

ELECTRICITY INDUSTRY BILL 2003

Second Reading

Resumed from 19 November.

MR E.S. RIPPER (Belmont - Minister for Energy) [10.34 am]: In responding to the second reading debate yesterday I talked about the issue of separating the sales activity of Western Power from its generation activity. This issue has emerged as the major significant point of difference between most members of the Liberal Party Opposition and the Government on the question of electricity reform. My view, as expressed yesterday, is that if we proceed with a three-way split of Western Power rather than a four-way split, we will end up with all the costs of electricity reform but with reduced benefits. Yesterday, I outlined some of the ways in which those reduced benefits could occur and those additional benefits be lost. Today I will give a few more examples of the type of behaviour that could arise in a competitive electricity market if retail and generation were kept together. The advice to me is that the proposed wholesale market will not work effectively if retail and generation are stapled together. A combined state-owned retail and generation entity would have every incentive, and would use every opportunity, to exploit its market power in a number of ways. Firstly, it could exercise market power in the bilateral contract market by never offering reasonable contracts to independent retailers and by cross-subsidising sales to contestable customers from its franchise customer revenue to lock competitors out. Secondly, the integrated entity could exercise its market power through the prices that it offered in the balancing service. Given the size and diversity of the plant that the stapled entity would have, it would be able to set prices in the balancing service for a long period. Because the entity would be stapled together, it could protect its retail arm from the effects of these extreme prices. The balancing prices would be set by the stapled retail and generation entity. That would affect all the competitors to that entity, but generation would be able to protect its retail arm from the effect of those extreme prices.

Mr J.H.D. Day: What about the role of the regulator?

Mr E.S. RIPPER: As the Australian Competition and Consumer Commission has stated, real competition is much better than the simulated competition that comes with a regulator. We need independent regulation of monopoly assets when we cannot have a competitive market. However, it is much better to have a competitive market than to rely on bureaucratic regulation.

Mr J.H.D. Day: Like the competition that exists in South Australia?

Mr E.S. RIPPER: We have dealt with the issue of South Australia on many occasions. I am sure it will take further explanation before the shadow Minister for Energy understands the differences between what happened in South Australia and the proposal in Western Australia. Mr Acting Speaker, do I have more than three minutes left in which to finish my contribution to this debate?

The ACTING SPEAKER (Mr A.J. Dean): I am led to believe that you have only seven minutes left in which to continue your remarks. I will check that for the minister.

Mr E.S. RIPPER: The third way in which the stapled entity could exercise market power would be in the available capacity mechanism area. It could offer available capacity prices that would push independent generators and retailers out of the market. A fourth way in which the stapled retail and generation entity could exercise market power is in the residual trading market. Its bidding practices in that market could present a significant risk for new entrants, effectively presenting a barrier to new entrants. Those are some of the most important ways in which a state-owned retail and generation entity with 80 per cent of the market could exercise market power and dominance, thus presenting such a risk to potential new entrants that even though we would spend a lot of money establishing a wholesale market, no-one would turn up to play. This is an 800-pound gorilla issue. There is no point in establishing a bright sparkling new boxing ring and then saying to people that to get into that ring they have to be prepared to fight an 800-pound gorilla. We must do something about the gorilla when the market is established if we want effective competition.

The ACTING SPEAKER (Mr A.J. Dean): Minister, the uncorrected proof of *Hansard* has been checked and you have another seven minutes.

Mr E.S. RIPPER: I hope that was not seen as an exercise in market dominance, Mr Acting Speaker.

The ACTING SPEAKER: I am the independent regulator.

Mr E.S. RIPPER: I am pleased to hear that.

The potential for the unfair exercise of market power due to the dominant position of the state-owned retailer and generator must be dealt with if we are to have an effective market. The best way to deal with that is to separate retail from generation, and then the state-owned retailer will be one of the major constraints on the unfair

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exercise of market power by the state-owned generator. That is why it is very important to proceed with the integrated four-way split package presented by the Government - not the half-baked proposal presented by the Liberals, where all the money will be spent but the benefits we need will not be seen.

Mr R.N. Sweetman: Does that mean you will not agree to the agreement?

Mr E.S. RIPPER: I support an integrated package, and it is necessary that the Parliament support an integrated package before the benefits from electricity reform will be seen. Members of the National Party have adopted a very interesting position on electricity reform by saying that they agree with all the principles, they think it is a good thing, they do not see a disadvantage for the State, and they do not even see a disadvantage for regional areas.

Mr M.W. Trenorden: Yes, we do.

Mr E.S. RIPPER: As has been articulated, the National Party position is that this is good for the State, it is not bad for regional areas, but it does not contain what it wants for regional areas. That is a blackmail position - it is a good thing, but they will support it only if they are given what they think they need. Basically, the National Party's position is to hold electricity reform hostage until it gets some of the things it wants for regional areas.

Several members interjected.

The ACTING SPEAKER: Order!

Mr E.S. RIPPER: The point at issue is this: this reform package not only does not disadvantage regional consumers, it actually advantages them.

Mr M.W. Trenorden: How?

Mr E.S. RIPPER: I was about to tell the member. This package will advantage the member's constituents in three ways. I will deal with the issues.

Mr M.W. Trenorden interjected.

The ACTING SPEAKER: Order!

Mr E.S. RIPPER: I have a few minutes only, and if members want me to cover all the issues they must let me proceed. I will explain the ways in which the reforms will assist regional constituents. Our electricity network is ageing; it was designed for an earlier era when people wanted to run lights and a fridge. They now want to run computers, piggeries, farm-stay operations and all sorts of other things. They now need better quality power and more of it. Some investment needs to be put into the network. How are we to get that investment into the network given the scarcity of capital under the AAA credit rating regime? One way to do it -

Several members interjected.

The ACTING SPEAKER: Order, members!

Mr E.S. RIPPER: If members want answers to their questions, they should let me provide them in the six minutes I have left, otherwise they will be complaining that I have not dealt with all their issues.

Every year the Government must set aside \$100 million for new power plants into the foreseeable future. If the private sector comes in as a result of competition and builds some of those new power plants, that \$100 million a year of taxpayer capital capacity could be diverted to the network. It could also be diverted to other needs, such as country hospitals, schools or roads. It would be another \$100 million made available. Anyone who has studied the system will acknowledge that the electricity network is an excellent candidate for that additional expenditure. The second issue -

Several members interjected.

The ACTING SPEAKER: Order! The members for Darling Range and Avon, the minister has five minutes left. From the way he speaking, he is not taking interjections, so I ask members to please desist, otherwise I will call them to order.

Mr E.S. RIPPER: The second issue is this: at the moment the uniform tariff is subsidised by an internal cross-subsidy within Western Power. It is administrative only; there is no protection for the uniform tariff. When the Leader of the Opposition was the Minister for Energy he was able to change that administratively. At the moment the uniform tariff is very vulnerable - it is vulnerable to any change of policy by any future Government. It is supported by the Labor Government but it could be changed by any future Government. This piece of legislation establishes a sustainable legislative basis for the continued operation of the uniform tariff. It protects the uniform tariff into the future because it establishes a payment from networks to a tariff equalisation fund that will support it into the future. More importantly, at the moment only Western Power and its customers support the uniform tariff. Private sector competitors do not have to provide that cross-subsidy. Under the new

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arrangement, everyone using the network, including the private sector, must make their contribution to the maintenance of the uniform tariff. Western Power is now sharing the burden of the uniform tariff with the private sector; it is not bearing it alone. This is a sustainable legislative mechanism to support the uniform tariff.

There is also a third issue. There will be an average transmission charge on the south west grid. In other words, the transmission charge in Mukinbudin will be the same as the transmission charge in Nedlands. There will be no barrier to customers in the regions benefiting from competition and lower prices. The barrier of distance on the transmission line will cease to exist, so that those customers in the regions, just like metropolitan customers - when they are contestable - will have access to the lower prices.

Unless the Opposition would like to move for an extension of my time, I will need to move on very quickly.

Mr M.W. Trenorden: I am prepared to move for an extension of time. This is an important issue. You did say, Mr Acting Speaker, that there should not be banter across the Chamber, but this is an important issue. If the minister is given a bit more time, perhaps you could be a bit more tolerant about the across-the-Chamber banter.

The ACTING SPEAKER: The answer to that is no. Is the member formally moving that up to 15 minutes more time be granted?

Mr M.W. Trenorden: Yes.

[Leave granted for the member's time to be extended.]

Mr E.S. RIPPER: I thank the House for its consideration. I was outlining three reasons -

Mr M.W. Trenorden: Will you take my interjection?

Mr E.S. RIPPER: I will. I was outlining three reasons for this reform not only not disadvantaging regional customers but actually advantaging them. The Leader of the National Party has created an opportunity for us to have some dialogue.

Mr M.W. Trenorden: The problem is that regional people are not getting power. When people are not getting power, uniform tariffs are not a consideration. They want power. This Bill does not address any way that they can get power. Why did the minister not put simple mechanisms in the Bill - I called them minor, but that was probably the wrong word - so that the quality of delivery would be guaranteed and a CSO would be available for capital improvement on those lines?

Mr E.S. RIPPER: Western Power's capital works program, which will be taken over by the state Networks Corporation, will actually see \$950 million -

Mr M.W. Trenorden: That is the same amount as was spent over the past four years!

Mr E.S. RIPPER: The member should wait a minute. An amount of \$950 million will be invested in transmission and distribution upgrades.

Mr M.W. Trenorden: That is the same amount of money as was spent over the past four years!

The ACTING SPEAKER (Mr A.J. Dean): Member for Avon, allow the answer please.

Mr E.S. RIPPER: This reform allows additional money to be spent.

Mr J.H.D. Day: How much?

Mr E.S. RIPPER: An amount of \$100 million will be available in additional capacity, which I, as the Minister for Energy and Treasurer, would like to see go into the electricity network. Other urgent needs in the regions might come up in competition with that in the budget process. I am sure members would agree that country roads, country hospitals, country schools and country police stations are important. There are all sorts of priorities. Let us be clear about this. An amount of \$100 million will be released each year for those priorities. Because it will be released as a result of electricity reform, and because there is an urgent and longstanding need to upgrade the electricity network, there is a very strong case for a significant proportion of that \$100 million to go towards upgrading the electricity network.

Mr M.W. Trenorden: Why didn't you do that? Why did you not put the Water Corporation-type example into power? The Water Corporation has a community service obligation year in, year out to deliver the things that are uneconomic. You have the model, but you didn't bother to use it.

Mr E.S. RIPPER: Firstly, the measures in the reform provide a legislated and funded mechanism to support the uniform tariff into non-interconnected areas. That is a subsidy of about \$50 million. Secondly, the average transmission use charge mechanism effectively embodies a \$150 million subsidy to regional areas to make sure that they have access to fair electricity prices. Thirdly, capital will be released and available for investment in the network. The budget is not made by a law being introduced into Parliament, otherwise a situation could occur in which members opposite could say to me that they thought it was more important to fund a police

station in a particular country town than the distribution line upgrade. Under that system I would unfortunately have to respond that the law stated that the money could not be shifted from the distribution upgrade to the country police station. It is better to maintain flexibility and to do it in the budget process. I accept that the network in regional areas needs upgrading.

Mr M.W. Trenorden: Why not do something about it?

Mr E.S. RIPPER: I am doing something about it. This reform will give me greater capacity to do more about it.

I will move on to some other questions. The Leader of the Opposition raised the question of coal contracts. Fuel costs represent about one-third of the total costs incurred by Western Power in the supply and delivery of electricity. That is a higher proportion of utilities than in most other Australian jurisdictions. The level of the coal contracts dropped this year, with further reductions to occur in 2006. In 2006 the total contract quantity will reduce to 3.5 million tonnes from the 5.2 million tonnes before the current reduction. That is a total reduction of more than 30 per cent. That obviously provides an opportunity to negotiate more favourable terms and prices if coal is to continue to represent a substantial proportion of Western Power's fuel mix. Gas contracts expire in 2006. That again presents an opportunity for Western Power and successor organisations to negotiate favourable prices. In recent years Western Power has achieved some significant reductions in its fuel prices, such as with the latest Collie coal supply contract. The point is that Western Power has been able to achieve these reductions because of the looming threat of competition. The more that Western Power and, later, Electricity Generation Corporation are exposed to competition, the greater the pressure on them to negotiate competitive fuel contracts. The most uncompetitive fuel contracts were those negotiated in the days when there was no threat of competition to the then State Energy Commission of Western Australia.

Mr R.N. Sweetman: What guarantees will you give to the franchise customers?

Mr E.S. RIPPER: The modelling shows that retail prices will fall by 8.5 per cent relative to the base case.

Mr J.H.D. Day: Over 20 years!

Mr E.S. RIPPER: No, the modelling shows that it will occur by 2010. The franchise customers will also be protected by a price cap that will be established by law. The Government expects that, through increased efficiencies in the industry, electricity prices will be able to be lowered for franchise customers relative to the base case. That is what the Allen report shows.

I return to the issue of gas and fuel contracts. Western Power will shortly have to sign new contracts for both gas and coal. This is a very good time for the reform process to occur. The conjunction of the reform process with the negotiations on these fuel contracts is very helpful to us getting a better deal for electricity customers in Western Australia, because Western Power will have to take into account the reform process and its exposure to competition in negotiating these new contracts. The fuel companies will also need to take the reform process into account when negotiating with Western Power. There would be no point in them providing such an expensive fuel supply to Western Power if Western Power were to lose market share and the fuel were never used as a result. Far too much is paid for coal in Western Australia for electricity generation. The workers in the coal industry and their unions made very significant concessions over the past decade. However, the benefits of the concessions made by the workers and the unions have not flowed on to Western Power and its customers. The coal companies will need to sharpen their pencils very significantly in the negotiations for new fuel contracts. The Government, through the state-owned organisations of Western Power and the Electricity Generation Corporation, will drive a hard deal, because we are not getting a fair shake with coal prices at the moment. The concessions delivered by the workers have not been reflected in proper coal prices for Western Power. This electricity reform will increase the competitive pressure both within the system and on the fuel companies. It will help to drive more realistic fuel supply prices in the system.

I point out to people who are worried about this issue and about the franchise customers, the viability of retail and the position of generation, that the reform program provides the capacity for a vesting contract between generation and retail to provide for the power needs of the franchise customers. In other words, this issue has been dealt with as a trade-off in the package - separate retail and generation - but there is a vesting contract to deal with the power needs of the franchise customers. Although retail will be locked out of generation for a time and generation will be locked out of retail for a time, that is, in essence, a transitional measure to deal with the market power, market dominance issue. In due course, once the competitive market is fully bedded down, it may be appropriate for retail, for example, to have some peak period generation capacity and it may be appropriate for generation to have access to the provision of retail services to larger customers. However, if that capacity were provided right at the start, we would not get new entrants into the market. It would be a theoretical market. There would be a bright, shiny boxing ring that nobody would hop into because of the unfair competition to which they could be exposed.

Mr R.N. Sweetman: The 800-pound gorilla will be the industry.

Mr E.S. RIPPER: The 800-pound gorilla in the south west interconnected grid is, I am afraid to say, Western Power.

Members of the Opposition made other comments. They said that AlintaGas would be able to have generation and retail in one entity, and that Wesfarmers Ltd and the Griffin Coal Mining Company Pty Ltd might be able to have generation and retail in one entity. Some people regarded that as discriminatory. The separation of retail and generation is a response to market dominance. Even if AlintaGas built 1 000 megawatts of electricity capacity over 10 years, it would still not match Western Power's current 3 000 MW capacity. On the retail side, Western Power has a market share of 80 per cent, plus a residential franchise for customers below 50 MW hours. Western Power is in an extremely dominant position. Therefore, special measures are needed for Western Power for the separation of retail and generation that do not need to be applied to smaller players in the market.

I need to move on and deal with a number of other issues raised.

Mr J.H.D. Day: Can you deal with the letter from the Chairman of Western Power to you, as you promised to do?

Mr E.S. RIPPER: That is where I was going next. Members should never confuse the interests of Western Power and the State. The interests of Western Power are not necessarily totally consistent with the interests of the State. The Board of Directors of Western Power is charged by law to look after the interests of the corporation. I am charged to look after the interests of the State. It is not unnatural for Western Power directors to have views about where the system should go that are different from the views expressed by the Minister for Energy and the energy policy agencies advising the Government. Two different roles are involved. Western Power's directors are charged with protecting the profits and long-term value of the corporation, and I am charged with getting the best electricity supply industry in the State, offering the best support for customers of Western Australia and the best opportunities for investment, jobs and economic growth in the State. Frankly, the interests of Western Power are not totally consistent with the interests of the State in this matter. The Government has a broader responsibility.

Also, undoubtedly, every time there has been electricity reform, the dominant vertically integrated utility has fought it. It is common. I have talked to people who have conducted electricity reform in other jurisdictions, and the dominant utilities have always hated reform. Why would they not? They have a dominant position, they will be broken up, and they will be exposed to competition. Of course they do not like it. The attitude of Western Power is no different from how the electricity utilities behaved in New South Wales, Queensland and everywhere else that such reform proposals have been implemented. Western Power, particularly under its former managing director, has fought a long campaign to frustrate electricity reform. That campaign was not successful, and for good reason. The Government did not just act; it established a task force to consider all the submissions from Western Power, the public and the industry generally. The Government has acted in accordance with advice from the Electricity Reform Task Force. I dismiss the letter from the board that was written prior to the Government's decision on electricity reform that reflected the natural resistance to change of a dominant, integrated public sector monopoly not wanting to be exposed to competition. Expert independent advice was provided based on consultation that led the Government to take a different view.

Some debate has ensued about prices. The shadow Minister for Energy unfortunately presented pricing information to the House that was a year out of date. I have updated information provided to me by the Office of Energy. For the information of the House, I table a document entitled "Australian Comparative Electricity Prices 2002-03" sourced from the Electricity Supply Association of Australia. The document has been prepared by the Office of Energy.

[See paper No 1802.]

Mr E.S. RIPPER: I now quickly deal with some remaining issues.

Previous reform attempts with Western Power to reduce contestability levels have failed. In principle, we have competition - in practice, we do not. The reform process has failed. We have a historic opportunity for reform. If we miss this opportunity, the capacity demands of the electricity system will be taken up by public sector investment and decisions will have to be made next year from which the private sector will be locked out. No-one should think that if we put reform off for a couple of years and defeat this package, reform could take place in a couple of years. This is the opportunity. If we miss this bus, reform will be delayed for many years because of the taxpayer-funded investment decisions that will need to be made in the absence of a competitive market.

Finally, people should always remember that the previous Government signed the competition principles agreement. The National Competition Council has made it very clear that electricity reform is a requirement of that agreement, and that the State will lose significant competition policy payments if it does not go ahead with this reform.

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Question put and a division taken with the following result -

Ayes (37)

Mr P.W. Andrews	Dr J.M. Edwards	Mr M. McGowan	Mr E.S. Ripper
Mr C.J. Barnett	Dr G.I. Gallop	Ms S.M. McHale	Mrs M.H. Roberts
Mr D.F. Barron-Sullivan	Mrs D.J. Guise	Mr A.D. McRae	Ms S.E. Walker
Mr M.J. Birney	Ms K. Hodson-Thomas	Mr N.R. Marlborough	Mr P.B. Watson
Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. Marshall	Mr M.P. Whitely
Dr E. Constable	Mr R.F. Johnson	Mrs C.A. Martin	Dr J.M. Woollard
Mr J.H.D. Day	Mr R.C. Kucera	Mr B.K. Masters	Ms M.M. Quirk (<i>Teller</i>)
Mr A.J. Dean	Mr F.M. Logan	Mr M.P. Murray	
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr J.R. Quigley	
Mr J.P.D. Edwards	Mr J.A. McGinty	Ms J.A. Radisich	

Noes (8)

Mr R.A. Ainsworth	Mr M.G. House	Mr R.N. Sweetman	Mr T.K. Waldron
Mr B.J. Grylls	Mr P.D. Omodei	Mr M.W. Trenorden	Mr J.L. Bradshaw (<i>Teller</i>)

Independent Pair

Mr P.G. Pandal

Question thus passed.

Bill read a second time.

Consideration in Detail

Clauses 1 and 2 put and passed.

Clause 3: Terms used in this Act -

Mr J.H.D. DAY: This clause contains a large number of definitions, some of which I would like a bit more explanation about. The definition of “arbitrator” is as follows -

“arbitrator” has the meaning given to that term in the *Gas Pipelines Access (Western Australia) Act 1998* section 61;

What role will the arbitrator play, and who is the arbitrator at the moment?

Mr E.S. RIPPER: Presently in the gas industry if there is a dispute about the application of an access arrangement, that dispute can go to the arbitrator. We are proposing essentially to have energy arbitrators and regulators rather than gas and electricity arbitrators and regulators.

Mr J.H.D. DAY: I asked who is the arbitrator at the moment, and what role the arbitrator will play in the operation of the electricity industry. Presumably the arbitrator will have quite substantial powers, and perhaps the minister can elaborate on those, but I am particularly interested in the role of the arbitrator and who that individual is.

Mr E.S. RIPPER: When we get to part 8 of the Bill, we will cover the way in which the arbitrator will work. The arbitrator will not set access arrangements; the Economic Regulation Authority will make those decisions. However, if there is a dispute about the application of an access arrangement, that can go to the arbitrator. Frankly, I do not have the name of the gas arbitrator immediately to hand; I will provide that later in the debate. I think that indicates that, so far, the gas arbitrator has not played a prominent role in these matters. I am not sure whether any matters have gone to the gas arbitrator. I can certainly get advice on that. If any have, it would be very few.

Clause put and passed.

Clause 4: Classification of licences -

Mr J.H.D. DAY: I would like some explanation from the minister as to how this clause will work and what different criteria may apply with regard to the different classifications for generation, transmission, distribution and retail.

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Mr E.S. RIPPER: Licences are classified into generation, transmission, distribution and retail. I do not know that I can carry that explanation any further for the shadow Minister for Energy. I hope he understands the difference between generation, transmission, distribution and retail; I expect he does.

Mr J.H.D. Day: Indeed I do. I just want a bit more information.

Mr E.S. RIPPER: This clause relates to schedule 1, which outlines what terms and conditions can be placed on licences. For example, with regard to generation, there may be licence terms and conditions related to greenhouse gas emissions. With regard to transmission - I hope the Leader of the National Party is listening to this - it may be possible to place a condition on the licence related to the reliability of the operation of the transmission system. It is equally the case with the distribution system. If the Leader of the National Party reads schedule 1 and clause 4 of the Bill he might see some capacity for the types of mechanisms he would like to protect regional customers.

Mr J.H.D. DAY: One of the concerns expressed by the Conservation Council of Western Australia is that there should be the ability to apply conditions on demand management to licences; in other words, to reduce the demand for and consumption of electricity either generally or at times of the day when the load tends to be higher. In South Australia current meters are made available either free or at low cost to consumers, so that they can see how much electricity is being consumed at a particular time of the day. If consumption is considered too high, consumers can take some action to reduce it. Reduced consumption is in the interests of the community and of the environment because of reduced greenhouse gas production, and it reduces the need for peak load generation capacity. One of the major problems all jurisdictions have is that more peak load capacity is needed, which is a relatively high cost exercise. It may be even more of a problem in Western Australia in view of the peak load requirements at the height of summer on really hot days, when more people want to use their airconditioners. Peak generation capacity needs to be made available but may only be used for short periods of time. Reducing peak load demand and the overall demand for electricity is in the interests of the community and of the economy. Does the minister see it as a possibility, and is it the intention of the Government, to apply a condition on demand management to licensees along the lines I have just outlined?

Mr E.S. RIPPER: I refer the member to schedule 1 on page 89 of the Bill, which reads, in part -

A licence may include provisions -

- (a) if the licence is a generation licence or integrated regional licence, requiring the licensee to prepare and implement strategies for the management of greenhouse gas emissions;
- (b) if the licence is a generation licence, a retail licence or an integrated regional licence, requiring the licensee to maintain and publish specified records in respect of greenhouse gas emissions caused by, or associated with, the generation of electricity supplied by the licensee;
- (c) if the licence is a retail licence or an integrated regional licence, requiring the licensee to prepare and implement strategies to encourage the use of renewable energy;
- (d) if the licence is a retail licence or an integrated regional licence, requiring the licensee to give information to customers on matters relating to electricity consumption, electricity conservation and the efficient use of electricity;

Those are the types of provisions that, while not necessarily required, could be included in a licence. In addition, clause 9 of the Bill requires the Economic Regulation Authority to be satisfied that it would not be contrary to the public interest to exercise a power. Clause 9(1) reads -

The Authority must not exercise a power conferred by this Division unless the Authority is satisfied that it would not be contrary to the public interest to do so.

In clause 8(5), the public interest is virtually defined in a number of ways. Clause 8(5)(a) includes environmental considerations in that definition. I agree with the member that demand management needs to be facilitated by the reform of the electricity industry in Western Australia, and by the operations of the market.

The ACTING SPEAKER (Mr A.P. O’Gorman): I remind members that a debate is taking place here. Constant conversations at the back of the Chamber make it hard for the Hansard staff to hear. Can members please take their conversations outside the Chamber.

Mr E.S. RIPPER: This Bill will confer power for the market rules to be developed, subsidiary to this legislation. A massive exercise in designing those market rules is currently taking place, involving 37 industry representatives, Office of Energy personnel and Western Power staff. They will provide an opportunity for demand management; that is one of the Government’s policy requirements and was one of the recommendations of the Electricity Reform Task Force. We cannot deal with it here, but once this legislation is passed and the

market rules are developed, the member for Darling Range, as the opposition energy spokesman, and I will be able to discuss in this place how the market rules provide for demand management.

Mr J.H.D. DAY: When is it expected that the market rules will be completed, and what role will Parliament have in examining those rules? As I understand it, they will be treated as regulations and therefore be subject to disallowance. I may well be wrong in that, so I would like some explanation from the minister.

The ACTING SPEAKER: Before giving the call to the Minister for Energy I will correct the division on the second reading of the Bill before the House. The member for Alfred Cove was actually in the Chamber, but it was thought that she was standing behind the Bar. The results of the division are actually ayes 37, noes 8.

Mr J.H.D. DAY: Mr Acting Speaker, can you clarify whether the member for Alfred Cove was included in the division and, if so, on which side?

The ACTING SPEAKER: She was included. Originally she was not included, but when we found out that she was actually inside the Bar she was included, and she voted for the ayes. We have confirmed that with the member for Alfred Cove.

Mr E.S. RIPPER: This is the timetable we are working to: January 2004, the first draft of the market rules; March 2004, the second draft of the market rules; July 2004, the completion of the market rules; July 2004 to June 2006, development of market information technology systems, testing and trials; and in July 2006, the market starts. I am advised that regulations subsidiary to this legislation will provide for certain things to be included in the market rules, but the rules themselves will not be in the form of regulations and will not be a disallowable instrument. In this regard, the market rules for electricity are similar to the market rules for full retail contestability in the gas industry. The Parliament provided the power for the development of those market rules but the market rules themselves are not a disallowable instrument.

Mr J.H.D. DAY: I was a little distracted and want to clarify that market rules will not be disallowable by Parliament.

Mr E.S. Ripper: As with the gas industry, market rules will not be disallowable. However, regulations that will specify what will be in the market rules will be disallowable.

Mr J.H.D. DAY: At a higher level will they be disallowable?

Mr E.S. Ripper: Yes.

Clause put and passed.

Clause 5: Licence area -

Mr J.H.D. DAY: Obviously, a licence area will apply to different geographical areas of the State. In what circumstances does the minister envisage particular licence areas being designated? Does he envisage that various retailers in some circumstances might be given a licence to operate in different geographical areas so that they do not overlap in the more remote parts? Will there be full competition across all parts of the State in the particular geographical areas that might be specified?

Mr E.S. RIPPER: In the south west interconnected system, there will be system-wide licences. However, the legislation must provide for areas outside the south west interconnected system. The Regional Power Corporation will need an integrated licence for its 26 stand-alone systems. I imagine that there will be a need for licences for some independent operators in various parts of the State outside the SWIS.

Mr J.H.D. DAY: Does the minister contemplate that licensees in some parts of the State, other than the intended Regional Power Corporation - one of the private sector companies - might be given exclusive rights to operate in an area in a non-competitive way?

Mr E.S. RIPPER: There is an ability to offer exclusive licences following a tender process in certain greenfields areas. However, the intention in the south west interconnected system is to allow for overlapping licences and competition.

Mr J.H.D. DAY: Can we have a bit more information about how exclusive licences might be provided in particular parts of the State? The minister mentioned that there would be a tender process. What criteria would be involved? We need to have some confidence that a fair system will operate. If the objectives of this Bill are to create competition in the electricity industry by allowing overlapping licences and competition in the south west interconnected system, how does that sit with providing exclusive licences in certain greenfields areas?

Mr E.S. RIPPER: This is a very big State and in some areas there is no electricity infrastructure. Someone might bring power supply and electricity infrastructure to an isolated area of the State. However, to do that economically, an exclusive licence would be needed. If we seek a tender process so that everyone has an

Mr Eric Ripper; Acting Speaker; Mr John Day; Mr Rod Sweetman; Mr Max Trenorden; Mr Monty House

opportunity to compete on that basis, particularly in certain remote regional areas, it is wise to have this facility available.

Mr J.H.D. Day: Who would conduct that tender process?

Mr E.S. RIPPER: The matter is dealt with in clause 26, which reads -

- (1) The Governor may, on the recommendation of the Minister, make regulations designating one or more areas of the State as an area in respect of which an exclusive licence may be granted for a specified period.
- (2) If 2 or more areas are designated under subsection (1) those areas need not be contiguous.
- (3) The specified period (the “**period of exclusivity**”) is not to exceed 10 years.

I am advised that government would conduct the tender process. The exclusive licence would be issued by the Economic Regulation Authority. I am further advised that this part of the legislation replicates what occurs in the gas industry and has already been endorsed by Parliament.

Clause put and passed.

Clause 6 put and passed.

Clause 7: Requirement for licence -

Mr J.H.D. DAY: This clause establishes quite comprehensive requirements on organisations or persons applying for licences.

Mr R.N. Sweetman interjected.

Mr J.L. Bradshaw: I am showing the minister this headline.

The ACTING SPEAKER: (Mr A.P. O’Gorman): The member for Darling Range has the call.

Mr J.H.D. DAY: I acknowledge that what is happening in South Australia is of major interest to us here in Western Australia and it is something we could debate more, as we did during the second reading.

Is it intended that Western Power will be required to be issued with a licence under this clause? Western Power is obviously a very large organisation that the minister wants to make much smaller. At this stage it has a great deal of experience in electricity generation, distribution and retailing.

Mr E.S. RIPPER: Western Power retail will be required to have a licence, as will the network and the state generating entity in regional power.

Clause put and passed.

Clause 8: Power to exempt -

Mr J.H.D. DAY: This clause provides the power to exempt, in some circumstances, the requirement to obtain a licence. I would like some further explanation from the minister about the circumstances in which an exemption would be granted. I acknowledge that some of the circumstances are listed under subclause (5). However, I would like a comprehensive explanation from the minister about the circumstances as he sees them.

Mr E.S. RIPPER: I would like to canvass an example that I know is dear to your heart, Mr Acting Speaker. A caravan park might be exempt from the need to obtain a retail licence for selling electricity to residents. I am sure, Mr Acting Speaker, that you would find some support in your heart for the fact that the exemption order might be made subject to conditions.

Mr R.N. SWEETMAN: The minister will recall in the second reading debate that I referred to shopping centre owners on-selling power to their lessees within the centre. As part of this legislation, perhaps a more appropriate amendment would be to ensure that lessees get direct access to the network. It might be better to follow the South Australian model, which allows licences to be issued to shopping centre owners so they can continue to reticulate power to lessees in their shopping centres under regulation. There are advantages to smaller lessees, such as boutiques, in shopping centres to have the shopping centre owner negotiate a good rate for the quantum of power to be delivered to the shopping centre. That would mean that large retailers like Coles or Woolworths would not gain an advantage by negotiating directly with power suppliers or, in this case, Western Power. There is benefit in smaller shops pooling their requirements and having the shopping centre owner negotiate on their behalf. Regulations must ensure that the margin charged by an on-seller - in this case the shopping centre owner - of power is entirely reasonable. My understanding is that regulations can determine a set amount. I believe that shopping centre owners are currently making very substantial margins by reticulating power to their lessees. Regulation would mean that they are only allowed to recoup costs that are fair and reasonable for doing that. We

must address that, perhaps not in this clause or clause 9, but it needs to be addressed somewhere in the Bill to ensure that small and boutique shops, and not just Coles and Woolworths, get some benefit from power reform.

Mr E.S. RIPPER: I would like my policy advisers to reflect on this. Perhaps later in the debate I will be able to provide some more definite information. I apologise that we did not pick up the remarks during the second reading debate and come prepared today with the information the member is seeking. We will rectify that omission. As I read the legislation, if someone is on-selling electricity, he either needs a retail licence, which will have conditions, or an exemption from the retail licence requirement. An exemption would also have conditions placed on it. Prima facie, the legislation gives the opportunity for the end the member is seeking. The doubt that arises in my mind is the legal status of the activity that a shopping centre owner is conducting. Is electricity being resold or is it another part of a contract? Are owners presenting electricity bills to tenants on the basis that they have supplied the electricity? It is at least conceivable that the legal status of what they are doing does not make it the selling of electricity. Those points will be looked at and there may be a relevant clause under which we can provide relevant information, or we could provide it during the third reading debate. Alternatively, information could be provided privately.

Mr M.W. TRENORDEN: Clause 8(5)(b) refers to the Governor taking into account social welfare and equity considerations and community service obligations when making an order. What does the clause really mean? Is it the opposite of what I have been arguing? Does the clause mean that the Governor has the right to decide that equity considerations will not be taken into account? The clause refers to the power to exempt.

Mr E.S. RIPPER: This set of clauses deals with a small number of small-scale operations for which, to have the full licensing requirement, it would be onerous, overly bureaucratic and expensive for all concerned. Therefore, a provision exists for small-scale operations, such as caravan parks on-selling power, to be exempt from the need to obtain a retail licence. However, we do not want to allow the entire licensing framework to be subverted by a free-for-all in those small-scale cases. There is power to provide an exemption on conditions. The public interest has to be taken into account in making the decision to exempt, not exempt or exempt on the basis of certain conditions. The range of matters that might be considered as part of the consideration of the public interest is laid out there.

Mr M.W. TRENORDEN: That does not comfort me. I can understand why the minister would want to do that for minor operations, but it does not state anything about minor operations. Regarding equity considerations and community service obligations, it could be a whole supply line. I referred to the meeting at Jerramungup the other day. The regulator indicated that the cost of the line is between \$42 million and \$48 million. That could be considered as minor by someone. How will the minister tell regional people that this clause will not be used to provide them with a much poorer delivery of power?

Mr E.S. RIPPER: Such an order would have to be tabled. There is no intention to undermine the entire regulatory framework. Jerramungup will be served by Western Power retail and state networks. State networks will require a licence, as will Western Power retail. Both organisations supplying Jerramungup will be required to be licensed. It would be a complete undermining of the regulatory framework if the exemption power were to be used in those circumstances. In my view, it would be contrary to the public interest. The licence conditions for Western Power retail could include certain greenhouse gas issues. The licence conditions for state networks could include certain reliability requirements.

Mr R.N. SWEETMAN: I refer to the issue of licences. I have read the protocols and conditions that will apply during the assessment process. How can the public of Western Australia be confident? One could compare this with Telstra at the national level. We saw the proliferation of licence holders providing telephone services. One. Tel is a famous example. A lot of people lost a lot of money because of the collapse of One. Tel. How will licences be vetted to ensure we do not end up with the same spivs and opportunists applying for licences to retail power to consumers? They may be in it to make a quick buck before going belly up and causing a huge amount of angst and disruption to customers.

Mr E.S. RIPPER: It is quite important to keep the “dodgy brothers” from becoming involved in the electricity system, because they bring with them the threat of financial collapse. The authority has to consider the public interest when it makes its decisions. That public interest includes clause 8(5)(d), which states -

the interests of customers generally or of a class of customers;

That is the main clause. Obviously, it is not in the interests of customers to let a financially unviable organisation move into the business of generating or retailing electricity. The authority has to take the public interest into account. That would include the interest of customers and a consideration of the robustness of the organisation and its capacity to operate within the industry. I also draw the member’s attention to clause 25, which provides for regulations to be made about the public consultation undertaken by the authority before it makes a decision.

Mr R.N. Sweetman: Public consultation?

Mr E.S. RIPPER: Yes. Clause 25 states -

The regulations may require the Authority, before it makes a decision on any application for the grant, renewal, transfer or amendment of a licence under this Division, to undertake public consultation in accordance with the procedures specified in the regulations.

When the regulations come before the House, they will state the public consultation process for the authority when it grants a licence. Those regulations will be disallowable by Parliament. The authority will have to go through the consultation process before it makes a decision and, in making its decision, it will have to abide by the public interest provisions set out in clause 5, including the interests of customers generally or a class of customers. The decision to allow into the market financially unviable organisations that purport to sell electricity on a sustainable basis would not be in the interests of customers.

Mr R.N. SWEETMAN: How will it be demonstrated that a company is financially viable? Companies like Enron Corporation, which had a lot of problems with auditing, have been deemed to be viable one day and not the next. Will the applicants be assessed on face value? When I say face value, I refer to supporting information from banks, accountants and the like. Appropriate due diligence would have to be involved when assessing the applicants. However, in the public interest, will the Government insist on certain irrevocable guarantees or bonds to ensure that the public is not left to pick up the mess in the event that the unthinkable happens?

Mr E.S. RIPPER: Again, I refer members to pages 89 and 90 of the Bill, which deal with the licence terms and conditions that may be placed by the authority on a licensee. Paragraph (n) reads -

requiring the licensee to lodge with the Authority securities in an amount and of a nature acceptable to the Authority securing the performance by the licensee of the requirements, responsibilities and obligations under the licence;

Although that is not a requirement that the authority must apply, it is parliamentary guidance to the authority on the type of conditions it can place on a licensee.

Mr R.N. Sweetman: It might be more prescriptive in the regulations.

Mr E.S. RIPPER: There is an ability for the Government to make regulations to guide the authority in its decision making on these issues.

Mr J.H.D. DAY: I refer to subclause (5), which states that the Governor may take into account environmental considerations when deciding whether exemptions should be granted. Will the minister indicate what criteria might be involved in determining whether environmental considerations were relevant, and what the circumstances might be for an exemption to be granted on the basis of environmental considerations?

Mr E.S. RIPPER: I was busy taking advice on the member for Ningaloo's question. I will deal with the earlier question and then the member for Darling Range can remind me of his question.

As part of the public interest consideration, the authority would have to take into account clause 8(5)(g), which states -

the policy objectives of government in relation to the supply of electricity.

The Government could have a policy objective regarding the reliability of supply and prudential requirements that the authority would have to take into account when it considered the public interest. The Economic Regulation Authority would not want to license someone only to be held publicly accountable when the licensee was shown not to have the capacity to perform its obligations. The ERA has to think about its credibility as it goes about its licensing task. We would expect the ERA not to license someone who was incapable of performing his obligations. We would also expect that if there were any grey areas or doubt, the ERA would impose conditions to reduce the risk. In any case, it has to act in the public interest and take into account the policy objectives of the Government, which could include, if the Government produced a policy on this matter, consideration of keeping financially unviable organisations out of the market.

Lastly, although I cannot point to the relevant part of the Bill, my recollection of the ERA legislation is that there is a capacity to make regulations with regard to matters such as licence conditions that could cover these areas if the Government wanted a belt-and-braces approach. I am now able to point to clause 12, which reads -

The regulations may prescribe terms and conditions that are to be taken to be included in -

- (a) every licence;
- (b) every licence of a prescribed class; or

- (c) a licence held by a body . . .

There is sufficient protection in the framework for that matter to be dealt with. Once we move away from the provision by a monopoly public sector organisation to a market that has private sector competitors, there will be more risk. However, the trade-off between the risk and the benefits is well worthwhile. There is also risk with the public sector monopoly in that we will not get the lowest prices and we will be paying over the odds. When we move to a market we will see the benefits of competition, but it is undeniable that markets are dynamic and we would not have the same control over what is happening if we were running a public sector monopoly. Competition and a market provide a better overall result for customers, particularly with all the protections that are included in the Bill. However, if members want absolute certainty but a poorer result, they will go for the Stalinist public sector monopoly.

Mr J.H.D. DAY: I remind the minister of the other aspect I raised. In what circumstances would environmental considerations be relevant in granting an exemption from the licence, and what sort of criteria would be used to determine whether those considerations were relevant?

Mr E.S. RIPPER: Basically, licence exemptions are not really the main game. The provision for licence exemptions and conditions on licence exemptions is included in the framework to make it more reasonable for a limited number of cases with very small-scale operations. I am struggling to think of where environmental considerations might play -

Point of Order

Mr J.H.D. DAY: I am finding it difficult to hear because of the noise in the gallery or just outside. Whatever the case, it is difficult to hear.

The ACTING SPEAKER (Mr P.W. Andrews): I hate to say so, but it sounds like the member for Riverton.

Mr E.S. RIPPER: I will have words with the member for Riverton for disrupting the flow of advice that I was giving on electricity matters. We need to confiscate his mobile telephone.

Debate Resumed

Mr E.S. RIPPER: The licence exemption matter is pretty small beer compared with the overall framework. It is an add-on to make the framework more reasonable. It is difficult to see how environmental considerations come into licence exemption matters, unless people are seeking a licence exemption in a circumstance in which they are proposing to do something that environmentally is pretty poor, in which case the Government may say that in other circumstances they would get a licence exemption, but they will not get one given the way they propose to generate electricity.

Mr J.H.D. DAY: Subclause (5) contains reference to the policy objectives of the Government in relation to the supply of electricity. I accept the minister's comment that the granting of exemptions is a pretty small aspect of the overall intention of the legislation, but important issues are raised in this clause concerning the environment, social welfare, equity and a whole range of other issues. I do not want to draw out the debate, but I would like some explanation of subclause (5)(g) and the policy objectives of the Government in relation to the supply of electricity. Can the minister outline what those policy objectives are?

Mr E.S. RIPPER: Subclause (5) lists matters pointing to the Government's policy objectives in the provision of electricity. They include -

- (a) environmental considerations;
- (b) social welfare and equity considerations . . .
- (c) economic and regional development, including employment and investment growth;
- (d) the interests of customers . . .
- (f) the importance of competition in electricity industry markets; . . .

In brief, the Government wants a reliable, secure electricity supply delivered to the people of Western Australia on a fair and equitable basis. The Government wants cheaper electricity. It wants an electricity supply industry that, through its competitive prices and reliability of supply investment in the State, promotes economic growth and jobs. It wants an electricity supply industry that meets environmental objectives. I could probably say a lot more about the Government's policy objectives for electricity, but reliability, security, price, economic development and environmental considerations are right up there amongst the most significant concerns the Government has regarding energy policy. How we achieve those objectives could be the subject of quite a bit more policy analysis.

Mr R.N. SWEETMAN: I take what the minister has said at face value, but after reading subclause (5)(a) to (h), it would be a pretty neat match if we superimposed the clauses concerning public interest from the national competition principles agreement; one would neatly overlay the other.

Mr E.S. Ripper: That agreement was also in the public interest.

Mr R.N. SWEETMAN: Yes, but in my mind the national competition principles agreement is, at best, an unreliable document, particularly considering rulings by the Office of Gas Access Regulation in relation to Epic Energy, the Australian Competition and Consumer Commission consistently over the past four or five years, and the Essential Services Commissions in Victoria and South Australia. In the minds of most reasonable people, insufficient matters relating to public interest have been fed into their assessments to provide an appropriate weighting. On the face of it, it reads very well. One could say that if those principles were applied and sufficient weighting given to each, we would see quite a reasonable result. The minister and I know there is a heavy weighting on a whole lot of other convoluted formulae concerning economic benefit and those sorts of matters that seem to militate against a reasonable weighting for public interest.

Mr E.S. RIPPER: I think almost everyone in the Parliament would share the sorts of objectives for the electricity system that I outlined during my earlier remarks. Differences start to emerge in two areas: the relative priority given to those objectives when a policy trade-off is required; and the mechanisms by which those objectives are best achieved. The member's remarks actually go to the latter area - what are the respective priorities, what is needed when a trade-off is required and how do we best get there. Surely we all agree that reliability and security are important; surely we all agree that price and economic development are important; surely we all agree that we want to achieve those other objectives in the most environmentally benign way possible.

Mr R.N. SWEETMAN: To give definition to my comments, the minister used the colourful example of the 800-pound gorilla in the boxing ring, and referred to the industry as some poor, insipid thing tackling the 800-pound gorilla. I submit that the insignificant industry people to whom the minister referred by reference to the 800-pound gorilla would be better referred to as already a 500-pound boa constrictor with two or three loops around the gorilla. It will not be long before the boa constrictor is 1 300 pounds and the gorilla is no more. Despite all the flowery clauses of the Bill, the minister will not satisfy me and many others in the community that a calamity will not result that will be to the detriment of all Western Australians; namely, franchise customers - both small business and residential - and, in the long term, the industry players who are currently championing this reform with the minister.

Mr E.S. RIPPER: The House is dealing with a very limited aspect of the legislative framework with regard to exemptions from the licensing requirement. The member is seeking to engage me in a more general debate about reform and what constitutes the public interest. That relates more to a second reading debate than this clause. As interesting as the exchange has been, I suggest the Chamber moves on to deal with other issues relating to later clauses.

Mr J.H.D. DAY: That is all very well, but members cannot have an exchange in the second reading debate in the way possible during consideration in detail. The clause makes reference to many important issues, such as environmental considerations, social welfare, regional development and other policy objectives. Therefore, it is appropriate for the Opposition to question the Government.

Mr E.S. Ripper: I'm not arguing in that regard. I said that we had an interesting exchange. There will be plenty of opportunities in the Bill to have exchanges of a similar nature.

Mr J.H.D. DAY: There appears to be some conflict between the policy objective to lower electricity prices and the policy objective to put in place the best environmental conditions - in other words, reducing greenhouse gas emissions. If more electricity use is encouraged through lower prices, more fuel, and, consequently, more greenhouse gas production, will be needed to supply that greater amount of electricity. That is the case unless it is possible to use renewable energy sources, such as wind and solar. I accept that this Government, as did the previous Government, has taken steps to encourage the use of those renewable forms of energy. The reality is that in many cases those sources are more expensive than conventional fuel sources. Therefore, if one will take action to reduce energy prices, a conflict arises between that desire and the wish to encourage renewable energy sources and to reduce greenhouse gas emissions. I seek some comment from the minister on that conflict.

Mr E.S. RIPPER: It would be a wonderful world to have all our policy objectives achieved without any policy conflict. Some partial reconciliation of electricity price and demand and environmental issues can be achieved by reducing the intensity of greenhouse gas emissions per unit of electricity produced. An interesting aspect of the reform process is that it is already encouraging innovative proposals for the generation of electricity. For example, AlintaGas and Alcoa's proposal for co-generation power plants is much more efficient in its use of fuel and, therefore, it generates less greenhouse gas per unit of electricity produced than do current arrangements in coal-fired and gas-fired plants.

Mr J.H.D. Day: As does the new Cockburn 1 Western Power power station.

Mr E.S. RIPPER: That is another example of a great technology through which the efficiency of fuel use is improved. One has advances on the fossil fuel side, and the private sector has many renewable energy proposals. Those proponents have faced the same frustrations with Western Power as faced by fossil fuel generators. They regard market reform as giving fairer access to the infrastructure and the market for their power. The passage of the reform legislation will significantly encourage renewable energy proponents, particularly those involved with wind farms. This State has the capacity to be a leader in the provision of renewable energy if we get the market parts right - I intend they will be right.

The ACTING SPEAKER (Mr P.W. Andrews): I draw members' attention to the fact that clause 8 relates to the power to exempt. The debate was free-ranging. I let it go, but I want to drag members back to the clause.

Clause put and passed.

Clause 9: Authority to consider public interest -

Mr J.H.D. DAY: I seek some explanation of how the minister sees the public interest being defined in such considerations.

Mr E.S. RIPPER: The Acting Speaker has tried to get us away from clause 8(5), but the member's question immediately brings us back to that subclause. It is where public interest is not exhaustively defined, but defined in an open-ended way.

Clause put and passed.

Clause 10 put and passed.

Clause 11: Authority may determine licence terms and conditions -

Mr J.H.D. DAY: I seek some explanation from the minister about what sorts of issues would be considered in determining the terms and condition imposed on licences issued under this provision.

Mr E.S. RIPPER: This is where schedule 1 applies - it can be found on page 89 of the Bill. The Government, under clause 12, will have capacity to make regulations to prescribe terms and conditions to be included in every licence or in every licence of a particular class. The powers to include licence terms and conditions are quite broad. I hope they will satisfy the aspirations of members on this matter.

Clause put and passed.

Clause 12: Regulations as to licence terms and conditions -

Mr M.G. HOUSE: I understand that the current situation with the Electricity (Supply Standards and System Safety) Regulations is that it is not an offence for Western Power to fail to meet a benchmark standard of service. I am keen to see a benchmark standard, which cannot be lowered, to deliver a service to rural Western Australia. If the minister had the opportunity to read my contribution to the second reading debate, he would know that that was the thrust of a fair percentage of that speech. We should set a standard that cannot be lowered by the regulator or any other method. The legislation should be prescriptive and should set a standard of supply that is reliable and consistent for those areas. I might stand corrected, but it appears that this is the clause that would need to be amended in some way to allow that to happen. When a licence is issued, somewhere in that system a standard must be met. I am concerned that the regulator may, given certain circumstances, if there were a complaint, allow that standard to be reduced. That is obviously not acceptable for people in rural and regional Western Australia. I would like the minister's comments on that matter and his view on how and where that standard could be set at an acceptable level.

Mr E.S. RIPPER: We have been tracking through all the different interactions that can apply in the legislation. Clause 12 states -

The regulations may prescribe terms and conditions that are to be taken to be included in -

- (a) every licence;
- (b) every licence of a prescribed class;

It would be possible for a regulation under this legislation to say that a licence condition for a transmission and distribution operator is that the following standards of reliability be met. Breaches of licence conditions are dealt with under clause 32, under the division on enforcement, which states -

If, in the opinion of the Authority, a licensee contravenes a licence, the Authority may cause a notice to be served on the licensee requiring the licensee to rectify the contravention within a specified period.

The penalties include a reprimand, which I do not think the member will take much account of, a monetary penalty not exceeding \$100 000 and, ultimately, under clause 35 -

The Governor may cancel a licence if he or she is satisfied that the licensee -

- (a) is in default as defined in subsection (2);

Clause 35(2) states -

- (a) the licensee has failed to comply with a term or condition of the licence;
- (b) the failure is material in terms of the operation of the licence as a whole;

Finally, clause 39 contains a provision for the authority to issue codes -

- (2) A code may make provision for and in relation to any one or more of the following -
 - (a) metering . . .
 - (b) the transfer . . .
 - (c) methods or principles to be applied by licensees in the preparation of accounts . . .
 - (d) standards relating to the quality and reliability of the supply of electricity . . .

Schedule 1 also includes at paragraph (j) as a possible licence condition -

specifying methods or standards to be applied in supplying electricity under the authority of the licence;

The legislation clearly provides a framework for the establishment of mandatory supply standards and reliability conditions on the licence holder. That framework is not required to be established, but the legislation provides a framework for that to happen. In our consideration of this issue we must bear in mind that significant investment is required in certain circumstances to meet certain supply standards. In the end it becomes an economic issue. I am told, for example, that to meet a certain set of standards in one area would require an investment of maybe \$30 million for about 600 customers. Obviously, that would be a very valuable investment for those 600 customers, but another part of the network might have 6 000 or 16 000 customers and might require a similar level of investment. A reasonable approach needs to be taken. People are entitled to quality and reliability of supply. They are entitled to have sanctions in the system if they are not getting the quality of electricity supply that they deserve. However, in the end, we are all responsible for taxpayers' money. The state network will be owned by the taxpayers. Some consideration will have to be given to the capacity of the state-owned networks to make all the investments that might be required by supply standard issues.

The other issue that needs to be taken into account is that sometimes acts of God - fires, storms and so on - create a problem. One of the issues that has given rise to the recent spate of problems is the combination of the ageing and deteriorating network together with an unusual spate of fires, storms and other activity, which have exposed the deficiencies in the network.

Mr M.G. HOUSE: I thank the minister. I am satisfied that the legislation outlines a framework to deal with the issue. What I am not yet convinced about is the answer to the problem when it is identified. A framework is available and a penalty system is in place. How do we deal with any problems that are identified? The minister outlined that some economic parameters must be applied to that. I am suggesting that some community service obligation needs to be applied. In the same way that the Government is prepared to build a bitumen road from Katanning to Nyabing, surely it should -

Mr E.S. Ripper: Why did you use that example?

Mr M.G. HOUSE: It just came to me. I thought the minister might have a few friends left in Nyabing, as it is his home town. Surely the Government has the same responsibility to provide, in this day and age, a secure and reliable electricity supply that is adequate for people's needs. I will follow that through with a practical example. After a meeting in Koorda earlier this year, which a lot of people attended - I have forgotten the name of the current regulator -

Mr E.S. Ripper: Albert Koenig

Mr M.G. HOUSE: I thank the minister.

Mr J.H.D. Day: He is the Director of Energy Safety.

Mr M.G. HOUSE: Albert Koenig identified that we needed to spend about \$48.4 million - he was very specific about that - to upgrade a number of regional network lines. I would have thought that is a clear indication to government by an independent operator of the need to spend money to provide a certain level of service. I do not think, from talking to him, that he is an unreasonable man. I do not think that what he is asking for is out of

line. Somehow we, as representatives of rural people, need to be satisfied that this new legislation will take account of and provide some way in which to deal with that need, because I believe we have a responsibility to do that. I am satisfied that the legislation contains a framework and a penalty system. I want to know how the minister will make the decision about where to set the bar, or whether the minister will just decide that, as it applies to only a limited number of customers, he will lower the standard because, in his view, those people do not matter as much as a greater number of people elsewhere. I am not trying to be overly political or silly about this. I am just interested in knowing that those people will get a reliable supply of energy. Energy is the lifeblood of people who live in rural Western Australia. In this day and age, they cannot live without power. It is important that this legislation provide a method of dealing with that matter.

Mr E.S. RIPPER: The network is a state-owned monopoly, and, because of its monopoly characteristic, it will be regulated by the Economic Regulation Authority. The Economic Regulation Authority will determine both the supply standards and the level of efficient investment needed to meet those supply standards, and the expansion and growth of the network, and it will then approve the access charges that provide the revenue to meet that efficient level of investment. Therefore, in principle, if the Economic Regulation Authority were to set the standard, the network would then determine the investment needed to meet that standard, and the Economic Regulation Authority would say whether it thought that was an inefficient level of investment or an efficient level of investment. If it were to decide that it was efficient to meet the standard, it would then need to approve access charges for the use of the network sufficient to provide the revenue to meet that investment program. We can imagine, though, a circumstance in which other participants in the market would complain about the level of transport charges. There might well be pressure from some users of the market that the standards had been set too high, or the level of investment that needed to be covered was too high. In principle, the member is right. There is always the capacity for a Government to say that it will do something by way of a community service obligation payment. There are community service obligation payments in the electricity system at the moment. We will not be telling state retail that it must fund pensioner concessions. They will continue to be paid for by the taxpayer. There is no reason in principle that a piece of electrical infrastructure could not be treated in the same way as a road, a school, a stretch of railway line or a port. The electricity system is supposed to operate on a commercial basis. However, if the network and the ERA were to say that this was not a commercial reason, and the Government were to decide that there was an important social reason, a regional development reason, or some other reason, the Government could in principle make an allocation through the budget. That has not happened to date. The electricity system has had to fund itself. However, so long as it is all open and transparent, there is no reason in principle that a Government could not decide to do that.

I want to be frank with the member, because I do believe there is a trade-off between the investment levels and the standards. We could have a situation in which someone arbitrarily determined a set of standards and it transpired later that investment of hundreds of millions of dollars was required and that money was not available. Those two things - how much money we can realistically invest in the system and the setting of the standards - need to be done together, and that will be done by the Economic Regulation Authority. That is not quite the absolute clear-cut answer that the National Party would like to give its constituents, I am sure. However, there has been considerable progress from where we were before to where we are at the moment. Before 2002 we did not have the ability for the Director of Energy Safety to make the sort of investigation and report that he has made with regard to Koorda and other matters. There was not that capacity in the legal framework. There is now that capacity, and this legislation takes it further.

Mr M.G. HOUSE: I understand what the minister is saying, but I want it clearly on the record. I believe we have an obligation as legislators to put in place a framework that encompasses the whole of the State and sets a standard that is acceptable to people in the regions as well as the more populated areas. I do not want a system in which generators spring up all over Western Australia, like the little power houses that we used to have in rural Western Australia. I do not think that is acceptable. We have an integrated network. We need to try to maintain that integrated network in the south west system. I hope that as we work our way through this debate, and when people use it as a reference for the way in which this business will be run - which is what is done by the courts, for example - they will take into account the things that have been said. We are not seeking an uneconomic investment that is way out of proportion to our needs. However, we believe there should be a reasonable investment. I do not expect an answer from the minister now. I am just making the point, given what the minister has said. The minister is right. It is not the specific answer that I would have liked. However, although I understand why the minister has given that answer, I hope that when future Governments take into account investment in those areas, they do not neglect that responsibility.

Just to give an example, Co-operative Bulk Handling Ltd has hired 15 generators to put at its bins in my region to try to maintain an electricity supply to accept this year's harvest. That is unacceptable. It should not need to happen. There needs to be a bit more discussion and debate with some of the bigger users in regional and rural Western Australia about how we can meet their needs and requirements. This debate has been fairly emotional.

We need some facts about what is actually required. There are people with the skill and ability to help us do that.

Mr E.S. RIPPER: Although I appreciate the spirit of the remarks of the member for Stirling, I would not entirely rule out small power stations at the extremes of the network. In modern jargon, that is called embedded generation. It is sometimes more economical to have embedded generation than to invest in an upgrade of a transmission and distribution line. As long as people are getting the quality, quantity and reliability of power they need, we should not be too dogmatic about the best way to provide it. The experts tell me that in some instances tens of millions of dollars could be spent upgrading a transmission line to bring power from Collie to the extremes of the grid, when a renewable project or even a diesel power house in a certain part of the network would deliver a better economic result.

Mr R.N. SWEETMAN: I may require your forbearance, Mr Acting Speaker (Mr P.W. Andrews). You will doubtless pull me up if I stretch the margins. The member for Stirling's contribution was notable for what was not being said. Although the emphasis has been on security of power, quality of transmission equipment and similar matters in country networks, I remain very anxious about the loss-making sections, whether in regional areas to the north and east or wheatbelt communities, where it costs a bomb to maintain infrastructure, even in the poor condition that it is in, in many of those areas. What will happen under this process is effectively cherry picking. Industry is not lobbying the minister to undertake this reform in order to get a slice of the action in the electorate of the member for Stirling or in my area. They want to be involved in generation in my area, probably more than in the electorate of the member for Stirling. I want this debate to concentrate on the cross-subsidies currently applying in the system. They are the real irritant and motivator in industry's argument for reform. Whether it will take two years or five years remains to be seen, but as sure as night follows day, there will be a price. The constituents of the member for Stirling will doubtless get an improved supply over time. There is already a commitment to spend a billion dollars out in the regions. Taking examples from other jurisdictions, the franchise customer, the residential tariff customer and small business will in the end cop it in the neck because they will be required to pay substantially more to be guaranteed such things as quality of power and consistency of transmission. Regardless of what the minister says about tariff caps being enshrined in law, it is only a matter of time before less money is generated out of one area to be applied to another area, so that everyone gets quality of service at a uniform tariff, whether in the city or 800 kilometres away in the wheatbelt.

In the second reading debate reference was made to industry identifying residential tariff customers as being cross-subsidised. This needs some further debate, whether in consideration in detail or during the third reading debate, when the minister could make some brief comment in his summation. We need to look at that because there will be a price to pay for my constituents and those of the member for Stirling. The residential tariff will not go up in isolation; region by region within the south west interconnected system. It will go up across the board, in the metropolitan area, the grain-growing areas, and then in those areas outside the interconnected system. There will be nowhere to go. I cannot see the Treasurer or the Under Treasurer ever recommending that a community service obligation go out of the Treasury to cover the shortfall in revenue generated out of those loss-making sections of the regional power grid in Western Australia. We need to entertain that as a part of the argument in what the member for Stirling is advocating in the grain-growing areas.

Mr E.S. RIPPER: When I discussed electricity reform with the business community before the Labor Government came to power I detected -

Mr R.N. Sweetman: When they were writing your policy?

Mr E.S. RIPPER: No; I discussed it before we came to power. I detected a distinct appetite for community service obligations to be funded by the taxpayers rather than by the electricity supply industry. I said very clearly at that time that what the electricity supply industry provides now in the way of internal cross-subsidies will have to be supplied in the future. The most I would commit to was an open and transparent system so that people could understand what the flow of money was. I did not intend to hit taxpayers for a subsidy in place of the internal cross-subsidies in Western Power. Industry may have been disappointed with that approach, but it was the only financially feasible approach.

An average transmission charge for the south west grid will protect the power prices and the uniform tariff of people in the areas represented by the member for Stirling. In the areas represented by the member for Ningaloo, a tariff equalisation fund, funded by the network, will make payments to the Regional Power Corporation so that that corporation can supply at a uniform tariff. There is a shift from an internal cross-subsidy inside Western Power, highly vulnerable to board or ministerial policy change, to a legislated system in which every participant in the electricity market, in effect, pays for the uniform tariff, and that money is then provided to the Regional Power Corporation. It would be possible to have something more transparent -

Mr Eric Ripper; Acting Speaker; Mr John Day; Mr Rod Sweetman; Mr Max Trenorden; Mr Monty House

Mr R.N. Sweetman: This is not just regional. It costs \$200 million to operate the south west interconnected system in those non-profit-making areas.

Mr E.S. RIPPER: It would be possible to have a more transparent system for the south west interconnected grid, but it would be necessary to move to devices that may well be misunderstood. At one stage the Electricity Reform Task Force spoke about a levy on networks. That was interpreted by *The West Australian* as a new tax that would be applied on everyone's power bills. It was not; there are various ways of dealing with the cash flows that already occur in the system, and the Government has chosen an average transmission charge for the grid, and a tariff equalisation fund for the regional systems.

I am not sure what the member is asking me. If he is asking me to guarantee that every future Government will maintain that system, naturally I cannot do so. However, any future Government would have to change the law in order to remove the uniform tariff from the Regional Power Corporation areas.

The ACTING SPEAKER: Members, we need to couch this debate in terms of the conditions that might be applied to the licence. The debate so far has been on that, so let us keep it that way.

Mr R.N. SWEETMAN: I may not be making myself clear. I ask the minister to separate from the argument, for the moment, the issue of tariff equalisation; the \$50 million loss on regional power. I am simply saying that the more private ownership there is, taking over profit-generating sections of Western Power, the more significance will be placed on the loss-making sections of Western Power; that is, the south west interconnected system in the wheatbelt areas. The minister might say that it is up to future Governments to work out what they do with the uniform tariff, but if the Opposition were the Government, and I were the Minister for Energy, I would have to face reality. Instead of Treasury making a \$200 million or \$300 million payment out of consolidated revenue as a CSO for Western Power to prop up the loss-making sections of the south west interconnected system, I would recommend to my colleagues in Cabinet that the tariff be increased. I would have to do that, because those losses must be funded either way. I am saying that we should face that situation now.

I have spoken to the South Australian shadow Minister for Energy, who I understand was the Minister for Energy when the Liberal Government was in power in South Australia and it privatised the state-owned electricity system. Even the regulator - certainly the private generators and transmitters of power - identified that there were cross-subsidies within the grid system. Ours are clearly marked "regional - loses money". We know that a cross-subsidy will operate within the organisation to fund that loss. However, it is not readily identified and I am not sure that the minister understands my argument.

Debate interrupted, pursuant to standing orders.

[Continued on page 13528.]