

ELECTRICITY INDUSTRY BILL 2003

Consideration in Detail

Resumed from 20 November.

Debate was adjourned after clause 78 had been agreed to.

Clauses 79 to 89 put and passed.

Clause 90: Terms used in this Part -

Mr J.H.D. DAY: We are now dealing with part 7 of the Bill, which is titled "Electricity ombudsman scheme". First, have any decisions been made about who will be the electricity ombudsman, either in specific or general terms? Will it be the same ombudsman as for the gas industry? Has any individual been approached to take on the role at this stage? What stage has the appointment of an ombudsman reached? Obviously it cannot be done until the legislation is passed, but I would like some more information. Secondly, what is the expected cost of the operations of the electricity ombudsman scheme?

Mr E.S. RIPPER: The electricity ombudsman scheme is very similar to the gas industry ombudsman scheme. It is intended that the electricity and gas ombudsman will be the same person, so that, in effect, there would be an energy ombudsman. The gas industry ombudsman is currently the state Ombudsman; that is, the Parliamentary Commissioner for Administrative Investigations. It is the intention that for at least the first period the ombudsman would be the parliamentary commissioner, or the State's Ombudsman.

Mr J.H.D. Day: Do you expect there to be any additional operating costs for, or that additional staff will be made available to, the parliamentary commissioner?

Mr E.S. RIPPER: These are industry-funded ombudsman operations. The state Ombudsman would not perform this role within the resources provided for her from the consolidated fund; she would perform it virtually on contract to the industry.

Clause put and passed.

Clauses 91 to 101 put and passed.

Clause 102: Purposes of this Part -

Mr J.H.D. DAY: This is the first clause in part 8, which is entitled, "Access to services of network infrastructure facilities". This is a fairly significant part of the Bill, as the private sector has complained about the access to the transmission and distribution system. Some operators in the electricity industry perceive that they do not have fair and equitable access to the network system. Presumably this part will put in place at least a framework for the provision of fair and equitable access. Could the minister advise the current transmission charge that is levied on private sector operators using the existing Western Power network system, and could he also provide any other relevant information about problems that he perceives exist?

Mr E.S. RIPPER: I am advised that the Western Power paper on this matter is about a centimetre thick. However, it has been posted on the Western Power web site and is publicly available. There is not a single transmission charge for the south west interconnected system. The charge varies depending on customer class. Access charges are determined during a triennial review process, which was last undertaken in 2001. That process sets Western Power's allowed return for a three-year period.

Mr R.N. SWEETMAN: I refer to a briefing I received from the Managing Director of Perth Energy, Ky Cao. He represents the small to medium-tier energy producers. He supports the legislation in its entirety.

Mr E.S. Ripper: I know him well.

Mr R.N. SWEETMAN: I guess the minister does. I hope he did not help the managing director write the particular letter to which I will refer. It is very well written but does not support many of the things that I believe about this legislation. I had a good discussion with Ky several weeks ago. Although he may not necessarily concede it, I think I finished that discussion ahead on points. He represented his point of view, as well as that of other smaller producers who want some security from this legislation. Their concern is about not only Western Power and its monopoly position in the system today. Ultimately, the larger producers will have the capacity to muscle him aside. I guess he wants to ensure that, through this legislation, companies like his will get some protection under these access rights. It is interesting to note that Ky is an ex-Western Power employee, which is where he acquired a lot of his skills. If my observations are correct, he is a young man. Western Power has been very good to him, and, obviously, he has been very good to Western Power. It is a pity to lose people like that from the organisation. Never mind, he is out there and doing his part in offering viable alternatives with other power producers. They want to be sure that through these access arrangements, companies like Perth Energy

will continue to have access to their current customers without being unfairly affected. They want to ensure that their system is maintained in the scheme of things and that there is the potential for other operators like Perth Energy to come into the system and to be protected under these sections of the Act.

Mr E.S. RIPPER: One of the driving forces for the reform is to give potential and actual participants like Perth Energy fair access to the network so that they can get their power to the market. Although the network is under the control of their competitor in Western Power, there is always a perception that fair access to the network is not available to people like Perth Energy. I think there is some reality to that but the argument does not depend on that; the argument depends on the perception. People will not invest hundreds of millions of dollars in private sector generation projects if they or their financiers have any doubt about getting fair access to the network. Therefore, it needs to be absolutely clear to everyone that they will get fair access to the network and what the terms and conditions of that access will be. Perth Energy and other stakeholders are involved in the process to determine the new Western Australian electricity access code that will be independently regulated by the Economic Regulation Authority. This is a key part, but not the only part, of the overall reform process.

Mr J.H.D. DAY: Subclause (b) refers to the competition principles agreement. The minister advised the extent to which the competition principles agreement is already in operation in Western Australia. I would have thought that in theory, to a large extent, they are in operation. However, I am interested in the minister's comment and to what extent he expects the situation to change as a result of this legislation. Given that the Opposition, the Greens (WA), One Nation, the National Party and the Independents do not support the Government's legislation in its entirety, will he advise the extent to which Western Australia might have its competition payments reduced? How much less would Western Australia be expected to receive as a result of the failure of this legislation to be approved by both Houses of Parliament? I understand the Government has expressed some concerns about it. The Opposition is opposing some aspects of the Government's package of legislation for very good reason, as we have explained in quite a bit of detail and will continue to do so. However, I am interested in the minister's comments on this aspect.

Mr E.S. RIPPER: I would like to take issue gently with the last remarks of the member for Darling Range. The Opposition does have a formal position in support of the structural reform of Western Power. I do not think Parliament has been given any adequate explanation of why the Liberal Party supports the maintenance of a stapled retail-generation entity.

Mr C.J. Barnett: Because in simple terms this is your Bill. Unbelievable as it might seem, you are the minister and you are in government. You have not been able to make the case successfully.

Mr E.S. RIPPER: I am working with difficult and dense material, but I am continuing to advance the argument.

Mr J.H.D. Day: It is not only the Liberal Party, but the National Party, the Greens (WA), One Nation and Independents; it is everybody except Labor members.

Mr E.S. RIPPER: Not only has the Government made a strong case, but also the Electricity Reform Task Force, the Allen Consulting Group, business, the mining industry, the renewable energy sector, federal minister Hon Ian Macfarlane, and Mr Graeme Samuel, the Chair of the National Competition Council.

Mr C.J. Barnett: All small thinkers!

Mr E.S. RIPPER: What was that?

Mr C.J. Barnett: None of them has a big policy agenda for this country or this State.

Mr E.S. RIPPER: So Hon Ian Macfarlane, Mr Graeme Samuel, the Chamber of Commerce and Industry of Western Australia, the mining industry and the renewable energy sector are, in the view of the Leader of the Opposition, all small thinkers?

Mr C.J. Barnett: In terms of energy policy, I have yet to hear any of them articulate a generally expansive, forward-looking energy policy for Australia or Western Australia. I have said that in public a dozen times, so it will be no news to anyone.

Mr E.S. RIPPER: I will move on to a related point. I hope that at some stage during today's debate, before the resolution of these matters at four o'clock this afternoon, we will get a chance to hear the Liberal Party's argument for the maintenance of a stapled retail-generation entity.

Mr J.H.D. Day: You have not been listening during the past two days of debate.

Mr E.S. RIPPER: I have been listening very closely. I have heard a whole lot of arguments against the structural reform of Western Power, but I have not heard any arguments - at least none that sticks clearly in my mind - for the three-entity split of Western Power as opposed to the four-entity split. The Opposition has said that it supports three entities to replace Western Power, not four, and then all of the arguments presented have

been in the direction of keeping one entity, not three. Why do we not move to the nub of what is the apparent dispute between the Liberal Opposition and the Government and discuss those issues? With regard to the competition principles agreement, I have quoted in this House on a number of occasions the letter from Graeme Samuel, when he was the President of the National Competition Council, stating that electricity reform is a very significant part of Western Australia's obligations under the competition policy agreements, and the NCC view that that is something that is in Western Australia's favour for receiving competition policy payments.

I have no doubt, from my discussions with Mr Samuel and all of the communications that have occurred between the National Competition Council and the Government, that there would be a very significant impact on our competition policy payments were the structural reform of Western Power not accepted by this Parliament. Unfortunately, I cannot say precisely what the impact would be because that is not the way in which the National Competition Council deals with this issue, but I was surprised by the severity of the penalties on other competition policy matters that the NCC has recommended to the federal Treasurer. I would expect the worst if the Parliament were not to approve the structural reform of Western Power.

Mr C.J. BARNETT: Western Power is a small utility. I will not repeat all of the points I have made about that, but surely in Western Australia we will not run energy policy on the basis of what Mr Samuel might think. That is small-minded. He is a regulator and a bureaucrat. He is a nice guy; I know him well, but his charter is competition principles and not the development of this State. Western Australia's great advantage is its natural gas resource, and it is fortunate to have a coal resource as well. The emphasis taken by the NCC is very small-minded and is very narrowly focused on Australia. However, Western Australia is an export-based economy. Our focus should not be on how we compare with Tasmania on electricity prices, or even with Victoria, New South Wales or South Australia. That is relevant as a point of comparison, I suppose, in an academic debate, but if want to look at the big picture about economic development, we should look at the development of energy resources in this State and how that relates to our economic expansion and export development into the Asian market.

No-one, including the federal Government, seems to have grasped that principle. It was beyond the brief of Mr Samuel, as he demonstrated on the issue of the privatisation of the Dampier to Bunbury natural gas pipeline. He did not grasp what the fundamental financial reality of that pipeline was, nor did he grasp what the natural monopoly component was. He simply took a narrow, prescriptive, competition access rule. The competition agreement, which I remember well, is sound. The principles of the agreement are sound, both for gas and electricity. That is why the previous Government agreed to it. However, what happened after the principles were decided was very disappointing. The principles, for example, for gas deregulation and open-access regimes for third parties to gas pipelines were sensible and non-discriminatory, with conditions for laterals and whatever else. This State was ahead of the game because we did that as part of the privatisation of the Dampier to Bunbury natural gas pipeline, and we pioneered that on the goldfields gas pipeline. The rules were very simple and not overly prescriptive. However, when the national access code came out, it was like a telephone book.

At the commonwealth level there has been an enormous amount of regulation in the name of deregulation. People in the industry now are saying that the reason this country is not getting the amount of infrastructure investment in pipelines that it should be getting is that there is just no flexibility and it is overly regulated. I fear that exactly the same will happen with electricity. Therefore, although I agree with the broad principles and believe they were soundly thought through, the application of those principles into regulation has been a failure. If we talk to anyone in the gas industry, and increasingly in the electricity industry, we will find that is the case. The expression I heard the other day from an American company is very apt. It described the energy industry in Australia as experiencing the flight of the buffalo. That is what is happening. We are experiencing the flight of the buffalo, as American companies in particular that came here in good faith are being regulated under the national access code to such an extent that they are withdrawing from the Australian energy scene. That does not do a lot for competition. It is a negative force for competition.

Although we agree in principle with the access code, obviously - the previous Government adopted and set up access rules - I hope we do not end up with an incredibly prescriptive set of rules. If we do, then I honestly believe we should opt out of national competition. We should accept the principles, but have simple rules and regulations in this State so that we can be entrepreneurial in our energy industry. Otherwise - and I do not say this unkindly - the minister will be wasting his time as Minister for Energy in Western Australia, because Graeme Samuel will be making all of the decisions, and the minister will not be able to build a goldfields gas pipeline, as I was able to oversee as a minister, because the rules will not allow it. What we need in this State is a set of principles of fairness and equal access. However, we should not strangle and kill the industry with regulation. The principles are fine. However, the application of those principles into regulation has been an astonishing failure of public policy in this country. People are now starting to realise that. Probably what has happened in energy is about to happen in water, and that would be a complete catastrophe in this State. I warn against that.

Mr J.H.D. DAY: I would like to hear more of what the Leader of the Opposition has to say on this issue.

Mr C.J. BARNETT: We need an approach to regulation and competition principles that is pro-development. Many of the principles that have been set down in the name of competition policy are not pro-development. They do not allow people to do new and innovative things. That concerns me greatly. In principle, it is fine. The application in gas has been disappointing, as it is in this State. Western Australia should abide by the principles of competition policy, but it should set up its own regime in the detail. If we do that, we will be entrepreneurial and pro-development, and things will happen in this State that will not happen elsewhere. That is the reality. The problem of regulation is also important.

Finally, I hope the minister's energy policy has not been guided by the penalties that the Commonwealth might impose. That would be small-minded. If that is the Government's view of the development of this State, we are in deep trouble. If Western Australia's transmission and distribution network systems are separated, the competition arguments and issues will be satisfied. I accept that the only other aspect would be market dominance. However, in reality that will take time to change, and separating the transmission network will satisfy that aspect. That is worth doing in its own right. If the Commonwealth disagrees with that, I would tell it to stay on its side of the Nullarbor and mind its own business. Given the State's small utility and grid that covers the south west part of Western Australia, and the huge potential for development in gas and electricity infrastructure, we should be going for it. As a State, we should be aggressively going for it. We should not be tied up by bureaucratic regulations that emanate from Canberra. That would be a disappointing result for this State. Separating the networks will be terrific because the Government will meet the major competition reform that is next due in this State. In my opinion, that would completely satisfy any competition arguments. If the Commonwealth says otherwise, I would tell Mr Samuel to nick off and let this State get on with managing its own affairs.

Mr E.S. RIPPER: It was the coalition Government that signed the competition principles agreement and agreed to the processes that would implement that agreement. I have instituted electricity reform in this State not because of the competition principles agreement, but because my colleagues and I believe it is the right thing to do for the electricity supply industry in this State and that it is the right thing for the further growth of the Western Australian economy. The fact that the reform is in accordance with the competition principles agreement, which was signed by the coalition and which protects our competition policy payments, is an additional advantage. We cannot run away from that. The Leader of the Opposition's argument that we simply put up two fingers and tell the National Competition Council to go away is fine rhetoric in this Chamber. However, if Peter Costello, the federal Treasurer, maintains the position that he will accept the recommendations of the NCC and cut our payments, the inescapable reality is that less revenue will come to Treasury - I am also the Treasurer - and therefore, less revenue will be spent on schools, hospitals, police stations, roads, child protection and environmental protection. We can say whatever we like to the NCC and the Commonwealth, but if they are of the view that we have not honoured the competition principles agreement, the inescapable consequence will be a loss of competition policy payments. That is the reality. That is not the only or best reason to support electricity reform. It is one aspect of the issue that simply cannot be ignored.

Secondly, I do not see the tension between competition policy and growth and development that the Leader of the Opposition described. In my view, competition policy promotes growth and development. The expert commentators who have looked at the economic history of this country over the past 15 years agree that, in terms of economic growth, this country has performed better than other Organisation for Economic Cooperation and Development countries because it got on with reform through competition policy when other countries did not. We are now experiencing the growth benefits of 15 years of microeconomic reform in this country. The Hawke and Keating Labor Governments played a very proud role in that reform program.

Mr J.H.D. Day: It was significantly supported by the then federal Liberal Opposition.

Mr E.S. RIPPER: I agree that the support was significant and that it enabled the reform program to proceed.

Electricity reform is also about development in this State and reducing the price of a key input for many businesses in this State, thereby promoting investment and growth in those businesses, and more jobs. It is about promoting investment in the electricity supply industry as well. I expect out of this reform the State to have a bigger electricity supply industry selling more electricity to more and larger businesses employing more Western Australians. That is the reason for the reform; it is not that we have some theology of competition that we happen to like or that we are worried about competition policy payments and will do anything to get them. The reason for the reform is that we want to promote investment, development and jobs growth in this State. To do that we need lower electricity prices. The best means to obtain that is through competition, and the way to get practical competition is through the integrated reform package that the Government has put to the House.

Mr J.H.D. DAY: I am interested in the comments that the Minister for Energy is making. He is certainly saying that competition produces growth. Most people would agree with that in most circumstances. I am interested to know why, if he believes in that philosophy, the Government is adopting the approach on retail trading hours that it has adopted. There is quite a marked contrast. That is the first point on which I would like to hear a response from the minister. Given that the Opposition is supportive of additional competition - particularly in generation, from where the major savings will come - surely there must be a recognition that further competition in the provision of electricity supplies in Western Australia will develop, and we are supportive of that.

Mr E.S. RIPPER: Many objectives must be balanced against each other when the Government considers policy in different areas. One of the policy objectives must be the promotion of competition, because it promotes our economic growth and development. Nevertheless, it is not the only policy objective that Governments have. I will not go into the retail trading hours debate because those other policy objectives have been well canvassed in the debate. However, policy issues, other than competition, have been incorporated into the electricity reform package. For example, we would not want a system of fierce competition that, by its operation, compromises reliability and security of electricity supplies. We would not want a system of fierce competition that, by its operation, discriminated against renewable energy producers. We would not want a system of fierce competition that did away with the entitlements that Western Power workers have built up over the years. We would not want a system of fierce competition that made power consumers in Carnarvon pay triple the price for power that consumers in Belmont pay. Therefore, a number of different policy issues have been taken into account in the design of the reform. An important policy objective has been the promotion and growth of development and employment in Western Australia through lower electricity prices as a result of competition achieved practically through the structural reform of Western Power and all the other elements that constitute part of this package.

I will come back to the earlier comments on regulation and the code. Western Australia will not be adopting a commonwealth code or an eastern States electricity code. Western Australia will adopt its own electricity code, which will be developed in conjunction with stakeholders. Stakeholders have been intensively involved in the development of this reform package and will continue to be. My understanding is that the industry is satisfied with the way in which the process has worked to date for the development of the Western Australian electricity code. The circumstances in Western Australia are different from those in the eastern States. My approach to these matters is, so far as possible, to harmonise our principles and approaches with those of the eastern States while not adopting elements that might be difficult to apply in Western Australian circumstances. I do not want any unnecessary differences between what happens in Western Australia and what happens in the eastern States, but there are some necessary differences in approach that must be adopted. The previous Government worked that out for gas. The national gas access code was endorsed by the previous Government, even though it is now criticised by the Leader of the Opposition. In Western Australia an independent gas access regulator was regulating according to the national gas access code and not the Australian Competition and Consumer Commission. The Economic Regulation Authority will regulate electricity matters, not the national energy regulator that is proposed for the next wave of energy and electricity reform in the eastern States. So far as possible we will not have unnecessary differences.

I will conclude on the question of gas. It is a pity that the Leader of the Opposition is not here. However, the opposition spokesman on energy is, so I can say this: the Productivity Commission is conducting a review of the gas access code, which will consider all the arguments that people have made about greenfields investment, new pipelines, rates of return, the complexity of regulation and so on. The Opposition might like to consider making a formal submission to the Productivity Commission's review of the gas access code. There are issues that should be looked at by that review.

Mr R.N. SWEETMAN: The debate on these clauses has been fairly wide-ranging, but at all times it has linked back to the clauses. I have previously made a point on the Competition Principles Agreement. I have read that agreement probably as many times as anyone else in the Parliament, particularly when Epic Energy Pty Ltd was going through its trials with the regulator. I read it in a very dry way - I took it at face value, I guess. Members of Parliament are here to represent broad interests and not just the single interests of business or anyone else. I cannot help but think that when the Competition Principles Agreement was being developed and agreed to, a certain spirit or ambience went along with that. I cannot help but think that insufficient emphasis has been placed on the spirit that prevailed at the time of signing the Competition Principles Agreement, particularly when it includes matters relating to the public interest, social impacts and those sorts of things. How are those things measured? I am anxious about dry, prescriptive, economic theorists having control of the agenda and interpreting competition agreements and access codes and other sorts of things. There has been a blatant, even a callous, disregard for the public interest and social impact factors, which we need to consider with those types of issues. In relation to competition payments, the minister did not give a precise answer to the shadow minister -

Mr E.S. Ripper: I do not have a precise answer to give.

Mr R.N. SWEETMAN: I accept that. If we argue for a moment that it might be \$20 million or \$70 million, at the end of the day it is not like the issues involving retail trading hours, taxi reform, the Western Australian Egg Marketing Board, the Potato Marketing Corporation or things like that that are not generating profits back to Treasury as Western Power is doing. My view is that the net effect of the State missing out on competition payments would be offset if Western Power continued to pay a dividend back to Treasury. I have a lot of time for Ian Macfarlane; he does a great job and is a sincere person. He has stated his views publicly that the State Opposition should get on with the business and support the Government's legislation. Members must understand where he is coming from. If as much of Western Power's business as possible can be privatised, dividends will flow directly to the federal Government. The corporate taxes the federal Government collected would well and truly compensate it for competition payments it would make to this State. Some 30c in the dollar of profits would flow to the federal Government. That dividend would be intercepted at the State's expense. At the moment the State collects the tax equivalent. Therefore, that 30c in the dollar goes to Treasury. On top of that, the State takes 50 per cent of the net profit from Western Power. Ian Macfarlane public comments on this issue must be tempered. The federal Government has a vested interest. It wants to hive off to industry as much of Western Power's generating capacity and other parts of Western Power in the hope that it will make a go of it and make profits, which can be paid back as corporate taxes to the federal Government. We can set to one side the federal Government's interest in this matter.

In any event, if the Minister for Energy thinks he will have trouble with the National Competition Council and Mr Samuel, he must argue that tremendous reforms have been made in the power industry in Western Australia over the past 10 years. There has been no increase in the cost of power to business in the past 10 years, which means a net reduction of 15 per cent in energy costs to industry. That is setting to one side the contracts that have been signed off with Western Power's large customers. We do not know what they are. We must assume that those contracts have been reduced significantly less than the 15 per cent general reduction in power tariffs across the board to industry. Separate to that, the decrease in the cost of power to the residential customer has been about 10 or 12 per cent over the same time. The minister has a good argument to take back to the NCC if it is prepared to deduct the State's competition payments.

Mr E.S. RIPPER: The only problem with that argument is that I have already told the National Competition Council not to worry so much about potatoes, trading hours and other things; I told the NCC to look at what the Government is doing for electricity reform. If I then told the NCC that the Government would not do quite as much as I said it would do to reform the electricity market because the Liberal Opposition jacked up and opposed the creation of a market that would work in practical terms, the NCC would say that the Government's big excuse to it to not worry about other matters was that the Government was working hard on electricity reform and, therefore, the NCC should give the Government some consideration on those other issues. The NCC would argue that the Government had blown that as well.

Mr R.N. Sweetman: There is one final plea - insanity.

Mr E.S. RIPPER: I do not think that approach will work. I mostly enjoy debates on competition policy, but we probably need to come back to the precise application of competition policy to the electricity code because we are hoping to finish this debate by four o'clock this afternoon. Members might like to debate some of the detailed issues. I say this as a last general comment: surely it is in the public interest for all electricity generators and their customers to have access on a fair and equal basis to the monopoly network to deliver the electricity to market on terms that are known in advance and that are consistent.

Clause put and passed.

Clause 103 put and passed.

Clause 104: Minister to establish Code -

Mr J.H.D. DAY: At what stage is the preparation of the access code? How much work has been done and when is it expected to be completed?

Mr E.S. RIPPER: I am advised that the electricity reform unit implementation is about halfway through the development of the code. I am advised that yesterday an industry workshop was held with about 30 participants to discuss the pricing principles in the code. It is proposed to release a full draft code to a further industry workshop at the end of January. There will then be a couple of months of public consultation on it. That indicates that a significant amount of work has been done and will soon be undertaken on this matter.

Clause put and passed.

Clauses 105 to 120 put and passed.

Clause 121: Terms used in this Part -

Mr J.H.D. DAY: We are now dealing with part 9, which establishes the framework for the wholesale electricity market. The Opposition would like much more information in one form or another. At what stage are the market rules? What sort of operational costs does the minister expect will apply to the wholesale electricity market?

Mr E.S. RIPPER: The market rules are being developed in conjunction with the industry. A document dealing with design issues for the market has been developed with industry's involvement and will be published on the electricity reform implementation unit's web site this week. It is the intention of the unit to have draft market rules developed in conjunction with industry and available for public consultation by the end of March next year.

Rather than the disaggregation of Western Power being the most costly item in the reform program, the establishment of the market and the ongoing operation of the market give rise to significant costs. Capital expenditure on the establishment of the market is expected to be \$45.1 million. Ongoing expenditure for the operation of the market is expected to be about \$14 million per annum. The establishment and operation of the electricity market are expensive operations. I note that the Liberal Opposition supports the establishment of the market.

Mr C.J. Barnett: Not as complex as you propose.

Mr E.S. RIPPER: The market rules have not yet been finalised.

Mr C.J. Barnett: It is a simple market development. We will agree to something in principle, but we do not have to agree with the complex way in which you do things.

Mr E.S. RIPPER: The important thing is that, having made those expenditures, which I agree are significant expenditures in the capital and ongoing operation of the market to get the returns, I am concerned about the separation of retail from generation. I do not want to preside over a circumstance in which all that money has been spent on the establishment of an electricity market only to find that the market does not work because private sector proponents are unwilling to compete in the market against the dominance of a stapled retail-generation entity and against the capacity of that entity to misuse its market power to their detriment.

Mr C.J. Barnett: It is all very well to say that private generators will grow. I agree they will grow over time, but how will you reduce the dominance of government-owned generation in the short term?

Mr E.S. RIPPER: One way is by separating retail from generation.

Mr C.J. Barnett: No, sorry, you will not. You have 80 per cent of the generation. Essentially the only marketable component in the south west is owned by state generation - if you want to call it that - under your proposal. How will you reduce its dominance in the short term? In the long term new generation may be private, but what will happen in the next five years? Nothing.

Mr E.S. RIPPER: The Leader of the Opposition has put his finger on a very important problem.

Mr C.J. Barnett: How will you do it?

Mr E.S. RIPPER: Part of the Government's answer to that problem is to separate retail from generation and allow the state retail organisation to buy from other generators and to sell to other retailers.

Mr J.H.D. Day: So, you will leave state generation hanging out to dry?

Mr C.J. Barnett: It will flounder.

Mr E.S. RIPPER: The Opposition cannot have it both ways.

Mr C.J. Barnett: We do not want it both ways.

Mr E.S. RIPPER: That was a very interesting exchange. The Leader of the Opposition asked how we would address market dominance, and when I said how we would address it, the shadow Minister for Energy said that we would hang state generation out to dry. Either there will be market dominance and the potential to misuse power, or state generation will be exposed, hung out to dry and not viable. The shadow minister has one position and the Leader of the Opposition has another. The policy trade-offs that we have undertaken are quite important.

Mr C.J. Barnett: There is a real world out there.

Mr E.S. RIPPER: The policy objectives will reflect the real world. We will separate retail from generation, but establish vesting contract arrangements between retail and generation for the supply of power for franchise customers, thus enabling the management of these viability and competition issues.

Mr J.H.D. DAY: I want to make it clear, as the Leader of the Opposition said, that the Opposition supports the development of a framework to establish an electricity market. The details of how that should be done must be discussed further. I guess the Government will submit its proposal in detail through the market rules. It is

unreasonable to expect the Opposition, which does not have access to all the government resources to which the Minister for Energy has access, to have designed in detail an electricity market in the past two to three weeks - or, for that matter, over the past two to three years. Obviously, we support in principle an electricity market; however, consideration must be given and the Opposition will turn its mind to the detail of how that market should be established.

Mr E.S. RIPPER: The Electricity Reform Task Force came up with a market design. The market design was further examined after the Government accepted the recommendations of the ERTF. A study was undertaken by Charles River Associates of the design of the market. That study substantially confirmed the market design contemplated by the ERTF. The Leader of the Opposition says that he would have a simpler market. The market proposed for Western Australia is less complex and involves fewer fixed costs than the market in the eastern States. We have not simply taken the market model from the national electricity market and applied it holus-bolus to Western Australia. We have a different market arrangement from that on the eastern seaboard. I believe our market arrangement will be less costly to run and will have fewer problems of volatility and fewer dangers of higher prices than the market run in the eastern States.

I will return to the vesting contract issue. It is a very important issue that I want the Liberal Party to consider as it thinks about the separation of retail from generation. The issue helps deal with some of the other issues that it has. The detail of the vesting contracts has not been finally determined by the Government. There is room for some difference of approach. It is expected that the vesting contract volume will be exposed to competition at a predetermined rate to control the effect on state generation. The rate will be designed to ensure that sufficient volume is exposed over the years to attract low-cost competitive entry while allowing state generation to fully honour its existing fuel contract commitments. There will be a number of important components. The quantity under the vesting contract will remain constant for a period after disaggregation to allow for the expiry of the gas contract and the step down in the coal contract volumes. Only a relatively small proportion of the contract will be exposed to competition prior to 2010 to allow state generation to honour its commitments under its existing coal contract. Competing offers to state retail should match the total load factor of the vesting contract to limit the erosion of base load supply from state generation. I can go into more detail on that in later comments or when we deal with later clauses.

I make those comments to indicate to the Liberal Opposition that the choice is not a stark one between a stapled retail-generation entity or the absolute and total separation of retail and generation with immediate impact. We propose an appropriate trade-off between policy objectives and vesting contracts to deal with three issues; namely, the mitigation of market power and mechanisms to combat potential or misuse of the market power, the management of the growth of competition in the sector involving franchise customers and the issue of ensuring continued financial viability of both state retail and generation. I think it is a quite sophisticated mechanism; it deals with the issues raised by the Liberal Opposition during the second reading debate. I encourage the Liberal Opposition to engage in detailed discussions with the electricity reform implementation unit or me on how the vesting contracts might work. It may be that, from those discussions, there will be a greater preparedness by the Liberal Opposition to accept the model proposed by the Government.

Mr J.H.D. DAY: I am interested in what the Minister for Energy said. I intend to move a motion shortly to refer the Electricity Corporations Bill 2003 to the Economics and Industry Standing Committee so that we can look at these and other issues more closely.

Clause put and passed.

Clauses 122 to 125 put and passed.

Clause 126: Purpose of this Part -

Mr R.N. SWEETMAN: I referred to the tariff equalisation fund in the second reading debate, but I want to draw a more definitive response from the minister about it. It is clear from the explanatory memorandum and the clauses in the Bill that this levy will be applied to fund the shortfall of revenue in regional power.

Mr E.S. Ripper: It is not a levy.

Mr R.N. SWEETMAN: Whatever the Government will hive off from the various participants accessing the network will go into this equalisation fund to be applied to the losses in regional power. That will be about \$50 million. However, it is understood by most people that there are significant costs in providing services, particularly to the grain-growing areas of Western Australia. The shortfall in revenue - it is a pretty rubbery figure - varies from \$150 million to \$250 million. Therefore, let us say it is about \$200 million. I understand the minister's argument about public interest. It is in the public interest if there is downward pressure on tariffs for industry, because positive effects emanate from that. I believe it is a bit like a waterbed: where there is downward pressure on one area there is upward pressure on another part of it. That is the reality of it.

Mr E.S. Ripper: Now that takes me back!

Mr R.N. SWEETMAN: Does it? We do not want any more information from the minister about that, but he can give us a response about these losses.

Mr M. McGowan interjected.

Mr R.N. SWEETMAN: Sometimes people can have too much to eat. Clearly, this legislation - sooner, I believe, rather than later - will muster and make transparent all the loss-making parts of the existing Western Power business. How will the Government fund that? If the tariff equalisation fund exists only to produce sufficient revenue to pay for the shortfall in regional power, what will the Government do with what is already understood to be a shortfall of about \$200 million within the south west interconnected system? In particular, the Government will need to make provision elsewhere in the restructured business for the additional operating costs. There will be between \$30 million and \$50 million a year extra in operating costs. Leaving aside the \$150 million plus that it will cost to facilitate the restructure in the first instance, the Government is adding to the operating cost of each of the entities in the four-entity structure. In addition, there are existing losses within the SWIS and losses in regional power. It seems to me that the only thing being confronted in this legislation and the equalisation fund that will be set up is the \$50 million loss in regional power. However, the minister and I know that there are many more losses than that in other parts of the system that need to be covered. If industry is expected to wear this additional impost - the Government will not have it called a levy, so I do not know what we will call it - or subsidy that will be provided for getting access to the network, at what point will industry appeal that? It must be able to do so. If industry is arguing now for energy reform on all these lofty principles, equally, it must have an argument in the event it will be taxed for accessing the regime to cover losses in the rest of the system.

Mr M. McGOWAN: It seems to me that the argument put by the member for Ningaloo implies that there are not costs already in the system to fund the uniform tariff. As we know, the uniform tariff was cut back in the last term of the previous Government, and one of the first steps of the Minister for Energy was to restore the uniform tariff for rural and regional areas.

Mr C.J. Barnett: Whom was it cut back for, do you know?

Mr M. McGOWAN: It was cut back by the now Leader of the Opposition for a range of businesses. There is a very important principle regarding the uniform tariff for people who live in rural and regional Western Australia. That principle was eroded. Once eroded, who knows where it will go?

Mr C.J. Barnett: Some businesses were receiving subsidies of up to a million dollars, and they were showing no responsibility in terms of energy conservation.

Mr M. McGOWAN: Would the Leader of the Opposition restore the diminution in the uniform tariff? He is defending the policy.

Mr C.J. Barnett: I'm saying that there was huge wastage of power in places like Broome. It cost something like 27c to generate, and it was sold for 16c to businesses that made no attempt to conserve energy.

Mr E.S. Ripper: So, your Government would go back to it.

Mr C.J. Barnett: Don't be silly. That's not what it was about. Massive wastage was occurring. The consequence was that ordinary citizens in Broome had power blackouts and power shortages.

Mr M. McGOWAN: The Leader of the Opposition defends that policy; he says there should not be a uniform tariff. The comments of the Leader of the Opposition immediately defeat the argument of the member for Ningaloo, who supports the uniform tariff. The argument of the member for Ningaloo seems to be that the system is funded in some magical way in regional and rural Western Australia. The magical way of funding involves no cost, but there are costs. That is one reason for Western Australia's high electricity costs when compared with those in other States in virtually every segment of the marketplace. The reform program will make transparent how and where it is funded. Therefore, networks will be able to fund the uniform tariff by levying every generator that accesses the network system. It will then be able to contribute to the uniform tariff, and it will be backed by legislation. At the moment, Western Power produces the funds, and this is basically subsidised under an accounting technique inside the organisation. The process in this proposal will be transparent, and it will be backed by legislation. It will need to come back to Parliament to be removed, which will provide greater protection for regional and rural Western Australia. This argument has been canvassed at length.

Mr R.N. Sweetman: You're saying it will come to Parliament to change the uniform tariff or the amount charged under the tariff. I accept that the tariff will go on for decades as tariff equalisation, and it will increase. However, it will not come to Parliament to increase the tariff.

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Mr M. McGOWAN: I do not have the mechanism in front of me. However, it protects the uniform tariff. That protection is not part of the system at the moment. The argument has been canvassed a great deal. I am amazed at the position of the Western Australian Farmers Federation and others. The problem out in that part of the world is that the networks and lines were installed during the 1950s and 1960s, and have had insufficient funds directed to them since, even though the allocation increased recently. If private operators build power stations, more capital will be available to provide major and minor lines in rural and regional Western Australia. The member for Ningaloo represents an area of regional Western Australia; he should absolutely support that notion. I do not know why he thinks the Government should provide every aspect of electricity generation. Why does the member think that the Government should not put funds into services for people in his constituency?

Mr E.S. RIPPER: The Parliamentary Secretary to the Premier has answered many of the points made by the member for Ningaloo. I will not repeat those points. I place on record my appreciation of the significant assistance I have received from the parliamentary secretary in the implementation of electricity reform. He has demonstrated his claims for an economic portfolio in the future.

I will not deal with the tariff equalisation fund issue, as this was dealt with by the parliamentary secretary. I deal with the provision of the uniform tariff in the south west interconnected system. That will be handled by an average network charge. At the moment, Western Power manages the uniform tariff within the SWIS on an internal cross-subsidy basis. In effect, that will be managed within state networks on an internal cross-subsidy basis through the application of an average network charge.

The member made further reference to the costs of the market and of disaggregation also being costs for the industry. Yes, I agree. The argument of the Government is that these increased costs will be outweighed by the benefits of competition. That is why I am concerned that we have competition not only in theory but also in practice. That is why I am concerned about the retail-generation split argument. I do not want these additional costs in the system not to be more than vastly outweighed by the benefits of competition. There is a risk that if we go down the path of the Liberal Party model, we will spend the money and not only will we not get the benefits but also, through the misuse of market power, we will see prices rise. It would be a very perverse outcome if we invested in a competitive market to lower prices and, because the Parliament mucked around with the model, we ended up with something that saw prices increase.

Clause put and passed.

Clauses 127 to 139 put and passed.

Schedules 1 to 3 put and passed.

Title -

Mr E.S. RIPPER: Earlier in this debate I was asked a question about how the legislation provided for the possible introduction of full retail contestability. I would like to correct and amplify the answer I gave the member for Darling Range now if that is possible. The statement is of a reasonable length. If the Opposition does not want me to read it into the record now, I will deal with it privately, but I think it would be wise to have it on the record.

Mr J.H.D. Day: Maybe you can give us a summary and table the document.

Mr E.S. RIPPER: I cannot table the document before me, but I could table a cleaned-up version of the document without the handwritten notes. The brief answer is that the legislation does not explicitly provide for the making of retail market rules as was the case for gas FRC in the Energy Legislation Amendment Bill 2003. However, mechanisms exist under the Electricity Legislation (Amendments and Transitional Provisions) Bill 2003 and the Electricity Industry Bill 2003 to accommodate full retail contestability following a decision by government. These mechanisms include the making of regulations that are subject to parliamentary scrutiny.

Clause 16 of the Electricity Legislation (Amendments and Transitional Provisions) Bill details the regime for the progressive introduction of third party access to the electricity transmission system and the electricity distribution system. The minister retains the right by order or orders published in the *Government Gazette* to prescribe the manner and timing of the obligations of the Electricity Networks Corporation and the Regional Power Corporation to make available to third parties access to the electricity transmission system and the electricity distribution system. These orders have been used progressively since 1996 to prescribe access to transmission and distribution capacity. To provide for full retail contestability, a new access order would need to be made by the minister for unrestricted access to distribution capacity. Unrestricted access to transmission capacity already exists. Other clauses in the Electricity Industry Bill will enable regulations or orders to be made to provide all the requirements for full retail contestability, and later on today I will table a paper setting out how that scheme will work.

Extract from *Hansard*

[ASSEMBLY - Wednesday, 26 November 2003]

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Mr John Day; Mr Eric Ripper; Mr Rod Sweetman; Mr Colin Barnett; Mr Mark McGowan

Mr J.H.D. Day: In short, are you saying that this package of legislation enables full retail contestability to be established if there is a desire to do so?

Mr E.S. RIPPER: The legislation enables FRC to be established; however, further regulations, which could be disallowed by the Parliament, and orders would need to be made. The framework would be available should the Government make the decision to implement FRC.

Title put and passed.