



Speech by

**Hon. KEN HAYWARD**

**MEMBER FOR KALLANGUR**

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Hansard 4 October 2000

### **ELECTRICITY AMENDMENT BILL**

**Hon. K. W. HAYWARD** (Kallangur—ALP) (2.45 p.m.): The background to the Electricity Amendment Bill 2000 was spelt out by the Minister in his second-reading speech when he stated that it was part of the Government's commitment to provide a balance between the commercial performance of electricity entities and community and consumer protection measures. It is about balancing those two areas and getting a result that is to the benefit of the electricity consumer.

The appointment of the independent energy arbitrators is an important and sensible step in the establishment of ongoing dispute resolution procedures that are to be implemented by this Government. Under the existing provisions of the Electricity Act 1994, the regulator, that is, the Director-General of the Department of Mines and Energy, is empowered to provide a mediation role in disputes between electricity entities and customers or others who are affected by the electricity entities' operations. But he does not possess the authority to make decisions in relation to such disputes.

This Bill provides for the regulator's existing role to be extended such that in the event that a dispute cannot be resolved through mediation the regulator, and only the regulator, can refer the matter to an independent arbitrator who will have the power to make decisions and orders in relation to matters in dispute. These arbitrators will provide the mechanism to ensure that the Consumer Protection Office delivers its dispute resolution services and functions in a truly independent and impartial manner.

Initially, disputes referred to the Consumer Protection Office will be provided to the relevant electricity entity for its investigation. In many cases, this investigation process may resolve the particular issue. However, in the event that the issue is not resolved to the satisfaction of the consumer, officers of the Consumer Protection Office will then mediate in an attempt to reach a satisfactory result. If the issue still remains unresolved, the regulator of the Department of Mines and Energy, that is, the director-general, may then refer the matter to one of the independent arbitrators for consideration and action.

The purpose of authorising only the regulator to refer disputes to arbitrators is to ensure that all other appropriate avenues of dispute resolution are explored prior to engaging the arbitration process and as a means of monitoring and controlling the administration of the arbitration phase of the dispute resolution process. It is stressed that an electricity entity must comply with an order of the energy arbitrator. If an electricity entity contravenes an order of the electricity arbitrator, the other party to the dispute may refer the matter to the regulator. If this occurs, the regulator may take disciplinary action against an electricity entity. Those actions include—

for a generation entity or a transmission entity to cancel, suspend or amend its authority;

for a distribution entity to cancel, suspend or amend its authority for its distribution area or part of its distribution area; and

for a retail entity to cancel, suspend or amend its authority.

Up to seven suitably qualified and experienced arbitrators will be appointed in locations throughout Queensland. They will provide a timely response in determining and resolving issues involving consumers and electricity entities.

I think it is likely that these arbitrators will be members of the Institute of Arbitrators and Mediators Australia or possess other professional qualifications or experience which is deemed

appropriate by the Minister for Mines and Energy. I think it is important to note that, once a dispute is referred to them for arbitration, these arbitrators will operate in a totally independent manner to the Department of Mines and Energy.

A further advantage under this model of dispute resolution is that each party to a dispute must conduct their own case. I think it is important that we note here that the parties must not be represented by a lawyer unless the parties to the dispute agree and the energy arbitrator is satisfied that there is no disadvantage to a party to the dispute because of any legal representation. This component of the process ensures that consumers are not disadvantaged in the event that they are unable to afford legal representation.

It should be noted that the recognised and preferred method of dispute resolution is to ensure that information gathered through an investigation and mediation process should be isolated from the formal arbitration. The model being initiated through this legislation makes that distinction and ensures the complete independence of the arbitrators from any previous resolution attempts by officers of the relevant electricity entity and/or—importantly—the Consumer Protection Office.

If an energy arbitrator orders an electricity entity to pay an amount to a person, the person may enforce the order by filing the order in the Magistrates Court. All actions undertaken by either officers of the Consumer Protection Office or the independent arbitrators will be on the basis of procedural fairness.

The Consumer Protection Office will provide the Minister with regular performance and statistical reports from which the electricity entities and the Consumer Protection Office will be held to account for any failure to adequately address consumer issues. I think it is important to note that, in addition, the Minister will ensure that the independent audits of the functions and performance of the Consumer Protection Office are conducted. The independent energy arbitrators are required to provide the regulator with a written report on the outcome of any arbitration and a copy of any order made by the energy arbitrator in the arbitration. It is a pleasure for me to support this legislation, the Electricity Amendment Bill 2000.

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