

INQUIRY INTO GENTRADER TRANSACTIONS

Organisation: 450 Parts Per Million
Name: Mr Terry McBride
Position: President
Date received: 14/01/2011

President of 450ppm

14 January 2011

Mr Terry McBride

To the Enquiry into gentrader transactions Parliament House NSW

Summary

Climate Action Groups and other environmental groups over the last three years have warned the government not to privatise any part of the electricity generation, retail or grid. Privatisation leads to higher power prices and the restriction of access to the grid by other players in the market. For example large-scale renewable energy. It will also lead to large compensation payouts by the tax payer's to private enterprise owners when renewable energy has to be installed on the grid anyway. In this submission there are 73 questions that I would like answered for the public record and in the public interest. I would also like a referendum to be held on the issue of selling such important public asset then there can be no doubt.

Contents

Climate Actions Groups hold meetings	Page 2
<i>The details of the energy reform transactions</i>	Page 3
<i>The circumstances that led to the resignation of directors.</i>	Page 7
<i>Impact the transaction will have on current and future electricity prices</i>	Page 8
Triple-A credit rating	Page 10
Conclusion/ Referendum	Page 11

450ppm is an environmental group dedicated to the education of the general public on all global warming issues. In raising awareness of the growing climate emergency, 450ppm endeavours to bridge the gap between scientific facts and common misconceptions and misinformation.

Terry McBride

450ppm@gmail.com



450ppm is a climate action group based in West Ryde, NSW. Our main focus is to educate the general public, business people and politicians about climate change. Over the last three years 450ppm has held meetings with various state and federal MPs with a view to creating awareness of climate change and the possible solutions that are available today. In these meetings we have also expressed our concern with the privatisation of any part of the NSW state electricity infrastructure. Our concern is that once parts of the NSW electricity infrastructure are privatised the new owners will set up barriers to entry for rival power companies. If the companies that buy parts of the NSW electricity infrastructure are essentially fossil fuel companies, there is little doubt that they will set up barriers to entry for renewable energy infrastructure.

We have international, public interest and moral commitments to reduce our carbon footprint. Under the Corporations Act companies do not have to take into consideration any international, public interest or moral commitments that governments have made or what the general population may want. Under the Corporations Act the companies are responsible to act in the interests of their shareholders only, this excludes all other considerations. There is no such thing as the triple bottom line and there is no law to enforce a triple bottom line. The triple bottom line sounds good in media releases and for companies PR machines.

I write this submission to make you aware that letters, flyers, media stunts, public meetings, meetings with MPs and protest actions outside the NSW parliament building in Macquarie Street have all taken place in the last three years in order to make politicians aware that if NSW electricity infrastructure is sold to private enterprise, it will surely stifle

450ppm is an environmental group dedicated to the education of the general public on all global warming issues. In raising awareness of the growing climate emergency, 450ppm endeavours to bridge the gap between scientific facts and common misconceptions and misinformation.

Terry McBride

any chance of large-scale renewable energy making it onto the grid. It will also deter any investors looking into NSW large-scale renewable energy projects. This will lock us into fossil fuel driven power generation for years to come. It could also mean that if the effects of climate change become more apparent over the next five years, the NSW taxpayer may have to pay out billions of dollars in compensation to the private owners in order to stop using fossil fuel driven power generation. How can this be a good deal for the NSW taxpayer? This is a bad deal for the NSW taxpayer, Australians, our commitments to reduce our carbon footprint and the environment.

I think the first act of the enquiry should be to put a stop to the sale of the largest tranche of generation rights, held by Macquarie Generation, along with Delta's generator capacity on the NSW central coast, with the government hoping to complete a sale with the highest bidder in coming weeks. This must be stopped until this part of the sale is proven to be in the best interests of the NSW taxpayer.

Terms of reference – Number 1

The details of the energy reform transactions completed on Tuesday, 14 December 2010.

To my knowledge as an ordinary taxpayer, the sale of the retail part of NSW electricity infrastructure was sold to two companies for \$5.3 billion. This is the extent of my knowledge with regards to the details of this transaction. Therefore, I would ask that the following questions be answered:

1. Who gave the authority to the NSW government to sell publicly owned assets?

450ppm is an environmental group dedicated to the education of the general public on all global warming issues. In raising awareness of the growing climate emergency, 450ppm endeavours to bridge the gap between scientific facts and common misconceptions and misinformation.

Terry McBride

2. What independent advice did the government get as to the value of the retail electricity assets?
3. What was the reserve price of the auction set at?
4. How many people made it to the auction, who were they and what price did they bid?
5. Where and when was the auction document made available to the general public?
6. Where was the auction held?
7. Who drew up the auction or bid document?
8. Was it NSW Treasury alone?
9. Was it the companies who won the bid?
10. Was it a combination of both?
11. Was there an option of rights to build new power generation in the auction or contract?
12. If so, what did these rights cover?
13. Who has drawn up the contracts for the bid winners since the auction and what is contained in those contracts?
14. What is their relationship with the bid winners, the NSW Treasury, the Premier or the Treasurer?
15. How many meetings took place between the treasurer and the companies who bought the assets before the auction took place?
16. How many meetings took place between treasury and the companies who bought the assets?
17. What was discussed at these meetings?
18. Were the board members of Delta Electricity and Eraring Energy given the full details of the financial aspect of the electricity retail auction in the manner that gave them enough

- time to consider the transaction was in the best interests of the company owners (NSW tax payer)?
19. If so what was the period of time?
 20. Were the boards informed in a manner that would be considered consistent with the Corporations Act for a transaction of this size?
 21. Were the boards informed in a manner that would be considered consistent in the corporate world for a transaction of this size?
 22. Was the supply of coal at a fixed price to the bid winners part of the auction process or deal?
 23. At what time did the bidders find out that the coal to be used in the power stations would be at a fixed price?
 24. How long will the coal be supplied for at a subsidized price?
 25. How is this in the interest of getting the best possible price for the NSW taxpayer?
 26. Why won't the NSW government let the free market decide the price of coal supplied to the power stations?
 27. Did the bid winners ever have meetings with the treasurer or the treasury about the supply and cost of coal to the power stations before the auction date?
 28. If so did that increase the reserve price of the retail electricity sector?
 29. Are the bid winners compelled to supply electricity to any particular industries ie: the aluminum smelting industry at a fixed price for any period of time?
 30. If so what price and what time period?
 31. If so at what stage did the bidders find out this would be part of the contract or auction process?

450ppm is an environmental group dedicated to the education of the general public on all global warming issues. In raising awareness of the growing climate emergency, 450ppm endeavours to bridge the gap between scientific facts and common misconceptions and misinformation.

Terry McBride

32. Did the NSW government afford the same protection to the people of NSW against power price increases?
33. Will the free market decide what price power is set at for the NSW consumer?
34. Who will protect the NSW consumer?
35. What compensation will be paid to the retailers if a carbon price is introduced?
36. What percentage of the contracts signed with the bid winners are commercial-in-confidence? 10%, 20%, 30% or 100%?
37. Why is the sale of a publicly owned asset in a democracy commercially-in-confidence?
38. Did the NSW government consider that this may create a duopoly?
39. What part of the contract with the bid winners allows entry into the market place from other competitors?
40. What part of the contract allows for large-scale renewable energy to enter the marketplace?
41. What part of the contract prohibits the bid winners from setting up barriers to entry for large-scale renewable energy?
42. What are the arrangements in the contract for the operation and maintenance of the power stations?
43. What are the costs associated with this and who works out the costs?
44. What provisions are in the contract to guarantee a high standard of maintenance is carried out on publicly owned generating equipment?
45. What provisions were made in the contract to protect the jobs of people working in the retail and generation section?
46. What provisions were made in the contract to keep jobs in NSW such as call centres?

Terms of reference – Number 2

The circumstances that led to the resignation of directors from Earning Energy and Delta Electricity.

One would imagine that when four out of five board members of state-owned generation company Delta, as well as four out of seven members of the Eraring board have resigned over a deal, it would mean that there was something pretty rotten happening. These people are highly paid executives who would not normally give up such a lucrative job so easily. As a taxpayer the things I would like answered are:

1. Were the board members given enough time to do the proper due diligence of the deal put forward for such a large and important transaction?
2. If the board members of these companies thought that it was such a bad deal to sign why did the Treasurer proceed with the deal?
3. How much time did they have to look at the contract once they found out who the bid winners were?
4. If they knew before the bid winners were announced that this was a bad deal why did they not make it public?
5. What part of the structure of the deal led to alarm bells ringing?
6. What figures in the deal were questionable?
7. How was the deal structured?
8. Did they have enough time and information to make an informed decision on the deal on the day they resigned?

450ppm is an environmental group dedicated to the education of the general public on all global warming issues. In raising awareness of the growing climate emergency, 450ppm endeavours to bridge the gap between scientific facts and common misconceptions and misinformation.

Terry McBride

9. Did the people that sit on these boards resign because they realised that the deal put forward was either illegal according to the Corporations Act, immoral and unethical or against the interests of the company?
10. Were they pressured into resigning because they wouldn't sign the deal?
11. Did they realise that the state's electricity assets could not be sold under the NSW Constitution when the government has no mandate to sell off the power assets?
12. Under what authority did the treasurer have to reconstitute the board overnight?
13. Could the new directors have done proper due diligence and complied with the Corporations Act in such a short period of time?
14. Did the Treasurer follow normal employment protocol to appoint these people to the board of government owned companies?
15. Had paperwork been received by ASIC in time for the new board members to have the correct authority to sign such a deal?
16. Did the treasurer have to run the resignations past the parliament for approval and can he appoint new board members without the approval of parliament?

Terms of reference – Number 3

Impact the transaction will have on current and future electricity prices, competition in the electricity market and the value obtained for NSW taxpayer and other related matters.

In all cases around the world where electricity has been privatised the cost of electricity rises to the consumers. The electricity companies are compelled under the Corporations Act to make a profit or declare the company insolvent. There is no scope under the Corporations Act of any other consideration, mercy or compassion. For these reasons the company's will put up the

450ppm is an environmental group dedicated to the education of the general public on all global warming issues. In raising awareness of the growing climate emergency, 450ppm endeavours to bridge the gap between scientific facts and common misconceptions and misinformation.

Terry McBride

price of power at every available opportunity and for any reason they think they can get away with. This is also a great opportunity for them to squeeze out any possible competition in the marketplace. More competition means less profit, less profit means less bonuses. They have every reason under the sun to squeeze out competition as well as complying with the Corporations Act. There are plenty of examples of this; tollroads, banks, financial sector and communications to name a few.

We sold our electricity retail assets for seven years profit. The first question that pops into my head is how long will it take Labor or Liberal to squander that amount of money? The answer is probably only one or two years, the question is, where does the government get the \$750 million a year that it got from the assets it just sold? Do we raise company tax, do we raise stamp duty, do we increase property tax, do we tax the rich or do we just tax the battler again? Out of all the above I would say the least probable will be to tax the rich. The most likely outcome is to slug the people who can least defend themselves, ie, the battler. This outcome can only mean less services to the people, less public transport, less infrastructure, less teachers, less hospitals and less nurses. And last but not least, large compensation payouts to the energy retailers when they can no longer burn fossil fuel to generate power in about 5 to 7 years time. Not to mention the billions it will cost to build large-scale renewable energy in a hurry. **It's a bad deal all round.**

Triple-A credit rating

One of the reasons given for the power sell-off is so that NSW can keep its Triple-A credit rating. If the sale did not go ahead then credit rating agencies may drop our credit rating to double AA. After the sale of the retail section the treasurer jumped straight on a plane to New York to see the credit rating agencies. My first thoughts were why has his man not bothered to explain to the people of NSW why he sold our assets, where did he expect to get the replacement money from and how was he going to spend the \$5.3 billion? The second thing that entered my head was why is this man so beholden to a large foreign owned company? Why is a large foreign-owned company allowed to dictate to our government what assets we should hold and how we hold and manage our publicly-owned assets? If you have a look at what happened coming out of the global financial crisis and who helped cause it, why would you even bother talking to these people? How do the credit rating agencies expect us to repay debts when we have sold all of our moneymaking assets? Raise taxes! My understanding of being dropped to double AA credit rating is that it would have very little effect on our ability to lend or repay money. My understanding is that a double AA credit rating is better than most countries in the world at the moment due to the global financial crisis anyway.

As a taxpayer my questions to this are:

1. What correspondence was there between the credit rating agencies and treasury about NSW electricity generation and power assets?
2. What meetings have occurred between treasury and the credit rating agency in the last four years about this subject?
3. What was said at those meetings?
4. What is the relationship between the credit rating agencies and the treasury?

450ppm is an environmental group dedicated to the education of the general public on all global warming issues. In raising awareness of the growing climate emergency, 450ppm endeavours to bridge the gap between scientific facts and common misconceptions and misinformation.

Terry McBride

5. What is the relationship between the treasurer and the credit rating agencies?
6. What meetings have taken place between the credit rating agencies and the treasurer to do with NSW power assets?
7. What was said at those meetings?
8. Did the credit rating agencies threaten to drop our credit rating if we did not sell our power assets?
9. Who in Treasury managed the relationship between the credit rating agencies and Treasury?

Conclusion

There are too many unanswered questions in relation to the sale of publicly owned power assets. The sale should be stopped until a referendum can be held at the next NSW state election on such a large and important public asset. Any wrongdoing uncovered by this enquiry should be referred to the Department of Public Prosecutions and subject to the full extent of the law. The sale of the power set assets should also be referred to the ACCC on the basis that the government has created a duopoly and will disadvantage other players in the market.

Regards

Terry McBride on behalf of 450 ppm

www.450ppm.com.au

