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**Official Report
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Wednesday 6 April 2016

**Journal
des débats
(Hansard)**

Mercredi 6 avril 2016

**Standing Committee on
the Legislative Assembly**

Ending Predatory Electricity
Retailing Act, 2016

**Comité permanent de
l'Assemblée législative**

Loi de 2016 sur l'élimination
des prix abusifs dans la vente
au détail d'électricité

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE**

Wednesday 6 April 2016

Mercredi 6 avril 2016

The committee met at 1304 in committee room 1.

**ENDING PREDATORY ELECTRICITY
RETAILING ACT, 2016**

**LOI DE 2016 SUR L'ÉLIMINATION
DES PRIX ABUSIFS DANS LA VENTE
AU DÉTAIL D'ÉLECTRICITÉ**

Consideration of the following bill:

Bill 111, An Act to amend the Energy Consumer Protection Act, 2010 to eliminate fixed rate electricity contracts between retailers and consumers / Projet de loi 111, Loi modifiant la Loi de 2010 sur la protection des consommateurs d'énergie pour éliminer les contrats de fourniture d'électricité à tarif fixe entre détaillants et consommateurs.

The Chair (Mr. Monte McNaughton): Good afternoon, everyone, and welcome to the Standing Committee on the Legislative Assembly. We're here to discuss Bill 111, An Act to amend the Energy Consumer Protection Act, 2010 to eliminate fixed rate electricity contracts between retailers and consumers.

JUST ENERGY

The Chair (Mr. Monte McNaughton): First up will be Just Energy. You're going to have five minutes for your presentation and three minutes of questioning from each party, starting with the official opposition. If you could just state your names for Hansard before you begin.

Mr. Jonah Davids: Sure. Should we start?

The Chair (Mr. Monte McNaughton): Yes.

Mr. Jonah Davids: Jonah Davis from Just Energy.

Ms. Nola Ruzycki: Nola Ruzycki from Just Energy.

Mr. Jonah Davids: Good afternoon, committee. I am the executive vice-president and general counsel of Just Energy. Nola, who just introduced herself, is the vice-president of regulatory affairs.

Just Energy is a provider of energy solutions to residential and commercial customers through fixed, variable and flat bill electricity and natural gas products; green energy products, such as renewable energy certificates and carbon offsets; as well as innovative energy management tools, such as the Ecobee smart thermostat, Pulse energy adviser app and solar products for residential customers. Just Energy operates in 20 jurisdictions across Canada, the United States and the United Kingdom.

We provide reliable and innovative energy solutions to hundreds of thousands of customers in Ontario alone. Just Energy employs over 1,200 people, over 700 of whom are employed in 11 offices across Ontario, including over 150 IT personnel. Just Energy is also partial owner of Ecobee Inc., a smart thermostat developer, headquartered here in Toronto.

We believe in the value presented by our company, our innovative energy solution products, such as our unlimited plan and maintaining compliance to strict regulatory measures placed upon energy retailers. For this reason we are strongly opposed to Bill 111. Prohibiting fixed-rate electricity contracts in Ontario would limit consumer choice and would stifle conservation and energy efficiency products and services.

Furthermore, the necessity of Bill 111 under the guise of consumer protection is misleading due to the recent passage of Bill 112. As you know, Bill 112 addresses the issue of at-home sales that may sometimes be accompanied by aggressive sales tactics in the industry, and it has created provisions for the elimination of such practices. Therefore, all contracts entered into will be initiated at the outset by the consumer making his or her own choice in his or her own time, either on the Internet or in person in public spaces. By removing fixed-rate electricity contracts, the government would be suggesting that consumers do not know how to make their own independent and non-pressure-driven choices.

We wish to highlight the fact that the current ECPA extends the cancellation-without-penalty window for electricity contracts to 30 days from the date of the first bill, a policy that Just Energy has had in place in all of its 20 markets for years prior to the implementation of the ECPA. Additionally, retailers are currently required to provide consumers with a price comparison form which sets out the consumer's current utility rate and approximate total bill versus the retailer rate and approximate total bill. Just Energy is of the view that the provisions of the ECPA allow consumers the opportunity to assess electricity retail contract value against their own energy consumption practices in their own time.

Ms. Nola Ruzycki: Consumers benefit from well-designed, competitive markets. Competition promotes innovation, job creation, efficiency and diverse investments by companies integral to increasing consumer choice and expanding value-added services such as providing energy management tools for Ontario electricity

consumers. We have witnessed this first-hand in many neighbouring markets, particularly in the United States and Europe.

Focus should be on the uncompetitive nature of electricity price structure in Ontario and the difference in the presentation of and manner of calculating the global adjustment. Consumer electricity bills were a focus during the Innovative Research Group's consultation conducted as part of the OEB's ECPA review. That's the Energy Consumer Protection Act review. IRG's report highlighted that consumers felt that (1) electricity bills are too complicated; and (2) utility companies should highlight the global adjustment separately on their bills.

Instead of focusing on fixed-priced contracts, Just Energy recommends that utilities be mandated to display the global adjustment separately from supply rates on non-retailer billing. By separating the global adjustment on all bills, consumers will be better equipped to determine what energy products offer value.

Mr. Jonah Davids: Just Energy is committed to supporting Ontario's goal of enhanced consumer protection and believes that the Bill 112 legislation and subsequent regulations will meet this goal, while continuing to allow consumers to choose the best products to meet their needs. Bill 111 does nothing to further these goals and, in effect, will end a consumer's option to choose the energy solution that best suits their needs.

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Thank you for your time and attention this afternoon. We welcome any questions you may have.

The Chair (Mr. Monte McNaughton): Great. Thank you very much. We'll move to the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Jonah and Nola, for joining us today.

It's not so long ago we were here talking about Bill 112. I think there was certainly some success with regard to the government's willingness to move some amendments on that bill.

But this bill here, essentially, would eliminate electricity retail contracts completely. You said you have 700 employees here in Ontario; 1,200 total and 700 here in Ontario. Is that correct?

Mr. Jonah Davids: That is correct.

Mr. John Yakabuski: How many people would likely be out of a job if we eliminated a significant portion of your business?

Mr. Jonah Davids: I think that certainly it would affect our sales force, which would be a few hundred people. As well, we would, as a company, have to take a really hard look at whether Ontario is the market where we see future innovation and where we want to grow our business. I would think it would impact future hires as well, and potentially—our US headquarters is in Houston—move bodies to Houston, away from Ontario.

Mr. John Yakabuski: Over the years there have been significant changes in the electricity contract sector. Many of the changes were initiated by the sector itself; some were initiated by government; but together I think a

lot of positive things have happened. Would you be able to quantify—because, years ago, there was a big hullabaloo about unscrupulous door-to-door representatives in this sector. I know we had a lot of complaints as a result of it. We've seen those complaints drop significantly. Have you seen that same thing happen directly at your own offices with respect to consumer complaints with regard to these contracts?

Mr. Jonah Davids: Absolutely. Nola, you may have closer numbers on the percentages, but we've seen a significant drop in consumer complaints, particularly since the introduction of the ECPA. When it came in, I guess in 2011, we've seen a significant drop and we've been happy to push forward with that.

Mr. John Yakabuski: You're proposing that the global adjustment would be clearly delineated on all electricity bills. Currently, if you're a customer of Hydro One, there's no—you have your bill. But if I have a contract with Just Energy, my global adjustment is clearly shown on that bill each and every month; correct?

Mr. Jonah Davids: That is correct.

Mr. John Yakabuski: Whereas, in the government-owned—still mostly government-owned—utility in the province of Ontario, there is no delineation on that bill about what the actual global adjustment is for each month. It's simply worked into the price.

Mr. Jonah Davids: That is correct. There's no transparency. We've had discussions with the OEB on this. It's still very much a black box as to how it's calculated and how it's incorporated into a customer's bill.

The Chair (Mr. Monte McNaughton): Thank you very much. We're going to move to the third party: Ms. Campbell.

Ms. Sarah Campbell: Thank you for joining us today.

Consumers are signing with private electricity retailers in the belief that future higher prices can be avoided, but the contracts are usually just for the cost of power only, as has been mentioned, and do not protect against increases in delivery, regulatory, global adjustment or other non-energy charges.

At the time that I had introduced this bill, the Ontario Energy Board had just released a report that found that consumers who had signed a five-year fixed-rate contract were paying 82% more for their electricity than they would have if they stayed with their local utility. The OEB could not find a single contract that saved people money. Have any customers of Just Energy ever saved money in the course of their contract?

Ms. Nola Ruzycki: Absolutely, customers have saved with our products. One of the other things is that, maybe, if they haven't saved, they are at the same price as the utility. It's not simply a savings on price; it's peace of mind that they know what their price is for the term of the contract.

Mr. Jonah Davids: I would add that a fixed-rate contract is not put in place necessarily to save money. In fact, we would always advise customers that we don't guarantee that they're going to save money. The point of a fixed-rate contract is that the customer there feels com-

fort that a portion of their bill is at a fixed rate, much like a fixed-rate mortgage. I would be surprised if you could find me someone who's in a fixed-rate mortgage who saved money over the past five years versus the variable rate that they could have been on, but we're not talking about getting rid of fixed-rate mortgages. People see value in understanding what they're going to be paying each month, or at least, in the context of an energy contract, of a portion of that.

Ms. Sarah Campbell: If people are signing up and it's not to save money and it's just for peace of mind and they're not saving money, are there any other reasons that people would be signing up for these fixed-rate electricity contracts?

Ms. Nola Ruzycki: I think that, as with a mortgage, people sign up for different reasons. Maybe their thought is that the market rate is going to increase and they want to have that peace of mind that they know what they're paying for their commodity. Or if people are home during the day, they want to have a product that they know what they're paying for their rate during the day.

Ms. Sarah Campbell: The government has made a number of changes over the years. They've made changes to how contracts can be solicited, the identification that's required by solicitors, and the requirement of information provided to potential customers that would include some side-by-side comparisons. Despite these changes, though, the Ontario Energy Board continues to report that unfair practices are being employed. Not only are salespeople misrepresenting themselves, but contracts aren't being executed with the account holder, renewals are being done without permission, consumer cancellation—all these issues.

The Chair (Mr. Monte McNaughton): Sorry, we're out of time. We're going to move now to the government and Ms. Kiwala.

Ms. Sophie Kiwala: Thank you very much for being here today. We're very appreciative to have you come and speak to this bill. We appreciate your time enormously.

We were having some discussions before coming into this room with my colleague from Durham, who has a fixed contract and was letting us know about how much he appreciates having that because it does allow him to budget, and—

Mr. John Yakabuski: Would you mind just moving the microphone a little bit?

Ms. Sophie Kiwala: Sorry. Yes. Is that better?

Mr. John Yakabuski: Yes.

Ms. Sophie Kiwala: There certainly are many reasons for people wanting to have fixed contracts like that. Probably people in lower-income brackets would be very appreciative of having that. Many aspects of this bill seem to have been addressed already in Bill 112, which is something that we dealt with in General Government not so long ago, which passed in December 2015.

My question to you is, how has Just Energy responded or is planning to respond to the consumer protection efforts recently passed through this legislation?

Mr. Jonah Davids: Just Energy has always supported the consumer protection efforts of the government, and has worked closely with the OEB. As we've indicated here and in the Bill 112 discussions, many of the consumer protections that were put in place with the Energy Consumer Protection Act and then subsequently with Bill 112 were already practices that Just Energy did across the board. Other than door-to-door solicitation, we plan on having business as usual in the way that we conduct our business and in compliance with the regulations and the consumer protections that are already there.

Ms. Sophie Kiwala: That's excellent. Considering that you have 1,200 employees with 700 in Ontario, it's of significant concern that some of the changes proposed might have an impact there.

What do you hear through your consumer researcher from customers about energy contract options? Which ones are most popular?

Mr. Jonah Davids: Sure. It's probably a better question for my VP of marketing, who has done this, but in discussions with him—we've done study groups and such. Customers—it depends; there's a gamble—

The Chair (Mr. Monte McNaughton): Thank you very much. I'm sorry to cut you off. We're under orders by the House. That's all the time we have today.

Mr. Jonah Davids: Okay.

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SUMMITT ENERGY

The Chair (Mr. Monte McNaughton): We'll now call Summitt Energy. Great. Thank you very much. As you heard with the last presenter, you'll have five minutes. The questioning will start with the third party. If you could just please introduce yourselves for Hansard.

Mr. Jeff Donnelly: Sure. Thank you, Chair. My name is Jeff Donnelly. I'm director of regulatory affairs and compliance for Summitt Energy. On behalf of Summitt Energy, I just want to thank you for this opportunity to share some of its positions in regard to Bill 111.

Summitt Energy is a provider of energy choice options for residential and commercial customers. We offer fully hedged electricity and natural gas products, including green energy components such as renewable energy certificates and carbon offsets.

In the province of Ontario, Summitt Energy provides tens of thousands of customers a variety of energy plans, including flat-rate, fixed-rate, green, and LED light bulb energy-saving options. Summitt Energy employs over 200 people in six Ontario-based offices. Summitt Energy's objectives are contributing to Ontario's economic success and improving consumer education, protection and consumer choice.

Summitt Energy supports the government's efforts to improve consumer protection. Summitt Energy has already been actively involved in the discussions surrounding Bill 112 and its subsequent passing.

Bill 111 is proposing to amend section 9 of and to add part II.1 to the Energy Consumer Protection Act to ban

fixed-rate electricity contracts. It's Summitt Energy's understanding that Bill 111 is to address public concerns relating to residential door-to-door sales.

The elimination of residential door-to-door sales under Bill 112 has effectively addressed the concerns contained in Bill 111, as a supplier will no longer be able to negotiate a contract with a consumer in person at the consumer's home. The enactment of Bill 112 will only allow consumers to enter into retail electricity contracts on their own initiative.

Eliminating fixed-rate electricity contracts will take away consumer choice and the ability of consumers to protect themselves against rising electricity costs, if they choose to do so. Consumers who have contacted a retail supplier on their own initiative have researched their options and have made a conscientious decision to enter into a fixed-rate electricity contract as a matter of choice, whether it be for price certainty or long-term budget planning.

Summitt Energy believes that it's in the best interests of consumers, government and the industry to work collaboratively in an effort to enhance consumer protection. The combined effort by the industry and the government in the passing of Bill 112 has ensured that the interests of consumers are adequately protected. Bill 111 does not add any additional benefit to consumers but rather restricts their ability to choose a product that they have determined to be beneficial to them.

Thank you very much for giving me an opportunity to speak this afternoon.

The Chair (Mr. Monte McNaughton): Great. Thank you very much. We'll move to Ms. Campbell.

Ms. Sarah Campbell: Much along some of the similar questions I was asking before, have you found that any customers with your company have ever saved any money over the duration of their fixed-rate electricity contract, comparing all factors, everything from delivery, regulatory global adjustment charges, and comparing that with a Hydro One bill?

Mr. Jeff Donnelly: Actually, it wouldn't be a fair comparison, because unfortunately we have no ability to regulate any of the distribution or transmission charges. We're only allowed to supply the customer with the supply rate. In order to do a fair apples-to-apples comparison, I can only answer that question specifically in relation to the supply rate. So if you're asking me whether customers on a fixed-rate product offering, whether it be a flat-rate product or a fixed-rate offering at any given period of time of Summitt Energy's business in Ontario have saved money, the answer is yes.

Ms. Sarah Campbell: But in terms of what a customer who would look at their pocket at the end of, say, five years, if they would have added up what their bills would have been with Hydro One or their local utility versus what their bills would have been with Summitt, you're saying that there are people who would have saved money?

Mr. Jeff Donnelly: There are people who would have saved money on the supply rate, which is the only rate

that we can supply to consumers under the government's regulations.

Ms. Sarah Campbell: Okay. As I was also trying to ask last time before I got cut off, the government has made a number of changes a number of times to how contracts can be solicited, the identification that's required by solicitors, and the requirement of information to provide an apples-to-apples comparison so people can make informed decision-making. What they've found is, despite the long history of these changes, consumers are still feeling ripped off by these contracts. My question is: What assurances can you give that this will ever change without an outright ban of private fixed-rate contracts for residential customers?

Mr. Jeff Donnelly: Summitt Energy is of the position that Bill 112 adequately addresses any of your concerns.

Ms. Sarah Campbell: It "adequately addresses." Going forward, the previous presenter said that it will be business as usual, except the salespeople will not be out on the doorstep. But we will no longer see issues with consumer cancellation and with customers not accepting renewals. Will all of these things magically stop under Bill 112?

Mr. Noble Chummar: I can answer that question. Hi. My name is Noble Chummar. I'm counsel to Summit Energy. Thank you for this opportunity.

Summit Energy's position—I can't really speak on behalf of the entire industry, but when Bill 112 was introduced, it wasn't exactly a welcome piece of legislation. But that being said, having worked with the government and having worked with all parties, the industry essentially accepted the provisions in Bill 112. To reiterate my colleague's—

The Chair (Mr. Monte McNaughton): Thank you very much. I apologize.

We have to move to the government: Mr. Anderson.

Mr. Granville Anderson: Thank you for being here this afternoon. You're talking about supply rates. Your contracts clearly specify that only the supply rate is fixed, correct?

Mr. Jeff Donnelly: That's correct.

Mr. Granville Anderson: Right. As my colleague alluded to, I am a customer with fixed billing. I have fixed billing for my electricity bill and also for my gas bill. My neighbour said to me once that gas rates go down. So I was still stuck, but I said, "If it went up, that's a protection I have." As long as it's a clear contract and you understand what you signed, then it benefits that.

In my community, I have a lot of seniors, and they have fixed incomes. This also guarantees a fixed monthly payment for them, so it goes beyond that.

Also, it's choice. It also provides choice. As long as the contract is fair and somebody understands it and it's well articulated that what they're signing is fairly done, I support that. I have no problem with that. The protection for consumers is there through Bill 112.

If you care to comment, could you please elaborate a bit on that for me?

Mr. Noble Chummar: Thank you, Mr. Anderson. One of the main concepts of consumer protection is to protect the person who is purchasing any product. We're not talking about average consumers; we're talking about homeowners. These are people who own very expensive, big buildings, small buildings, townhouses, whatever.

The freedom to enter into contracts is exactly as you have articulated it. It gives them the choice and the expectation of what their monthly fees will be.

Mr. Granville Anderson: I don't know how many customers you serve, but in my community, when I saw this earlier, I phoned a few neighbours and a few friends, and most of them, surprisingly, have fixed contracts and they find that very beneficial to them.

I haven't really heard much negativity about that. We have stopped the door-to-door where people could be coerced or forced into signing things they don't understand. Do you agree with our position that Bill 112 amply protects the consumer?

Mr. Jeff Donnelly: Yes, we do.

Mr. Granville Anderson: I have no further questions.

The Chair (Mr. Monte McNaughton): Great. You're right on time. Thank you very much for that.

We'll now move to the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much for joining us today on Bill 111.

A couple of questions just for clarification, so that we have these on the record: Does Summitt Energy offer guarantees to a consumer that they will save money if they sign a fixed-rate contract?

Mr. Jeff Donnelly: No, we don't.

Mr. John Yakabuski: No guarantees?

Mr. Jeff Donnelly: No guarantees.

Mr. John Yakabuski: We know the maelstrom around the industry years ago, when clearly there were some practices that were questionable and maybe involved improper training or rogue agents or whatever. The industry itself has certainly cleaned up.

Is there a very, very significantly different training program for sales forces today?

Mr. Jeff Donnelly: It's significantly different. With the enactment of the Energy Consumer Protection Act and revisions that have been made over the years, the training, certification and compliance oversight have significantly changed from when the industry began years ago.

With the passing of Bill 112, that has further enhanced consumer protection because we have now essentially

eliminated the ability for suppliers to sign contracts at the door with consumers, therefore eliminating any of those "rogue agents," as you may call them, or issues that may arise as a result of an agent maybe putting some undue pressure on a consumer at the door.

Mr. John Yakabuski: So at the end of the day, with the cooling-off periods and everything, are you satisfied that, with the changes in Bill 112, when a consumer makes that final determination and they are prepared to sign a fixed-rate contract with you or one of the other suppliers in this sector, that they have done so freely of their own choice and their volition, and they have made the choice that they believe, for whatever the multitude of reasons for signing a contract, that this is in their best interest?

Mr. Jeff Donnelly: Yes.

Mr. John Yakabuski: They have done it freely, on their free choice.

Mr. Jeff Donnelly: Freely on their own accord, on their own initiative.

Mr. John Yakabuski: Very good. One other question, on the global adjustment: We heard from Just Energy earlier that they would like to see that clearly indicated on all electricity bills. Do you share the same view at Summitt Energy?

Mr. Jeff Donnelly: We definitely share the same view. The lack of transparency on the global adjustment charge has been a historical issue in the energy industry. It essentially has been the underlying driver to a majority of the complaints, at least in Summitt Energy's position, over the years. The fact that the global adjustment is essentially buried within the default rate of the service provider and has to be pulled out on a separate line item when an individual goes with a retailer causes huge confusion and misunderstanding to the general public.

Mr. John Yakabuski: Thank you very much. I have no further questions, and we are probably pretty close to time. Thank you very much for joining us today, sir.

The Chair (Mr. Monte McNaughton): Thank you very much.

Mr. Jeff Donnelly: Thank you.

The Chair (Mr. Monte McNaughton): Just to let the committee know, we set aside two days for committee hearings and we had two presenters, so we won't be meeting next week, but I will likely be in touch with the subcommittee to figure out next steps for this committee. Thank you very much.

The committee adjourned at 1332.

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