



Electrical Trades Union of Australia

Proud to be Union

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Senate Standing Committee on Economics

Via email: economics.sen@aph.gov.au

Attention Committee Members,

Senate Inquiry – Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2018

The Electrical Trades Union of Australia (ETU) is the Electrical, Energy and Services Division of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU). The ETU represents over 65,000 electrical industry workers around the country and the CEPU as a whole, represents over 100,000 workers nationally, making us one of the largest trade unions in Australia.

The ETU welcomes the opportunity to make this short submission to the inquiry into the proposed Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2018 (the Bill).

Australia's current state of energy policy paralysis is being exploited by private energy companies with ever increasing profits coupled with ever decreasing service levels. A recent report by the Australia Institute, *The Costs of Market Experiments: Electricity Consumers Pay the Price for Competition, Privatisation, Corporatisation and Marketization*¹ shows just how wasteful the artificial structure of private competition that has been imposed on the electricity sector is.

The report clearly articulates the costs drivers;

- Real output per employees in the electricity sector has fallen by 37% between 2000 and 2018, due to the excessive allocation of ultimately unproductive labour to advertising, sales, contract administration and other activities associated with privatisation.
- Productivity growth has been worse than for any other industry in Australia, completely contrary to the assumption that privatisation enhances efficiency.
- The number of sales-staff employed by electricity companies has grown almost 400% since the industry began to be privatised in the mid-1990s and the number of managers has grown over 200%.
- Over the same period, the number of electrical tradespeople and other workers involved in actual production has grown just 21%.
- Electricity sector now spends more on finance and banking costs than the actual fossil fuels that power electricity generation.

The proposed Bill does not address one of these issues.

Fully re-nationalising the electricity industry is the only sensible solution to drive down costs and eradicate energy market misconduct.

¹ [The Costs of Market Experiments](#)

The Answer to Exploitative Privatisation is not more Privatisation

The Bill in effect will create a mechanism which provides powers to the Federal Treasurer to seek court orders to further privatise the electricity industry and will further reduce the competitiveness of those States that have retained public ownership of their essential electricity assets.

The forced divestiture arrangements will have one of two effects. Either they will require public owned assets to be divested to private enterprise or they will force one public owned asset to be transferred into another public owned entity.

In the former case, what we see is the creation of a boutique regulatory power, which doesn't exist in any other industry, that will force a State or Territory Government to divest its public owned assets to a private provider. The legislation is completely opaque in detailing which overseas owned private corporation will then get its hands on our monopoly assets, if it will pay for it and if so how much, who it will pay and what arrangements are made for the employees associated with the divestment. Indeed, there is no requirement whatsoever for the acquirer to accept any transfer of employees as a result of the divestiture.

The ETU is aware that there are a number of amendments being proposed to the Bill which attempt to remedy the latter situation of divestiture from one State owned entity to another, however there is no guarantee these amendments will be passed. In any event, with or without these amendments the Bill remains deeply deficient. Firstly, in its current form, forced divestiture will simply encourage concentration of market share within the State-owned system, removing the limited benefits currently derived in States with multiple authorities, assuming divestiture even leads to transfer of assets to another State-owned entity.

Should the amendments pass that require State-owned asset divestiture to only transfer to other State owned entities, there still remains obvious deficiencies. Nothing would prevent a 100% State owned asset being divested to a partially State-owned entity. A case in point would be the NSW electricity Network where a majority State ownership was retained in Essential Energy during the NSW Liberal Party's fire sale of the electricity industry. Nothing in the legislation would prevent this majority owned public asset being divested to a minority owned entity such as Ausgrid therefore eliminating any final public control and accountability from the entity – something the NSW National Party was vehemently opposed to during the earlier privatisations.

Cost of Red Tape will be Borne by Consumers

The new regulatory environment imposed by the proposed Bill will undoubtedly come at the expense of consumers. Firstly, the additional compliance and monitoring teams required to be employed to provide advice and guidance to energy entities in how to comply with such poorly drafted legislation will be an immediate overhead added to every day electricity bills. When considered in the context of the Australia Institute Report findings, the Bill will simply continue the trajectory within the power industry of a continual decline in productivity through a further increase in unproductive labour engagement.

Further, any action brought on by Government or the regulator associated with this Bill will be highly litigious, will require extensive legal resources and is likely to cost hundreds of thousands of dollars in associated legal costs. These events are not explicitly excluded from a potential cost pass through application by the relevant entity.

At the end of the day, consumers will be left paying not only their electricity bill but also for the teams of lawyers engaged to defend the misconduct which is alleged to have occurred.

Public Ownership Means Public Accountability

The only reason this proposed legislation is even being contemplated is because Government has lost control of essential electricity assets through privatization. It is astonishing so many other countries Governments are smart enough to want to own Australia's energy assets but the Australian Government isn't. Every single privatized electricity asset in Australia's National Electricity Market is now owned in some part by a foreign Government such as the Singapore's and Hong Kong's Governments or worse still, the Australian Governments obsession with selling Australia's essential assets to the communist Government of China.

The introduction of a highly complex, questionably enforceable and uniquely peculiar piece of legislation to attempt to regulate the conduct of the energy industry is only necessary because of privatization. Every issue that the proposed Bill is attempting to regulate could be done by a simple letter of expectation from the relevant Minister to the Energy Authority's Board if these entities had remained publicly owned.

The Minister, on behalf of Australian citizens, could issue a directive to prevent unwanted behavior, to punish Managers and Executives who allowed or oversaw poor performance and as has recently been shown in Queensland and the Northern Territory, Government could direct an entity to reduce prices for consumers when and if required.

Instead, we have an increasingly privatized network, run for mega-profits for largely overseas shareholders and the Australian Government is somehow mysteriously caught by surprise to learn the electricity network may not always be being run in the best interests of consumers. The willful ignorance required to achieve this position is astonishing.

Privatisation of monopoly essential public services and assets is an abject failure.

What about the Workers

After five paralyzing years, this proposed Bill is the only energy policy the Abbott / Turnbull / Morrison Government has presented the parliament. It is entirely absent any consideration whatsoever of a just transition mechanism for workers and their communities impacted by changes in the industry and is completely devoid of any contemplation of the appropriate investment mechanism for new power sources and technologies. This uncertainty means that workers, their communities and the industry itself continues to be left with no capacity to be able to plan into the future.

Adding to this uncertainty is the new reality that the Federal Treasurer can force a divestiture which contains no guarantee that a single job transfers with the asset.

Recommendations

The ETU provides the following recommendation in relation to the Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2018.

Recommendation 1

Re-nationalise Australia's National Energy Market so that public ownership and public accountability is returned to this essential service.

Conclusion

The Government must act to end the exploitation of Australia's energy network for private profits and restore public ownership and public accountability to how these essential services are managed and run.