

**ELECTRICITY INDUSTRY AMENDMENT  
(ALTERNATIVE ELECTRICITY SERVICES) BILL 2023**

*Committee*

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Dr Brian Walker) in the chair; Hon Darren West (Parliamentary Secretary) in charge of the bill.

**Clause 1: Short title —**

Committee was interrupted after the clause had been partly considered.

**The DEPUTY CHAIR (Hon Dr Brian Walker):** I bring to the attention of members supplementary notice paper 126, issue 1, which will come into question on clause 2.

**Hon Dr STEVE THOMAS:** Before we were rudely interrupted by question time, we got to the point of discussing the government's intent for alternative energy services. The parliamentary secretary basically outlined only two particular issues. The first was embedded services. I forget the second component. The parliamentary secretary might refresh our memory, because we were to the point of trying to get an answer. The parliamentary secretary said that the government was focused on two components relating to alternative energy services. The fact that there seemed to be only two potential components was a bit disappointing. One of them was embedded electricity services. Can the parliamentary secretary outline the second one for us again?

Then we were talking about the reversal of answers on whether embedded services were to be a major component. The second answer suggested that they were not. What are the two areas that the parliamentary secretary said the government is working on? Are they the only two areas it is working on, and will embedded services be a part of that first tranche of regulations as it goes forward?

**Hon DARREN WEST:** Just to be clear. I am sorry if I misheard the member's question. I gave two examples. The first answer, if you like, related to what would occur if people chose to leave the embedded network and set up alternative arrangements. The second answer, to which the member very unkindly gave a title, relates more to what would occur if people chose to stay in the embedded network. We recognise the barriers and the issues that they may have.

Just to make it really clear, the bill provides a scope for a code of practice. One of the first components of that code is proposed to cover embedded networks and to provide customer protections to businesses within them. The details of this are currently out for consultation. I may have alluded to the point that there are others out for consultation, but the two areas out at the moment are embedded networks and onsite power supply services. One of the proposed provisions is to give businesses a pathway to exit the embedded network at their own cost. That is the important point here.

**Hon Dr STEVE THOMAS:** I will try to paraphrase here so that we know what we are talking about. The intent of the government is to allow for the exiting from embedded networks at the cost of the subsidiary organisation. Is the intent to absolutely allow subsidiary tenants to exit an embedded network and take advantage of potential discounts outside of that? Is that what is intended to be delivered under the particular regulations that will derive from this legislation?

**Hon DARREN WEST:** Yes. This is one element of the code and there will be protections regardless of which way the customer chooses to go.

**Hon Dr STEVE THOMAS:** Thank you. It took a little bit to get there, but I am going to hold the parliamentary secretary to that yes over time.

**Hon Darren West:** I think that could be partly my fault. We will share that.

**Hon Dr STEVE THOMAS:** That is fine.

I am happy to work through the process to get as much clarity as we can. I accept that. I am not holding the parliamentary secretary to account for where we were. I am pleased to see what I think we have. I will take the parliamentary secretary at his word that embedded network connectivity will be included, hopefully, in the first tranche of regulations as we go.

I obviously do not have *Hansard* because it is too soon; was the second component the parliamentary secretary talked about basically local site provisions?

**Hon DARREN WEST:** Yes. That is onsite power supply service.

**Hon Dr STEVE THOMAS:** Presumably, that then will allow for regulations to be written for the process that Hon Colin de Grussa talked reasonably extensively about yesterday. Those are the first two primary sets of regulations that the government is working on. I am fine with that. Is there a thought in mind about where it will go after that,

given this is effectively an enabling act that will allow regulations? What do we look at next in terms of access to networks? What is the next cab?

**Hon DARREN WEST:** Pardon the pun, member, but we think the next cab off the rank would be electric vehicle charging services. I am sure the member picked up the pun there. Then, after that, perhaps it will be aggregation services.

**Hon NEIL THOMSON:** I refer to what the bill will do to provide opportunities for alternative energy suppliers in remote and regional Western Australia. I was particularly thinking about the remote communities in small regional towns that might want to set up alternative governance arrangements, such as community-owned generation capacity with a microgrid. Will this bill in any way make it easier for those sorts of alternative energy suppliers to operate within a community that, for example, already has provisions for Horizon Power?

**Hon DARREN WEST:** That would depend on the complexity of the arrangement. The one that the member described is quite complex, so it would come under a licensing arrangement, which already exists and is not in the scope of this bill.

**Hon NEIL THOMSON:** Can the parliamentary secretary give some sort of indication? I am thinking of the sorts of microgrids that are appearing in my region, typically in Broome. Will this impose any new regulatory requirements for something like a large solar array that might be based in a shopping centre car park? In Broome, there is one at a Woolworths shopping centre car park that provides power for a number of users within the same shopping centre. Will these arrangements be captured by the new alternative energy suppliers remit within the regulatory environment?

**Hon DARREN WEST:** If it was an ongoing energy supply relationship, it could be captured under this bill, but if it was a commercial arrangement, it would not.

**Hon NEIL THOMSON:** What is specifically meant by “commercial arrangement”?

**Hon DARREN WEST:** An example would be that if someone bought solar panels for their own roof, it would not be captured under this arrangement.

**Hon NEIL THOMSON:** Is there a clear point of distinction in which they would be caught up in this arrangement? Would that be because there would be some form of billing to a third party? I will see whether that is it.

**Hon DARREN WEST:** If the arrangement involves the sale of electricity as a service, it will be captured.

**Hon NEIL THOMSON:** Would that be captured in the situation of a large shopping centre owned by a single owner—like a Westfield—that provides electricity to a number of clients with its own microgrid? Would each of the lessees be billed for the provision of power as a result of that microgrid?

**Hon DARREN WEST:** The member is referring to an embedded network. Hon Dr Steve Thomas has questioned this line fairly extensively throughout the clause 1 debate. The member may want to refer to some of the answers that we gave him. Basically, under these provisions, embedded networks will be captured and there will be protections for customers and opportunities for customers to not participate in an embedded network.

**Hon NEIL THOMSON:** Are they currently captured under the normal licensing arrangements? Is this going to be a reduction or increase in red tape?

**Hon DARREN WEST:** The customers are not currently protected, so it is a little bit difficult to quantify the member’s red tape question. Under these provisions, the customers will be protected.

**Hon NEIL THOMSON:** My colleague Hon Dr Steve Thomas thought he could answer that for me, which is good. I can only assume that if they are not protected in the context that was explained, they are currently without regulation.

We are talking about protection, but it also may mean an imposition of red tape. Has a regulatory impact statement been undertaken into the potential imposition or is it too early because we do not know what the regulations are going to be?

**Hon DARREN WEST:** We are currently out for consultation on embedded networks.

**Hon NEIL THOMSON:** Do embedded networks include a situation in which there is only a single owner? For example, a pastoral station might have provision for its own power for a number of its properties.

**Hon DARREN WEST:** An embedded network is a private network on one property.

**Hon NEIL THOMSON:** Did the parliamentary secretary say an embedded network is a private network on one property? Does it potentially cover a pastoral station?

**Hon DARREN WEST:** That is possible, but it would need to be providing the service to other customers on that station.

**Hon Dr STEVE THOMAS:** Perhaps I might try to explain that a little bit more. Effectively, an embedded network is when there is a single power supply to multiple, separate legal entities within that single property. If a station has one owner, it is not an embedded network because it is basically supplying different outhouses—outhouses is the wrong word!

**Hon Darren West:** I might try those as well!

**Hon Dr STEVE THOMAS:** Different outstations—there might be outhouses as well! It has been a long week. It is supplying different outstations, but one owner is effectively paying one bill. It becomes an embedded network only if there is a different legal entity because then a subsidiary is paying a bill either through the primary purchaser or through a separate system. As I understand it, the parliamentary secretary effectively said that there should be no more red tape. What is being looked at is the capacity to offer choice so that a legal entity that is a subsidiary will have a choice whether to be in an embedded network or separate. I think the outcome is good. If it is delivered that way in the regulations, it will deliver the capacity for savings in the process potentially because they will be able to choose. It should not require significant additional red tape. I think offering choice is a good outcome. I think that is the answer we want to get to.

**Hon NEIL THOMSON:** What will be the cost? I assume an embedded network will not have to be licensed and it will just be subject to the regulations. I assume there is no cost for the examples I have given, like the shopping centre. Where there is currently no protection, I assume if it is owned by the shopping centre, it might be owned by a third party. I am sure there are some contract arrangements in which third parties might own the power generation capacity on some sort of leasing arrangement. I assume no additional cost is imposed as a result of this bill. Can the parliamentary secretary indicate whether additional costs will be imposed?

**Hon DARREN WEST:** Yes, embedded network operators will need to pay registration fees. They will also need to pay ombudsman fees. We anticipate that this will be between \$10 and \$37 per annum for the average customer.

**Hon NEIL THOMSON:** It is good to know that it will be a very small cost—a very tiny cost, in fact. I was speaking to an alternative energy supplier today who was not aware of these changes, so I am not sure to the extent that it has been consulted. Maybe it has; sometimes people get busy in their daily lives.

I want to pursue the issue of apartment blocks. I am sure they are similar. There is a bit of a trend in apartments now. It is still early days, but I know that with solar panels and other forms of energy generation—whether it be wind or geothermal opportunities—there is a capacity for apartment units to have alternative energy supplies. At some point in the future, we may see apartments that are completely and effectively off grid so they could operate their own embedded networks. Is this legislative change that will bring in new regulations the sort of embedded network that is anticipated will be dealt with under the new regulations?

**Hon DARREN WEST:** Yes, should they not have their own metering.

**Hon Dr BRAD PETTITT:** I would not mind following up that line. I am also interested in how this will play out for apartment buildings. One provision I was trying to understand is in the explanatory memorandum, which talks about small-use customers having 160 megawatt hours a year. I quickly did the maths and it is 438 kilowatt hours a day. Is that for the apartment complex as a whole or for each individual customer, in this case an apartment unit, within the complex?

**Hon DARREN WEST:** The apartment complex as a whole would often be over that threshold but the threshold applies to each individual customer.

**Hon NEIL THOMSON:** The parliamentary secretary raised the issue of EV charging stations before in a response he gave to Hon Dr Steve Thomas. I want to clarify it. He mentioned the third tranche, from the recollection of my colleague. Is it the third tranche?

**Hon Dr Steve Thomas:** The third priority on the list was potentially—it might have been one of the other priorities—but after the first two, it was EV charging stations.

**Hon NEIL THOMSON:** It will be a massive job of retrofitting apartment blocks for EV charging stations. There are tens of thousands of apartments out there that have no access to charging stations currently because they were not designed for them. There is a lot of difficulty around making sure we have sufficient power capacity. We know that the capacity of the network can be constrained in certain locations and that there are also significant costs for retrofitting apartments for EV charging stations. We have a massive job going forward. One of the options going forward would be that a third party, completely independent of the body corporate, may enter into an arrangement with the body corporate to provide a set of solar panels or some alternative energy with some energy storage. They effectively will own that network. They will not charge the body corporate anything for it. They will bring that system into the apartment and do all the connectivity through the apartment. They will connect apartment owners who have an EV and want access to a charging station in their car bay. There will effectively be a lease payment or some sort of charge fee on consumption.

These are the sorts of models that are now being contemplated as we go forward. Would that example be considered an embedded network and be subject to registration?

**Hon DARREN WEST:** Yes, the example the member gave would come under the embedded networks, provided that it was an embedded network and everyone did not have individual metering. Earlier I used the example of electric vehicles, and I know that people get quite aroused when we talk about EV charging stations and EVs, but it is about more public access to EV charging stations and accessibility to pricing information for everyone, as we referenced earlier.

**Hon NEIL THOMSON:** Is the parliamentary secretary saying that it might not be an embedded network if there were some sort of lease arrangement? I use a body corporate as an example. I think it is a good one because different governance arrangements might be put in place. The body corporate might own the asset but recoup through a whole range of mechanisms. It might even have to borrow the money and do it. There are opportunities for it to be independently owned, which would take the risk away from the body corporate. If there were some sort of lease or it was separately owned, there could be a charging fee recovery system for the apartment owners. It would not be for public access; these are private car parks within a body corporate. Will there be any blurriness in the requirement to be registered as an embedded network or will it be very clear? Where would the demarcation exist in the kind of example I have given?

**Hon DARREN WEST:** The example the member gave is of an embedded network, so there will be protections for customers under the provisions of this bill. However, not every apartment complex is an embedded network. For example, there may be apartment complexes in which every tenant has their own Western Power meter. That is not an embedded network and would not be covered by this bill.

**Hon Dr BRAD PETTITT:** Following on from that line of questioning, I am interested in which apartments this will cover. Do we have a sense of the number of apartment buildings? A follow-on from that is the acknowledgement that apartment complexes increasingly have more sophisticated embedded networks. I am thinking of one in my suburb called Evermore, which has solar batteries. It is a DevelopmentWA project that was done a couple of years ago. All the apartments are behind the meter, with battery and solar. They are individually metered but are behind the main meter, if that makes sense. I assume that that will be captured by this.

**Hon DARREN WEST:** The good news is that yes, if they do not have individual Western Power meters, they will be captured as an embedded network. The customers in such an apartment complex will have access to the protections and dispute mechanisms under this bill.

**Hon Dr BRAD PETTITT:** I am trying to understand the dispute mechanism. Will this enable individual apartment owners to ask for a direct Western Power meter and withdraw from the broader strata, or will they be required to continue to participate in the strata, especially if there is a joined battery–solar arrangement?

**Hon DARREN WEST:** It is possible that a customer in an apartment may choose to leave the embedded network and get a Western Power network, but it would probably be cost prohibitive in most cases in an apartment, unlike perhaps in a shopping centre, as a shop may be on the outside and could get a more cost-effective connection to save money. However, there will be pricing protections and access to the Ombudsman that was not available before.

**Hon Dr BRAD PETTITT:** I have one on a slightly different matter, and this came up in answer to a previous question. The answer that was given was that an embedded network sits on one property boundary, which I understand. This has come from an issue that has arisen in another DevelopmentWA project called East Village, which is down the road. There is a 600-odd kilowatt hour battery sitting on a lot. In the original design of the project, the battery was to service the whole block. It was meant to be an integrated project by DevelopmentWA. It is quite clever. There is a large apartment building sitting next to it. It has townhouses. It was marketed very much as having a solar battery, with 80 per cent of the energy that the area would consume being locally produced. I understand that they have come up against the very challenge that the parliamentary secretary has highlighted in that none of the lots can access the battery because the battery technically sits on a different lot. As we get serious about embedded networks that might be larger, is there any way that people will be able to share bigger batteries that cross lot boundaries or is the intent to always confine it to a lot?

**Hon DARREN WEST:** The example that the member has cited is not an embedded network under the provisions that we are working on now. That may change in the future, but, in the meantime, it would be a licensing arrangement, and those arrangements are available now.

**Hon NEIL THOMSON:** I want to talk a little bit about someone who is directly retailing energy. I am thinking of a roadhouse with a solar array and a battery system, and it retails through an EV charging station to customers. Firstly, is that roadhouse required to be licensed at the moment? Secondly, will it be required to be registered under this set of rules? Is it completely unregulated at present and might it be required to do so because it is retailing? I am talking about a completely independent roadhouse that provides its own power, but it does that through either renewable power or backup gas or diesel generation.

**Hon DARREN WEST:** Self-supply is exempt and EV charging is also licence exempt at the moment. That can be done and that power can be sold under an exemption. However, we may investigate this more in the third tranche. At the moment, and as it will continue, EV charging is exempt.

**Hon NEIL THOMSON:** Maybe it could stay exempt. I would hardly imagine there would be any circumstances in which there would not be a satisfied customer, particularly given that a certain quality of electrons that are consistent will come out of that. My last question is in relation to noncompliance when an embedded network is operating. What will the penalties be given that this is going to capture quite a few more alternative energy suppliers? As those emerge, there will be a lot more in the marketplace. Will any penalties apply to a person who might, either wittingly or unwittingly, not register themselves?

**Hon DARREN WEST:** It is very much an education-first approach. We will encourage and work with operators to register and point out the benefits of the same. Should operators or retailers blatantly refuse to not participate in the process, the penalties can be severe. In extreme cases, it will be up to \$100 000.

**Hon Dr STEVE THOMAS:** We are coming to the end of clause 1 and there will be only a little bit of debate after that. I want to finish off on a couple of areas in the general debate on clause 1. In terms of alternative systems, can the parliamentary secretary indicate how much the supply and demand conditions, as measured by the government supply, particularly Synergy and Horizon Power, will influence the ability to register an alternative energy supply? Let us say, for example, that in an integrated system there is an oversupply of solar energy between 10.00 am and 4.00 pm, particularly in the middle of the day. Will it be a consideration when the regulations are formed that an alternative energy system that adds to that might not be registered purely on the basis of oversupply and competition, or can we rule that out and determine that it will be a genuinely free marketplace?

**Hon DARREN WEST:** Suppliers that meet the condition of registration will be able to apply, and oversupply will not be one of the conditions.

**Hon Dr STEVE THOMAS:** I thank it the parliamentary secretary. We will make a right-winger out of him yet. That is particularly good to hear.

**Hon Darren West:** I think the term is speck, member.

**Hon Dr STEVE THOMAS:** Okay. I am very pleased to hear that because, obviously, as I think I said yesterday, the state-run supply organisations are the 400-pound gorillas in the room. The fact that competition in its own right will not be a limiting factor is as it should be. Ultimately, I will take the government at its word that Synergy and Horizon Power will be forced to compete with alternative energies suppliers. I think that is a good thing. That will drive the surreptitious privatisation agenda that the government does not want to talk about that will occur. I thank the parliamentary secretary for that. That is very good.

I have a couple more questions. I refer to chapter 2.8 on page 9 of the explanatory memorandum, which is titled “Cost recovery”. The parliamentary secretary has mentioned this. It states —

Once the AES registration framework is operational, it is intended that the administration costs of the framework will be recovered from industry participants.

I think the parliamentary secretary said previously that a registration cost of potentially \$20 to \$37 for small users—apologies if I have got that number wrong —

**Hon Darren West:** It is \$10 to \$37.

**Hon Dr STEVE THOMAS:** It is \$10 to \$37. Thank you. Again, I do not have *Hansard* in front of me. Is the parliamentary secretary in a position to provide us with any other estimates of the costs associated with this? At a microlevel—the Hon Colin de Grussa experiment—we might pay \$10 to \$37 for the supply to Hon Louise Kingston and me. However, what will the cost be for those mid-range, mid-tier and larger units—the large apartment blocks all the way through to the City of Albany and the City of Kalgoorlie–Boulder? The parliamentary secretary might not have any estimates costs at this point, but any estimate he can give us would be useful to get an indication of what it might look like.

**Hon DARREN WEST:** These are the costs that are paid to the Economic Regulation Authority as the regulatory provider rather than the cost of the electricity service.

**Hon Dr STEVE THOMAS:** Thank you. Will there be any other cost-recovery fees? Again, the parliamentary secretary might not have specific numbers. I am chasing certainty on what cost recovery will look like for relatively small, modest, mid-range and reasonably large alternative energy providers, and any supply costs, for example. Will the registration cost vary depending on the size of the unit that is involved? Does the parliamentary secretary have any indication of that? For the operational charges that are developed, obviously Western Power would have an access charge if someone went through Western Power. That is relatively standardised and the ERA sets that. Will there be any service charges on top of the registration charges for the access charges that relate to being registered as an alternative energy service?

**Hon DARREN WEST:** It will be a per-customer charge. In the case of Hon Colin de Grussa, registration would not be a very expensive exercise. It does not include access charges; it is purely the registration charge for the ERA and the Ombudsman. However, if the member went into electricity generation and had a lot of customers, obviously he would pay more because the payment will be based on a per-customer charge.

**Hon Dr STEVE THOMAS:** Outside of the transmission charge that Western Power charges, will there be a per kilowatt hour charge to be registered as an alternative energy service provider? Is that intended in any way, shape or form?

**Hon DARREN WEST:** No.

**Hon Dr STEVE THOMAS:** Excellent. I do like a short and concise answer.

**Hon Darren West:** Especially when it is the answer you want.

**Hon Dr STEVE THOMAS:** That is exactly right. I would like to get that every time, if I possibly could, thank you. I am putting in a request.

This is the last area that I want to talk about in the debate on clause 1 before we talk about two or three other clauses. We have largely bypassed the code of practice that will come in at clause 14 under new division 4. Effectively, the bill says that this is enabling legislation that will allow a code of practice to be developed. How much work has been done on that code of practice to date, and what was the level of consultation on the code of practice?

**Hon DARREN WEST:** The draft codes of practice are out for the first two networks. We have done the first round of consultations on the embedded networks and are on to the second. We are on to the first round of consultation on the onsite power supply service.

**Hon Dr STEVE THOMAS:** Thank you. I am pleased that is developing. I think the government has committed to doing a regulatory impact study at the point at which all these regulations are presented. Will that come at the same time as these regulations?

**Hon DARREN WEST:** Yes. Another answer that the member likes.

**Hon Dr STEVE THOMAS:** Another direct and straight-to-the-point answer that I like. Thank you, parliamentary secretary. We are very much on a unity ticket as we go along.

I think this is my final question on clause 1 before we move on. At this point, given the first two agenda items on the regulations that the government is developing for the embedded networks in the first instance and—I keep forgetting the parliamentary secretary's exact words for the second one—the specific point of generation component for the second one, have any other planned regulations got to the point at which consultation or research has occurred? Can we see where that direction is going?

**Hon DARREN WEST:** There is a balance here, because, obviously, we are relying on the passage of the bill before we progress this too far. But there is a lot of publicly available regulatory information and consultation outcomes on the Energy WA website, and we can get a pretty clear visual on where we are at.

**Hon Dr STEVE THOMAS:** I thank the parliamentary secretary. We obviously want to know as much as possible. I am left with the opinion—I might put this into a short third reading contribution—that there are further opportunities that have not yet been addressed. I hope that the government will take the opportunity presented by this legislation to address a whole pile of further opportunities, because I think the ambitions as enunciated during this debate are modest, to say the least, and there are much greater opportunities going forward that we will hopefully see the government proceed with. Obviously, that is not something we can debate today.

With that, I am happy to progress on clause 1.

**Hon DARREN WEST:** I take that on board; the member makes a very sage comment. I note that he has done his research on this. Again, there is that balance, and who knows what the future holds? What we need to do now is put in a regulatory framework and protection for customers so that anything that comes before the government, the Minister for Energy of the day, Energy WA or whoever it may be is able to be accommodated under these provisions.

**Clause put and passed.**

**Clause 2: Commencement —**

**Hon DARREN WEST:** Further to supplementary notice paper 126, issue 1, I move —

Page 2, lines 8 and 9 — To delete the lines and insert —

Royal Assent (*assent day*);

(b) section 26(2) —

- (i) if the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024* section 5 comes into operation on or before assent day — on the day after assent day;
  - (ii) otherwise — immediately after the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024* section 5 comes into operation;
  - (c) section 26(3) —
    - (i) if the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024* section 24 comes into operation on or before assent day — on the day after assent day;
    - (ii) otherwise — immediately after the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024* section 24 comes into operation;
  - (d) the rest of the Act — on the day after assent day.
- (2) Subsection (1)(d) is subject to section 29.

**Hon Dr STEVE THOMAS:** We will not be too long on this. As I understand it—it is probably worth a brief explanation—the passing of the *Electricity Industry Amendment (Distributed Energy Resources) Bill 2023* last month necessitated some changes, particularly in the wording around how this bill will progress, but in terms of the assent, can the parliamentary secretary give us a brief explanation of why the change is necessary?

**Hon DARREN WEST:** Yes; it was perhaps remiss of me not to elaborate on the amendment that I moved.

The proposed amendment to the bill deals with minor interactions with the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024*—the DER act. These amendments are consequential to the recent passage of that act through Parliament. The amendment address the following matters—a change to require the alternative electricity service code of practice to be consistent with the new state electricity objective; a consequential amendment to extend a reference to certain codes to also include the electricity system and market rules, as matters dealt with in the codes will ultimately be moved to the electricity system and market rules; and an amendment to ensure that provisions that move a definition from one section of the *Electricity Industry Act 2004* to another are enacted only once, despite that definition being moved in both this bill and the DER act.

I acknowledge that the commencement provisions are complex; however, this is because the provisions of the DER act commence upon proclamation, so there is potential for this bill to commence before certain provisions of the DER act, or vice versa. The commencement provisions allow for different scenarios, to ensure that regardless of which scenario eventuates and which provisions come into effect first, the *Electricity Industry Act 2004* will be amended as intended.

**Hon Dr STEVE THOMAS:** I thank the parliamentary secretary. I think it was worth giving that explanation on the floor of the house. As I understand it, the amendment to clause 2 in particular relates to that proclamation—the royal assent that is given—and that confused definition. Ultimately, it is complicated legislation, but it makes sense to me. I have had some explanation and, for the sake of clarity, the opposition is happy to support that amendment.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 3 put and passed.**

**Clause 4: Section 3 amended —**

**Hon Dr STEVE THOMAS:** In clause 4, at line 26, the definition reads —

*small use customer* means a customer who consumes not more than 160 MWh of electricity per annum;

Obviously, to get into the contestable marketplace, it is only 50 megawatt hours a year. I have seen on Synergy contracts that a small use customer is defined as a customer who consumes fewer than 160 megawatts a year. What legal standing does the definition of a small use customer have? I presume this is referring to a small use customer mostly in the contestable market, in which the government is actually contracting, not in the residential market. If someone is defined as a small use customer versus a large use customer, what power will that confer on them to negotiate with Synergy or other power providers?

**Hon DARREN WEST:** That is an existing threshold, so from here on we will prescribe customers under that as, indeed, customers. They will come under the protection thresholds. The customers who consume under 50 megawatts —

**Hon Dr Steve Thomas:** They are in the non-contestable.

**Hon DARREN WEST:** Correct; they are in the non-contestable market. I thank the member for finishing the answer to his own question!

**Hon Dr STEVE THOMAS:** Really, my question is: is there a legal definition of small-use customer as being a customer who consumes fewer than 160 megawatt hours per annum, or is that simply a position taken by the retailers and not an enforceable position, as such?

**Hon DARREN WEST:** We are just tidying it up. Previously, the definition of “customer” was limited, under parts 3, 6 and 7 of the act, to customers who consume not more than 160 megawatts of electricity per annum, and that created some confusion. This term will now be used right across the act.

**Hon Dr STEVE THOMAS:** I agree; I think it has created some confusion, the definition of a small user versus a large user, 160 megawatts up and down. I have actually taken that issue to the new Minister for Energy’s office and had some discussions about what that does and does not mean. Ultimately, when it comes to Synergy’s outcomes, it really does not mean very much, so I will be looking for it to be more formalised. We will have a look at the regulations when they come out, but maybe the parliamentary secretary might take that back to the new Minister for Energy and get a formal definition of what a small user is, as well as the rights and protections that offers. That would be a useful outcome. Rather than asking a question, I will just make that point and move on.

**Clause put and passed.**

**Clause 5: Section 4 amended —**

**Hon Dr STEVE THOMAS:** This is not to say that the rest of the bill is not important, but given that this is an enabling bill and the rest of the bill basically says that the government will write regulations sometime in the future, it is very hard to give the government a pass or fail mark on what those regulations might look like right now. However, I want to check clause 5 because it will amend part 2 of the act. It is a consequential amendment to change the act to clarify that the licence will not authorise the holder of an alternative electricity service unless exempted under the regulations under proposed section 4(3). Let us start with the intent of clause 5 because it seems to be a little confusing as to what it is trying to achieve. Can the parliamentary secretary give us some clarification on that?

**Hon DARREN WEST:** An example would be that if someone wanted to register as an alternative energy provider under an embedded network, they would do so under the provisions of this bill. If someone is not covered by that, they would need a licensing arrangement, which exists already.

**Hon Dr STEVE THOMAS:** Ultimately, then, will we keep the status quo unless someone enters into an AES, in the first instance, as a part of an embedded network, which is the first cab off the rank?

**Hon DARREN WEST:** Yes, but one would need to get registered.

**Clause put and passed.**

**Clauses 6 to 25 put and passed.**

**New Part 4 —**

**Hon DARREN WEST:** I move —

Page 38, after line 29 — To insert —

**Part 4 — Amendments consequential to enactment of the  
*Electricity Industry Amendment (Distributed Energy Resources)  
Act 2024***

**26. *Electricity Industry Act 2004* amended**

- (1) This section amends the *Electricity Industry Act 2004*.
- (2) After section 59X(2) insert:
  - (2A) The AES code of practice must be consistent with the State electricity objective.
- (3) In section 59X(4) delete “section 39.” and insert:  
section 39 or the electricity system and market rules.

**27. *Electricity Industry Amendment (Distributed Energy Resources) Act 2024* amended**

- (1) This section amends the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024*.
- (2) In section 4(1) in the insertion delete the definition of *Coordinator*.
- (3) Delete section 9.

**28. Act amended**

- (1) This section amends this Act.
- (2) In section 4 in the insertion delete the definition of *Coordinator*.



(3) Delete section 15.

**29. Repeal of s. 27 or 28**

Despite section 2(1)(d) —

- (a) if the *Electricity Industry Amendment (Distributed Energy Resources) Act 2024* section 4 comes into operation on or before the day on which this section comes into operation — section 27 does not come into operation and is repealed; or
- (b) if paragraph (a) does not apply — section 28 does not come into operation and is repealed.

**Hon Dr STEVE THOMAS:** Can I check that we are moving all this as a job lot? Is that the intent?

**The DEPUTY CHAIR:** Yes—new part 4 and the clauses within it.

**Hon Dr STEVE THOMAS:** Proposed section 26(2A) states —

The AES code of practice must be consistent with the State electricity objective.

The state electricity objective generally is fairly broad. The AES code of practice, I presume, will be quite specific. Is there an area of concern that it may not have been consistent with the state electricity objective, given that that was introduced under the previous legislation?

**Hon DARREN WEST:** The state electricity objective is more about guidance. It will also apply to the alternative energy services.

**Hon Dr STEVE THOMAS:** In effect, this is one of those broad processes that is potentially more honoured in the breach than in the practice. It is a bit like the precautionary principle. I understand that the government has a broader intent around this. Ultimately, if it is in conflict, it is a failure of government and governance, so I think I would be jumping up and down at that particular point. I make the point that it would be a bit disturbing if it were that, under the circumstances, a specific set of guidelines, which the regulations will introduce, would be in conflict with the energy objective, but I guess if the government wants to make doubly sure, fair enough. It will then be written into the act, which then determines which has priority.

**Hon DARREN WEST:** What we are trying to do here is get everything moving in the same direction to avoid doubt and confusion. I think it is logical that both acts come under this provision.

**New part put and passed.**

**Title —**

**Hon DARREN WEST:** I move —

Page 1, line 8 — To delete “1945.” and insert —

*1945 and the Electricity Industry Amendment (Distributed Energy Resources) Act 2024.*

**Amendment put and passed.**

**Title, as amended, put and passed.**

*Report*

Bill reported, with amendments, and, by leave, the report adopted.

*As to Third Reading — Standing Orders Suspension — Motion*

On motion without notice by **Hon Darren West (Parliamentary Secretary)**, resolved with an absolute majority —

That so much of the standing orders be suspended so as to enable the bill to be read a third time forthwith.

*Third Reading*

**HON DARREN WEST (Agricultural — Parliamentary Secretary)** [6.09 pm]: I move —

That the bill be now read a third time.

**HON DR STEVE THOMAS (South West)** [6.09 pm]: Very briefly, without making a protest at the rush, the unseemly haste, with which the government wants to get the Electricity Industry Amendment (Alternative Electricity Services) Bill 2023 through, I know that we have spent a bit of time on this, but I wish to pass on our thanks to the advisers who have assisted us through the briefing process and to the previous Minister for Energy, who drove most of this. I do not think it would have mattered if we had done the third reading tomorrow, but, in effect, I want to leave everybody with this thought. The effectiveness of this bill cannot be measured at this point. It will sink or swim on its capacity to deliver alternative services with a set of regulations that the government will deliver in the future. I urge the government to be more ambitious in the regulations and the alternative energy sources that it is considering. As has come through, we are looking at a very small first step. I think it is absolutely the case that much more can be achieved with a more ambitious set of targets. I look forward to that happening over the next year or two.

**Extract from *Hansard***

[COUNCIL — Wednesday, 20 March 2024]

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Hon Dr Steve Thomas; Hon Darren West; Hon Neil Thomson; Hon Dr Brad Pettitt

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**HON DARREN WEST (Agricultural — Parliamentary Secretary)** [6.10 pm] — in reply: I thank the shadow Minister for Energy, Hon Dr Steve Thomas. I promise that we will be bold in our endeavours. We wanted to get the Electricity Industry Amendment (Alternative Electricity Services) Bill 2023 through tonight because we passed the Electricity Industry Amendment (Distributed Energy Resources) Bill 2023 and we want them to work harmoniously together. I will pass on the member's thanks to all the advisers and staff. This bill is particularly technical and it certainly made my head hurt at times. The advisers provided invaluable support from the table and, I am sure, to the member with the questions he asked. Well done to everyone.

Question put and passed.

Bill read a third time and returned to the Assembly with amendments.