to section 88, the regulation-making powers. This approach would allow, however, for regulations to be created in the future to address new circumstances where it becomes apparent that certain suite sub-metering installations or suite sub-metering providers ought to be subject to rate oversight by the OEB.

The Chair (Mr. David Oraziotti): Further comment?

Mr. Dave Levac: Ultimately, that’s where it will end up landing. The government has included the option of rate regulation in the sub-metering section to strengthen protections for the consumer in this section. The existing wording is consistent with the approach used elsewhere in the OEB act. The Ontario Energy Board, as an economic regulator, will be responsible for setting the parameters around rate regulation to ensure just and reasonable rates.

Upon proclamation—and I go back to what you’ve acknowledged—the OEB would be responsible for setting just and reasonable rates.

We believe that we’re going to end up in the same position as what you’re suggesting, not in the bill but rather in the regulatory stream or in the proclamation of what we just passed.

The Chair (Mr. David Oraziotti): Do you want to vote on it or do you want to withdraw it? Comment?

Mr. John Yakabuski: “Withdrawal” is not in my vocabulary, Mr. Chair. We will vote on the amendment.

The Chair (Mr. David Oraziotti): Given the discussion, let’s vote on it.

All those in favour? Opposed? The motion is lost. I appreciate your spirit.

Government motion number 80: Mr. Levac.

Mr. Dave Levac: I move that clause 88.1(1)(b) of the Ontario Energy Board Act, 1998, as set out in subsection 37(21) of the bill, be amended by striking out “as may be prescribed by regulation or”.

This is kind of technical in nature because of the OEB options that we’re going to provide.

The Chair (Mr. David Oraziotti): Any further comment on 80?

Mr. John Yakabuski: Are we getting to the same point with this one as we were in your 79 amendment?

Mr. Dave Levac: Absolutely.

Mr. John Yakabuski: Okay. Thank you.

The Chair (Mr. David Oraziotti): All those in favour? Opposed? The motion is carried.

Number 81: Mr. Levac.

1650

Ms. Helena Jaczek: This is a technical amendment, and I'm going to save Mr. Levac a little bit of his voice.

I move that paragraphs 1 and 2 of subsection 88.1(2) of the Ontario Energy Board Act, 1998, as set out in subsection 37(21) of the bill, be struck out and the following substituted:

"1. The operations, management and business practices of a gas marketer or retailer of electricity, including but not limited to the conduct of employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity.

"2. The activities, conduct or practices that must, may or may not be undertaken by the gas marketer or retailer of electricity, its employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity."

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour of number 81? Opposed? The motion is carried.

Number 82: Ms. Jaczek.

Ms. Helena Jaczek: Another technical amendment.

I move that paragraph 4 of subsection 88.1(2) of the Ontario Energy Board Act, 1998, as set out in subsection 37(21) of the bill, be amended by striking out the portion before subparagraph i and substituting the following:

"4. Standards that are required to be met by a gas marketer or a retailer of electricity or its employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity, including standards related to,"

The Chair (Mr. David Oraziotti): Any further comments on number 82? All those in favour? Opposed? The motion is carried.

Number 83: Ms. Jaczek.

Ms. Helena Jaczek: Another technical amendment.

I move that subparagraph 4 vi of subsection 88.1(2) of the Ontario Energy Board Act, 1998, as set out in subsection 37(21) of the bill, be amended by striking out "standards for".

The Chair (Mr. David Oraziotti): Any further comment? All those in favour? Opposed? The motion is carried.

Number 84: Ms. Jaczek.

Ms. Helena Jaczek: Another technical amendment.

I move that paragraphs 5, 6, 7 and 8 of subsection 88.1(2) of the Ontario Energy Board Act, 1998, as set out in subsection 37(21) of the bill, be struck out and the following substituted:

"5. Information that is to be provided orally or in writing by a gas marketer or retailer of electricity or its employees, agents or third parties acting on its behalf to a consumer or a member of a class of consumers prescribed by regulation, the board, the ministry or to such other person or entity as may be prescribed by regulation and the circumstances in which the information must be provided and the time or times within which such information must be provided.

"6. Identification, including criteria or requirements related to the identification credentials or badges or other forms of identification provided to the employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity.

"7. Background verification and assessment of the employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity, including the requirement to establish a process or processes to conduct the verifications and assessments and the criteria and requirements for the time or times at which the verification and assessments must be performed.

"8. The establishment of processes related to employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity, including the prescribing of conditions, requirements or criteria to be met by such processes, for the following activities:

"i. Business related activities, including,

"A. licensing, including renewal, suspension and cancellation of licences,

"B. bonding and insurance,

"C. examination for prescribed credentials, certificates, accreditations or designations,

"D. creation of codes of conduct, best practices and policies,

"E. requirements in relation to independence from or permissible investment in or association with a gas marketer or retailer of electricity or another licensee, and

"F. such other matters as may be prescribed by regulation.

"ii. The conduct of activities referred to in this section in relation to each of the employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity at such times as may be prescribed by regulation.

"iii. Ensuring that the employees, agents or third parties acting on behalf of the gas marketer or retailer of electricity adhere to the processes referred to in this section and, in particular, obtain any prescribed credentials."

The Chair (Mr. David Oraziotti): Any further comments on number 84?

All those in favour? Opposed? The motion is carried.

Government motion 85: Mr. Chiarelli.

Mr. Bob Chiarelli: I move that subsection 88.2(1) of the Ontario Energy Board Act, 1998, as set out in subsection 37(21) of the bill, be amended by striking out "Despite subsection 88.1(1) and" at the beginning.

That's just a technical amendment.

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour? Opposed? The motion is carried.
Number 86: Mr. Chiarelli.

Mr. Bob Chiarelli: Another technical amendment.

I move that subsection 88.3(1) of the Ontario Energy Board Act, 1998, as set out in subsection 37(21) of the bill, be struck out and the following substituted:

“Powers of audit

“88.3(1) The board may appoint a person who meets the criteria as may be prescribed by regulation to audit the compliance of a gas marketer or retailer of electricity or its agents or employees with the requirements of,

“(a) any condition of a licence referred to in section 48 or 57; or

“(b) an enforceable provision.”

The Chair (Mr. David Oraziotti): Any further comment?

Seeing none, all those in favour? Opposed? The motion is carried.

Number 87: Mr. Chiarelli.

Mr. Bob Chiarelli: Another technical amendment.

I move that paragraph 3, subsection 88.3(5) of the Ontario Energy Board Act, 1998, as set out in subsection 37(21) of the bill, be struck out and the following substituted:

“3. Examining documents relating to the training, education or professional credentials, certificates, accreditations or other designations of the employees, agents or third parties for the gas marketer or retailer of electricity, including determining which credentials, certificates, accreditations or other designations the employee, agent or third party has or has not received.”

The Chair (Mr. David Oraziotti): Any comments?

All those in favour? Opposed? Carried.

Number 88: Mr. Chiarelli.

Mr. Bob Chiarelli: A technical amendment.

I move that subsection 37(24) of the bill be struck out and the following substituted:

“(24) Subsection 107(1) of the act is amended by adding the following paragraphs:

“1.1 An affiliate agent or employee of a gas marketer or retailer of electricity....

“4. A person exempted from the requirements of clause 57(a) by regulation.

“5. A person exempted from the requirements of clause 57(b) by regulation.

“6. A person exempted from the requirements of section 48 by regulation.

“7. An affiliate, agent or employee of a person referred to in paragraph 4.”

The Chair (Mr. David Oraziotti): Further comment?

All those in favour? Opposed? Carried.

Number 89: Mr. Kular.

Mr. Kuldip Kular: I move that subsection 37(25) of the bill be struck out.

The Chair (Mr. David Oraziotti): Any further comments?

Seeing none, all those in favour? Opposed? Carried.

Number 90: Mr. Kular.

Mr. Kuldip Kular: I move that subsection 112.0.1 of the Ontario Energy Board Act, 1998, as set out in subsection 37(29) of the bill, be amended by striking out “parts VII.1 and IX” and substituting “part IX”.

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour? Opposed? Carried.

Number 91: Mr. Kular.

Mr. Kuldip Kular: I move that clauses 112.0.2(1)(a) and (b) of the Ontario Energy Board Act, 1998, as set out in subsection 37(29) of the bill, be struck out and the following substituted:

“(a) a person has contravened or is contravening an enforceable provision; and

“(b) there is,

“(i) in any building, dwelling, receptacle or place anything relating to the contravention of an enforceable provision, or

“(ii) information or evidence relating to the contravention of an enforceable provision that may be obtained through the use of an investigative technique or procedure or the doing of anything described in the warrant.”

1700

The Chair (Mr. David Oraziotti): Any further comments?

All in favour? Opposed? Carried.

Number 92: Mr. Mauro.

Mr. Bill Mauro: I move that subsection 112.0.3 of the Ontario Energy Board Act, 1998, as set out in subsection 37(29) of the bill, be amended by striking out “this act or the regulations” and substituting “an enforceable provision”.

The Chair (Mr. David Oraziotti): Any further comment?

All in favour? Carried.

Number 93: Mr. Mauro.

Mr. Bill Mauro: I move that part VII. 0.1, “Investigations and Investigators,” of the Ontario Energy Board Act, 1998, as set out in subsection 37(29) of the bill, be amended by adding the following section:

“Confidentiality

“112.0.6(1) All documents and records obtained by an investigator under this part or part IX are confidential and shall not be disclosed to any person other than a member of the board or an employee of the board except,

“(a) as may be required in connection with the administration of this act or any other act that gives powers or duties to the board or in any proceeding under this or any other act that gives powers or duties to the board;

“(b) to counsel for the board or an employee of the board; or

“(c) with the consent of the owner of the document or record or the person who provided the information.

“Same

“(2) If any document, record or information obtained by an investigator under this part or part IX is admitted in evidence in a proceeding under this act or any other act

that gives powers or duties to the board, the board may rule on whether the document, record or information is to be kept confidential.”

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? It’s carried.

Number 94: Mr. Mauro.

Mr. Bill Mauro: I move that subsection 112.10(6) of the Ontario Energy Board Act, 1998, as set out in subsection 37(35) of the bill, be amended by striking out the portion before clause (a) and substituting the following:

“Exception

“(6) Subsection (1) does not apply if, prior to the board obtaining an order under that subsection, the person files with the board, in such manner and amount as the board determines,”

The Chair (Mr. David Oraziotti): Any further comment on number 94?

All those in favour? Opposed? Carried.

Number 95: Mr. Mauro.

Mr. Bill Mauro: I move that subsection 112.10(9) of the Ontario Energy Board Act, 1998, as set out in subsection 37(35) of the bill, be amended by striking out “the board” and substituting “the Superior Court of Justice”.

The Chair (Mr. David Oraziotti): Any further comment?

Seeing none, all those in favour?

Mr. John Yakabuski: Chair, whoa.

The Chair (Mr. David Oraziotti): Do you want to comment on that?

Mr. John Yakabuski: We’re going into the courts now. Is there a reason for that? Can they explain that to me?

We were told these were technical in nature—

The Chair (Mr. David Oraziotti): Striking out “the board” and substituting “the Superior Court of Justice.” Number 95.

Mr. Dave Levac: It corrects a drafting error, actually.

Mr. John Yakabuski: Oh. Now I understand.

Mr. Dave Levac: It now rightly provides that a person in respect of whom a freeze order has been made—

Interjections.

Mr. Dave Levac: I’m just going to make sure that I don’t get gang-tackled by all the lawyers in here, so I’ll make sure that I do this correctly here.

When you’re talking about this, it’s basically a correction.

Mr. John Yakabuski: Ah. Now I understand. I appreciate the clarification that Mr. Levac was able to give me. Mr. Mauro was able to cheer him on. Thank you.

Mr. Dave Levac: I was there backing him 100% because in writing this, he knows what he’s doing.

The Chair (Mr. David Oraziotti): Number 95: All those in favour? Opposed? The motion is carried.

Number 96.

Interjection.

Mr. Dave Levac: Yeah. Now that I’ve explained that even further, he’ll vote for the rest of these very quickly.

The Chair (Mr. David Oraziotti): Go ahead.

Mr. Dave Levac: Number 96, right?

The Chair (Mr. David Oraziotti): Right.

Mr. Dave Levac: This is technical in nature, Mr. Yakabuski, just so that we know.

I move that subsection 112.10(10) of the Ontario Energy Board Act, 1998, as set out in subsection 37(35) of the bill, be amended by striking out the portion before clause (a) and substituting the following:

“Disposition by court

“(10) The Superior Court of Justice shall dispose of the application after a hearing and may cancel the order or discharge the registration in whole or in part, if the court finds,”

Again, to amend a drafting error.

Mr. John Yakabuski: I’m comfortable with this now.

Mr. Dave Levac: I knew I’d make you that.

The Chair (Mr. David Oraziotti): Further comments on number 96?

All in favour? Opposed? The motion is carried.

Number 97: Mr. Levac.

Mr. Dave Levac: Technical in nature.

I move that subsection 112.10(11) of the Ontario Energy Board Act, 1998, as set out in subsection 37(35) of the bill, be struck out.

It’s not needed anymore.

The Chair (Mr. David Oraziotti): Any further comments?

All in favour? Opposed? The motion is carried.

Number 98: Mr. Levac.

Mr. Dave Levac: Technical in nature.

I move that subsection 112.10(12) of the Ontario Energy Board Act, 1998, as set out in subsection 37(35) of the bill, be struck out and the following substituted:

“Court application

“(12) If the court has made an order under subsection (1) or the board has registered a notice under subsection (8), the board may apply to the court for directions or an order relating to the disposition of assets, trust funds or land affected by the order or notice.”

Again, to correct a drafting error, to make sure that both the board and the Superior Court of Justice have the correct responsibilities covered.

The Chair (Mr. David Oraziotti): Any further comment?

All in favour? Opposed? Carried.

Number 99: Mr. Levac.

Mr. Dave Levac: Number 99: Gretzky. Sorry.

I move that subsection 112.11(1) of the Ontario Energy Board Act, 1998, as set out in subsection 37(35) of the bill, be struck out and the following substituted:

“Order for immediate compliance

“112.11(1) Without limiting the generality of section 112.3, the board may make an order requiring immediate compliance with an enforceable provision and, subject to subsection (2), such an order takes effect immediately.”

The Chair (Mr. David Oraziotti): Any further comment?

All those in favour? Opposed? The motion is carried.
Number 100: Mr. Levac.

Mr. Dave Levac: Technical in nature again.

I move that subsection 37(36) of the bill be struck out and the following substituted:

“(36) Section 122 of the act is repealed and the following substituted:

““Provincial offences officers

“122. Despite subsection 1(3) of the Provincial Offences Act, the board’s management committee may, for the purposes of that act, designate in writing any person or class of persons as a provincial offences officer, but the designation only applies in respect of offences under this act.””

This section is technical, but it does clarify the purpose and intent of the section when it was originally written.

The Chair (Mr. David Oraziotti): Any further comments?

All in favour? Opposed? Carried.

Number 101: Mr. Levac.

Mr. Dave Levac: Technical in nature.

I move that subsection 127(1) of the Ontario Energy Board Act, 1998, as amended by subsection 37(43) of the bill, be further amended by adding the following clause:

“(e.2.1) prescribing the meaning of ‘security’ for purposes of subsection 42(2.4);”

The Chair (Mr. David Oraziotti): Any further comments?

All in favour? Opposed? Carried.

Number 102.

Mr. Dave Levac: Technical in nature.

I move that clauses 127(1)(e.4) and (e.5) of the Ontario Energy Board Act, 1998, as set out in subsection 37(43) of the bill, be struck out.

The Chair (Mr. David Oraziotti): Any further comments?

All those in favour? Opposed? Carried.

Shall section 37, as amended, carry? Carried.

A new section. Mr. Tabuns: number 103. Go ahead.

Mr. Peter Tabuns: I move that the bill be amended by adding the following section:

“Residential Tenancies Act, 2006

“37.1 The Residential Tenancies Act, 2006 is amended by adding the following section:

““No discontinuance of service, etc.

“130.1 Nothing in section 130 authorizes a landlord to discontinue a service or facility without the consent of the tenant.””

I disagree with unit sub-metering. I think it provides substantial disincentive for landlords to invest in energy efficiency. I think it puts the weight of action for energy efficiency on the shoulders of tenants, for the most part people who are not in a position to make the investments that are necessary.

Frankly, when I look at the numbers—I asked legislative research to check the cost of operating the

meters: \$3 a month. The amortization of the cost of the meters at \$425 a pop, is somewhere in the range of \$4 to \$7 a month, depending on the financing you get. So, putting in a meter costs in the range of \$5 to \$8 a month. The savings in a unit that has an average bill in the range of \$38: If you’re paying out \$8 for operating that meter and amortizing its cost, right then and there, for an average unit that doesn’t have heating as part of its component, you’re 15% or so of the electricity bill. I don’t see that as a wise investment.

1710

If you look at the reality of the income levels of tenants and the relationship of their income levels to their rents, something like 58% of the tenants in this province pay 30% or more of their income in rent.

This is going to increase their rent. It will reduce the incentive of landlords to invest in their buildings, because, frankly, if they aren’t covering the cost of energy in the units anymore, they won’t get any return on making investments in energy efficiency in the building.

I’m moving this amendment to protect tenants from this change, which will not help them and will not help the environment.

The Chair (Mr. David Oraziotti): Any further comments?

Mr. Dave Levac: First, let’s be clear that I accept what Mr. Tabuns is saying in regard to his concern about tenant protection. But let’s also be clear that I don’t subscribe to the belief that tenants would not be able to make those decisions and have that option available to them.

The proposed bill that we’re talking about doesn’t address any sections of the RTA, particularly 130, which you’re referencing.

With regard to the removal of electricity as a service included in their rent, in sections 137 and 138 of the RTA, as drafted in the proposed bill that we now have, it is required that tenants must consent before electricity can be removed. Having that consent probably takes care of what it is that you’re concerned with, unless you’re assuming that all tenants must be protected from a choice between whether they want to go on the meter or not. I’m respecting your philosophy, Peter, that says it’s not going to do that, but you don’t provide them with that option.

Mr. Peter Tabuns: No, I say that “nothing ... authorizes a landlord to discontinue a service or facility without the consent of the tenant.” I’m very concerned that in fact landlords will find methods of changing the metering in units if tenants are not there. To that end, I’m moving this amendment.

The Chair (Mr. David Oraziotti): Any further debate, further comments?

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Chiarelli, Clark, Jaczek, Kular, Levac, Mauro, Yakabuski.

The Chair (Mr. David Oraziotti): The motion is lost. Section 38, NDP proposed amendment number 104: Go ahead, Mr. Tabuns.

Mr. Peter Tabuns: I move that subsection 38(1) of the bill be struck out and the following substituted:

“Residential Tenancies Act, 2006

“(1) Part VIII (sections 137 and 138) of the Residential Tenancies Act, 2006 is repealed.”

This is a section that deals with metering. I’ve made my arguments. I don’t think the numbers back the arguments of the landlords on this one.

The Chair (Mr. David Oraziotti): Any further comments?

Mr. Dave Levac: We will state the position that we don’t accept this amendment—very similar to the rationale that we provided. I’m sure that we can enter into a discussion on the philosophy of whether or not it will or won’t work.

Removing the part of the RTA would not be consistent with the government’s commitment to facilitate suite metering in rental units and to provide protections for those tenants before suite meters can be implemented.

I would hope you would acknowledge that those protections are in there, save and except understanding your positioning that we shouldn’t be doing this. But if we are doing this, I think you would acknowledge that there are those protections that we’ve just agreed to in these amendments to this bill. I’m not going to convince you that this is going to be good enough, but I’m suggesting to you that I believe that we’re on the right path to ensure that if and when metering does take place, those protections will be there.

I think we’re just going to end up agreeing to disagree, however that ends up.

Mr. Peter Tabuns: We will disagree.

Recorded vote.

Ayes

Tabuns.

Nays

Chiarelli, Clark, Jaczek, Kular, Levac, Mauro, Yakabuski.

The Chair (Mr. David Oraziotti): The motion is lost. Section 38: Shall it carry, not as amended? Carried.

Sections 39 and 40: no amendments. Shall they carry? Opposed? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 235, as amended, carry? All those in favour? Opposed? Carried.

Shall I report the bill, as amended, to the House?

Mr. Dave Levac: Before you do that, Mr. Chairman—

The Chair (Mr. David Oraziotti): Go ahead.

Mr. Dave Levac: Just a large thanks to staff and to the committee for the way in which we dealt with this, and to the stakeholders. I want to express my appreciation for the patience and the understanding that everyone applied while we were doing the hearings and when we were drafting the bill, to respect everyone’s opinion and comments that were made, and to reinforce my thanks to staff that are here. I know that there was an awful lot of work done behind closed doors and burning the midnight oil, so I want to show my appreciation to all of them for doing that.

The Chair (Mr. David Oraziotti): Thank you. I think everyone would echo those comments, and I appreciate you making them.

We do have the last question on the floor. Shall I report the bill, as amended, to the House? All in favour? Agreed.

That’s it. Committee is concluded.

The committee adjourned at 1716.

CONTENTS

Monday 29 March 2010

Energy Consumer Protection Act, 2010, Bill 235, Mr. Duguid / Loi de 2010 sur la protection des consommateurs d'énergie, projet de loi 235, M. DuguidG-39

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair / Président

Mr. David Oraziotti (Sault Ste. Marie L)

Vice-Chair / Vice-Présidente

Ms. Helena Jaczek (Oak Ridges–Markham L)

Mr. Bob Chiarelli (Ottawa West–Nepean / Ottawa-Est–Nepean L)

Mr. Steve Clark (Leeds–Grenville PC)

Ms. Helena Jaczek (Oak Ridges–Markham L)

Mr. Kuldip Kular (Bramalea–Gore–Malton L)

Mr. Dave Levac (Brant L)

Mr. Rosario Marchese (Trinity–Spadina ND)

Mr. Bill Mauro (Thunder Bay–Atikokan L)

Mr. David Oraziotti (Sault Ste. Marie L)

Mrs. Joyce Savoline (Burlington PC)

Substitutions / Membres remplaçants

Mr. Peter Tabuns (Toronto–Danforth ND)

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke PC)

Also taking part / Autres participants et participantes

Mr. Dan Shear, counsel, Ministry of Energy and Infrastructure

Clerk / Greffier

Mr. Trevor Day

Staff / Personnel

Mr. Albert Nigro, legislative counsel