

Electricity Reform Implementation Bill 2013

Mr Speaker, the Government, with the support of the Parliament, is reforming the Tasmanian electricity supply industry.

These reforms will see the introduction of choice in electricity retailing for all customers and will ensure Tasmanians have access to the lowest sustainable electricity bills. They will also ensure continuity of our strong reliable supply of electricity and enable us to maximise the value of the Tasmanian community's investment in electricity assets.

In order to deliver these important benefits, a number of changes to the current framework must be implemented.

Members will recall that in November 2012, I introduced the Electricity Reform Bill 2012 which facilitated some aspects of the electricity reform package for the Tasmanian electricity supply industry.

That Bill defined the objectives of the reforms, determined measures that may be taken to implement the reforms and established some necessary functions and powers to ensure that the reforms are implemented in a timely manner.

At that time I indicated that further legislation would be required to implement other aspects of the reforms, including full retail competition.

Mr Speaker, the Electricity Reform (Implementation) Bill 2013 will put in place key aspects of the new market framework.

The Bill amends the:

- *Electricity Supply Industry Act 1995*; and the
- *National Energy Retail Law (Tasmania) Act 2012*.

The size and complexity of the reforms also necessitate amendments to the *National Energy Retail Law (Tasmania) Regulations 2012*. In addition, the *Electricity Supply Industry (Price Control and Related Matters) Regulations 2012* will be remade to accommodate the new market framework.

Mr Speaker, transparency has been a key feature of this entire reform process, beginning with the Expert Panel's review of the industry. In continuing this transparent approach, I am pleased to be able to provide drafts of the regulations, along with the Bill, to give Honourable Members a more complete understanding of the proposed legislative framework.

Several Orders will also need to be made to give effect to some matters and these will be made following the enactment of the legislation and making of the regulations.

In early March, I released the Government's *Market and Regulatory Framework Position Paper* for public consultation, together with exposure drafts of the primary and secondary legislation that we are considering today. The proposed Bill has been amended in some details as a result of that consultation.

Mr Speaker, the Bill implements a number of key policy objectives:

- opening the electricity retail market to competition for residential and small business customers;
- customer protection safeguards, including retaining retail price regulation and a right of reversion to a regulated contract for households and small business customers;
- establishing the regulation of Hydro Tasmania's wholesale contract market activities;
- including the existing electricity concessions framework in legislation and ensuring that it will continue in a competitive private sector retail market;
- ensuring the Regulator's functions and objectives strike the right balance for the new market structure;
- amending the non-price regulatory framework of the National Energy Customer Framework to reflect the divestment of Aurora Energy;
- providing for sensible transition arrangements to a fully competitive market.

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

Introduction of full retail competition

Mr Speaker, the market reforms reflected in this Bill are aimed at achieving the Government's reform objectives regarding electricity prices and supply, and maximising the value of our electricity investment and opportunities. By virtue of the Electricity Reform Act 2012, these are also the Parliament's reform objectives.

Full retail competition should drive more competitive pricing, provide for product innovation and differentiation and contribute to a more efficient electricity retail sector in the long term.

The Bill will amend the Electricity Supply Industry Act to remove the current restriction on retailers other than Aurora Energy selling electricity to households and small businesses. This will be effective from 1 January 2014.

This will enable competition in the retailing of electricity for all Tasmanian customers and complete the move to full retail competition.

In addition to removing the restriction on competition, the Government is preparing for the sale of Aurora Energy's existing retail contracts and obligations to private sector retailers through a competitive sale process. As the Expert Panel concluded, and as has been discussed in this place before, this will provide the best environment for competition to emerge.

Transferring customers from Aurora Energy to private sector retailers and opening the retail electricity market to full competition will involve significant change for Tasmanian customers. Accordingly, the reform process will need to be carefully managed and communicated to ensure that customers are fully informed as to the impact of the changes and their rights and options.

The transition to full retail competition will therefore be implemented in a sensible, staged manner that will ensure that customers understand their rights through the process and that systems are in place to support competing retailers.

The first stage will be to transfer Aurora's existing customers to private sector retailers, to ensure there are multiple retailers operating in the market in Tasmania. From 1 January 2014, customers will be given a three month period within which to familiarise themselves with their new retailer. All customers will continue to be supplied under a regulated retail product or can choose to enter into a market contract with their retailer.

The second stage will be to facilitate the introduction of new products and offers into the market by the purchasing retailers, and to allow the transfer of customers between the regulated products of the two retailers. This stage will be for a further three months, from 1 April 2014 to 30 June 2014.

As a result of technical constraints on how customers are transferred between retailers, the number of customers that can be transferred in any month will be limited. The Bill provides that the relevant Minister may make an Order to set this limit and to determine the process by which transfer requests in excess of the limit are managed, for instance through a first-on, first-off queuing system. The technical specifications of the systems that will manage customer transfers through the transition period are still being determined and the use of an Order to set the limit provides flexibility to enable the limit to be set as high as possible without incurring unnecessary costs. At this stage it is intended that the limit will be one thousand transfers per month, which would facilitate an annualised “churn rate” of five per cent, which is typical of the rate seen in the start-up phase of other competitive markets around Australia.

The third stage will open the market to any retailer who holds a national retail authorisation and allow market offers to be made to any customer. As Transitional Retail Services will be provided to the new retailers during this time, the limit on the number of customer transfers will continue, to ensure that the costs of facilitating the transitional services can be minimised. This phase is expected to run from 1 July 2014 until the end of December 2014 and the Bill requires that any Order that limits transfers expires by the start of 2015.

The fourth stage will commence from 1 January 2015, and will open the market to full competition with transfers governed by the same rules that apply across the national electricity market.

Retail Price Regulation

Mr Speaker, customer protection is a key element of this Bill and is a key focus for the Government. As is the case in other jurisdictions, the Government will retain retail price regulation in Tasmania until it can be demonstrated that retail competition is sufficiently effective to remove the need for regulated price protection for customers.

The current regulatory framework under which the Regulator determines maximum standing offer prices will be largely maintained, with some small changes to provide for a multi-retailer environment.

The determination of the maximum standing offer contract price that a retailer can charge small customers is a critical aspect of the reforms. It will provide the safety net price that all customers can access and, if the experience of other states is seen here, will also set the benchmark off which market prices are discounted.

To ensure competing needs are recognised and balanced, specific requirements or principles relating to the determination of standing offer contract prices have been included in the Bill. In most cases, these principles are the same as those currently included in the Price Control Regulations but they have been elevated to the principal Act to provide certainty to customers and retailers.

These principles include the requirement that a “load-following swap” contract price is used in the estimate of the cost to retailers of buying wholesale electricity. This will have the effect of Tasmanian small electricity customers paying the “market price” for wholesale electricity. This may increase price volatility over time, however it will more accurately reflect the supply demand conditions and ensure the most appropriate price is charged. It is important to note that this market price approach was recommended by the Electricity Supply Industry Expert Panel.

The principles also include the requirement to determine the relevant retail costs incurred by the retailer in providing electricity and that retailers will be able to recover network charges from customers at the rates approved by the Australian Energy Regulator. These are standard provisions across the industry and are provided for under the current Tasmanian framework.

Mr Speaker, the Bill provides for special arrangements to apply to the first retail price determination to apply to the fully competitive retail market. These arrangements are required to take account of the unique circumstances that arise from the divestment of Aurora Energy’s retail customers.

In order to settle bids and complete the sale this year, retailers will require an understanding of the maximum prices that may be charged from 1 January 2014. This means that the first price determination needs to be completed before the end of July 2013.

Ordinarily, it is the retailers that would prepare a submission that outlines their costs and proposes maximum prices, and the Regulator would assess the

efficiency of those costs and regulate prices accordingly. However, the retailers who will be financially responsible for the customers from January 2014 cannot be known until the sale is complete. Also, it would be inappropriate for Aurora to prepare the submission, as it will not be the retailer for the period in which the prices will apply.

This introduces a circularity to the logic of the process, unique to the first price determination. To deal with this issue, the Bill makes provision for the Minister to prepare the submission to the Regulator for the first price determination. An independent consultant has been appointed to prepare the submission on behalf of the Minister.

Wholesale contract market regulation

Mr Speaker, the integrated nature of the Tasmanian hydro-electric generating system means that it exhibits many of the characteristics of a natural monopoly. Regulation of Hydro Tasmania's activities in the wholesale contract market will allow retailers to manage their wholesale risks, increasing the likelihood that larger mass-market retailers will enter the Tasmanian market and facilitate active competition.

The Expert Panel identified in its review that the risk of "being squeezed" between the costs of supply and a regulated retail price was a key issue raised by retailers as a deterrent to market entry.

In its response to the Panel's findings, the Government indicated in its *Energy for the Future* policy statement that wholesale market reform would be guided by a range of principles, including that the risks and business models available to retailers in Tasmania should be similar to those of other National Electricity Market jurisdictions. These principles have been reflected in the Electricity Reform Implementation Bill.

Importantly, the Bill provides for consistency between regulated retail prices and the wholesale contract market arrangements under which Hydro Tasmania will operate. This means that the wholesale electricity cost component of the regulated standard retail contract price will be based on Hydro Tasmania's regulated contract prices. This direct relationship should mitigate retailers' concerns that retail margins could be inappropriately squeezed by the actions of a dominant generator.

Regulation of Hydro Tasmania will take the form of a legislative obligation on Hydro to:

- offer a range of contract products to retailers operating in Tasmania that are consistent with the standard products offered in the NEM.

Hydro Tasmania must also enter into those contracts at the request of a retailer;

- include a “load following swap” product in the suite of products, to provide a safety net against spot market risk.

This is a type of financial derivative contract commonly used in the electricity market that provides a retailer with a price for a total amount of electricity consumed over a defined period, adjusted for the cost of risk management, and allows a retailer to manage the real-time price movements in the wholesale electricity market. This addresses another issue identified by the Expert Panel as a deterrent for retailers to enter the market;

- offer these products at prices that are produced from a pricing methodology that is approved by the Regulator and replicates the prices that would be likely to arise through a competitive wholesale market;
- offer standard terms and conditions for each regulated contract product; and
- ensure that a sufficient volume of electricity is available under the contracts to allow retailers to have confidence that they will be able to adequately hedge their retail contracts, and so manage their financial risks.

To give effect to this, the Bill provides for a pricing instrument to be in place which specifies the products, methodology, standard terms and conditions, number of quarters to offer regulated products and volume of regulated contracts.

Mr Speaker, the Bill provides for the Minister to determine the first wholesale pricing instrument. This is necessary to manage a range of implementation risks. The Tasmanian Economic Regulator will be responsible for the administration of the instrument and will also investigate and determine a new

pricing instrument within a reasonable timeframe before the expiry of the initial pricing instrument.

The Bill includes a number of principles that are required to be taken into account in a wholesale pricing instrument, and which balance a number of competing interests between retailers, electricity providers and customers.

The Tasmanian Economic Regulator will have an important role in this process. In addition to administration of a wholesale pricing instrument, the Regulator and will be required to audit and investigate Hydro Tasmania's contract offerings.

The Regulator will be required to publish guidelines outlining how the approved pricing methodology is to be applied to regulated contracts, and will have the authority to 'step in' and set the prices for Hydro Tasmania's regulated products under certain circumstances. These circumstances include where there has been a significant, deliberate or repeated failure on the part of Hydro Tasmania to comply with its obligations or where some significant event has altered the electricity industry in Tasmania to such an extent that the pricing framework needs to be suspended.

The inclusion of these matters in the principal legislation will ensure the greatest degree of confidence is provided to retailers, so as to facilitate and encourage active retail competition in Tasmania.

National Energy Customer Framework

Mt Speaker, Tasmania has already adopted the National Energy Customer Framework (NECF) through the *National Energy Retail Law (Tasmania) Act 2012*. The NECF is premised upon, and designed for, a fully contestable retail market and provides a robust non-price regulatory regime within which full retail competition can operate.

The implementation of the NECF has therefore removed the need for a detailed Tasmania-specific retail framework to be prepared, and ensures that key customer protection provisions will continue to apply in Tasmania once full retail competition is introduced.

The Bill updates the Tasmanian framework, to provide for the allocation of certain responsibilities under NECF once Aurora Energy ceases to retail electricity.

Under full retail competition, there will be a legal 'obligation to offer supply' to ensure that all small customers are guaranteed an offer of a contract for the supply of electricity. NECF mandates that there must be a 'designated retailer' for every small customer who is obliged to offer supply under a Standard Retail Contract.

In Tasmania, the purchasing retailers will be nominated as 'regulated offer retailers' and carry the obligation to offer supply at the regulated price. This ensures that each small customer will be able to access a regulated standard retail contract from these retailers.

Importantly, the obligation to offer a price-regulated standard retail contract includes that this offer must be available to customers at the conclusion or termination of a market retail contract. This means that customers who sign a market contract have the ability to revert to a regulated standard retail contract at the conclusion of the market contract term.

Enabling reversion to a regulated standard retail contract will give customers confidence in the market and encourage competition, as customers will know that they can revert to a regulated safety net contract.

The NECF requires that one retailer is appointed as the 'Local Area Retailer' in Tasmania. This retailer will have the financial responsibility for all electricity consumption that is unallocated when the market is settled, as it is unmetered. The Bill provides that the Minister may nominate the Local Area Retailer by Order.

However, the legislation does allow for those types of unmetered electricity supply that can be allocated for the purposes of market settlement to not be the responsibility of the Local Area Retailer. This includes public street lighting, which means that public street lighting will become a contestable service that is able to be provided by a number of retailers. I know that the Local Government Association of Tasmania and several of its member Councils have sought this change for some time and I am pleased that the Government can deliver this outcome.

Further, the NECF includes a national ‘Retailer of Last Resort’ scheme that identifies which retailer will become responsible for customers of a failed retailer and ensure continued supply of electricity.

The appointment of Tasmania’s Retailer of Last Resort will be made by the Australian Energy Regulator as provided for under the NECF.

Concessions Framework

Mr Speaker, electricity is an essential service which all Tasmanian households and businesses have a right to access at affordable prices. With the exit of Aurora Energy from the retail market, arrangements are required to transition existing electricity concessions currently delivered by Aurora Energy to the new, multiple retailer market environment.

The Bill includes a delivery model that is based on the Victorian model for concession delivery, which will ensure that there are minimal additional administration costs for retailers operating in Tasmania. The ability of the Minister to publish a Concessions Order retains the right for the Tasmanian Government to set concessions as it sees fit, but within a legislative framework that is familiar to national retailers.

The Bill prescribes retailers’ requirements to deliver concessions on behalf of the Government and the Government may establish a contractual relationship with all active retailers in the Tasmanian market that supply residential customers. The Bill specifies that the Government must recompense retailers for the payment of concessions on behalf of the Government.

The Government intends that the Concessions Order that is made under the Act will ensure that the existing electricity concession for Health Care Card holders and Pensioners will be maintained in its current form, including being indexed each year to the average rate of change in regulated electricity prices.

Regulator’s functions and objectives

Mr Speaker, the Tasmanian Economic Regulator has the independent role and function to regulate electricity prices in Tasmania. However, this role is not currently explicitly provided for in the *Electricity Supply Industry Act 1995* and is instead outlined in the *Electricity Supply Industry (Price Control and Related Matters) Regulations 2012*. The Head of Power for price regulation is provided

through the function of the Regulator to protect the interests of consumers and through the regulation-making provisions.

To ensure that consumers are protected and the market is provided with the greatest level of confidence, the Regulator's functions and powers will be moved from regulations and included in the principal Act. This includes:

- investigating and determining maximum prices for standing offer retail contracts;
- declaring, investigating and determining other declared electrical services;
- Regulating Hydro Tasmania's contract offerings;
- the promotion of competition in the Industry; and
- monitoring and reporting on the development of competition in the electricity retail market.

The Bill provides that the regulation of maximum prices for standing offer contracts and Hydro Tasmania's contract offers are to be declared electrical services that are unable to be revoked or amended. This replaces the current process whereby the Regulator must decide whether an electrical service should be regulated or not. This will simplify the process for regulating these services, reduce the time required to undertake investigations and provide customers and market participants with a greater degree of certainty that these services will continue to be regulated, as is intended by the Government.

However, the Regulator will maintain its role to declare and make determinations relating to other electrical services where an electricity entity or retailer has substantial market power, and where regulation of the service will promote competition and efficiency. This continues the Regulator's existing function and provides protection to customers against unforeseen circumstances that may arise in the market.

In addition to regulating, investigating and auditing retail and wholesale prices and contracts, the Regulator will retain its existing function to promote competition in the Tasmanian Electricity Supply Industry.

The Regulator will also have a new objective to monitor and report on the development of competition in the electricity retail market.

Update existing legislation to reflect the withdrawal of Aurora Energy from Retailing.

Mr Speaker, a key aspect of the Government's electricity reform program is to divest Aurora's retail customer contract portfolio to competing private sector retailers in separate bundles, to facilitate the introduction of full retail competition in Tasmania.

Aurora's distribution business, however, will continue to be owned by the State and people of Tasmania, and merged with Transend Networks to form an integrated State-owned network company.

This Bill reflects these key changes to the Tasmanian electricity market by removing and updating references to Aurora Energy, Transend Networks and 'transmission business' or 'distribution business' as necessary in both the *Electricity Supply Industry Act 1995* and the *National Energy Retail Law (Tasmania) Act 2012*.

Conclusion

Mr Speaker, the Electricity Reform Implementation Bill 2013 ensures that the key aspects of the market and regulatory framework are implemented to enable a smooth transition to a fully contestable Tasmanian electricity supply industry.

It provides certainty around the regulation of electricity prices for both Tasmanian customers, through price regulation, and for retailers, through wholesale regulation.

Customers will have confidence in the market and have the ability to make informed, educated choices. Industry participants will also have the confidence to enter the market in the knowledge that key market risks can be managed as in other jurisdictions of the National Electricity Market.

The Bill ensures that the Regulator's functions are clear and adequately guide the transition to competition, that the market is capable of supporting competition and that all customer protections are in place to ensure ongoing and un-interrupted supply of electricity.

The reforms will deliver choice and improved outcomes for all Tasmanians whilst maintaining ownership of the State's core electricity assets in public hands.

Mr Speaker, this Bill facilitates the implementation of the reforms and market framework that will achieve competition for Tasmanian electricity customers.

This Bill provides the Parliament with another opportunity to support changes to Tasmania's electricity supply industry and deliver better outcomes for all Tasmanians.

Mr Speaker, I commend the Bill to the House.