Afternoon Energy Media Summary - June 6, 2018

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Date: Wed, 06 Jun 2018 15:00:51 -0400

Good afternoon,

Here is what's making news today:

- 2 northern Ontario First Nations in court over pipeline work in their territories – *CBC News*
- The uncertainty of Ontario's election is hanging over Bay Street – *Financial Post*
- What Kathleen Wynne's Hydro fiasco tell us about the accounting profession – *Canadian Accountant*
- Horwath gains in Ontario race, raising prospect of higher taxes – *BNN Bloomberg*
- \Wednesday's letters to the editor: Math doesn't add up – *Belleville Intelligencer*
- Wynne out of touch to the very end – *Chatham This Week* (Op-Ed)

Please see below **Today in Twitter** for news articles.

June 6, 2018

@PNozhka

What does big government get you? Big problems. The Liberals in their immense smugness saddled Ontario with one of the biggest hydro messes on record. Result: Soaring hydro costs and energy poverty for many. # onpoli

@TorontoPearson

Did you know, we have saved over 20 million kilowatt hours – equal to powering 2,400 Ontario homes – since launching our Energy Conservation Project? To learn more, watch: youtu.be/x2gSVBFIWNU

@ONWaterpower

OWAs display is @ PtboWaterFest today and tomorrow educating over 1400 grade 3 students on the importance of # waterpower and # renewable # energy big thanks to @ ptbogreenup @ RiverviewZoo @ ptbo_utilities @ CityPtbo for organizing this annual event!

@IESO_Tweets

The IESO's Conservation Fund supports innovative technologies, practices, research and programs that help Ontario reach its energy conservation goals. ieso.ca/en/get-involve… 5 days to # IESOsummit

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2 northern Ontario First Nations in court over pipeline work in their territories

Matt Prokopchuck
CBC News
June 6, 2018

Two northwestern Ontario First Nations are in court in Toronto today, challenging a pipeline company's ability to dig on their traditional territories without consultation.

Aroland and Ginoogaming First Nations, located northeast of Thunder Bay, Ont., in the Greenstone area, are seeking a judicial precedent that they be consulted when TransCanada Pipelines does maintenance work, or "integrity digs" on its old infrastructure built on the communities' territory. The First Nations court action names the company, the National Energy Board and the federal government as defendants.

The pipelines in the Greenstone area were constructed decades ago, prior to the enshrinement of duty to consult in Canadian law. The First Nations are arguing that those rights should be respected now, including for maintenance of existing infrastructure.

"If the approval (for a new project) is issued, there should be a number of conditions in that approval that stipulate how First Nations and their rights and their lands and cultures would be protected," said Kate Kempton, a partner with OKT Law in Toronto and senior legal counsel for the First Nations.

"[Older pipelines] were approved before that duty was articulated in Canadian law, understandably, they got built without consulting and accommodating," she continued. "But they continue to be operated, including through these discreet integrity dig activities, without the duty to be consulted and accommodated having been met either."

"We're saying that has to stop."

In a statement, a spokesperson for TransCanada said the maintenance work, including integrity digs, is to ensure that natural gas is transported safely. On the issue of consultation, the company said that the duty to consult is "before the courts and is primarily a discussion between the Crown and the First Nations."

"We will await the outcome of the case," the company said.

The National Energy Board said in a statement that it does not comment on cases before the courts. The Ministry of Crown-Indigenous Relations and Northern Affairs did not respond to a request for comment by CBC News on Tuesday.

Hearings part of larger civil suit

Hundreds of digs have taken place in Aroland's and Ginoogaming's territories over the years since the pipelines were built, Kempton said.

"So this is an ongoing issue," she said.

This court challenge is part of a larger lawsuit that seeks tens of millions of dollars over claims that the construction and maintenance of the pipelines violated treaty rights and lack of consultation on work that could impact the First Nations' ability to hunt, fish and gather plants and medicines.

"[Whether] we succeed on this motion, we might or might not continue with the rest of the underlying lawsuit," Kempton said. "This will have a profound effect on what we are and are not able to do with the rest of the lawsuit."

TransCanada has said it has sought input from the communities "numerous times."

This week's hearings are scheduled wrap up on Friday, Kempton said. The presiding judge will then render a decision, likely in several months, she added.

Ontario Regional Chief Isadore Day issued a statement Tuesday, urging supporters to attend the superior court hearings in Toronto.

"At stake here is the First Nation right to prevent any further activity on pipelines that were built on their lands without prior knowledge or consent," he was quoted as saying.

The uncertainty of Ontario's election is hanging over Bay Street
Geoff Zochodne
Financial Post
June 6, 2018

One thing Bay Street hates is uncertainty. And ahead of Thursday’s election in Ontario, there is plenty of that to go around.

Not only is the overall political direction of the largest provincial economy in Canada up for grabs, but there are individual policies proposed that could ripple through the markets and investors’ portfolios.

At this point in the race, the polls have shown the right-leaning Progressive Conservatives and left-leaning New Democratic Party are the front-runners. The governing Liberals are running third in those same polls, with Premier Kathleen Wynne admitting this past weekend that she was pretty sure voters would not give her another mandate on June 7.

Taxes are always an issue come election time. And the movement of Ontario’s corporate tax rate is naturally a closely watched thing for the businesses headquartered in the province, including some of the country’s largest financial institutions.

Progressive Conservative Leader Doug Ford has vowed to send the message that Ontario is “Open for Business,” in part by cutting the province’s corporate tax rate to 10.5 per cent from its current 11.5 per cent.

“As per tradition, businesses are likely to view a tilt to the right positively, particularly given years of the opposite tendency plus the promise of a corporate tax cut,” said Eric Lascelles, chief economist for RBC Global Asset Management, in a Tuesday note. “However, with many uncosted Conservative promises on the table, an unfamiliar populist tilt to the party, and no clear path toward balancing the budget from either of the contending parties, one worries about the province’s fiscal position at a time when governments would normally be socking away surpluses for the next rainy day.”

The other front-runner in the upcoming vote is Ontario’s New Democratic Party and its leader, Andrea Horwath. Contrary to the PC position, one of the planks of the NDP platform is a commitment to hiking the tax rate on corporate profits to 13 per cent from 11.5 per cent.

“This is still lower than when the Liberals took power, and will put Ontario’s combined rate in line with the national average,” the platform says.

The effect on some of the province's largest businesses could be minimal. While noting the province is home to the highest proportion of the Big Six banks' lending activities and the largest percentage of their employees, excluding Quebec-based National Bank of Canada, National Bank Financial analyst Gabriel Dechaine estimated Monday that an NDP win could result in a relatively small hit to the earnings of the Big Six banks.

Each of the lenders could see their earnings per share reduced by an average of 0.7 per cent under the NDP's tax bump, Dechaine projected, "an amount that banks could easily offset in some way or fashion."

One of the bigger implications of an NDP win, he suggested, could be the reaction of corporate Canada.

"While EPS hit would be small, the broader economic impact could be more important," Dechaine wrote. "It is plausible that business sentiment is negatively impacted, especially at a time when Canada and Ontario's competitive positioning vis-à-vis the U.S. has appeared to weaken."

The banks also do a good deal of business in the housing market, where the NDP is eyeing further regulation, such as a new housing speculation tax aimed at "foreign and domestic speculators who don't pay taxes" in the province.

The party says non-Ontario homeowners in and around the Greater Toronto Area, where the province's 15-per-cent foreign buyer tax is already applied, would be hit with an additional annual tax of five dollars per $1,000 of the assessed value of their house. This would rise to $20 per $1,000 of assessed value in 2019, similar to what was done in British Columbia, the party said.

Ford and the Tories have said they would boost the supply of affordable housing, and despite a video surfacing of the party leader vowing to "open up" part of Ontario's Greenbelt, say they would protect the already protected area "in its entirety."

But the various approaches have thrown another wrench at investors. A National Bank note recapping the real estate industry's first quarter said the Ontario election "creates some risk that is frankly difficult to handicap."

Electricity has also been a key issue in the election campaign. And Toronto-based Hydro One Ltd., Ontario's largest transmitter and distributor of electricity, has been directly in the crosshairs of the politicians.

Both the NDP and PCs have designs on Hydro One, nearly 53 per cent of which has been sold to investors by the Liberal government to fund infrastructure projects and debt repayments.

Horwath and the NDP would like to return Hydro One to government ownership. Ford, meanwhile, has declared he would fire its chief executive, Mayo Schmidt, whom Ford dubbed "The $6 million Man."

Hydro One's stock price has declined amid the political pressure. Shares of the utility, which is in the midst of an attempted $6.7-billion acquisition of U.S. energy company Avista Corp., have fallen by about 15 per cent for the year.

"The Ontario election … will contribute to share price volatility over the next month or so," predicted a CIBC World Markets note in May. “This may culminate in various scenarios with considerable uncertainty for shareholders.”

But the Liberals made a different kind of sortie into the capital markets during their time in power, creating another source of uncertainty. It began with the Grits announcing they would lower electricity bills by an average of 25 per cent using their “Fair Hydro Plan,” which involves borrowing around $2.5 billion annually over 10 years, the province’s Financial Accountability Office projected.

A so-called “Fair Hydro Trust” is tied to the plan and is managed by provincially owned Ontario Power Generation Inc. The trust completed its second public debt offering, of $400 million at a yield of 3.52 per cent, in April. Its fate is now tied to the election as well, with Bloomberg reporting this week that the Fair Hydro Trust notes tied to the plan have been rebuffed by some investors in that market.

Ratings agency DBRS said in April that the 30-year scope of the Fair Hydro Plan law “introduces some uncertainty regarding the longevity of the legislation.”

“Support from provincial leaders may change over time,” DBRS added, “which could lead to the repeal of, and/or amendments to, the legislation.”

What Kathleen Wynne's Hydro fiasco tell us about the accounting profession
Colin Ellis
Canadian Accountant
June 6, 2018

So here we are, on the final day before the Ontario provincial election, and Premier Kathleen Wynne has already conceded defeat. Don’t vote for me, says Wynne, because you obviously don’t like me, but please vote Liberal. Don’t be foolish and elect Doug Ford. And don’t get desperate and elect Andrea Horwath.

How did we get to this sad state of affairs? Well, Canadian accountants and the accounting profession had a heck of a lot to do with it.

If you don’t know the full story by now (where have you been?), it all began in March 2017, when the Liberal government, concerned that rising Hydro rates might cost them the next provincial election (it has and will), pulled a fast one.

They cut electric bills under the Fair Hydro Plan. One month later, they announced a balanced provincial budget. Soon after, Auditor General Bonnie Lysyk stepped in to ask, what about the billions of dollars that your rate cut cost? Forget about that, said the Liberals. Not only will we recover the costs in the future, but we can record them as assets. Lysyk called it creative accounting. Others called it worse.

The state of standards

What does the Hydro accounting fiasco tell us about Canadian accounting? Well, let’s begin with accounting standards themselves. Ontarians now realize that there is more than one set of standards, and different frameworks can be applied by governments and organizations to meet their (often short-term) needs.

Second, rate-regulated accounting, despite its rough ride in the media, is perfectly legitimate and has been used by public sector utilities and private sector pipeline companies for years. The concept is simple. Regulated industries, which require government approval to set rates, should have the means to defer costs by carrying them forward into future years when, presumably, they will recover those costs through asset sales or price hikes.

Last year, I had a conversation with Professor Michel Magnan, FCPA, FCA, of Concordia University. As a former director of Canada's Accounting Standards Board (AcSB), Magnan referred me to the Board's own research, which showed widespread use of U.S. GAAP by Hydro utilities in BC, Ontario and Quebec, but the use of IFRS by smaller provincial utilities in Manitoba and New Brunswick.

As AcsB makes clear, U.S. GAAP, which permits "the recognition of balances arising from rate regulation," is typically used by investor-owned (private sector) entities. At the time, Magnon slyly hinted to me that Ontarians should "follow the money." Indeed, Wally Smieliauskas, professor of accounting at the Rotman School of Management, recently pointed out that rate regulated accounting under U.S. GAAP was used by Enron, the poster child for creative accounting.

The Ontario government was advised in its framework by three of the Big Four accounting firms (Deloitte, KPMG, EY), Navigant, a consulting firm, and Blakes, a law firm. As reported by the Globe and Mail, KPMG earned between $86,000 and $92,000 in annual fees in the past three years for auditing the books of Ontario's Independent Electricity System Operator (IESO).

The IESO is the agency that manages the province's electrical system and acts as an intermediary between power generators and consumers. For its advice on the IESO's new use of rate-regulated accounting, KPMG earned $652,000 in 2017.

At a time when the U.K. government seems intent on forcing the Big Four to split its audit and consulting services into separate entities — due to the fallout from the collapse of public sector construction company Carillion — the Ontario government had no such concerns over conflict of interest. KPMG had also appeared, just one earlier, before a Senate committee investigating offshore tax shelters. The Wynne government should have known the optics were bad.

What does this tell us? That governments, through agencies such as the Public Accountants Council of Ontario, have the power to properly regulate and change accounting frameworks and standards but will not if the status quo serves their interest. That professional accounting bodies see no upside to expressing an opinion on politically charged controversies.

And that "professional judgment" can be an elastic concept; accountants and lawyers are paid very well to find solutions that often follow the letter of the law if not the spirit. It's the primary reason that public trust in the accounting profession has fallen in the past few years.

Enter the activist accountants

Just as there are competing accounting frameworks, there are accountants with competing visions of fairness. If there's a hero in this sad and even sordid tale, it's Auditor General Bonnie Lysyk, one of Canada's "activist auditors general."

She took considerable heat for pointing out that future generations of Ontarians are now on the hook for a short-term, politically motivated accounting solution. Millennials across Ontario should send her a note of thanks.

Then there's Al Rosen, who's had a very good year. His criticism of accounting in Canada's cannabis sector prompted several senior executives of marijuana companies to acknowledge and even complain that Canadian accounting standards were inadequate and even misleading when applied to their product.

Then Rosen was quoted by the Globe and Mail in its excellent feature, "Bad books: How Ontario's new hydro accounting could cost taxpayers billions," to explain the dangers of rate-regulated accounting. Love him or hate him (we love him), Rosen remains one of the few household names in Canadian accounting circles.

As Ontarians head to the polls tomorrow, their impression of the Liberal government has been tarnished by a "technical dispute between accountants." It's worth noting, however, that, when the B.C. NDP was in Opposition, the party had been vocal for years in its accusations of improper accounting at B.C. Hydro.

Just last week, however, the new B.C. Minister of Energy, Michelle Mungall, stood in the Legislature to praise B.C. Hydro and its fiscal status. Now that a new government is in power, the accounting fiasco at B.C. Hydro has magically disappeared.

Will a new government in Ontario be any different?

Colin Ellis is managing editor of Canadian Accountant. Photo: iStock/Illustration: Canadian Accountant.

Horwath gains in Ontario race, raising prospect of higher taxes
Josh Wingrove
BNN Bloomberg
June 6, 2018

Andrea Horwath, a longtime opposition lawmaker who's never been close to power, may soon get her chance to lead Canada's most-populous province.

Backlash against an unpopular premier and concern about a populist candidate who draws comparisons to Donald Trump could see Horwath's New Democratic Party win this week's election in Ontario, ushering in higher taxes for Canada's biggest companies and high-income earners.

Ontario's vote on Thursday has narrowed to a tight two-way race: the left-leaning New Democrats against the right-leaning Progressive Conservatives. Three parties typically are in the mix, but Premier Kathleen Wynne has already conceded she won't win, effectively ending 15 years of Liberal Party rule.

That sets up a showdown between Horwath, 55, who has been surging in the polls, against PC Leader Doug Ford, 53, who entered the race with a wide lead. Polls show them essentially tied, though Ford's support is more evenly spread across the province, leaving him poised to win more districts, or seats. Horwath's hopes likely rest on a strong turnout and a Liberal collapse to stop the more-divisive Ford.

"The NDP can take advantage of it if they make a compelling closing argument in the last few days. They have far more accessible voters," said pollster David Coletto, chief executive officer of Abacus Data.

Spending Commitments

With Wynne out of the way, Horwath, a former legal-aid counsellor from Hamilton who has been a municipal and provincial lawmaker for more than two decades, is positioning herself as the only person to stop Ford.

“Doug Ford doesn’t need to be kept in check after election day, he needs to be defeated on election day,” she told a recent rally, in a clip used for a party ad. “Only by voting NDP can we do that.”

Horwath’s platform favours tax increases and new spending. She would raise the corporate tax rate to 13 per cent from 11.5 per cent, pushing the combined federal and provincial rate to 28 per cent for Toronto-based companies like Royal Bank of Canada and Brookfield Asset Management Inc. The increase would be phased in over three years, starting in 2019-2020.

High-income earners will also pay more. Income taxes will jump 1 percentage point on salaries above $220,000 a year, and 2 percentage points for those earning more than $300,000. Luxury car drivers will also take a hit under the NDP plan, with a surtax of 3 per cent on cars costing more than $90,000.

Hydro Buyback

Horwath is pledging to backtrack on the sale of a controlling stake in electricity distributor Hydro One Ltd., saying the NDP would return it to “public ownership” within four years. That would cost the government about $6 billion based on the current share price, with the party pledging to recoup the costs through the utility’s dividends over eight years.

The NDP platform includes a host of social measures that would add $15.8 billion in annual program spending after five years, a 9 per cent increase on current projections. Revenue will rise $5.9 billion in same time period, up 3 per cent. Deficits would average about $5 billion annually, lower than the Liberal government’s forecast of almost $6 billion over the same period. Ford’s party hasn’t released a fully detailed economic platform.

“It is difficult to make the case that any of the major party platforms are fiscally responsible or are grounded in a prudent economic strategy,” said Kevin Page, a former federal budget watchdog who is now president and CEO of the Institute of Fiscal Studies and Democracy at the University of Ottawa. “Our political leaders are saying we need to further stimulate a relatively strong economy. Does this make economic sense?”

House in Order

The NDP is also pledging a province-wide child-care plan, a universal “pharmacare” plan to cover certain drug costs, a 30 per cent cut to electricity rates, converting student loans to grants, expanded dental coverage and a cap on kindergarten class sizes.

The province’s election race has generally seen all three parties pledge new spending and tax cuts -- with little regard for paying down debt that has ballooned for the largest sub-sovereign borrower in the world.

Whatever the next government, “they need to really think very seriously about getting the fiscal house in order," Cheng Hoon Lim, the International Monetary Fund's mission chief to Canada, said in an interview Monday in Ottawa. "They need to think about ways in which they can rein in expenditures."

Ford has sought to paint Horwath's party as radical and lacking star candidates to make up a cabinet. The NDP has only governed once before in Ontario -- from 1990 to 1995, an era remembered for a fiscal crunch so severe that former Premier Bob Rae forced government workers to stay home for unpaid "Rae Days."

Horwath says much has changed since her party last ran the province.

"This is not 1990," she said in a recent election debate. "And I'm certainly not Bob Rae."

Wednesday's letter to the editor: Math doesn't add up
Belleville Intelligencer
June 6, 2018

Ontario Hydro was dismembered years ago by the Conservative government, which split it into Ontario Power Generation and Hydro One.
It is only the latter company — a regulated transmission utility — that the Wynne Liberals partially privatized "poles and wires", not the power generation assets.
Hydro price increases were not caused by the partial power and wire sell off by Wynne, it was caused by the Conservative Party dismembering hydro services. Prices are set by Ontario Energy Board, not the Liberal government.
Doug Ford claims he will keep the 25 per cent hydro reduction then magically reduce another seven per cent, details to come later? NDP's Horwath will magically come up with a 30 per cent cut in hydro, details later? Ford and Horwath cuts don't add up.

Bill Bowen
Trenton

Wynne out of touch to the very end
Peter Epp
Chatham This Week
June 6, 2018

Premier Kathleen Wynne says she came to realize she wasn't going to win the Ontario election almost two weeks ago, following the final leaders' debate on May 27.

"I think I did pretty well in the debate," she told a Toronto CBC Radio show on Monday. "But once the debate was over, we didn't see the numbers move."

Wynne on Saturday conceded the election, almost a week before the vote – a startling admission that's unprecedented in Ontario history.

Pundits now believe her admission was designed to stop Progressive Conservative leader Doug Ford and his party from winning the election, by delivering a massive signal to Liberals that their vote would be better spent on the New Democrats.

Indeed, there has since been talk of a possible NDP-Liberal coalition – similar to the one orchestrated by David Peterson and Bob Rae in June 1985 – to ensure Ford and the PCs aren't permitted to form the next government.

Whatever the case, the fact Wynne didn't realize until May 27 or 28 that the Liberals didn't have a chance in this election is an illustration of just how out of touch both she and her party have become over the 15 years since they and Dalton McGuinty formed their initial government in 2003. Most observers have been anticipating a Liberal defeat for at least a year now; Wynne's own popularity has been in the toilet for three years.

That she believed, up until only two weeks ago, in a Liberal revival is a bit like the captain of the Titanic believing his ship wouldn't sink despite all the evidence of impending disaster.

The date on which the Liberals hit their own iceberg has been a topic of discussion in recent days. One commentator believes it happened in 2015 when Wynne announced she would sell off part of Ontario Hydro to raise approximately $5 billion to help with infrastructure projects.

Another believes the Liberals sustained major damage in September 2016 when they backed away from their Green Energy Policy, admitting the electricity generated by future solar and wind power projects wasn't needed.

Indeed, two months later, a tearful Wynne apologized for Ontario's electricity debacle and promised to do better. But her mea culpa was declared before a meeting of the Liberal Party of Ontario, and not before an audience of citizens who have suffered through the incredibly expensive impact of the Green Energy Policy.

To be sure, the Green Energy Policy continues to represent the worst excess of the Liberals, both under McGuinty whose government launched it, and under Wynne whose government sustained it. Driven by ideology rather than economics, the policy helped destabilize electricity prices, while causing social disruption in rural Ontario.

But Wynne and her ilk never recognized that chaos. When she was running for the party's leadership in late 2012 and early 2013, she told one crowd in Southwestern Ontario that she knew better than them about wind turbines.

And she held that conviction right up until the minute she realized she was wrong.

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