



Speech by

**Hon. T. McGRADY**

**MEMBER FOR MOUNT ISA**

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Hansard 13 April 2000

### **ELECTRICITY AMENDMENT BILL**

**Hon. T. McGRADY** (Mount Isa—ALP) (Minister for Mines and Energy and Minister Assisting the Deputy Premier on Regional Development) (12.02 p.m.): I move—

"That the Bill be now read a second time."

This Government is committed to providing a balance between the commercial performance of electricity entities and community and consumer protection measures.

The Electricity Amendment Bill 2000 will allow the establishment of an arbitration process which authorises energy arbitrators, as independent third parties, to hear disputes between electricity entities and customers, to determine matters in dispute and to make orders against electricity entities as necessary. The Bill will authorise the appointment of independent energy arbitrators for this purpose. In addition, the Bill will authorise that advisory committees such as regional electricity councils may be established, and in this instance continue in existence.

In December 1999, the Electricity and Gas Legislation Amendment Act 1999 postponed the automatic commencement of the Electricity Industry Ombudsman provisions in the Electricity Amendment Act (No. 3) 1997 to 5 December 2000. As part of the electricity industry restructure, the Government gave approval to establish an office located within the Department of Mines and Energy, which would be structured in a manner that would provide all of the benefits of an ombudsman model of dispute resolution without the need and use of overly complex and bureaucratic processes. I also committed to an evaluation of the performance of that office compared to an ombudsman model before making a final decision on a preferred method of dispute resolution.

The Bill provides the authority for independent arbitrators to be appointed by the Minister for Mines and Energy, and equips them with the powers to make determinations and decisions to resolve disputes that cannot be resolved through mediation.

The Bill also contains a minor amendment which provides a statutory basis for the establishment of advisory committees such as regional electricity councils and provides for the existing regional electricity councils to continue in existence as if they had been established as advisory committees under the Electricity Act 1994.

Mr Speaker, as part of the electricity industry restructure in early 1999, the Government determined that a unit, which is now known as the Consumer Protection Office, was to be formed to deal with customer grievances and provide a means for electricity customers and others to have complaints investigated by a third party if they are not satisfied with the response from the electricity entity with whom they are dealing.

The Bill provides for the appointment of independent energy arbitrators with powers to hear and determine the matter in dispute and make, against the electricity entity concerned, a monetary order of up to \$10,000 or a non-monetary order to remedy any issue in dispute.

Under the existing provisions of the Electricity Act 1994, the Regulator (the Director-General, Department of Mines and Energy) is empowered to provide a mediation role in disputes between electricity entities and customers or others affected by the electricity entities' operations, but the Regulator does not possess the authority to make decisions in relation to such disputes.

The 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 can refer the matter to an independent arbitrator who will have the power to make decisions and orders in relation to matters in dispute. The Bill provides for the Minister for Mines and Energy to be able to appoint a panel of independent arbitrators for this purpose.

The Consumer Protection Office will incorporate and extend the Regulator's statutory role in relation to complaints and disputes between electricity entities and customers or other affected parties. In effect, the office, in conjunction with the energy arbitrators, will perform the functions of an electricity industry ombudsman.

Specific functions and duties will include—

- ensuring that the public is aware of this dispute resolution service, its functions and access arrangements;

- investigating complaints referred to the office by electricity customers and others about the performance and operations of electricity entities;

- mediating in disputes between electricity entities and customers and other parties in an attempt to resolve the matter in dispute, or with the agreement of the customer, refer the matter to an independent energy arbitrator for decision;

- advising on the appropriateness of internal complaint handling procedures implemented by electricity distribution and retail entities;

- liaising with key stakeholder groups and peer organisations in order to develop best practice in mediation processes and an increased awareness of any issues in the energy sector which may lead to increased consumer complaints and disputes; and

- identifying areas where electricity customer complaints are emanating from systemic causes in sufficient numbers to warrant, with the cooperation of the entities involved, the conduct of a research program to identify problem areas, propose new approaches and change the patterns of administration in the area concerned.

To ensure that disputes between electricity entities and customers or other parties affected by the electricity entities' operations are addressed in a timely and cost effective manner, a three stage process is proposed.

Stage 1 involves invoking the relevant electricity entity's internal dispute resolution and customer complaint process. A customer who has a complaint or dispute with an electricity entity should firstly allow the electricity entity concerned to attempt to resolve the issue through its own internal processes. In the event that the customer is not satisfied with the electricity entity's response to the complaint, the customer may then refer the matter to the Consumer Protection Office.

The second stage of dispute resolution involves mediation by the Consumer Protection Office. Disputes may be referred to that office if the matter has first been dealt with by the electricity entity's internal dispute resolution processes and the customer is not satisfied with the outcome. Upon a dispute being referred to the office, mediation between the parties concerned will be used to attempt to settle the matter.

In the event that the mediation process fails to resolve the dispute to the satisfaction of the customer, the Regulator, and only the Regulator, may refer the matter to an independent arbitrator for decision. The matter may only be referred to an arbitrator if the customer agrees.

The third and final stage of dispute resolution is formal arbitration. The arbitrator to which the dispute is referred may hear and determine the matter in dispute and may make, against the electricity entity concerned, a monetary order of up to \$10,000 or a non-monetary order to remedy any issue in dispute. This process will not prevent any party exercising other rights before a court or tribunal.

It is proposed that up to seven independent energy arbitrators will be appointed through Gazette notice by the Minister for this purpose. These arbitrators will be selected on their ability to provide impartial decisions regarding disputes that have not been able to be resolved satisfactorily through either internal complaint procedures or by mediation. Each arbitrator will either be a graded member of the Institute of Arbitrators and Mediators or, alternatively, will possess qualifications or skills which are considered appropriate for the requirements of this role.

It is expected that some of these arbitrators will be regionally based. Unless otherwise determined, a single arbitrator will preside over all hearings. The arbitrators will be paid on a fee-for-service basis plus be reimbursed for their actual expenses. This process will ensure that electricity customers and other affected parties have an accessible and effective means of having complaints and disputes with electricity entities investigated and determined by an independent third party.

Whilst cost alone should not and has not been the determining factor in deciding between a separate statutory authority, as is the case with an electricity industry ombudsman or a departmentally

located Consumer Protection Office, preliminary cost estimates indicate savings with the latter option. It is estimated that the recurrent funding of the Consumer Protection Office, based on six staff, will be \$0.79m. This represents a saving of approximately 36% on the estimated costs of establishing an ombudsman's office in Queensland.

All costs associated with the dispute resolution functions of the Consumer Protection Office and the independent energy arbitrators will be funded by a levy on the electricity entities. The Bill includes an amendment to the Electricity Act to allow for the application of this levy. The public will be advised of the establishment of the Consumer Protection Office to ensure that consumers are aware of the existence of the office, and the availability of a process to attempt to resolve any issues that they may have in relation to disputes with electricity entities.

In August 1999, seven regional electricity councils were established to provide a forum for external community involvement in the operations of the regional electricity network, including proposed changes to the local network and improvements in the way Government owned electricity distribution and retail corporations operate within the region. A regional electricity council's function may be to give information and advice on matters impacting on communities in a particular region, including—

- service levels provided by electricity entities;
- reliability of electricity supply;
- environmental concerns;
- major electricity infrastructure projects; and
- proposed changes to the local electricity network.

The proposed changes within the Bill with respect to the establishment of advisory committees are intended to broaden the role of such committees through a minor legislative amendment which will allow the continuation in existence of the regional electricity councils which were established in August 1999. This process is distinct to the current appointment of members under the prerogative power of the Crown.

The Electricity Amendment Bill 2000 will provide consumers with a means to ensure any complaints between them and electricity entities are investigated promptly and effectively, and ensure that disputes are resolved through investigation, mediation and arbitration processes. I commend the Bill to the House.

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