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June 16, 2010

Ms. Kirsten Walli, Board Secretary
ONTARIO ENERGY BOARD
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

Re: Motion by the Consumer's Council of Canada ("CCC") in relation to s. 26.1 of the *Ontario Energy Board Act, 1998* (the "Act") and Ontario Regulation 66 /10
Board File No.: EB-2010-0184

Please find attached the submissions of the Association of Power Producers of Ontario ("APPrO") on the preliminary motion in the above-captioned matter. These submissions are made in accordance with Procedural Order Number 1 and the Board's consent to APPrO's request for late intervention dated June 15, 2010.

Yours truly,

MACLEOD DIXON LLP

Elisabeth DeMarco

c: David Butters (by email)
Robert Warren (by email)
All Intervenors (by email)

EB-2010-0184

IN THE MATTER OF the *Ontario Energy Board Act, 1998* S.O. 1998, c. 15 (Schedule B) (the "**Act**");

AND IN THE MATTER OF a motion by the Consumers Council of Canada ("**CCC**") in relation to section 26.1 of the *Ontario Energy Board Act*, *1998* and Ontario Regulation 66/10.

SUBMISSIONS OF THE ASSOCIATION OF POWER PRODUCERS OF ONTARIO ("APPrO") ON PRELIMINARY MOTION

June 16, 2010

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1. The following submissions are made by the Association of Power Producers of Ontario ("**APPrO**") in response to the threshold questions set out by the Ontario Energy Board (the "**Board**") in Procedural Order No. 1 and in accordance with the Board's letter of June 15, 2010 granting APPrO late intervenor status. The Board's preliminary questions and APPrO's submissions in response to the Board's questions are set-out below.

Q1. Is the motion properly constituted? In other words, is there a Decision or Order of the Board that could be used as the basis for a Motion to Review under Rule 42 of the Rules?

2. APPrO submits that the Board's activities in relation to the Special Purpose Charge Assessments (the "SPC Assessments" or the "Assessments") may be broken down into two discrete actions, each of which would fall within the purview of a "decision" that would support a Motion for Review under section 42 of the *Ontario Energy Board Rules of Practice and Procedure* (the "**Rules**"). The Board first exercised its discretion and authority to determine and provide notice to licensed distributors of their specific, final SPC Assessment by letter dated April 9, 2010 (the "**Assessment Letter**"), and subsequently exercised its discretion and authority to create a variance account and related processes for licensed distributors to recover the applicable SPC Assessment from customers by letter dated April 23, 2010 (the "**Variance Account Letter**"). APPrO submits that both actions required the specific consideration and related determinations of the Board in the context of its statutory mandate and are therefore "decisions" within the context of the Board's regulated functions.

3. These general submissions are supported by an examination of:

   (a) the Board's express wording in determining and implementing the Assessments and creating the Variance Account;

   (b) the Statutory Powers Procedure Act;

   (c) the objectives of the Act and the potential consequences of finding that the Board's SPC Assessment actions are not "decisions".

4. First, the Board's express wording in the Assessment Letter and the Variance Account letter both support the conclusion that the Board was exercising its discretion and adjudicative powers to make final, binding decisions in relation to the SPC Assessments. The Assessment Letter provides:

> *The Board is responsible for apportioning the total amount of the SPC among licensed electricity distributors and the IESO in accordance with the rules set out in the SPC Regulation. For this purpose, the Board has calculated a quotient ("Q") using the formula set-out in Section 5 of the SPC Regulation. "Q" has been calculated as $0.0003725. The Board has determined your assessment for the SPC using this value and volume-metric information, as also required by the SPC regulation. The amount of your assessment and payment instructions are shown on the attached invoice.* (emphasis added)

5. The Variance Account Letter also provides:

> *...[f]or that purpose, the Board has now authorized Account 1521, Special Purpose Charge Assessment Variance Account. Any difference ... that you recover from customers must be recorded in "sub-account 2010 SPC Assessment Variance" ... [a]ny carrying charges shall be calculated using simple interest, at the Board's prescribed interest rates ...*
>
> *[y]ou are required to apply to the Board no later than April 15, 2010 for an order authorizing you to clear any debit or credit balance . . .*

6. APPrO submits that the express wording contained in its communications to regulated entities supports the determination that the Board considered, made and issued a series of final and binding decisions applicable to stakeholders relating to the SPC Assessments and their specific allocation to licensed distributors. These decisions were within the regulatory mandate of the Board and constitute "decisions" upon which the Board may properly support the requested CCC review under Section 42 of its Rules.

7. Second, the actions taken by the Board in making both the Assessment and creating the Variance Account are consistent with the definition of a "statutory power of decision" in the *Statutory Powers Procedure Act*, R.S.O., c. S. 22 (the "**SPPA**"). Specifically s. 1(1) of the SPPA defines a "statutory power of decision" as including a power or right, confirmed by or under a statute to make a decision deciding *or prescribing*, among other things, the legal rights, duties and liabilities of any person or party. There can be little doubt that the Board's actions in issuing the Assessment and creating the Variance Account decided or prescribed new rights, duties and liabilities for licensed distributors. Those duties and liabilities are clearly set out in the Assessment Letter and the Variance Account Letter. Therefore the Board's actions in making the Assessments and creating the Variance Accounts are entirely consistent with "decisions" in the context of SPPA.

8. Third, the objectives of the Act and the consequences of failing to find that the Board's actions constituted "decisions" also support the determination that the Board's Assessments and Variance Account actions are "decisions", which may be reviewed pursuant to Rule 42.

9. The Board is required to protect the interests of electricity consumers (s. 1(1) of the Act) and promote conservation and demand management and energy efficiency consistently with the policies of the Government of Ontario (s. 1(1)(3), s. 2(5) of the Act). The Assessments will affect the interest of consumers and impose a new charge on them. Such charges and increased costs to customers were the subject of considerable debate in the Provincial Legislature (as recorded in the *Hansard* attached as Appendix "A") to support the Legislature's passage of the *Green Energy Act*. Transparency and accountability for related charges and customer costs featured prominently in the Hansard.

10. APPrO submits that the Board would be unduly and unnecessarily constrained in achieving its statutory objectives if it refrained from considering the legality and validity of its SPC Assessment and Variance Account actions on the purported grounds that they are not "decisions". This may have a chilling, anti-democratic effect that could insulate certain Board decisions implementing regulatory mandates (like the SPC charges included in Regulation 66/10) from challenge or review by the expert tribunal that is empowered to do so and thereby leave affected stakeholder with only limited recourse to the Courts. APPrO submits that this is antithetical to the Board's mandated objectives and contrary to the Government's stated intent to achieve transparency and accountability.

Q2. Given section 42.02 of the Rules, does CCC have standing to bring the motion?

11. APPrO submits that CCC has standing to bring the motion pursuant to Rule 42.01 and 42.02, with leave of the Board. Given the important nature of the issues to be resolved through the CCC motion and its potential effect on all consumers, including gas-fired electricity generators, APPrO submits that the Board should grant leave to CCC in order to allow for a full and fair hearing of the issues relevant to both the instant SPC

Assessments on licensed electricity generators and future SPC assessments on gas generators.

Q3. Does the Board have the authority to cancel the assessments issued under section 26.1 of the Act?

12. Generally APPrO submits that the Board has the authority pursuant to the rule 44.01(b) and Rules 42.01 to stay or suspend the implementation of the SPC Assessments pending review and hearing of the CCC motion.

13. Section 19 of the Act, provides the Board with the power to hear and determine all questions of law and fact, which implicitly includes the ability to determine whether section 26.1 of the Act is *intra vires* the Province of Ontario, and may therefore support the valid imposition of the Assessments by the Board. In the event that the Board finds that section 26.1 of the Act is not *intra vires* the Province, it cannot validly proceed with the implementation of the Assessments and the Variance Account in accordance with section 52 of the *Constitution Act, 1982*.

14. While the Board's powers do not extend to those granted to a court of inherent jurisdiction to strike down the offending legislation, the Board cannot act to make and implement the Assessments pursuant to a statutory requirements that is found to be beyond the authority of the Province. As a result, the Board has both a duty and obligation to review the validity of the section 26.1 of the Act that supports the SPC Assessments and gives rise to the CCC proceeding now before it.

Q4. Does Board have authority to determine whether 26.1 of the Act (and Ontario Regulation 66/10 made under the Act) are constitutionally valid in the absence of another proceeding (i.e., can the constitutionality of the legislation be the only issue in the proceeding?)

15. APPrO submits that the Board is not constrained in its ability to consider the legal and constitutional issues before it. There is no implicit constraint on the Board's authority to review all questions and law in fact pursuant to the authority granted to it under section 19 of the Act. There is therefore no requirement for the Board's consideration of the validity of section 26.1 of the Act to be ancillary to other issues in a proceeding. Nonetheless APPrO submits that the issues arising from the Board's actions relating to

the Assessments and Variance Accounts are broader than the determination of the constitutionality of section 26.1 of the Act.

Q5. Would stating a case to the Divisional Court be a better alternative? What would the rational be for stating a case? What question should be used if a stated case were to be pursued? What would form the evidentiary record for the stated case?

16. APPrO submits that, while the ultimate determination of the constitutional validity of section 26.1 of the Act, is likely to be undertaken by the Divisional Court, any such review would benefit greatly from the development of a record derived by the Board through its specialized expertise in determining the facts and issues in the CCC motion. Specifically, any Divisional Court review of the issues contained in the CCC motion would benefit from the Board's consideration and determination of the facts and issues relating to:

(a) whether the SPC Assessments issued pursuant to section 26.1 are in pith and substance a regulatory charge, in light of the breadth of the enumerated special purposes set out in section 26.2(2) of the Act, or a tax?

(b) If the SPC Assessments are found to be a tax, whether the Assessments issued pursuant to section 26.1 are *intra vires* the Province as a direct or otherwise authorized taxes pursuant to s. 92(3) or s. 92A(1) or (4) of the *Constitution Act, 1982*, or alternatively reserved to the exclusive jurisdiction of the federal government?

(c) whether the Board can stay or suspend the implementation of the Assessments pending review of the constitutionality of section 26.1 by Divisional Court and later cancel the Assessments or provide other remedies to affected stakeholders in, and of, the Board's own jurisdiction if section 26.1 is found to be *ultra vires* the Province by the Divisional Court.

17. APPrO therefore requests that the Board proceed to hear the CCC motion on its merits and state a case to Divisional Court on the above-mentioned questions, on the understanding that the Board's record will be available when the matter is heard by Divisional Court. In this manner, the Board may expeditiously proceed to administer and adjudicate on the matters of fact and law before it in the CCC Motion <u>and</u> facilitate a full and fair review of the stated case by Divisional Court through the creation of a substantive record incorporating the Board's expert views on the matters of fact and law arising in the CCC Motion.

18. APPrO wishes to thank the Board for the opportunity to make these submissions.

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Ontario Legislative Assembly Debate Excerpts Related to the Green Energy and Green Economy Act, 2009

Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, No.113 (24 February 2009) at 4993-4994:

Mr. John Yakabuski: My question is for the Premier. The proposed Green Energy Act raises an alarming number of questions. During these times of economic downturn, when everyone is counting their pennies, Ontarians want to know how much more they're going to have to pay to heat their homes and keep the lights on under this new legislation…

Yesterday, the Minister of Energy indicated that there would essentially be no increase as a result of this bill. He said, "One per cent per year for the next three years." If the minister thinks he can fool Ontarians with this sleight of hand, he's dead wrong. Yesterday he said there would be an initial increased investment of $5 billion. When that amount is paid-and that's just for the transmission upgrades they're talking about-by 4.2 million electricity consumers, that calculates out to an extra $1,200 per customer. Spread out over three years, that's a 30% increase, Minister, not a 1% increase.

Premier, explain to this House how you can promise a 1% increase by your own figures when the increase to consumers will be at least 30%...

Ontarians were not fooled when Stéphane Dion tried to tell them that his Green Shift plan wasn't going to cost them a thing, and they're not going to be fooled by your plan. Yesterday, the minister held up Germany as a model. Well, the price of electricity in Germany is north of 22 cents a kilowatt hour. That's at least three times, three and a half times, the rate of electricity here, Mr. Premier. How can you stand there and tell Ontarians that their energy bills are not going to go up by more than a single percentage point per year? In fact, they're going through the roof. That's what's going to happen. It's time that you came clean…Nobody is buying your argument about the balance and the costs. After Ontarians are done paying for skyrocketing energy costs they won't have the money to pay for anything else, especially that refrigerator you've been telling them to buy. Just like your federal Liberal colleague Stéphane Dion, you're not being straight with Ontarians who are worried about paying their mortgages and hanging on to their jobs. Will you have the decency to lay out the real facts and tell Ontarians that, when they can least afford it, this bill is going to mean significantly higher energy costs for homeowners and consumers in this province? Will you come straight, Mr. Premier?

Hon. Dalton McGuinty: To the Minister of Energy and Infrastructure.

Hon. George Smitherman: I do want to thank the honourable member for his question and I do want to thank him as well for his comments in the Legislature yesterday, when he gave very strong evidence for the opportunity that individuals have in their own homes to impact the amount of energy that they use. I think that's what the Green Energy Act is all about: the opportunity for us to engage individually in activities that help to lessen our impact on the climate and to have the opportunity to create a green economy at the same time.

I think it is very important to note that when you make an investment, a necessary investment, as an example, in transmission capability-I spoke yesterday of a $5-billion incremental investment-this is about an investment in a piece of infrastructure that doesn't last for just one year or two years. It's about investing in our fundamental infrastructure, which of course is paid off over a period of time. This is why we predict that the incremental costs associated with the Green Energy Act-

Mr. John Yakabuski: We're going to hear that talking around the issue over and over and over again. But I'm going to make that point again, Mr. Premier: When people in this province are done paying for the things that they have no choice in paying-their mortgages, their food, their housing, their clothing and the electricity under this government-they're not going to have much left for anything else. They do need to know, going forward, what electricity is going to cost, not some vague thoughts about how we're going to do this or that. They need to know what the cost of electricity is going to be in the province of Ontario for consumers, for families, seniors, low-income people; people like that who can hardly afford the electricity bills they're paying now. What is it going to mean to them going forward?

Hon. George Smitherman: Ontarians aren't going to get very much value from the conversation if the honourable member is not able to understand that investments in infrastructure, where the infrastructure lasts 40, 50, 60 or 70 years-if he tries to pretend that it's all about paying for those in the first and second year, if he doesn't understand the fundamental investment in infrastructure, then we're going to have a challenge. The investments in Ontario's infrastructure, to build more renewable capacity by investing in transmission and distributed generation, are going to cost 1% a year incremental on Ontario's hydro bills, but what they will provide is the opportunity for 50,000 new jobs in the green economy, and it will provide for Ontarians to use less electricity as individuals…

Ontario, Legislative Assembly, *Official Report of Debates (Hansard),* No.114 (25 February 2009) at 5027-5029:

Mr. John Yakabuski: This is for the Premier. The editorial in today's National Post says it all: "An Energy Plan that Won't Help." They say that the energy minister's boast of only a 1% increase in energy costs cannot be believed…They go on to say the following: "Just because someone slaps the word 'green' on a piece of legislation doesn't make it intelligent or forward-thinking. This is not the energy policy that Ontario needs...."

Premier, what do you have to say to the National Post? They condemn your policy. Have they got it right and you've got it wrong?…

Hon. Dalton McGuinty: I'm always interested in getting the views of the good people at the National Post, but they are not really my intended audience when it comes to the Green Energy Act. We're focused on Ontario families and Ontario businesses. We are very eager to move forward with our Green Energy Act. It's fundamentally about new jobs, it's about clean, green electricity and it's about fighting climate change. We have found a way through public policy to make sure we can do all of those things. Fifty thousand jobs I think is the single most important achievement that we will make through this Green Energy Act.

I thought at one point in time that my colleague opposite was supportive of these kinds of measures. I find it passing strange that he's no longer interested in pursuing this kind of progressive policy.

Mr. John Yakabuski: They talked about the price of energy under this act, Premier, and you and the minister like to use your mothers as examples. I want to talk about Germany and Denmark, where energy costs are four times what they are here in Ontario. Even if energy rates only rise to half of what they are in Germany and Denmark, your mothers will have to reduce their consumption. Even if they reduce it by 20%, their energy bills will still be 70% higher than they are today. How are your mothers going to feel about that?

Hon. Dalton McGuinty: Just to stick to the big picture for a moment, there are a few things that we know with absolute certainty. The price of oil and gas is going up. We know something else for sure: Over time, the price for solar power will come down, the price for wind power will come down, the price for biomass and biogas will come down. We know for sure that when we buy our oil and gas, we're not creating a single job. We know for sure that if we invest in solar, in biogas and biomass and wind power, we're creating thousands and thousands of jobs in the province of Ontario. We're putting our money on the future, not on a past that's gone.

Ontario, Legislative Assembly, *Official Report of Debates (Hansard),* No.115 (26 February 2009) at 5065-5066:

Mr. Peter Shurman: Liberals call Bill 150 revolutionary legislation, but all they really have is a pickpocket bill, a pickpocket bill with Ontarians as the designated victim. They tell us that energy costs are rising everywhere, but they don't tell us that their plan will increase the price of power in Ontario well beyond worldwide levels.

For all the regulation that they are subjecting Ontarians to, the Liberals are leaving themselves ample room to manoeuvre out of any accountability. I can hear it now: "That extra debt retirement amount on your power bill is not a tax. No, sir. It's what you owe the electricity supplier for infrastructure buildouts. But McGuinty didn't raise taxes." Well, the old saw: A rose by any other name is still a rose…

So Mr. McGuinty decided that he won't bother Ontarians with relevant details such as what the power would cost and how much they would have to pay, and that he wouldn't provide any sort of guarantee that this plan will actually succeed in providing sufficient energy generation to meet Ontario's energy demands. He decided to quietly omit the fact that Ontarians would end up paying at least 30% more for their electricity, and that's if the scheme works at all. That is a very large number at a very bad time…

The second key issue is about costs. Yesterday, the minister suggested that this bill would only increase ratepayers' tax cost by 1%. If the government hasn't yet seen the price at which they will buy green energy and won't say how much green energy will come online, then how do they know electricity rates will only go up by 1%? Given the fact that the feed-in tariffs for wind and solar are two to three times higher than the cost of coal-fired electricity, how is it that the increase in hydro rates will be so low? A good question. The only way I can see that rate increases will be kept low is if the government is anticipating a very low uptake of the program, contrary to their rhetoric of turbo-charging green energy development.

Whatever the rate increase, we know that low-income people are very vulnerable to changes in expenses. We hear increasingly of people becoming homeless, not because they can't afford rent, but because they can't afford their utilities. The government says that there will be some protection for low-income people, but, again, the bill tells us little in terms of what these protections will be.

It's not only low-income individuals who are threatened by increasing hydro rates. Struggling companies in the resource sector are already being pushed out of business by high electricity rates in the province of Ontario, and they're moving out of Ontario at a drastic rate. Xstrata and AbitibiBowater are recent examples of large companies under constant pressure to move.

Electricity already costs $72 per megawatt hour in Ontario, the second-highest in Canada. We have Niagara Falls, the biggest producer in North America for electricity. We sell it to the States.

Ontario, Legislative Assembly, *Official Report of Debates (Hansard),* No.116 (2 March 2009) at 5120-5121:

Ms. Lisa MacLeod: My question is for the Minister of Consumer Services. Dalton McGuinty's power grab will be catastrophic for consumers. Energy bills could be 30% higher. Consumer choice will be eliminated. The minister will pick our energy consumption for us. Rates alone will increase from 5.5 cents to 46 cents; that's nine times higher. The bill overrules contract law and title law by favouring renewable energy projects over real property agreements…

Hon. George Smitherman: …the honourable member is just plain wrong with respect to the numbers. She's operating on the idea that we're going to stop using Niagara Falls, we're going to close down our nuclear plants and we're going 100% renewables, when to the contrary, what we're seeking to do is enhance the proportion somewhat of renewable energy in our supply mix. Over a 15-year period with the investments that are anticipated, we see about a 1% increase on people's bills related to the Green Energy Act. …

Ms. Lisa MacLeod: …This is the biggest threat to consumer protection in this province's history—more taxes, more bureaucrats, more government intrusion onto real property. How can any of that be good for Ontario's consumers? Enough is enough. Will the Minister of Consumer Services educate the Minister of Energy on the consequences consumers will face as the result of this power grab? Will he stand up for consumers so they won't face skyrocketing energy increases at a time when we can ill afford to raise anyone's standard-of-living expenses?

Hon. George Smitherman: The consumers in the province of Ontario will be given the opportunity to purchase energy which is cleaner and greener, which is lighter on the footprint on the environment and which enhances the opportunities for jobs in the green economy. These investments in renewable energy alongside investments in conservation will allow people to go about their lives with a cleaner, greener supply of electricity while, at the same time, using less electricity on a day-to-day basis. Associated with the investments which are front-end loaded on distribution, which is called the smart grid, or on transmission, we anticipate about $5 billion of in-vestment in the next three years, starting in 2010. We anticipate that the incremental additional cost to the rate-payer will be 1% per year. It runs quite counter to the hyperbole offered by the honourable member. I look forward to more opportunities to speak to her on this important subject

Ontario, Legislative Assembly, Official Report of Debates (Hansard), No.117 (3 March 2009) at 5173-5174:

Mr. Norm Miller: I'm pleased to have a chance to comment on the speech of the member from Durham on Bill 150, the green energy bill. The member from Sault Ste. Marie was just commenting about the cost of energy, which was brought up by the member from Durham, when he pointed out that the majority of energy used is used by industry-I think he said 62%. As the member from Sault Ste. Marie would know, most industry in the north, certainly the forestry sector, is shut down and part of their problem is the cost of energy. So what is this bill going to do to the cost of energy? That's a question we in the opposition are asking, and I think the general public would appreciate the fact that we're asking that question. The minister has said that it's going to mean a 1% increase for the consumer's energy bill. Well, I find that one a little hard to believe, frankly. They're also talking about spending $5 billion, and if you do the math, I think it's more than 1% just on that $5 billion that's being spent. So a point that we certainly question and that I think consumers worry about is what is going to happen to the cost of energy. Equally important for business, there's not going to be any industry left in the north. Up in Iroquois Falls, we have AbitibiBowater shutting down their paper mill and looking at selling their hydro assets. Certainly, the cost of energy is something that has to be considered.

We're all in favour of green energy and having more green energy in the mix, but we also need industry in this province. Under this government, we lost something like 70,000 jobs last month. Are you just going to make it worse by forcing up the cost of energy, making more and more businesses uncompetitive in this province? It's like death by a thousand cuts from this government. They keep introducing another piece of legislation that makes it harder to stay in business in this province. Every month we have something else coming down the stream making it more and more difficult for business to survive in this province.

Ontario, Legislative Assembly, Official Report of Debates (Hansard), No.120 (9 March 2009) at 5339:

Mrs. Elizabeth Witmer: We also know that the Minister of Energy and the Premier have no answers when it comes to targets, electrical rates or the cost of this plan for consumers and businesses. They seem to forget that the Ontario economy depends on a secure supply of affordable energy that will enable us to compete with our neighbouring American states. That is critical if we are to retain jobs in Ontario.

Mr. Howard Hampton: ...the McGuinty Liberals would want the people across Ontario to believe that billions of dollars will be invested in green energy...What that will mean is huge costs on the hydro bill.

Ms. Lisa MacLeod: ...This is a power grab. It's also a tax grab, and it could be considered one of the most dangerous pieces of legislation to impact consumer protection in this province's history... The cost of Mr. McGuinty's power grab is $5 billion over three years just to update transmission alone. This means that Ontario's 4.2 million electricity consumers could see a 30% increase in their electricity bills...At a time of economic distress, I am concerned that hiking rates, raising taxes and growing the bureaucracy are the very last approaches we should take... For example, Kevin Gaudet of the Canadian Taxpayers Federation says, "It's a new green tax." There may be disagreement about what the best way is to respond to challenging economic times, but the one area on which there is no disagreement is the issue of raising costs, fees and taxes: ...In a nutshell, this power grab will leave most consumers powerless when dealing with their energy prices, because they are going to skyrocket...

Mr. Robert Bailey: ...We have concerns that the bill will do nothing but impose new costs on the energy system and consumers, that what it in fact is going to do is create a new bureaucracy with very little accountability to both the ratepayers and to the Legislature. We also don't believe that the government has really figured out how much this is going to cost consumers at the very end, and we believe that their initial estimates are way off... at the end of the day, Ontarians are going to end up paying a high price for the more expensive energy that these pet conservation projects are going to end up creating...

Also, the minister said he estimated that this is going to cost $5 billion, and he said that would be a 1% increase to the ratepayers when the bills are all in. Some people did some calculations, and they say that $5 billion divided by 4.5 million consumers is about $1,200 per consumer, and this would be more like, over three years, a 30% increase.

Mr. Ernie Hardeman: I'm pleased to rise today to address Bill 150, the so-called Green Energy Act, or, more recently coined, the greenwash act. I want to start off by making it very clear that I support green energy. Every member of this Legislature would acknowledge the importance of protecting our environment, and I agree that clean energy and green energy are an important part of that goal. However, we need to look at how we get there...One of the things it appears that the McGuinty government seems to be trying to hide is the fact that, currently, generating green energy is significantly more expensive than the existing energy that we generate. They are guaranteeing prices for this energy that are far above the current average. As the amount of green energy at that cost going into the hydro grid increases, this is going to become unsustainable. Whether the cost is passed on directly to the consumers or whether the government provides direct subsidies, it is a cost that is going to be borne by the people of Ontario. Our taxpayers and businesses can't afford to pay three or four times the current rate for power. Our manufacturing businesses are already struggling to survive. Every day, we hear about more plants closing and more layoffs.

In a recent survey I did of businesses in Oxford, 37% of businesses said they will have to downsize this year. If we see hydro rates double or triple, how many more layoffs will we have?

How many more businesses will be forced out of Ontario? During the clause-by-clause on the Planning and Conservation Land Statute Law Amendment Act, the Liberal member from Glengarry-Prescott-Russell acknowledged the impact of high electricity costs on businesses. He said, "We keep hearing in this House that the paper mills are closing because of the cost of electricity, and in my home riding there was a windshield manufacturer that was really affected."

How many other businesses are already struggling with hydro costs? How many others will be forced to close their doors if rates or other charges on the bill start rapidly increasing? The initial transmission investment alone that the McGuinty government is talking about is $5 billion, which works out to $1,200 per metered electricity customer in the province of Ontario...All of these costs will be set and forced upon taxpayers behind closed doors, with no consultation required. In fact, the province will now be able to dictate all the terms of green energy projects without the support of the people who will be affected.

Ontario, Legislative Assembly, *Official Report of Debates (Hansard),* No.120 (9 March 2009) at 5356:

Mr. Robert Bailey: ...The minister said that the cost for the first three years will be $5 billion, and he said that would only represent a 1% increase to ratepayers with the bills "all in." Our calculations say that $5 billion paid by 4.5 million metered electricity consumers is actually about $1,200 per consumer. That is a full year's worth of electricity for most residential consumers, or 100% of their annual bill. Spread out over three years, that's at least a 30% increase. Calculated another way, electricity is a $15-billion- to $30-billion-a-year industry, so $5 billion is between 15% to 30% of that. Over three years, that means actually a 5% to 10% increase, not 1%.

Ontario, Legislative Assembly, *Official Report of Debates (Hansard),* No.125 (24 March 2009) at 5578 - 5579:

Mr. John Yakabuski: To the Minister of Energy and Infrastructure. Minister, at your recent press conference regarding the Green Energy Act, you were asked by members of the media how much the proposed act would add to the average electricity bill, to which you responded that it would only amount to 1% per year.

Minister, now that you've released the per-kilowatt-hour rates you're willing to pay under your feed-in tariff program, rates as high as 80.2 cents per kilowatt hour, what will the true increase be for Ontario families on their electricity bill?

Hon. George Smitherman: I anticipated a question of that form from the honourable member. When we did release the proposal, or I should say the Ontario Power Authority did-their proposed rates for the feed-in tariff-the member has chosen to focus in on certainly the highest rate, which is for a very small-scale rooftop solar which is designed to get many people in the province of Ontario, hopefully as many as 100,000, involved in being generators of electricity.

This would amount to about 1%, which is very clearly stated-1% of the overall energy supply mix met by that very, very expensive form of electricity generation. It's in keeping with the answer that I gave on the day that we presented the Green Energy Act. We anticipate, over three years, from 2010 to 2012, the first approximately \$5 billion of incremental investment, and over time, we expect that the Green Energy Act will contribute 1% per year to the growth of electricity costs for Ontarians, with opportunities for them to use less electricity as well…

Mr. John Yakabuski: I think that everybody in this province supports and believes that we need to do a better job of promoting renewable, emission-free energy. But it's also the responsibility of the government to be straightforward with the facts. When a minister talks about investing billions and billions of dollars-\$5 billion in transmission, up to 80.2 cents per kilowatt hour for feed-in tariff rates-and there are other rates, at the 44-cent level, 19 cents per kilowatt hour for wind. At those rates, all of that is being put back to the base ratepayers of the hydro bill.

Will you not come clean to the people of Ontario and state clearly that your belief and position that it will mean 1% to the hydro bill is simply a deliberate misrepresentation of the facts?

Ontario, Legislative Assembly, *Official Report of Debates (Hansard),* No. 130 (1 April 2009) at 5809:

Mr. John Yakabuski: …Nobody can disconnect the hydro in this province, but your hydro bills, in addition to the massive increases that are going to be a result of the Green Energy Act in this province, are also going to be subject to an 8% tax on top of the tax, on top of the tax and the debt retirement, which is taxed, and all of the GST, on which we're taxed again under Dalton McGuinty's plan for tax harmonization.