

**Second reading speech to the NSW Legislative
Assembly for the Electricity Supply Amendment Bill
2000 for Electricity Retail Competition**

Mr Speaker, the Electricity Supply Amendment Bill 2000 provides the legislative foundations to complete the retail electricity reforms - reforms that have already delivered significant benefits to the community.

This Bill is all about facilitating customer choice. Electricity retail competition allows customers to switch from one retail supplier to another.

Currently many customers, including all households, are supplied electricity under a franchise arrangement. This arrangement forces electricity customers to buy power from someone elected by the Government.

This Bill changes that, allowing customers to choose their own supplier.

However, the legislation goes further than simply allowing customers to choose their retailer. It also provides a strong consumer protection framework.

As part of this, the legislation provides for an ongoing role for the Independent Pricing and Regulatory Tribunal in the regulation of prices for smaller customers. The Bill allows customers to choose between whether they obtain supply from the competitive market established by the Carr Government, or whether they obtain supply at a price regulated by IPART.

In short this Bill is aimed at maximising customer choice and protection.

Maximising customer choice is crucial in driving competition, and the benefits of retail competition are real.

The largest electricity customers in NSW, who have been able to choose their retailer, have seen cost savings in the order of \$1.5 billion.

In summary this Bill makes changes to the Electricity Supply Act to:

- establish a regulatory regime to protect the interests of smaller electricity customers who may not always be in the best position to negotiate an electricity supply deal;

- clarify the roles and responsibilities of retailers and distributors in delivering services to electricity customers in order to facilitate the smooth operation of a mass electricity retailing market; and

- provide for new market rules to accommodate the requirements of a market in which there are many more customers who are able to switch their retailer.

Each of these key elements of the amendments to the Electricity Supply Act will be described in turn.

Mr Speaker, the Government is determined to ensure the benefits of electricity reforms are extended to the whole community. This is why we are proposing a new and comprehensive regulatory regime suitable for a mass electricity retail market.

Customers who are already able to choose their retailer will continue to enjoy the same benefits of retail competition along with their existing regulatory protections.

While this regime works well for customers who are large enough to look after their own commercial interests, the arrangements are not necessarily comprehensive enough to suit the operation of a competitive market for smaller customers, including NSW households.

New arrangements are required to ensure that smaller customers have sufficient bargaining power with suppliers and that there are strong incentives for suppliers to deal fairly with all customers.

The first step in introducing these new protections is to identify those customers who are eligible to receive the benefit of these enhanced regulatory arrangements.

Currently the Act focuses on providing for a regulatory protection regime for franchise customers. However, a

central aim of the retail reforms is to eliminate the concept of exclusive customer franchises in favour of encouraging customer choice.

In light of this, the Bill establishes a class of customers known as small retail customers. These customers will be identified by regulation, anticipated by the end of this year.

These customers will be those who are currently franchise customers, who consume less than 160 megawatt hours of electricity a year, or who annually spend less than about \$16,000 on electricity.

The key entitlements for small retail customers are:

- the right to choose between a competitive or regulated tariff;
- supply contracts containing minimum terms and conditions; and

- free access to an approved electricity industry Ombudsman scheme.

There are a number of proposed changes to the Act to support these entitlements.

Firstly, new powers must be given to IPART to allow it to determine retail tariffs for small customers, since its powers to regulate electricity retail tariffs lapse at the end of this year. The termination of IPART's powers was designed to coincide with the time when it was expected that all electricity customers would have the right to choose their retailer.

However, this needs to be revised for two key reasons.

Firstly, it is clear that a national framework to support electricity retail competition is still another year away and therefore it is not practical to expose small customers to an ill-prepared market.

And secondly, the Government wants to offer regulatory protection to those customers who wish to remain on a regulated tariff. Customers should not be forced to choose a different supplier in the transition to a fully competitive market.

In addition, the legislation offers small customers the option of electing to return to a regulated tariff if they choose to. This will give customers the confidence to test the benefits offered by the market, knowing they can return to a regulated tariff at a later stage. This policy is consistent with the Government's aim of maximising customer choice.

In establishing new regulatory powers for IPART the amendments have been structured so that they reflect the fact that the retail supply of electricity will no longer be a Government monopoly service.

The key features of the IPART scheme are that:

- IPART will determine regulated retail prices in accordance with a reference from the Minister for Energy;
- the reference from the Minister may specify a period for reporting, and matters IPART is required to consider in making its determination; and
- in making its determination, IPART must have regard to any matter it is required to by its reference, and the effect of the determination on competition in the retail electricity market.

IPART's determination may specify tariffs or charges, or determine the methodology by which regulated tariffs and charges are set. The Bill makes it an offence for businesses not to comply with the IPART determinations.

This scheme has been carefully designed to balance the interests of customers and investors in retailing systems.

It is important for a competitive retail market that investors do not face a risk that price determinations for regulated tariffs, designed to provide a safety net for customers, have the effect of undermining customer incentives to seek competitive supply. If such a risk was present this may undermine the retailer incentives to invest in the systems necessary to make the competitive market work to the benefit of customers.

The Bill establishes standard retail suppliers who will be responsible for offering regulated tariffs to small retail customers. Standard retail suppliers will be the Government owned retail suppliers in the first instance, who will be obliged to offer electricity supply to all customers in their electricity supply district.

The Bill also provides for a scheme to ensure that standard retail suppliers who are obliged to offer regulated tariffs to customers receive a regulated return for providing this service, as has occurred in the past.

Under current arrangements, retailers offering regulated tariffs are guaranteed a regulated return because all of their costs are regulated.

For example, IPART sets the low voltage distribution charges, the ACCC sets the high voltage transmission charges, and the costs of buying electricity from the wholesale market for customers with regulated tariffs is fixed by a series of hedging contracts known as vesting contracts. Because of their anti-competitive nature, vesting contracts had to be authorised by the ACCC.

Regulation by IPART and the ACCC of the electricity networks will continue for all customers into the foreseeable future. However, the ACCC has indicated that it will not authorise any new vesting contracts. Therefore, the Government needs a practical alternative to ensure retailers receive a regulated return in a way that is consistent with the Government's reform aims and the Trade Practices Act.

The proposed arrangement included in the Bill operates by compensating standard retail suppliers, that is those suppliers who are obliged to offer regulated tariffs to customers who wish to be supplied at regulated tariffs, for the costs of buying power from the wholesale market.

If the retailer's wholesale electricity costs are lower than the amount paid by regulated customers, as it will inevitably be at certain times, the retailer will be obliged to pay these surplus funds into the Electricity Tariff Equalisation Fund.

The Fund will then be used to compensate retailers for times

when wholesale costs exceed the amount paid by customers on regulated tariffs.

In the event there is a sustained rise in pool prices and there is insufficient money in the Fund, NSW Government owned generators will be required to top up the Fund to the extent that they have benefited from the high wholesale prices that caused the Fund to dry up.

This arrangement ensures that the retailers will always be in a position to economically provide electricity to customers at the regulated tariff and at the same time earn a regulated return.

The Bill provides for the establishment of a Ministerial Corporation, the Electricity Tariff Equalisation Ministerial Corporation, which will be responsible for developing and administering the rules governing the operation of the Fund.

The rules of the Fund will need to be approved by the Treasurer in consultation with the Minister for Energy.

An important aspect of the Bill is the restriction on the Corporation from participating in the financial operation of the electricity market. The Fund does not centralise the State's trading activities. The Fund will not trade electricity and will have no involvement with the operations of the National Electricity Market.

The primary role of the Fund is to ensure that retailers supplying customers at the regulated tariff will receive the regulated return set by IPART.

In terms of other forms of price protection, the Bill establishes a legal framework for IPART to determine other retail charges including security deposits, and charges for late fees and dishonoured cheques.

The Bill also allows IPART to regulate a customer's contribution to the costs associated with connecting to the network. Currently distributors are free to decide the basis on which customers contribute to these costs. While the works associated with connecting customers must be contested in the market, this does not always provide adequate protection against distributors allocating an unfair proportion of the costs, which often benefit other customers, to a particular customer.

Thus, the Bill amends the Act to allow IPART to determine the proportion of the connection costs to be allocated to a particular customer.

To complement these new powers given to IPART to regulate retail prices and charges, the Bill provides for the

regulation of the minimum terms and conditions to be included in supply contracts.

All small retail customers will be entitled to supply on the regulated terms and conditions of the standard form customer contract. And those supply contracts will include the existing requirements and some additional protections.

There will be a core set of terms and conditions that must be incorporated into small customers' supply contracts. This will ensure small customers do not lose basic customer rights when negotiating their own supply arrangements.

The inclusion of minimum terms and conditions in supply contracts is designed to allow small customers to concentrate on negotiating key aspects of their supply agreement, such as price and the length of the contract.

The minimum terms and condition of these contracts will cover such things as the:

- methods for calculating consumption and charges;
- standards of service to be provided to customers;
- circumstances under which customers can be disconnected; and
- procedures for making enquiries and for managing customer disputes.

It should be clear that the existing conditions, particularly for disconnection, will not be watered down.

These minimum terms and conditions will be established through a Regulation and are being developed in consultation with stakeholders.

While minimum terms and conditions provide protection for customers when they have a contract with a retailer, it is just as important for the Government to define how it expects retailers and other electricity marketers to behave when they are offering contracts to customers. This will be through a Marketing Code of Conduct.

This Code would regulate how marketers must behave when approaching customers to offer them different supply options. For example, it will describe what information must be made available to customers so that they may make informed choices about who supplies them.

The Code is being developed jointly by Government, customers, industry and regulators. The Code will be subject to Ministerial approval and licensed retailers will be bound to comply with the Code. The Bill also makes licensed retailers responsible for the actions of marketers who have acted on behalf of a licensed retailer, and by creating offences for

marketers that do not have a retail license where they breach the Code.

The Government recognises that introducing nearly 3 million customers to a new market will mean that there will be an increase in the number of disputes between suppliers and customers. It also recognises that the new market arrangements will widen the scope of activities over which disputes may arise.

In order to address this customers will have free access to an Electricity Industry Ombudsman. An important feature of these amendments is that access to the scheme has been extended to customers supplied by persons other than licensed retailers, such as customers living in caravan parks and boarding houses. Further, the legislation has been amended to allow the Ombudsman to examine a wider range of customer disputes.

The Bill ensure that retailers and marketers are bound by the decisions of the Ombudsman.

The Government will also ensure that customers' privacy is protected. Information about customers will become far more valuable as the mass retail market gets underway, and it is important that a balance be found between allowing retailers access to sufficient customer information to ensure competition emerges, and protecting the interests of customers and their privacy.

The Amending Bill therefore makes provision for regulations to be made to strike this balance. In delivering these protections, the Government will consider developments at the Commonwealth level, as well as consulting widely with stakeholders.

The current Act refers to electricity distributors who have combined responsibility for network services and retailing supply functions. For a range of reasons the Government believes it is more sensible to delineate between the activities of distributors and retailers, for example:

- it allows the Government to impose or transfer similar obligations on to other retailers operating in NSW, that is other than just the Government owned retailers; and
- it provides for the legal separation of the vertically integrated distributor/retailers as recently recommended by IPART. This separation then allows IPART to more effectively regulate the distributors.

The Bill amends the Act in the following ways:

- it renames the network businesses a Distribution Network Service Provider which is consistent with the National Electricity Code terminology;

- it allows the Minister to request distributors to transfer their retail licence to an approved retail supplier;
- it redesigns the statutory arrangements in relation to the retail supply obligations of the electricity distributors in the form of a bundle of conditions which together constitute an endorsement on the licence of a standard retail supplier; and
- it clarifies throughout the *Electricity Supply Act* where the powers and duties of electricity distributors relate to Distribution Network Service Provider or retail supplier functions. For example, powers of entry to a customer's premises for retail suppliers are established for specified purposes.

Finally, to ensure the orderly operation of the new retail market, it is essential that participants be bound by a common set of rules.

New rules are required for two reasons:

- to link the NSW retail market with the National Electricity Market; and
- to cater for the new arrangements.

It is also necessary to develop rules that govern the metering of electricity. This is because the method by which electricity is metered will become a more important aspect of the electricity market with the introduction of full retail competition.

Allowing new technologies to be used to meter supply will provide retailers with a better understanding of their customer's demand, thereby allowing them to buy electricity from the wholesale market more cheaply, which will flow through to lower prices for customers.

New rules need to be developed to govern the way that customer demand is measured, the nature of metering equipment allowed to be used, and the procedures for transferring, replacing and maintaining metering equipment. There also needs to be new rules defining procedures for collecting and using meter data.

The Bill provides for such rules to be approved by the Minister. The Bill makes it a condition of a retailer and distributor licence to comply with these rules.

To ensure that this important aspect of the market is expedited the Bill provides for the appointment of a specific person who will be responsible for the development of these metering rules, known as the Metrology Co-ordinator.

In terms of the sorts of rules that become necessary with the introduction of a large number of new customers to the

market, it will be important to oblige retailers and distributors to formalise their contractual relationship as a provider and user of network services. Up until there have been few if any formal agreements on this important aspect of the market. In a market where significantly more customers are contestable, this could become a serious source of dispute, which may, in turn, involve smaller customers.

Of equal importance, if retailers cannot negotiate a contract for the use of a distributor's network, this could retard the development of competition and customer choice could be restricted.

Thus, the Bill provides for the establishment of rules that would result in the development of a standard form Network Use of System agreement. This standard agreement would facilitate the entry of new retailers into NSW, thereby promoting competition and benefits for customers.

Mr Speaker, the Amending Bill also makes some consequential amendments to the Electricity Distributors' Levy provisions. These amendments are necessary as once full retail competition is operating customers will no longer be identified as "franchise" or "non franchise".

Once these amendments are fully operational, household and small business customers who consume less than 40 MWh per annum will be excluded from the requirement to pay any increase in network charges.

The Government will adjust the EDL rate to ensure that revenues from business customers do not exceed the previously stated revenue target.

Mr Speaker, this Bill introduces important changes to the structure and operation of the electricity retail market in NSW. Without these amendments the Government will not be able to deliver a major plank in its electricity reforms commenced over 5 years ago.

This Bill is important in delivering ongoing benefits to electricity customers and the wider community.

I commend the Bill to the House.