

ELECTRICITY INDUSTRY RESTRUCTURING BILL 2008

COMMUNITY INFRASTRUCTURE (INTERGENERATIONAL) FUND BILL 2008

Bills introduced on motion by Mr Morris Iemma.

Agreement in Principle

Mr MORRIS IEMMA (Lakemba—Premier, and Minister for Citizenship) [11.05 a.m.]: I move:

That these bills be now agreed to in principle.

The Electricity Industry Restructuring Bill will authorise the restructuring of the New South Wales electricity industry to secure our State's future electricity supplies. This will involve the sale of the State's retail electricity businesses and the long-term lease of the State's generation assets. The Community Infrastructure (Intergenerational) Fund Bill will establish a permanent fund into which the proceeds from these transactions will be paid. The fund will be invested to generate ongoing income to replace the dividends now being received from the State's electricity retail and generation businesses. The fund will also provide for investment in capital works.

The bills that I am introducing today will enable the Government to implement its long-term plan for securing the State's future energy supply. The proposals follow the investigation and report by Professor Anthony Owen into electricity supply in New South Wales. That report recognised the critical need to be prepared for additional investment in baseload capacity from 2013-14. It identified the importance of ensuring that the appropriate policy signals are in place to encourage the private sector to invest in this generation capacity when we need it. Creating the right conditions for this investment is the most efficient way of ensuring that the State's future energy needs are met.

The transactions authorised by the bills will avoid the need for New South Wales taxpayers to provide capital of up to \$15 billion for necessary investment in this part of the industry so that the Government can concentrate on investing in roads, trains, hospitals, schools and other essential infrastructure, including the network and transmission businesses, which it will continue to own and operate.

The Government has accepted the key finding of Professor Owen's report. In response, we have developed a plan that will provide for private sector operation of the retail and generation businesses and promote future private sector investment in generation capacity while at the same time ensuring that electricity infrastructure remains in public hands. The Electricity Industry Restructuring Bill will authorise and facilitate this plan. The bill will provide for the State's electricity distributors—EnergyAustralia, Country Energy and Integral Energy—to retain their network distribution businesses while transferring their retail businesses to the private sector. The Government has consistently made clear that the network distribution and transmission assets—the poles and wires—will remain in public ownership. The bill expressly provides that these assets must remain owned by the public sector.

In relation to the State's electricity generators—Macquarie Generation, Delta Electricity and Eraring Energy—the bill authorises the lease of their power stations. I point out that clause 4 of the bill, and other provisions, will allow authorised transfers of the generation and retail assets to be combined in a single transaction, including by way of a public share offer or an initial public offering [IPO].

It should be made clear that the bill does not authorise the transfer of any assets held by TransGrid. Indeed, the bill includes an express provision that requires that TransGrid's transmission assets must remain in public ownership.

The bill provides that power stations may only be leased and cannot be transferred, directly or indirectly. The only exception is if there is a public float or an initial public offer of an electricity generator's business. While the bill authorises a share offering, it does not require it. The decision on whether to proceed with an IPO will depend on prevailing market conditions and advice from our expert financial advisers.

If an IPO is undertaken the bill will impose a shareholding restriction for between three and five years. This restriction limits any individual stake in the float company to no more than between 10 per cent and 15 per cent. The Auditor-General, in the normal course of the Audit Office's functions, will be able to perform an audit of the process. He will no doubt be in regular contact throughout the process with Government officers and the businesses involved, and shall have full access to the financial advisers and other experts who are assisting the Government with this reform.

I am advised that the Auditor-General will be able to audit the restructuring transactions and will report at the conclusion of the last transaction to Parliament. I expect that the Auditor-General will also form a view at that time as to whether the entire portfolio of transactions has met the Government's stated objectives. In conducting any such audit the Auditor-General will be able to determine whether the transactions were carried out effectively, economically and efficiently and in compliance with all relevant laws. Under the Public Finance and Audit Act the report of any such audit is required to be tabled in Parliament. However, the Auditor-General also has the discretion to report to Parliament on any matter, at any time, if he finds it necessary.

In addition, to satisfy the request of the Leader of the Opposition and the Deputy Leader of the Opposition, the Auditor-General has indicated that he is prepared to: review the project probity plan prepared by RSM Bird Cameron, a leading probity expert whose services are widely used by both the private and public sectors, and report on its adequacy, prior to the commencement of the first transaction; and review reports from the probity auditor prior to the release of expressions of interest and once the probity auditor has signed off each transaction. As well, the Leader of the Opposition and the Deputy Leader of the Opposition have requested that the Auditor-General actively monitor the proceeds from the transactions.

The Auditor-General has confirmed that he will be the auditor of the Community Infrastructure (Intergenerational) Fund. In addition, suitable governance and reporting arrangements will be established and an experienced board appointed to oversee the activities of the fund and to monitor its performance. To make it absolutely clear that the purpose of the fund is well understood in this place and in the community more generally, a charter is to be specifically prescribed for the fund.

The charter will give clear and well-defined guidance as to the operation and purpose of the fund, its administrative framework and governance arrangements. This measure is also designed to provide scope for the Auditor-General to form a view through his audit processes that the fund is being operated in accordance with its charter. I fully support this additional scrutiny of the transaction process to be undertaken by the Auditor-General.

An imperative of the reform package is to increase competition in the New South Wales electricity market. Our plans are designed to deliver competitive outcomes and encourage new investment in the industry. To encourage new investment in baseload generation the Government will include, within a generator lease transaction, an option for the State to retain ownership of a power station development site. This option will give the private sector every opportunity to develop baseload generation in New South Wales. However, if no such investment occurs when there is a clear market need for it the Government will be able to pursue a baseload power station development in New South Wales to ensure our security of supply.

The Australian Competition and Consumer Commission [ACCC] will play an important role in ensuring competitive outcomes in the Australian market. In recognition of this, the Treasurer has written to the chairman of the ACCC detailing the basis of the New South Wales Government's sale and lease strategy. The Electricity Industry Restructuring Bill contains important provisions to ensure that existing employees affected by these reforms will retain their accrued sick leave, annual leave and long service leave entitlements. The Government has previously announced that it will provide certain guarantees in respect of the jobs and conditions of public sector retail and generation electricity workers. It has also announced generous incentive payments for workers.

The bill enables the Government to meet these commitments, including by expressly allowing for the making of transfer payments to employees. The bill also contains provisions to protect consumers. The bill will ensure that the State's independent pricing regulator, the Independent Pricing and Regulatory Tribunal [IPART], continues to set regulated electricity retail prices for households and small businesses until at least June 2013. The bill allows for that date to be further extended by regulation. The Government will maintain electricity retail price regulation beyond 2013, if necessary. The Government is committed to ensuring that electricity retail price regulations remain in place until it is satisfied that there is sufficient competition in the retail energy market to keep prices as low as possible. This will ensure that customers will benefit from competition without the need for this level of regulation.

One of the effects of a competitive industry, of course, is that prices are kept as low as possible as electricity retailers compete with each other for households' business. New South Wales already has some of the lowest energy prices in the world. However, the continuing effects of the drought have already been felt in prices over the last year, and carbon prices will also have some effect over time, in particular with the establishment of a national trading scheme. Nevertheless, the Government remains determined to ensure that consumers pay the lowest possible prices for electricity. As part of our plans, the Government will also be introducing a \$272 million electricity safety net package to help consumers, including increased electricity rebates for pensioners, funding support for a new "no disconnections" policy and other assistance for families facing severe financial hardship.

The Government will shortly commence a consultation process to deliver these expanded social programs on energy. Key consumer stakeholders will be asked to contribute to ensure workable and responsive outcomes continue to be delivered to those in need. Stakeholders that will be consulted include: the Energy and Water Ombudsman of New South Wales, the Energy and Water Consumer Advocacy Program, the Australian Council of Social Services, the New South Wales Council of Social Services, electricity retailers, and other community welfare organisations. The Electricity Industry Restructuring Bill facilitates these programs by strengthening the

Government's regulation-making powers under the Electricity Supply Act. These amendments are designed to ensure that the Government has the power to implement the full package of consumer protection measures it has promised.

The bill also expands the existing information-gathering powers of IPART and the Minister for Energy. This will give them the tools that they need to carry out their regulatory functions in a privately owned retail environment. All proceeds from the restructuring will be paid into a new Community Infrastructure (Intergenerational) Fund, which is to be established under the second bill, the Community Infrastructure (Intergenerational) Fund Bill. The income from the investment of this fund will replace the dividends currently being received from the State-owned electricity retail and generation businesses. The fund will also be used to provide significant additional infrastructure spending for future generations in metropolitan, regional and rural New South Wales. It will be used to provide significant additional funding in the areas of transport, health, education and water. It will also provide support funding for the Government's priorities, including the development of clean energy such as cleaner coal technology and renewable technologies such as solar and wind.

Importantly, the Auditor-General will have an ongoing audit role in relation to the performance and operation of the fund. The fund will be subject to audit by the Auditor-General under the Public Finance and Audit Act. The bills that I am introducing today provide for the implementation of the New South Wales Government's plans, which are necessary to ensure that our future energy needs are met. As I have said before, we must act now to secure a continuing supply of electricity and to ensure continuing prosperity for the State. The plan that the Government has developed will enable private sector investment in electricity retailing and generation while at the same time ensuring that critical energy infrastructure remains in public hands.

This solution will deliver extra electricity supply, retain public infrastructure in public hands, and deliver necessary investment in research and development to obtain cleaner, greener energy outcomes. This solution will promote competition and keep maximum pressure on prices to keep them as low as possible. It will also ensure an investment of up to \$15 billion to clean up and transfer current electricity generation risks from the taxpayer to the private sector, in particular, in preparation for a national emissions trading scheme, enabling the Government to focus on the key areas that I outlined earlier. These bills will ensure that those objectives are met. The bills also underpin the Government's long-term plan to secure the future energy needs of New South Wales. I commend the bills to the House.