

ELECTRICITY INDUSTRY BILL 2003

Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Hon Simon O'Brien) in the Chair; Hon Tom Stephens (Minister for Local Government and Regional Development) in charge of the Bill.

Postponed new clauses 126 and 127 -

Progress was reported after Hon George Cash had moved an amendment.

Hon TOM STEPHENS: As previously advised, the Government will accept the proposal for three-yearly reviews. Having considered the proposal for indefinite three-yearly reviews of the wholesale electricity market, we will agree to the proposal to undertake a review of the wholesale market within three years of the commencement of that market. The Government believes, however, that there should be two further mandated reviews in three-year intervals thereafter. In addition to the three prescribed reviews under the Bill, the Government also proposes that regulations and wholesale market rules, made pursuant to clauses 122 and 123, also provide for additional mechanisms to ensure that the wholesale market is operating efficiently. The initiatives include -

definitive procedures for amendment of market rules, which may be invoked at any time if the rules are considered not to achieve the market objectives. Industry participants, the proposed market rules panel - which is the rules "adjudicator" - and system management - which is the market operator - can suggest amendments should these prove necessary, and the market rules panel is to be accountable for ensuring the rules are developed as required and are consistent with the market objectives;

a requirement that the market rules panel monitors the system management's compliance with the market rules and that the panel reports on this directly to the industry minister;

the Economic Regulation Authority is to have a prescribed role to monitor the performance of the wholesale electricity market against the market objectives and issue regular reports in response to its monitoring role and provide ongoing advice to government; and

it is proposed that the industry minister is entitled to issue policy directions to the market rules panel, which can lead to changes in the market rules to conform with those policy directions. The policy directions must be consistent with the wholesale electricity market objectives prescribed in clause 122(2).

In view of these additional checks and balances that will operate in the market from market commencement, it is proposed that the Bill contain the requirement for a statutory review of the market to occur only every three years until three reviews have been conducted. It is suggested that further mandated reviews may usurp the role of the day-to-day review mechanisms, which I have just described to the House, rendering them ineffective. Parties involved in the ongoing review activities proposed by the Government may choose to wait until the time of a mandated review and forgo opportunities to fix or report on problems in a timely manner between reviews. It is argued that additional mandated reviews would also increase the costs of the wholesale market.

I am unsure whether this is the first time that members have seen this document.

Hon Robin Chapple: We haven't seen it.

Hon TOM STEPHENS: I will provide that document to Hon George Cash and Hon Robin Chapple and any other member who wants it. It simply articulates what has been said to me. Effectively, therefore, the clause in front of me redrafts the clause. In other words, we accept the amendment moved by Hon George Cash to delete "5" and insert "3" and to insert in subclause (1) the words "and thereafter as soon as practicable after the expiration of 3 years from a report being laid before each House of Parliament under subsection (5)(a)".

It will be available to members in a minute in its consolidated form, and I am sorry that has not happened. It will indicate how the sequence will work under the proposal that has been agreed to by the Government after it had been put to the Minister for Energy; that is, to accept the recommendation of Hon George Cash to recognise that there is a regime for review of this, which has now been agreed to and structured in this Bill. Thereafter some other amendments are introduced.

Hon Robin Chapple: It is quite complex.

Hon TOM STEPHENS: No, it is not complex. It will be available to members in a minute, and I am sorry that it has not happened. It will be available in its consolidated form and it will show the way in which the sequence will work under the proposal that has been agreed to by the Government after it was put to the Minister for Energy. It accepts the recommendation of Hon George Cash to recognise that there is a regime for a review,

which has now been agreed to and structured in the Bill, and that after the first three reviews the review mechanism referred to in the Bill will come into effect. I commend that alternative amendment to the Committee. I could do that by way of subsequent amendment to the amendment of Hon George Cash, or the honourable member may be prepared to adopt the amendment.

I see that the draft amendments that were suggested to us are now available to Hon George Cash. There is a consolidated version of those amendments on the second page, which would have the effect of doing what I hope I have described simply to the House; that is, agreeing to the deletion of "5" and the insertion of "3" and to have as soon as practicable the three-year process and then for there to be effectively three of those followed by the review mechanisms that have been argued for and are contained in the general provisions of the amended legislation. I hope that adequately explains it.

Hon GEORGE CASH: As members are aware, I moved an amendment to new clause 126 before the debate was adjourned. In the meantime, the minister has responded with an alternate proposition. The alternate proposition is absolute rubbish and does nothing but attempt to avoid the very circumstances that I was attempting to put in the Bill. This is a clear demonstration that when someone is given a little bit of rope - an inch - he wants to take a mile. The Opposition totally rejects the alternate proposition. The minister's amendment attempts to avoid an ongoing review of market operations. Why would that be the case? Why would someone want to set out to concoct a scheme that avoided the opportunity to review market operations? Members will recall that the original proposition in the minister's new clause 126 was that there would be a review five years after the commencement of this part of the Bill. That was all; there was to be no continuing review. There was to be one review and that was the end of it. We made it clear there was every possibility that, given the changes that will occur in the market, there was a need for an ongoing review. I therefore suggested and moved that the reviews continue at three-yearly intervals thereafter. I acknowledge that the words used were not necessarily certain about when they would commence: was it three years after the commencement of the first one or after the tabling? My understanding is that the minister was going to come back to make that certain. What has happened?

Hon Tom Stephens: The amendments are before us. It will bring the clause back into line with what the member has advocated. The Government will accept it as it appears to be the will of the Committee.

Hon GEORGE CASH: I am not sure that it is the will of the Committee. That is why I want to discuss it. I want to find out exactly what is being proposed. In normal circumstances, when an amendment is tabled, one is given the opportunity to read it. The minister has tabled a full page of amendments along with some detail to explain them. I will have to work through what the minister is proposing. In the previous debate today I took 45 minutes but the minister took nearly two hours. Does the minister remember me saying that the Government was conning the people? I want the minister to think about how I feel at the moment because I think the minister is trying to con other members and me with the proposition he is advancing. It will take some time for me to determine that. I am not in the position to agree with the amendment at this stage of the game. I am sure other members will want to speak about this. I will certainly not make a decision in the next two minutes on this issue.

Hon ROBIN CHAPPLE: I also have the same range of problems as Hon George Cash. A key issue is clause 126(5), which states -

As soon as practicable after receiving the report, the Minister is to -

- (a) cause the report to be laid before each House of Parliament; and
- (b) prepare a response to the report and cause the response to be laid before each House of Parliament.

I am trying to come to grips with the amendment to subclause (3) to determine whether, every three years, there will be a report before this House.

Hon Tom Stephens: There will be. The amendments will ensure that the reports continue indefinitely. I am offering that be done as the will of the Committee.

Hon MURRAY CRIDDLE: It is difficult to make decisions on the run. The minister's amendment to clause 126(4) refers to the review of market operations. Will the minister explain to me what is meant when some or all objectives set out in clause 122(2) have not or are not being achieved and "the report is to set out recommendations as to how those objectives can be achieved"?

Progress reported and leave granted to sit again.