Speech by

Mr M. ROWELL

MEMBER FOR HINCHINBROOK

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ELECTRICITY AND GAS LEGISLATION AMENDMENT BILL

Mr ROWELL (Hinchinbrook—NPA) (2.39 p.m.): This Bill has two broad objectives. The first is to prevent the appointment of an Electricity Industry Ombudsman, which is required under the Electricity Act, until at least 5 December 2000. The second is to extend the date within which the Minister may approve tariff arrangements for existing major gas transmission pipelines in Queensland together with consequential amendments. A number of very serious questions arise in relation to both of these amendments. In relation to the delay in the appointment of the Electricity Industry Ombudsman, the coalition will not be supporting any further delays in implementing this essential consumer protection mechanism.

I will first deal with the Electricity Industry Ombudsman. The Office of the Electricity Industry Ombudsman was created in the Electricity Amendment Bill (No. 3) 1997. When introducing the Bill into this House on 30 October 1997, the then Minister said—

> "... the Bill establishes an electricity industry ombudsman to investigate customer complaints and resolve disputes in respect of customer connection or customer sale contracts in an expeditious and cost-effective manner for customers. The ombudsman's independence from the Government is explicitly provided for in the Bill. The ombudsman will have discretion to choose the location of his office, which will be important for the public perception of this independence. The Bill provides the ombudsman with the appropriate powers to effectively conduct these functions and to compensate customers for losses of up to $10,000 in the event of a breach of either of the standard customer contracts. For contestable customers, negotiated customer contracts may also refer disputes to the ombudsman for resolution. In addition, the Bill provides that the power to deal with other types of disputes may be given to the ombudsman by a regulation."

The Bill dealt with a range of other important matters, including setting basic service standards across the industry, conduct rules for the various sectors of the electricity industry, consumer protection mechanisms in the event of a retailer not being able to provide agreed services, recognition of interstate retail authorities to promote competition, and the ability of the Minister to establish prices and service quality standards for non-contestable customers. This was a comprehensive piece of legislation designed with reforms to the Australian electricity industry firmly in mind. It was a piece of legislation aimed at facilitating Queensland's part in the development of a competitive and effective national electricity market but with clear and effective consumer protection mechanisms at the very heart of the equation.

When I look at the 1997 Parliamentary Debates, I notice that the current Minister, while in Opposition and as shadow Minister, did not speak or vote against the provisions establishing the Electricity Industry Ombudsman. This is not surprising. There was no opposition to this initiative from any credible person or organisation. Interestingly, an article appeared in the Australian on 19 March 1998 which discussed at length the electricity industry reforms in Queensland. Before I quote from that article, I point out that the Professor Anderson mentioned is Professor Don Anderson, the Chairman of the Queensland Electricity Reform Unit. The article, in part, says—

> "A wholesale electricity market was established in Queensland from January 18 this year based largely on the National Electricity Market rules.

The State is working closely with the National Electricity Market Management Company (NEMMCO) to test the systems to be used in the NEM"—

the national electricity market—

" 'Greater accountability arrangements were introduced for the industry aimed at improving service levels to customers,' Professor Anderson said.

'This includes provisions for standard customer contracts between retailers and distributors on the one hand, and electricity users on the other, an industry ombudsman to rule on disputes with customers and codes of practice to promote competition in the industry.' "

The point about this quote is that the establishment of the Electricity Industry Ombudsman was seen as an essential prerequisite to ensure that there would be consumer redress in the context of fundamental electricity market reforms.

Electricity plays a fundamental role in every aspect of Australian life. It is a major source of energy for households, essential services and industry. For most industries, it constitutes 5% to 9% of the operating costs, but in the aluminium industry it is around 60%. It is an important component of most consumer expenditure and is particularly significant this year for people in regional Queensland. In the context of a national market with increasing competition and more and more market entrants, it is absolutely critical that there be in place an office with the requisite degree of competence, independence and funding that can act as an effective customer watchdog. It is important to realise that Queensland is not alone in providing an Electricity Industry Ombudsman. This model is in place in New South Wales, Victoria, Tasmania and South Australia. It is a model that has been successfully adopted in the telecommunications industry with the Telecommunications Industry Ombudsman and the banking industry with the Banking Industry Ombudsman.

Many of the consumer groups and individuals who have written to me and other parliamentarians have referred to the Benchmarks for Industry-Based Customer Dispute Resolution Schemes, which were released in August 1997 by Senator Chris Ellison, the Federal Minister responsible for consumer affairs. These are the benchmarks which are used to judge the appropriateness and effectiveness of an alternative dispute resolution system for various industries, such as the electricity industry. There are six benchmarks, namely, accessibility, independence, fairness, accountability, efficiency and effectiveness. I will deal with these in a moment.

Before doing so, I will turn to what the Government has proposed as an alternative to the Electricity Industry Ombudsman. This is Labor's proposal for the Consumer Protection Office. On 19 November the Minister issued a press release announcing the establishment of a Consumer Protection Office to investigate and resolve electricity complaints. The Minister said that the office would cover all functions of the ombudsman, including an arbitration process which would be totally independent of the Government. The Minister said in his release—

"Although it was given thorough consideration, the creation of yet another self-serving, costly and bureaucratic entity such as an Electricity Ombudsman was not seen as the most appropriate means to achieve the levels of protection which are necessary for electricity consumers.

Instead the Government has decided to establish a Consumer Protection Office within the Department of Mines and Energy and is finalising arrangements to start operation in the near future.

I consider that a Consumer Protection Office will clearly provide a superior, more timely and cost-effective service, when compared with an electricity ombudsman. The proposal satisfies all the commonwealth standards and benchmarks relating to consumer protection."

I turn to consumer feedback on the consultation. Clearly, the Minister's suggestion that his model meets best practice standards is not echoed by the views of various consumer groups. The first issue they have raised is the totally inadequate period they were given to comment on the Government's proposal and the sparse and selective range of consumer groups contacted. In its letter to me of 3 November, QCOSS made these points, which are a damning indictment of the Minister and his department—

"On November 1 1999, we received notice from the Department of Mines and Energy that they were proposing amendments to the Act to remove the provisions for an Electricity Industry Ombudsman and replace them with provisions for a Consumer Protection Office. We were invited to comment on the proposals by 3 November 1999 ...

We believe the proposed amendments should be subject to broader community consultation and debate.

Consultation on the proposed changes is not only restricted to a completely inappropriate time frame of just three days, but is limited in scope. The only parties invited to consult on the issue outside of government and the electricity industry are ourselves and

Brisbane Consumers Association. For an issue that is of direct concern to consumers across Queensland, this process is patently inadequate."

Those are not my words, they are those of QCOSS.

What we now have is a different proposal again. Under the Bill now before the House, a suspended death sentence is hanging over the Queensland Electricity Industry Ombudsman. There will be a further deferral for 12 months so that the Minister's Consumer Protection Office can be established and then reviewed against the Electricity Industry Ombudsman. The reality is that the Minister could not get his initial proposal through. His colleagues in the parliamentary Labor Party were inundated with complaints. And this is just the first step in a two-step repeal proposal. It is a proposal to buy some time—nothing more and nothing less.

We have only to look at the Explanatory Notes to see what a rushed job this proposal is. Under the heading "Consultation" on page 3, the following comment appears—

"As this amendment merely seeks to postpone the uncommenced provisions of the Act which relate to the Electricity Industry Ombudsman, no consultation has been conducted."

Let me repeat for the information of the House that no consultation has been conducted. We are debating a proposal which has been cobbled together at the last moment and which has not even been discussed with either industry or consumer groups. Similar to a lot of the record of this Government, it is making policy on the run and on the back foot.

I turn to the Consumer Protection Office. The other issue is the view of consumer groups about this office. Again, we are considerably alarmed about this model and the level of real protection it will offer to Queenslanders. First, let me quote again from QCOSS correspondence, which states—

"To summarise, our concerns about the proposed model are as follows:

The Consumer Protection Office proposed by the amendment falls short of best practice benchmarks for dispute resolution schemes.

Under the proposed model mediation and industry regulation functions would be carried out by the same organisation, an inappropriate and conflicting combination of roles.

There is also a conflict in the Minister's role as the protector of consumers and the shareholding Minister in the electricity companies.

There is no independent board to monitor the performance of the Consumer Protection Office.

The model is out of step with developments in other States.

The lack of independence of the office would, according to a study by Commonwealth Treasury, undermine consumer confidence in the scheme.

The proposed cost-effectiveness of the scheme is questionable."

Similar comments were made by the Queensland Consumers Association in its letter, which was circulated to various MLAs. The criticisms that have been made are significant and deserve to be taken very seriously by this House. They are comments from organisations that are very experienced in dealing with the electricity industry and in evaluating alternative dispute resolution models. The fact that the model the Minister has been pushing has been so comprehensively rejected should be a matter of grave concern to this Government, because it is a matter that is certainly of concern to the coalition.

It is appropriate that we look at the Minister's model—or at least at as much of it as he has explained publicly—and see how it stacks up. In doing so, it is a shame that so much of this debate has been by smoke and mirrors, with the Minister criticising a scheme entrenched in legislation and with a longstanding interstate and Federal track record, and proposing instead a scheme which is changed by press release and which has no such track record.

I turn to the evaluation of the consumer protection model. In his press release on 19 November, the Minister claimed that the resolution of the consumer complaints under his model will be in three stages. Initial consumer complaints will be referred by the department to the electricity entity for action under the internal dispute resolution procedures. If that is not successful, the office will provide a mediation role between the consumer and the entity and attempt to resolve the dispute. Finally, if the dispute remains unresolved, the matter will be heard by an independent qualified arbitrator who will be able to make the relevant orders. The Minister claims that this scheme will offer a faster and more responsive system that will ensure that there is an independent impartial mechanism to resolve disputes. I am not about to criticise the final stages in the process. I believe that having independent arbitrators on hand has some advantages but also a number of drawbacks. However, my main concern is the lack of real independence of this proposal, and this concern is greatest where the scheme is most critical for consumers, and that is at the outset. What we have is a scheme run by the department and one where disputes will be mediated by the department. There is no independence. There is no independent oversight.

The following comments were made by the Queensland Consumers Association in a letter to parliamentarians. I think they sum up the fatal flaws with this proposal—

> "The model which the Department of Mines and Energy proposes replaces the Ombudsman's Office is that of a two tier system where at the first stage the Department seeks to mediate the dispute, and if it cannot, to pass the dispute to arbitrators, does not meet the benchmarks. It fails most significantly to be sufficiently independent, and will not provide the degree of accountability required of it.
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> In essence it proposes that a government department (which regulates the industry) mediates disputes between a government owned corporation (such as Energex and Ergon) and consumers. Mediation is an important step. In any dispute resolution process the role of the mediator is ensuring a fair outcome for both parties. It is fundamental to any fair mediation process that the mediator must be independent. The dispute resolution process proposed by the Department bears hallmarks of a lack of independence. It proposes that the Minister's department mediates disputes between consumers and electricity companies of which he is shareholding Minister. This will be the perception which the Queensland public has of this scheme.
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> At a time when the Queensland public demands transparent decision-making processes from government, we are concerned that the Department of Mines and Energy is about to adopt an ADR model which is fatally flawed."

We could not get a much more dismissive analysis than that. It is a model which the Queensland Consumers Association says is fatally flawed, a model which does not have the requisite degree of independence, a model which the public will not have confidence in and a model which is not transparent. Those comments supplement those of QCOSS that I mentioned earlier. It amazes me that the Minister can come into this House and claim that this fatally flawed model, which has zero community support, is superior to the ombudsman model, which is based on best practice standards accepted by Governments of all political persuasions at all levels.

Both QCOSS and the Queensland Consumers Association made reference to a Commonwealth Treasury analysis. It is in fact the consumer redress study released in June this year. The study contained critical information about the surveys taken of consumers on the importance of independence and perceived independence of dispute resolution bodies. Before continuing, I should say that it is central to this debate to realise that perceptions are everything. Credibility is the key to success. There is no use for either the Minister or anybody else saying that, under this model, there will be independence, for that does not address the problem. The problem is the perception that this process may not be independent enough and may not offer sufficient protection to electricity consumers. That is a problem that the Minister and the Government seem to be blind to. The Treasury study highlighted what many have realised for some time—that is, independence is critical to consumer confidence in ADRs and that there is acute consumer sensitivity to perceived independence.

While I do not wish to be overly critical of an office that is yet to be established, and I certainly am not critical of the public servants who will work in that office, the bottom line is that many consumers will view with suspicion mediators who work in the same Government department that regulates and promotes the electricity industry. Likewise, we have not been given any real information about the arbitrators. Who will be appointing these arbitrators? What experience will the arbitrators have? Will they be appointed for a term or on a case by case basis? Who will oversee their work? What level of medium term independence will they have? Will there be a separate annual report outlining their activities, costs and performance? Really, there are a lot of very important issues that have been left unanswered which go to the core of the effectiveness of the arbitrators.

Once again, the Minister has gone public and attacked the ombudsman scheme, but in comparison his proposal is vague and open ended. The risk of industry capture of this scheme is ever present. The risk that this scheme will not be independent enough and powerful enough to effectively offer sustained consumer redress is obvious. The fact of the matter is that the Minister is proposing a scheme which, despite the very best endeavours of anyone associated with it, does not have the institutional, legislative or political power base to contend with a range of powerful forces that it may be up against.

It is a half-baked scheme being put forward by the same Minister who, in the recent mining safety legislation, likewise vested absolute powers in his office and resisted any attempts to ensure that there was a legislative independence for people entrusted with overseeing and investigating mine safety. Again, we see a retreat from accountability and an aversion to independence and to objective decision making. It is a very disappointing performance which will have potential grave ramifications for the electricity industry and, no doubt, for this Government.

Finally on this point, I will deal with the issue of costs. The Minister has claimed that this model will be cheaper. I find that difficult to believe. As I understand it, under the Minister's model the CPO will

have a staff of six. Yet, as the Minister would know only too well, the New South Wales Energy Ombudsman's Office only has a staff of five, including three investigators, a business manager and the ombudsman. I am informed that that office has operated so successfully that both Sydney Water and AGL are voluntarily moving to use the office for dispute resolution. If New South Wales can successfully operate with about five staff, and under the CPO model we will have six staff, I fail to see how it would be cheaper. Presumably the costs of the independent arbitrators would be on top of the cost of the six staff as well.

It really is a silly exercise to justify the CPO model on the basis of cost because, looking at the Minister's proposal, it is not obvious to anyone that it would be a cent cheaper. In fact, it could be argued that the CPO model will be more expensive. I do not intend to engage in such an obviously useless debate because we are debating in a vacuum. We are not debating two existing and working models but rather two hypothetical models. In both cases, proper costings have not been done. The only sensible way to deal with this matter is to look at the proposed structures and whether those structures meet best practice standards. In relation to best practice standard benchmarks, as I mentioned earlier, the key to determining whether the Electricity Industry Ombudsman scheme should be relegated to nowhere land for at least a further 12-month period is whether the alternative being put forward by the Minister meets the national approval best practices benchmarks for industry based alternative dispute resolution schemes.

I will deal only with the issue of independence, but I do point out that the key indicators of fairness and accountability are also of concern. The purpose of the following benchmark is to ensure the process and the decisions are objective and unbiased and are seen to be objective and unbiased. So far as the decision maker is concerned, the following are the key practices that are recommended: the scheme has a decision maker who is responsible for the determination of complaints; the decision maker is appointed to the scheme for a fixed term; the decision maker is not selected directly by scheme members and is not answerable to scheme members for determination; and, the decision maker has no relation with the scheme members who fund or administer the scheme which would give rise to a perceived or actual conflict of interest. It is clear that the Minister's scheme fails these tests. There is no one decision maker appointed for a fixed term who is not answerable to the shareholding Minister through the Department of Mines and Energy. Instead, we have a group of officers carrying out mediation work and various arbitrators doing the arbitration work, the job security of whom is highly problematic.

Then there is the requirement for an overseeing entity. There should be a separate entity set up formally to oversee the independence of the scheme's operation. The entity should have a balance of consumer, industry and, where relevant, other stakeholder interests. As a minimum, the functions of the overseeing entity comprise appointing or dismissing the decision maker, recommending or approving the scheme's budget, receiving complaints about the operation of the scheme, recommending and being consulted about any changes to the scheme's terms of reference, receiving regular reports about the operation of the scheme, and receiving information about and taking appropriate action in relation to systemic industry problems referred to it by the scheme.

Again, there is nothing like this even envisaged with the Minister's model. This goes back to the complaint by QCOSS that there is no independent board to monitor the performance of the Consumer Protection Office. It is patently clear that not only is the Minister's model not the best practice; it is also a model on how not to go about industry based alternative dispute resolution.

The coalition can see no benefits at all in delaying the commencement of the electricity ombudsman scheme for another 12 months. It is clear from what little we know of the Minister's departmental model that it fails to meet nationally recognised standards for alternative dispute resolution. We know that the alternative model has been received without enthusiasm by consumer groups and that there is a real risk that it will be viewed with suspicion by the electricity consumers.

A further matter is that the ombudsman model set out in Part 8A of the Electricity Act 1994 is based on tried and tested models which have worked successfully in the banking and telecommunications industries and which have been adopted by electricity industries in New South Wales, Victoria, Tasmania and South Australia. It is clear that this model conforms with the best practice standards for accountability and independence and would have the support of key consumer groups. That in itself has to be a major plus and goes a long way towards ensuring that there would be widespread community acceptance of and support for the model. In addition, if New South Wales is any indication, it will create a platform for resolving disputes in other utilities.

As I have also pointed out, it is certainly not clear whether the ombudsman's model would or should be more expensive than any other model. Even if it were, that should not be the only criterion. The Minister knows that there will be substantial industry funding, and with ongoing rationalisation of the electricity industry the question of whether one scheme or the other may employ two extra staff is quite silly. The reality is that once the Minister sets up his departmental model it will be very difficult, both

administratively and politically, for him and the Government to do a U-turn in 12 months' time. I think that is a very important issue. Extending the proclamation date of the electricity ombudsman by 12 months is just a mechanism to give the Government a bit of breathing space and defuse a very difficult political situation which has arisen.

There is no doubt that this Government does not want an electricity ombudsman. There is no doubt that this Minister is strongly opposed to having an independent officer, which he does not control, having a major oversight role in the industry. The Minister does not want an independent officer looking over his shoulder and being able to make independent decisions about the way this industry is treating its customers. That is a political risk this Government does not want to take. I will listen carefully to what the Minister says in his response because to this stage the coalition can see no consumer or industry benefit in delaying the commencement of Part 8A.

It is in the interests of not just consumers but also the electricity industry and the Government that a proper electricity ombudsman scheme be put in place. There can be nothing more damaging to a business than bad customer relations. Having an electricity ombudsman in place is a sound insurance policy for the electricity industry. Sorting out consumer problems quickly and effectively is good for business and good for the proper development of the industry. On the other hand, if a dispute resolution scheme is in place which does not have consumer support and which is not as effective as the electricity ombudsman, there is a possibility of problems arising, with all the consequent bad press and bad consumer relations. I look at the electricity ombudsman model as essential for both customers and the industry, especially at a time of rapid change and a national market being developed.

The fact that the Minister, for motives best known to himself, is opposed to a proper, independent and properly-funded scheme is regressive, and it will have to be rectified in due course. I place on the public record for the information of the customer movement and those interested in an accountable electricity industry that the coalition strongly supports the establishment of an electricity ombudsman and is committed to ensuring that such a scheme is put in place at the first opportunity.

I now move to the issue of gas pipeline access. The second series of amendments are to the Gas Pipelines Access (Queensland) Act 1998. Currently the Act requires the Minister to approve by 1 July 1998 tariff arrangements for each of the five major transmission pipelines in Queensland in order to protect existing tariff arrangements. As this date was not met by this Government, the Bill provides a new date, which will be 30 days following the commencement of the Act.

A second aspect of the Bill is the winding back of the date for commencement of contestability in the retail gas market to 1 December 2000. There is no doubt that the impact of NCP on the natural gas industry is potentially immense. There are over 4,000 kilometres of gas pipelines in this State, with 90% of the State's natural gas demands being delivered to approximately 4,000 industrial and commercial customers. The remaining 10% of demand is delivered to 120,000 residential customers.

There are presently three main owners and operators in Queensland of gas transmission infrastructure—Epic Energy, AGL and Duke Energy. The transmission pipeline from the Ballera gas processing plant at Wallumbilla is owned and operated by Epic Energy. The Roma to Gladstone and Rockhampton pipeline is owned and operated by Duke. The Roma to Brisbane pipeline is owned and operated by AGL, which has negotiated to expand the capacity of the pipeline from 79 to 110 TJ per day. The pipeline from Ballera to Mount Isa is owned and operated by AGL.

In addition to these existing pipelines is the proposed Chevron pipeline from Kutubu in Papua New Guinea. The actual length of the transmission pipelines is around 2,700 kilometres. When introducing the Bill the Minister said—

> "Proclamation of the Act was deferred until such time as the National Competition Council had completed a process of certifying Queensland gas access regime, embodied in the Act, as effective. It was considered, at the time, that this strategy might strengthen Queensland's negotiating position on its derogated tariffs, particularly as it was felt that the NCC may seek some changes to the pipeline tariff arrangements.
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> Although the NCC certification process is not yet completed, the desirability of introducing contestability into the gas retail market and the need for access arrangements to be dealt with under the National Access Code have led to a review of Queensland's position."

I have read the Queensland Government submission of August 1998 to the NCC for a recommendation on the effectiveness of the Queensland third-party access regime for natural gas pipelines. I might add that the NCC did not receive the submission until 25 September 1998. Moreover, in the foreword to the April 1999 discussion paper on the matter, the NCC says—

> "The process under which it will be considered has only just been concluded in consultation with Queensland officials. In addition, the Council has been awaiting certain information from Queensland necessary to launch a public consultation process."

While I am no fan of either the NCC or National Competition Policy, it looks very much like the Department of Mines and Energy and this Minister have been dragging their feet. The fact that a submission was not sent to the NCC until late September, and that by April of this year further key information had not been transmitted, seems to indicate either obstruction or sloth on the part of the Government. It would appear that the reason that it took the National Competition Council until April this year to release a discussion paper was the fact that, under this Government, communication of the relevant information to the NCC was not forthcoming or, at best, slow.

At pages 13 and 14 of the Queensland Government submission it was pointed out that gas prices are currently not fully cost reflective due to lack of differentiation according to customer location and that there were a number of cross-subsidies which need to be removed in an orderly manner to mitigate sudden changes in the so-called bundled price. Of particular interest is the fact that the Minister proposed, in August 1998, a timetable which phased in the timing when particular customers could choose their retailer and be simultaneously removed from the scope of the bundled price setting by the Minister in the following sequence—

all large customers, that is, those whose annual site volumes are greater than or equal to 100 terajoules, would become contestable on 1 January 2000 in respect to a particular site;

all other customers would be contestable from 1 September; and

a new non-contestable customer could be made contestable earlier than indicated if the Minister, acting under the Gas Act, decided it was consistent with the orderly introduction of a fully competitive gas market.

One of the interesting things is that when one peruses the NCC web site, the various submissions made by the various players in the gas industry on the Queensland Government submission are set out. I read with interest the submission of Chevron dated 21 May which, while supporting its exemption from the requirement of the National Third Party Access Code for Natural Gas Pipelines Systems and the Gas Pipelines Access Law, nevertheless opposed the Queensland submission for the remaining five pipelines and proposed pipelines. At pages 6 and 7 of the Chevron submission, the following comments are made—

"Each of the five pipelines and proposed pipelines considered above could prove important to the Project Sponsor's plans to sell PNG gas widely throughout eastern Australia. Effective third party access to these facilities on competitive terms will be critical to these plans. If as a result of the proposed derogations uncompetitive tariffs and inappropriate access principles are locked in for long periods, we believe that our own interests and those of gas pipeline users generally would be poorly served.

The Project Sponsors therefore oppose the proposed derogations in relation to these pipelines. We believe that they could result in anti-competitive and inefficient arrangements being locked in to the Queensland gas transmission system. If this were to happen, it would have flow-on effects throughout the Eastern Australian gas market."

I might also add that I have read the other submissions, and I have a great deal of sympathy with the following comments contained in the AGL submission of 28 May, namely—

"... it is gravely concerning to AGL, and we believe others who invested in Queensland in good faith on the basis of existing regulatory arrangements, that we face the prospect of having the basis of our investment decisions to provide gas pipeline infrastructure in Queensland being analysed retrospectively, according to a different test, and possibly undone."

These conflicting submissions from people in the same industry as the NCC highlight the need for the State Government to be taking an active and constructive role. Unfortunately, what we see is a Government that is moving at a snail's pace, that is too smart by half and, in the process, is presiding over an industry fighting amongst itself and which is providing absolutely no leadership or direction.

I think that, having regard to the critical juncture that this industry is now in, it is appropriate that I quote from a speech given by Allan Asher on 28 September in Darwin on the status of national gas reform. It is a very interesting paper and points out just how slow gas reform is proceeding. However, what is especially interesting is his comment on the progress of reform in this State. His comments are lengthy but, in the context of this Bill, extremely relevant. He said—

"In Queensland, the opposite situation is occurring, with a Government owned electricity corporation purchasing a private gas distributor/retailer. What's more, the two previous government owned electricity retailers are reported to be proposing to aggregate all potential future gas demand in the State and commit to 20 year purchase contracts with PNG producers for annual volumes close to four times the current Queensland gas demand. One of these retailers, Energex (which purchased Allgas) has applied for authorisation for exclusive dealing in the resale of PNG gas to Queensland gas users. In considering Energex's application for interim authorisation, the Commission received a significant number of submissions expressing concern

at the potential for the Queensland government's involvement to create distortions in both electricity and gas markets. Indeed Entergy's"—

and that is a very relevant name—

"... Managing Director was recently reported to state that the most significant reason Entergy is withdrawing from its position as 50 percent partner in the proposed 900 A4V expansion of the Tarong power station is:

> the market uncertainty created by the (Queensland) Government's proposed support of the PNG pipeline project and the associated generation projects that will come along with that have created a large amount of uncertainty regarding the market outlook for power in Queensland.

Given reports that the vast majority of the PNG gas is proposed to be used in electricity generation, it is difficult to imagine exactly who is going to buy all the additional electricity. One conservative estimate translates the reported volumes of PNG gas into around 2700 MW of electricity. This would supposedly come on stream around 2003, when the total installed generating capacity will be around 9000 MW (excluding Millmerran and Kogan Creek—which together would add an additional 1600 MW). NEMMCO expect peak demand for electricity in Queensland to around 7800 MW in 2003. With electricity demand in Queensland increasing at around 300 MW per year, it will be some time before the excess capacity can be absorbed.

One concerned industry participant recently used the experience of the initial arrangements that led to development of the North West Shelf as a warning of what can result from excessive Government intervention in a major resource development. To facilitate the North West Shelf development, the WA Government entered into long term take or pay contracts with producers for volumes significantly in excess of the existing WA market requirements. The market did not expand rapidly in the way required to utilise all the gas contracted for and the Commonwealth Government had to come to WA's assistance by passing legislation with the effect that it would forgo significant royalty revenues on domestic gas sales for the North West Self until 2005.

Queensland passed the Gas Pipelines Access Law around 12 months ago, but is yet to proclaim it. In signing the intergovernmental agreement to implement the national gas code, Queensland agreed on the basis of significant derogations. These derogations principally relate to preventing any review by the regulator of the tariff and tariff related matters for the four main existing Queensland pipelines as part of their access arrangement approval process under the Code. The owners of those four pipelines would still be obliged to bring in an access arrangement to the Commission for approval, but the reference tariffs will be those taken from the existing access principles. These will not be subject to public or ACCC scrutiny until after the nominated review date expressed in the individual access arrangements. The review dates vary from around 10 years through to over 20 years.

Given the significance of these derogations, in March this year the NCC asked the ACCC to provide advice as to whether the Queensland Gas Pipeline Access Regime is broadly consistent with the National Access Code. The NCC is considering an application by the Queensland Government for certification of the

'effectiveness' of the Queensland regime under Part IIIA of the Trade Practices Act. The Commission has only just received information from the Queensland Government to allow it to commence this review."

I hope the Minister heard the last sentence. Here is Alan Asher claiming that the ACCC had only just received relevant information.

I have read that lengthy quote into Hansard because it gives a very good summation of the current state of play from the ACCC point of view. It would not be appropriate for me to comment at length in this Bill on much of the subject matter to which I have referred. However, what I do say to the Minister is that it is becoming quite clear that the NCC and the ACCC appear to be of the view that this Government is dragging its heels on gas reform. It appears that the ACCC, at least, is of the view that there is no coordinated energy policy in this State and this Government is going merrily along attempting to pick winners and placate this or that interest group without any overall view of where it is leading. We hear much from this Minister about this Government's energy vision, but this Bill highlights that there is no vision—just catch up and patch up politics.

So, while the coalition does not oppose this aspect of the Bill, I must say that I am less than impressed by the way that national gas reform issues are being handled by the Department of Mines and Energy and by this Government. I would appreciate some explanations from the Minister about how developments are proceeding. I ask the Minister to deal specifically with the criticisms of the way in which the Government is handling the matter from the viewpoint of the NCC and the ACCC.

I will make further comments during the Committee stage, but I am concerned that again we have legislation being introduced at five minutes to midnight. The electricity ombudsman legislation should have commenced last December. It was delayed for 12 months, until December this year, and we are now debating legislation to retrospectively deal with the situation after the 4 December deadline.

The same type of principles apply to the gas pipeline amendments, with the need to delete commencement provisions that have not been met. I suggest that the Minister and his department have not approached their duties in a timely fashion. The fact that we now have to deal with retrospective legislation has been caused by the inability of the Minister to handle his legislative responsibilities in a proactive manner. Instead, we are again patching up a leaking and listless ship of state.

I would like the Minister to explain why it has taken him 18 months to deal with the issue of the electricity ombudsman, and why we now have to deal with retrospective legislation, when he could have introduced his alternative strategy months ago. Plainly, retrospective legislation should be avoided, but there are times when it is necessary. However, this is one instance when it was plainly avoidable. The Minister owes this House a proper explanation as to why this state of affairs has been allowed to develop.

Mr Reeves: If this is your valedictory, make it a good one.

Mr ROWELL: I take the comment of the honourable member up the back—

Mr DEPUTY SPEAKER (Mr D'Arcy): Order! It is not necessary.

Mr ROWELL: No, I will accede to your wishes, Mr Deputy Speaker. It is important that we address this situation. The issue of the ombudsman is quite important. It was inserted by the former coalition Minister for Mines and Energy. I believe it is absolutely essential that we go down this track because it gives total independence to the office.