



# ***FINANCE AND ADMINISTRATION COMMITTEE***

**Members present:**

Mr MJ Crandon MP (Chair)  
Mr R Gulley MP  
Mr IS Kaye MP  
Mrs FK Ostapovitch MP  
Mr CW Pitt MP  
Mr EJ Sorensen MP  
Mr MA Stewart MP

**Staff present:**

Ms D Jeffrey (Research Director)  
Dr M Lilith (Principal Research Officer)  
Ms M Freeman (Executive Assistant)

## **PUBLIC HEARING—INQUIRY INTO THE ELECTRICITY (EARLY TERMINATION) AMENDMENT BILL 2012**

### **TRANSCRIPT OF PROCEEDINGS**

**WEDNESDAY, 11 JULY 2012**

**Brisbane**

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Committee met at 11.36 am

**BARR, Mr Benn, General Manager, Energy Sector Reform, Department of Energy and Water Supply**

**BLACK, Mr Jon, Director-General, Department of Energy and Water Supply**

**JARVIS, Ms Julie, Manager, Consumer and Retail Policy, Department of Energy and Water Supply**

**CHAIR:** First of all, thank you for attending on such short notice. Good morning, ladies and gentlemen. I declare this public departmental briefing of the Finance and Administration Committee's inquiry into the Electricity (Early Termination) Amendment Bill 2012 open. I am Michael Crandon, the chair of the committee and the member for Coomera. The other members of the committee are Mr Curtis Pitt MP, the deputy chair and the member for Mulgrave; Mr Reg Gulley MP, the member for Murrumba; Mr Ian Kaye MP, the member for Greenslopes; Mr Tim Mulherin MP, the member for Mackay, who is an apology today; Mrs Freya Ostapovitch MP, the member for Stretton; Mr Ted Sorensen MP, the member for Hervey Bay; and Mr Mark Stewart MP, the member for Sunnybank.

The purpose of this hearing is to receive information from the department about the bill, which was referred to the committee on 10 July 2012. The objective of the bill is to amend the Electricity Act 1994 to prohibit early termination or exit fees for small and residential customers where they are notified of an increase in charges during the course of their market contract and the increased charges exceed notified electricity prices. This hearing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind you that intentionally misleading the committee is a serious offence. Thank you for your attendance here today. The committee appreciates your assistance at such short notice. You have previously been provided with a copy of the instructions for witnesses, so we will take those as read. Hansard will record the proceedings and you will be provided with the transcript.

I remind all in attendance at the hearing today that these proceedings are similar to parliament to the extent that the public cannot participate in the proceedings. In this regard I remind members of the public that under the standing orders the public may be admitted to or excluded from the hearing at the discretion of the committee. I remind committee members that officers are here to provide factual or technical information. They are not here to give opinions about the merits or otherwise of the policy behind the bill or alternative approaches. Any questions about the government or opposition policy that the bill seeks to implement should be directed to the responsible minister or shadow minister or left to debate on the floor of the House.

Could I also request that mobile phones be turned off or switched to silent mode and remind you that no calls are to be taken inside the hearing room. The department has been asked for comment on consultation and to explain the retail market environment, ACCC issues regarding the carbon tax and what is the urgency given the impact of this bill if not passed immediately. I invite the director-general to make a brief opening statement.

**Mr Black:** Thank you, Mr Chairman. Given the policy objectives that you have outlined, the department has prepared the attendant bill to reflect that policy position. The bill is prepared to achieve the objective through amendment to the Electricity Act that will require the retail entities to notify affected customers of increased charges that are above notified tariffs and allow the customers to terminate those contracts without a penalty.

**CHAIR:** Thank you. We will now go to questions, initially from the deputy chair.

**Mr PITT:** I have a few, but I will try to stage them, if that is okay.

**CHAIR:** Okay.

**Mr PITT:** I refer to the minister's media statement on Monday, 9 July. The statement detailed that the legislation would also include changes to 'ensure that retailers who charge tariff 11 customers above the notified price do not receive a subsidy from the government for those customers'. I am not able to find any reference to this in the explanatory notes or the legislation. I am just wondering if you can provide some clarification around this particular component of the minister's statement.

**Mr Black:** Certainly. I will ask Mr Barr to respond to that in terms of how that will be undertaken.

**Mr Barr:** The wording of that media release is slightly incorrect. The subsidy arrangement is an administrative arrangement. We do not need a legislative change to alter the way that that subsidy is provided. An email has gone out to retailers this week, which we can provide to the committee, to outline Brisbane

the proposal to change. So the original proposal was that the subsidy would be provided through a discount in Energex's network tariff and it was impossible to differentiate between a customer who was getting notified prices or below from those above in that arrangement. So we are now looking at going to an administrative arrangement whereby retailers will need to certify, probably by the chief executive, that they do not have any customers who are being charged above notified prices on market contracts. If they certify that, they will receive the subsidy for the number of customers. If they say, 'We have X number of customers who are being charged above,' that will be deducted from the amount that they are paid. So that is the proposal we are consulting with retailers with at the moment.

**Mr PITT:** The explanatory notes detail that the bill will be at no cost to government. Can you outline how this bill will compel retailers not to pass on any increased costs of the new notification requirements to customers?

**Mr Black:** Again, I will get Mr Barr to respond to that.

**Mr Barr:** There is nothing in the bill that would stop them applying a charge to a market contract, other than the intent of the bill—that is, you can break free from that contract if any charge goes above notified price rates and all customers have the right to go to notified prices, which are set.

**Mr PITT:** So essentially it is really focusing on the idea of the market being dictated by consumer will and where they choose to shop, so to speak?

**Mr Barr:** Correct.

**CHAIR:** We are talking about market contracts. I am aware that people who are not on market contracts have also received notification of a significant increase beyond the tariff 11 rate. You have mentioned that perhaps the CEO may have to give some sort of a certification.

**Mr Barr:** Yes.

**CHAIR:** Would that be also in relation to those non-market contracts—in other words, the standard contracts?

**Mr Barr:** The standard contracts should not go up above notified prices. That is what they are there for. The confusion may relate to tariff 11, which is the main tariff for residences, which has been frozen by the government. But the other tariffs which residential consumers can get—31 and 33—were not frozen and so there is a price increase in those tariffs of, off the top of my head, between 20 per cent and 30 per cent. That is perfectly fine if you are on a notified price, and that was in the QCA's decision. But if someone is on a standard notified contract, their notified price should not be rising on tariff 11.

**CHAIR:** I personally have knowledge that that in fact is not the case. So where does that leave you or leave the regulator in relation to those providers?

**Mr Barr:** I will answer this in a preliminary way, but I will take it on notice and come back as well if that is okay. My preliminary advice would be that if you are being charged more than the notified price and you are on the standard contract, in which you have the right to notified prices, the retailer is in breach of their licence conditions and we would be able to look into that issue by the regulator. But I will just need to go away and check that.

**CHAIR:** I think that that is an important point that needs to be checked, because we as members have all had communication from constituents in relation to this. Working through the material that has been made available to us as members, it would appear that the focus has been on these market contracts and yet the provider is stating that the price is going to increase for non-market contracts as well. So we need to clarify where the regulator comes in.

**Mr Barr:** I think there is confusion. Some people might think they are on the notified price but have agreed to some sort of discount and have, in fact, gone off notified prices. That is why this legislation is good, because it will give those people the right to go. Regarding the confusion as well, the government has referred one retailer to the ACCC about what it sees as potentially misleading statements along those lines, which are that all prices are going up because of certain events, whereas if you are on notified prices you are only having a carbon tax increase for tariff 11 and that is all. That has been referred to the ACCC as well.

**Mr SORENSEN:** I would like to know how this is going to affect people outside South-East Queensland who have only one provider, which is Ergon Energy? How is that going to affect people outside the south-east corner?

**Mr Black:** Certainly Ergon is constrained to the notified prices. Ben, do you have anything to add to that?

**Mr Barr:** That is right. Everyone in Ergon's area has notified prices. There might be a very few residential customers who have gone to market in Ergon's area, but it would be a very small number. They would be protected by this. But the vast bulk outside of SEQ are on notified prices and not impacted by the prices that are being raised above that by some market contracts.

**Mr PITT:** I will ask a quick question and I am happy for you to take it on notice, because it involves statistics or numbers and I do not expect you to know those off the top of your head. I was curious to find out, in preparing the legislation to evaluate the number of tariff 11 customers in Queensland, how many tariff 11 customers there are. That is the first question. The second part relates to the number of early Brisbane

terminations on market contracts across the residential electricity market each year. That would also note how many people have already chosen to try to take that action but, of course, were restrained or had to pay an exit fee as a result. The third part relates to the relevant customers, which is defined as residential or small business customers. How many is it estimated will be impacted by the legislation?

**Mr Barr:** We will have to take it on notice.

**Mr PITT:** I am happy for you to take it on notice.

**Mr Black:** We will.

**Mr Barr:** With the second one about the T11 number of small customers and business customers, there is no problem. We can get you that figure today. For the number who are swapping on market contracts, we will not have access to that data. It is a private contractual relationship between you and the retailer. There are churn figures that are done on a yearly basis about how many people swap, but over the last month we do not have access, other than anecdotally, as to what that would be.

**Mr PITT:** Just so I am clear, you are not going to be able to find out how many people have asked for early terminations because of that reason?

**Mr Barr:** Not on market contracts, because that does not need to be reported. But with the other two, there is no problem.

**Mr PITT:** Has the government consulted with the retailers to ensure that they cannot pass on the costs of either additional notification requirements or exit fee removals through other costs? Obviously there are always loopholes and things that can happen. I am curious if that has been investigated and whether retailers have had input into that?

**Mr Black:** I might ask Mr Barr to respond to that as well. You are probably aware that there was limited consultation, obviously, with the retailers until after the legislation was introduced in parliament. That was conveyed to them immediately yesterday and we have received some feedback in terms of that consultation. I might ask Mr Barr to outline that to the committee.

**Mr Barr:** I will go through the feedback, if that is okay; the summary of what we have. A number of them are providing submissions to the committee as well, which is good. Then I will come to the issue that you raised. We have received quite a deal of feedback, which is good because retailers did not have very long to get it in. They have expressed a concern about insufficient time to address the impacts of the proposals on commercial operations. A number of them have said they would be unaffected by the change because all of their market contracts are either at notified prices or below. Some retailers also have existing voluntary provisions which mirror the safety net that this legislation provides. Two retailers expressed concern about a lack of clarity regarding the treatment of discounts in the proposed legislation. They outlined that comparing one tariff rate against a notified price does not provide a true assessment of the total cost to consumers and you need to look at the whole bill with those discounts included. Some retailers have expressed concerns about additional costs to do with collateral and processes.

Consumer groups have come back and said they support the certainty a mandatory ban on exit fees would provide, rather than leaving it to the discretion of retail market contracts. Consumers also said they did not think you needed written notice to terminate, but we think that is necessary. Retailers also sought clarity regarding treatment of conditional discounts, such as whether you pay on time, whether renotification is required for customers who have already been advised of the price rise, and whether penalties apply to each offence or a group, an event, of offences. That is the summary.

In response to the question about costs and how they cannot pass on costs, I guess the approach we have taken is that if there is a cost to this—and for a number of retailers, I think a large number of retailers, there is no cost because they either have the existing provision in their market contracts or all of their market customers would not be captured. For a large portion of the retail industry in Queensland, there is no impact. For those that would be impacted, there could be, as indicated by one, an administrative cost to them. If they wanted to pass that through, they would need to do that within the bounds of those market contracts. The consumer still has the ability to go to the notified price which the government has frozen, and if they did pass that cost through and if it was above the notified price you would have the ability to leave.

**Mr PITT:** Has there been any legal advice in relation to the legislation about any avenues of compensation there may be for retailers who are impacted and who obviously, for their own business sake, do not want to pass those costs on but, of course, are suggesting that this is an unfair situation that they have been placed in? Is there any recourse that they have?

**Mr Barr:** I will take that on notice. My preliminary advice is that there is no course of action. We have legal advice on the bill. It is well within the Queensland government's rights to legislate this. There are a number of costs associated with being a retailer in Queensland.

**Mr PITT:** I only have one other quick question, which is a broader question. Are there any impacts by way of this legislation on Queensland's participation in the national electricity market and how do we then place ourselves against other jurisdictions?

**Mr Barr:** We are the only state that would have this particular provision. Tasmania has a similar provision around card-operated metres. Is that right, Julie?

**Ms Jarvis:** Yes, prepayment metres.

**Mr Barr:** If that is correct. Also, I think Victoria—but Victoria is a different situation—has a provision around standard contracts, noting that in Victoria it is a deregulated market. Again, that is slightly different. It would be stronger than the majority of other states. I do not see any issue in our participation in the national market in any way, shape or form.

**CHAIR:** Just following up on an answer you gave a little while ago, you mentioned that some consumers suggested they should not have to give a notice to quit a contract.

**Mr Barr:** Yes.

**CHAIR:** Quite often one of the impediments to people is that they actually have to write a letter to the previous provider, whether it be a bank to do with a mortgage or whatever. Is there any provision to allow the new provider to manage that for them? In other words, take the advice?

**Mr Barr:** I might get Julie to answer that.

**Ms Jarvis:** The important thing to bear in mind is that customers have some options with this. They do not necessarily have to switch to a new retailer. They can actually stay with the same retailer they currently have and simply revert to a standard retail contract. At the moment, unlike the banking industry where they have just introduced that ability to switch and your new bank will do all the work for you, we do not have anything in our current regulatory framework that allows for something like that to happen. The onus would still be on the customer to issue a notification to the retailer. That may be by email. That is covered and it is considered in writing. I guess the concern is that if you make a phone call and you have a customer service person at a call centre that does not take the details down, it gets lost in the system. I think there is a preference to actually put something in writing so that it is tangible and it is in black and white.

**CHAIR:** Did you want to offer some further comment on that?

**Mr Barr:** No.

**CHAIR:** In the last few minutes that we have, would someone like to explain the retail market environment in South-East Queensland, just to give us a broad overview?

**Mr Black:** I will get Mr Barr to do that.

**Mr Barr:** I will quickly go through a bit of background on the retail market, the difference between a standard contract and a market contract, what a small customer is and then talk a little bit about other key matters affecting the retail electricity market, including the introduction of the carbon tax.

**CHAIR:** That sounds good.

**Mr Barr:** There are two main types of contracts in Queensland for small customers. One is a standard retail contract with notified prices and the other is a negotiated market contract. A small customer is a customer who consumes less than 100 megawatt hours. That is a fair amount of electricity. Very roughly, that is about a \$20,000 per annum bill. Almost all residential customers are under that. There are a few exceptions, which are difficult to explain, who are using a lot of power.

The default arrangement is for a deemed standard retail contract. That standard retail contract has terms mandated in the Electricity Act and the Electricity Industry Code. The contract terms apply even though you have not agreed to it. It is a safety net provision that was put in place when we went to full retail competition. It gives you protections, both in the terms and conditions and also in the price you pay through the retail tariff. That is the notified customers: they are on a contract, but it is the standard contract, it has terms and conditions in the act and you get the notified price.

The other customers are market customers. Market customers must negotiate and consent to a contract with a retailer. Those market contracts have fairly light-handed terms and conditions in the act with some matters that are standard, such as billing and payment options. We will get you the figures later, but probably about 50 per cent of customers in SEQ are small residential customers who are on market contracts. It is a significant portion. That varies from year to year. Market customers generally go to the market because they get a better deal than the notified price. That better deal is usually expressed in a discount anywhere from three per cent to 15 per cent lower than the notified price. To do that you sign up for a one-year, two-year or potentially three-year contract with your retailer.

In signing up the onus is on the customer to make sure you are getting a good deal and you need to look at your consumption, the prices of different tariffs, whether you are on a controlled tariff such as your hot water or just the tariff 11, the impact of fixed charges and discounts or other benefits. Sometimes retailers might offer you a membership, a magazine subscription or a one-off \$50 as well. There are a number of market contracts. There is not one standard market contract that a retailer will provide. They provide different market contracts as part of competition to tailor to individuals, to tailor to their needs. That is the benefit of competition: you get variety and you get innovation and you get tailoring to an individual's needs. That has happened since 2007.

Queensland has a very robust competitive retail market with, I think, over 15 retailers. I will check that number. Those retailers range from the very large retail entities such as AGL, Origin and TRUenergy, to smaller tier 2 retailers such as Dodo Electricity and Click Energy that operate very small margins, often on a web based or a phone based approach only.

**CHAIR:** If I can just stop you there for a moment. It is midday. We will go another five minutes so that we can have a wrap-up from you.

**Mr Barr:** Absolutely. I do not have that much more to say, other than that large and small retailers are very important to the market, because you get innovation. How does notified pricing happen? Notified pricing is a responsibility for the government, which it delegates to the Queensland Competition Authority on a yearly basis to set that notified price. In reality, that notified price has in the past acted as a ceiling and a protection for customers in that you always have the right to that and retailers discount under it. That is what this bill is trying to enshrine—the safety net—so that if, for whatever reason—and it has not happened in the past apart from one other incident at the start of retail competition—those prices go above the notified price, it is making your ability to get to that safety net very simple.

The carbon tax was introduced on 1 July 2012. That also obviously has a flow-through to electricity prices this year. That flow-through is about 10 to 11 per cent and that has been factored into all notified prices and market prices. Even with the freeze for tariff 11, it is very clear that the government has said that it is not impacting on the carbon tax and that is flowing through and that is also detailed on customers' bills in Queensland.

I have spoken about the ACCC issue. Obviously, the ACCC is also very interested in any misleading statements around the carbon price in Queensland.

**CHAIR:** I have one final question then: why the urgency? What is the impact if we do not do this urgently? If we do not put this through tomorrow, what is the impact?

**Mr Black:** To address quickly the impact, obviously, for the customers that have already been notified of perhaps disadvantage. Also, there is the 20-day issue. Ben, do you want to talk the committee through that?

**Mr Barr:** Yes. The bill is retrospective and the longer it is retrospective, the larger issue you have. We think that there is a need to do that and be transparent about that, because customers have been impacted from the start of July. So the urgency is to give clarity to those customers and allow them—we have a transitional provision in there—to have the 20 days from when the bill is assented to to break. That provides clarity not only to the customers but also to the retailers as to what will apply in Queensland.

**Mr PITT:** Chair, can I ask a question very quickly? It relates to the carbon price being stated on the bill. Is there any additional cost to retailers by having to assess that impact and show that on the bills? If not, is there a suggestion that that could actually be almost a truth in advertising type of approach which then shows all costs that lead into what you see on your bill—the market costs et cetera?

**Mr Barr:** I can answer that very quickly. There is not a significant or material cost because of the way it was structured, which is one line on the bill. We had a number of characters that we could work with. So if we were within a number of characters, they did not need to alter the billing system and it was very simple. It is only a statement of what the QCA has estimated for the particular tariff. So it is not individualised to the customer. If you went down an individualised approach, it would be quite expensive. On your second point, potentially, you could go down that path but you would need time definitely to work with retailers about their billing systems, because you would be well and truly over that character limit.

**Mr PITT:** Are there benefits to doing that, though, in terms of people understanding what makes up the cost of their electricity bills?

**Mr Barr:** Potentially. It depends on the customer. Some people are very keen to know what is in their bill and others just want to know the price is they are paying.

**Mr PITT:** The cheapest price.

**Mr Barr:** I think the benefit of what we have is that it refers you to the QCA website, where you can get the details of what makes up that price.

**Mr PITT:** Sure. Thank you.

**CHAIR:** Thank you. The time allocated to the public departmental briefing has expired. As there are no further questions, we will now conclude this public departmental briefing. If members require any further information, the committee will contact you. Thank you for your attendance today. The committee appreciates your assistance. I declare the hearing formally closed.

Is it the wish of the committee that the evidence given here before it be authorised for publication pursuant to section 50(2) (a) of the Parliament of Queensland Act 2001? There being no objection, it is so authorised. You are coming back to us on a couple of points, aren't you?

**Mr Barr:** We will do it this afternoon—as quickly as possible.

**CHAIR:** By two o'clock?

**Mr Barr:** That should be okay

**CHAIR:** That is great. We are really under some pressure.

**Mr Barr:** I know. The two points around the numbers, we can do those. We will have the QCA report. It will be in thousands.

**CHAIR:** And you are also going to look at non-market price contracts?

**Mr Barr:** Yes, that is the other one—what would be the impact if they were charging above the notified price and you should have been notified.

**CHAIR:** Yes. What is the impact?

**Mr Barr:** Yes, we can do that.

**CHAIR:** We have had some very definite submissions that that is, in fact, their intention.

**Mr Black:** That was your constituent in South-East Queensland.

**CHAIR:** That is right.

**Mr Black:** Was there anyone outside South-East Queensland as well?

**Mr PITT:** That would be—

**Mr Black:** Yes, you had some as well.

**Mr PITT:** But that often does not mean that there is actually an understanding. That could be a misunderstanding of how things are made up. They might believe that they have other options and there is not because of the Ergon scenario. Yes, we have had that raised with us as well.

**CHAIR:** Have you had people receive letters to say that their rates are going up?

**Mr PITT:** No, but they have based it on things that they have heard other people say.

**CHAIR:** Thank you very much.

**Committee adjourned at 12.07 pm**