
SECOND READING SPEECH

Electricity Corporations Bill 2005

Hon. Alan Carpenter, MLA

Minister for Energy

5 May 2005

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

The *Electricity Corporations Bill 2005* provides for the restructure of Western Power Corporation and associated matters. The restructure of Western Power into four separate, successor entities is a core component of this Government's reform agenda for the State's electricity sector.

The development of a competitive electricity market is essential to deliver better electricity services to Western Australians. The Government's reform initiatives, already significantly advanced, pave the way for a more efficient electricity industry with sustainable improvements to reliability of supply, increased private sector investment in electricity infrastructure and downward pressure on electricity prices.

Madam Speaker, Western Power is the dominant market player. If a competitive market is to be achieved in the South West Interconnected System it is essential that Western Power be restructured to create a more level playing field to facilitate new entry into the industry.

Subject to the Parliament's endorsement of the *Electricity Corporations Bill 2005*, it is proposed that the restructure of Western Power takes effect by no later than 31 March 2006.

Madam Speaker, the Government in October 2003, introduced a package of legislation to provide for its electricity reform agenda. This legislation consisted of:

- *Electricity Industry Act 2004*;
- *Electricity Corporations Bill 2003*; and
- *Electricity Legislation (Amendments and Transitional Provisions) Bill 2003*.

These Bills reflected the Government's commitment to deliver a competitive electricity market by comprehensively addressing:

- Western Australia's relatively high electricity prices and fuel input costs.
- The limited ability for new generators and retailers to enter the State's electricity market due to Western Power's vertically integrated structure.
- The absence of independent regulatory oversight of access to Western Power's networks.
- The need for a separate corporation focussed on the safety, security and reliability of network services.
- The need for a separate corporation focussed solely upon regional service delivery.
- The need for a separate market operator responsible for, amongst other matters, ensuring adequate generation capacity.
- The need to encourage and facilitate the entry of renewable energy projects.
- The need to greater protect the interests of small use customers in the retail and distribution of electricity.

Madam Speaker in 2003 the proposed restructure of Western Power was to be addressed by the *Electricity Corporations Bill 2003*.

The Government, however, was forced to suspend that Bill and the *Electricity Legislation (Amendments and Transitional Provisions) Bill 2003* due to a lack of support for the restructure of Western Power by the Coalition and Independent Members.

While the restructure of Western Power has been delayed, I am pleased to advise this House of the Government's substantial progress in achieving other key electricity reforms. These include:

- Passage of the *Electricity Industry Act 2004* and *Electricity Legislation Amendment Act 2004* to provide a statutory basis for the new market arrangements and to provide a smooth transition from the old electricity market arrangements to the new.
- Establishment of a new Electricity Networks Access Code in November 2004, which encourages new electricity generators and retailers to enter the market by providing for access to the electricity network owned by Western Power on fair and reasonable terms and conditions. This Code, developed in collaboration with stakeholders, overcomes the considerable industry frustration regarding network access in the past by providing for independent regulatory oversight and determination by the Economic Regulation Authority.
- Creation of a Western Australian Customer Service Code in December 2004 which specifies acceptable and unacceptable behaviour by an electricity marketer, distributor and retailer. The Code addresses such matters as: hardship policies to assist customers who experience financial difficulties and payments to customers for service standard breaches, such as wrongful disconnection or failure to respond to a customer query. For the first time, residential customers are afforded extensive service standard protections which have been determined by Government and enforced by the Economic Regulation Authority.
- Introduction of a Top Up and Spill electricity market in June 2004 as an interim step to the establishment of the Wholesale Electricity Market, which enables generators, specifically renewable generators, to purchase and sell electricity at pre-determined prices. These arrangements will be absorbed into the future Wholesale Electricity Market arrangements. The Top Up and Spill arrangements have provided a basic facility for new entrants, prior to the restructure of Western Power and the establishment of the full Wholesale Electricity Market arrangements.
- Extensive progress towards establishment of a Wholesale Electricity Market including the establishment of a Independent Market Operator and Wholesale Market Rules. These initiatives will allow the planned commencement of the new market by the second half of 2006.
- Deregulation of the electricity market by enabling more than 12,500 customers to choose the electricity supplier of their choice from 1 January 2005. A Customer Transfer Code was established by the Government in late 2004 to support the efficient transfer of customers from one retailer to another.
- Establishment of an Energy Ombudsman in the second half of 2005 who, for the first time, will have determination powers to making binding decisions, including monetary payments, in favour of electricity customers.

- In terms of renewable energy, the design of the new wholesale electricity market is intended to remove impediments to renewable energy generators and to ensure they are able to participate in the market in an effective manner. In addition, the Government is committed to the establishment of a renewable energy target of 6 per cent on the South West Interconnected System (SWIS) by 2010.

The reform of the State's electricity industry has progressed substantially since the introduction of the original legislation in October 2003 and the subsequent passage of the *Electricity Industry Act 2004*. However, one essential element remains incomplete; the restructure of Western Power.

Madam Speaker, the *Electricity Corporations Bill 2005* before the House gives effect to the restructure of Western Power by creating four new Government owned corporations in the form of:

- A Generation Corporation, responsible for power generation within the South West Interconnected System (SWIS);
- A Networks Corporation, responsible for the transport of electricity within the SWIS;
- A Retail Corporation responsible for the sale of electricity within the SWIS; and
- A Regional Power Corporation responsible for the generation, transport and sale of electricity in all areas of the State outside of the SWIS.

It is Government policy that none of the successor entities to Western Power are privatised. The Government is committed to retaining ownership of the four new corporations and is strongly opposed to the sale of any significant assets of the new corporations.

Consistent with the *Electricity Corporations Bill 2003*, the new Bill before the House contains a provision to provide maximum protection against the corporations being sold off by a future Government, by requiring the approval of both Houses of Parliament prior to the sale of major assets.

There is no doubt that electricity prices in Western Australia are too expensive in comparative terms.

It is also very difficult for new entrants to enter the electricity market in Western Australia. The Western Power structure is currently rather cumbersome and does not lend itself to an open and competitive market."

The restructure of Western Power is necessary to promote new private sector investment in generation and to deliver the competition necessary to put downward pressure on electricity prices.

Without the vertical separation of Western Power's businesses, which control approximately 90% of the wholesale and retail markets, there is limited potential to achieve the goals of new market entry, long-term price benefits to customers and improved network reliability. New players are simply not prepared to enter a market where a single entity overwhelmingly dominates in both the retail and generation sectors.

The separation of Western Power's retail and generation businesses is essential to encourage active wholesale and retail electricity market trading in the SWIS and will improve diversity, security and reliability of supply through the introduction of new market participants.

In order to place downward pressure on electricity prices and attract new generation investment, the Retail Corporation must have clear commercial incentives to obtain the lowest cost generation which will encourage wholesale market competition. Similarly, a separate Generation Corporation will have an incentive to deal with new entrants on a competitively neutral basis, using its spare capacity for spot market sales or to meet hedge contracts.

By contrast, a combined Generation and Retail entity could frustrate retail and wholesale market competition, as it would have strong commercial incentives to protect its generation market share. If the incumbent Retail and Generation businesses are 'stapled', the Retail division will always take supply from its own Generator while it has spare plant capacity. The Retail business can use its customer base of 850,000 to shield the Generation business from competition, rather than being a tough commercial negotiator with the Generation business.

Under the Government's model, the creation of independent Generation and Retail Corporations will establish competitive neutrality by removing incentives to contract only with each other to maximise aggregate returns. All generators and retailers will be treated equally, with the lowest cost sources of generation being encouraged.

The impact of separating electricity retail and generation functions should not be overlooked in terms of increasing the opportunities for renewable generators. A separate Retail Corporation will be free to source its renewable energy requirements from alternative suppliers and not be constrained by the current Western Power renewable generation portfolio.

Industry has long argued to successive Governments that vertical integration of the electricity supply chain in a dominant utility is inconsistent with a competitive market. Such a structure deters competitive entry and private investment and thwarts efficient service delivery and lower priced power to consumers.

Accordingly, Madam Speaker, the original Bill, and now this Bill, enables the vertical separation of the networks, generation and retail businesses and establishes mechanisms for controlling their behaviour in the transition to a competitive electricity market in the SWIS. At the same time, the Bill allows the new corporations to compete effectively and continue as successful State owned businesses.

Now Madam Speaker, some people may note that new entrants may enter the WA electricity market in a vertically integrated business structure and, in other jurisdictions, there has recently been some vertical integration. However, this is not an argument to leave Western Power vertically integrated and such a comparison would be misleading.

Vertical integration is unlikely to threaten market competition, where the players are not in a dominant position of market power. However, at the birth of a competitive electricity market, it is vital that the incumbent retail and generation business be split, particularly when each has a 90% market share. It would be practically impossible to establish a truly competitive market while Western Power's retail and generation businesses remain vertically integrated.

Madam Speaker the House should also note that the Generation and Retail Corporations will be allowed to sell and generate electricity respectively, but only after a period of time specified in the Bill. This is a temporary limitation designed to encourage new private investment in the generation, wholesale and retail of electricity in the transition to a more mature market. The new Corporations will have the ability to diversify their businesses at some future time, but only when Government is satisfied that the market is sufficiently developed.

Prior to the events in February 2004, the Government and the Opposition were in general agreement that the structure of Western Power needed to be addressed. I think it is fair to say that the Opposition supported the Government's proposal to establish a separate Networks Corporation and a separate Regional Power Corporation, however not all Opposition members supported the proposal to create separate Retail and Generation Corporations. It is also fair to say that one Opposition concern was the commercial future of the Retail and Generation Corporations.

It is important to remember that these entities will inherit significant competitive advantages which will place them in a strong commercial position. The Generation business will have a diverse plant portfolio of 3,000 megawatts in locations throughout the SWIS, including the widest array of peaking, intermediate and base load plant available in the market. The Retail business will have a broad customer base which will provide it with the competitive advantages of an incumbent retailer and an exclusive right to supply 850,000 customers who are not contestable.

However, these entities are entering a market which will become competitive over time and the restructure of Western Power will ensure a smooth transition to this new environment by establishing vesting contracts at the time of restructure.

Under the Bill, the vesting contracts will specify the terms and conditions under which the Retail Corporation will purchase electricity from the Generation Corporation. The vesting arrangements are not only important for managing the commercial transition of the new entities but also to ensure that the price of electricity traded between the two Corporations is not a barrier to entry for new market participants. These vesting contracts will gradually expose the Generation and Retail businesses to competitive sourcing opportunities.

While facilitating new market entry, the vesting arrangements will provide revenue and price stability as market competition is developing and allow Western Power's existing arrangements such as fuel contracts to be managed.

The Government acknowledges that there are problems with reliability of electricity supply and has implemented a number of strategies to address this issue. The creation of an independent Regional Power Corporation and an Electricity Networks Corporation is fundamental to delivering a better electricity supply to Western Australians. A \$1.8 billion program will be undertaken to maintain and upgrade the network over the four year period to 2007/08.

The restructure of Western Power provides opportunities for increased investment in network infrastructure through the creation of an independent Networks Corporation. This entity will be able to focus the use of its revenue from regulated access charges on the efficient operation of its existing systems and necessary capital upgrades to cater for future load growth. This will benefit those areas of the SWIS that currently suffer from reliability problems.

Additionally, the Government's Rural Power Improvement Program is currently delivering strategic programs that improve reliability and quality of power supply in regional and remote areas of the SWIS. The State Government and Western Power are contributing equally to the \$48 million program over four years.

Similarly, the Regional Power Corporation will provide a new corporate focus dedicated to improving the electricity supply to customers outside the SWIS. The viability of the Corporation will be maintained through the Tariff Equalisation Fund.

The new Regional Power Corporation and the new Networks Corporation will be subject to technical and safety regulations to ensure adequate reliability, quality and security of supply in regional areas.

Currently allocation of funds for delivery of power to regional areas, both within and outside the SWIS has to compete with other Western Power priorities. One key aim of the restructure reforms is to provide opportunity for private sector investment in generation plant in the SWIS. This will free up Government capital funding for upgrading the network to address reliability problems.

Parliament, through the passage of the *Electricity Industry Act 2004*, endorsed the creation of a Wholesale Electricity Market. One of the key benefits of the new Wholesale Electricity Market is that it establishes for the first time an Independent Market Operator responsible for ensuring adequate generation capacity is available within the SWIS.

The uniform tariff will be maintained for residential and business customers in regional areas ensuring that regional consumers pay the same as tariff customers in the SWIS. As the cost of supply to many areas outside the SWIS is greater than revenue received, the Bill establishes a Tariff Equalisation Fund to fund regional losses and enable the Regional Corporation to maintain tariff protection in its areas of operation.

Strengthening of customer protection mechanisms has been a key aspect of the electricity industry reform. Enhanced measures include establishment of a Customer Service Code, a Network Quality and Reliability Code, an Energy Ombudsman scheme, the implementation of an electricity licensing regime and a Supplier of Last Resort Scheme. Compliance with these arrangements will be administered by the independent Economic Regulation Authority, backed by significant penalties for non-compliance.

The Government's new Customer Reliability Payment Scheme is intended to make Western Power more accountable for the reliability of its electricity supply and provide an incentive to focus upon areas with poor reliability. The Payment Scheme will apply to both the new Regional Power and Networks Corporations. The scheme is to supplement and not replace the compensation process currently available to Western Power customers who suffer damages as a result of power outages.

The Bill before the House provides for the continuation of the current power procurement process to supply the new Retail Corporation. This process involves the competitive procurement of a baseload power station (300-330MW) to be in service by December 2008 to boost capacity in the SWIS. However, beyond the current power procurement process, Schedule 7 of the *Electricity Corporation Act 1994* now will be replaced by market based mechanisms undertaken by the Independent Market Operator.

The *Electricity Corporations Bill 2005* Bill before the House is essentially a consolidation of the *Electricity Corporations Bill 2003* and the *Electricity Legislation (Amendments and Transitional Provisions) Bill 2003* which were introduced into Parliament in October 2003. The vast majority of the provisions contained within the new Bill are identical to those introduced in 2003.

The Bill essentially consists of three key components:

1. Parts 1-7 and Schedules 1-4 establishes the four successor entities to Western Power and to a very large extent replicates the existing provisions under the *Electricity Corporation Act 1994* which presently apply to Western Power.
2. Part 8 and Schedule 5 provides for consequential amendments to existing Acts to reflect the restructure of Western Power. I will elaborate on this matter shortly.
3. Part 9 deals with the transitional provisions for succession from Western Power to the new corporations and establishes a Transfer Order mechanism to provide for the transfer of assets, rights and liabilities to the successor entities. The mechanism has been based on the mechanism that was successfully used to restructure the State Energy Commission of Western Australia (SECWA) into Western Power and AlintaGas in 1994.

The four new corporations will have responsibility for undertaking Western Power's existing activities in their respective sectors of the electricity industry and will continue to be required to act in accordance with commercial principles and endeavour to make a profit consistent with maximising long-term value.

In general, the majority of provisions apply universally to the new corporations. This includes provisions relating to the creation of the corporations, responsibility of directors, accountability, financial issues and Ministerial direction. However, the Bill also sets out the specific functions of each corporation.

To provide appropriate flexibility, the functions have been defined to encompass the range of activities that may be performed by each corporation.

It was apparent during the passage of the *Electricity Industry Act 2004* and *Electricity Legislation Amendment Act 2004* that industry and a number of members were concerned about the Government's ability to exert effective control over Western Power. The Government was pleased to receive bi-partisan support to amend the *Electricity Corporation Act 1994* in 2004 in order to insert enhanced Ministerial powers of direction including an explicit ability to issue directions to control its market behavior. These powers have been incorporated into the new Bill and have been strongly supported by industry.

I stress however, that those enhanced direction powers alone will not deliver competitive market outcomes. The Retail and Generation Corporations must be restructured in order to provide a real incentive for the Retail Corporation to purchase electricity from the lowest cost generation source and for the Generation Corporation to sell its output to parties other than the Retail Corporation.

Whilst the implementation of the reforms represents change for Western Power employees, in many ways, it will be business as usual following the restructure. Western Power has been operating as distinct divisions for a number of years. The creation of the new entities gives formal acknowledgement to this structure; current jobs will transition in a seamless manner.

As was the case in 2003, this Government remains committed to ensuring that the restructure of Western Power does not adversely impact Western Power employees. A major initiative in this respect is the requirement for the new entities to develop a job transfer policy. This policy reflects the Government's desire that Western Power employees continue to have enhanced career prospects and provides for employment, training, exchange, or secondment opportunities between the four new corporations without the loss of accumulated entitlements. Provisions to guarantee the remuneration and existing or accruing rights of Western Power employees are also contained within the Bill.

Madam Speaker, the *Electricity Corporations Bill 2005* also provides for a number of transitional provisions and amendments to several Acts as a result of the restructure of Western Power. Many of the provisions within this Bill have been based on those contained in the *Energy Corporations (Transitional and Consequential Provisions) Act 1994*, which was implemented at the time SECWA was split into Western Power and AlintaGas.

A key purpose of the Bill is to amend the *Electricity Corporation Act 1994* to repeal all provisions except those relating to access to Western Power's transmission and distribution systems. The name of the *Electricity Corporation Act 1994* will be thus amended to the *Electricity Transmission and Distribution Systems (Access) Act 1994*.

The Access Act will allow for the continuation of Western Power's existing obligations to provide third party access to its transmission and distribution capacity, applicable to the new Networks and Regional Power Corporations. These obligations will remain in force until such time as the Networks Corporation has its access arrangements approved by the Economic Regulation Authority under the new Networks Access Code.

The Bill also provides for the making of a Transfer Order, by the Minister for Energy, specifying how the assets, rights and liabilities of Western Power are to be allocated to the four new corporations. The Transfer Order will give effect to the legal establishment of the new entities.

In addition to these important functions, the Bill also makes consequential amendments to a number of other Acts to replace the phrase Western Power Corporation with reference to one or more of its successor entities.

At the time the Government introduced its electricity legislation in 2003, it is fair to say that this House agreed on the need for change, deregulation and competition in the electricity market. However, some members opposite disagreed about the pace of change and the degree of that change.

It has been 18 months since the Government introduced its legislation. During that time the Government has undertaken significant electricity market reforms in terms of progressing a wholesale market, initiating a range of customer protections, increasing the number of customers who may elect a different supplier, encouraging renewable energy and establishing a more fair and equitable set of access arrangements. However, the most important element to be completed is the restructure of Western Power, particularly the creation of independent Retail and Generation Corporations.

The restructure of Western Power, particularly the separation of the retail arm from the generation arm, is vital if we are to attract true competition in this State.

As I have stated earlier, the events in February 2004 have also clearly demonstrated that retaining the status quo in terms of the current Western Power structure is clearly not sustainable.

I am also pleased to advise the House that the Western Power Board is fully supportive and committed to the restructure of Western Power and the Corporation is busily working towards achieving the restructure by the Government's deadline of 31 March 2006.

Collectively, we as Parliamentarians, have a unique opportunity to bring change to the Western Australian electricity market for the benefit of all Western Australians. Bi-partisan support of the legislation to restructure Western Power will result in greater focus on network service improvements, competition between electricity generators and retailers respectively and lead to efficient private investment in the electricity sector.

Madam Speaker, this Bill is an important and necessary step for the delivery of a competitive electricity industry for the benefit of all Western Australians.

I commend this Bill to the House.