



BY FAX (387-1040)

April 6, 2006

Hon. Rich Coleman
Minister of Forests and Range &
Minister Responsible for Housing
Parliament Buildings
Victoria, BC V8V 1X4

Dear Minister:

Bill 25 (Safety Standards Amendment Act, 2006)—Disclosure of Electricity Consumption Information to Safety Authorities—OIPC File F06-28479

The above Bill would require electricity distributors to disclose electricity consumption information to local governments, which could then disclose the information to safety authorities for safety inspection purposes. The intent appears to be to help identify possible marijuana grow-ops, thus allowing inspectors to address electrical and other safety concerns that arise with grow-ops. The Bill would also authorize local government officials to disclose electricity consumption information to police forces, including the RCMP.

I acknowledge that marijuana grow-ops pose electrical and other safety risks. Earlier this week, for example, a house containing a marijuana grow-op was reported to have exploded in West Vancouver, injuring one occupant and leading to an order to demolish the remains of the house. I am also aware that grow-ops are a concern to the police from a criminal justice perspective.

Over the past decade, BC Hydro has been disclosing electricity consumption to police on request in accordance with BC Hydro policies created consistent with the *Freedom of Information and Protection of Privacy Act* ("FIPPA"). We have in the past taken the position that it cannot clearly be said this system is not working and have questioned whether a legislative change is necessary to assist in investigating safety issues associated with grow-ops.

I am aware, however, that police and safety officials feel that the current information disclosure system is not working—particularly because there is no proactive disclosure of hydro consumption information—and that FIPPA does not provide sufficient authority for disclosure of electricity consumption information to local governments for safety purposes.

As a general point, such initiatives amount to a form of surveillance, involving compilation and use of information about entire classes of citizens without grounds for individualized suspicion of wrongdoing. Such initiatives are multiplying at all levels of government in Canada and are a cause for concern. They are, in my view, to be avoided wherever possible, including because they are not subject to prior approval by the courts.

In light of FIPPA's existing provisions enabling disclosure of electricity consumption information for particular civic addresses, I continue to question the need for legislative change in this area. Having said this, I acknowledge that the government has decided to remove any doubt by introducing clear and specific authority in this area.

The Bill would allow disclosure of information to police forces without restricting the purposes for which the information can be used. Because of the privacy concerns raised by surveillance initiatives like the one contemplated by the Bill, I suggest that the Bill should only permit local governments to disclose electricity consumption information to safety authorities for safety inspection purposes. If the information is to be disclosed to police at all, it should only be to ensure that a proposed safety inspection does not inadvertently interfere with an existing or contemplated law enforcement investigation at a specific location. In other words, if police are to receive consumption information, legislative controls should be placed on the purposes for which police might use information that they receive.

I also suggest that the levels of electricity consumption prescribed by regulation for reporting purposes, as contemplated by the s. 19.1 definition of "residential electricity information", should be prescribed at levels sufficiently high as to minimize the chances that innocuous uses of electricity are included (e.g., hot tub use).

Because this letter comments on a Bill before the Legislative Assembly, I am sending a copy of this letter to the Opposition critic for your Ministry. This is our longstanding practice.

This letter will be posted on our website later this afternoon.

Yours sincerely,

ORIGINAL SIGNED BY

David Loukidelis
Information and Privacy Commissioner
for British Columbia

cc: Doug Konkin
Deputy Minister

Lori Wanamaker
Associate Deputy Minister

Doug Routley, MLA