

Energy Board File EB: 2018-0270 Frank Kehoe Initial Presentation

Jan11 2019

Att: Secretary Ontario Energy Board

As an intervenor on the above file, I am attaching files , many of which are repeated from previous submitted material related to Hydro One and Orillia's Power Distribution's attempts to finalize a sale of Orillia Energy Distribution.

In review of the attached documents (files) that repeat what research I have been able to assemble that it is clearly shows that both parties have had a serious role as to disadvantaging the Orillia Electrical consumers.

I wish to categorically state that I am in complete agreement with the submissions of the School of Energy Coalition's material a filed.

With the legal advice I have obtained, it is clear that the Board of Directors elected by the electorate of the City of Orillia were the only ones that had the authority to enact the transfer to any new corporations.

An existing company would have to be the transfer agent voting upon and placing their corporate seal on the transfer document to enact new Corporations as to form the new corporations.

At no time was the elected board of Directors even informed of the existence of a transfer bylaw or were they officially notified verbally or in writing by City Council that their service was in any way terminated, hence the transfer in our option never legally took place.

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Electricity Consumer Disadvantage

Prior to breaking into multiple corporations operating under the Provincial Corporations Act, Ontario Hydro contracted with the Orillia Water Light and Power Corporation with what was considered an agreement in perpetuity.

The Ontario hydro officials approached the board of directors (then called commissioners) of the O.W.L.P. with what they stated was an agreement to the benefit of Orillia consumers.

With the massive growth in population in the Muskoka hydro area , there was a need to expand energy service to that area. In the meeting with O.W.L.P. they stated that their Orillia transmission station located in Severn township on their 230 kVa. Transmission line had two 125 kVa transformers to serve both Orillia and surrounding area. The load for this area only represented at high peak loads just 65% of

one of the transformers and the second transformer was for backup. The surplus 35% could be directed to their Muskoka service area if they had a transmission line,

The problem was they did not have a power line to serve this need. Orillia had twin lines from Orillia to their Swift plant, both of which exceeded their required standard.

In negotiations, Ontario Hydro stated that they had a 44 kVa line from Waubauschene to Gravenhurst that crossed the Orillia lines and that if they were to use or require the Orillia lines it would meet Ontario Hydro's immediate needs.

The negotiated agreement that was to be a binding contract included three components.

1. Orillia's Swift plant energy would be directed into the Waubauschene line to Muskoka.
2. The energy from Orillia's Swift plant would be metered at the plant and credit would be given to OWLP at the Ontario Hydro Orillia transmission station. Orillia could operate their plant in the exact same manner as they had in the past. It's operation would be used to shave peak from OWLP overall purchase of electrical energy from Ontario Hydro.
3. Ontario Hydro would take over the Orillia transmission lines from Ontario hydro's transmission station in Severn to the Waubauschene Muskoka line.

This was described as a win win situation for both parties. Ontario Hydro would save over a million dollars in environmental assessments and not have to exercise land purchase and build approximately 14 miles of transmission lines. The OWLP would save line maintenance costs and approximately 1% line costs and still have their three feeds from Orillia's transmission station. This deal worked find for a number of years.

The OWLP Minden Power Plant years after the Swift Line Deal

Ontario Hydro officials again approached OWLP with what they identified as another solution that could save Ontario Hydro a great deal of money if they could use a portion of the 48 miles of the Orillia Minden line so as to direct energy into their Beaverton Lindsay area. They could use the OWLP Minden plant in the same manner as they did at the Swift. That is Orillia metering the energy at the Minden plant and taking credit for the energy at the Ontario Hydro Orillia transmission station. This agreement was a great benefit to Orillia.

Now comes the year 2000 and everything changes.

Ontario Hydro divides itself into multiple corporations. These corporations formed other corporations with multiple name changes, all for the most part, supposedly operating under the Provincial Corporation's Act. This act barred transparency of operations.

One of these corporations, The Independent Electricity System Operator (I.E.S.O.) devised a new set of rules which, in our view, initiated a process that negated the previous legal contract between Ontario Hydro and the OWLP.

The new set of rules by the IESO stated that if you were a corporation generating electricity into the Hydro grid, they would credit you 7.3 cents per kw. However when your consumers required power

from the grid, the charge would be 18 cents for the peak power(note the figures may be not exact as IESO would not disclose the exact figure nor would Orillia Distribution Corporation).

This new situation with IESO occurred years after the signed Ontario Hydro Orillia contracts. For the most part, this transfer has not been explained as to how the Orillia electrical consumers are being so financially impacted by this IESO ruling . Other members and I of the elected board of directors were not aware of this consumer catastrophe until 2014.

We have repeatedly asked how this new situation could negate the previously signed contract that was in place. With the secrecy clause in the Orillia city bylaws we were not allowed access to our own minutes of OWLP in the period that we were the elected board of directors of this utility.

For the board to have a prospective on the Minden transmission line, the spacing of the 35 ft. class 4 jack pine poles are approximately 100 feet which means at least 52 poles per mile times 48 miles. This would be approximately 2500 poles. The poles each contain cross arms, insulators, brace irons, machine bolts, cross arm pins and three runs of conductor which in today's standard would round out at approximately \$1,250.00 per pole less labour and specialized equipment required to bridge swamps and rough terrain and chipping tree growth etc.

In today standard you are looking close to thirty million dollars.

It is not hard to see the monetary disadvantage to Orillia consumers, created by the Independent Electrical Systems Operator. I am sure that there are other factors that enter the equation that with the lack of transparency I am not able to access the information.

Monday, April 23rd, 2018

The attached 7 pages cover where and how the close to \$44 million has been extracted from the Orillia Hydro asset, formerly called the Orillia Water, Light and Power Commission. This material, of course, has been copied to council, the Ontario Energy Board, and the appellants who opposed the sale of the distribution arm of Orillia Power to Hydro One.

I am not a lawyer, but have been advised that the transfer process was not legal. All the sections of the pertinent pieces of legislation that gave protection to Orillia's electrical consumers remained in force until repealed by the Municipal Act 2001 pursuant to Section 482(2). The city, however, chose to use a clause in an inconspicuous act of the legislature called, "The Savings and Restructuring Act" that now included a new section {67(1)} to the Public Utilities Act that gave the impression that it overrode the other clauses of the Public Utilities Act. This obscured clause did not, however, repeal the consumers' protection clauses, one of which reads:

Section 45(1): The council may, by bylaw pass, with the assent of the municipal electors, repeal any bylaw passed under Sections 38, 39 and 40.

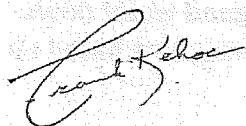
These clauses were repealed by Section 482(10) of the Municipal Act 2001 (Statutes of Ontario 2001, Chapter 25) which was a year after the city enacted Bylaws 2000-145 & 146 of the City of Orillia, the 16th day of October 2000 that allegedly dissolved the Board of Directors of the Orillia Water, Light and Power Commission. In the event of the Ontario Energy Board ruling in favour of the sale to Hydro One, this would have been part of our appeal to the courts.

For the public to have an understanding of the Ontario Energy Board ruling, this was not directed against the City of Orillia, it was a ruling against Hydro One and the process we, as intervenors, put forward the proof that Hydro One could never – with its debt load and the sale of part of its assets, and other factors – could not compete with the efficiency of the Orillia Power Corporations.

The purpose of the Ontario Energy Board is to provide protection to the electricity consumers within the Province of Ontario and, in my opinion, has acted appropriately.

The following pages, hopefully, will put into perspective the vast amount of monies (approximately \$44 million) that the Orillia City Council have used, without the direct authority of the Orillia electorate.

Respectfully submitted,



Frank Kehoe – fm.kehoe@rogers.com

THE CASE FOR PREVENTING THE SALE OF ORILLIA HYDRO DISTRIBUTION

By Frank Kehoe, Intervenor to the Ontario Energy Board Hearing

Our provincial hydro system is a complete train wreck leading to a financial tragedy for electricity consumers. The provincial electricity rates are now among the highest in North America. This hydro disaster is the result of the former Ontario Hydro multiple corporations operating out of control and the provincial introduction of deregulation that was, at the time, promised to lead to a reduction on the rates for consumers.

With provincial deregulation all electrical commissions in the province were forced to incorporate and operate under the Provincial Corporations Act. With this new corporation regulation, the former commissions were completely eliminated and the municipal councils across the province, with the new Electricity Act, became the shareholder of record of the newly formed Orillia corporations. The Orillia City Council then enacted a process to redirect massive monies from Orillia citizens' proudest electrical asset into the city's general revenue account. The process used, although probably legal, meant that the city council, could then extract millions of dollars and ignore the founding fathers' rule that the electricity arm would be separate and apart from council involvement. Throughout the operation of the O.W.L.P., the electrical asset, from its inception, respectfully operated independently with the electrical rates alone with no money ever flowing out of the city's tax revenue.

DEBT CREATED

The city council, within the new corporations, now created on the corporations' books, massive new debt that is to be paid to the city at extremely high interest rates. The Distribution Corporation now showed a debt of nine million, seven hundred and six-two thousand dollars (\$9,762,000) and the Generation Corporation five million and thirty-four thousand dollars (\$5,034,000) for a total of fourteen million, seven hundred and ninety-six thousand dollars (\$14,796,000). The initial interest rate, set by council, was 7.5% with interest only to be paid up to December 31st, 2030. This means that at the expiry, no principal will have been paid and the combined amount of \$14,796,000 would still be owing.

THE DIVIDENDS

Throughout the latter years of the Orillia Water, Light and Power, in times of good water flows, and when the commission was free of debt, paid a dividend to all electrical consumers based on their metered use of electricity.

The dividend total generally ranged in the neighbourhood of one million to one million, fifty thousand dollars (\$1,000,000 to \$1,050,000). As of the transfer date, from commission to corporations, the Orillia Water, Light and Power Commission was completely debt free and had more than seven million dollars (\$7,000,000) in the bank and receivables prior to setting the next year's budget that was now the responsibility of the newly appointed corporation directors. The city council then enacted a process, built into the corporation structure, to pay to the city a much larger dividend which was not related, in any way, to water flows nor debt. The city council then enacted a process, built into the corporations' structure, by alleged promissory notes, to pay to the city, not Orillia's electrical consumers, a dividend which was not related, in any way, to water flows nor debt. The city then took one million, one hundred thousand dollars (\$1,100,000) (minimum) up to one million, six hundred thousand dollars (\$1,600,000) annually from the peoples' electrical asset (not shown on the consumers' electrical bill).

The affect of the newly shown corporation debt as well as the dividends and, other yet unidentified, city expenditures from the date of transfer (November 2000 to December 31st, 2016) is alleged to be in the neighbourhood of **forty-four million dollars (\$44,000,000)**. So, using this figure, which may be more or slightly less, it is best to make a calculation based upon the new electrical corporations having a published 13,400 metered consumers:

\$44,000,000 divided by 13,500 consumers equals \$3,259.26 for the average of all the consumer, based on their metered consumption (Many, however, will be higher and many will be lower).

The average consumer, from Year 2000 to December 31st, 2016, would have paid close to this amount plus the appropriate HST of 13% (GST of 8%).

When the consumer looks at the \$3,259.26 figure and divides that by 16 years, the average Orillia electricity consumer would be paying \$203.70 annually plus \$26.48 (HST) for a total of \$230.18 to the City of Orillia **over and above their municipal tax levy**. Renters, who pay for their electricity separately, may be considered to be "municipal tax payers". None of the aforementioned appears on the consumer's electricity bill. No member of the last elected electrical commission, and I would expect the electrical consumers up until the year 2014 were aware of this unrelated electricity process brought on, in part, by provincial deregulation and decisions made by city council.

A PROCESS TO ENSURE SECRECY

The Orillia Electrical consumers, as well as the formal press, are all barred from access to information related to the finances or operation of the Orillia Electricity Corporations. The corporations are now excluded from "Freedom of Information" legislation, as well as having to conform to a city council bylaw which now introduces a secrecy (confidential) clause that bars

the utility staff from providing any information on the operation or finances of Orillia's utility corporations.

In the Ontario Energy Board public hearing submissions by the appellant, Frank Kehoe has included a book of the pertinent documents comprising 351 pages and a 14-page additional document entitled "Book Two". These include the referendum documents (solicitors' opinions), pertinent city bylaws, letters to and from council and other documents that are all meant to be appeal exhibits and not just correspondence and can be all accessed on the Ontario Energy Board website: <https://www.oeb.ca/participate/applications/current-major-applications/eb-2016-0276>.

DEMOCRACY AND LAW

To properly explain, I have included sections of our Ontario Energy Board Book Two submission to highlight a major segment of the appeal, namely:

The appellant recognizes that the distinguishing feature of our Canadian democracy, that contains our rights and freedoms of Canadians, highlights that all Canadian governments: federal, provincial and municipal - derive their authority from their citizens.

DIRECT DEMOCRACY

Direct democracy is clearly defined as government in which its citizens, under certain circumstances, are permitted to vote on laws. The common version of this process is done, for the most part, in the legal form of duly called referendums to decide and entrench a legal issue or question. The result of a duly called peoples' referendum voted upon by its citizens is then binding and law.

A binding referendum issue can, however, be changed or amended at any time as long as the process used is the same manner as it was enacted (a vote of the eligible electorate) and if the people vote against such change or amendment, the original referendum law stands.

ORILLIA REFERENDUM ESTABLISHING O.W.L.P.

The substance of the Orillia citizens' 1913 referendum that established the Orillia Water, Light and Power Commission, forms two distinct purposes: 1) The total removal of the peoples' owned electricity asset from any and all council involvement or control; 2) The responsible nominated or eligible people shall be elected, not appointed, using the same process used for municipal elections and the tenure of such directors will be decided by an appropriate electoral vote at election time.

CANADIAN DEMOCRACY

In a democratic society, lawmakers must recognize that the electorate, in a referendum, has rights which are guaranteed. Government representatives must always clearly recognize that they have responsibilities which are not to be evaded and always recognize and protect appropriate legal referendum outcomes. The experience of now a century and a half of Canadian democracy has demonstrated that our system of free government functions best when the maximum degree of information is made available to the people. In fact, free and candid discussion of vexing problems is the bedrock of democracy and may be the surest safeguard for our electricity solutions.

The only thing wrong with our democratic process is the failure to use it.

The visionary people of the past always had rigid democratic convictions, while we now, in this day and age, appear to be just considered moderns with many options that do not fit into appropriate democratic practice. An example of this is the failure to recognize what, they call, "old referendums" and think wrongly that they have the authority to override a democratic vote of past Orillia citizens.

THE 1916 REFERENDUM TO SELL (OR NOT TO SELL) THE PEOPLES' ELECTRICAL ASSET

The, then, new provincial utility, **Ontario Hydro Electric Power Commission**, lobbied the Orillia council to purchase the Orillia electricity arm at the, then, very high price. The council, of the day, was somewhat in favour, but recognized that the only way to accomplish this sale was to place the approval to sell in a duly called citizens' referendum. The referendum vote took place on Monday, May 22nd, 1916 at which time, **THE CITIZENS OF ORILLIA, BY A LARGE MAJORITY, REJECTED THE SALE.**

The Orillia Peoples' Referendum is not unlike the great published decision in support of Brexit, Britain's June 23rd, 2016 decision by referendum to leave the European Union. The appellant Frank Kehoe can clearly recall other referendums relating to prohibition, conscription, conservation lands, the famous Charlottetown Accord of 1992, the naming of Thunder Bay, and Orillia's referendum vote in 1967 to permit the sale of beer and wine in licensed establishments that had previously been banned by a peoples' referendum 65 years prior.

Of the many law firms and lawyers that are involved in Energy Board 2016-0276, the appellant would expect that none have found a legal precedent nor law that can override a legal referendum voted on by the people. The council of the City of Orillia have ignored the legality of Orillia's referendum and chose to try to use a draconian amendment to the Public Utilities Act for their authority to usurp the Peoples' 1916 Referendum. This Act was described as one to achieve fiscal savings and promote economic prosperity through public sector restructuring,

streamlining, and efficiencies, and to implement other aspects of the government's economic agenda. The short title of this Act is The Savings and Restructuring Act (1996). This was where Section 67(1), a new section which was inserted without knowledge of many of the utility staff that were formerly set up **by and under** the Public Utilities Act. This single section was initiated at, or close to, the legislature Christmas break and was possibly pushed through without an explanation of its impact on the many other utilities that were set up by the Public Utilities Act.

ORILLIA 1913 REFERENDUM PRE-DATED THE PROVINCIAL PUBLIC UTILITIES ACT

In doing research on the origin of the Public Utilities Act pertaining to electricity, the appellant discovered that no copy of the original Public Utilities Act was available at the legislature library. However, in doing an up-to-date search at the University of Toronto Law Library, the librarian discovered a somewhat fragile copy of the original act and she delicately made a copy which was included in the documents previously forwarded to the board. The result of this extensive search clearly showed that the 1913 referendum of the people, that set in place the O.W.L.P., **pre-dated** the very first Public Utilities Act.

Two years after the passing of the Public Utilities Act the provincial legislature, in order to further protect the peoples' referendum included, as part of the **1915 TOWN OF ORILLIA ACT**, included the following: ***"Section 11(1) – subject to subsection 2, all the powers, rights and privileges with regard to the government of the Orillia Power Transmission plant or the generation, distribution and sale of electrical power and light heretofore or hereafter granted by any special Acts to the council or Corporation of the Town of Orillia shall, while the bylaw appointing such commission remains in force, be exercised by the Orillia Water, Light and Power Commission, and not by the council of the corporation."***

On October 9th, 1996, after the city engaged their law firm Russell, Christie, Miller, Koughan to see if there was a process to revoke Bylaw #557 – set in place by the 1913 Referendum. The legal opinion reads, in part: ***HOW TO REVOKE BY-LAW 557 (1913): The procedure for revoking all or part of By-law 557 is interesting. From what we know now, it would appear that the By-law could only be revoked (in whole or in part) in the same manner in which it was instituted, namely, by a By-law approved with the consent of the electors.*** This is supported by our attorney, Stanley M. Makuch, who is a renowned published municipal lawyer.

SOLUTION

The appellant clearly recognizes that the Ontario Energy Board and city council must operate under the rule of law and does not have the legislative authority to make nor overrule existing laws. In dealing with the sale of Orillia Power's distribution to Hydro One the board must recognize and take into consideration that Orillia City Council does not have the authority to override its own citizens' by-law that created the Peoples' 1913 referendum or the 1916 referendum that rejected the sale of Orillia's electricity asset without following due

process which requires that they first go back to its electorate for their approval. To do otherwise thwarts the law in place. Hence, the appellant feels that the decision of the Ontario Energy Board should be stayed until the city council can show, to the board, that they have obtained the legal authority, from its citizens to sell - or not sell - the distribution arm of the Orillia Power Corporation.

HYDRO ONE'S ABILITY TO COMPETE

It is the appellant's well-informed view that Hydro One, even in the best of circumstances, could never financially compete with the Orillia Power Distribution Corporation. Hydro One, with its massive debt, will certainly require significant future rate increases. When the former Ontario Hydro broke up and the legislature passed the Energy Competition Act of 1998, Ontario Hydro, that had just over 35,000 employees, broke up the organization into multiple companies, later to become corporations that operate paying corporation dividends to the province. The corporations that were formed were called Ontario Power Generation (OPG), Ontario Hydro Services Company, now renamed Hydro One, and the Independent Electricity Market Operator (later named the Independent Electricity System Operator), the Electricity Safety Authority, and the Electricity Financial Corporation. Some of these corporations formed additional corporations. For example, Hydro One Inc. incorporated Hydro One Networks Inc., Hydro One Remote Communities Inc., and Hydro One B2M Holdings Inc. Hydro One B2M Holdings Inc. further incorporated Hydro One B2M LP Inc. and B2M GP Inc. which formed the B2M Limited Partnership and Hydro One Brampton Inc. So, one can see that it is next to impossible to obtain exact debt figures from all of these corporations.

The Hydro One C.E.O. Mayo Schmidt ^{was} is the highest paid public employee at \$4.4 million in salary and bonuses (*Toronto Star*, July 13th, 2017). The salaries of the people making over \$1 million is part of the evidence placed in front of the Ontario Energy Board.

When Hydro One, or the province, introduced solar and wind power contracts, they did so using the private sector with many people and corporations from outside of Canada. Many of the solar contracts were given for 20 years at prices close to 80 cents per kilowatt hour with the province agreeing to buy all the energy that solar and wind produced. Hydro One had an over-abundance of electrical energy and had no choice other than to dump the surplus electrical energy to the U.S.A. at figures close to 0.02 cents per kilowatt hour while, at the same time, charging Ontario consumers 18 cents for their primetime usage.

In referring to Bonnie Lysyk, the provincial Auditor General's report in 2015, she stated that Ontarians have paid \$37 billion more than the market price of electricity over 8 years and will pay another \$133 billion extra by the year 2032. She also stated that Hydro One is in rough shape with ever-increasing numbers of power outages and aging equipment "at a very high rate of failing" that needs \$4.472 billion worth of repairs.

This situation has had a horrendous impact on the electrical consumers and there isn't any way that the Orillia consumers could possibly benefit from a sale of their distribution arm to Hydro One.

VALUATION OF ORILLIA POWER DISTRIBUTION

The appellant, with the assistance of professional and knowledgeable people, has devoted a great deal of time to attempt to arrive at a more realistic valuation of the Orillia Power Distribution Corporation. This valuation is next to impossible to assemble a complete document as the Orillia Power Distribution Corporation has refused to supply the distribution values that we, as former elected commissioners, had full and ready access to. The excuse for their refusal to provide us with this strategic information is based on the fact that there is no Freedom of Information applicable to Orillia's new corporations. Hence, the valuation that was provided is but a fraction of its true value. This partial evaluation, I'm sure you can appreciate, has taken many days to assemble and is based upon factual information and expert submissions and well exceeds a minimum figure of over fifty-five million dollars (\$55,000,000). The sale figure of Orillia council is \$26.3 million.

There is not a single item, in writing, of Hydro One's contribution to job creation for Orillians. Some members of council put their emphasis on Hydro One's pledge to lower their distribution (delivery charge) by 1% for a five-year period. The electrical consumers, themselves, should look at their electricity bill and assess what the average 1% delivery charge (distribution) on their energy bill means. For example: if the consumer's monthly delivery charge is shown to be \$30, they may have a savings of 30 cents. If it is as high as \$40, the savings would be 40 cents. So, the average savings would be minimal.

Orillia citizens should stand up with an obligation of contacting their ward council members to voice their concerns on the sale of the distribution arm of **their utility**. The time is right to insist that this critically important decision be placed with the electorate to decide this issue. Many citizens of Orillia think they don't have any power and that it's entirely up to our elected officials. This is not true. Council has to put this question to the people and the people have to make their opinion known. The electrical utility is owned by the Orillia electrical consumers and can't be sold without their approval. **This question SHOULD BE PUT TO THE PEOPLE IN THE FORM OF A REFERENDUM.**

The citizens of Orillia, and all of the electrical consumers have, in the past, put their electoral trust in the writer. And with this trust, the writer, a lifelong fifth-generation Orillian, feels he has a fiduciary obligation to work in the consumer's best interest, as a previously elected chairman and commissioner, who served Orillians, in an elected capacity, for 19 years on the Orillia Water, Light and Power Commission and 3 terms on city council.

**Material distributed to the attendees at the open council meeting June 1, 2016
by Frank Kehoe
dealing with a negotiation between Hydro One and Orillia City Council
and the position of the last elected members of the former OWLP.**

AND

**A requirement of a full vote of the electors (citizens of Orillia)
before any decision is ratified.**

The attached material is assembled from various materials that I had in my possession related to the distribution arm of the public utility. The purpose of assembling this material was to try in the early stages of negotiation to thwart this council from entering into an agreement that if ratified would certainly destroy the major portion of Orillia's greatest asset, the power utility.

Citizens of Orillia have always put their trust in their elected commissioners. As part of that group the writer has served the municipality in this capacity with three terms on municipal council and nineteen (19) years as a commission chairman and commissioner of the Orillia Water. The writer was the second longest serving commissioner, second only to J.B. Tudhope. I feel obliged to bring forward information that is crucial to the public understanding of what is at stake in even considering selling the distribution arm to Hydro One.

The key to future electricity rates hinges on Orillia's ability to attract and keep an industrial base and the needed jobs in our community. Should the council in some misguided way choose to accept an offer from Hydro One to purchase the distribution arm then that offer, before it is ratified, must go to the people in the form of a referendum to be voted on by the eligible electors. This is the same process as the former Orillia Water Light and Power was formed. If council feels they have a right to circumvent this process then I would expect the majority of the citizens will introduce a class action to squash any bylaw proposed or I personally and members of the former commission may fund this legal challenge.

A former long time member of council commented to me on the MURF to say that there was no problem paying the massive cost of it as the sale of the Hydro Distribution would greatly off-set this cost. I firmly hope that this important issue is not in any way related to the MURF.

Citizens reading the material will be somewhat shocked to find that in paying their municipal tax bill it does not represent their total taxes. In addition to their municipal taxes they also will be contributing upwards of \$200.00 yearly on their hydro bill. For renters and fixed income citizens this added portion of their hydro bill becomes a serious burden.

Everyone is aware that there is no more OWLP. The utility is now broken up into three corporations with one or more appointed boards. As in the former item this was brought about by the province in amending the Electricity Act forcing the commissions across the province to now operate under the Corporations Act. There never was any reason for this change other than to put aside all transparency. Under the Corporations Act everything is now closed to the public unlike the rest of municipal processes where there is freedom of information for customers to access information. The three corporations must now operate in secrecy so an individual consumer can no longer track major expenses or transactions or have access to salaries and expenses of employees and board members.

In observing your provincial utility a great deal of press has flagged that the rate for Ontario consumers is among the highest in all North America and that there is a huge surplus of power that has to be discarded at ridiculously low prices. For example Hydro One's costs are something close to 14¢ per kWh and they must unload this surplus anywhere from 1.2¢ per kWh to 4¢ per kWh to US utilities. Ontario's industry that depends on reasonable cost for electricity are in all likelihood pulling up stakes in Ontario and relocating south of the border. The rationale for the surplus of power is related to the huge influx of private sector generation related to solar and wind turbines. The utilities across the province were not initially given this opportunity so it became strictly a private sector program. In the early years an individual or corporation could make application to Hydro One to construct such a facility and they would receive a firm contract for a 20 year period to purchase all of the power produced at 80¢ per kWh. So if you were an individual owning a qualified piece of land you could then go to the bank and borrow a million dollars and in a little over a month, after purchasing and installing the required equipment, they would be in business. A great number of people located both inside and outside of Canada made this investment and in a five year period the bank loan would be paid off and they had full ownership with a sweetheart return for another fifteen years. The cost of this over-supply of electrical energy I believe amounts to 1.6 billion dollars (sixteen hundred million dollars) twice a year. The interest is added to Hydro One's massive debt and transferred to you the consumer in the form of a rate increase. Many of the hydraulic plants are at present shut down and the water wasted by opening the dams.

Back in 1995 the Province set up the Advisory Committee on Competition in Ontario's Electric System. This was chaired by the Honourable Donald S. MacDonald. The utilities in our region met on several occasions and discussed how best to make recommendations to streamline and merge a number of utilities. I was the Chairman of the OWLP at the time and a day before I left on vacation the Chairman requested a move-up of the appropriate deadline. As both the Mayor and one member of the Commission were out of town I could not assemble the meeting that would be within the deadline set. I wrote the attached material based on previous discussion with other utilities on the plane going to Hawaii and faxed the material for staff to include in the presentation. As this matter directly relates to the selling of the distribution arm I am attaching it to the other materials. Since there is a mention within this material of a former altercation with Ontario Hydro I am including this as well. This was one of many altercations that the utility had with the former Ontario Hydro over the years. My attached letter with additional material was adopted in the Advisory Committee's Report. The legislature accepted the report however they sided more with the provincially owned utility Ontario Hydro. As a follow up the utilities formed alliances, a copy of many of these alliances were included in a letter of mine in The Packet January 2016. The purpose of these alignments meant that the utilities mentioned would continue their ownership but if required they could always, if a better process became available, terminate their alliance in future. There were huge financial advantages to these alliances and in the opinion of the writer they should have taken place by the now appointed board of directors as opposed to even considering selling off and crippling our Orillia utility and its future ability to again offer low electrical rates to its customers.

The additional material is a chronological condensed history of the utility, materials related to the provincial hydro salaries, comparisons of Ontario rates to other provinces, newspaper clippings that are self explanatory, letter sent to city council dated November 19, 2015, disclosure document to council November 19, 2015, a portion of the Public Utilities Act related to the vote of the Orillia electors who voted for the separation of electricity away from council, items 37(4) and 37(5) and 38(3) and 38(5) and 38(6) and 39 of the former Public Utilities Act, and the Municipal Act that eliminates freedom of information.

Respectfully Submitted
Frank Kehoe

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22 - 23	Letter addressed to Orillia Mayor and Council November 19, 2015
24 - 32	Disclosure document to Orillia Council dated November 19, 2015
33 - 36	Photocopy of the Public Utilities Act with sections marked that prior to dissolution backed Orillia's 1913 referendum
37	Copy of the Ontario Municipal Act that freedom of information is not applicable

(1)

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January 24, 1996

Hon. Donald S. Macdonald, P.C., C.C.
Chairman
The Advisory Committee on Competition
in Ontario's Electricity System
40 St. Clair Avenue West, Suite 401
Toronto, Ontario M4V 1M2

SUBMISSION

Mr. Chairman and Committee Members:

I am faxing this submission and sending 10 copies under separate cover. Presently I am on vacation in Hawaii and was not aware of your deadline until the day of my departure. Being unable to assemble the Orillia Water Light and Power Commission until after the deadline for submission, consider this letter my personal position and not necessarily the position of Orillia's Commission.

Staff were requested to prepare a more detailed position relative to the distribution function to be forwarded to your Task Group in order to meet the deadline. I have received this by fax today and have given my approval as have the other Commissioners.

However, by this letter, I am requesting that the Orillia Water, Light and Power Commission be afforded the opportunity to formally meet with your Task Group in either the scheduled Peterborough or Toronto meetings.

MY PERSONAL POSITION SHARED IN PART BY THE MAJORITY OF ELECTED PROVINCIAL COMMISSIONERS

Three and a half years ago at the annual meeting of District 2 of the Municipal Electrical Association, I voiced my concerns to the most senior executive, that industry in Ontario could not in this economic downturn take the outlandish, announced increases and if senior managements did not recognize this then a portion of Ontario's industry would be forced into bankruptcy or as seen, relocate south of the border. From the podium, the President's reply to me and the full group of represented utilities was that "all is 'OK', the bonds are still selling." I knew then what I had long suspected that Ontario Hydro was out of control.

Personally, I wrote every newspaper and radio station in the Province (see attached letter to the editor). The media coverage of these conditions and the public's reply prompted the Legislature to try to direct Hydro to bring costs under control. The N.D.P. government, on a separate issue, gave the Power Workers Union more power in dealing with Hydro management which had the unfortunate effect of blocking many of the necessary changes in many areas. Fortunately, the Conservative government

have now made the right moves to level this playing field with the retraction of labour Legislation.

Ontario Hydro have made some progress in downsizing but stopped short of meeting the appropriate numbers relative to other well run utilities. The salary ranges well exceed the private sector and are almost twice that of private utilities south of the border.

UNBUNDLING ONTARIO HYDRO

A recommendation to dismantle an out of control monopoly weighs heavy, however, to leave it in place effects to a large extent, hundreds of thousands of existing jobs and the future growth of Ontario's economy. The wherewithal to carry on in Ontario Hydro's place already exists in municipal hydro organizations. The political will to do what must be done, will in a large part, be determined by your Committee's recommendation and the timing of a smooth transition to a workable solution.

NOT A SOLUTION

The proposal to break Ontario Hydro into ten or more business units, each taking over the roll of municipal utilities is one that should not ever be a consideration. This would be the tail wagging the dog. The result of the idiocy of a move of this nature would forever be the demise of low power rates. Hydro could not now or ever compete with the private sector, let alone be compared to a well run small to medium size public utilities. Any consideration of this matter would defy business logic.

PRODUCTIVITY OF HYDRO

The productivity of Ontario Hydro amounts to only a fraction of the productivity of well run utilities. This in many cases is not necessarily the fault of the men or women in question but the fault of the union and its stewards who will not let the men or women under their control be productive. The salary ranges are a third above utilities. The ratio of employees to customers I would estimate to be 40% higher in all but heavy urban areas which is almost certain to be higher again. (See comparison productivity studies).

THE ONTARIO HYDRO MONOPOLY MUST BE BROKEN UP

It is the writer's opinion that Ontario Hydro has been so mismanaged over the last two decades that management cannot comprehend the damage of high rates and the contributory roll that low electrical rates play in getting Ontario's economy rolling again.

ONTARIO HYDRO'S NEW ROLL

It is my recommendation that a new Ontario Hydro would be responsible only as a wholesale entity and be forced to compete on a cost basis to the grid corporation. Hydro would be the organization responsible for the export of electrical energy within the rules of N.A.F.T.A. The full retail responsibility would be handed over to the expanded municipal utilities. The generation, other than nuclear, be sold to municipal utilities, with the large plants over 100 MW going to the grid corporation, or in the interval,(rented not sold), to the private sector for its operation in direct competition on the grid. The research labs and equipment be assigned to the Universities, etc.

I do not believe it is possible to recover even 20% of the investment made in the nuclear power plants nor would I believe that any private sector organization would be remotely interested in these nuclear investments. For this reason, Ontario Hydro should continue to run the plants and market the energy on the grid together with looking for new and expanding markets south of the border. The smaller hydraulic plants should be sold off to municipally owned utilities who are prepared to refurbish and operate them. The larger hydraulic plants should be, for the time being, operated by Hydro or transferred to the grid corporation, or barring this, contracted and leased to the private sector to compete on the Provincial grid with a lease period of 40 to 60 years. The thermal plants that meet environment standards should be first offered for sale to municipal entities, or barring non-acceptance, be leased to the private sector.

THE WHOLESALE COST OF ELECTRICAL ENERGY

Ontario Hydro's costs to produce energy amounts to about 4.6 cents per kilowatt which is approximately 1.1 cents higher than it should be. Hydro sells a portion of energy to its direct customers at well below its cost. The remainder of usable energy is sold to municipal utilities at 6 cents to 6.5 cents per kilowatt. The utilities with 12,000 or more customers or large industrial users can at present purchase gas turbine units using aircraft engine technology and natural gas on a fixed long-term contract basis and produce the same electrical energy at 4 cents per kilowatt. If there is a steam host it could go to a combined cycle unit and lower the cost to 3.5 cents per kilowatt.

THE MONOPOLY PREVENT PROGRESS

The sole reason that more of gas turbine technology is not used is that Ontario Hydro, with its monopoly and massive surplus of energy, dictates a massive stand by charge when the gas turbine unit (less than 2% of the time) is taken down for service. If the monopoly were taken away from Ontario Hydro, municipal utilities, large hydro direct customers and the private sector could advantage themselves of this cheaper power and then there would be even a greater surplus of energy in Ontario for possible export to the U.S.A. The consumer will benefit greatly from lower rates which should in turn attract new industry and make existing industry more competitive.

THE GRID SYSTEM

The ownership to the grid system by the municipal utilities should be vested with the customers proportionally on their use of the grid. The wheeling charges and the buying and selling of energy should be by a private or crown corporation owned and controlled by the utilities under the direction of the Energy Board. The grid system should be that portion above 44,000 volts with some exceptions. The rates set by the grid company and Energy Board should reflect as close to power at cost, taking in consideration redevelopment and maintenance cost with all contracts for this service awarded to the private sector.

NEW ROLL OF MUNICIPAL UTILITIES

Recognize that the present number of utilities are far too many to take advantage of efficiency of operation and the inherent savings related to efficiency. The new boundaries must take into consideration not only the political existing boundaries but the size and location of energy producing plants, the transmission station locations and distribution systems, etc.

A CO-OP APPROACH

We in Orillia have had dialogue with other municipal utilities and township councils in our area and as a result of preliminary discussion, we find that a cooperative approach to arrive at maximum efficiency is a possible solution without having to give up political control. This approach would mean that within a co-op, the rates would vary as they do now. For this system to work in taking over Ontario Hydro's former rural distribution area there would have to be assurance that the existing rural rate structure of Hydro's four rates would be transferred to the utilities. Some, but not all of Ontario Hydro's personnel and equipment would be transferred to the new co-op providing they accepted the terms of transfer.

ONTARIO HYDRO'S 35 BILLION DOLLAR (35 THOUSAND MILLION DOLLAR) DEBT

The major portion of adjusted debt related to the nuclear plants with some leeway for proportionate adjustment would continue to be the responsibility of new downsized debureaucratized Ontario Hydro under the direction of the Energy Board with the ownership reconfirmed as the electrical customers of the Province of Ontario. The remainder of the debt related to the purchase of the grid and other assets, together with stranded assets, be paid for from the purchase by municipal utilities and the private sector based in part by depreciated costs. The remainder and major portion of debt be paid by the customer based on the metered cost of energy consumed. The end result of this process will result in an almost overnight reduction of rates to the end user.

BACKGROUND OF ORILLIA'S POWER SYSTEM

Orillia is historically unique as it has been producing Municipally owned Electrical Energy to its customers and shareholders for 108 years. Orillia's first hydraulic plant went into production in March of 1902 which was the second and the then largest municipally owned hydraulic plant in North America. Orillia in 1902 pioneered long distance transmission of electrical energy. Officials of Orillia assisted Sir Adam Beck in the negotiation and purchase of Hydro Electric Power Commission's first hydraulic plant at Big Chute. Orillia transported over its high tension lines the electrical energy from H.E.P.C. first constructed plant at Wasdell Falls. By special order in council, Orillia was granted the right to service its customers outside the municipal corporate limits for a 25 mile radius.

Orillia presently owns three hydraulic plants located at Swift Rapids on the Severn River, Minden located at Horseshoe Falls on the Gull River and Matthiasville on the South Muskoka River. There are four large diesel generators located in Orillia. Four additional sites are allocated for future development. Orillia was self sufficient in its electrical energy for the greater period up to the 1950's.

The Orillia rate payers rejected, by referendum, the selling of its plants to H.E.P.C. From its inception, Orillia stood as a model of efficiency that a large monopoly like Hydro could not statistically compete with.

Since inception, Orillia has at one time or another, held the record of cheapest electrical rates in North America, the first organization to generate and transmit power over long distance, the brightest lit main street in North America, and at present, stands as one of the best technologically equipped power producing organization in Ontario.

Immediately after the Legislature put a stop to Hydro's spiraling rate increases Orillia

led the Province of Ontario in rate reduction by passing on an average of 7% across the board decrease in power rates. In December we again paid out a dividend of a further 5-1/2% to all our customers. No utility in the Province came anywhere close to this record. Within this calendar year all plants will be completely refurbished and fully-automated.

The Orillia utility is completely free of debt. Orillia has the second lowest municipal power rates in Ontario, second only to Ft. Francis that purchases its power by a political agreement involving other things outside of power from Boise Cascade.

ORILLIA'S GOAL TO BE SELF-SUFFICIENT IN ELECTRICAL ENERGY

It is Orillia's intent to be again self-sufficient in electrical energy. It is my fervent hope that the existing obstacles preventing this can be cleared by your Committee's recommendations to the Legislature.

In conclusion, I wish to state as a citizen of the Province and as a long time elected Hydro Commissioner dating back to 1964, I have shared the belief of other commissions and citizens at large that Ontario Hydro ownership is with its customers and not the corporation or even the Legislature. Ontario Hydro's only goal was to supply power at cost. In less than two decades this concept eroded to the situation that we are now in. I further recognize that the private sector would appear to be cheaper, but in considering that the private sector would be subject to tax and would be required to pay a large dividend to its shareholders, any savings would soon be eroded and the associated cost of electrical energy would escalate.

Once the assets are sold to the private sector then the customer is the loser and future generations do not have the means or wherewithal to put it back in public ownership. Hydraulic power plants do not depreciate, except on the books. They must be looked at in terms of their money making capabilities to hold rates down. It must also be considered that Sir Adam Beck III must be developed or the consumer will lose this opportunity to American interests. This should be addressed as part of your recommendations.

The expansion of utility boundaries to absorb Ontario Hydro's rural territory is a part of the answer.

Let's enter the 21st century with the renewed goal of power at cost and legislate so as never to have out of control monopoly.

Yours truly,

Frank Kehoe

Letter to the Editor

The selling of Orillia's Hydro distribution arm to Hydro One is unconscionable.

The mismanagement of Hydro One over the past four decades must be a concern for Orillia citizens. If Hydro One gains control of the OPC distribution arm, there is a real risk that they will resell it to profit corporations so as to help to reduce the provincial deficit. Once sold there is no opportunity to ever regain any control over Orillia's greatest asset.

To the best of my knowledge, the negotiating group has never asked for an RFP (request for proposal) for anyone outside of Hydro One. The logical people that have a direct municipal interest are an organization called **Power Stream** that includes Barrie, Vaughan, Richmond Hill, Markham, Aurora, Penetang, New Tecumseh, urban portions of Tottenham, Beeton, Alliston, Bradford, West Gwillimbury and Thornton. In addition, they are a 50% owner of **Collus Power Stream** which includes Collingwood, Staynor, Thornbury and Creemore. Any merger with the aforementioned would give a tremendous economy of scale and in the negotiation would allow Orillia Power the right to disengage and not inhibit additional generation.

There is one other merger in process which I believe includes Mississauga, Brampton, Hamilton and St. Catherine's.

For Orillia to negotiate with Hydro One without having other RFP's makes no financial sense as the other mergers do not involve any direct sale and the Orillia Power without restrictions would stay intact.


Frank Kehoe

Nineteen year chairman and commissioner of the former Orillia, Water Light and Power (OWLP)

This January letter to the Editor in the Packet and Times did not include the fact that ownership to the distribution arm while merging with the afore mentioned would still be owned by the Orillia Utility and would represent a huge saving to it's customers.

Ontario Hydro out of control

6

To the editor:

The Ontario Hydro organization and its associated costs are out of control and operating well beyond its original mandate of supplying electric power at cost.

As a member of a municipal hydro system, it is my hope that the public and the media will let Ontario Hydro know in no uncertain terms that their escalating rate increases to cover these and future inflated costs will no longer be tolerated.

At a recent meeting of municipal and Ontario Hydro officials, executive members of Ontario Hydro announced that there will be a double digit increase in the wholesale cost of electricity and that electricity customers can expect more double digit increases commencing as early as next year.

Ontario Hydro has announced an average rate increase of 11.8 per cent for 1991, on top of 8.6 per cent for this year. This increase is the tip of the iceberg.

The public must become aware of Ontario Hydro's present policies which put an added strain on the economy by increasing costs and which will undoubtedly encourage increased movement of industry south of the border. These policies will also force smaller companies into receivership, increase farm costs, not to mention, the effect on individuals, rural and urban residential customers living close or below the poverty line.

Ontario Hydro is grossly overstaffed in senior and middle management categories attributed in part to the empire building that took place in the 1970's and 1980's. To be efficient and in line with organizations in the real world, Ontario Hydro should have less than half the number of employees in its head office and geographic regions.

This utility appears reluctant to implement the recommendations of the CRESAP report or even consider the cost cutting recommendations of the Ontario Energy Board.

For years Ontario Hydro marketed and promoted electricity with horrendously expensive media marketing techniques so as to encourage the use of electrical energy.

The reverse is now the situation, as Hydro's new plan is conservation to encourage, even financing a switch to gas from electric heat.

This new 2.7 billion dollar plan is geared to try to save power equivalent to the output of six Darlington size reactors by the year 2000.

Ontario Hydro is planning a large public relations program to try and sell this conservation as well cushion the rate increases required in part to promote it.

The first public relations program involves 100 transport truck loads of light bulbs. Ontario Hydro plans to mail through Canada Post, a package of two 52 watt light bulbs to 3.6 million Ontario households together with coupons that will subsidize the purchase of compact fluorescent and halogen bulbs from selected firms.

The people who are not in the front line who dream up these programs are obviously not experiencing the effects of the recession, or seeing the

suffering and hardships of many of the electrical customers.

This type of program is an insult to the intelligence of Hydro customers whose increased rates will be used to support this obviously transparent subterfuge.

Surely, an 11.8 per cent increase in itself an incentive to save.

The goal of power at cost was the founding principle of this utility under the chairmanship of Sir Adam Beck in 1906.

This goal is not being met in view of the following facts:

Ontario Hydro's debt as of June 30, 1991 is 30 billion, 547 million dollars. (30,547,000,000.00) Compare this to the Province of Ontario's debt 9.7 billion dollars or Canada's National Debt of 400 hundred billion dollars. (One billion dollars equals one thousand million dollars.)

Ontario Hydro has 35,846 employees on staff (end of August, 1991). Many are paid at wage levels higher than 20 per cent over the private sector.

Executive salaries listed below are totally out of line in comparison to the public service and do not include the many fringe benefits, cost of limousines and chauffeurs, foreign travel, etc.

To be efficient and in line with organizations in the real world, Ontario Hydro should have less than half the number of managers and something over half of the number of employees in its head office and geographic regions.

The wage scale excluding benefits for Senior Executives per annum are as follows: Chairman - \$352,000 to \$528,000; President - \$257,000 to \$386,000; 13 Vice Presidents each at \$124,000 to \$292,000.

Poor financial forecasts have forced management to use and partially deplete reserves.

In business since 1906, Ontario Hydro has a debt of 84 per cent, meaning of all its assets, only 16 per cent are debt free. How is this going to be paid by an aging population?

Ontario Hydro gave pension settlement to its employees giving them indexed pensions at a cost of \$228 million dollars.

Ontario Hydro (June 17, 1991) renegotiated its uranium supply contracts with Rio Algom Ltd. at a cost of \$160

million dollars. (approximately \$30 per pound which is \$20 per pound over uranium available from Saskatchewan.)

Ontario Hydro agreed to provide \$65 million to the Northern Ontario Heritage Fund to fund economic diversification to Elliot Lake and Blind River in retiring their municipal debt.

Ontario Hydro is to spend \$25 million on hydraulic contracts in Elliot Lake area which were low priority items in their original plans.

Ontario Hydro has spent approximately \$25 million on intervenor funding for its environmental assessment of its 25 year plan.

The Darlington Project was estimated originally at \$2.07 billion. The cost is now estimated at \$13.5 billion and rising. Would this happen in the private sector?

Darlington is "probably the biggest management screw-up in the history of Canadian Industry," said utilities analyst Tom Adams of Toronto's Energy Probe Research Foundation.

The current cost estimate is an increase of 4.7 per cent from the \$12.9 billion, 1990 forecast.

Darlington has turned into a massive sinkhole for Hydro spending. Its current price tag is more than 380 per cent greater, in real dollars, than the original estimate - and is still climbing. "The cost overrun on Darlington has been staggering, and is getting worse all the time," Adams says.

It would fill this newspaper if I were to list the waste and poor management decisions made by this utility.

When challenged by the writer, the sarcastic answer received from a Hydro Vice President was "The bonds are still selling".

After I pointed out the disastrous results that this out-of-control utility was contributing to the recession and the people's ability to pay, Allan Holt, President of Hydro responded that there is no intention to privatize any part of this organization.

Prior to writing this letter, I faced the fact that either I could sit back and do nothing or attempt to protest but I knew I would be powerless to initiate major changes without the power of the media and the public.

I have no affiliation with any provincial party, nor am I affiliated with any other group such as Energy Probe, Green Peace, etc. I am acting unilaterally and personally paying all the costs related to this letter to all the media.

By way of this letter I solicit through the media; you the energy consumers, individuals, businesses, municipal councils and municipal hydro commissions to write, telephone or fax your elected representatives in the Provincial Legislature with a copy to the Premier of Ontario and Chairman of Ontario Hydro, requesting them to bring this essential utility back to realistic control.

Without your help your Municipal Hydro Commissions are powerless to absorb any of the increase or the predicted 44 per cent increase over the next three years.

Frank Kehoe, Commissioner
Orillia Water Light and
Power Commission

A Chronological Condensed History of Orillia's Extraordinary Hydro Electric Utility and its Council-Controlled Demise

In November, 1898, Orillia Town Council had a public meeting to discuss a hydro generation proposal and present the facts such as:

1. To build a hydraulic generation plant, Orillia, if approved, would be only the second town in Canada to build a water powered generation plant with municipal ownership
2. Orillia would have to be a pioneer in long distance transmission as no other power plant in North America had ever tried such a feat and there was a strong possibility that this long transmission of 18 miles may not even work as planned
3. Orillia would be one of the first towns to introduce, in concert, street lighting powered by water generated electricity

In February, 1899, Orillia held a plebiscite and the people endorsed the proposal to build, on their own, a dam and power plant at Ragged Rapids on the Severn River and clear and build a transmission line through bush for 18 miles to Orillia. **86.7% of the electors gave positive support** to this proposal. The debentures for the project were to be all paid for from the generation revenue so as not to create a large tax burden on the people of Orillia.

When the proposal was presented to the Provincial Legislature they all laughed at the proposal, but at the same time, commended the town for its courage. The Provincial Secretary, Sir John Gibson, warned that the cost estimate of \$125,000 was much too low. However, legislative approval was given to Orillia. The plant was constructed at a cost of \$123,000 and Orillia took possession March 25th, 1902.

Four years later the Province of Ontario set up a crown corporation which was to be named the Hydro Electric Power Corporation (H.E.P.C.), referred to later as Ontario Hydro, to generate and sell power at cost. The C.E.O. of this project was Sir Adam Beck.

The town initially operated the plant, however, new councils decided that there should be little or no contingent funding, nor budget established for planned maintenance. The council then utilized these contingencies and profits for other non-related projects such as reducing the municipal tax burden.

In 1912, with an outcry from industry related to the mismanagement and the high number of outages of the generation, the town elected industrialists that included J.B. Tudhope and Erastus Long and other small industry leaders who recognized that the power asset, to work effectively, must be removed from council control. This new council then prepared a permanent bylaw to be approved by the citizens of Orillia and they ordered a referendum to decide this issue. On January 26th, 1913, the referendum passed to create a separate elected commission (corporation), free of council, to administer and run both the electricity and water. This was endorsed by

65.8% of the electors and became the peoples' Bylaw 557 forming the Orillia Water, Light and Power Commission that could not be changed, nor amended without approval by another referendum by the people.

In 1914, with the construction of the north branch of the Trent Canal, the Federal Government weighed the cost of bypassing the Ragged Rapids plant through a massive rock cut or, alternately, relocating the Orillia Power Plant downstream to Swift Rapids. With much negotiation with OWLP, the federal government chose the latter.

The Province of Ontario, in the Town of Orillia Act, 1915, brought in legislation and under Section 11 of the Act included the following:

"11(1) – subject to subsection 2, all the powers, rights and privileges with regard to the government of the Orillia Power Transmission plant or the generation, distribution and sale of electrical power and light heretofore or hereafter granted by any special Acts to the council or Corporation of the Town of Orillia shall, while the bylaw appointing such commission remains in force, be exercised by the Orillia Water, Light and Power Commission, and not by the council of the corporation.

11(2) – Nothing contained in this section shall divest the council of its authority with reference to providing the money required for such works, and the treasurer to the municipality shall, upon the certificate to the Commission, pay out any money so provided."

Ontario Hydro, in 1916, lobbied the Orillia Town Council to sell the electrical assets and the Swift Rapids Plant. The council looked on this as being a large financial win fall and they commenced to finalize an agreement to sell these assets to Ontario Hydro.

The Orillia Water, Light and Power Commission advised town council that they did not have the authority to negotiate nor transfer these assets without first going to the electors, which was the intent of Bylaw 557. and to any attempt to do this transfer, without the approval of the electorate, would be illegal. The town council called another referendum on May 22nd, 1916 and the electors responded to this by a majority of **86.7% who voted not to sell the assets.**

In 1934, a third referendum was called for approval of O.W.L.P. to build a second generation plant at Minden and a power line to Orillia. The referendum covered a smaller plant (Minden #1) with having the rights to build a large plant at a later date to accommodate Orillia's population growth. The commission requested and received provincial approval and the Minden #1 plant, on the Gull River. The referendum was **approved by 95.45%** by the electors on July 20th.

A third hydro generation plant was voted on and approved on the South Muskoka River at Mathias. The plant was officially opened on July 6th, 1950 by Leslie M. Frost, Premier of Ontario whose father was a council member who initiated Bylaw 557 in 1912.

By 1952, with the industrial growth and larger population, there was a need to bring on additional Orillia generation. When this was contemplated and announced, Ontario Hydro

intervened and ran radio interviews, newspaper ads and editorial comments to attempt to prove that the Minden Plant #2 could never compete with the surplus generation now available in the Ontario Hydro system. Thousands of dollars was spent by Ontario Hydro to lobby the people of Orillia to vote against the project. On September 14th, 1953, the electors of Orillia, with lobbying from Ontario Hydro, voted against building Minden Plant #2 by a **small majority of 52.2%**. In hindsight, millions of dollars were lost to Orillia in not building the second Minden plant. It is worthy to note that Sir Adam Beck, who was now deceased, was always an ally of Orillia. But the new Ontario Hydro management had taken a different tact when dealing with the town.

As Orillia could no longer supply 100% of the supply required to tool its industry and customers, Orillia Water, Light and Power were forced to join the Ontario hydro bureaucracy under a long term contract that dictated new, and somewhat impossible, rules that the elected commission must operate by. These rules governed that the money the utility was able to borrow, denial of contingency funding, and not permit reserve accounts for additional generation. All expansion of Orillia's power system had to be approved by them and, if approved, come from borrowed money.

Despite all of the bureaucratic operational dictates flowing from Ontario Hydro, Orillia Water, Light and Power, prior to and through the duration of the hydro contract, had a unique history:

- From 1902 to 1907, the cheapest power rates for all of North America
- From 1908 to 1924, the cheapest power rates in all of Canada
- From 1925 to 1990, with the exception of a 6 year period, the lowest rates in Ontario, which, of course, included all Ontario Hydro customers.

During and at the end of World War I, with the town's electrical energy surplus, a massive number of industries moved into Orillia so that citizens could boast that Orillia had more industry within its borders than all of the remaining municipalities within Simcoe County.

In the early twentieth century Orillia had, for many years, sold its surplus electrical energy to H.G.P.C. for ridiculously low prices - from 1/16th of a cent to 1/3rd of a cent per kilowatt hour. This greatly assisted Ontario manufacturing sector throughout World War II.

At the time of the construction of the TransCanada Pipeline in Orillia Township (now Severn), Orillia Water, Light and Power, looking into the future, negotiated a possible hook-up on the high pressure side of the gas line and purchased a block of land abutting the pipeline at a location identified by pipeline officials where they would possibly, in the future, locate a boosting station. O.W.L.P. then located a sub-station on the adjacent property hoping, in future, to build a gas turbine unit or partner with TransCanada Pipeline for this additional generation.

Bill 35

When Bill 35 was introduced it was looked on, in part, as a sham which protected the then out-of-control provincial hydro utility saying that it would introduce competition and level the playing field between municipal utilities and their provincial counterparts. As the legislation

advanced the O.W.L.P. wanted to expand its operation and take over the Coldwater (Severn) and Brechin Utilities. When O.W.L.P. negotiated this purchase the provincial utility stepped in and increased the price, well above its value, and acquired both utilities as they did with the majority of the smaller utilities throughout the province. **So much for leveling the playing field.**

With Bill 35 the then mayor, Ken McCann, with the approval of council, set up what he called "The Transition Committee" to deal with the legislation. The commission trusted that this committee would not impact on the processes in place with the elected commission and would act appropriately within the intent of Bylaw 557. The elected commission were told that this legislation was a mandatory provincial act and all commissions in the province must adhere to this new process and that the O.W.L.P. Commission had little to no involvement in the process other than to accept that the council, under the legislation, were in charge of incorporating three new corporations that would now act in place of O.W.L.P. and the council was empowered to appoint representatives to act in a similar manner as the present elected commission.

Using secrecy, deceit and misinformation and, on occasion, outright untruths to the elected commission, so as to distort the process keeping commission members improperly informed and not including the commission as part of the process was morally wrong. The Transition Committee made no mention that the Orillia Water, Light and Power Commission was a corporation that the legislation of the Electricity Act (1998), Section 142 empowered the commission as a corporation to form the separate corporations and partner with council to negotiate an acceptable bylaw replacing the O.W.L.P.

Fourteen years later a commissioner, after being given, by accident, a copy of the April, 2000 Transition Committee report started doing research. Part of the research was looking at the bylaw council had enacted (Bylaw 2000-144). The new city bylaw was an out-and-out betrayal of the intent of the peoples' Bylaw 557. The council, in the bylaw, named council the only agent of the shareholders and created massive debt on the books from the former O.L.W. P. **It is ironic that the O.W.L.P., at the time of the alleged transfer, was completely out of debt and had cash and recoveries of just over \$7 million.** With one resolution of a former council, as written in the minutes of the regular council meeting dated April 17th, 2000, **while Bylaw 557 was to prevent any council interference**, the council decided, on their own, to proceed on the council's transition committee's recommendations. There were 13 recommendations adopted by unanimously council in a recorded vote. **The council members were: Shaw, Spears, Gardy, Morano, Evans, Lauer, Kirby, Buchanan and McCann.**

With one vote, that would become their unfortunate legacy, nine members of council in violation of Bill 557, set in motion the ultimate destruction of the Orillia Water, Light and Power Commission and, what was always to be at arm's length of council control, and answerable entirely to the citizens of Orillia by way of referendum, now became a highly revenue generating department for the city who was now able to take their profits at will and take back full control over the assets.

For 87 years the Orillia Water, Light and Power Commission operated as a corporation independent of council. **The commission was owned by the municipality (citizens of Orillia) and the O.W.L.P. was answerable directly to the citizens.** The commission meetings were

open to all citizens and the operation and all finances were audited annually and this audit was always made available to all Orillia citizens. The press attended most meetings and kept the citizens of Orillia well informed.

During the course of the 87 years operating under the name of O.W.L.P., the commission (corporation) was considered Orillia's greatest asset. Within the planning scope, that was soon to be implemented when monies became available, some of the projects were as follows:

1. Building Orillia's own Transmission Station

The commission was paying a much higher wholesale rate for energy purchased from Ontario Hydro that the cost could be reduced if the commission were to build its own transmission station and take its power directly from Ontario Hydro's 230,000 volt line instead of purchasing the power at 44,000 volts from Ontario Hydro's transmission station. The pay-back on this transmission station, if Orillia was to build it, would be less than ten years and at a cost in the range then of \$1 to \$1.5 million and would serve Orillia for many years and for any future annexation.

2. O.W.L.P. Growth Potential on Additional Power Sites

O.W.L.P. had the provincial legislation in place and the flood rights to three additional power sites:

- a) Minden #2 at Horseshoe Falls
- b) Cooks Falls on the South Muskoka River
- c) Crozier Falls on the South Muskoka River
- d) Sandy Gray on the Musquash River

The O.W.L.P. had spoken for generation sites at Farm Rapids on the Magnetewan River consisting of 5 additional power sites where the civil engineering costs of building dams (power stations) were advantageous. Negotiation had commenced with the First Nations and agreement could follow.

Ontario Hydro offered little to no care of how they operated their plants downstream from Orillia's Mathias Plant on the South Muskoka River. In order to increase capacity Orillia was prepared to purchase and redevelop these plants. Ontario Hydro, starved for energy, could have been forced to either develop them properly or sell them to Orillia Water, Light and Power.

Had the Bill 35 transfer been done in an honest and appropriate manner then certainly, by this date, the utility would be sitting with both a surplus of debt free energy and adequate reserve for the future, as well as paying dividends back to its shareholders, the municipality (the people of Orillia). All would benefit and the utility could continue to attract industry.

The Council's Transfer of the O.W.L.P. Assets into Three Corporations

It is important to recognize the effect that this transfer had on the people of Orillia. The council enacted the Bylaw 2000-144 and broke up the former assets of Orillia Water, Light and Power into three corporations, which was a requirement of the provincial legislation. But since O.W.L.P. was a corporation, they could have, if they had known at the time, set up these corporations so as to remain arm's length from council, as Bill 142 permitted it. This would then involve direct negotiations between the O.W.L.P. commission and city officials to jointly construct a bylaw that would still have abided by the provincial legislation. This did not occur as council had another confidential agenda and did not have any discussion, whatsoever, with the elected commissioners.

The new corporations, approved by council in Bylaw 2000-144, were as follows:

- 1) **Holdco**, the administrative arm, which would be a somewhat of a puppet of council, responsible for applying for rate increases and work through the Ontario Energy Board so as to produce as much revenue from rates as possible directly back to council
- 2) **Distco**, the corporation responsible for the distribution of hydro (the wire's company)
- 3) **Genco**, which would administer the power generation arm

When these three corporations were set-up, the certificates are all dated October 26th, 2000. There is now a name change from Bylaw 2000-144 to Orillia Power Generation Corporation (Genco), Orillia Power Corporation (Holdco), and Orillia Power Distribution Corporation (Distco). The corporation numbers are: 1446921, 1446922, 1446923.

To deal with this topic it is necessary to repeat that, at the time of O.W.L.P. was being dissolved, there was **\$7+ million in the bank and receivables, with absolutely no debt**. The elected commission has no idea as to where the money disappeared to, and with the disclosure clause, cannot get any answers. So what happened in this transition is that the city created debt and **Distco was to show that it now owed the City of Orillia \$9,762,000.00 (nine million, seven hundred and sixty-two thousand dollars) and a promissory note was issued under the following terms:**

1. Principal Amount
\$9,762,000.00
2. Interest Rate
7.5% per annum to December 31, 2005 and thereafter the interest rate will be changed for each subsequent 5 year period to be equal to 2% plus the annual rate paid by the Royal Bank of Canada (RBC) as set by the RBC head office in Toronto on December 31st of the year immediately preceding the commencement of each 5 year period on 270 day term deposits exceeding \$8,000,000.00 (such \$8,000,000.00 amount to be adjusted from time to time after December 31st, 2000 to reflect the impact of inflation as measured by the Consumer Price Index). For greater certainty on October 11, 2000 the rate paid by RBC on 270 day term deposit for \$8,000,000.00 was 5.5%.
3. Payment of Interest

Payments of interest shall be quarterly on the last days of March, June, September and December in each year. Interest shall commence to accrue on the date that the initial Performance Based Regulation rates for Distco become effective, and the first payment of interest shall become due on the first quarterly payment date next following the date that interest commences.

4. Due Date

The due date is December 31, 2030. Distco shall not have the right to prepay the principal in whole or in part.

5. Prepayment of Principal at Option of the City

The City, at its option, and upon giving to Distco at least 6 months written notice, may require the prepayment of up to 20% of the original principal amount of the Promissory Note on March 31st, in any calendar year.

6. Acceleration on Default

In the event that Distco defaults any payments due under this Note and such default not having been corrected within 30 days after the City, having given written notice to Distco of such default, then the City may demand immediate payment of all principal and interest due under the Promissory Note.

And Genco, a second promissory note of \$5,034,000.00

1. Prinicpal Amount

\$5,034,000.00

2. Interest Rate

7.5% per annum to December 31, 2005 and thereafter the interest rate will be changed for each subsequent 5 year period to be equal to 2% plus the annual rate paid by the Royal Bank of Canada (RBC) as set by the RBC head office in Toronto on December 31st of the year immediately preceding the commencement of each 5 year period on 270 day term deposits exceeding \$8,000,000.00 (such \$8,000,000.00 amount to be adjusted from time to time after December 31st, 2000 to reflect the impact of inflation as measured by the Consumer Price Index). For greater certainty on October 11, 2000 the rate paid by RBC on 270 day term deposit for \$8,000,000.00 was 5.5%.

3. Payment of Interest

Payments of interest shall be quarterly on the last days of March, June, September and December in each year commencing 2001. Interest shall commence to accrue November 1, 2000, and the first payment of interest shall become due December 31, 2000 for the 2 month period

4. Due Date

The due date is December 31, 2030. Genco shall not have the right to prepay the principal in whole or in part.

5. Prepayment of Principal at Option of the City

The City, at its option, and upon giving to Genco at least 6 months written notice, may require the prepayment of up to 20% of the original principal amount of the Promissory Note on March 31st, in any calendar year.

6. Acceleration on Default

In the event that Genco defaults any payments due under this Note and such default not having been corrected within 30 days after the City, having given written notice to Genco of such default, then the City may demand immediate payment of all principal and interest due under the Promissory Note.

Could you imagine doing this in the private sector and not being arrested for it? The elected commission might refer to this as "loan sharking". It becomes hard to believe, but one only has to ask for Bylaw 2000-144, from city hall to authenticate it.

Now, of course, there has to be some protection for the parties involved as too much information is contagious. So the city included, in the bylaw, a confidentiality clause:

13. CONFIDENTIALITY

The Shareholder and the Directors and Officers of the Corporation and the Subsidiaries (each a "receiving party") will ensure that no confidential information of the Shareholder or the Corporation or the Subsidiaries is disclosed or otherwise made available to any person, except to the extent that:

- a) **Disclosure to a receiving party's employees or agents is necessary for the performance of any receiving party's duties and obligations under this or any other Shareholder Declaration;**
- b) **Disclosure is required in the course of judicial proceedings or pursuant to law; or**
- c) **The confidential information becomes part of the public domain (other than through unauthorized disclosure by the receiving party).**

As this report is lengthy, and the citizens can, on their own accord, access the full bylaw, (Bylaw 2000-144) at city hall, it will not be necessary to show the vast changes affecting both the running of the utility and the affect it has on the citizens in Orillia.

In summary, after the destruction of the O.W.L.P., it is necessary to show where, exactly, the money is coming from. In the aforementioned recorded vote, (by: **Shaw, Spears, Gardy, Morano, Evans, Lauer, Kirby, Buchanan and McCann**) contained 13 items. Item #10 reads as follows:

- 10. **With respect to the generation company's operations, Council approve the principle of moving from a rate minimization approach to a profit maximization approach over a transition period of three to five years.**

The Transition Committee maximization means a **15% increase in Orillia's electrical rates in the Year 2001** followed by 0.9% annual increase thereafter up to 2005. The Ontario Energy Board now controls the rate increases. The O.E.B., under Application EB2005-0061 represents another increase. In 2006, EB2006-0401; in 2007, EB2007-0565 – another increase; in 2008, EB2008-0851 – another increase; in 2009, EB2009-0273 – another increase; and so up until May 1st, 2014.

There appears to be another increase as the Orillia Power Corporation mentioned, in its meeting in council, a further increase of 1.1% on distribution charges and generation charges increasing by 6.4%.

In the last reporting, from Orillia Power, they reported to council that from its inception in 2000 (incorporation), it has paid the council coffers \$35.1 million through interest and dividends, together with \$3 million to Orillia Soldiers' Memorial Hospital and \$1 million to Lakehead University for campus development.

Since the math does not make sense, when you relate it to interest rates, council must have tapped other monies of which we are not aware. Within the articles of each of the three corporations there is a clause that reads as follows:

“(1) The rights and privileges, restrictions and conditions attaching to the common shares are as follows:

- (a) Payments of Dividends: The holders of the common shares shall be entitled to receive dividends if, as and when declared by the board of directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends in such amounts and payable in such manner as the board of directors may from time to time determine. Subject to the rights of the holders of any other class of shares of the Corporation entitled to receive dividends in priority to or concurrently with the holders of the common shares, the board of directors may, at its sole discretion, declare dividends on the common shares to the exclusion of any other class of shares of the Corporation.”*

It is time that the people concerned with the cost of their own electricity bill, make it known to council, and other citizens, that they of Orillia, are the true shareholders of Orillia Power and give clear direction to your council candidates that you want true transparency and not secrecy. It is also important to give your opinion on how this money is to be best spent.

Although the legislation dictated a process, where the council could be kept at arms length, the council of the day decided that they could get away with breaking the people's bylaw and substitute it with their own bylaw that not only crippled the utility, but expected to be paid additional dividends on top of the artificial debt. The people's bylaw is still alive, as is your last elected commission.

The investigation on the transfer of Orillia's power utility did not commence until one member of the commission was inadvertently given the city council's Bill 35 Transition Committee document covering the recommendations on the future of Orillia's hydro utility. The majority of the recommendations were adopted by city council on April 17th, 2000. The dissolving bylaw happened five months later in September of 2000. When the other members of the commission were made aware of it, they, having never seen this document in this format, decided to write mayor and council by letter dated September 23rd, 2014 and had it hand delivered. This letter was meant to go on the agenda of city council at its next meeting. However, for reasons unknown, two additional meetings elapsed and no member of city council has yet to see it.

In the interval, another document was discovered that, again, no member of the elected commission was aware of. This was Bylaw 2000-146, a bylaw to dissolve Orillia Water, Light and Power Commission dated October 16th, 2000. The bylaw reads as follows:

"WHEREAS the Orillia Water, Light and Power Commission (the 'Commission') was established by special legislation and is deemed to be a commission established under Part III of the Public Utilities Act (Ontario);

AND WHEREAS The Corporation of the City of Orillia (the 'City') proposes to transfer the assets and undertaking under the control and management of the Commission and owned by the City to corporations incorporated pursuant to Section 142 and Section 145 of the Electricity Act, 1998 (Ontario);

AND WHEREAS upon the completion of the said transfer the Commission is no longer required.

NOW THEREOFRE THE COUNCIL OF THE CORPORATION OF THE CITY OF ORILLIA HEREBY ENACTS AS FOLLOWS:

1. *THAT the City is authorized to accept a General Conveyance, Assignment and Bill of Sale from the Commission with respect to any assets which it owns, has registered title to, or uses to provide public utility services on behalf of the City.*
2. *THAT any By-laws heretofore passed by the City or any predecessor thereof establishing the Orillia Water, Light and Power Commission are hereby repealed.*
3. *THAT Chapter 524 of the City of Orillia Municipal Code is hereby repealed.*
4. *THAT the Commission is hereby dissolved and ceases to exist.*
5. *THAT this By-law shall take effect 12:00 a.m. November 1, 2000.*

BY-LAW read a first, second and third time and finally passed this 16th day of October, 2000."

This bylaw alleges, again, partial distortion as the Orillia Water, Light and Power Commission was established by the council of the day and voted upon and passed by the electorate, as Bylaw 557, (Municipal Act and other legislation). The Municipal Act, since the bylaw was by referendum, requires that, for the bylaw to be amended or appealed, it would have to be done following the same process as it was enacted (another supporting vote of the electors).

The elected commission suspects that the purpose of Bylaw 2000-146 was to be able to swear that council had now acquired the authority to set up the three corporations under the Provincial Corporation Act without any transfer document originating from the commission. Item 1 of the bylaw makes mention of a "general conveyance, assignment and bill of sale from the commission". **The elected commission was the only party that could enact a legal transfer.** However, they would never put themselves in this position as this would be betraying the people's bylaw that they had a fiduciary obligation to protect for the citizens of Orillia.

I would expect that there is at least another 10,000 employees at \$90,000 or above.

Frank Kehoe



LETTERS TO THE EDITOR

Salary incentives

Ontario Liberals are buying union votes at the hydro rate's and taxpayers' expense. A recently retired Ontario Power Generation (OPG) CEO made \$1,528,933 in 2015.

In 2014, at least 148 OPG and Hydro One employees made more than a quarter-million dollars a year and there were 12,500 OPG and Hydro One employees who made more than \$100,000 a year.

Since the Wynne Liberals have sold off 15% of Hydro One with the help of a \$111-million loan to OPG and Hydro One unions to buy stock in 2015, Hydro One salaries are no longer required to be published on the Sunshine List.

Premier Kathleen Wynne states the Liberals are selling off 60% of Hydro One and retaining 40%. OPG workers will get equivalent to 2.75% of their salary for 15 years in stock. Hydro One employees will get shares equivalent to 2.7% of their salary for 12 years in stock in exchange to support Wynne in the sale of Hydro One.

From the so-called 60% sale of Hydro One, Wynne says Ontario will make \$9 billion. Then she states \$5 billion will go back into Hydro One, so in reality, is Wynne selling Hydro One for \$4 billion? Or is the the money going back to pay the \$5 billion OPG and Hydro One are short in their pension fund?

Ontario hydro ratepayers and taxpayers are supposed to be putting in almost \$5 for every \$1 employees are putting into these unsustainable pension plans. Any way you look at it, the Ontario hydro rate and taxpayers end up on the losing end of this failed energy experiment.

On another note, Ontario taxpayers paid almost \$1.1 billion to export excess power off the grid in the first six months in 2015, while our rates continue to rise and we continue to overproduce hydro in Ontario while Quebec, Manitoba and the United States get free hydro or for pennies a kilowatt hour.

Ross Ayotte
Smiths Falls

PAKET SAT MAY 21/16

(18)

From: araymond@kingston.net
To: "Undisclosed-Recipient;"
Sent: 5/20/2016 10:33:52 P.M. Eastern Daylight Time
Subj: Hydro list

HYDRO LIST

Hydro rates going up this summer, Ontario Energy Board says OEB s milder

winter is to blame for rate hikes, which will add about \$3 to average monthly bill.

This is ridiculous! Only in Ontario would customers be penalized for reduce electricity consumption. We do the

things we are supposed to do: get smart meters, turn down the temperatur use the dryer dish washer on off

hours, turn off lights etc. and yet we still get screwed. So if we have a hot summer and consumption goes back

up again, will they reduce rates? Not a chance!! What other business, othe than this monopoly, could get away

with this BS! "As a result of lower usage, Regulated Price Plan (RPP) prices did not recover the full cost of

serving RPP customers. One of the main reasons prices are increasing in May is to recover this shortfall."

This is where the \$3.00 per month is going

Bloated Organization	Fat Cat	2013 Salary & Benefits	Position
OPG	THOMAS MITCHELL	1,720,774	President & Chief Executive Officer
OPG	WAYNE ROBBINS	920,714	Chief Nuclear Officer
OPG	JOHN MURPHY	910,870	Executive Vice President, Strategic Initiatives
Hydro One	CARMINE MARCELLO	728,571	President & Chief Executive Officer
OPG	DONN W. HANBIDGE	670,930	Senior Vice President & Chief Financial Officer
OPG	FRANK CHIAROTTO	616,741	Senior Advisor Joint Ventures
OPG	PIERRE F. TREMBLAY	596,510	President Canadian Nuclear Partners
Hydro One	MYLES D'ARCEY	566,834	Senior Vice President, Customer Operations
Hydro One	SANDY STRUTHERS	566,364	Chief Administrative Officer & Chief Financial Officer
Hydro One	PETER GREGG	565,272	Chief Operating Officer
OPG	PAUL PASQUET	534,538	Senior Vice President
OPG	WILLIAM ELLIOTT	523,400	Senior Vice President, Nuclear Engineering & Chief Nuclear Engineer
OPG	BRUCE BOLAND	519,636	Senior Vice President Commercial Operations & Environment Chief Nuclear Officer
OPG	GLENN JAGER	513,163	
OEB	ROSEMARIE LECLAIR	509,223	Chair & Chief Executive Officer
OPG	MICHAEL GRIFFITHS	504,992	Control Room Shift Supervisor
OPG	TONY KOKUS	497,993	Senior Thermal Station Engineer/Officer

OPG	BARBARA KEENAN	474,236	Senior Vice President People, Culture & Chief Ethics
OPG	CHRISTOPHER GINTHER	454,386	Senior Vice President, Law & General Counsel
OPG	BRIAN DUNCAN	452,164	Senior Vice President Darlington
Hydro One	WAYNE SMITH	449,489	Senior Vice President, Planning & Operating
OPG	DIETMAR E. REINER	439,547	Senior Vice President Nuclear Refurbishment
OPG	MICHAEL ALLEN	428,682	Deputy Site Vice President
Hydro One	MICHAEL WINTERS	424,990	Senior Vice President, Engineering & Technology
OPG	SCOTT MARTIN	416,665	Senior Vice President Business & Administration Services
OPG	SEAN GRANVILLE	410,530	Senior Vice President
OPG	ROBIN HEARD	407,866	Vice President Finance, Chief Controller & Chief Accounting Officer
OPG	BRYCE PHILLIPS	395,687	Senior Vice President, Pickering
Hydro One	ROBERT CULTRARO	382,610	Senior Vice President, Pensions
OPG	MICHAEL PECKHAM	378,586	Vice President, Projects & Modifications
OPG	STEVE WOODS	376,948	Vice President Fleet Operations & Maintenance
OPG	MIKE MARTELLI	375,830	Senior Vice President Hydro Thermal Operations
OPG	ALBERT SWEETNAM	370,089	Executive Vice President, Nuclear Projects
Hydro One	ALI SULEMAN	359,294	Vice President & Treasurer, Treasury & Risk
OPG	FRED DERMARKAR	358,298	Vice President Engineering Strategy
OPG	STEPHUN CLIVER	352,739	Chief Supply Officer
OPG	DANNY BHAGWANDIN	346,125	Control Room Shift Supervisor
OPG	WILLIAM HYSON	343,461	Control Room Shift Supervisor
OPG	RENZO MARCUZZI	341,818	Vice President Electricity Sales & Trading
Hydro One	JOHN MACNAMARA	335,655	Vice President Health Safety & Environment
Hydro One	LEN MCMILLAN	330,869	Vice President, Operations & Maintenance
Hydro One	NAIRN MCQUEEN	330,259	Senior Vice President, Engineering & Construction Services
OEB	D. ALECK DADSON	328,766	Chief Operating Officer
OPG	DONALD J. POWER	328,468	Vice President Investment Planning
OPG	FRANCESCO GUGLIELMI	328,071	Director Operations & Maintenance
OPG	CARLO CROZZOLI	323,431	Senior Vice President Corporate Business Development & Chief Risk Officer

Ontarians face a new debt charge ⁽²¹⁾

NATIONAL POST APRIL 27/16

BRADY YAUCH

At the start of the year, many Ontario electricity customers were offered a reprieve from the much-maligned "Debt Retirement Charge" — a monthly reminder of the economic follies of the old Ontario Hydro that added about 8 per cent to residential bills.

That reprieve is likely to be short-lived, since customers can expect a new charge to mask the real cost of the province's energy policies. The reasons for the original debt retirement charge — a massive overbuilding of the electricity grid that went significantly over-budget and left the province with "dead" assets that no reasonable rate increase could ever salvage — are back.

Except this time, rather than pointing the finger at Ontario Hydro engineers and executives who overstated future demand and their ability to contain costs on mega-projects, the fault lies almost completely with the province and the energy agencies now responsible for almost all power decision-making.

The severity of the province's electricity overbuild is most evident in the province's wholesale electricity

market. Last month, for example, there were more than 200 hours where the average price of wholesale power was negative. Because Ontario often sells its power to neighbouring states and provinces at the wholesale rate, Ontarians are paying customers outside the province to import the province's excess power.

The number of hours where the price of power could have gone negative actually exceeds 200, since generators are increasingly being told — and paid — to curtail their output.

Ontario Power Generation (OPG), a successor to Ontario Hydro and the province's largest generator, now "spills" power — it lets water flow through its dams without producing power — in an effort to limit the power. But ratepayers are nevertheless on the hook, since OPG can recoup the "lost revenue" in its rates.

The company's "spilled" power has increased by 88 per cent between 2013 and 2015, enough to power 330,000 homes last year.

A primary reason for the surplus: Since 2007, electricity demand in Ontario has fallen nearly 10 per cent as businesses flee the province's high rates. Yet the province

keeps adding very questionable generation capacity.

A case in point is OPG's refurbishment of the Darlington nuclear plant. OPG — its reputation still dinged from the nearly \$500 million, or 50 per cent, cost overrun on its Niagara tunnel project — says it can refurbish the entire plant at a cost of \$12.8 billion — or about 7.9 cents per kilowatt hour (kWh).

Unfortunately, the track record of cost overruns on nuclear projects is extensive and well-documented, with every single one in Ontario going significantly over budget (on average more than double). OPG has added a 15 per cent — or \$1.7 billion — "contingency" amount in the \$12.8 billion cost estimate. But a more realistic figure would be anywhere between a 50 per cent contingency fund of \$5.5 billion, or even a 100 per cent contingency fund of \$11.1 billion.

Using realistic figures, the real cost of the Darlington refurbishment could be \$16.7 billion or \$22.2 billion (three per cent of the province's entire GDP).

Breaking those figures down into rates means the real cost to electricity customers will be 11.85 cents to 15.8 cents per kWh for power from a refurbished Darlington

ton — nearly triple the cost of power from the province's fleet of natural gas plants, which currently operate below their generating capacity.

Tying it all together: Demand for power in Ontario continues to decline, high-priced generators continue to be added to the grid, the province's surplus of power is growing larger and Queen's Park has used the legislature, rather than an economic test, to push through the refurbishment of the Darlington nuclear plant that will — if history is an indicator — go wildly over budget. The result will be a leveraged electricity sector pumping out vast amounts of expensive electricity that isn't needed or, conversely, the system will be paying generators to sit idle.

Ontario's ratepayers — who have already experienced the fastest bill increases of any electricity customers in North America over the last decade — will be left picking up the tab. Whatever it's eventually called, the result will be the same: a new charge to pay off those "dead" assets.

Financial Post

Brady Yauch is an economist and the executive director of Consumer Policy Institute.

A Portion taken from A Raymond's email (araymond@kinston.net) dated March 30, 2016, RE Ontario Hydro Bills.

Based on a monthly use of 1000 kw the average bill for an Ontario resident is \$226.03.

Based on a monthly use of 1000kw the average bill for an Quebec resident is \$67.89.

That is 70% lower than Ontario

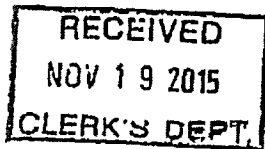
Based on a monthly use of 1000 kw the average bill for a British Columbia is \$89.12.

That is 61% lower than Ontario

Based on a monthly use of 1000 kw the average bill for Manitoba resident is \$81.09.

That is 64% lower than Ontario

*The Legally Elected People voted into Office in accordance with the
People's Bylaw 557, as enacted by a Binding Referendum of the Electors*



Gord Pye
37 Dancy Drive
Orillia, ON
L3V 7M1

Frank Kehoe
304-95 Matchedash St. N.
Orillia, ON
L3V 4T9

Ken McLaughlin
217 Barrie Road
Orillia, ON
L3V 2P6

Dan Valley
66 Maple Drive
Orillia, ON
L3V 3W4

November 19, 2015

Mayor Steve Clarke and Members of Council
Orillia City Centre
50 Andrew Street South
Orillia, ON L3V 7T5

Dear Mayor Clarke and Councilors,

This correspondence is meant to flag this council that they, in talking with Hydro One concerning a possible sale of the distribution arm of the people's owned utility, are in direct violation of the Peoples' Bylaw 557 and the referendum of the people that removed any and all control (for good reason) from council to a separately elected body only answerable directly to the people -- the true owners.

This council, as mature adults, must recognize how democracy works:

- a) When a council formulates a bylaw, in this manner, and transfers the outcome (decision) to the electorate in conformity to the provincial requirements of the day this is called a **referendum**.
- b) The outcome of a referendum, duly voted upon by the people, is a binding form of the democratic practice and cannot be revoked nor amended, in any other manner, other than by way of a calling second referendum.

This council, in not abiding themselves in the acceptance of this practice is putting themselves in violation of the laws they were elected to uphold.

The aforementioned people (former commissioners of the OWLP) are the only duly elected representatives of the people and were elected in conformity to Bylaw 557 and, to this date, were never legally replaced. The referendum of the people dictated this position and the amended

Electricity Act only directly applied to utilities that were, at the time, under the control of a municipal council. Other forms of the legislation could be, otherwise, satisfied by the duly elected people with council's required assistance.

The alleged transfer to city council happened with the 2000 council choosing, on their own, to take over the transfer process alleging to the Ontario Energy Board that they had the right to do so and return the management and control of the utility back to council. Why the council of the day made this choice is unknown to us. It may be that they did not understand the ramifications of Bylaw 557 that took control away from council and placed it into the hands of the electorate by voting in four commissioners, separate from council, to manage the utility in the peoples' best interest. They may not have been aware that the only way of reversing a decision made by way of referendum or plebiscite is to have another referendum. **This was never done.**

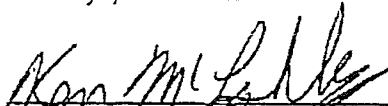
The former elected commission, with now full knowledge of the transfer process that took place 15 years ago, are unanimous that we have a fiduciary obligation to the people to advise them of what we believe was an illegal decision made by council that robbed them of the fair and equitable management control of their utility by a separately elected body that operated in arm's length of council. By one sweep of the pen the true shareholders that was clearly decided by way of referendum were the people of Orillia. But this right was taken away so as to have the council, as shown as it's only shareholder. The City of Orillia, with this action, were in direct contravention of the referendum resulting in Bylaw 557.

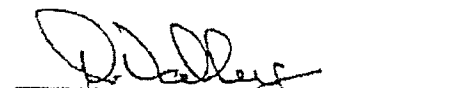
Out of consideration to the members of council and with the goal of being as accurate as possible as proven by the past bylaws, minutes, motions and background information that the city has in its possession, we respectfully ask that you read the attached document that will be published as to provide key information to the people of Orillia. You may also want staff to confirm that council had the legal right to change Bylaw 557 without having a second referendum asking for control to be transferred back to the city. We have a written legal opinion that states the city DID NOT have the legal right to do so and, if necessary, if council continues to proceed with the sale of the distribution arm, we will have no recourse other than to allow the courts make the determination as to the legality of the city's right to override the referendum of the people.

Respectfully submitted,

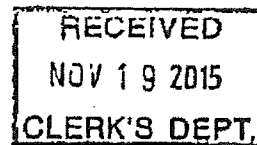

Gord Rye, Chairman


Frank Kehoe, Commissioner


Ken McLaughlin, Commissioner


Dan Valley, Commissioner

Attachment:
Disclosure document (9 pages)



Disclosure Document

Orillia electric customers have been cheated for the past 15 years

Chapter 1

O.W.L.P. now changed to Orillia Power Corporation

Orillia electrical customers up until 2000 enjoyed among the lowest hydro rates in the province but things were about to change. New legislation was introduced that changed the business model, the Electricity Act was amended and the Ontario Energy Board Act planned a bigger controlling role.

The Commissions across the province were now required to be changed to Corporations operating under the Provincial Business Corporation Act.

In the late 1990's key senior city staff, with the Mayor and the Council of the day, had an inside track on how the legislation could be manipulated so as to give the Council, not the elected commission, the lead role in the transfer process. The City and Council recognized that if the elected commission could give financial dividends to its customers then possibly the legislation could be secretly maneuvered in such a way so as to set up corporations to show that Council was the sole shareholder and not the people who were the true owners. In doing so they could redirect the dividends for their own pet municipal projects. This would be a second form of taxation that the people of Orillia would not be aware of.

Chapter 2:

The Financial State of the Orillia Water, Light, and Power Commission (OWLP)

The elected commission, not being trained in the law and told by a senior staff member of the Ontario Energy Board as well as the Mayor truly believed that the legislation over-ruled all conflicting Municipal and Provincial legislation and that the Commission were powerless to fight it. Six months prior to any transfer the OWLP had in cash and receivables over 7 million dollars. We believe it was 7.2 million dollars so the elected commission members voted to again grant a dividend of 1 million dollars, not to exceed one million, fifty thousand dollars, to now appear as a credit on the customers' next electricity bill. The dividend amount was always based on the customers' electrical consumption so it varied with each customer. When the commission vote was taken the appointed member of Council, who was sitting in for the Mayor, voted against it. The other commission members, however, carried the vote yet found it strange that a Council member did not support it.

The Council or senior city staff with an inside track, with internal help, cancelled this dividend even though it was done by the legal commission while they were empowered to do so.

Changing a commission (utility) to three different corporations was done in using a somewhat secretive process. The Commissioners fully expected that at least two or more experienced Commissioners, who possessed vast knowledge and experience of the plans in place and the previous negotiation with the outside involved parties for additional generation and with the goal of making the utility self-sufficient in electrical energy by 2005 it would remain working with this new corporation. This never happened and the elected members of the commission said goodbye to the employees and left with somewhat dismay and reluctance. Their 40+ years of dedicated municipal experience did not appear to rate recognition from the City Council nor were we given a letter or a hand-shake or appropriate notice, of any kind, that we had been replaced.

We, as the elected Commission were misinformed, lied to and set aside from any change in status brought about by the amendment of the Electricity Act. The Commission members were asked to step aside as the new legislation, we were told, over-rode all Municipal and Provincial legislation and shifted the process from the Commission to the Council allowing them the ability to form new Corporations that in the future would ensure future dividends would be taken away from its customers and now paid to Council. The transition would now follow a process totally controlled by the Mayor and City Council.

We, the elected representatives of the utility, have never, up to this date, ever signed off or created a transfer document or bill of sale, or been officially or even unofficially notified that our election as Commissioners has been terminated. We were elected to serve the Municipal owners of this utility not the Council. We have no intention now of negating this role as we feel we have a fiduciary obligation to try to correct the wrong that was done to our electrical customers and their Municipal ownership that the elected Commission held in trust. To do what is right – to force the council to abide by the People's Referendum that legally required all control of the utility removed from council control we need the help of the Citizens in an effort to try to correct the aforementioned Provincial misdemeanors.

The elected Commission, on the word of a senior energy board official, were told, incorrectly, that we no longer had status and we, as the elected Commission, were not given a letter or resolution stating that we were now replaced, nor given any recognition for our years of dedicated municipal service. This service amounted to keeping the utility as a model utility, with well-trained dedicated staff, free of debt and at the same time, having electrical rates the second lowest in the province, which included preferred block customers of Hydro One. The objective of the Commission was to bring on additional generation so as to be totally self-sufficient in electrical generation by the year 2005.

The clock has now advanced fourteen plus years to 2014 when a former commission member was given a somewhat secret document called the "Recommendation on the Future of Orillia's Hydro Utility by the Bill 35 Transition Committee".

This secret document contained, what one commission member called, absolute treason and a direct betrayal of all of Orillia's electricity customers. The Council did not recognize the people's ownership nor the effect it would have on its' customers. The full transition document, that no commissioner had ever seen in its completion, went before council at its meeting 2000-87 April 17, 2000 where council gave their approval. This motion was buried among other by-laws and went overlooked by the press or members of the public present. This Council adoption happened six months in advance of any conversion from a democratic process to a secretive conversion stacked in favour of shifting electrical funds to now be re-directed to Council.

No elected member of the Commission was ever aware of this misrepresentation to the electorate until fourteen plus years later. It was believed, up until this point, that the transfer was made in legal conformant to both the Municipal and Provincial legislation. So one member of the former commission started to research the internal related bylaws, rate increases to the customers, and Orillia Power Corporation's reports to council that now shifted the alleged corporate ownership from the people to city council that allegedly now owned all of the shares. Hence, council could carry on, what commission members, called a charade.

Chapter 3:

The Process to Rob the Electrical Customers of Their Dividends

The first order of Council business was to implement a maximum return on dividends on the back of electrical consumers in order that Council could gain greater revenue. The Council would now implement a fifteen per cent raise in Orillia's electrical rates which they did.

Chapter 4:

Now Comes the Move by Council to Create Debt Where There was None

As previously mentioned the OWLP had seven plus million dollars with absolutely no debt but nevertheless Council now required the new corporation to issue two promissory notes to the City as follows:

- Orillia Power Distribution Corporation would now owe the City nine million seven hundred and sixty-two thousand dollars (\$9,762,000.00). This debt is at an interest rate of 7.5% per annum to December 31, 2005 and after that at a fluctuating rate based on a fixed formula of 2% above the Royal Bank lending rate.
- Orillia Power Generation Corporation now shows a debt to the City of five million, thirty-four thousand dollars (\$5,034,000.00). This debt is at an interest rate of 7.5% per

annum to December 31, 2005 and after that at a fluctuating rate based on a fixed formula of 2% above the Royal Bank lending rate.

- **The debt now owing to Orillia Council is nine million, seven hundred and sixty-two thousand dollars plus five million and thirty-four thousand dollars for a total of \$14,796,000.00.**

This borrowing rate comes close to two times the normal borrowing rate of the City but the model we would expect is stick it to the people (customers) the Council have other uses for the money.

Chapter 5:

More Loan Sharking

The new corporations are now required to pay **only** the interest alone with nothing going against the principal until December 31, 2030. Could anyone imagine paying a mortgage for thirty years and at the end of the thirty-year period you would still owe the same amount as when you started or in this case fourteen million, seven hundred and ninety-six dollars (\$14,796,000.00).

The Council now requires their sole appointed Board of Directors to carry out the Council requirements so as to ensure ever increasing dividends flow freely back to the Council as well as the Corporations always continuing to operate in the Council's best interest, not the customers. The Council passes another by-law 2001-48 and appoints five directors to the board that will, we expect, will tow the line for Council and run the resemblance of the now partially demised utility.

For the distribution arm the Council institutes in the amended Bylaw #2000-144, revised October 16th, 2000 under financial policies that the distribution arm will establish policies to maximize the return to the shareholder (the Council) to the extent permitted by the Ontario Energy Board over a transition period of three to five years. For the generation arm the shareholder (Council) expects that the Corporation through its Board of Directors will establish policies to move to a profit maximization approach over a transition period of three to five years.

The directors shall be elected (and appointed) for a term of three years on a rotational basis except for the initial five directors who shall be elected as follows:

- One for a one-year term
- Two for a two-year term
- Three for a three-year term

We would expect since there has been minor changes in the appointed directors over the last 15 years that this could be best referred to as the Electricity Club. The remuneration for the board

members is now close to ten times that of the former elected commission who had dedicated loyalty to the people (customers) and who would never be party to the now organized destruction of Orillia's greatest asset.

We see in the bylaw (2000-144) what we assume that too much information on the operation of the newly formed Corporations may be harmful to the peoples' health so the bylaw to prevent this happening now includes a requirement that the people (the true owners) be kept in the dark.

Chapter 6:

Confidentiality (included in the bylaw)

The shareholders and the directors and officers of the Corporation and the subsidiaries (each a receiving party) will ensure that no confidential information of the shareholders or the corporation or subsidiaries is discussed or otherwise made available to any person, except to the extent that:

- a. Disclosure to a receiving party's employees or agents if necessary for the performance of any receiving party's duties and obligations under this or any other shareholders' declaration.
- b. Disclosure is required in the course of judicial proceedings or pursuant to law
- c. The confidential information becomes part of the public domain (other than through unauthorized disclosure by the receiving party)

So by bylaw, it is apparent that the appointed Board of Directors are, at every opportunity, required to apply for increases in the electricity rates to its customers so as to generate, in part, more and more cash to be given to Council in the form of dividends. The Directors, in 2014, applied to the Ontario Energy Board for an adjustment of the rates which was approved on March 19th, 2015 by the Ontario Energy Board.

Chapter 7:

Dividends

The former OWLP Commission after they were free of debt and in times of good generation years shared their good fortune with the true owners, the people of Orillia (customers) and mailed them a dividend cheque or gave them a credit on their next hydro bill.

As freedom of information legislation does not exist in the new corporations and there is no absolutely no co-operation on the part of Orillia Power Corporation to give this information we the former commissions have to depend on city by-laws, council resolutions, and city minutes as well as the annual shareholder meeting of Orillia Power Corporation for the information herewith.

We can, however, take the last figures that is by no means the complete figure, from the last agenda of the Orillia Power Corporation presentation to City Council on April 13, 2015. As part of the presentation of Orillia Power Corporation they show that Orillia Council, over the fifteen-year period 2000 to 2015, received (37.1 million dollars) together with the city's share to the hospital and university for an additional amount of \$4.325 million for a total of \$41.425 million dollars. The report shows that there are 13,400 Orillia customers so let's do the math on the assumption that each person's electrical bill is exactly the same. We of course know that this is not the case as some will be higher and some lower. So \$41.425 million divided by 13,400 customers is equal to \$3,091.42 per customer but this is for fifteen years so we divide \$3,091.42 by 15 and we arrive at \$206.09 per customer per year. Customers are no longer getting a dividend cheque, but it is being taken by the city as a hidden form of additional taxation.

It is evident to all customers, the true owners (the people) could not fathom that their Council could implement a process to gain revenue on the backs of consumers without their knowledge so as to direct part of their monthly electricity bill. If consumers want to cry they should look at their electricity bill and see that you have also paid GST on the amount extracted from you, the consumer, for council purposes.

In the Council Special Budget Committee meeting on October 28, 2015, Schedule "B" from the Chief Administrator Office are showing that Orillia Power Corporation interest to reserve of \$924,760.00 for the year 2015 then \$721,000.00 for the years 2015 through 2029. In the same report they are showing the dividends from Orillia Power Corporation as \$1,100,000.00 for the years 2015 to 2018, then increasing to \$1,500,000.00 for 2019 to 2029. On a separate line they are showing an increase to Orillia Power Corporation dividend (expansion) which starts in 2020 as \$1,709,000.00 through 2029. We have no idea of what or where this expansion figure is coming from and we hope with favour that this does not relate in any way to Mayor Clarke's article relating to negotiations with Hydro One on any disastrous sale of the distribution arm of the utility.

Chapter 8:

The Ownership of the Utility

The ownership of the utility belongs to the people of Orillia, not the Council and it requires that their elected representatives not Council's appointed people to act as their agent in trust for the people. To make any change in this process requires City Council to go back to the people in an amended referendum to make changes or attempt to dissolve the people's Bylaw 557 that they are legally bound to uphold.

In 1911, when there was an uproar from both industry leaders and the people regarding the complete mismanagement of their electrical asset and the depletion of all it's contingency

monies and lack of appropriate maintenance which lead to a great number of outages. Key industrialists (including J.B. Tudhope, Eratus Long, Benjamin Johnston, Harold Hale (Packet and Times), and Mayor William Sword Frost (father of Provincial Premier Leslie Frost)) and supporters of the electrical utility ran for and were elected to the 1912 Town Council with their platform being to remove the utility from the control and mismanagement of Council. This Council then composed a Special bylaw that would be put to a vote of the people as a binding referendum that could only be changed or amended in the same manner as instituted, that is with another supporting vote of the people. This plebiscite or binding referendum (Bylaw 557) remained in place for 87 years under the name OWLP until the Council or staff said that this old bylaw should now be ignored and that Council could now regain control without involving a vote by the people.

On January 7, 1913 the above vote was certified and the referendum passed to create a separate elected commission (corporation), free of Council to administer and run both the generation and distribution in trust for the people. This was endorsed by 65.8% of all the electors and became people's by-law 557 forming the Orillia Water Light and Power Commission that could not be changed nor amended by any future council without the approval by the people through another referendum voted on and approved by the people. The Council on two occasions attempted to sell the utility to H.E.P.C. but were forced to call a second referendum in which they lost by a large majority.

Chapter 9:

Town of Orillia Act 1915

The legislature of the Province of Ontario passed the Town of Orillia Act and section 11(1) of the Act merely confirms the aforementioned.

"11(1) – subject to subsection 2, all the powers, rights and privileges with regard to the government of the Orillia Power Transmission plant or the generation, distribution and sale of electrical power and light heretofore or hereafter granted by any special Acts to the council or Corporation of the Town of Orillia shall, WHILE THE BYLAW APPOINTING SUCH COMMISSION REMAINS IN FORCE, BE EXERCISED BY THE ORILLIA WATER, LIGHT AND POWER COMMISSION, AND NOT BY THE COUNCIL OF THE CORPORATION."

(2) Nothing contained in this section shall divest the council of its authority with reference to providing the money required for such works, and the treasurer of the municipality shall, upon the certificate of the Commission, pay out any money so provided."

The Province, within the amendments, did not have the intent within its legislation to create laws to override the people's ownership or dictate the process that would change the separation so as to give Council control over the legal referendum of the people.

Back in 2000 the Council had a legal obligation to abide by Bylaw 557 to support the transfer process to the true elected members of the utility, and conform to the Town of Orillia Act so as to assist the elected commission in the transfer and not thwart the process. The Orillia Water Light and Power Commission was a municipal corporation and under Section 142 of the Electricity Act, permitted other Municipal Corporations to make the transfer. Council had a role in the transfer process however, they did not have the right to name themselves the only shareholder. It was a simple process to change the name Orillia Water, Light and Power Commission to Orillia Power Corporation. **The elected commission members are adamant that until Bylaw 557 is appropriately repealed by a vote of the people (referendum) that the transfer, in our personal opinion, is not legal - particularly as it applies to council being the only shareholder of the respected corporations.**

Chapter 10:

Orillia Statistics 2012

- **Orillia's population is 30,586 (2011 Census)**
- **One third of Orillia's population, unfortunately, exists at or below the poverty line.**
- **40% of the population is on fixed income and unable to absorb increases related to their cost of living.**
- **The growth rate in Orillia, when you remove the students who live temporarily in our city during their 8-month school year and whose principal residence is elsewhere, is stagnate or, now negative falling from 0.5% in 2011 Census to now minus figures. The national growth rate is 5.9%.**
- **Orillia's median age is 49.2 years where the provincial median is 40.4 years.**

Chapter 11:

Sale of the Distribution Arm

Any sale of any portion of the former OWLP (Orillia Power or Orillia Distribution) would have a catastrophic negative effect on the peoples' utility and should never be considered - at any price.

All electrical customers and citizens of Orillia have an obligation to make their position known. To do nothing should not be an option. We should not allow the sale of our electrical asset to Hydro One or any other bidder and we should ask Council to have an open discussion and people's referendum on this issue.

Call your Ward Council representatives to ask them why they are in negotiations with the mismanaged Hydro One and if they are selling a portion of our profitable public utility just to pay for a recreation centre we cannot afford.

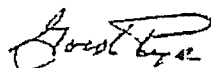
Mayor Steve Clarke: mavor@orillia.ca, (705) 325-2447
 Councilor Ted Emond: ted@tedmond.com, (705) 826-2347
 Councilor Sarah Valiquette-Thompson: votevaliquette@gmail.com, (705) 826-2351
 Councilor Rob Kloostra: cameronhouse@rogers.com, (705) 826-2350
 Councilor Ralph Cipolla: cipolla@encode.com, (705) 826-2466
 Councilor Mason Ainsworth: mason4orillia@gmail.com, (705) 826-2328
 Councilor Jeff Clark: jn10clark@gmail.com, (705) 826-2343
 Councilor Pat Hehn: pmhehn5@gmail.com, (705) 826-3497
 Councilor Tim Lauer: tlauer@sympatico.ca, (705) 325-5812

DO NOT LET YOUR COUNCIL GAMBLE BY SELLING A PORTION OF ORILLIA'S GREATEST ASSET TO HYDRO ONE AS ALL FUTURE CONTROL WILL THEN BE LOST. OUR RATES WILL CONTINUE IN AN UPWARDS SPIRAL AND OUR REVENUE STREAM WILL BE GONE FOREVER.

The content of this document, to the best of our knowledge, is correct. We, as both lifelong citizens of Orillia and as the only elected trustees of the public ownership of the utility, clearly are of the opinion that the electrical consumers (the People) are the only true owners of the utility and are deserving of the facts contained herein. This informational (paid by the former O.W.L.P. Commission members) should be part of the public domain and we strongly feel that a Freedom of Information process must be made available to all of its customers.

The Packet (Sunmedia) are released from any adverse liability related to the publication of this material.

Respectfully submitted, under the signature of your elected commission,


Gord Pye


Frank Kehoe


Ken McLaughlin


Dan Valley

- (c) in the maintenance, repair, renewal or extension of the utility; or
- (d) in establishing a reserve fund to be used at any future time for any purpose mentioned in this subsection.

Where levy of rate necessary

(3) Except where a waterworks rate is imposed under section 221 of the *Municipal Act*, it is not necessary to levy any rate to provide for sinking fund and interest or other payments on account of any debentures issued by the municipality for the construction, extension or improvement of the utility, other than those issued under the *Local Improvement Act*, except to the extent to which the receipts paid over under subsection (1) are insufficient to meet the annual payments falling due on account of principal and interest of the debentures.

Electric utilities excepted

(4) This section does not apply to any electrical public utility for which electrical power and energy are supplied by Ontario Hydro. R.S.O. 1980, c. 423, s. 34.

Electrical utilities

36. The receipts arising from supplying an electrical public utility for which electrical power and energy are supplied by Ontario Hydro or from property connected with the utility, after providing for the expenditures incurred for the maintenance and operation of the utility and any payments required by the *Power Corporation Act*, shall, quarterly or oftener if the council so directs, be paid over to the treasurer of the municipality to the extent and in such amounts as are necessary to provide for any payments required to be made on account of principal or interest of any debentures issued for the construction and equipment of works for the distribution of electrical power and energy, and it is not necessary to levy any rate to provide for sinking fund and interest or other payments on account of any debentures issued by the municipality for the construction, extension or improvement of the utility, other than those issued under the *Local Improvement Act*, except to the extent to which the receipts paid over hereunder are insufficient to meet the annual payments falling due on account of principal and interest of the debentures. R.S.O. 1980, c. 423, s. 35.

Disposal of public utility properties

37. (1) Subject to subsections (4), (5) and (6), the corporation may, free from any charge or lien, sell, lease or otherwise dispose of a public utility undertaking, or the whole or any part of the real or personal property acquired, held or used for or in connection with a public utility undertaking, which in the opinion of the council is no

- c) l'entretien, la réparation, le renouvellement ou l'expansion du service;
- d) la création d'un fonds de réserve pouvant servir ultérieurement à l'une des fins mentionnées dans le présent paragraphe.

Imposition d'une redevance

(3) À moins qu'une redevance d'eau ne soit imposée en vertu de l'article 221 de la *Loi sur les municipalités*, il n'est pas nécessaire d'imposer une redevance pour établir un fonds d'amortissement et payer des intérêts ou autres versements sur les débetures émises par la municipalité pour la construction, l'expansion ou l'amélioration d'un service, sauf s'il s'agit de débetures émises en vertu de la *Loi sur les aménagements locaux*. Une redevance sera toutefois imposée si les recettes, versées aux termes du paragraphe (1), sont insuffisantes pour effectuer les paiements annuels dus sur le principal des débetures et payer les intérêts sur celles-ci.

Exemption du service d'électricité

(4) Le présent article ne s'applique pas à un service public d'électricité qui est approvisionné par Ontario Hydro. L.R.O. 1980, chap. 423, art. 34.

Services d'électricité

36 Les recettes provenant de la fourniture d'un service public d'électricité qui est approvisionné par Ontario Hydro, ou des biens reliés à ce service, après le paiement des dépenses engagées pour l'entretien et le fonctionnement du service et des versements exigés en vertu de la *Loi sur la Société de l'électricité*, sont versées, tous les trois mois, ou plus souvent si le conseil l'ordonne, au trésorier de la municipalité dans la mesure où des fonds sont nécessaires pour faire les paiements dus sur le principal des débetures émises ou payer les intérêts sur celles-ci en vue de la construction et l'équipement des ouvrages de distribution d'électricité. Il n'est pas nécessaire d'imposer une redevance pour établir un fonds d'amortissement et payer des intérêts ou autres versements sur les débetures émises par la municipalité pour la construction, l'expansion ou l'amélioration d'un service, sauf s'il s'agit de débetures émises en vertu de la *Loi sur les aménagements locaux*. Une redevance sera toutefois imposée si les recettes versées en vertu du présent article sont insuffisantes pour effectuer les paiements annuels dus sur le principal des débetures et payer les intérêts sur celles-ci. L.R.O. 1980, chap. 423, art. 35.

Aliénation des biens des services publics

37 (1) Sous réserve des paragraphes (4), (5) et (6), la municipalité peut aliéner, notamment par vente ou location, et libres d'une sûreté réelle qui les grève, d'une entreprise de services publics, ou l'ensemble ou une partie des biens meubles ou immeubles acquis, détenus ou utilisés aux fins d'une entreprise de services publics si, de l'avis du

SEE NEXT PAGE

longer required for the purpose of the corporation or for the undertaking.

Application
of proceeds
of disposal

(2) The proceeds derived from any sale, lease or other disposition of such undertaking or property shall be applied in redemption and payment of any debentures of the corporation issued in respect of the public utility undertaking, or if there are no such debentures, then in case of sale or disposal of a portion only of the property the proceeds thereof shall be applied for the undertaking in connection with which the property was held or used and in case of sale or disposal of the whole of the property or of the undertaking the proceeds thereof shall form part of the general funds of the corporation, and any security received or held by the corporation for any part of the consideration payable on the sale, lease or other disposition shall stand as security for such debentures or be applied for the undertaking or form part of the general funds of the corporation, as the case may be.

Approval
necessary as
to applica-
tion of
proceeds

(3) In a case where there are no debentures to the redemption and payment of which proceeds derived from any sale or disposal of an undertaking or property may be applied, the proceeds may be applied in redemption of other debentures of the corporation or with the approval of the Ontario Municipal Board may be applied for purposes of a capital nature, provided that where a portion only of the property of an undertaking for the supply of electrical power or energy obtained from Ontario Hydro is sold or disposed of the proceeds shall be applied only as Ontario Hydro may approve.

When assent
of electors
requisite

(4) A corporation shall not sell, lease or otherwise dispose of the whole of a public utility undertaking or the whole of the property acquired, held or used for or in connection with a public utility undertaking without the assent of the electors qualified to vote on money by-laws first being obtained thereto in the manner provided by the *Municipal Act* with respect to a money by-law requiring the assent of the electors.

When
approval of
Ontario
Municipal
Board requi-
site for sale

(5) A corporation shall not sell, lease or otherwise dispose of a portion only of the property acquired or held for or in connection with a public utility undertaking so long as that portion is actually used for the purposes of the undertaking, except with the approval of the Ontario Municipal Board, and on such application the Board may direct that the assent of the electors qualified to vote on money by-laws shall first be obtained in the manner aforesaid.

conseil, ils ne sont plus requis par la municipalité ou l'entreprise.

(2) Le produit de l'aliénation, notamment par vente ou location, de l'entreprise ou des biens, est imputé au remboursement des débetures émises par la municipalité pour l'entreprise de services publics. Si aucune débeture n'a été émise et qu'une partie seulement des biens a été aliénée, ou vendue, le produit est imputé à l'entreprise à laquelle servaient les biens; si la totalité des biens ou de l'entreprise a été aliénée, ou vendue, le produit est versé au fonds d'administration général de la municipalité. Les garanties reçues ou détenues par la municipalité pour une partie de la contrepartie payable lors de l'aliénation, demeurent des garanties pour les débetures; elles peuvent aussi être affectées à l'entreprise ou, le cas échéant, au fonds d'administration général de la municipalité.

Imputation
du produit
provenant de
l'aliénation

(3) En l'absence de débetures auxquelles il pourrait être imputé, le produit de la vente ou de l'aliénation d'une entreprise ou des biens peut être imputé au remboursement d'autres débetures de la municipalité ou, avec l'approbation de la Commission des affaires municipales de l'Ontario, peut être imputé à des fins d'immobilisation. Toutefois, si une partie seulement des biens d'une entreprise fournissant de l'électricité provenant d'Ontario Hydro est vendue ou aliénée, l'imputation du produit est assujettie à l'approbation de cette dernière.

Approbation
requisse pour
l'imputation
du produit

(4) La municipalité ne doit pas aliéner, notamment par vente ou location, l'ensemble d'une entreprise de services publics ou l'ensemble des biens acquis, détenus ou utilisés en relation avec cette entreprise sans avoir obtenu l'assentiment des électeurs habilités à voter sur les règlements municipaux de finance. Cet assentiment doit être obtenu au préalable conformément aux dispositions de la *Loi sur les municipalités* relatives à l'adoption de ces règlements municipaux.

Assentiment
des électeurs

(5) La municipalité ne doit pas aliéner, notamment par vente ou location, une partie seulement des biens acquis ou détenus en relation avec une entreprise de services publics aussi longtemps que cette partie est effectivement utilisée aux fins de l'entreprise à moins d'obtenir l'approbation de la Commission des affaires municipales de l'Ontario. Lorsque cette dernière est saisie d'une telle requête, elle peut ordonner à la municipalité d'obtenir au préalable l'assentiment des électeurs habilités à voter sur les règlements municipaux de finance, de la façon prévue ci-dessus.

Approbation
de la Com-
mission des
affaires muni-
cipales de
l'Ontario
pour la vente

When assent of Ontario Hydro requisite

(6) A corporation shall not sell, lease or otherwise dispose of the whole of the public utility undertaking for the supply of electrical power or energy obtained directly or indirectly from Ontario Hydro or of the whole of the property acquired, held or used for or in connection therewith or of any part thereof that is no longer required for the undertaking or for the purpose of the corporation, or for so long as the undertaking is being operated by or for the corporation, sell, lease or otherwise dispose of any part of the property that is actually used for the purposes of the undertaking without the assent of Ontario Hydro first being obtained thereto.

(6) La municipalité ne doit pas aliéner, notamment par vente ou location, l'ensemble d'une entreprise de services publics fournissant l'électricité provenant directement ou indirectement d'Ontario Hydro ni l'ensemble des biens acquis, détenus ou utilisés en relation avec l'entreprise, ni d'une partie de ces biens qui ne sont plus nécessaires à cette dernière ou à la municipalité. La municipalité ne doit pas aliéner, notamment par vente ou location, une partie des biens qui sont effectivement utilisés aux fins de l'entreprise, tant que la municipalité assure le fonctionnement de l'entreprise ou tant que ce fonctionnement est assuré pour le compte de la municipalité, sans obtenir au préalable l'assentiment d'Ontario Hydro.

Assentiment d'Ontario Hydro

Procedure when a commission operates a utility

(7) Where the powers of a corporation with respect to a public utility undertaking are exercised by a commission, the council shall, upon the request of the commission, submit to the qualified electors a by-law to authorize any sale, lease or other disposition of the undertaking or the whole or any part of the property acquired, held or used for or in connection therewith that under this section is required to be assented to by the electors.

(7) Lorsque les pouvoirs d'une municipalité à l'égard d'une entreprise de services publics sont exercés par une commission, le conseil, sur demande de cette dernière, soumet aux électeurs, si leur assentiment est requis en vertu du présent article, un règlement municipal autorisant l'aliénation, notamment par vente ou location, de l'entreprise ou de l'ensemble ou d'une partie des biens acquis, détenus ou utilisés en relation avec cette entreprise.

Cas où une commission assure le fonctionnement d'un service

Short leases excepted

(8) Subsections (4), (5) and (6) do not apply to a lease for a term not exceeding five years of a portion of the property of a public utility undertaking.

(8) Les paragraphes (4), (5) et (6) ne s'appliquent pas à une partie des biens d'une entreprise de services publics, donnés à bail pour une période ne dépassant pas cinq ans.

Exception pour les baux de courte durée

Application of section

(9) This section applies to sales, leases and other dispositions of a public utility undertaking and of any property acquired, held or used for or in connection with a public utility undertaking, completed after the 1st day of March, 1931. R.S.O. 1980, c. 423, s. 36.

(9) Le présent article s'applique aux aliénations, notamment par vente ou location, des entreprises de services publics et des biens acquis, détenus ou utilisés en relation avec ces entreprises, si ces aliénations ont été achevées après le 1^{er} mars 1931. L.R.O. 1980, chap. 423, art. 36.

Champ d'application du présent article

PUBLIC UTILITY COMMISSION

Establishment of municipal commission

38. (1) Subject to subsections (2) to (6), the council of a municipal corporation that owns or operates works for the production, manufacture or supply of any public utility or is about to establish such works, and the council of a township corporation that has entered into a contract with Ontario Hydro for a supply of electrical power or energy in the township, may, by by-law passed with the assent of the municipal electors, provide for entrusting the construction of the works and the control and management of the works to a commission to be called The Public Utilities Commission of the (*naming the municipality*), in English and La Commission des services publics de (*naming the municipality*), in French, or in the case of such township, The Hydro-Electric Commission of the Township of (*naming the township*), in English, and La Commission hydro-électrique du canton de (*naming the township*), in French, or to a commission

COMMISSION DES SERVICES PUBLICS

38 (1) Sous réserve des paragraphes (2) à (6), le conseil d'une municipalité qui est propriétaire d'ouvrages, ou qui en assure le fonctionnement, destinés à la production, à la transformation ou à la fourniture d'un service public ou qui est sur le point de construire de tels ouvrages, et le conseil d'un canton qui a conclu avec Ontario Hydro un contrat d'approvisionnement d'électricité peuvent, par règlement municipal adopté avec l'assentiment des électeurs municipaux, confier la construction de ces ouvrages ainsi que leur contrôle et gestion à une commission qui sera nommée La Commission des services publics de (*nom de la municipalité*), en français, et The Public Utilities Commission of the (*nom de la municipalité*), en anglais, ou, s'il s'agit d'un canton, La Commission hydro-électrique du canton de (*nom du canton*), en français, et The Hydro-Electric Commission of the Township of (*nom du canton*), en anglais, ou à une commission

Création d'une commission municipale

SEE NEXT PAGE

established under this Part. R.S.O. 1980, c. 423, s. 37 (1), *revised*.

Appointment of commission for village

(2) Where the corporation of a village has entered into a contract with Ontario Hydro under the *Power Corporation Act* for a supply of electrical power or energy, a commission may be established by by-law of the council under this Part for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of such electrical power or energy, and it is not necessary that the by-law receive the assent of the electors.

Village commissions already established



(3) Every such commission established by the council of a village before the 12th day of April, 1917 shall be deemed to have been lawfully established, and the by-law establishing the commission shall be deemed to be and to have been legal, valid and binding from the time of the passing thereof, although the by-law was passed and the commission was established without the assent of the electors first having been obtained.

Repeal of village by-law establishing commission

(4) A by-law passed by the council of a village for the establishment of a commission without the assent of the electors may be repealed by the council at any time and it is not necessary to obtain the assent of the electors to the repeal.

Assent of electors



(5) Where a by-law establishing a commission in a village has been passed with the assent of the electors, the by-law may be repealed with the like assent.

Effect of repeal



(6) Upon the repeal of a by-law establishing a commission under this section, the control and management of the works are vested in the council and the commission ceases to exist. R.S.O. 1980, c. 423, s. 37 (2-6).

Commissions established



39. A commission established under *The Municipal Light and Heat Act* or *The Municipal Waterworks Act*, being chapters 234 and 235 of the Revised Statutes of Ontario, 1897, or under a special Act for the construction or the control and management of works for the manufacture, production or supply of any public utility shall be deemed to be a commission established under this Part and the provisions of this Part apply to it. R.S.O. 1980, c. 423, s. 38.

One commission for several public utilities

40.—(1) Where a commission has been established under this Part as to any public utility and the corporation desires to entrust the control and management of any other public utility works to a commission, subject to subsection (3), such control and management shall be entrusted to the commission so established, or if there is more than one com-

crée en vertu de la présente partie. L.R.O. 1980, chap. 423, par. 37 (1), *révisé*.

Création d'une commission pour un village

(2) Lorsqu'un village a conclu avec Ontario Hydro un contrat d'approvisionnement d'électricité en vertu de la *Loi sur la Société de l'électricité*, le conseil peut, par règlement municipal, créer une commission, en vertu de la présente partie, pour assumer le contrôle et la gestion de la construction, du fonctionnement et de l'entretien de tous les ouvrages entrepris par le village pour la distribution et la fourniture de l'électricité. Le règlement municipal n'a pas à recevoir l'assentiment des électeurs.

Commissions de village déjà créées

(3) Une commission créée par un conseil de village avant le 12 avril 1917 est réputée créée légitimement et le règlement municipal qui l'a créée est réputé avoir toujours été légalement valide et exécutoire à compter de son adoption, même si le règlement municipal a été adopté et la commission créée sans l'assentiment des électeurs obtenu au préalable.

(4) Le conseil d'un village peut abroger, sans l'assentiment des électeurs, un règlement municipal créant une commission, si ce dernier a été adopté sans cet assentiment.

Abrogation d'un règlement municipal créant une commission

(5) Lorsque le règlement municipal créant une commission dans un village a été adopté avec l'assentiment des électeurs, le règlement municipal peut être abrogé avec le même assentiment.

Assentiment des électeurs

(6) À l'abrogation du règlement municipal créant une commission en vertu du présent article, le contrôle et la gestion des ouvrages sont confiés au conseil et la commission cesse d'exister. L.R.O. 1980, chap. 423, par. 37 (2) à (6).

Conséquence d'une abrogation

39 Une commission créée en vertu des chapitres 234 et 235 des Lois refondues de l'Ontario de 1897, soit la loi intitulée *The Municipal Light and Heat Act* ou la loi intitulée *The Municipal Waterworks Act*, ou d'une loi spéciale pour la construction ou le contrôle et la gestion d'ouvrages destinés à la production, à la transformation ou à la fourniture d'un service public, est réputée une commission créée en vertu de la présente partie, dont les dispositions s'appliquent. L.R.O. 1980, chap. 423, art. 38.

Commission créée

40 (1) Lorsqu'une commission a été créée en vertu de la présente partie et concernant un service public et que la municipalité désire confier le contrôle et la gestion d'un autre ouvrage de services publics à une commission, la municipalité les confie, sous réserve du paragraphe (3), à la commission déjà créée. Si plusieurs commissions ont déjà

Une seule commission responsable de plusieurs services publics

- a draft of a by-law or a draft of a private bill (s. 6(1)(a));
- the substance of deliberations of authorized *in camera* council or board meetings, including committee meetings (s. 6(1)(b));
- advice or recommendations of an officer, employee or consultant (s. 7);*
- sensitive police data (ss. 8-8.2);
- confidential information received from other governments (s. 9);*
- trade secret or scientific, technical, commercial, financial or labour relations information received in confidence (s. 10);*
- information that would be economically damaging to the municipality or others if released (s. 11);*
- information subject to solicitor-client privilege, which would include communications between the councillors and officers on the one hand and municipal and outside lawyers on the other (s. 12);
- information whose disclosure could reasonably be expected to seriously threaten the safety or health of an individual (s. 13);*
- personal information related to individuals other than the applicant (s. 14);*
- information already or soon to be made public (s. 15).

Note that the above exemptions marked with an asterix do not apply and disclosure is mandatory if the compelling public interest in disclosure clearly outweighs the purpose of the exemption (s. 16). The MFIPPA also sets out the procedure for making a request for information (ss. 17-23).

An investigator retained by the municipality as an independent contractor to report on the fairness of the municipality's process for tendering a particular contract was not subject to MFIPPA: *David v. Ontario (Adjudicator, Information & Privacy Commissioner)* (2006), 2006 CarswellOnt 6755 (Div. Ct.).

A company incorporated under the *Business Corporations Act* by a municipality authorized by a private act is not subject to MFIPPA: *City of Toronto Economic Development Corp. v. Ontario (Information & Privacy Commissioner)* (2006), 2006 CarswellOnt 7302 (Div. Ct.), additional reasons at (2006), 2006 CarswellOnt 8311 (Div. Ct.).

In the absence of statutory authority requiring that the Board of Commissioners of Police make information available to the public, the court has no power to so order. A police commission can best retain the confidence of the public by making available all information relating to the government and operation of a police force except that with respect to which secrecy is essential for properly carrying out the duties of such force. *Obiter*: While a news reporter, as a reporter, is not entitled to information save that which is open to any member of the public, his or her special interest in acquiring information for dissemination to the public may provide standing to prosecute proceedings to obtain information open to the public, which another member of the public might not have: *McAuliffe v. Toronto (Metropolitan) Commissioners of Police* (1975), 9 O.R. (2d) 583, 61 D.L.R. (3d) 223 (Div. Ct.).

The prohibition in the Rules of Professional Conduct against counsel for an opposing party approaching directors, officers, or persons likely involved in the decision-

**YOUR FORMER ELECTED O.W.L.P. COMMISSION MEMBERS
CLEARLY STATE THAT A REFERENDUM VOTE BY THE CITIZENS OF ORILLIA
MUST TAKE PLACE TO APPROVE OR REJECT
THE SALE OF ORILLIA'S HYDRO DISTRIBUTION ARM TO HYDRO ONE**

September 29th, 2016

A great deal of time has been spent to try to put together a more realistic value of the Orillia Electrical Distribution that is the subject of the sale. The figures, prices, and location maps are available to support the accuracy of the former commission findings.

1. Orillia in the calendar year 2015 had 13,400 metered hydro customers.
2. On August 15, 2016 the city council called a special council meeting to consummate the sale of the Distribution Arm of the former utility. The price announced to the public was 26.35 million dollars.
 - a. There was no public input dealing in any way with the true value of this asset nor were there any chances for outside people knowledgeable in the utility distribution to give input. For the most part the entire process was done in secretive negotiations. Some members of council interpret that with the two open meetings where the council would highlight what they called the major pluses presented by Hydro One was what they considered input which was certainly never the case. Some members of the negotiating team attempted to try to give rationale for considering a sale of this nature.
 - b. No member of the negotiating team ever considered the serious effect that a sale would have on future electricity rates for this and future generations. The negotiating team at all times outlined to the public that this sale would have a major influence on creating many jobs and that the Hydro One promises were a deal of a lifetime. There was no mention what so ever that a sale of this nature would close all opportunity for any future benefit of Orillia creating additional generation or even introducing a link to other provincial distributors or even purchasing ties to Hydro Quebec and/or Manitoba Hydro.
In a recent article by A. Raymond he outlined that based on the use of 1000 kw the average bill for Ontario customers was \$226.03. Based on a monthly use of 1000 kw in the Province of Quebec this would be \$67.89, that is 70% lower than in Ontario. If you lived in Manitoba and consumed the same 1000 kw your bill would be \$81.09, that is 64% lower than Ontario. Both provinces have the capacity, within their systems, to service distribution customers in Ontario.

This misguided process prompted the last elected commission to try to take action to prevent or delay the sale until the citizens could, by referendum, reject or support a sale of this nature. The former commission depended somewhat that the legislature would side on democracy and support a vote of the people but this was never the case.

The local news media sided on the side of the City of Orillia revenue advertising stream and refused to publish anything that might negatively affect this ongoing revenue. So the people of Orillia were kept in the dark on many hydro matters – except for press releases from the city.

IN ORDER FOR THE FORMER ELECTED COMMISSION TO ATTEMPT TO PULL TOGETHER WHETHER THE 26.35 MILLION DOLLAR SALE WAS REALISTIC WE HAD TO DEPEND A GREAT DEAL ON MEMORY.

Poles and Equipment:

One member of the former OWLP remembered that within the corporate boundaries of Orillia we had just over 5,700 hydro poles at the time of dissolution. In the sixteen years following dissolution there had to be at least 300 more so we used the figure of 6,000 as our guide. We then used the figure of \$2,000 as a realistic price for each pole in the system to round the price out at **12 million dollars (\$12,000,000)**. The cost range for just the poles, using for the most part western cedar, ranges from a low of \$964.00 for a 40' class 3 pole to a high of \$7,000.00 for an 80' (HI) pole plus the manpower and equipment required for installation. In addition, one must consider the cost of polymer insulators, inline switches, disconnects, mid span openers, SNC load interrupter switches, isolator special, air break switches on the 44 kVa, etc.

Conductors (Wires):

To arrive at an accurate figure, it was necessary to use Google Maps to plot the circuits in order to arrive at 22.3 miles or 36.3 km of wire and divide that process into the amount of 3/0 triplex accompanying the circuits equaling 5.4 km (3.3 miles) and the possible kilometer of single phase primary in the city 16.5 km (10 miles). This was an item that we knew would be challenged so we calculated the majority of the meterage to number 336 conductor at a present day cost of roughly \$3.50 a meter and tried to get a realistic count on the location of 556 conductor which a little more than \$5.00 a meter. In other locations we knew there were 500 MCM copper in a great deal of the underground together with a smaller percentage of 1/0 copper and 1/0 aluminum. The total arrived at was somewhat downsized to **\$11,715,000**.

Transformers:

The transformers in residential areas were again low-balled in price to show a mix of 60 (kVa) and 75 (kVa) transformers for a rough total of 1,676 at \$2,500 and \$3,000 each FOB Orillia. We did not put a labour figure related to this item as the pole-mounted transformers could be erected and wired in a matter of hours. But the pad mounted transformers would be wired taking approximately three days. The pad-mounted transformers were roughly the same cost, however, there was a civil component requiring the concrete pad supporting the transformer. So the figure of **\$5,000,000** covered the cost for residential areas only. However, throughout the city in commercial, industrial, and schools, there is higher capacity pad-mounted transformers. Estimated in the range of **\$500,000** total.

Sub-Stations:

In the Orillia distribution we have nine sub-stations (one now under re-construction) which includes property, civil component, metal clad, breakers, transformer and underground each with a minimum value of 1.5 million dollars for a total of **\$13,500,000**.

Smart Meters:

There are 13,400 meters Smart Meters installed with a value of **\$8,040,000**.

Inventory:

As the former commission had no access to this dollar value we had to make an educated guess which included all equipment: trucks, Bombardies, pole trailers, special line equipment, chipping machinery, saws, line equipment, protective gear, poles, transformers, conductors, buildings and landholdings and a multitude of other equipment and spare parts - so our realistic guess has a possible error upwards or downwards of \$1,000,000 for a total of **\$5,000,000**.

With the lack of freedom of information there was no way that former commission members could gain access to what is still remaining and the value associated with the former 90 miles of transmission lines to know what portions have been previously sold and what ownership is still included and forming part of the sale. It is not possible to arrive at the value nor is it possible to obtain what buildings and land holdings are also included in the sale to Hydro One.

The one thing that we are however positive about is that any sale at 26.35 million dollars is an absolute betrayal of the peoples' ownership of this electrical asset that has been such an integral part of our heritage serving Orillia for 118 years. The six council members who voted for discarding this Orillia heritage asset at a fraction of its value will, if the sale cannot be reversed, forever carry this guilt with generations to come now forcing Orillians into sky-rocketing electricity costs after the province instructs Hydro One to sell to the private sector.

To summarize the true value with only a portion of the true costs available we arrive at:

12,000,000.00	Poles
11,715,000.00	Conductors (Wires)
5,000,000.00	Transformers (Residential)
500,000.00	Transformers (Industrial, Commercial, Schools, etc.)
13,500,000.00	Sub-stations
8,040,000.00	Smart Meters
5,000,000.00	Inventory
55,755,000.00	(Fifty-five million, seven hundred and fifty-five thousand dollars)

For the mass of equipment purchased during the period that HST came into existence the total of some of those items above would increase by 13%, which may possible extend the total to approximately \$57,000,000.

It's unbelievable to note that our grossly incomplete estimate of \$55,755,000.00 (Fifty-five million, seven hundred and fifty-five thousand dollars) is \$29,405,000.00 (Twenty-nine million, four hundred and five thousand dollars) more than the council's sale price to Hydro One of \$26,350,000.00 (Twenty-six million, three hundred and fifty thousand dollars) that six draconian members of council approved.

This City of Orillia had hired a top municipal law firm to give them a legal opinion on how to revoke Bylaw 557 (1913). To quote this legal opinion, it reads: "The procedure for revoking all or part of Bylaw 557 is interesting. From what we know now, it would appear that the Bylaw could only be revoked (in whole or in part) in the same manner in which it was instituted, namely by a Bylaw approved with the consent of the electors (Public Utilities Act, Sections 39 and 45). Under the Ontario Municipal Board Act, the OMB has certain powers to waive the need of putting a subject to the vote of the electors, but this appears to be only in cases which concern the issue of debentures for financing purposes."

However, the 2016 Council chose to ignore this legal opinion and not put the question directly to the electorate who, by referendum in January 1913, put the question to the electorate who voted to remove the management and control from council to the then, OWLP separately elected commissioners. Regardless of any legislation, the Council were duty-bound to respect the legal standing of Bylaw 557 of their own citizens. They did not have the right to sell any portion of their proud asset without a majority referendum vote approving it. The elected commission feel that they have a fiduciary obligation to act on behalf of the electorate.

Mayor Clarke in the four-page advertisement in the local daily makes mention that the distribution charge is to be reduced by 1% for a five-year period. To put this in perspective people have to look at their hydro bill under Delivery, the average of which on the customer's bill is in the range of \$35.00 per month. So a 1% saving is equal to 35 cents per month times 12 months is a yearly savings of \$4.20. Don't spend it all in one store!!

When dealing with a full distribution asset the purchaser should be paying the full related cost – related to the distribution asset - and the “so-called” double-book value should not enter the picture as this is strictly an internal accounting document generally by accountants used for tax purposes. The assets of the utility, for the most part, appreciate yearly in relation to the cost increases of materials, labour, etc.

ELECTRICITY IN GENERAL

Our provincial governments are off the chart in dealing with electricity matters. Democracy is no longer headed with a now attitude of “my way or the highway”. Provincial Auditor General Bonnie Lysyk, in her December 2015 report, gave a scathing report relating to an ill-conceived disaster and the huge waste of taxpayers' dollars, chasing industry out of Ontario and creating now non-competitive electricity rates - which are now the highest in North America. Her report is only the tip of the iceberg.

It is time to now look at the situation from the standpoint of a small utility of 13,400 customers owned by the citizens of Orillia. This utility came into existence in 1898 with a vote of the electors. For the record, this is eight years before the Province created their own utility called Hydro Electric Power Commission Ontario (H.E.P.C.) under the brilliant leadership of Adam Beck. The Provincial utilities model was power at cost to the citizens of Ontario and, certainly within Adam Beck's reign, the utility lived up to this model, up to and including the early 1960's.

Orillia, however, built its first hydro generation plant on the Severn River some 18 miles away from Orillia which, at the time, pioneered long distance transmission. This was a model that soon would be copied across the continent. From its inception Orillia industrialists agreed to back the borrowing debentures. The electricity rates alone were meant to pay off the borrowed money. It was discovered however that the municipality started to now-dip and divert contingency and maintenance funds of the power project to fund other municipal projects.

Provincial Promise #1:

The industrialists and key citizens, which included the father of Premier Frost, set up a meeting with the Premier and Adam Beck and received an absolute commitment that if the Orillia Council would establish a by-law that would be voted on as a referendum (plebiscite) and if carried by a majority of its eligible voters to create an elected commission, separate and apart from Council control, then the province would support it.

This vote of the people (referendum) January 1913 approved the complete separation and the setting up of an electrical commission to be elected by the citizens to now administer the hydro generation, distribution and sale of electric power. This referendum did not extinguish the right of a future council to make amendments nor try to sell the utility, **but no such maneuver could ever happen without calling another referendum for the people to approve or reject any such move.**

Provincial Promise #2:

The Province of Ontario in the **Town of Orillia Act, 1915** brought in legislation and under Section 11 of The Act which included the following:

“11(1) – subject to subsection 2, all the powers, rights and privileges with regard to the government of the Orillia Power Transmission plant or the generation, distribution and sale of electrical power and light heretofore or hereafter granted by any special Acts to the council or Corporation of the Town of Orillia shall, while the bylaw appointing such commission remains in force, be exercised by the Orillia Water, Light and Power Commission, and not by the council of the corporation.

11(2) – Nothing contained in this section shall divest the council of its authority with reference to providing the money required for such works, and the treasurer to the municipality shall, upon the certificate to the Commission, pay out any money so provided.”

This section has never been repealed. Now comes a sad day for democracy with an absolute betrayal of the citizens of Orillia and many other like municipalities when one or more provincial elected members secretly uses a brand new 225 page document of legislation described as an act to achieve fiscal savings and promote economic prosperity through public sector restructuring, streamlining end efficiencies and to implement other aspects of the government’s economic agenda (the short title of this act is the Savings and Restructuring Act 1996).

Our provincial leadership elite may still want to believe in abiding by democratic principles - they certainly profess that they do. In the case of electricity legislation, a small minority have shown themselves all too willing to violate their principles to gain or retain a certain power. So, in this new conspicuous act, certain draconian elected people secretly inserted a single clause to try to reverse the electoral power of the people of Orillia and other like municipalities who democratically cast their vote in a dually called and legal referendum to keep the people’s ownership by their elected representatives free of council involvement.

This oligarchy insertion into the new Savings and Restructuring Act Schedule M, Chapter 1, Item 33, page 172 introduces the following:

33. The Public Utilities is amended by adding the following section:

By-law waiving
the assent of
the electors

67. (1) A municipal corporation may pass a by-law to eliminate the requirement to obtain the assent of the electors before the corporation exercises a power under this Act.

Exception

(2) Subsection (1) does not apply to a municipal corporation exercising its power with respect to natural gas.

The insertion of this clause is a certain slap in the face and betrayal of the rights and freedoms of its citizens and represents a serious breach of democracy. This single clause is a betrayal of the absolute commitment and promise given Orillians and the legislation that was put in place to protect their utility.

Pursuant to Section 485, Section 482 came into force on January 1, 2003 and that is the date on which **section 67 of the Public Utilities Act was repealed**. This was after, of course, all the damage was done and the Electricity Act 1998 received royal assent.

The legislature as a whole must recognize that the distinguishing feature of a democracy is that government derives its authority from its citizens.

The word democracy comes from two Greek words “demos” (the people) and “kratos” (authority or power).

Direct democracy is defined as government in which citizens vote on laws. It is the writers' opinion that the provincial legislature, on its own, lacks the authority to alone discard legal referendums of its citizens.

With this single clause asserted in legislation and given royal assent it is the greatest distortion of fact that heads up as a background in the next piece of government legislation.

The Electricity Act 1998

Section 142 of the Act forces all municipal electric commissions to now incorporate and act under the Provincial Corporations Act. **The legislation appears to now give back the power to municipal councils and sadly corporations can now act in complete secrecy so there is no longer municipal transparency as the corporations do not fit into the legislation of freedom of information.**

New Ownership

The municipal corporation (**council**) or corporations that incorporate a corporation pursuant to this section shall subscribe for all of the initial shares issued by the corporation that are voting securities. 1998, c.15, Sched. A, s. 142 (4). The municipal council may, if not challenged, acquire, hold, dispose of and otherwise deal with shares of a corporation incorporated pursuant to this section that carries on business in the municipality. 2002, c. 1, Sched. A, s. 30. (*See Legislation attached*).

Not a local board, etc.

A corporation incorporated pursuant to this section shall be deemed not to be a local board, public utilities commission or hydro-electric commission for the purposes of any Act. 1998, c. 15, Sched. A, s. 142 (6).

This appears to now take away the people's democratic ownership and place it in the hands of some draconian members of council.

This legislation now gives the provincial utility Hydro One a simple opportunity to deal with municipal corporations (**councils**) to purchase the people's electrical corporations and merge them into Hydro One or package them up for an outside sale. This process has now been used to purchase multiple municipal utilities across the province.

The Drastic Financial Effect on Orillia's Electrical Consumers

As these former utilities are now corporations, the province has permitted them to create an alleged debt where no debt existed that will now pay alleged interest to the municipal council at a high rate of interest. The municipality can now dictate that they pay this interest over an exorbitant length of time before the electrical customers have any opportunity to pay off any of the principle. In the private sector, this is referred to as "loan sharking".

The second form of the municipal council benefits are now derived from the peoples' electricity bill of its consumers is a new corporation; dividends now payable to the municipality. For Orillians this amounts to \$1.1 million per year.

The third benefit to a municipal council is that they can derive an additional revenue of non-taxpayers from electrical customers who are renters and are required to pay their separate metered electricity.

Study of Orillia Electrical Customers

In the nineteen years that the writer was Chairman and Commissioner of Orillia's Public Utility I can say, with certainty, at the time of the alleged transfer to city council and their appointment their own selected Board of

Directors, the Orillia utility (O.W.L.P.) had close to \$7.2 million dollars in the bank and receivables and was absolutely free of all debt. The province allowed the newly formed corporations to create a debt payable to the municipal corporation of \$14,796,000 (fourteen million, seven hundred and ninety-six thousand dollars). \$9,762,000 of this figure related to distribution and \$5,034,000 was for generation. The initial borrowing rate was 7.5% which has now been reduced to, I believe, 6.5% - which is almost twice the borrowing rate of the city. The due date on this debt, where the utility customers can start to repay this alleged debt, is December 31, 2030 with no right to pre-pay any of the principle in whole or in part.

Corporation Dividends

The new corporations can now pay a dividend as part of the customers' electrical rates to the municipal corporation (city) equal to approximately \$1.1 million dollars yearly. The writer was able to obtain the following figures from a power corporation presentation to city council on April 13, 2015. In the report they show that Orillia council, over the fifteen-year period 2000 to 2015, received **\$37,100,000** dollars together with paying the city share to the hospital and university for an additional **\$4,325,000** dollars for a total of **\$41,425,000** dollars. As there are 13,400 Orillia customers identified, the math to arrive at an average is \$41,425,000 dollars divided by 13,400 customers is therefore equal to \$3,091.42 per customer. This is of course for 15 years so we divide \$3,091.42 by 15 years and arrive at \$206.09 per electrical customer per year. However, some will be higher and some will be lower based on their electrical consumption. Of course, the \$206.09 that the electrical customer pays to the City in interest and dividends is subject to HST.

Where is the democracy in our political system?

Electricity is in a Crisis

The majority of Orillia's population is made up of seniors, young families, people in low wage jobs, unemployed people and indigenous people. The horrendous increases that have happened in the Hydro One billing includes on peak, mid peak, off peak, regulator charges and other charges now representing close to a 300% increase over and above that which the customers were paying before the province forced the utility to incorporate. This is a serious situation for the people. Many in our community now have to sacrifice food for hydro, especially in the cold winter months.

The appropriate course, of initial action, is for the provincial government to recognize that this situation is directly related to the mismanagement in the Ontario Hydro family of corporations, as well as the drastic mistakes made by the legislature on hydro matters. **As six members of Orillia council have chosen to sell the people's distribution arm of the citizen owned utility, the only apparent avenue open is full litigation to thwart this inappropriate sale until the electorate can exercise their democratic right to vote on another referendum on this important issue.**

Respectfully submitted,



Frank Kehoe
On behalf of the elected members of the former
Orillia Water Light & Power Commission
fm.kehoe@rogers.com

Attachment: Section 142 of the Electricity Act

Section 142 of The Electricity Act 1998

Incorporation of municipal electricity businesses

142. (1) One or more municipal corporations may cause a corporation to be incorporated under the *Business Corporations Act* for the purpose of generating, transmitting, distributing or retailing electricity. 1998, c. 15, Sched. A, s. 142 (1).

Holding companies

(1.1) A corporation that one or more municipal corporations caused to be incorporated under the *Business Corporations Act* after November 6, 1998 and before May 2, 2003 to acquire, hold, dispose of and otherwise deal with shares of a corporation that was incorporated pursuant to this section shall be considered to be a corporation incorporated pursuant to this section. 2004, c. 31, Sched. 11, s. 7.

Conversion of existing electricity businesses

(2) Not later than the second anniversary of the day this section comes into force, every municipal corporation that generates, transmits, distributes or retails electricity, directly or indirectly, shall cause a corporation to be incorporated under subsection (1) for the purpose of carrying on those activities. 1998, c. 15, Sched. A, s. 142 (2).

Two or more municipal corporations

(3) Two or more municipal corporations may incorporate a single corporation for the purpose of complying with subsection (2). 1998, c. 15, Sched. A, s. 142 (3).

Ownership

(4) The municipal corporation or corporations that incorporate a corporation pursuant to this section shall subscribe for all the initial shares issued by the corporation that are voting securities. 1998, c. 15, Sched. A, s. 142 (4).

Same

(5) A municipal corporation may acquire, hold, dispose of and otherwise deal with shares of a corporation incorporated pursuant to this section that carries on business in the municipality. 2002, c. 1, Sched. A, s. 30.

Not a local board, etc.

(6) A corporation incorporated pursuant to this section shall be deemed not to be a local board, public utilities commission or hydro-electric commission for the purposes of any Act. 1998, c. 15, Sched. A, s. 142 (6).

(7) Repealed: 2004, c. 23, Sched. A, s. 57.

**A short list prepared by Frank Kehoe regarding the Orillia Distribution
proposed transfer of possible distribution materials and equipment
that he interprets may be included within the sale of
Orillia's Distribution to Hydro One or Hydro Networks.**

1. All land that was owned directly by the former O.W.L.P. (Orillia Water Light & Power) or were in the name of the Town of Orillia or City of Orillia forming part of the O.W.L.P. for the generation and distribution of electrical energy to Orillia, as well as other lands related to future generation and or distribution save and except the lands related to the present generation plants.
2. All of the multiple buildings located within the City of Orillia which includes the buildings housing the office staff, materials and other components save and except those related to the existing generation sites.
3. All easements registered and non registered located within the City of Orillia and in the many townships and other urban centres related to Orillia's distribution of electrical energy and the fibre optics.
4. All documents, rights, legislation granting authority of operation both in Orillia as well as other jurisdictions.
5. All pre-engineering, engineering studies, flood rights and other documents, photographic material aerial and stationary, of both current and former as well as new proposed future generation sites including Minden #2 at Horseshoe Falls, Cooks Falls on the South Muskoka River, Crozier Falls on South Muskoka River together with Sandy Gray on the Musquash River and the five potential key sites on the Magnetawan River where economically engineered dams could produce an abundance of generation power.
6. All the engineered power rights, cost and correspondence, related to the lands owned by O.W.L.P. subjacent and abutting the Trans-Canada pipeline in Severn Township and the access to an inter-connect on the high-pressure side of the pipeline that was granted for the opportunity to build a combined cycle gas turbine unit or units producing power to Orillia consumers.
7. All specialized electricity equipment for construction and future construction, for maintenance and repair of the electrical system both inside and outside of Orillia together with a fleet of specialized equipment and trucks specially equipped with up to date equipment and hydraulics.
8. Nine sub-stations valued at approximately nine million dollars in total.
9. A mass of inventory of transformers, conductors, poles, switch gear, disconnects and related materials.
10. I would expect that 90% of existing dedicated, well trained staff would form part of the sale.

The Mayor has on many occasions addressed that the distribution sale is the poles and wires (conductors) with no mention of any of the aforementioned items 1 to 10.

It is indeed sad that the bulk of the aforementioned appeared to be completely ignored by this and past councils so as to now take most available funds from the electricity arm (distribution) and place these funds in the general revenue of the City for use in projects not at all related to the Orillia hydro consumers. Since the demise of the former O.W.L.P. the City has extracted close to \$45 million dollars in what they call dividends and alleged debt. The dividends formally flowed directly to the electrical consumers in the form of a cheque or credit on their utility bill in years of high water which produced good generation revenue.

Hydro One, formally called Ontario Hydro, as well as (formally Hydro Electric Power Commission of Ontario) was totally owned by the Province of Ontario. Hydro One has now sold off 53% of its corporation to the private sector which of course includes close to 100 of the former municipal electric utilities.

Hydro One is deeply in debt and I have been told by good sources that their debt represents 10 to 18% of the total provincial debt that as of April 2018 was \$349+ billion dollars. So just using the 10% figure the hydro debt of \$34.9 billion dollars (a billion dollars is a thousand million) or to look on it prospectively in the consumer terms would be 34.9 thousand million dollars in which the interest is accumulating.

I as an intervener purposely enclosed the flyer produced by Hydro Distribution or Council that was inserted in all of last month's utility bills to show what I expect some members of Council understood as part of the transfer agreement. Some members attending the last Motions Hearing of the Energy Board at lunch referred to the flyer as possible talking points and certainly there was never any formal agreement agreeing to its content so I would interpret the flyer in the same manner as a letter to Santa Claus.

With the Secrecy Claus contained in the City of Orillia Bylaw pertaining to Hydro Distribution it was impossible to access any information directly from the Orillia Hydro Distribution Corporation or City Council. I have tried on many occasions to access the former minutes of O.W.L.P. when I was either a Chairman or Vice-Chairman as well as the supporting documents on the Transfer and Transfer Agreement supposedly from O.W.L.P. and how it was enacted. The material requested was always rejected. Part of the critical materials were the legal signed contracts with the former Ontario Hydro affecting Orillia's generation and the credits for the generation that was breached by Ontario Hydro new Corporations. The present situation of the rate for generation is now a disaster to the consumer and was always protected by the signed O.W.L.P. and Ontario Hydro Agreement as it related to both the Swift and Minden Power Plants. This Agreement has been completely breached causing the Orillia consumers to pay at least double the power rates that form part of the original Agreement. The new Orillia Distribution Corporation by City Bylaw as well as the Ontario Corporation Act legislation now are permitted to act in complete secrecy.

The former Orillia citizen's referendums are now completely ignored by some members of City Council. Transparency is non-existent in Orillia Distribution Corporation. The majority of City Council now completely ignore our Canadian democracy or the Charter of Rights and Freedoms as it related to the citizens past referendums particularly the referendum that rejected by mass majority the sale of Orillia's hydro assets to H.E.P.C. (Hydro Electric Power Commission of Ontario).

The Orillia City Council has had ample opportunity to put the sale of Orillia Power Distribution to its Orillia electorate by formal referendum. A majority of Council have ignored this opportunity and have spent instead spent 1.2 million dollars in legal fees alone trying to over-ride the will of the majority of its own citizens. Hence the writer has tried to work in the best interest of what he considers the majority of the electorate to endeavour to reject the distribution sale.

Respectfully submitted
October 2018

SWIFT RAPIDS AND POWER PLANT

Hydro Electric Power at Ragged Rapids

The first municipality owned hydraulic plant for long distance transmission of electric current on the continent was built at Ragged Rapids. This hydraulic plant was built by Orillia to service the town at a cost of \$75,000. It was located some 5½ miles up river from Severn Falls. They needed another \$48,000 before the project could be completed. The cost of current was \$17.00 per house power per year. Orillia was now receiving power from Ragged Rapids and no longer needed to depend on steam power. The dam at the site was called Patriache Dam after the engineer P.H. Patriache. He was the paddling companion of George Page on his first trip to Ragged Rapids. During the early days of the hydro plant the power had to be turned on at night and off in the morning. Exceptions were made for daytime use to run the new organ at the Presbyterian Church on Sundays. This was no problem except in hunting season when the men were all away and Mrs. Page had to turn the power on and off.

Heavy flooding in 1904 swept away the dam and a new temporary dam was constructed of rock and lumber known as Battle Dam built three miles above Ragged Rapids.

The Hydro Electric Commission of Ontario was established in 1906.

The citizens of Orillia voted \$80,000 to construct a new and improved plant at Ragged Rapids with a second line to Orillia. The capacity was increased to 1600 H.P. however one of the flumes burst causing a shutdown. The domestic and industrial demand for power was increasing and it was apparent the Ragged Rapids station would not be adequate. In 1911 the first suggestion from a federal engineer came that Swift Rapids would be a better site for Orillia's power company. The purpose was to avoid long and costly rock cutting and with federal financing work was started.

The Dominion Department of Railways and the canal system installed one of the finest marine railroads in the country. The marine railway remained in service until it was replaced by locks in 1965.

Orillia Water, Light and Power Commission

In 1913 a public utilities body was formed, separate and independent of town council. This body would be known as Orillia Water, Light and Power Commission and consisted of four members and the mayor. The first members were E. Long, W.S. Frost, C.H. Hale, J.B. Tudhope and Crawford Moffat mayor of the town.

The new dam was constructed with a 47 foot head 800 cubic feet per second and a new power house was built.

Vince Fountain was one of the pioneer workers at Ragged Rapids and continued with the O.W.L.P. Commission at the Swift plants. He recalls winters at both plants travelling by snow shoes to do repairs. Everyone there longed for spring breakup to end their isolation stated Vince Fountain.

George Page who had worked for Orillia electrical system since 1887 moved to the Swift and continued at Superintendent until his retirement in 1946.

The increase in current was up to 2000 H.P. from each of three horizontal turbines and this would look after Orillia's power for many years.

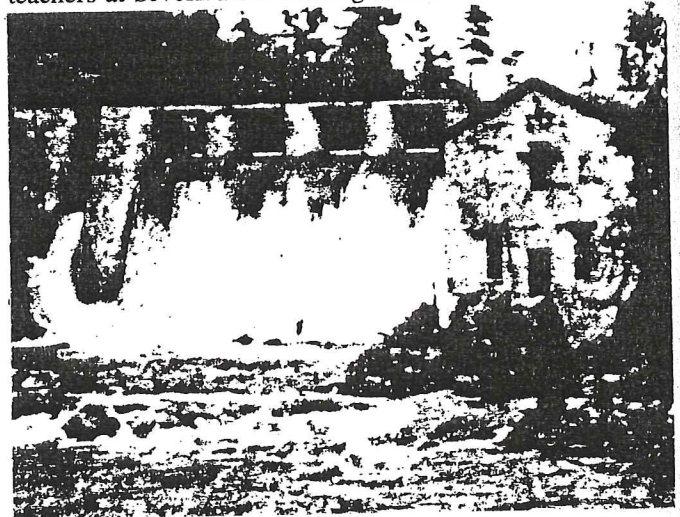
Eli Mincoff was an operator at the Swift plant.

As many of the operators lived at the Swift the Orillia Water, Light and Power Commission maintained a small school and paid its own teachers. The chairman of the Orillia Water, Light and Power Commission acted as school board chairman.

Dick Ellis remembers that the first school was built high on concrete dock foundations. There were nineteen pupils at first and the attendance diminished to four. All grades were taught and good teachers were hard to find. Miss Ethel Quirt was the last teacher and she left to teach at the Big Chute school. Parents moved and obtained other jobs so their children could attend high school. In later more recent years when only one family lived at the Swift they were transported by water and snowmobile to catch the school bus at Severn Falls.

Ragged Rapids was served by the C.N.R. with a station known as Hydro Glen. There was a small permanent settlement developed here where both railway and power house staff lived, a total of 30 people. The nearest barber shop could be seen from time to time on the station platform. It was possible to catch a train in the morning from Hydro Glen and travel to town and return at night. As time went on this service became less frequent and stopped altogether around 1953.

Bill Potter was maintenance man and had his own team of horses. He would take the residents to catch the train and then pick them up at night. During spring breakup, he had to travel about 5 miles around the shore to get to the station. Bill Potter would cut a trail 8 feet wide along the shore and around the swamps each year. In the evenings you could be sure Bill Potter at least once a week travelled to Severn Falls where he could be heard playing his fiddle for dancing in the school house accompanied by Lois Laughlin and Marie White, teachers at Severn Falls and Big Chute.



Ragged Raids Generating Plant at Hydro Glen
Demolished in 1917

Orillia electric customers have been cheated for the past 15 years

Chapter 1

O.W.L.P. changes to Orillia Power

Orillia electrical customers up until ¹⁹⁹⁰~~1990~~ ²⁰⁰⁵ enjoyed among the lowest hydro rates in the province but things were about to change. New legislation was introduced that changed the business model, the Electricity Act was amended and the Ontario Energy Board Act planned a bigger controlling role.

The Commissions across the province were now required to be changed to Corporations operating under the Provincial Business Corporation Act.

In the late ^{1990's}~~1980's~~ key senior city staff, with the Mayor and the Council of the day, had an inside track on how the legislation could be manipulated so as to give the Council, not the elected commission, the lead role in the transfer process. The City and Council recognized that if the elected commission could give financial dividends to its customers then possibly the legislation could be secretly maneuvered in such a way so as to set up corporations to show that Council was the sole shareholder and not the people who were the true owners. In doing so they could redirect the dividends for their own pet municipal projects. **This would be a second form of taxation that the people of Orillia would not be aware of.**

Chapter 2:

The Financial State of the Orillia Water, Light, and Power Commission (OWLP)

The elected commission, not being trained in the law and told by a senior staff member of the Ontario Energy Board as well as the Mayor truly believed that the legislation over-ruled all conflicting Municipal and Provincial legislation and that the Commission were powerless to fight it. Six months prior to any transfer the OWLP had in cash and receivables over **7 million dollars**. We believe it was 7.2 million dollars so the elected commission members voted to grant a dividend of 1 million dollars, not to exceed one million, fifty thousand dollars, to appear as a credit on their next electricity bill. The dividend amount was always based on the customers' electrical consumption so it varied with each customer. When the commission vote was taken the member of Council who was sitting in for the Mayor voted against it. The other commission members, however, carried the vote yet found it strange that a Council member did not support it.

The Council or senior city staff with an inside track, with internal help, cancelled this dividend even though it was done by the legal commission while they were still in charge.

Changing a commission to three different corporations was done in using a somewhat secretive process. The Commissioners fully expected that at least two or more experienced

Commissioners, who possessed vast knowledge and experience of the plans in place for additional generations and with the goal of making the utility self-sufficient in electrical energy by 2005 would remain working with this new corporation. This never happened and the elected commission goodbyed to the employees and left with reluctance. Their 40+ years of dedicated municipal experience did not rate recognition from the City Council nor were they given a letter or a hand-shake or appropriate notice that they had been replaced.

We, as the elected Commission were misinformed, lied to and set aside from any change in status brought about by the amendment of the Electricity Act. The Commission members were asked to step aside as the new legislation clearly over-rode all Municipal and Provincial legislation and shifted the process from the Commission to the Council giving them the ability to form new Corporations that in the future would ensure future dividends would be taken away from its customers and now paid to Council. The transition would now follow a process totally controlled by the Mayor and City Council.

We, the elected representatives of the utility, have never, up to this date, ever signed off or created a transfer document or bill of sale, or been officially or even unofficially notified that our election as Commissioners has been terminated. We were elected to serve the Municipal owners of this utility not the Council. We have no intention of negating this role as we feel we have a fiduciary obligation to try to correct the wrong that was done to our electrical customers and their Municipal ownership that the Commission held in trust. To do what is right we need the help of the Citizens in an effort to try to correct the aforementioned Provincial misdemeanors.

The Commission on the word of a senior Government official, no longer had status and we as the elected Commission were not given a letter or resolution stating that we were now replaced, or given any recognition for our years of Municipal dedicated service. This service amounted to keeping the utility as a model utility, with well trained staff, free of debt and at the same time, having electrical rates the second lowest in the Province, which included block customers of Hydro One. The objective of the Commission was to bring on additional generation so as to be totally self-sufficient in electrical generation by the year 2005.

The clock has now advanced fourteen plus years to 2004 when a former commission member was given a somewhat secret document called the "Recommendation on the Future of Orillia's Hydro Utility by the Bill 35 Transition Committee".

This secret document contained what one member called absolute treason and a direct betrayal of all of Orillia's electricity customers. The Council did not recognize the people's ownership or the effect it would have on its' customers - **or maybe they did.** The full transition document at its council meeting 2000-87 April 17, 1990 gave their approval to this total document. This approval was buried among other by-laws so as to be overlooked by the press or members of the

public present. This Council adoption happened six months in advance of any conversion from a democratic process to a secretive conversion stacked in favour of shifting electrical funds to now be re-directed to Council.

No elected member of the Commission was ever aware of this misrepresentation to the electorate until fourteen years later. It was believed, up until this point, that the transfer was made in legal conformance to both the Municipal and Provincial legislation.

Chapter 3:

The Process to Rob the Electrical Customers of Their Dividends

The first order of Council business was to implement a maximum return on dividends on the back of electrical consumers in order that Council could gain greater revenue. The Council would now implement a fifteen per cent raise in Orillia's electrical rates which they did.

Chapter 4:

Now Comes the Move by Council to Create Debt Where There was None

As previously mentioned the OWLP had seven plus million dollars with absolutely no debt but nevertheless Council now required the new corporation to issue two promissory notes to the City as follows:

- Orillia Power Distribution Corporation would now owe the City nine million seven hundred and sixty-two thousand dollars (**\$9,762,000.00**). This debt is at an interest rate of 7.5% per annum to December 31, 2005 and after that at a fluctuating rate based on a fixed formula of 2% above the Royal Bank lending rate.
- Orillia Power Generation Corporation now shows a debt to the City of five million, thirty-four thousand dollars (**\$5,034,000.00**). This debt is at an interest rate of 7.5% per annum to December 31, 2005 and after that at a fluctuating rate based on a fixed formula of 2% above the Royal Bank lending rate.
- **The debt now owing to Orillia Council is nine million, seven hundred and sixty-two thousand dollars plus five million and thirty-four thousand dollars for a total of \$14,796,000.00.**

This borrowing rate comes close to two times the normal borrowing rate of the City but the model we would expect is stick it to the people (customers) the Council have other uses for the money.

Chapter 5:

More Loan Sharking

The new corporations are now required to pay the interest alone with nothing going against the principal until December 31, 2030. Could anyone imagine paying a mortgage for thirty years and at the end of the thirty year period you would still owe the same amount as when you started or in this case fourteen million, seven hundred and ninety-six dollars (\$14,796,000.00).

The Council now requires their sole appointed Board of Directors to carry out the Council requirements so as to ensure ever increasing dividends flow freely back to the Council as well as the Corporations always continuing to operate in the Council's best interest, not the customers. The Council passes another by-law 2001-48 and appoints five directors to the board that will, we expect, will tow the line for Council and run the resemblance of the now demised OWLP.

For the distribution arm the Council institutes in the amended by-law under financial policies that the distribution arm will establish policies to maximize the return to the shareholder (the Council) to the extent permitted by the Ontario Energy Board over a transition period of three to five years. For the generation arm the shareholder (Council) expects that the Corporation through its Board of Directors will establish policies to move to a profit maximization approach over a transition period of three to five years.

The directors shall be elected (and appointed) for a term of three years on a rotational basis except for the initial five directors who shall be elected as follows:

- One for a one-year term
- Two for a two-year term
- Three for a three-year term

We would expect since there has been no change in the appointed directors over the last fifteen years that this could be best referred to as the Electricity Club. The remuneration for the board members is now close to ten times that of the former elected commission who had dedicated loyalty to the people (customers) and who would never be party to the now organized destruction of Orillia's greatest asset.

Too much information on the operation of the newly formed Corporations may be harmful to your health so the by-law to prevent this happening now includes a requirement that the people (the true owners) be kept in the dark.

Chapter 6:

Confidentiality

The shareholders and the directors and officers of the Corporation and the subsidiaries (each a receiving party) will ensure that no confidential information of the shareholders or the corporation or subsidiaries is discussed or otherwise made available to any person, except to the extent that:

- a. Disclosure to a receiving party's employees or agents if necessary for the performance of any receiving party's duties and obligations under this or any other shareholders' declaration.**
- b. Disclosure is required in the course of judicial proceedings or pursuant to law**
- c. The confidential information becomes part of the public domain (other than through unauthorized disclosure by the receiving party)**

So by bylaw, it is apparent that the appointed Board of Directors are, at every opportunity, required to apply for increases in the electricity rates to its customers so as to generate, in part, more and more cash to be given to Council in the form of dividends. The Directors, in 2014, applied to the Ontario Energy Board for an adjustment of the rates which was approved on March 19th, 2015.

Chapter 7:

Dividends

The former OWLP Commission after they were free of debt and in times of good generation years shared their good fortune with the true owners, the people of Orillia (customers) and mailed them a dividend cheque or gave them a credit on their next hydro bill.

As freedom of information legislation does not exist in the new corporations and there is no co-operation on the part of Orillia Power Corporation to give this information we the former commissions have to depend on city by-laws, council resolutions, and city minutes as well as the annual shareholder meeting of Orillia Power Corporation for the information herewith.

We can however, take the last figures that is by no means the complete figure, from the April 13th agenda of Orillia Power Corporation presentation to City Council on April 13, 2015. As part of the presentation of Orillia Power Corporation they show that Orillia Council, over the fifteen-year period 1990 to 2015, received **(37.1 million dollars)** together with the city's share to the hospital and university for an additional amount of **\$4.325 million** for a total of **\$41.425 million dollars**. The report shows that there are 13,400 Orillia customers so let's do the math on the assumption that each person's electrical bill is exactly the same. We of course know that this is not the case as some will be higher and some lower. So **\$41.425 million divided by 13,400 customers is equal to \$3,091.42 per customer but this is for fifteen years so we divide**

\$3,091.42 by 15 and we arrive at \$206.09 per customer per year. You are no longer getting a dividend cheque, but it is being taken by the city as a hidden form of additional taxation.

It is evident to all customers, the true owners (the people) could not fathom that their Council could implement a process to gain revenue without their knowledge as part of their electricity bill. If you want to cry then look at your electricity bill and see that you have paid GST on the amount extracted from you.

In the Council Special Budget Committee meeting last week October 28, 2015, Schedule "B" from the Chief Administrator Office are showing that Orillia Power Corporation interest to reserve of \$924,760.00 for the year 2015 then \$721,000.00 for the years 2015 through 2029. In the same report they are showing the dividends from Orillia Power Corporation as \$1,100,000.00 for the years 2015 to 2018, then increasing to \$1,500,000.00 for 2019 to 2029. On a separate line they are showing an increase to Orillia Power Corporation dividend (expansion) which starts in 2020 as \$1,709,000.00 through 2029. We have no idea of what or where this expansion figure is coming from and we hope with favour that this does not relate in any way to Mayor Clarke's article relating to negotiations with Hydro One on any sale of the distribution arm of the utility.

Chapter 8:

The Ownership of the Utility

The ownership of the utility belongs to the people of Orillia, not the Council and it requires that their elected representatives not Council's appointed people to act as their agent in trust for the people. To make a change in this process requires City Council to go back to the people in an amended referendum to make changes or attempt to dissolve the people's by-law 557.

In 1911 when there was an uproar from both industry leaders and the people regarding the complete mismanagement of their electrical asset and the depletion of all its contingency monies and lack of appropriate maintenance which lead to a great number of outages. Key industrialists (including J.B. Tudhope, Eratus Long, William Frost (father of Leslie Frost), Mayor Goffat) and supporters of the electrical utility ran for and were elected to the 1912 town Council with their platform being to remove the utility from the control and mismanagement of town Council. This Council then composed by-law 557 that would be put to a vote of the people as a binding referendum that could only be changed or amended in the same manner as instituted, that is with another supporting vote of the people. This plebiscite or binding referendum remained in place for 87 years under the name OWLP until the Council or staff said that this old by-law can now be ignored and that Council can now again take control.

On January 7, 1913 the above vote was certified and the referendum passed to create a separate elected commission (corporation), free of Council to administer and run both the generation and distribution in trust for the people. **This was endorsed by 65.8% of all the electors and became**

people's by-law 557 forming the Orillia Water Light and Power Commission that could not be changed nor amended by any future council without the approval by the people through another referendum voted on and approved by the people. The Council on two occasions attempted to sell the utility to H.E.P.C. but were forced to call a second referendum in which they lost by a large majority.

Chapter 9:

Town of Orillia Act 1915

The legislature of the Province of Ontario passed the Town of Orillia Act and **section 11(1)** of the Act merely confirms the aforementioned.

“11(1) – subject to subsection 2, all the powers, rights and privileges with regard to the government of the Orillia Power Transmission plant or the generation, distribution and sale of electrical power and light heretofore or hereafter granted by any special Acts to the council or Corporation of the Town of Orillia shall, WHILE THE BYLAW APPOINTING SUCH COMMISSION REMAINS IN FORCE, BE EXERCISED BY THE ORILLIA WATER, LIGHT AND POWER COMMISSION, AND NOT BY THE COUNCIL OF THE CORPORATION.”

(2) Nothing contained in this section shall divest the council of its authority with reference to providing the money required for such works, and the treasurer of the municipality shall, upon the certificate of the Commission, pay out any money so provided.”

3. That the Province within the amendments did not have the intent within its legislation to create laws to over-ride the people's ownership or dictate the process that would change the separation so as to give Council control over the legal referendum of the people.

Back in 1990 the Council had a legal obligation to support the transfer process to the only elected members of the utility to conform to by-law 557 and to the Town of Orillia Act so as to assist the elected commission in the transfer, not thwart the process. The Orillia Water Light and Power was a corporation and section 142 of the Electricity Act permitted other Municipal Corporations to make the transfer. Council had a role in the transfer process however, they did not have the right to name themselves the only shareholder. It was a simple process to change the name Orillia Water Light and Power Commission to Orillia Power Corporation. The elected commission are adamant that until by-law 557 is appropriately repealed by the vote of the people that the transfer in our opinion is not legal.

Chapter 10:**Orillia Statistics 2012**

- **Orillia's population is approximately 32,000.**
- **One third of Orillia's population, unfortunately, exists at or below the poverty line.**
- **40% of the population is on fixed income and unable to absorb increases related to their cost of living.**
- **The growth rate in Orillia, when you remove the students who live temporarily in our city during their 8-month school year and whose principal residence is elsewhere, is stagnate or, now negative falling from 0.5% in 2011 census to now minus figures. The national growth rate is 5.9%.**
- **The population of people over 65 in Orillia is 24.1% where the national average is 14.8%.**
- **Orillia's median age is 49.2 years where the provincial median is 40.4 years.**

Chapter 11:**Sale of the Distribution Arm**

Any sale of any portion of the former OWLP (Orillia Power or Orillia Distribution) would have a catastrophic negative effect on the utility and the people of Orillia and should never be considered - at any price.

All electrical customers and citizens of Orillia have an obligation to make their position known. To do nothing should not be an option. We should not allow the sale of our electrical asset to Hydro One or any other bidder and we should ask Council to have an open discussion and people's referendum on this issue.

Call your Ward Council representatives and mayor to ask them why they are in negotiations with the mismanaged Hydro One and if they are selling a portion of our profitable public utility just to pay for a recreation centre we cannot afford.

Mayor Steve Clarke: mayor@orillia.ca, (705) 325-2447

Councilor Ted Emond: ted@tedemond.com, (705) 826-2347

Councilor Sarah Valiquette-Thompson: votevaliquette@gmail.com, (705) 826-2351

Councilor Rob Klootra: cameronhouse@rogers.com, (705) 826-2350

Councilor Ralph Cipolla: cipolla@encode.com, (705) 826-2466

Councilor Mason Ainsworth: mason4orillia@gmail.com, (705) 826-2328

Councilor Jeff Clark: jn10clark@gmail.com, (705) 826-2343

Councilor Pat Hehn: pmhehn5@gmail.com, (705) 826-3497

Councilor Tim Lauer: tlauer@sympatico.ca, (705) 325-5812