

Second Reading Speech

Electricity Reform Bill 2012

Mr Speaker, a key priority of the Government is to ensure Tasmanians have access to the lowest sustainable electricity bills. In addition, the safe and reliable supply of electricity is necessary, as is the need to have state owned businesses that operate efficiently and effectively.

In order to achieve these things, thereby delivering better outcomes for all Tasmanians, change is required.

Members will recall that on 15 May 2012 I outlined, in this Place, the Government's reform agenda for the electricity supply industry.

The Government's reform package contains a range of measures which together will achieve better outcomes in the following key areas:

- lower increases in future electricity prices;
- greater customer choice;
- improved energy security;
- continued strong reliability of the electricity supply network;
- reduced risk to taxpayers;
- improved sustainability of our State-owned electricity businesses;
- more efficient and focussed State-owned electricity businesses;
and

- the creation and maintenance of value from our renewable energy assets.

Importantly, it will also provide economic certainty and confidence for the future.

To date the Government has already moved to prevent excessive electricity price increases by foregoing \$37 million per annum in revenue. This reduced the increase in electricity prices from 1 July of this year, resulting in direct savings to electricity customers this year and into the future.

In addition, Regulations have been made to give certainty around the extent of future electricity price increases with the current retail price determination for electricity being rolled forward for the period 1 July 2013 through to 1 January 2014 when full retail competition will be introduced.

This will ensure that any electricity price increase on 1 July next year will be kept to an absolute minimum.

Mr Speaker, the Electricity Reform Bill 2012 facilitates the implementation of the Government's reform package.

The key elements of the reform package have already been presented to the Parliament, but it is important to revisit them briefly in the context of this enabling legislation.

Firstly, a competitive retail market where all Tasmanian electricity customers can choose their electricity retailer will be established through the introduction of full retail competition from 1 January 2014.

The regulation of the wholesale contract market in Tasmania and the sale of the retail customer base are necessary to create a competitive environment in which new private sector retailers can compete for retail customers. This competition will create product choice and

result in competitive electricity prices, providing benefits to customers.

Secondly, the Government will restructure the State-owned electricity businesses to ensure their efficient and effective operation as well as the ongoing reliable and safe supply of electricity to customers.

The merging of the network businesses to form an efficient integrated distribution and transmission business will result in improved operational efficiencies, reductions in overlapping corporate functions and dynamic efficiency gains through improved decision making, especially in regard to future investment in the poles and wires.

In addition the potential transfer of the Tamar Valley Power Station assets to Hydro Tasmania, following an assessment of whether the strategic value of State ownership of the assets exceeds their sale value, would result in the one entity having responsibility for the State-owned generation assets. This is important from a security of supply perspective.

Finally, the Government is seeking to maximise the State's clean energy advantage.

Tasmania has made a significant investment in renewable energy over many years. Realising the true value of the State's investment in clean energy is best achieved by retaining Hydro Tasmania's mainland retail subsidiary, Momentum, and allowing it to grow in a carefully managed way. The merging of Aurora Energy's retail services functions with Momentum, once the transition of retail customers to new retailers is complete, will optimise previous investments in retail services.

Mr Speaker, the Electricity Reform Bill 2012 is about defining the scope of the Government's reform objectives and providing the necessary functions, powers and provisions to facilitate

implementation. It does not specifically put in place all aspects of the reforms.

Detailed work on all elements of the reform plan is being undertaken by a dedicated project team that reports to an oversight committee which in turn reports and provides advice to the Treasurer and myself as the responsible Ministers.

Mr Speaker, the electricity reform objectives are clearly articulated in Part 2 of the Bill.

I am sure Members will agree that the objectives of -

- ensuring that electricity prices are as low as is consistent with ensuring the financial viability of the electricity supply industry;
- ensuring the safe secure and reliable supply of electricity;
- ensuring Tasmania's renewable energy advantage is maximised; and
- ensuring the efficient and effective operation of the State-owned electricity businesses -

are sound and without question.

It is important that these are measurable and as such the Bill sets out measures to achieve these objectives.

The key elements of the Electricity Reform Bill 2012 are that it:

- provides a Ministerial power of direction;
- creates a Statutory position of Electricity Reform Coordinator;
- provides appropriate indemnities for the Directors and officers of the State-owned electricity businesses;

- enables the transfer of assets, rights, liabilities and employees between the State-owned electricity businesses;
- provides for the sale of Aurora Energy's retail customer base; and
- provides for the wind-up and transfer of any remaining business of either of the existing network businesses.

Mr Speaker, I will address each of these elements separately.

Power of Direction

The Government Business framework in Tasmania consists of two types of entities – Government Business Enterprises, such as Hydro Tasmania, and State-owned Companies, including Aurora Energy and Transend Networks.

While there are some differences between the two frameworks, all Government Businesses, including the State-owned electricity businesses, have a primary objective of operating commercially.

To ensure the businesses have a commercial focus, the Government has appointed commercial Boards to manage the businesses. The Boards, irrespective of whether the business is a Government Business Enterprise or a State-owned Company, must make decisions in the best commercial interest of the business.

As part of the Government's energy reforms, there may be times where a business is required to undertake actions which are necessary to achieve the policy objectives of the reforms, and therefore further the interests of all Tasmanians, but may not be in the interest of the individual business.

In such cases, the Board of the business may be reluctant to undertake the action, bringing about the need for the Shareholding Ministers to be able to issue a direction to the business. The Electricity Reform Bill 2012 provides such a power of direction.

An example of this power would be the Shareholder Ministers issuing a direction to the Board of Aurora Energy to execute a sale agreement and dispose of a bundle of customers or shares in a subsidiary to a third party purchaser.

Mr Speaker, the power of direction is something that will only be used if it is absolutely necessary.

Further, the provisions in the Bill ensure that a direction can only be given to achieve the reform objectives or to implement the reform measures.

In addition to the ability to issue a direction to the State-owned electricity businesses, the Bill also includes a power to direct a person who holds information that was produced by, or was in the possession of, the Electricity Supply Industry Expert Panel.

Members will recall that there are strict prohibitions on the release of information obtained by the Expert Panel in the *Electricity Supply Industry Expert Panel Act 2010*.

While there are sound reasons for this, there is an abundance of information collected by the Panel which is likely to be of use in implementing the reforms. This is especially so given that the Government's key reform measures are largely consistent with the findings of the Panel.

To ensure that the intent of the *Electricity Supply Industry Expert Panel Act 2010* is maintained, the Bill provides that any information obtained can only be used for the purposes of the reforms and cannot be disclosed to anyone outside the reform process.

This will without doubt be a valuable reference source and may avoid duplication of cost and effort in relation to some reform related issues.

To ensure that powers of direction are confined only to the current electricity reforms, the Bill provides that the powers cannot be exercised after 30 June 2015. This is 12 months after the day on which the reforms are expected to be completed, thus providing the ability to deal with any unforeseen issues which may arise and which could push the timeframes out.

The only case in which the power of direction can be used after 30 June 2015 is if it is required for the purposes of winding up a State-owned electricity business.

Electricity Reform Coordinator

Mr Speaker, implementation of the reforms is a significant task involving the three State-owned electricity businesses and a core implementation team in Treasury.

Considerable planning to determine the most effective and efficient way to deliver the reforms has already commenced and will continue to be assessed as implementation progresses.

While much of the implementation and restructuring of the electricity businesses will be progressed by the businesses, the policy and scope of restructuring will be determined by the Government on advice from the Electricity Reform Oversight Committee.

To assist the Shareholding Ministers to achieve the reform objectives and to implement the reform measures, the Bill provides for the creation of a Statutory Position of Electricity Reform Coordinator.

The position will rest with the Secretary of the Department of Treasury and Finance, who is also the Chair of the Electricity Reform Oversight Committee.

This role will ensure a coordinated approach in delivering the reforms and will ensure the timely resolution of key issues.

In particular the Electricity Reform Coordinator will be able to request the State-owned electricity businesses to provide information, advice and assistance where necessary.

In addition, the Coordinator will have the power to examine any asset, right or liability of a State-owned electricity business.

This will ensure that the Government has the best knowledge available in making specific decisions in the implementation of the reforms and therefore in delivering improved outcomes for all Tasmanians.

As with the powers of direction, the position will cease on 30 June 2015.

Indemnities

Mr Speaker, the Government will not be making separate decisions on the commercial merits of a particular business acquiring a particular asset, but will instead reallocate the assets and relevant employees to the new business structure on a basis that optimises the Government's overall electricity business portfolio and best meets the Government's electricity policy objectives.

Given this, Directors and Officers of the businesses may be required to undertake actions under direction from the Shareholding Ministers, or by request from the Electricity Reform Coordinator, for the purpose of implementing the reforms, which may be inconsistent with their normal fiduciary duties.

Consequently, it is necessary, and the Bill provides for, specific indemnities where actions taken in good faith may not be in the best interest of an individual business.

These indemnities are typically provided for during the course of reforms of this nature and are important in providing comfort to the Boards and Officers of the businesses that their cooperation and role

in the implementation of the overall reforms will not compromise their ability to meet their fiduciary duties.

Transfer Provisions

Mr Speaker, the reforms involve considerable restructuring of the State-owned electricity businesses.

There will be a need to transfer assets, rights and liabilities between the businesses and the Bill includes the necessary provisions to enable this to occur.

These provisions will be needed for the merger of the network businesses and the potential transfer of the Tamar Valley Power Station, which is of course contingent upon the outcome of the assessment of the Station's strategic value.

The Bill sees that transfers will be achieved through the Treasurer publishing a notice in the Gazette, which is similar to transfer provisions that have been included in other State legislation and successfully applied.

In addition to the transfer of assets, rights and liabilities, the Bill also contains provision for the transfer of employees between the businesses.

Mr Speaker, employees in the state owned electricity businesses are a key priority for the Government in these reforms.

The Government has been open in acknowledging that the three electricity businesses, and therefore the employees, will be impacted by the reforms to varying degrees. What the Government is therefore seeking to do is provide employees in the businesses with certainty as quickly as possible.

The Bill includes provisions which ensure that employees are treated fairly and equitably. This includes the protection of entitlements and

the need for consultation with affected employees prior to any transfer occurring.

Aurora Energy Retail Sale Provisions

Mr Speaker, a key aspect of the reforms is providing choice to all Tasmanian electricity customers through the introduction of full retail competition. In order to achieve this, there is a need to encourage new retailers to the State.

Divesting Aurora Energy's customer base in a number of bundles prior to the commencement of full retail competition will meet the Government's aims of creating a competitive market and maintaining shareholder value.

The Electricity Reform Bill 2012 contains the necessary provisions to facilitate a sale of the retail customer base. It provides for either the sale of all or part of Aurora Energy's retail business or, in the event that is determined that it may be beneficial to place the individual customer bundles into separate, newly created subsidiaries, the sale of those subsidiaries.

The detailed analysis to inform the optimal way in which the customer base should be split and sold is underway and yet to be completed. However, the inclusion of the sale provisions in legislation at this time is very important in the overall sale process as it provides confidence to potential buyers that the Government, and indeed the Tasmanian Parliament, is committed to the sale.

The provisions are similar to those used successfully in other State legislation and give the Treasurer the power to do all things necessary to enable the sale.

In addition, the Treasurer is to have regard to a fair and reasonable price and all proceeds from the sale are to be paid into the Consolidated Fund.

Transfer of Remaining Business

As already noted, the merger of the network businesses will see a reduction from three to two State-owned electricity businesses.

While the exact model for the integrated network business has yet to be finalised, it will be necessary to wind-up at least one of the existing companies.

It is anticipated that the vast majority of assets and liabilities will be transferred as part of the integration of the businesses. However, in the event that there is any remaining business of the companies that is not transferred to another State-owned electricity business, such as residual or redundant assets, the Bill provides for the potential transfer of that remaining business to the Crown.

Transferring any remaining parts of the business to the Crown will enable the timely deregistration of the company.

Mr Speaker, the sale and transfer provisions contained in the Bill are generally consistent with similar provisions in place in other legislation. The provisions are robust and have previously been successfully applied for the sale of other state owned assets or in the implementation of other reforms.

Members may be aware that section 20 of the *Electricity Companies Act 1997* prevents the Shareholding Ministers of companies established under that Act from selling or otherwise disposing of “a transmission system situated in Tasmania or a distribution network situated in Tasmania or any part of such a transmission system or distribution network that would have the result of significantly reducing the capacity of the network”.

Given this, and to avoid any doubt about the ability to transfer transmission or distribution assets between State-owned electricity businesses, the Bill clarifies that any sale of the retail customer base, or any transfer of distribution or transmission assets to another

State-owned electricity business, is not a sale for the purposes of the Electricity Companies Act.

This clarification is consistent with the intent of the Electricity Companies Act in that key transmission and distribution infrastructure should remain in State ownership.

Other provisions

In addition to the indemnities provided for Directors, Officers and employees of the State-owned electricity businesses, the Bill also provides that the intent of the provisions will not be affected by the operation of other national legislation.

In particular, the Bill makes clear how it interacts with the *Corporations Act 2001* and the *Competition and Consumer Act 2010* of the Commonwealth. Further, it will ensure that actions done by the businesses that are required to achieve the policy outcomes of the reforms are not in breach of Commonwealth legislation.

Conclusion

Mr Speaker, the Electricity Reform Bill 2012 facilitates a clear path for the implementation of reforms to the Tasmanian electricity supply industry.

It provides certainty for the State-owned electricity businesses and protection for their employees.

A clear timeframe for the reform process is established with sunset clauses on Ministerial powers and the powers of the Electricity Reform Coordinator.

At a later stage, I will be introducing further legislation for the purposes of facilitating other aspects of the reforms including full retail competition. This legislation will deal with a number of matters including price regulation for residential and small business customers as well as the regulation of Hydro Tasmania's wholesale contract

market activities. Details of these arrangements are still being finalised.

As I have said before, the Government's electricity reforms seek to deliver improved outcomes for all Tasmanians whilst maintaining ownership of the State's hydro generation assets, and other core electricity infrastructure that the Tasmanian community has invested in over generations.

Mr Speaker, this Bill facilitates continued progress with the implementation of reforms that will achieve competition for Tasmanian electricity customers, drive efficiencies in the industry, and limit future cost and therefore price rises for Tasmanians.

This Bill is an important part of moving forward to deliver better outcomes for Tasmanians.

Mr Speaker, I commend the Bill to the House.