

ELECTRICITY GENERATOR ASSETS (AUTHORITIES TRANSACTIONS) BILL 2012

PROOF

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Bill introduced on motion by Mr Mike Baird.

Agreement in Principle

Mr MIKE BAIRD (Manly—Treasurer) [3.57 p.m.]: I move:

That this bill be now agreed to in principle.

The Government is pleased to introduce this bill to authorise the sale of the State's electricity generator assets to the private sector. The bill will enable the sale of the State's generators, including the Eraring and Delta West generators, which are subject to the former Government's gen-trading agreements. Importantly, the bill implements the Government's response to the Special Commission of Inquiry into Electricity Transactions conducted by the Hon. Brian Tamberlin, QC. The New South Wales Government is seeking parliamentary approval to sell the State's electricity generator assets because it wants to free up funds for infrastructure spending, see more competition in energy markets, encourage private sector investment in generation and help put downward pressure on power prices for consumers and businesses.

The bill does not authorise the sale of the electricity network businesses—the poles and wires. As the Government announced in November last year, the electricity distribution and transmission businesses will remain in public ownership. The sale of TransGrid, Ausgrid, Endeavour Energy or Essential Energy is not authorised by this bill. This bill will enable the sale of the State-owned electricity generators—Macquarie Generation, Eraring Energy and Delta Electricity. These businesses operate the major power stations that generate electricity in New South Wales. The Government also intends to sell electricity development sites and sell or lease the Cobbora mine.

The bill has been drafted to provide flexibility in the transaction structure that will apply to the sale of the State-owned electricity generators. The key provisions of the bill have been drafted in a manner that is broadly consistent with common provisions in other special purpose legislation introduced to facilitate asset sales. The sale may proceed, for example, by way of a direct trade sale or a public float of shares. The bill enables the businesses and their assets to be restructured prior to sale, allowing optimisation of the size and quantity of the packages offered to the market. Transaction entities may be established to facilitate the sale. Protection and transfer mechanisms offered to employees will be an important consideration during the negotiation of transaction agreements. The bill authorises the transfer of employees of the electricity generators to another public sector agency for the purposes of the sale. Transferred staff will maintain continuity of service and their superannuation arrangements. Industrial conditions will also be preserved.

The final transaction structure will be designed to maximise the financial returns to taxpayers. It will be developed taking into account advice received from expert advisers, feedback received from market participants and an assessment of market conditions at the time. The bill authorises the issue of a share offering, but it does not require the transaction to be

conducted in that way. The decision on whether or not to retain the option of an initial public offering will be made during the strategy phase of the transaction over the coming months. If an initial public offering is pursued, the bill enables the imposition of prescribed shareholding restrictions for a limited time. A shareholding cap can assist a floated company to establish its operations without the uncertainty that can arise from the immediate threat of takeover. Its limited duration maintains market discipline on the board and management.

The State-owned electricity generators participate in the wholesale electricity market known as the National Electricity Market. In this market, they compete against generators in New South Wales and other jurisdictions, many of which are privately owned. The Government wants to foster a competitive electricity market to address deep community concern about the cost of electricity. Electricity retail prices have risen sharply since 2007, particularly in regional areas in New South Wales. Some customers of Essential Energy reportedly experienced increases in regulated electricity retail tariffs of around 85 per cent between 2004-05 and 2010-11. A competitive electricity market puts downward pressure on electricity prices, for the benefit of all consumers. In this regard, the findings of the Tamberlin inquiry were unequivocal. The Hon. Brian Tamberlin said in his final report:

Given the manifest disadvantages of the gentrader model, the Inquiry's view is that the State ought not to persevere with the gentrader option.

The Inquiry does not consider there to be any good purpose to be served by the State continuing to own generation assets in NSW.

The Inquiry does not consider that the objectives of a competitive electricity market or reliability of supply are advanced by maintaining the status quo.

The Government endorses these findings of the special commission of inquiry. The introduction of the bill is evidence that this Government is delivering real reform to drive infrastructure regeneration in this State. The best way of encouraging private investment in electricity generation in New South Wales is for the State to divest itself of its generators. This bill is a key part of the Government's commitment in NSW 2021 to build the infrastructure that makes a difference to both our economy and people's lives. The sale of the electricity generators will release funds for critical infrastructure projects—the roads, transport and hospitals—that provide access to services and better quality of life.

The net proceeds of sale will be paid into the Restart NSW Fund—a dedicated fund established by this Government under the Restart NSW Fund Act to fund major infrastructure projects. Restart NSW is a fund with the express purpose of improving the economic growth and productivity of the State by funding infrastructure projects. Money placed into the Restart NSW Fund cannot be diverted to other purposes without authorisation under an Act of Parliament. The enactment of this bill will implement the recommendations of the independent inquiry and free up funds for the critical infrastructure that this State so desperately needs. I commend the bill to the House.

Debate adjourned on motion by Mr Michael Daley and set down as an order of the day for a future day.