

ENERGY LEGISLATION AMENDMENT AND REPEAL BILL 2016
SECOND READING SPEECH

I move that the Bill be now read a second time.

This Bill is the last of the three cognate Bills that form the legislative package to implement the Government's proposed reforms to the regulation of electricity networks and gas pipelines in Western Australia.

Reform to adopt the National Electricity Law for the regulation of the Western Power electricity network is the subject of the National Electricity (Western Australia) Bill 2016.

Reform to transfer responsibility for the regulation of Western Australian gas pipelines under the National Gas Law from the Economic Regulation Authority to the national energy regulator, the Australian Energy Regulator is the subject of the National Gas Access (WA) Amendment Bill 2016.

The primary purpose of this Bill is to amend existing Western Australian legislation necessary to facilitate the operation of the National Electricity Law and National Gas Law in Western Australia.

Adoption of the national electricity framework for the regulation of the Western Power network will involve replacing substantial parts of the *Electricity Industry Act 2004* with provisions of the National Electricity Law. To this end, the Bill provides that Part 8 of the *Electricity Industry Act 2004*, which deals with the regulation of access to electricity networks, will cease to apply to the Western Power network on and from 1 July 2018, the date that regulation under the national framework commences.

The Bill inserts a new Part 8A into the *Electricity Industry Act 2004*, which will support the transition from an 'unconstrained' model of access to the Western Power network under the *Access Code 2004* to 'constrained' access under the national framework.

The specific support provided by Part 8A in making this transition is directed at existing contracts between Western Power and its principal customers for access to Western Power's network that may include terms that contemplate the provision of unconstrained access, or which are perceived to do so, or which may otherwise be inconsistent with a constrained access model.

Part 8A is intended to confirm that on and from 1 July 2018 such rights, to the extent there may be any, are subject to the new constrained access model under the national framework and that Western Power is not responsible or liable to a customer for any loss that customer believes it has or may incur as a result. This is achieved through a limited form of immunity on Western Power from any potential contractual claims.

This contractual immunity is essential for Western Power to allow it to plan its network in accordance with the access requirements under the national framework.

Without the immunity:

- connection barriers for new generation businesses will remain as Western Power will be forced to maintain fixed capacity for existing generators that might not be fully utilised; and

- new renewable generation businesses that can provide electricity at a lower cost in the market will be impeded from effectively competing with older and more expensive generators that have secured fixed capacity access to Western Power's network through existing access contracts.

The Bill also amends the *Electricity Industry Act 2004* to establish a transitional regime for economic regulation of Western Power during the 2017-18 financial year. This 'gap year' arises because Western Power is currently operating under its Third Access Arrangement which expires on 30 June 2017, but regulation of Western Power's under the national framework by the Australian Energy Regulator will not have effect until 1 July 2018.

The Bill provides for the making of regulations and instruments under the *Electricity Industry Act 2004* to prescribe the terms and conditions of access to the Western Power's network during this gap year period.

Western Power's Third Access Arrangement will continue during the gap year, with some modifications. The Minister for Energy, rather than the Economic Regulation Authority, will be the decision-maker on certain regulatory matters that are required for the gap year. However, the Minister's decisions will be determined on a very similar basis to the regulatory approach that would have otherwise been applied by the Economic Regulation Authority.

This approach to the gap year minimises resourcing requirements and administrative costs associated with imposing extensive regulatory arrangements that are only required for one year. It also strikes the right balance to ensure the regulatory framework in the gap year still reflects a credible and robust regulatory oversight that leads to efficient outcomes for electricity consumers.

The Bill ensures the continued operation of important local initiatives such as the Uniform Tariff Policy, Tariff Equalisation Contribution and State Underground Power Program. These schemes will be unaffected by the shift to the national electricity framework.

The Bill also ensures that local bodies will continue to be responsible for setting the technical standards for the Western Power network, via an expanded *Electricity Industry (Network Quality and Reliability of Supply Code) 2005*.

The Bill repeals the *Energy Arbitration and Review Act 1998*, which will reduce regulatory compliance and administrative costs by consolidating Western Australia's energy dispute resolution processes. This will involve transferring review functions under Western Australian energy legislation from the Electricity Review Board to the State Administrative Tribunal, and abolishing the Western Australian Energy Disputes Arbitrator.

Future arbitration proceedings between energy market participants will be conducted in accordance with the *Commercial Arbitration Act 2012*. These measures will reduce regulatory costs and provide more streamlined dispute resolution processes for market participants.

Finally, the Bill provides for a modified contracting framework between Western Power as the distribution network, retailers and customers – changes which are necessary to allow the national electricity framework to operate as intended.

The Bill sets out elements of the modified contracting framework at a high level and provides for regulations to implement the detail.

It establishes a new deemed contractual relationship between Western Power and electricity customers for the provision of distribution network services. At present, these services are provided via the customer's retailer.

It also establishes a regulated relationship between Western Power and retailers under which they will coordinate their customer service, share information, manage billing and assign financial risks.

Pursuant to Legislative Council Standing Order 126(1), I advise that this Bill is a uniform legislation Bill. It is a Bill that, by reason of its subject matter, is part of a uniform scheme or uniform laws throughout the Commonwealth.

I commend the Bill to the House and table an Explanatory Memorandum.