

**IN THE SUPREME COURT OF CANADA  
(ON APPEAL FROM THE COURT OF APPEAL OF ALBERTA)**

B E T W E E N:

**HER MAJESTY THE QUEEN**

Appellant

– and –

**DANIEL JAMES GOMBOC**

Respondent

– and –

**THE ATTORNEY GENERAL OF ONTARIO  
THE ATTORNEY GENERAL OF QUEBEC  
CANADIAN CIVIL LIBERTIES ASSOCIATION**

Interveners

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**FACTUM OF THE INTERVENER  
CANADIAN CIVIL LIBERTIES ASSOCIATION  
(Rule 42, *Rules of the Supreme Court of Canada*)**

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**NEUBERGER ROSE LLP**  
**David S. Rose**  
1392 Eglinton Avenue West  
Toronto, ON M6C 2E4  
Tel: 416-363-0761  
Fax: 416-364-3271  
Email: [rose@nrlawyers.com](mailto:rose@nrlawyers.com)  
Counsel for the Intervener,  
Canadian Civil Liberties Association

**GOWLING LAFLEUR HENDERSON LLP**  
**Brian A. Crane, Q.C.**  
2600 -160 Elgin Street  
Ottawa, ON K1P 1C3  
Tel: 613-233-1781  
Fax: 613-563-9869  
Email: [brian.crane@gowlings.com](mailto:brian.crane@gowlings.com)  
Agent for the Intervener,  
Canadian Civil Liberties Association

**PUBLIC PROSECUTION SERVICE OF CANADA**

**Ronald C. Reimer**

211, 10199 – 101 Street  
Edmonton, AB T5J 3Y4  
Tel: 780-495-3553  
Fax: 780-495-6940  
Email: [ron.reimer@ppsc-sppc.gc.ca](mailto:ron.reimer@ppsc-sppc.gc.ca)  
Counsel for the Appellant

**ATTORNEY GENERAL OF ONTARIO**

**Christine Tier**

Crown Law Office  
10th Floor  
720 Bay Street  
Toronto, ON M5G 2K1  
Tel: 416-326-2684  
Fax: 416-326-4656  
Email: [christine.tier@jus.gov.on.ca](mailto:christine.tier@jus.gov.on.ca)  
Counsel for the Intervener,  
Attorney General of Ontario

**ATTORNEY GENERAL OF QUEBEC**

**Gilles Laporte**

1200 Rte de l'Élise  
2e Étage  
Ste-Foy Quebec G1V 4M1  
Tel: 418-643-1477  
Fax: 418-644-7030  
Email: [glaporte@justice.gouv.qc.ca](mailto:glaporte@justice.gouv.qc.ca)  
Counsel for the Intervener,  
Attorney General of Quebec

**STEWART & ANDREWS**

**Charles R. Stewart, Q.C.**

200 – 706 7th Avenue S.W.  
Calgary, AB T2P 0Z1  
Tel: 403-262-2746  
Fax: 403-262-2745  
Email: [CStewart@stewartandrews.com](mailto:CStewart@stewartandrews.com)  
Counsel for the Respondent

**DIRECTOR OF PUBLIC PROSECUTIONS OF CANADA**

**François Lacasse**

284 Wellington Street, 2nd Floor  
Ottawa, ON K1A 0H8  
Tel: 613-957-4770  
Fax: 613-941-7865  
Email: [flacasse@ppsc-sppc.gc.ca](mailto:flacasse@ppsc-sppc.gc.ca)  
Ottawa Agent for the Appellant

**BURKE-ROBERTSON**

**Robert E. Houston, Q.C.**

70 Gloucester Street  
Ottawa, ON K2P 0A2  
Tel: 613-566-2058  
Fax: 613-235-4430  
Email: [rhouston@burkerobertson.com](mailto:rhouston@burkerobertson.com)  
Agent for the Intervener,  
Attorney General of Ontario

**NOËL & ASSOCIÉS**

**Pierre Landry**

111, rue Champlain  
Gatineau, QC J8X 3R1  
Tel: 819-771-7393  
Fax: 819-771-5397  
Email: [p.landry@noelassociés.com](mailto:p.landry@noelassociés.com)  
Agent for the Intervener,  
Attorney General of Quebec

**LANG MICHENER LLP**

**Eugene M. Meehan, Q.C.**

**Jeffrey W. Beedell**  
300 – 50 O'Connor Street  
Ottawa, ON K1P 6L2  
Tel: 613-232-7171  
Fax: 613-231-3191  
Email: [emeehan@langmichener.ca](mailto:emeehan@langmichener.ca)  
Email: [jbeedell@langmichener.ca](mailto:jbeedell@langmichener.ca)  
Ottawa Agent for the Respondent

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## PART I – OVERVIEW AND FACTS

### Overview

1. This appeal is about whether the state may lawfully employ technology to put the activities inside our homes under warrantless surveillance. The Court must determine whether precise information about when and how much electricity people consume in their homes is entitled to a reasonable expectation of privacy. The Intervener, Canadian Civil Liberties Association (“CCLA”), submits that the fluctuations in energy consumption demonstrated by Digital Recording Ammeter (“DRA”) data can yield reliable inferences about core aspects of lifestyle inside a dwelling house – the most private of places. Given the revealing nature of this information, the CCLA further submits that its warrantless collection by the state violates s. 8 of the *Canadian Charter of Rights and Freedoms*.<sup>1</sup> If police want to access DRA data, they should be required to obtain a warrant before doing so.

### The Facts

2. The CCLA accepts the facts as set out in the decision of the Court of Appeal for Alberta<sup>2</sup> and adds the following.

3. The Edmonton Police were conducting a standard investigation<sup>3</sup> of a suspected marijuana production facility, or ‘grow-op’, when they asked Enmax to install the DRA on the Respondent’s home. There was no pressing threat to an individual or larger public safety issue beyond the straightforward grow-op investigation. The police had ample time in which to obtain prior judicial authorization for the DRA installation, and there is nothing to suggest that Enmax had its own interest in installing a DRA on the Respondent’s house.

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<sup>1</sup> *Canadian Charter of Rights and Freedoms*, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11, s. 8 [“*Charter*”].

<sup>2</sup> App. R., pp. 18 – 51, *R. v. Gomboc*, 2009 ABCA 276.

<sup>3</sup> Evidence of Det. Morrison, who described it at trial as “...quite a long and arduous procedure”. App. R. p. 100

4. Second, the police did not consider whether the DRA installation would result in a trespass upon the Respondent's property. There is no reason to believe that information about the location of the DRA would have been difficult to obtain from Enmax.

5. Third, the police did not suggest at trial that they believed, or had considered whether, they had the statutory authority to implant the DRA. The decision to enlist Enmax in the installation of the DRA was, on the facts, completely routine<sup>4</sup>, and once the request for a DRA was made of Enmax, there was no follow-up with Enmax personnel other than receiving the DRA print-out.

## PART II – ISSUE

6. The CCLA respectfully submits that this appeal raises two issues: 1.) Did the police conduct violate s. 8 of the *Charter*?; and 2.) Should the evidence be excluded pursuant to 24(2) of the *Charter*?

## PART III – ARGUMENT

### **III – 1.) ANSWER: THE POLICE CONDUCT VIOLATED S. 8 OF THE *CHARTER***

#### **III – 1.) a.) There is a reasonable expectation of privacy in DRA data**

7. S. 8 of the *Charter* protects against unreasonable searches and seizures, providing individuals with a “right to be left alone” by the state.<sup>5</sup> This expectation of “privacy is at the heart of liberty in a modern state,”<sup>6</sup> and is at its apex when we are inside our homes. As this Court has consistently emphasized, “There is no place on earth where persons can have a greater expectation of privacy than within their ‘dwelling-house’.”<sup>7</sup> The need for prior judicial authorization is therefore critical when a search goes within the privacy afforded by the walls of one's home. Homes are in the same category as intimate personal items and information kept

<sup>4</sup> App. R., Evidence of Cst. McCallum pp. 116 - 119

<sup>5</sup> *R. v. Duarte*, [1990] 1 S.C.R. 30 at 44.

<sup>6</sup> *R. v. Dyment*, [1988] 2 S.C.R. 417 at para. 17.

<sup>7</sup> *R. v. Silveira*, [1995] 2 S.C.R. 297 at para. 140.

under lock and key.<sup>8</sup> The common law by tradition already placed a high value on the security and privacy of the home<sup>9</sup>, and the advent of the *Charter* only increased that protection.<sup>10</sup> Simply put, homes have special protection, and this has been repeatedly stated by this Court.

8. The installation of a DRA can reveal telling information about the activities taking place inside a residential dwelling. While conventional billing records show only the aggregate electricity consumed in a given billing cycle, a DRA can show *when* electricity is used, or not used, with great temporal specificity<sup>11</sup>. This data is more revealing than traditional billing records, the seizure of which has already been considered by this Court. As such, the CCLA submits that the data generated by a DRA is fundamentally different than the electrical billing information previously considered by this Court in *R. v. Plant*<sup>12</sup>, and that a different judicial response is required to the warrantless accessing of this information.

9. The specific nature of DRA data allows those who have access to it to infer that a wide range of activities, not just the growing of marijuana, may be taking place within a home.<sup>13</sup> This data can demonstrate, *inter alia*, an increased likelihood that certain appliances are being used or that certain botanical passions are being pursued. The same breadth of inferences cannot be derived from traditional billing records, which are less revealing by design. As such, the CCLA submits that a contextual analysis in this Appeal supports a finding that DRA data can yield biographical and private information and that the majority of the Alberta Court of Appeal was correct in holding this to be the case.<sup>14</sup>

<sup>8</sup> *R. v. Law* [2002] 1 S.C.R. 227 at para. 16

<sup>9</sup> *R. v. Feeney* [1997] 2 S.C.R. 13 at p. 45

<sup>10</sup> *R. v. Feeney* [1997] 2 S.C.R. at p. 47

<sup>11</sup> The trial court qualified Det. Morrison (see App. R. pp. 91 - 92) to give evidence about what the DRA data could tell about grow ops, but restricted his expert qualifications to that (see *R. v. Marquard* [1993] 4 S.C.R. 223 @ para. 37)

<sup>12</sup> *R. v. Plant* [1993] 3 S.C.R. 281

<sup>13</sup> Elias Quinn, "Smart Metering & Privacy: Existing Law and Competing Policies – A Report for the Colorado Public Utilities Commission" Spring 2009 pp. 2- 4 <http://ssrn.com/abstract=1462285>; Elias Quinn, "Privacy and the New Energy Infrastructure", Fall 2008, *CEES Working Paper No. 09-0001* Center for Energy and Environmental Security <http://ssrn.com/abstract=1370731> at pp. 5 - 7, 23 - 25; Lerner and Mulligan "Taking the "Long View" on the Fourth Amendment: Stored Records and the Sanctity of the Home", 2008 *Stan. Tech. L. Rev.* 3 at par. 41; Alan Leo "The Measure of Power" *MIT Technology Review* June 28, 2001

<sup>14</sup> Alberta Court of Appeal, App. R., page 22, para. 16 - 17

10. A DRA is comparable to a ‘smart meter’<sup>15</sup>, a device which can record and report electricity consumption with much more precision than a conventional meter, and communicate that information back to the utility company for monitoring and billing practices.<sup>16</sup> Smart meters are part of the ‘smart grid’, insofar as they can provide considerably more information about electrical usage within the home for a number of valid commercial reasons.<sup>17</sup> As Ontario’s Privacy Commissioner has noted, “smart meters will be able to use personal information in unlimited numbers of ways,” meaning that “...for many, this will resonate as a ‘sanctity of the home’ issue, where intimate details of daily life should not be accessible”.<sup>18</sup> Accordingly, the CCLA respectfully submits that the implications of DRA data usage are not fully known.

11. This is particularly concerning as the prevalence of smart meters is set to increase dramatically in the very near future, making the generation of DRA-style data much more widespread. Indeed, every home and business in Ontario is scheduled to have a smart meter installed by the end of 2010.<sup>19</sup> As such, the CCLA respectfully submits that the privacy invasive nature of DRA data and the breadth of its possible uses supports the proposition that the state should be required to seek prior judicial authorization when seeking to exploit this information.

12. A DRA is distinguishable from other surveillance technologies this Court has considered, including those that have been found to record heat information about the external surfaces of a home.<sup>20</sup> DRA data does not flow from external emanations, and it is directly linked to activities inside a dwelling. As the Alberta Court of Appeal stated pointedly, DRA data is both “more intrusive and more revealing” than other surveillance technologies that have previously been considered by this Court.<sup>21</sup>

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15 “Smart Privacy for the Smart Grid: Embedding Privacy into the Design of Electricity Conservations” Information and Privacy Commissioner, Ontario November 2009 , page 8 found at [www.ipc.on.ca/images/resources/pbd-smartpriv-smartgrid.pdf](http://www.ipc.on.ca/images/resources/pbd-smartpriv-smartgrid.pdf) ; DRAs in their more advanced form have been described as “non-intrusive load monitoring”, and an “information technology” ; see Alan Leo *supra*; and, Elias Quinn, “Privacy and the New Energy Infrastructure”

16 “SmartPrivacy for the Smart Grid” , *ibid* page 8

17 *ibid*

18 *Ibid* at page 10

19 *ibid*

20 *R. v. Tessling*, [2004] 3 S.C.R. 432 at para. 47.

21 *R. v. Gomboc*, *supra* at para 16.

13. This Court has stated that s. 8 of the *Charter* protects a “biographical core of personal information which individuals in a free and democratic society would wish to maintain and control from dissemination to the state. This would include information which tends to reveal intimate details of the lifestyle and personal choices of the individual.”<sup>22</sup>

14. It is respectfully submitted that this protection should attach to such core aspects of lifestyle as the hours that the occupants of a home rise in the morning and retire at night, or, conversely, the fact that they remain active throughout the night. DRA data may indeed be capable of revealing such information. If a home’s electricity consumption drops around 11 p.m. each night, levels off, and then suddenly surges again at 7:00 a.m. each morning, one could effectively deduce the hours that an occupant goes to sleep and wakes up. Similarly, when fluctuations in energy consumption continue throughout the night, it is likely that the home’s occupants are not sleeping. It is objectively reasonable for individuals to expect that information about when and whether they decide to sleep within their homes will remain private.<sup>23</sup>

16. A DRA may also reveal information that is not part of a biographical core, but which should nonetheless remain private from the state. A series of decisions by this Court make clear that an intimate details analysis was “not meant to be exhaustive and should not be treated as such,”<sup>24</sup> and thus “Not all information that fails to meet the ‘biographical core of personal information’ test is thereby open to the police.”<sup>25</sup> These statements have critical bearing in the context of a private dwelling, as the notion that police could routinely have access to information about the activities people undertake inside their residences that are of a less core nature is fundamentally incompatible with the established sanctity of the home. Given the privacy that people inherently expect inside their homes, this Court has affirmed that activities which take place within one’s dwelling are presumptively personal, whether or not they reflect intimate details.<sup>26</sup> The installation of a DRA erodes the zone of privacy around these activities.

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<sup>22</sup> *R. v. Plant*, [1993] 3 S.C.R. 281.

<sup>23</sup> *R. v. Tessling*, 63 O.R. (3d) 1 (CA) at para. 69.

<sup>24</sup> *R. v. Tessling*, *supra* note 20, at para. 26.

<sup>25</sup> *R. v. A.M.*, [2008] 1 S.C.R. 569 at para. 68.

<sup>26</sup> *R. v. Tessling*, *supra* note 25, at para. 38.

17. The protection of privacy in this information is of increasing relevance to energy consumers, as the quantity of energy one consumes and the reasons for which they consume it now frequently form the basis of social and value judgments.<sup>27</sup> Those who consume a great deal of energy are increasingly viewed in a negative light, while those who consume little energy are viewed favourably. Information that reveals how energy is consumed can reflect the otherwise private personal choices of a homeowners and the extent to which such choices comport with prevailing societal values and norms.

18. Recording moment-to-moment dips and spikes in electricity consumption, DRA data is like the heartbeat of a household. The information suggests when and how active the occupants are, whether they are at rest and whether they are using devices that run on electricity. A DRA details when we flick switches, turn dials and push buttons, activating and animating our lives at home. This data cannot be heard, seen or sniffed by those outside, and reveals information about the happenings inside a space long accepted as sacred. Constitutional protection from the warrantless accessing of such information by the state is therefore essential.

### **III – 1.) b.) The use of a DRA requires prior judicial authorization**

19. While this Court has found that it will not always be feasible to demand that police obtain prior judicial authorization before proceeding with a search,<sup>28</sup> such departures are generally only warranted when quick action is necessary to protect the safety of police and members of the public or to prevent the loss of evidence. In the particular context of sniffer dog searches, for example, the Court has observed that “Both the suspect and his suspicious belongings would be long gone before the paperwork could be done or a telewarrant processed.” In such circumstances, this Court has allowed a departure from the generalized warrant requirement where police have first formed an objectively based reasonable suspicion about a particular individual.<sup>29</sup>

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<sup>27</sup> Elias, “Smart Metering & Privacy: Existing Law and Competing Policies ...” *ibid* at p.10 citing the case of Al Gore who was labeled a fraud and hypocrite because of his house’s electricity consumption.

<sup>28</sup> *R. v. A.M.*, *supra*, at para. 89.

<sup>29</sup> *R. v. A.M.*, *supra*, at para. 90.

20. In the context of an investigation in which the police wish to have a DRA installed, the aforementioned considerations do not arise. As suspects are generally unaware that they are being investigated, there is minimal risk that evidence of a grow-op – if it exists – will be lost. A departure from the requirement to obtain a warrant is simply not justified. A typical investigation involving a DRA may see data collected on a home for an extended period of time.<sup>30</sup> In that respect, the facts in this appeal are common. When time exists during an investigation to gather and analyze weeks' worth of information about a home's electricity usage, there would also appear to be sufficient time in which to seek judicial authorization prior to the installation of a DRA.

21. Moreover, it must be pointed out that exceptions to the warrant standard have been permitted in circumstances in which a person has a diminished expectation of privacy, such as schools or bus stations. In the home, where individuals reasonably anticipate that their right to privacy will be at its highest, the balance tips heavily in favour of requiring prior judicial authorization before a DRA is installed.

22. Prior judicial authorization will also help prevent state intrusions into innocent homes. While search technologies may in certain situations enhance the investigative effectiveness of police, such tools are not always reliable. These technologies have led police to inaccurate conclusions about particular persons and dwellings, prompting more severe intrusions into private spheres. This Court has made clear its concerns about “false positives,” and the potential invasions into the privacy of innocent people that they portend.<sup>31</sup> Indeed, such warrantless searches may “produce nothing except embarrassment and perhaps humiliation for the innocent persons who happen to be searched.”<sup>32</sup>

23. Situations in which DRA data could lead to false positives are readily conceivable. Legal activities may share an energy profile with illegal ones, and may similarly cause a house to

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<sup>30</sup> *R. v. Cheung*, 2007 SKCA 51 at para. 5.

<sup>31</sup> *R. v. A.M.*, supra, at para. 85.

<sup>32</sup> *R. v. Patrick*, [2009] 1 S.C.R. 579 at para. 33.

“sweat.”<sup>33</sup> Based on such facts, innocent homes could be – and *have* been – subjected to search warrants following the installation of a DRA. In at least one investigation involving a DRA, “a definite cycle of increased electrical use” led to the execution of a search warrant on a home which was in fact growing orchids.<sup>34</sup> In order to protect the privacy of innocent orchid growers and others, a judge must scrutinize all relevant evidence in an effort to determine, first, whether the installation of a DRA is warranted, and thereafter, whether the data it provides is supported by other reliable evidence justifying the authorization of a search warrant on a home. Where new technologies provide the state with an ever-expanding power to impose and maintain surveillance over individuals, a warrant requirement represents privacy’s last line of defence.

**III – 1.) c.) *Charter* scrutiny applies where police attempt to exploit commercial service relationships for investigative purposes**

24. The relationship between the Respondent and Enmax is the same as for the vast majority of Canadians and their electricity providers, namely one borne of necessity. Homeowners in our society are generally neither free to choose their utility provider nor avoid conceding a measure of access to their private lives and property in order to facilitate the provision of this necessary service. Under these circumstances, it is objectively reasonable for individuals to expect that access to their premises will generally only extend so far as is necessary to provide a given energy product.

25. Customers do not expect that utility providers will share the aforementioned access with the state. In the present appeal, however, the utility company’s employees betrayed this expectation by performing an investigative task on behalf of police. Indeed, in gathering DRA information at the behest of law enforcement, Enmax employees effectively operated as their agent, enabling the police to do what they could otherwise not. The exchange of DRA information between Enmax and the police would not have taken place in the form and manner it did but for police intervention. The accused had no choice in, or knowledge of, the matter.<sup>35</sup>

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<sup>33</sup> *R. v. Gomboc*, *supra* at para 4.

<sup>34</sup> *App. R. at p. 103*

<sup>35</sup> *R. v. Broyles*, [1991] 3 S.C.R. 595, at 19.

26. The CCLA agrees with the Respondent's submission that the *Electrical Utilities Act*<sup>36</sup> does not furnish legislative authority for the police to obtain the DRA information. It is the CCLA's submission that no legislation expressly authorizes the collection of DRA data by the police. The CCLA further submits that the trial judge took a narrow view<sup>37</sup> of the applicable regulations, and did not consider the broader context of the *Regulations*, as a majority of the Court of Appeal did.<sup>38</sup>

27. Legislation must be interpreted as being consistent with *Charter* values.<sup>39</sup> Accordingly, the CCLA submits that the *Electric Utilities Act Code of Conduct Regulations* must be interpreted in accordance with *Charter* values, including s. 8 principles. This is reflected in the Court below, when Martin J.A. said, "I do not understand that the Regulations were intended, nor constitutionally able, to empower police agents to do what they themselves cannot legally do."<sup>40</sup>

27. The CCLA respectfully submits that s. 8 of the *Charter* must protect against state attempts to orchestrate such arrangements between utility providers and the state. As the Court below observed, "If it were otherwise, the police could recruit any agency with limited access to a home and exploit that access to gather information for them."<sup>41</sup> Surely, an informed observer would conclude that exploiting third party access in such fashion is antithetical to any reasonable conception of privacy in a modern democracy.

### III – 2.) Section 24(2) of the *Charter* and the exclusion of evidence

28. The CCLA takes no position regarding the s. 24(2) issue beyond the assertion that the warrantless use of electronic surveillance by the state to gather information about the activities inside a private dwelling house is a serious breach of the *Charter*.

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36 Respondent's factum at pp. 14 - 16  
 37 Trial Judge's Oral Reasons, App. R., p. 11  
 38 Court of Appeal Reasons, App. R., pp. 23 - 24.  
 39 *R. v. Nasogaluak* 2010 SCC 6 @ paras. 47, 48, 64.  
 40 Court of Appeal Reasons, App. R., p. 24 @ par. 24  
 41 *R. v. Gomboc*, *supra* at para. 25.

**PARTS IV & V – COSTS SUBMISSIONS AND ORDER SOUGHT**

29. The CCLA takes no position on the resolution of the present appeal, but respectfully requests that no costs be awarded against it.

30. The CCLA also requests permission to present oral argument at the hearing of this appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED  
THIS 14<sup>th</sup> day of April, 2010.

  
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David S. Rose  
Neuberger Rose LLP

Counsel to the Canadian Civil Liberties Association

**PART VI – TABLE OF AUTHORITIES**

IBA	Case	Para.in Factum
	<i>R. v. A.M.</i> , [2008] 1 S.C.R. 569 at para. 68.	16, 19, 22
	<i>R. v. Broyles</i> [1991] 3 S.C.R. 595, at 19.	25
	<i>R. v. Cheung</i> , 2007 SKCA 51 at para. 5.	20
	<i>R. v. Duarte</i> , [1990] 1 S.C.R. 30 at 44.	7
	<i>R. v. Dymont</i> , [1988] 2 S.C.R. 417 at para. 17.	7
	<i>R. v. Feeney</i> [1997] 2 S.C.R. 13 at p. 45	7
	<i>R. v. Gomboc</i> , 2009 ABCA 276.	2, 12, 23,27
	<i>R. v. Law</i> [2002] 1 S.C.R. 227 at par. 16	7
	<i>R. v. Marquard</i> [1993] 4 S.C.R. 223 at par. 37	8
	<i>R. v. Nasogaluak</i> 2010 SCC 6 @ paras. 47, 48, 64.	27
	<i>R. v. Patrick</i> , [2009] 1 S.C.R. 579 at para. 33.	22
	<i>R. v. Plant</i> [1993] 3 S.C.R. 281	8, 13
	<i>R. v. Silveira</i> , [1995] 2 S.C.R. 297 at para. 140.	7
	<i>R. v. Tessling</i> [2004] 3 S.C.R. 432 at para. 47.	12, 14, 16
	<i>R. v. Tessling</i> 63 O.R. (3d) 1 (C.A.)	14
 <u>Articles</u>		
	“SmartPrivacy for the Smart Grid: Embedding Privacy into the Design of Electricity Conservations” Information and Privacy Commissioner, Ontario November 2009 , page 8 found at <a href="http://www.ipc.on.ca/images/resources/pbd-smartpriv-smartgrid.pdf">www.ipc.on.ca/images/resources/pbd-smartpriv-smartgrid.pdf</a> ;	10, 11
	Alan Leo “The Measure of Power” <i>MIT Technology Review</i> June 28, 2001	9, 10
	Elias Quinn, “Privacy and the New Energy Infrastructure”, Fall 2008, <i>CEES Working Paper No. 09- 0001</i> Center for Energy and Environmental Security	9, 10

- Lerner and Mulligan, "Taking the "Long View" on the Fourth Amendment: Stored Records and the Sanctity of the Home", 2008 Stan. Tech. L. Rev. 3 9
- Elias Quinn, "Smart Metering & Privacy: Existing Law and Competing Policies – A Report for the Colorado Public Utilities Commission" Spring 2009 9, 17

**PART VII – STATUTORY PROVISIONS**

*Canadian Charter of Rights and Freedoms*

*Electric Utilities Act, S.A. 2003, c. E-5.1*

*Electric Utilities Act Code of Conduct Regulations Alta Reb. 160/2003*

## CONSTITUTION ACT, 1982

### PART I

#### CANADIAN CHARTER OF RIGHTS AND FREEDOMS

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

#### **Guarantee of Rights and Freedoms**

##### **Rights and freedoms in Canada**

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

##### **Search or seizure**

8. Everyone has the right to be secure against unreasonable search or seizure.

#### **Enforcement**

##### **Enforcement of guaranteed rights and freedoms**

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

##### **Exclusion of evidence bringing administration of justice into disrepute**

(2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

## **LOI CONSTITUTIONNELLE DE 1982**

### **PARTIE I**

#### **CHARTRE CANADIENNE DES DROITS ET LIBERTÉS**

Attendu que le Canada est fondé sur des principes qui reconnaissent la suprématie de Dieu et la primauté du droit :

#### **Garantie des droits et libertés**

##### **Droits et libertés au Canada**

1. La *Charte canadienne des droits et libertés* garantit les droits et libertés qui y sont énoncés. Ils ne peuvent être restreints que par une règle de droit, dans des limites qui soient raisonnables et dont la justification puisse se démontrer dans le cadre d'une société libre et démocratique.

##### **Fouilles, perquisitions ou saisies**

8. Chacun a droit à la protection contre les fouilles, les perquisitions ou les saisies abusives.

##### **Recours**

##### **Recours en cas d'atteinte aux droits et libertés**

24. (1) Toute personne, victime de violation ou de négation des droits ou libertés qui lui sont garantis par la présente charte, peut s'adresser à un tribunal compétent pour obtenir la réparation que le tribunal estime convenable et juste eu égard aux circonstances.

##### **Irrecevabilité d'éléments de preuve qui risqueraient de déconsidérer l'administration de la justice**

(2) Lorsque, dans une instance visée au paragraphe (1), le tribunal a conclu que des éléments de preuve ont été obtenus dans des conditions qui portent atteinte aux droits ou libertés garantis par la présente charte, ces éléments de preuve sont écartés s'il est établi, eu égard aux circonstances, que leur utilisation est susceptible de déconsidérer l'administration de la justice.

**ELECTRIC UTILITIES ACT, S.A. 2003, c. E-5.1****Part 1  
Interpretation, Application  
and Purpose****Interpretation**

**1(1)** In this Act,

- (h) “customer” means a person purchasing electricity for the person’s own use;

**Electric Utilities Act  
CODE OF CONDUCT REGULATION  
Alta. Reg. 160/2003**

**SECTION 1  
Definitions**

1 In this Regulation,

- (e) “customer information” means information that is not available to the public and that
- (i) is uniquely associated with a customer,
  - (ii) could be used to identify a customer, or
  - (iii) is provided by a customer to an owner;

**Confidentiality of Customer Information**

**SECTION 10  
Disclosure of customer information with consent**

Disclosure of customer information with consent

10(3) Customer information may be disclosed without the customer’s consent to the following specified persons or for any of the following purposes:

- (f) to a peace officer for the purpose of investigating an offence if the disclosure is not contrary to the express request of the customer;

**SECTION 13  
Historical electric energy consumption**

13 If a customer consents to historical electric energy consumption being disclosed, the owner or regulated rate provider must, within 15 days of receipt of a written disclosure request, give the applicant the historical information

- (a) for the 12-month period preceding the date of the request, or
- (b) if that information has not been collected for a 12-month period, for any period preceding the date of the request for which that information has been collected.