

GAS AND ELECTRICITY SAFETY LEGISLATION AMENDMENT BILL 2006

Second Reading

Resumed from 24 August 2006.

HON GEORGE CASH (North Metropolitan) [11.59 am]: The opposition is keen to support the Gas and Electricity Safety Legislation Amendment Bill 2006, as we were very happy to have supported the Gas and Electricity Safety Legislation Amendment Bill 2003. I say that because this 2006 bill is the 2003 bill, which was never proceeded with in this house, plus a little bit more. Given that this bill is all about the safety of the community by way of the technical and safety regulations related to the energy industry in Western Australia, the opposition is very disappointed that the 2003 bill did not proceed with the expedition that the government promised at the time. I have a press release from the then Minister for Energy, Hon Eric Ripper, dated 21 August 2003; it states in part -

The Gallop Government today moved to legislate for new powers to enforce safety standards and increase the security of Western Australia's energy supplies.

Energy Minister Eric Ripper said the Longford gas disaster in Victoria in 1998 demonstrated the need for strong regulatory oversight of energy production, transmission and distribution systems.

Mr Ripper said the new laws would allow the Government to demand emergency management plans from gas companies.

It would also increase by tenfold - to \$100,000 - the maximum penalties for breaches of safety standards by companies

The Minister said the privatisation of AlintaGas - and moves towards increased competition in the gas and electricity markets - meant stronger safety and emergency powers were needed by the Director of Energy Safety.

"Emergency management plans will ensure there is a co-ordinated response in the event of damage or upstream loss of supply," he said.

"Gas inspectors will also have increased enforcement powers in relation to potentially dangerous work practices, such as excavation near gas pipelines."

That is part of the press release that was put out on 21 August 2003. It seemed to me to have been released with some urgency. After all, it related to the Victorian gas disaster at Longford that resulted in the death of some workmen at that plant. The press release seemed to express sufficient alarm that would indicate that the government would proceed with the bill without delay. We are nearly four years down the track and we are still dealing with the same bill, with the addition of some amendments that have been included in the meantime. I just raise that point to note that because the government introduces a bill and puts out a press release to say it will push forward with legislation, it does not always mean that that is the end result.

This is not a bill to have a political fight over. This is very much a bill that will enable the Director of Energy Safety to be given greater powers in carrying out the duties he is required to perform and also, as I said earlier, to provide the technical and safety regulations that are required to modernise our energy industry regulation.

This bill amends three acts - the Electricity Act 1945, the Energy Coordination Act 1994 and the Gas Standards Act 1972. The amendments are supported by the opposition. I will not go through them in detail, but I will refer to them as we work through this bill in order that members will have a clear understanding of what the bill is attempting to do. I will then refer to the role of the Office of Energy Safety, which is part of the Department of Consumer and Employment Protection in Western Australia. It is an important office that does great work on behalf of the government and the community.

This bill, in the first instance, amends the Electricity Act 1945 by repealing part III of that act that deals with the question of inspection, particularly the powers of inspectors relating to electricity. It is intended in this amendment to repeal existing part III of the Electricity Act and those particular powers will be transferred to the Energy Coordination Act 1994. The reason for the transfer is to enable the consolidation of the inspectors' functions and powers into that act, rather than have them stretched across a number of acts. The opposition has no objection to that consolidation and the repeal of that particular part.

Clauses 5, 6, 7, 8 and 9 of the 2006 bill were not included in the 2003 bill. In the main, they deal with penalty provisions. For instance, clause 5 deals with section 32 of the Electricity Act 1945 and is specifically devoted to regulations. Within that regulation power, at section 32(1)(s), is a provision for certain penalties to be imposed for an offence committed against a regulation that is made under section 32 of the Electricity Act 1945. In the first instance, the maximum penalty in the case of an individual is \$5 000, and in the case of a body corporate is \$20 000. The bill proposes to increase the penalty for an individual to \$50 000 and for a body corporate to

\$250 000. We recognise the need to update and upgrade those penalties and understand the government's amendment. The other penalty provisions in clauses 6, 7, 8 and 9 of the bill also increase the penalties for an individual from \$5 000 to \$50 000 and for body corporate from \$20 000 to \$250 000. The opposition agrees with the general proposition.

Section 33B of the Electricity Act is headed -

Power of Director to prescribe classes or types of electrical apparatus, etc., which shall not be sold, etc., unless approved by the Director

In the case of a breach of that section and the regulations pertaining thereto, section 33B(6)(d) prescribes the penalties that I mentioned earlier in the amount of \$5 000 for an individual and \$20 000 for a body corporate, which are to be amended.

Again, section 33D of the Electricity Act is a general penalty provision and reads -

A person who is guilty of an offence against this Part for which no penalty is specially provided is liable -

Again, it goes into the particular penalties that I described earlier. The opposition does not have a problem in that regard. Section 33F deals with offences relating to energy efficiency labelling. We agree that there needs to be an increase in the penalties in that regard.

The final amendment to the Electricity Act is to section 52, which provides the general penalty in respect of the whole act and reads -

Any person who by any act or omission commits a breach of any provision of this Act shall be guilty of an offence, and, where no penalty is expressly provided by this Act for such offence, shall be liable to a penalty not exceeding in the case of an individual, \$5 000, and in the case of a body corporate, \$20 000.

The provisions of this bill will increase those amounts. We do not have any objection whatsoever to the amendments to the Electricity Act and we support the government's move.

The amendment to section 3 of the Energy Coordination Act 1994 will include in the act definitions for "commercial information", "component", "distribution works", "network operator", "supply authority" and "transmission works". We recognise that because of the changes that have occurred in the industry, and in some other acts, there is a need to clearly define those words, particularly the definition of "network operator", which is used on a number of occasions. Section 7 of the Energy Coordination Act will be amended. It relates to the functions of the Director of Energy Safety in relation to the Electricity Act 1945 and the Gas Standards Act 1972. This lists a number of the director's functions, and those that are to be amended, and includes a reference to the Energy Coordination Act 1994, which is the principal act that will be amended under this part of the bill. We agree with the need for those amendments.

Section 12 of the Energy Coordination Act is also to be amended. This section deals with the designation of inspectors. There is a need to clearly ensure that the director is able to designate certain persons to be inspectors with the appropriate powers that are provided under the act. I might say that the job of an inspector is a very important one. Specific and very significant powers are given to inspectors, and failure to obey an inspector's order may mean that an offence is committed and a penalty may be imposed. The particular powers of the inspectors need to be clearly stated and the director needs to be able to designate in clear terms those persons who are to be inspectors. Section 14 of the act deals with the powers of inspection. Again, there has been some concern about the words currently used to express those powers. It has been suggested that there is a need for some clarification, and the bill reflects that. In particular, the amendments relate to the words used in paragraphs (a), (c) and (d), dealing with the inspection of gas and electricity networks. We have taken advice on the proposals contained in the bill and we agree with them.

Clause 15 of the bill inserts into the Energy Coordination Act new sections 18A to 18C. These significant proposed sections generally deal with the issuing of orders by inspectors. Proposed section 18A deals with orders regarding dangerous things in relation to electricity or gas and sets out the specific nature of the matters that, in the opinion of an inspector, require certain works to be carried out. Proposed section 18B deals with orders regarding unsafe work practices in relation to electricity and gas, and again sets out the issues that need to be considered by an inspector before making an order on an unsafe work practice. Proposed section 18C deals with orders regarding the distribution systems or distribution or transmission works. Again, it is a lengthy proposed section but it makes very clear what the inspector is able to consider when forming an opinion about whether something is safe or otherwise and requires work to be done.

Section 19 of the act is an appeal provision. At the moment it is couched in relatively narrow terms. The bill widens those terms significantly and provides, in part, for the opportunity to review certain orders. Proposed section 19A provides the opportunity to review certain orders of inspectors on the application of a network

operator, and proposed section 19B provides for a review of the determinations of the director in relation to orders by inspectors against network operators. The State Administrative Tribunal is brought into play through the amendments, and the appeal provisions are somewhat widened, as requested by industry and recognised by the government. Section 20 of the act deals with offences, and again the proposition in the bill is to increase the penalties for individuals from \$5 000 to \$50 000 and for bodies corporate from \$20 000 to \$250 000, which is consistent with the changes to the Electricity Act that I mentioned earlier. We agree with that proposal.

The third bill to be amended is the Gas Standards Act 1972. There are a number of amendments and, having had more than three years to review them, the opposition has sought advice from industry and certain government officers. It was provided with briefings in 2004, when the bill was first introduced into the upper house, having passed the lower house. We support the amendments to the Gas Standards Act. I should acknowledge that in 2004, when this bill was in the upper house, a then member, Hon Robin Chapple, put a number of proposed amendments on the supplementary notice paper. With the effluxion of time, Hon Robin Chapple is no longer a member of this house, so those amendments will not be moved. At the time the amendments were proposed in 2004, I had discussions with the Department of Consumer and Employment Protection's Energy Safety Division and was provided with a briefing paper on the amendments. The opposition was able to form a view about whether it would have supported those amendments had they been moved at that time, or indeed now.

We are satisfied with the bill in its present form. I have expressed our disappointment that it has taken so long to get here. The good news is that at least it is here, and I do not intend to delay its passage much longer. Because there have been some significant changes to the energy industry in recent years, it is worth looking at the history of the industry. We often think of Perth as having been settled in 1829, and it is now nearly 180 years old, so to speak, which is not a long time in the history of the world. However, when we look at the history of energy, members would probably not necessarily recall but may have read in history books that this chamber, in its original state, was lit by gaslights. That was the norm in Perth in those days. Street lights were obviously gaslights. It was not until 1888, quite a long time after settlement - 60-odd years after settlement - that the first commercial electricity generation scheme was developed, with a 15-kilowatt direct current generator. It was operated by a gentleman who is described in a Department of Consumer and Employment Protection briefing paper. I appreciate the briefing papers that are provided by DOCEP. DOCEP's website for the office of EnergySafety is, in my view, very helpful, not just to consumers of electricity, but also to those who work in the energy industry generally. It is a very informative website; but, more than that, dealings with the individuals in the office indicate that they are very helpful officers who are very keen to get on with their job of providing a safe environment for the community generally when it comes to the energy industry. However, Mr C.J. Otte was the person who commenced electricity generation in this state with a 15-kilowatt direct current generator. It was located in premises next to the Criterion Hotel in Hay Street, Perth. He started to sell that electricity.

Around that time, in 1882, the Perth Gas Company was formed. It was called the City of Perth Gas Company originally, and it was later taken over by the Perth Gas Company. It produced coal gas from its coal gas plant located in Wellington Street, Perth, from about 1885. In 1886, the Parliament became involved, and acts of Parliament were passed providing for the laying of gas mains and the granting of a franchise for the supply of gas in the Fremantle area to the Fremantle Gas and Coke Company Ltd. Just before the turn of the century, the Parliament believed that a greater distribution network should be available. Clearly, at the time the government did not believe that it should finance the network in the Fremantle area. A private organisation was prepared to bid for the franchise, and we well remember that the Fremantle Gas and Coke Company Ltd was that franchisee for many, many years, before it was sold in the 1980s to a group of interested people.

The State Electricity Commission - something that most of us would remember - was formed in 1945, and it took over the local electricity undertakings that had begun to flourish, firstly in Perth, then in Fremantle and later in the south west of the state. In 1948, it also took over the gas supply in the Perth suburbs. In the 1950s, the South Fremantle and Bunbury power stations were built. Of course, the South Fremantle site is now abandoned and disused. In addition, the East Perth power station was converted from 40 to 50 hertz, and the interconnected 132-kilovolt transmission system was established. The concern about safety has always been with us when we are dealing with electricity and gas, or energy in general. However, it was not until the late 1940s that the first State Electricity Commission inspectors were appointed for the benefit of the community. Those inspectors have been part of our energy industry since that time.

The State Energy Commission of Western Australia, or SECWA, was formed in 1975, and it took on the responsibility of electricity supplier and gas supplier, and also industry regulator. In 1985, the standard voltage on the SECWA network was modified to 240/415 volts alternating current, to align it with the other systems throughout Australia. On 1 January 1995, twenty years after its creation, SECWA ceased to operate and was transformed into two separate entities, one being Western Power Corporation and the other being AlintaGas Corporation. Members will be aware that AlintaGas was floated as a private company some years ago, and Western Power Corporation has been disaggregated and split into a number of separate operating companies,

including one generating and another selling company. Generally, it has been split along the lines of the particular functions that the organisation had.

On 1 July 2002, the technical and safety regulation arm of the Office of Energy was transferred to the Department of Consumer and Employment Protection and became EnergySafety WA. EnergySafety WA became a division of the Department of Consumer and Employment Protection on 1 January 2004. These amendments vitally affect the operation of the office of EnergySafety, and, in particular, the directorates of EnergySafety. There are three directorates within the organisation: electricity, gas, and emergency management and business services. Again, significant information about EnergySafety is available from that office or on its website.

However, I want to refer, in particular, to the inspectors who are required from time to time to go out and consider some of the fires that occur throughout Western Australia to determine whether the electricity system has been responsible for those fires. DOCEP has other areas of responsibility. Apart from EnergySafety, they include consumer protection, labour relations, resources industry safety and occupational safety and health. However, today we are dealing very much with EnergySafety and the directorate's particular role. In the reports that are made public, it is interesting to see the way in which the inspections are carried out and the way in which the electrical incident reports are put together. For instance, a fire occurred recently near Bastiani Road and South Coast Highway at Parryville. For those who are interested, Parryville is about 20 kilometres out of Denmark. The powerline fault and wildfire occurred on 7 March 2007, and there was damage to property. The report is a comprehensive technical report. Because EnergySafety has been required to look into these matters on a number of occasions, it is quite focused in the way in which it is able to put these reports together in a consistent form. The incident report of that fire states that -

The clashing of conductors . . . occurred when the white phase sagged into the underslung earth conductor. This should not have occurred, since conductor separation should have been sufficient to avoid such a fault occurring.

The summary, which does not pretend to provide a full summary of the whole electrical incident, states -

Further investigations are required by EnergySafety and Western Power to determine to what extent the deficiency of this particular section of the power line was of a design/construction origin, of a conductor degradation or overloading nature. It will then be possible for EnergySafety to make an assessment as to whether or not Western Power sufficiently met its obligation to manage its network in a manner that provides for the safety of persons and property.

Meanwhile the power line has been made safe by the installation of an intermediate pole.

That fire occurred last year at Parryville. Members may be aware of the fire that occurred as a result of a powerline fault near Chatcup Road in Toodyay on 3 February 2007. In a press release, the Director of Energy Safety indicated that the division had conducted its report. In bringing the report into the public domain, the Director of Energy Safety, Albert Koenig, said -

. . . that EnergySafety had worked with Western Power, the Fire and Emergency Services Authority (FESA) and the WA Police Service to investigate the incident.

EnergySafety investigated the fire and found a short circuit fault had resulted from conductors clashing on a Western Power 22kV overhead power line north of Toodyay. However, the reason for the clashing hasn't yet been determined..

It was known that, at the time, there were strong, gusty winds. Various other observations are made in that report.

I raise this issue today because from time to time there are wildfires and bushfires in Western Australia and it is important to determine whether our electricity supply is the cause of those fires. The many country members in this house are well aware of some of the fatalities that have occurred as a consequence of fires that have resulted from faults on our electricity distributions lines. One question that I will ask the minister - I will not ask it today because it does not relate directly to this bill; however, it certainly could be asked on notice in due course - is: how much has Western Power had to pay over the past 10 years or so because its equipment, which has not been up to standard, has caused property damage and a loss of life? That is a question for another day.

I have been very impressed with the Energy Safety Division of the Department of Consumer and Employment Protection. It is doing a tremendous job. It is not easy to investigate a government department and to then find fault with its operation. The Energy Safety Division, through the strength and undoubted knowledge of its director Albert Koenig, has been prepared to make the tough decisions, call the hard shots and ensure that Western Power, or any operator that is found to be in the wrong, fully understands its obligations and what it must do to prevent a similar occurrence.

A number of other published reports are available. I mentioned the powerline fault and wildfire at Toodyay on 3 February 2007. The office has been very much involved in Western Power's wood pole management system and the 2005 regulatory compliance audit. The wild fire at Allanson, which I referred to in part, occurred on 4 February 2005. Members will be aware of some of the problems that occurred during that fire. Wildfires occurred in west Esperance on 15 December 2004, in Esperance on 14 December 2004 and in Wungong on 14 December 2004. Again, so that we recognise the reasons for these fires, EnergySafety carried out an investigation into the cause of the wildfire at Wungong, and determined that it had originated when powerlines clashed during strong gusty winds. The clashing caused a circuit fuse to operate, and hot metal debris from the fuse link ignited on the dry grass. That is the general reaction when there is a clashing of wires. Hot metal is created and the falling debris causes a fire. There have been a number of wild fires in the Esperance area. I note that there was another one on 10 December 2004. EnergySafety found that the pole supporting the phase conductor had previously fallen to the ground and that heat generated from current flow through a calf ignited dry stubble. That is an interesting situation. It was not a case of hot metal debris falling that caused the fire; rather, it was the current on the ground. There are many instances in which EnergySafety is required to determine whether there is a powerline fault and the reasons for particular wildfires and prepare an electrical incident report.

With those comments, the opposition supports the bill. We are glad that it has been introduced and we are pleased that it is being progressed with haste today. I will stop talking now so that the matter can be resolved reasonably quickly.

HON MURRAY CRIDDLE (Agricultural) [12.38 pm]: The Nationals support the Gas and Electricity Safety Legislation Amendment Bill 2006. A number of issues have been raised in recent years about the safety of gas and electricity generation in Western Australia. This bill will improve the technical and safety regulations in the electricity and gas supply industries by amending the three acts mentioned by Hon George Cash.

I will quickly run through a number of key issues. A competitive electricity industry and several gas industry incidents have shown the need for strong regulatory oversight of our energy production, transmission and distribution systems, especially as moves to improve efficiency and reduce operating costs have resulted in work being outsourced. Regulations already exist in the Electricity Act, the Energy Coordination Act and the Gas Standards Act to cover the activities of electricity and gas network operators and of gasfitters, electricians and electrical contractors working on consumer installations. These acts are administered by the Director of Energy Safety. For the regulations to be effective, amendments are needed to provide adequate enforcement powers. Improved order-making powers will allow inspectors to require a gas or electricity network operator to take remedial action at other locations where the same problem exists. Safeguards will exist to ensure that inspectors cannot be overzealous in the use of this power. After two electrocutions, one in Port Hedland in 1996 and one in Coolgardie in 2000, and the Tenterden inquest in March 2005, the coroner identified shortcomings in the construction of several Western Power substations. In each case, there was a need to deal with identical problems elsewhere in the network. Penalties for a breach of the abovementioned acts have been raised to \$50 000 for an individual and \$250 000 for a corporation.

Under part 3 of the bill, the Director of Energy Safety will be able to release certain information about the safety, performance and compliance of industry participants to increase public safety or compliance with technical and safety requirements. Currently, the director is bound by confidentiality provisions that are more relevant to information of a commercially sensitive nature. The director will be permitted to record, disclose or use information in a way that allows industry and public awareness of the safe use of energy and of other issues, and thus to increase compliance. I note that there is some flexibility in the bill as it seeks to insert some definitions in the Gas Standards Act, and I think they are good provisions. They relate to the inspection of samples, rather than the inspection of the whole industry, and put the onus on licensed gasfitters and those who certify the safety and compliance of equipment. For people who live in the country, that is not a bad way to go. The Nationals are happy with this legislation. I just wanted to make those few remarks and indicate that the National Party supports the legislation.

HON LJILJANNA RAVLICH (East Metropolitan - Minister for Local Government) [12.41 pm]: I thank Hon George Cash and Hon Murray Criddle for their contributions to the debate and also for their support of the bill. Quite rightly, this bill has taken considerably longer to be dealt with than is usual for a bill making its passage through the respective houses of Parliament. There are some reasons that the bill was held up.

Hon Robyn McSweeney: For four years.

Hon LJILJANNA RAVLICH: I understand that it has been for a fairly extensive time. However, I understand that there was no time to deal with the bill in the Legislative Council during 2004 and that when the bill was subsequently revisited, questions were asked about whether the penalties were sufficient to deal with some of the serious offences that had been highlighted. Consequently, more work was needed on the bill, and that is

probably why the bill has taken the length of time it has taken to be dealt with. It is great that the wait is now over. Thanks to the members of the opposition and the National Party who made a contribution to the second reading debate, the government now has support for the bill to ensure its speedy passage.

I do not intend to reiterate everything that has been said, because Hon George Cash rather extensively went through each of the provisions in the Gas and Electricity Safety Legislation Amendment Bill 2006. Obviously, he did an extensive amount of work and research on the implications of each of the clauses and their impact on the parent act. I do not intend to redo a job that has been done particularly well. Suffice to say, this bill is long overdue. It deals with very important improvements to the electrical and gas technical and safety regulatory regime to ensure that the community is adequately protected. It was clear from the contributions made by Hon Murray Criddle and Hon George Cash that it is absolutely imperative that we ensure that the community generally has confidence that our gas and electricity standards are of the highest safety level and that the standards be properly regulated so that the degree of community confidence is maintained. Having said that, and having heard from Hon George Cash that he does not intend that we move into committee, I foreshadow that after the second reading vote is taken, I will seek leave to proceed forthwith to the third reading.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Ljiljanna Ravlich (Minister for Local Government)**, and passed.