



Speech by

Mr M. HORAN

MEMBER FOR TOOWOOMBA SOUTH

Hansard 27 November 2001

ELECTRICITY LEGISLATION AMENDMENT AND REPEAL BILL

Mr HORAN (Toowoomba South—NPA) (Leader of the Opposition) (10.11 p.m.): This is a very important bill, as we will see when I speak about some of the facts regarding the electricity industry and how important it is to people. Basically, this bill puts in place a dispute resolution system. Before I get into that, I want to go through some of the background of the electricity industry, which has been kindly provided to me by the Parliamentary Library.

In 1997-98, the Queensland electricity generating sector experienced a 12 per cent increase in demand. It was actually the largest increase in demand in Australia, and that was mainly owing to the need for increased electricity generation by the aluminium smelting industry. Between 1973 and 1999, Queensland recorded the highest increase in electricity demand of any Australian state with an annual growth rate of 6.8 per cent, with demand from the manufacturing and commercial sectors leading the way. Over the period 1999-2000, the cost of electricity in Queensland fell.

I turn now to the issue of competitiveness that was brought into the industry. Wholesale electricity prices decreased in Queensland whilst in New South Wales, Victoria and South Australia they increased. In Queensland there was a 20 per cent wholesale price reduction, falling from about \$63 per megawatt hour to \$50 per megawatt hour. This flowed on to the retail consumer, who enjoyed a five per cent reduction in price.

Nationally, of the total generated output the industry sector consumes 47 per cent, the residential sector consumes 28 per cent, the commercial sector consumes 22 per cent, and the agricultural and transporting sectors consume three per cent. So together, the residential and commercial sectors—and in the commercial sector most of the consumers are small businesses—account for about 50 per cent of the generated output.

It is important that a procedure be in place to allow consumer complaints to be addressed. To the consumer, government accountability is about the seeking of information and redress. This is occurring in a world where the distinction, particularly in the electricity industry, between public enterprise and private enterprise—or corporatised service provision—has narrowed, and there is an increasing perception that citizens are also consumers and clients. The delivery of services to the public within this environment has to be looked at in the operational context where the service provider is seen to be accountable to the consumer. This may be impeded by an absence of incentives to satisfy consumer expectations.

I think that gives some background to what we will ultimately be talking about in relation to this bill. I want to outline the structure of the Queensland electricity industry, which consists of different entities that are responsible for generation, transmission, distribution and retail supply. During the 1990s we saw an enormous amount of change occur in the electricity industry. First of all, in 1995 major changes to the structure occurred when the Queensland Electricity Commission was divided into two government owned corporations known as the Queensland Generation Corporation, which was the entity responsible for electricity generation, and the Queensland Government Transmission and Supply Corporation, which was the entity responsible for transmission, distribution, and retail supply. This restructuring, which occurred in 1995, also left the Queensland Electricity Transmission Corporation responsible for seven other entities that supplied low-voltage distribution and retailing across the state.

In 1997, during the term of the National-Liberal coalition government, there was further restructuring, which resulted in the Queensland Generation Corporation being devolved into three separate generating entities owned by the state government. They were CS Energy, Stanwell Corporation and Tarong Energy Corporation. At that time, these three entities accounted for the generation of around 75 per cent of the total state electricity output.

In July 1997, the Queensland Electricity Transmission Corporation was corporatised along with the seven distribution entities, making all of them independent government businesses. This change coincided with the separation of the hitherto twin functions of distribution and retail. The retail function is now subject to franchises that are owned by Omega Energy as the northern retailer, Ergon Energy as the central retailer, and Energex as the southern retailer. In February 1998, that situation altered further when Ergon and Omega were merged into the one entity known as Ergon Energy.

In looking at the background of the electricity industry, the important thing to realise is that electricity is an essential commodity. Consumers are not able to refuse the service. It is a must-have service, especially considering the way in which modern houses, modern businesses and big industrial facilities operate. Consequently, this leaves consumers with very, very limited bargaining power. Basically, people have to take the service that is supplied to their houses. So any dispute resolution process should be based on a number of principles. These are independence, accessibility, effectiveness, cost effectiveness, and jurisdictional clarity.

That is some of the background to this bill. I think that last issue is very important. Consumers do not have any alternative. They cannot walk down the street and say, 'I want this one rather than that one,' because currently that is just not feasible. Therefore, the main objectives of this bill are, firstly, to omit the Electricity Industry Ombudsman legislation provided for in the Electricity Amendment Act (No. 3) 1997, which has not commenced; secondly, to provide for the establishment of the Energy Consumer Protection Office model for dispute resolution within Queensland Treasury to provide complaint investigation, mediation and arbitration processes for electricity consumers; and, thirdly, to provide for increased flexibility in the way the levy that is imposed on electricity entities to fund the dispute resolution processes undertaken by the Energy Consumer Protection Office is determined and administered.

The Electricity Amendment Act (No. 3) 1997 established an independent Electricity Industry Ombudsman to investigate customers' complaints and resolve disputes in an expeditious and cost-effective manner for customers. The Ombudsman was independent from the government and had the necessary operational discretion to maintain his or her independence. The Electricity Industry Ombudsman was required to prepare a written report about the operations of the office during the year and the minister would table a report in parliament.

However, the role of the Electricity Industry Ombudsman has not commenced. Contrary to the provisions of the act, the Deputy Premier, Treasurer and Minister for Sport supported the trial of the Energy Consumer Protection Office model for dispute resolution. The Energy Consumer Protection Office is a functional group of the Office of Energy, which is a portfolio office of Queensland Treasury. The Office of Energy is responsible for the delivery of the government's energy agenda and, as a consequence, dispute resolution being provided by an independent entity is compromised. Capability for the trial by the Energy Consumer Protection Office was provided in the Energy and Gas Legislation Amendment Bill which the former Minister for Mines and Energy introduced to the parliament on 23 November 1999.

In his second reading speech, Minister McGrady stated that the amendment bill also affects an amendment to the Electricity Amendment Act (No. 3) 1997 in order to postpone the automatic commencement of the Electricity Industry Ombudsman provisions for a further 12 months. To be established instead was a consumer protection office. The deferral of commencement of provisions in the Electricity Amendment Act (No. 3) 1997 relative to the appointment of an Electricity Industry Ombudsman was to allow an evaluation of an alternative dispute resolution and arbitration process.

It was another case of the government reinventing the wheel while creating another facade—an illusory consumer protection office which is an online office of the Office of Energy which is an online office of Treasury. Where is the independence in such a model? The purpose of the Electricity and Gas Legislation Amendment Bill was to prevent the appointment of an Electricity Industry Ombudsman, which was required under the Electricity Act. As stated, the Office of the Electricity Industry Ombudsman was created in the Electricity Amendment Bill (No. 3) of 1997. When introducing the bill into the parliament 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 that power to deal with other types of disputes may be given to the Ombudsman by regulation.

Electricity is a major source of energy for households, essential services and industry alike. For industry, it constitutes five to nine per cent of the operating costs, escalating to around about 90 per cent in the aluminium industry. Similarly, it is a significant component of most household expenditure, and whether it is electricity usage costs or connection charges, electricity is an important component of rural landholders' annual expenditure and, indeed, of all people who need electricity.

For this reason, it is absolutely imperative that there be in place an office with the necessary competence and independence that can perform the check and balance role of watchdog. It is the reason why New South Wales, Victoria, Tasmania and South Australia established the position of Electricity Industry Ombudsman. In fact, the Office of the Energy and Water Ombudsman of New South Wales has proved to be widely acknowledged by the broader community. In its first three years of operation to June 2001, this Ombudsman's office in New South Wales received, on average, 290 complaints per month.

The ombudsman model is a successful model. It is readily embraced by the community and it is successfully adopted by the telecommunications industry as well as the banking industry. The minister's suggestion that his model meets best practice standards was not supported by QCOSS. I understand that organisation still has concerns. When the concept was first mooted, QCOSS wrote to the opposition on 3 November 1999 stating—

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 was also a conflict in the Minister's role as the protector of consumers and his other role as 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 and the lack of independence of office would, according to a study by the Commonwealth Treasury, undermine consumer confidence in the scheme. The proposed cost effectiveness of the scheme also is questionable.

The Queensland Consumers Association has also raised similar concerns. The association stated—

In essence, the model proposes that a Government department mediates disputes between Government-owned corporations and consumers. Mediation is an important step. In any dispute resolution processes, 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 mediate disputes between consumers and electricity companies of which he is a shareholding Minister. At a time when the Queensland public demands transparent decision-making processes from government, we are concerned about a model which is fatally flawed.

Those were the comments of the Queensland Consumers Association. There are no benefits at all for consumers in the proposed legislation, and it is deceptive to say the least. The National Party's 2001 Minerals and Energy policy states—

The National Party in government will establish an electricity ombudsman in accordance with the Electricity Act 1997 to ensure that there are independent and accessible avenues of protection for electricity consumers in a deregulated market.

If a government were serious about consumer issues, and if a government were just as serious about the independence of mediation and arbitration authorities, that government would go down the pathway of the tried and true industry ombudsman model. I think once again we are seeing an example of an attempt by this government to centralise control, to own and operate the system and not to have a truly independent system that is fair to the consumer, fair to the industry and which provides a true separation of the role of dispute mediation and that of an ombudsman—true separation from the minister and his department and the shareholding role that the minister has in the corporatised entities of the electricity industry. Consequently, the National Party cannot support this bill, and in government we would overturn the concept and establish an Electricity Ombudsman to truly serve the interests of consumers.
