

News from the Society of Energy Professionals

ESA Local beats back "restraint" gambit



The Society's bargaining team, ESA Local: (on chesterfield) Society President Rod Sheppard, Society Staff Officer Laura Brownell, delegate Patience Cathcart, Local VP Kelly Brace; (in mirror), delegate Jason Hrycyshyn and Dave Heron.

The Electrical Safety Authority Local are big winners in the current manoeuvring around wage "restraint."

The Local did it with a concerted show of solidarity in their workplace, an overwhelmingly positive strike vote, and a quick action directed at the provincial cabinet.

"I'm very, very proud of what we accomplished," said Local VP **Kelly Brace**. "I sure don't lack confidence in these Society members—they are proud energy professionals."

The ESA is a financially self-sustaining, not-for-profit corporation, a Delegated Authority Agency (DAA) of the Ministry of Consumer Services. The ESA is responsible for administering the *Electricity Act* and corresponding Regulations:

- ◆ the Electrical Safety Code
- ◆ the licensing of electrical contractors
- ◆ electrical distribution safety; and
- ◆ product safety

on behalf of the Province of Ontario. The ESA Board is comprised of representatives of stakeholders, including electrical contractors, local distribution companies, the provincial government, and the general public.

The ESA has around 440 employees, of whom around 50 are represented by the Society.

When bargaining opened in April, ESA management appeared to be spoiling for a fight. Though they'd recently agreed to three per cent wage increases for the Power Workers, they offered the Society a four-year deal, with increases to employee pension contributions that cancelled out the wage increases. Why? Because of Premier McGuinty's wish that public agencies participate in his wage "restraint" program. ESA management also demanded a full percentage point increase in employee pension contributions (to 7.5 percent below YMPE, 8.2 per cent above).

The Society found Management's wage offer absurd. Our bargainers argued:

- ◆ The Premier's Restraint Act doesn't apply to the Electrical Safety Authority

- ◆ The ESA receives no transfer payments from the government, so wage increases (or decreases) have absolutely no effect on the government deficit (the central purpose of the Restraint Act is to reduce the deficit)
- ◆ The ESA had budgetted for a three per cent increase, and announced it publicly, and
- ◆ The ESA regularly generates impressive surpluses, and can afford increases

So the Local asked its members to demonstrate their support in the ESA workplace, sporting “proud energy professional” buttons and desk tents, and signing a mass letter to ESA CEO David Collie. In May, the Local held a barbeque and support rally at ESA headquarters in Mississauga, which more than 100 Society representatives and staff attended to demonstrate support. (See photo gallery on Society web-site.)

In a meeting with ESA managers, Society President **Rod Sheppard** noted that, among other things, should strike action become necessary, it would not be limited to the Mississauga headquarters. For example, since ESA inspectors (represented by the PWU) regularly visit construction sites, any such site was a valid picketing target. That, he noted, would make ESA managers pretty unpopular in the construction industry.

Management upped its wage offer to two and two, but held firm on everything else. So the Local took a strike vote, with 92 per cent of ESA Local members voting in favour of “concerted action if required” to get a fair contract.

On June 23rd, the Society was able to piggy-back onto an anti-SuperCorp rally of Ontario Public Service Employees Union members, garnering some media attention in the bargain. The demonstration was at York University’s Glendon College, where the McGuinty Cabinet was meeting.

(This kind of cooperation from other unions comes as a direct result of the Society’s increasing involvement in the wider labour movement since 2002, including most notably President Rod Sheppard’s membership on the Executive Board of the Ontario Federation of Labour.)

On June 25th, ESA management agreed to submit all items in dispute to mediation/arbitration. (They’d cancelled the med/arb agreement for this round of bargaining after more than a decade of relatively peaceful labour relations.)

“Maybe ESA managers thought our local there was small so they could pick on them and we wouldn’t care,” said President Sheppard. “They were wrong. Our members at the ESA were very strong, and they had every support they needed.”

In July, Arbitrator Robert J. Herman undertook mediation/arbitration duties. Mediation was unsuccessful, so he ruled:

- ◆ Salaries will be increased by 3.0 per cent as of July 1st in both 2010 and 2011 (he didn’t buy ESA management’s argument that they had to kow-tow to the *Restraint Act*)
- ◆ Pension contributions would be increased, but by only 0.25 per cent per year of the two-year contract; if the “Going Concern” deficit improves to below \$10 million, the pension contribution reverts to the 2009 rate
- ◆ Some improvements to benefits caps
- ◆ Employees will enjoy a new entitlement to at least two paid days off per year to take external training courses agreed to by the employer.

The ESA Local bargaining team consisted of Local VP **Kelly Brace**, delegates **Patience Cathcart** and **Jason Hrycyshyn**, and **Dave Heron**, with crucial, regular assists from Society President **Rod Sheppard**. Staff Officer **Laura Brownell** provided staff support, with a campaign assist from Staff Officer **Brian Robinson**.

Bruce Power bargaining erupts in litigation

Bargaining between the Society and Bruce Power is stalled for now. Each Party has filed a complaint to the Ontario Labour Relations Board accusing the other of committing violations of the *Labour Relations Act*.

“Management is communicating with our members in a way we believe is designed to interfere with our right to bargain on behalf of our members,” said Bruce Power Acting Local VP **Shirley Hayes**. “We refuse to be put in a position where the Employer [can] undermine and obstruct our efforts.”

The complaint filed by the Society alleges that Bruce Power managers have been recruited by top management to communicate directly with members of the Society local. Managers are holding meetings with Society members where the issues at the bargaining table are discussed, and management’s position outlined, it says.

A “management briefing note” from CEO Duncan Hawthorne has been circulated, again dealing with bargaining issues, and notes, “I am looking for employees to voice their opinions, to let their union leaders know and ultimately to let me know how they feel about [Bruce Power’s] future.” One Bruce Power manager admitted, the Society alleges, that he’d been given a “script” to use when speaking with Society members.

Bruce Power counter-complained on November 19th, alleging that the Society’s position that it doesn’t want to meet management while managers are interfering in the process constitutes “refusal to bargain.”

In Ontario labour law, bargaining takes place between an employer’s representatives and representatives of the employees’ union. Management is prohibited from interfering in the processes by which employees are represented, and vice versa. In the mediation-arbitration agreement—the rules under which Bruce Power and the Society bargain, and the rules which keep the two Parties out of strikes and lockouts—there is no requirement that a vote be held on any offer made by management.

In at least one such meeting, the Society further alleges, a manager tried to convince Society members to press the Local’s bargaining team to conduct a vote on Management’s offer.

“Nobody’s against voting,” said Hayes. “When—and if—we arrive at a point where we think there’s an offer that’s

in our members’ interest, we’ll be happy to hold a vote on it. But it’s our decision, not Management’s.”

Once either party gives notice to bargain, the Parties are required by law to bargain in good faith, and to attempt in good faith to arrive at an agreement.

Bruce Power management is proposing that the Bruce Power Local abandon its purchased-services (contracting-out) language, in return for “certain job security and headcount guarantees that would ensure the employment of Society members....” CEO Hawthorne calls it a “destiny issue.”

“It’s our destiny, too,” said Hayes. “I thought Mr. Hawthorne recognized that his employees are very important contributors to his destiny.”

Management has also given notice that it is cancelling the mediation-arbitration agreement, which would mean the next round of negotiations will be conducted under strike-lockout.

“Bruce Power management is not bargaining in good faith, they’re going behind our backs,” said Society President **Rod Sheppard**. “When we’re at the bargaining table, we have the right to be treated as employee representatives, not as a barrier to jump over at will.”

No hearing has been scheduled for the Board to consider the complaints. They will most likely be heard concurrently.

Council takes care of 2010 business

The Society has become a prominent influence among the province’s electricity stakeholders, said Society President **Rod Sheppard**.

President Sheppard spoke to Society Council on Monday, October 25th, reporting on his efforts over the year since the previous Council.

Our efforts to engage with our contacts in government, our new partnerships with aboriginal peoples,



On Thursday, October 14th, members of the Bruce Power Local gathered at the Underwood Community Centre to hear the latest news from their bargaining team. “We will have our strength and resolve tested like it hasn’t been for a very long time,” said one leader. When a member moved that those present give the bargaining team a show of support, it was unanimous and enthusiastic.

our proposals in education and training, and our visibility in the labour movement have all combined to make the Society a group that is looked to for help and insight. We’ve recently been asked to share with the Ministry of Energy our views on what Ontario’s long-term electricity plan should be, and I’m happy to say we’re in a position not only to give it, but to be listened to.

He thanked Council for being so supportive of the strategic plan set out by the Executive Board, as well as the many elements of the “solidarity project” first approved by Council in 2008.

Executive Vice President Finance: Council approved a bylaw change that requires a full election in the event

that a Principal Officer resigns or loses her/his position in the first 18 months of her/his three-year term. Previously, the Executive Board was responsible for filling such vacant positions.

Council appointed **Rob Stanley** (Bruce Power) to be Acting EVP Finance while an election is held. (And see below, “Habayeb, Stanley to vie...”)

Strategic Plan: Council approved the “Framework Objectives” proposed by the Executive Board for the 2010/2011 fiscal year:

- ◆ Internal organizing for the purpose of creating solidarity within and across bargaining unit boundaries i.e. a “solidarity project”

- ◆ Strategic and coordinated collective bargaining
- ◆ A significant external organizing initiative, including initiatives that facilitate, or overcome obstacles to, the organizing of professional and supervisory employees
- ◆ A significant policy and external relations initiative to shape the government's policy in the interest of this union

A motion to reduce the external organizing effort was voted down by Council.

Audit Committee: Council adopted a terms of reference for the Audit Committee, and appointed **Jose Freire-Canosa** (NWMO), **Bernardine Ngan** (OPG), **Stanley Pui** (OPG, and **Deodatt Somaru** (OPG) to serve as the members of that committee.

Constitution Interpretation Committee: Once per year Council is responsible for appointing the members of the CIC. The CIC is the Society body that "arbitrate[s] any disagreements arising out of interpretation of the Constitution," and has full power to make decisions on any such dispute. Upon the recommendation of the Executive Board, Council appointed **Ali Aghvami**, **Darek Kulczynski**, **Anthony Pin**, and **Linnell Torralba** (all OPG), to form the CIC until next Fall.

Policies: Council adopted the following policies:

- ◆ Aboriginal Relations Policy
- ◆ Approval of Society Attendance at Major Events
- ◆ Use of replacement workers (anti-scab) policy
- ◆ Solidarity Donation Policy

These policies will all be posted to the Society web-site as soon as resources allow.

Brookfield Local gets new contract

The Society's local at Brookfield Power has achieved a renewed, five-year collective agreement.

"It's a very good settlement," said Society President **Rod Sheppard**. "It certainly demonstrates there's no need for wage freezes in the electricity industry."

Note: Ken Martin (Bruce Power) was also appointed to the Audit Committee. Kim Holmes (Bruce Power) was also appointed to the Constitution Interpretation Committee



Executive Vice President - Policy Leslie Forge led, perhaps not surprisingly, the policy discussion at Council.

The parties settled in two-party bargaining in October.

The Brookfield Power Local was created when Ontario Power Generation was forced by the Harris government to sell the Mississagi River system of four dams to Brascan, in March, 2002. Since then the Local has consisted of senior control and protection engineer **Wendell Sheppard**, of Thessalon. The Local is administered by Executive Vice President **Dennis Minello**.

Highlights of the settlement include:

- ◆ Mediation/arbitration is extended to 2020
- ◆ The employee enjoys full job security (no layoff) for the life of the agreement
- ◆ The employee's work will not be contracted out
- ◆ There will be a 4.5 per cent salary increase in each year, for a 22.5 per cent increase over the life of the agreement (no merit pay)
- ◆ Family Day is included as a statutory holiday

- ◆ The tool allowance is increased to \$350.00 per year (from \$250.00)

The Society's bargaining team consisted of member Sheppard and Society Staff Officer **André Kolompar**.



Ontario Federation of Labour Secretary-Treasurer Marie Kelly, here with Rod Sheppard, was a keynote speaker at Society Council.

Bargaining Round-up: Bargaining tough in several locals at once

Bruce Power isn't the only local that's finding bargaining a touch more touchy this time around. Following are a few capsules of the locals that are, or are about to be, in bargaining.

Kinectrics: Bargaining has been going on since May. Though the Kinectrics Local's contract doesn't expire until December 31st, Management approached both the Society and the Power Workers to request an extension of the five-year requirement to replenish the Pension Fund's solvency funding. Talks around the Fund developed into bargaining around the terms of a renewal collective agreement, some of which has taken on a tripartite nature. More developments are expected soon.

OPG: In bargaining to renew an agreement that was in force for five years, OPG has taken a "confrontational and aggressive" stance with Society representatives. In keeping with the provincial government's demand that public employees (and OPG and Hydro One) accept a wage freeze, Management started out with a zero per cent wage offer, and has stuck resolutely to it. Management also tabled demands for significant rollbacks in the Local's purchased services (contracting out) language and the grievance and arbitration procedure. They have also demanded that the Society give them the right arbitrarily to reassign Society members from their work locations. Bargaining broke off after two frustrating weeks, on November 19th. Mediation/arbitration is scheduled to take place January 15th-17th.

New Horizon: The Society Local at New Horizon System Solutions was in two-party bargaining from November 15th to November 28th, including the weekends. Bargaining did not result in agreement, and so the contract will be subject to mediation/arbitration, currently scheduled to take place in April. Management is demanding significant concessions, including more flexibility to downsize

Photo: David Smiley

and contract out work, and reductions in the amount of Employer-paid release time for Society representatives.

NWMO: The Nuclear Waste Management Organization Local is set to begin a two-week bargaining marathon in early February. The Society-NWMO collective agreement expires on December 31st, and this will mark the Local's first crack at renewal bargaining since becoming a separate local in January, 2009. Nothing is yet known about Management's agenda.

Vertex: The Vertex Local will be actively engaged in two-party renewal negotiations in January beginning on the 3rd, when a meeting is planned to exchange agendas. At the behest of the Employer, the mediation/arbitration agreement is no longer in effect, and so bargaining will occur in the strike/lockout framework. The Employer has given notice that the recent five-year extension of their



On September 30th, Society President Rod Sheppard participated in the "Walk a Mile in her Shoes" event, personally raising more than \$1,800 for the White Ribbon Campaign. He had to wear the shoes—the boa was extra.

contract with Hydro One has some stringent new requirements, and they will be aggressively seeking concessions that give them more "flexibility." The Local has established a Communications Action Network, and is preparing for what is expected to be a tough round of bargaining.

Habayeb, Stanley to vie for EVP Finance

Two candidates have thrown their hats in the ring for Society members to choose as their Executive Vice President Finance.

Rob Stanley, long-serving Bruce Power Local VP, and currently *acting* EVP Finance, is running to take the permanent position. **Adam Habayeb**, an auditor/assessor at OPG's Pickering NGS, would also like the job.

The EVP Finance election was made necessary by the sudden retirement of former EVP Lanny Totton earlier this summer. Totton ran unopposed for the position in the fall, 2009 Principal Officers election. The candidate who wins the election will serve until March 31st, 2013.

Normally EVPs who don't complete their terms are replaced by the Society Executive Board. However, in this case, given how much of the term was left, the Board demurred, and asked Society Council to approve a bylaw change requiring an election.

Members should expect to receive candidates' packages and ballots in early January. Ballots must be received by the Society office by February 3rd.

As is now usual in Principal Officer elections, the Society web-site will feature video statements from the two candidates, and a blog-like module through which members can put pointed questions to them. Those items should be in place by the time members receive their election packages,



Acting Bruce Power Local VP Shirley Hayes, shown at Society Council. Dave Myette, behind Hayes, is filling in for her as unit director.

Hayes now acting Bruce Local VP

Shirley Hayes has taken the helm of the Bruce Power Local, acting in **Rob Stanley**'s stead.

"It's going to be hard, trying to fill Rob's shoes, a steep learning curve," says Hayes. "But I've got an excellent, excellent team here, including the staff, and we'll get the job done."

NewsCast 2010:03

Stanley is acting EVP Finance, having stepped up on the sudden retirement of Lanny Totton last summer. He's also running in an election to determine a permanent replacement (see Habayeb, Stanley, above).

Dave Myette has stepped up to fill Shirley's unit director position while she's Acting VP.

Jail, fine for illegal optician operation

The optician that ran 23 Great Glasses locations in Ontario has been sent to jail for a year.

As reported in *NewsCast* 2008:06, the College of Opticians has been in litigation against Great Glasses since 2003. Great Glasses owner Bruce Bergez has been assessed over \$16.9 million in fines for operating an illegal optician business, \$1 million in 2006, and the rest in fines assessed to him for failing to pay the first one.

Under the *Regulated Health Professionals Act*, eyeglasses and contact lenses must be dispensed by a registered optician based on a prescription supplied either by an optometrist or a physician. Great Glasses have repeatedly been ordered to bring their business into conformity with the law.

In Great Glasses, Bergez was listed as the licensed optician for all 27 locations. Eye examinations were conducted by a diagnostic computer; results were analyzed, and glasses dispensed without a prescription, by unlicensed and unqualified employees. According to lawyer Brian Moher, who acted for the College, in one case the employee was "a high school student in a white coat."

Joanna Bergez, Bergez's wife and business partner, will be sentenced next year.

Here are some Great Glasses locations:

- ◆ 1025 Plains Road in Burlington
- ◆ 1550 Upper James Street, Hamilton
- ◆ 50 Dundurn Street South, Hamilton
- ◆ 119 Osler Drive, Dundas

- ◆ 1250 Steeles Avenue East, Milton
- ◆ 300 King George Road, Brantford
- ◆ 3 for 1 Appleby Optical, 2180 Itabashi Way, Burlington
- ◆ 220 North Service Road, Oakville
- ◆ 95 Saginaw Parkway, Cambridge
- ◆ 25 The Queensway, Etobicoke
- ◆ 132 Front Street East, Toronto
- ◆ 808 York Mills Road, Toronto
- ◆ 26-17 Worthington Avenue, Brampton
- ◆ 393 Danforth Avenue, Toronto
- ◆ 1070 Major Mackenzie Drive, Richmond Hill
- ◆ 9200 Bathurst Street, Thornhill
- ◆ 285 Geneva Street, St. Catharines
- ◆ 565 Woodlawn Road West, Guelph
- ◆ 1865 Lakeshore Road West, Mississauga
- ◆ 1319 Commissioners Road, London

In an interview with the *Toronto Star*, an employee in the York Mills Road, Toronto, store admitted that the manager is attempting to get the name of the store changed.

The College of Opticians advises that many of the stores involved are severing their relationship with the Bergezes and bringing their practices into conformity with the law. They advise that the important thing is to beware of the Great Glasses business model—ensure that you are being served by a licensed optician, there's accreditation prominently displayed, you get a real prescription, etc.

Members are advised that the documentation they need to ensure their reimbursement is the original prescription from an ophthalmologist or optometrist, and a receipt.

Meet Pamela Frache

The Society has welcomed **Pamela Frache** as our newest employee.

Pam is working at the Society on a six-month contract as a policy researcher. She is filling in for **Matthew Kellway**, who has been seconded to the Society's organizing effort.

Pam comes to the Society from the Ontario Federation of Labour, where she worked for the last four years as education director and then communications director. She very much enjoyed working for the Federation, she says.

I felt like I won the lottery. As education director I worked with OFL committees on apprenticeship issues, training issues, high-quality public education, and so forth. The people I got to work with were just fantastic to work with, really high-calibre, and we got a lot done.

On the other hand, she says, she's pretty enthusiastic about her gig with the Society.

I've always been interested in energy policy, and concerned about what can be done to mitigate the damage caused by the Harris/Eves governments, climate change, and the need to conserve.

Prior to her OFL experience, Pam spent many years working for the Canadian Federation of Students (CFS), in a number of positions: Ontario Campaigns and government relations coordinator, national campaigns coordinator, health plan administrator, internal coordinator, etc. She loved the work, she says.

Students have the decided advantage that they're just starting out in life, they've an enormous amount of energy, they're incredibly enthusiastic, they think they can change the world in a short period of time. So they were quite invigorating company to keep, it was a very effective organization, I learned a lot, and my respect for all the people I worked with over the years remains very high.

But there was no such thing as a holiday, and so it could be tiring. "It gets a little hard to keep up after fifteen years."

In 1995, Pam was working as the National Day of Strike and Action coordinator for CFS. That, she says, was one of her best experiences.



New Society staffer Pamela Frache

It was a pan-Canadian mobilization of our members. The federal government had just announced an unprecedented round of cuts to health, education, and other social programs, including allowing tuition to increase at an unlimited rate, and allowing students to borrow at an unlimited rate. Students really mobilized against that, in many cases in partnership with labour unions. It was an extraordinary effort, and we won! The proposal to fund universities through debt was derailed, and Lloyd Axworthy lost his portfolio.

That effort was followed by a round of tuition freezes in many provinces, also unprecedented.

It was no great leap to go from the student movement to the labour movement, she says. Students are more effective when they work with labour, and vice versa. Also, “Working for students, who don’t have a lot of money,

you’re doing all kinds of things all the time, so you learn a lot of tasks.”

Pam lives in the west end of old Toronto, with her partner of eight years, James Clark. She volunteers for a number of advocacy organizations working for better services for her community.

Meet Andrew Todd

The Society has welcomed Andrew Todd into the fold with a six-month backfill contract.

“Andy’s an exceptional find for us,” said Society President **Rod Sheppard**. “He’s filling a very important need right now, and we’re very happy to have him.”

Andy’s been assigned to do bargaining support and organizing work for the Bruce Power Local’s current round of bargaining.

An employee of the Ontario Public Service Employees Union for 29 years, he retired in 2002. He was OPSEU’s Chief Negotiator, responsible for negotiating the master collective agreement between OPSEU and the government of Ontario. He also supervised a team of 15 negotiators that negotiated agreements with bodies such as colleges and hospitals, and indirectly supervised over 50 field staff responsible for more local agreements.

He joined OPSEU at an exciting time. The Civil Service Association of Ontario, as it was called then, was transforming itself to a union.

They felt they didn’t have much power, completely out of the game, and they were looking to change that. It was a critical time for them, and a lot of new staff were hired, including me. We helped transform it over time to where it is today.

The galvanizing incident, he says, was when the government of Bill Davis decided to reward deputy ministers by doubling their pension benefits—at the expense of everyone else in the plan. “There was no consultation, it was

just decreed, so our members said, 'no way.'" Now that plan is jointly trusted by OPSEU.

The Employer's often pulling such stunts at union members' expense, he says, "and it's happening right now at Bruce Power."

Money and benefits can be okay, but the ones who've been there the longest have seen it shut down before. There's always a new "visionary" who shows up for a new reign of terror. Right now, with the high use of contractors, the bargaining unit is being de-skilled. The type of work, the software, the hardware, the training, the experiences leave with the contractor, and you've got nothing.

Born in Glasgow, Todd was brought to Toronto at the age of 18 months, and grew up there, largely in the Rexdale and Martingrove areas. He worked for several years at the CBC as a writer and director, and then got involved with his local of the Association of Radio and Television Employees of Canada (ARTEC), serving as Local President and later as staff. When ARTEC merged with CUPE, becoming its broadcast division, Todd served as assistant director, chief negotiator, and national grievance chair. With members in every province, he says, "There weren't a lot of them, but there was a lot of travel." He retired from the CBC in 1973, and moved from Montreal to Toronto to take up employment with OPSEU.



New Society staffer Andy Todd

While he's retired twice now, he's still looking to make a contribution. Among other things, he has taught collective bargaining courses for Lancaster House.

He lives in Markham with Betty Lou, his wife of 49 years, and tries to get in as much golf as he can. They have two grown children.

Society Newscast 2010:03

Copyright © 2010 [Society of Energy Professionals]. All rights reserved.

(Links in this document to organizations or documents named can be found by rolling your cursor over the appropriate text.)

N.B. Society Newscasts are numbered in accordance with the Society's fiscal year. Newscasts will be numbered 2010 until March 31st, 2011.