

**SUBCOMMITTEE OF THE
STANDING COMMITTEE ON
ESTIMATES AND FINANCIAL OPERATIONS**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 12 APRIL 2006**

Members

**Hon Ken Travers (Convenor)
Hon Anthony Fels**

Hearing commenced 8.50 am**KOENIG, MR ALBERT****Energy Safety Division, Department of Consumer and Employment Protection, examined:****WOOD, MR GEOFFREY****Director, Gas and Emergency Management,****Energy Safety Division of Department of Consumer and Employment Protection, examined:**

Hon KEN TRAVERS: On behalf of the committee, welcome you to this hearing. You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

Mr Koenig: Yes.

Mr Wood: Yes.

Hon KEN TRAVERS: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of the hearing for the record. Please be aware of the microphones and try to talk into them and ensure that you do not cover them with papers or make noises near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any members of the public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your private evidence is finalised, it should not be made public. I advise you that premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Would you like to make an opening statement to the committee? If not, we have a range of questions on behalf of the committee. Do you have any general comments about the bills?

Mr Koenig: First, we have brought with us five copies of the EnergySafety draft business plan, which was communicated to you by e-mail yesterday. There are some colour graphs and so on in the plan that may be useful to refer to. It would probably be opportune for me in responding to questions, and perhaps in my opening comments, to make some reference to that document.

The two bills that are currently before the council are the product of quite a lot of careful development. The background to the bills is that EnergySafety, as a technical and safety regulator of energy, was originally part of the former State Energy Commission. When that ceased operation at the end of 1994, the regulatory functions for both gas and electricity technical and safety regulation were transferred to a newly created organisation called the Office of Energy and in that organisation formed the technical and safety division. Indeed, I took over as the head of that division at that time. The position of Director of EnergySafety is a statutory position created by the Energy Coordination Act 1994. It came into effect at the beginning of 1995 and established, effectively, the technical and safety regulatory function as a statutory entity with some independence, and provided in various items of legislation the functions that were to be carried out by that office. The technical safety division of the Office of Energy was established to support the work of that statutory office. That operated until 2002 when, as a result of the then government's

machinery of government changes, the division was transferred to the Department of Consumer and Employment Protection, which was a newly created department at that time. At that time, the name EnergySafety, as a trading name for the division, was established. Often we are referred to just as EnergySafety. It is an informal name, but, nonetheless, it sits fairly comfortably with our function.

Through the course of this we have worked hard to establish EnergySafety as a proper regulatory entity, meaning that it has the appropriate functions for the industry structures that exist today. EnergySafety is responsible for principally three main areas of activity: one is the regulation of the electricity and gas supply industries; in other words, Western Power, AlintaGas and other utilities that exist in the state. The second function is to deal with the regulation - again, of course, I am talking about technical and safety regulation - in respect of consumers' installations for both electrical and gas applications. We are talking about technical standards and the enforcement of these in relation to large consumers' installations such as large industrial installations, including mine sites, right through to householders' premises and various types of commercial and central business-type premises. The third function is our emergency management related function, which has grown increasingly over the years. We are involved with the state emergency management framework in a range of activities, principally dealing with liquid fuel emergencies and also gas supply emergencies, and helping to promote the protection of critical infrastructure in the energy industry.

As this regulatory framework was gradually developed, because it was very much in its infancy back in the SECWA days, it can probably be imagined that, as our legislative framework was developed, our need for resources to support the work that goes hand in hand with that became increasingly greater. As a result, particularly when we arrived at the Department of Consumer and Employment Protection, the government was looking at how to fund those activities. Indeed at that time, we pointed out that we were originally funded in SECWA from the electricity and gas revenue that took place at that time. It was simply a cross-subsidy inside the organisation; in other words, electricity and gas consumers effectively provided for the funding of technical and safety regulation of the energy safety industry. Indeed, in the one and a half years that followed the creation of the Office of Energy, Western Power and Alinta also continued that funding. There was a plan at that time to move to make EnergySafety fully industry funded. However, that was temporarily abandoned, literally because the legislative framework we were developing for our regulatory functions was still very much in its infancy in about 1996 or 1997. For some years until now, we have been funded by a mixture of industry funding, through the licensing fee income that we have always had from electrical contractors, electricians and gas fitters and an appropriation from the consolidated fund. That appropriation took over what was previously being cross-subsidised from SECWA, and then for a short time from Western Power and Alinta. We have been moving on that path now for the past few years. Recently, a functional review was undertaken into this issue of industry funding when the matter was revisited, and the government concluded that it was now appropriate to move to full industry funding, meaning that the consolidated fund appropriations would be replaced with a levy on the energy industry participants to effectively take us back to the position we were in some years before. Admittedly, the dollar amounts have changed, although the people numbers at EnergySafety today are as they were in 1995, so we have kept a fairly tight lid on our resource requirements. Essentially, that is the situation by way of background. We have developed this levy proposal, which the government has endorsed, as a mechanism for providing EnergySafety with a sustainable and realistic amount of funding that will give us an ability to carry out our work properly, because we really have been struggling in the past three or four years with the funding levels we have had.

Hon KEN TRAVERS: How does the department distinguish this levy from a tax?

Mr Koenig: The department looks at this as a levy, and the question of tax is a legal one. We have obviously had discussions with the State Solicitor's Office on this issue and have been very careful to not allow this proposal to be something that could legally be defined as a tax. Let me confirm,

please, that we have had formal legal advice on this issue. It has certainly been confirmed to us by the State Solicitor's Office at a very high level that it is not a tax, but is a levy. That is based on the statutory interpretations.

Hon KEN TRAVERS: My next question was whether you had obtained legal advice on the nature of the levy, but you have answered that point.

Mr Koenig: Yes.

Hon KEN TRAVERS: Obviously that is one of the key questions the committee needs to resolve. Obviously you have legal professional privilege, but are you in a position to give us an indication of the elements that you were required to meet to ensure that it is a levy rather than a tax?

Mr Koenig: I can give an indication of the basis of that advice. If the levy had been constructed on the basis of a rate to be applied for, say, the amount of energy sold by particular electricity and gas retailers, that would have been a tax, because effectively that would have made it an excise and then a tax. However, as a fixed point in the levy applied to specific entities in the manner that is proposed, it is not considered a tax.

Hon KEN TRAVERS: Is there a relationship between the provision of the activities that you will then carry out and the cost of providing those activities?

[9.05 am]

Mr Koenig: There is a loose relationship, yes. Perhaps I can explain it this way: I should be careful to say that the levy is not intended to be a fee for service; rather, it is meant to be a realistic mechanism for imposing on a particular sector of industry a cost recovery mechanism that ultimately flows through, in terms of where the costs are met, to those people who are the ultimate end beneficiaries of the regulatory framework that we administer. In that context, one can, realistically I think, see benefit for those persons who either use electricity and gas directly as consumers or who purchase products or services that have been provided or made available through some assistance or use of electricity and gas, and these could be commodities sold overseas or wherever. Whatever incremental costs are included in terms of electricity and gas, there is some benefit derived in the production of those services and commodities from the regulatory framework that we administer. Therefore, very broad spreading of these costs across the industry sector is not an unrealistic way of getting a user-pays arrangement in place, albeit it is not specifically intended to be a fee for service because it is not aimed at any one specific organisation.

Hon KEN TRAVERS: To what extent is energy safety funded from the consolidated fund? What is the extent of any shortfall and will the introduction of the levy result in a lesser contribution from the consolidated fund? If so what is the anticipated reduction?

Mr Koenig: Over the past few years, revenue income from licensing fees was typically in the order of \$2.5 million a year, although that varies because of the cyclical nature of some fees, and appropriations typically give us an additional \$2.5 million a year. That provides a total budget of around \$5 million a year. That has been a struggle for us. The draft business plan, which I have made available to the committee today, and which has been released to industry, sets out some of our budgetary difficulties and indicates that we need an expenditure budget of approximately \$6.9 million instead of \$5 million a year in order to function properly. That is why we are looking for the levy to be approximately \$4.4 million a year. Together with the \$2.5 million from licensing fee income, we can support an expenditure budget of approximately \$6.9 million.

Hon KEN TRAVERS: The next question relates to a policy matter. You are not required to answer it, but you might be aware of the answer; otherwise, we might have to ask the minister to provide the answer. You made it clear that the levy would, technically, not be a user-pays system, but is some sort of cost recovery from users. Why has a user-pays system been chosen rather than being funded by revenue from the consolidated fund?

Mr Koenig: I understand that the government concluded that there were some good precedents elsewhere in Australia for taking this approach to this area of regulation. I understand that there is a leaning by the government broadly in that direction. That is certainly the indication I have been given as a result of discussions we have had within government. However, more specifically, I think the decision to go this way in relation to electricity and goes technical safety regulation was based on the review undertaken whereby we were able to indicate that in New Zealand, Victoria, Queensland and, to a degree, South Australia, these kinds of models are in place. The government was satisfied on that basis that it was a creditable way to move forward.

Hon KEN TRAVERS: Do you have any more details about how those safety activities are funded in other states within the commonwealth of Australia or can you refer us to a document containing that information, rather than going through it all now?

Mr Koenig: On page 30, section 6.4 of the draft business plan, I have provided there is a section headed "Summary - Stakeholder Expectation and Need for Additional Resources". On the following page, there is a description, for example, of the funding for the Electrical Safety Office in Queensland. That is one reference; there is more detail elsewhere.

Hon KEN TRAVERS: Perhaps the best way to handle it is to take that as a question on notice and forward us any details about how it is treated in other states.

Mr Koenig: I am very happy to do that.

Hon KEN TRAVERS: Any information concerning how they are treated, whether the funding is seen as a tax or a levy and any information about their funding mechanisms will be useful. We will take that as a question on notice because the committee is reasonably pressured for time.

Do the services provided to industry participants differ from the ordinary annual services of government, and, if so, how? I guess we are asking whether there are public prosecutions for breaches of safety and the like.

Mr Koenig: The work that our office does covers a range of regulatory enforcement activities. Let us call them operational activities that include enforcement activities as well as a range of policy related work. Our office is responsible for not only the administration of the existing framework but also providing policy advice on what changes might be required to the existing regulatory framework. It is a relatively specialised area of activity so there is nobody else within the public service who is available to ministers to provide that advice. We provide policy advice and administer the regulatory regime, including its enforcement. Our activities cover the normal spectrum of those things within that area.

Hon KEN TRAVERS: I guess that leads to the next question: what services are provided by the department to participants in the electricity and gas industries? Do you do the same for the gas industry? Are any other services provided by the department to the industry participants?

Mr Koenig: No. I would not use the term "services". As a regulatory entity, we do not provide services as such, if I may say so. We are there to monitor and ensure, in the best way we can, that people understand and comply with the law. We carry out audits and inspections and have discussions, naturally, about what improvements might need to be made to the regulatory framework.

Hon KEN TRAVERS: Is the gas industry pretty much the same?

Mr Koenig: Yes we have exactly the same approach to gas and electricity in broad principle terms. The regulatory framework has a good deal of similarity in its structure and approach. The technological issues are certainly different, but we use very similar mechanisms for each of those.

Hon KEN TRAVERS: I think you mentioned the Electricity Coordination Act. What other legislation do you operate under?

Mr Koenig: They are listed on page 8 of the business plan where there is a description of EnergySafety's activities. Section 3.1 lists the legislation we administer. We share some of that legislation with the Office of Energy. In other words, the Energy Coordination Act is partly administered by the Office of Energy and partly by us. Most of the Electricity Act is administered by us and we administer all the Gas Standards Act, but there is some sharing. I have identified where there is a detailed description of what happens in the other states. Another paper was made available by e-mail to your office yesterday, which I think is available now, titled "Industry Funding for Energy Safety". On pages 4 and 5 there is a detailed description of what takes place in those states.

Hon KEN TRAVERS: Thank you. How are the costs of your activities distinguished from the costs of services provided by other divisions of the department?

Mr Koenig: The energy safety division operates, as do the other divisions, very independently in an organisational framework within the department. We have our own building, vehicle fleet and administrative structure. We share some corporate services, naturally, within the department, but that is literally the extent of our sharing of things with other divisions within the organisation. That is partly because of the culture of the individual divisions. Each one is a regulatory entity in its own right, and, therefore, operates very much as a complete organisation under the umbrella of the Department of Consumer and Employment Protection.

Hon KEN TRAVERS: Your position has a range of regulatory functions that you are responsible for carrying out.

Mr Koenig: That is right. As Director of EnergySafety, although, I am administratively responsible to the director general of DOCEP, and through him to the Minister for Employment Protection under the present arrangements, on a statutory basis I am responsible to the Minister for Energy because that is where the legislation we administer sits in portfolio responsibility. The Energy Coordination Act provision that establishes the Director of Energy Safety position makes it quite independent inasmuch as only the minister may direct the Director of EnergySafety on any functions. Over the years it has developed such that the EnergySafety division operates very much as a complete entity relatively autonomously. Indeed, the legislation proposed for the levy has built into it special safeguards to ensure that the funds received through the levy and through any other income we currently have, such as licensing fees, can be used only for the prescribed activities referred to as "energy safety activities". In other words, a fairly solid fence has been drawn around the funds that we will receive should the legislation be passed.

Hon KEN TRAVERS: How do you determine the cost of your activities?

Mr Koenig: In terms of allocation across industries, the way we felt the model would be best and most sensibly applied was to look at how our staff structures are placed. As it turns out, it is roughly one-third, two-thirds but an actual head count has indicated that 38 per cent of our office, based on staff numbers, and the work of those staff is related to gas and emergency management related work, and 62 per cent is related to electricity industry related work. We have proposed - this is part of the proposals for the first five years of the levy - that the split between electricity and gas be based on that same percentage.

[9.20 am]

Hon KEN TRAVERS: What is the method of calculating the total amount of the levy?

Mr Koenig: The principle that is built into the legislation as proposed is as follows: EnergySafety would develop each year a comprehensive business plan that would set out its proposed budget on a five-year rolling basis, with considerable detail for the financial year ahead, indicating what operational expenditure would be required and the main projects that are part and parcel of that, and what capital expenditure, if any, would be required and the main purposes of that. That business plan, complete with a broad statement of intent that sets out the very broad functions of the office

for the next five years, would go to the responsible minister by the end of December each year. Under the legislation, the minister then has two months to approve that plan or refer it back to the department with some request for changes or review. Ultimately, when the minister is satisfied that the business plan is an acceptable one - I should add that within that business plan, the budget framework would set out how much money is required, how much would be the expected revenue from licensing fees and therefore the quantum of the levy as the residual requirement -

Hon KEN TRAVERS: That is the only mechanism for determining the level of activity?

Mr Koenig: Yes. In other words, the business plan proposes the expenditure budgets.

Hon KEN TRAVERS: The level of activities you will carry out and there is no other legislative or other -

Mr Koenig: No. The business plan is the foundation for the levy determination. It sets out the proposed budgets for both expenditure and income. Part of that income budget is the proposed levy, and the minister then has the opportunity to assess that and either approve it or reject it.

Hon KEN TRAVERS: How do you determine the levy part that is then applied to the network users?

Mr Koenig: That is something we will propose to the minister each year, but we do not anticipate that that will change drastically over the years to come. We have had careful deliberations on this and the proposal has changed somewhat as a result of industry comment. This is described on pages 38 and 39 of the draft business plan. Essentially, it means that, in line with what I mentioned earlier, we would recommend to the minister that 62 per cent of the levy be applied to the electricity sector and 38 per cent to the gas sector, and that the allocation between the various participants in each of those sectors be done on the basis that the levy is applied to electricity distributors and gas distributors, and that the pro rata allocation between them is done on the basis of the number of customer sites that they serve when they distribute electricity or gas. Western Power, for instance, services some 800 000 customers' sites with its network. That is the south west interconnected system, plus the country system, which now needs to be separated. Those are the sorts of numbers. That would be one of the numbers used compared with some of the smaller electricity distributors that would have much smaller numbers. Realistically, Western Power would get a much larger share of the electricity levy than would smaller distributors such as Rio at Pannawonica and so on.

Hon KEN TRAVERS: If I am right, the levy is then gazetted as a disallowable instrument.

Mr Koenig: Yes. The Legislative Assembly approved an amendment to the legislation that provided for a disallowance of the levy determination by the minister by either house of Parliament.

Hon KEN TRAVERS: How are the costs of services provided by the department to the division determined?

Mr Koenig: Those costs are basically for the corporate services support that we receive. The amount of those costs has been assessed within the department. Page 34 of the draft business plan gives the summary of the financial forecasts. Under part 2 of the operating expenditure is the heading "Recurrent Expenditure" and there is a figure for corporate services. Those costs are quite realistic for the services that are provided.

Hon KEN TRAVERS: Is there a formula for calculating that?

Mr Koenig: It was agreed with the director general that these figures were realistic.

Hon KEN TRAVERS: It was more by negotiation.

Mr Koenig: It was by negotiation. I will admit that our corporate services people wanted more than that, but the director general said that he thought that is all they were entitled to.

Hon KEN TRAVERS: Which division of the department undertakes licensing? Is that your office?

Mr Koenig: Yes, that is our office. We operate all these things ourselves. We have a licensing office at our West Leederville location.

Hon KEN TRAVERS: I think you have already answered in part my next question. However, I will re-ask it so that you can add any comments that you wish to. What relationship does the total levy bear to the cost of providing the EnergySafety services?

Mr Koenig: The levy is really the portion that is not currently funded by licensing fees.

Hon KEN TRAVERS: To what extent is the levy determined by long-term funding requirements? Again, I think you have pretty much covered that in the five-year outlook in the business plan.

Mr Koenig: A fair answer to that is that there may be times when some significant costs such as major computer system costs and so on might be looming. One way we are looking to smooth out the levy each year - this is part of the proposals in the business plan - is to determine the levy on a five-year rolling average basis. It means that there would be minimal variation in the year-to-year quantum of the levy. That makes it more practical for everybody, I believe, as an administrative mechanism.

Hon KEN TRAVERS: To what extent does the levy comprise money for promotion of safety? I note there are a couple of mentions of that in the business plan about it being a particular shortfall. How much is it used for promotion of safety?

Mr Koenig: Certainly, we have had considerable difficulty in finding money within our budgets over the past five years for energy safety - in other words, electricity and gas safety promotion - to the public. Frankly, that is because we have had this clamp put on the appropriation we receive from Treasury over the past few years, which has kept it down to \$2.5 million. We have really struggled with that. So we have had no money left over at all for safety promotion. It is fair to say it is one of the few items of discretionary expenditure we have within our framework. The only way we have managed to get money together for safety promotion during recent years - we had some safety promotion 12 months ago - was because we were able to get some additional funds from elsewhere within the department. In other words, the director general transferred some funds from elsewhere in the department across to us towards the financial year in recognition of our need and our budget tightness, and the very strong desirability of having some public electricity and gas safety promotion. In the forward budget on page 34, we have shown that we are looking to have something regularly provided for as part the budget we propose. Item 1(c), under operational expenditure, lists what we hope to be able to spend each year on regular safety promotion.

Hon KEN TRAVERS: Staying on page 34 the draft plan, under the source of funds, there is the base industry levy and then an adjustment to the equalised levy and then the total levy. I assume that is the levy we are talking about in the act. How does that work and what are the different items?

Mr Koenig: Yes. This is the equalisation arrangement I referred to a moment ago. By calculating the quantum the levy over five years based on the base industry levy, and then averaging that and having a carry forward or a credit scheme, it is possible to equalise the levy so that instead of it jumping around as is shown in line (d), because that reflects the actual amount that would be if you were just accounting on a strictly per year basis, that shows the variation in the levy across that line.

Hon KEN TRAVERS: The \$4.488 million will be the amount actually cast into a levy that you collect each year.

Mr Koenig: That is right. Instead of collecting what is on line D, which is quite variable, instead we collect \$4.488 million each year, and it equates to the same amount over the five years.

Hon KEN TRAVERS: How are licence fees set, and what is the cost recovery component of those fees?

Mr Koenig: The licensing fees are set with the approval of the minister and the executive council. Each year, as part of other areas of government, we review our licence fees and look to see what changes might be necessary to reflect increases in costs. We have, over the past six or seven years have worked steadily towards full cost recovery. We are probably at around 80 to 90 per cent full cost recovery for the bulk of our fees at this point. We hope to reach full cost recovery within about two years.

Hon KEN TRAVERS: The bill contains a penalty interest of 20 per cent. What is the justification for that, and why is it set in the bill rather than by regulation?

Mr Koenig: That was based on advice from parliamentary counsel as a relatively normal mechanism for a money imposition bill of this kind. In other words, it could equally be set out in regulation, admittedly, Mr Chairman, but it was seen as convenient to be put in the bill and to fix that amount in that way. In itself, my view is that the 20 per cent is probably a fairly modest penalty for someone who refuses to pay the levy altogether. It is really only in equivalent terms to what would be a fee for late recovery payment, interest for money not received and so on. It seemed to me that when this was being drafted that this was a fairly realistic proposal. That is certainly what parliamentary counsel advised us. My assessment was that it looked fairly realistic from an administrative point of view and not unduly, if you like, harsh or anything of that nature. I thought it was a realistic proposal.

Hon KEN TRAVERS: I suppose it depends on the normal prevailing interest rates.

Mr Koenig: The intention is for people not to think of it as, "If I do not pay it all, I will incur the cost of what would be equivalent to interest rates." I would rather give an incentive to pay.

Hon KEN TRAVERS: What proportion of departmental costs relate to investigative activities?

Mr Koenig: Unless you would like a more detailed response, I will have to make a bit of a guess at that because we do not quantify those figures in that sort of form in our day-to-day operation. Essentially, I guess I can answer the question this way: our investigative work is carried out principally by the inspectors in our electrical inspection branch and our gas inspection branch, and they form a significant part of our staffing,. In fact, they form about two-thirds of our staffing altogether. Some of the other staff, such as senior engineers and principal engineers, are also involved in some of the investigative work of a complex nature because they support the work of the inspectors when technically more complex work is involved and so on. If I were to take a broad guess, I would probably think that in one way or another, something like half of our overall expenditure is committed towards operational activities of an investigative-related nature.

Hon KEN TRAVERS: I noted your comments earlier about services. Do you see any of your activities as being a service to industry participants? Would you say any are services to industry participants?

Mr Koenig: In a sense, yes. It is not strictly a service; nonetheless, many of the things we do have an advisory nature as well. In other words, we make some real effort to keep industry informed of what is happening in terms of technical standards changes, for example, because we are closely involved with Standards Australia and other related organisations, such as the Energy Networks Association, which is the national body dealing largely with electricity and gas utility technical activities. Therefore, we make a specific effort to keep industry advised. We have a quarterly publication, which is quite comprehensive that goes out widely to industry and is on the Internet. We have had very good feedback on the value of the information provided, which is regulatory related information, such as changes in standards and requirements, and what is topical around the industry. Also, we tell people in that publication also who has been prosecuted for what or who perhaps had a disciplinary action taken and why, so people learn from those things and can understand what to avoid. As I said, we also provide safety promotion services, which I think are beneficial across a whole spectrum of people who operate in the industry.

Geoff Wood has also drawn to my attention that we also provide a service to the commonwealth government and the Indian Ocean territories, as do a number of other government departments. That is done on a fee-for-service basis. That is why it is shown as part of our income.

[9.40 am]

Hon KEN TRAVERS: I note that you have provided a number of the papers that have clearly drawn out. Can you give us a brief summary of the consultation process on the levy and the drafting of this bill?

Mr Koenig: Yes. Following the minister's announcement of the proposal, which was in mid-October, which is when the bill was also introduced, we issued to industry at that time the first discussion paper, which was an earlier version of this particular paper called "Industry Funding for Energy Safety". The first version was dated 15 November and then there was a minor change made and this later version was released later in November. Subsequently, we had some detailed discussion with both the Chamber of Minerals and Energy and also the Chamber of Commerce and Industry Western Australia, with members in a large meeting environment with members of the energy industry-related organisations. We debated various aspects of the proposal with the various members and senior chamber members, and that resulted in some further dialogue and, ultimately, changes to the proposed allocation method for the levy. Essentially, what has taken place in the consultation is that the two chambers have said - I cannot speak for the Chamber of Commerce and Industry - but certainly the Chamber of Minerals and Energy has said that the revised allocation methodology is something that pleases it because it sees it as more appropriate in terms of the allocation and where that is targeted across the sectors. However, to be fair to it, as the Chamber of Commerce and Industry has said, the Chamber of Minerals and Energy does not support the bill in the context of it raising extra revenues through the levy as distinct from funding being from the consolidated fund. There is some reposition in terms of the consultation on that: the two chambers do not favour the legislation, but at the same time the Chamber of Minerals and Energy has said that it is pleased with the changes that have been made.

Hon KEN TRAVERS: They prefer the method that we are using, but they are still not happy with the overall concept. No-one is ever happy about paying money!

Other than the business plan, and from the sound of it you have been running a very lean operation, are there other mechanisms to ensure you will maintain wherever possible efficiency activities so the levy is kept to a bare minimum? That is to check that it does not become easier to keep increasing the levy? What is the mechanism for a check and balance on that situation?

Mr Koenig: Principally the business plan process is the beginning of the scrutiny process. There are two mechanisms that provide for some confidence that costs and expenditure will be kept under control. First, the minister will inevitably seek advice from the Department of Treasury and Finance on the business plan; in other words, this is not something that will just be a yearly easy money process for EnergySafety through some liaison with the minister's office. There will be quite a bit of scrutiny applied within government to the business plan. That has been made clear to us; that does not surprise us. Second, the last thing that the minister would want is to have a disallowance motion put forward because the quantum of the levy is seen to be running out of control in some way by other members of Parliament. I think the responsible ministers will be careful to keep the quantum of the levy under good control.

Hon KEN TRAVERS: I will now look at some of the investigators' powers - obviously, the ones relating to the levy. Why is there a need for such extensive powers to be given to investigators? There are some fairly strong mechanisms in the bill.

Mr Koenig: Is that in terms of investigating the basis for the levy?

Hon KEN TRAVERS: I can understand your other functions and why you would need some fairly strong powers of investigation. These seem fairly -

Mr Koenig: Those powers are substantial. They are there principally as reserve powers in case somebody does not want to give us the information that we would need to be able to fairly allocate the levy across the various industry participants. In other words, we will need to be confident that the information we receive say from Western Power, Alinta, Rio Tinto, BHP Billiton and some of the smaller entities in the market are giving us accurate information about the number of the customer sites they are servicing. For instance, the LPG distributors are part of that as well, and we will have to have a census date set for that. It is fair to say that some of those organisations are very reluctant to part with some of that information because it is marketing and commercial information that is quite sensitive about how many customers they have in effect. They do not release that sort of information unless there is a statutory requirement to do so. If somebody wants to play hard ball, we need to have some ability to follow up. That is really the basis of it. There is commercially sensitive information, which we have to, as you might note from the requirements, keep very confidential. People are reluctant to give us that sort of information and that is why we need some reserve powers just in case.

Hon KEN TRAVERS: Why is it necessary to film - that is, to take video footage?

Mr Koenig: Is that referred to in one of the parts?

Hon ANTHONY FELS: It is stated in the bill that the investigators can take video footage.

Mr Koenig: I will quickly look at that part; it has been a while since I have looked at it.

It is clause 24(3)(d). I think it is fair to say that parliamentary counsel took this from fairly standard material it has for these kinds of functions. I think that parliamentary counsel just made a general -

Hon KEN TRAVERS: Can you take that matter on notice and ask parliamentary counsel to give you examples of other legislation; that is, if it has based it on other legislation, what are the other pieces of legislation?

Mr Koenig: I think this was included as a suite of general functions that investigators might require. I do not think this was very closely tailored to just the particular application; it is a fairly general thing.

Hon KEN TRAVERS: Perhaps you can talk to parliamentary counsel to see whether it has any examples of those sorts of extensive investigative powers occur in other acts; that would be useful.

Mr Koenig: I can follow up on that - certainly. Would you like me to come back to the committee with information on that?

Hon KEN TRAVERS: Yes. If you could send something through to the committee; that is, maybe check with them after today, and get back to us in the next couple of days.

Mr Koenig: Yes.

[9.49 am]

Hon KEN TRAVERS: Regarding those powers to require access codes, to go into computer equipment and the like, has any consideration been given to safety issues? I assume some of those premises you may enter will be areas that would usually require significant induction courses for entry. The provisions of the bill give an investigator the power to go into those areas. Some of your safety investigators may have a good idea of what they are doing, but someone checking on the financial side may not. However, under this legislation, they will have the power to go anywhere at any time. How do you intend to deal with that?

Mr Koenig: Our normal process is to comply with whatever safety and induction mechanisms are required. That is our standard procedure. In other words, unless there was some exceptional reason - it is hard for me to visualise one - I could not imagine us wanting to counter those procedures. We would look to work in with a company from which we seek information in the best way we can. If the company chose for some reason - which is possible, but admittedly rare - to be completely

uncooperative, that is when some of these sorts of powers might have to be applied. However, we would normally expect our people when doing audits on the information supplied to fit in with all the normal company procedures and to examine all company documents and other things in the company of officials from that organisation and so on. That is our normal way of doing things.

Hon KEN TRAVERS: In protecting the commercial sensitivity that you mentioned, do you plan to have protocols or policies or other mechanisms for ensuring the protection of that commercially sensitive information?

Mr Koenig: It would be fairly strictly controlled and we will keep to a very small number the persons who would be involved as investigators for this kind of information. In fact, our director of business services would undoubtedly be leading that area. He has a lot of experience, for instance, as an auditor, and has a strong business systems knowledge. By keeping the number of such investigators very small, and by keeping a tight rein on who does what, will ensure we keep a close rein on the information.

Hon KEN TRAVERS: Will there be policy and procedure manuals about where and how that information is to be stored for its security when it comes back to your organisation?

Mr Koenig: Yes. We are certainly planning to set up that kind of regime. I will be honest: we have not done that yet because we are looking to get everything under way, and we will then put the procedures in place in some detail. That will not take very long. I will look to our director of business services, who only recently joined us, to put that sort of mechanism in place. You are quite right: we need that kind of approach, and certainly that is the intention. We propose to keep the number of investigators to an absolute minimum in that sense.

Hon KEN TRAVERS: Under a number of other pieces of legislation, such as Industrial Relations Commission measures, before premises can be entered, investigators must give notice that they will be coming when they suspect a breach of legislation. Has any consideration been given to that approach? Is there any reason for your not having a similar provision regarding giving a warning before attending premises? In practical terms, what would be your expected way of operating?

Mr Koenig: The normal practice would be to give notice of intent to enter the premises and arrange a convenient time to do so. It will depend on the kind of mechanism chosen. I must be careful here: a recent change was made based on industry comments to go to what I call the distributor allocation model - as distinct from in the case of electricity, the electricity production model, which you may have seen reference to in the documentation - and that kind of model requires much more complex information to be gathered from industry. Indeed, perhaps for some people in industry, it might have been a bit grey as to whether or not something was seen as subject to the levy, depending on personal interpretations. If that allocation methodology were still to be used, for example, some of those investigative powers become more relevant because the type of information to be gathered would be more complex. There might indeed be a time that it might be necessary, because doubts have arisen about the validity of the information an industry participant has provided; there might be a need to make an unannounced visit to check the operational arrangements at the site in relation to electricity production. In other words, it is not inconceivable under different models of allocation for the levy to require what might be an unannounced visit.

Hon KEN TRAVERS: Under the current model you are proposing, that would be fairly hard to envisage.

Mr Koenig: I accept that. However, because the model itself is not fixed by legislation - perhaps in 10 years the government the day might think a different model is appropriate - it is best to leave the broad investigative powers there as a reserve in case they are needed to be able to support the different models that require different information. I believe that those broader powers are worth having, albeit that under the current model they are unlikely to be used.

Hon KEN TRAVERS: The documentation you provided appears to indicate that there has not been consultation about the investigative powers with industry and other participants. Is that fair comment?

Mr Koenig: It is fair to say that that issue has not arisen in the discussions. In other words, no-one has raised that issue.

Hon KEN TRAVERS: Are people aware of the investigative powers?

Mr Koenig: Yes. The legislation was made available to them all. They have all seen it. As you know, it is not a large bill. No-one has raised any questions about that aspect.

Hon KEN TRAVERS: They might be keen fishermen and are used to the fisheries investigatory powers and see these powers as moderate!

Mr Koenig: It could be the case.

Hon ANTHONY FELS: Is provision made for employees or subcontractors of any the energy providers to be liable in any way under either duty of care or responsibility if they have not done their job properly - for example, if they provide misleading or inaccurate property to the provider?

Mr Koenig: In other words, you are referring to the information that the organisation gives to us about, for instance, a number of network customers and so on.

Hon ANTHONY FELS: Yes. I refer to someone with commercial information, but also some of the general safety requirements with which they should comply within their own quality control or whatever that they are not doing correctly, and you are taking a report as reported rather than actually physically inspecting some aspects?

Mr Koenig: The information we will seek from industry participants would be at this stage, as per the model proposed, would be a number of sites serviced by the network or by the gas LPG distributor in the case of cylinders and so on. We would clearly rely on the accuracy of that information coming through from the respective head offices of those organisations. We would occasionally audit information. Obviously, if somehow we received information that something was suspect, we might do an audit quite rapidly or request some verification. However, in the initial stages, we would take that information as accurate and then do audits as a follow-up. If individual staff members of those organisations have done the wrong thing in providing information, that would be for the company to deal with. It would not involve us. We will deal with only a corporate entity, rather than individuals.

[10.00 am]

Hon ANTHONY FELS: On the issue of commercial privacy and sensitivity, if an employee of the office of EnergySafety had been doing years of these inspections and had fairly intimate knowledge of the industry and he or she were offered employment with the energy providers, is there provision within the employment contract to prevent the person from doing that or to prevent that person being an attractive proposition for one of the providers or a new entrant to the industry to poach from your department?

Mr Koenig: I am not aware of any specific regulatory requirements within the public service that would deal with that sort of post-employment phase. However, I think that the confidentiality provisions that will apply through the proposed legislation would still apply to that person at a later stage. In other words, I do not think that the individual would escape the confidentiality obligations that will be imposed by the proposed legislation just by changing employment. That is also one of the reasons I am looking to limit to a small number of people access to information about the number of sites that are serviced in those areas in which there is some sensitivity, so as to minimise the level of risk of information leak.

Hon ANTHONY FELS: To what extent can energy providers such as Alinta, which is a private organisation, and the new structure of Western Power, which is government owned, pass on this levy? Would the government be likely to pass on that levy while Western Power is government owned? What mechanisms will prevent that levy being passed on to consumers directly? Alinta has been sold and is now privately owned, and Western Power may go down that path in the future. If the levy is not passed on to consumers while Western Power is government owned, but it is sold off, that might affect the value obtained for that entity based on its capitalisation, given that this cost could be passed on.

Mr Koenig: We expect the costs to be passed on, albeit that process might vary over time. In one way or another, each of the various energy industry participants has different opportunities for passing on the costs. They may do it differently, depending on their client base and so on. For example, a big percentage of the electricity distributed by Western Power is for industry and commerce. Small-use customers, who currently have a tariff cap for a period, consume a modest quantity of the electricity that is distributed or sold. It is the network that creates a transport charge for that electricity. It is possible for Western Power either to come to an arrangement with the government on what dividends it will pay to the government to make some allowance for what might not be possible to recover from those customers who have a tariff cap, or to spread those costs across the other industrial and commercial consumers that are the bulk of its activity for those years that suit it. Equally, Alinta can do a similar thing. Other companies such as Rio, BHP Billiton and so on can also choose how to apply this additional cost that will be part of their operational budget once this legislation is passed. It is not possible for us to be specific about any particular mechanism. It will vary quite a bit for individual industry participants, depending on their client base and how they choose to either absorb that cost or pass it on. Ultimately, in one way or another, it will clearly be passed on to the clients and consumers. That is inevitable, because it becomes part of the cost structures of those industries.

Hon KEN TRAVERS: How many industry groups do you expect to impose the levy on in the current market?

Mr Wood: About six for gas and eight for electricity.

Mr Koenig: It is quite a small number of entities. We are relying on memory, but there are approximately six entities for the gas sector and about eight or 10 entities for the electricity sector.

Hon KEN TRAVERS: I presume that is Western Power, Horizon and -

Mr Koenig: Rio in the north west and BHP Billiton in the north west. TransAlta is another one that has some network and so on. There are some smaller networks around. As part of the levy determination proposal, there will also be a lower end cut-off, because there is a point at which it is not worth collecting the levy for the small number of customers involved.

Hon KEN TRAVERS: What percentage of the total levy do you estimate will be picked up by Western Power?

Mr Koenig: In terms of the electricity sector, it is a very large percentage. It is approximately 99 per cent.

Mr Wood: It is 99.1 per cent.

Mr Koenig: How much is that of the total? The split is 38 per cent and 62 per cent, so it is roughly two-thirds and one-third. In other words, it is just below \$3 million for Western Power.

Hon KEN TRAVERS: That would be the former Western Power, so some of that would go to Horizon.

Mr Koenig: Yes, thank you. I need to think in terms of the new entities. Horizon will have some of that. Some of the approximately \$2.7 million will belong to Horizon as a liability, but the bulk of it will belong to the south west interconnected system entity, which will be called Western Power.

Hon ANTHONY FELS: Returning to the issue of industry consultation, when the bills were introduced, the Chamber of Commerce and Industry and Alinta very quickly opposed the government doing this and then criticised the government for not consulting industry over it. You said that there were consultations at that time, but that must have been subsequent to the bills' introduction.

Mr Koenig: Yes, the consultation was concurrent with the introduction of the bills.

Hon ANTHONY FELS: Why was there no prior consultation with industry in the lead-up to drafting and presenting these bills?

Mr Koenig: I would have to refer that question to the minister.

Hon ANTHONY FELS: In regard to your existing budget under DOCEP from consolidated revenue, is there some restriction on funding your requirements at the department at the moment? You said that you have been a bit limited in some areas, especially for advertising and public awareness. How much restriction has there been, and what would be the quantum of the shortfall between what you are provided now and what you want to collect with this levy?

[10.09 am]

Mr Koenig: Certainly we have had some real budget struggles during the past five years. We have had to quite carefully contain our efforts, including our staff numbers and other things. In fact, the only reason we can stay within budget at the moment is that we have such a high vacancy rate in the organisation. Fortunately, we are making additional revenue through the licensing fees because of the very busy time in the state's economic activity. In brief, we are underfunded in terms of what we would like to have to be able to run the division efficiently and effectively and with the right number of staff by something like \$1.5 million. We have simply had to work with an appropriation of \$2.5 million. This is together with the fact that there is a cyclical pattern to the licence fees, and when these fees are at their lowest, and a \$2.5 million appropriation, at some time our budget or total revenue was just over \$4 million. From that we had to pay for things such as corporate services as well. We were really struggling. We are looking to do as part of this proposal is to put us on a proper footing whereby we can firstly ensure that we have a reasonable number of staff. The minister has indicated - this is in the business plan - that subject to the levy being approved, he is in-principle agreed for an extra five staff to be appointed over the next financial year, and another five staff after that. The cost of that have been built into those projections. That is why the levy proposals are as they are. Those additional expenditures have been built into the figures. In summary, if we look at it carefully, we have since 1995 suffered a drop in real budget availability for expenditure. Of course, the increasing workload over those year has made things very difficult. We have had to restrain our activities very heavily and rely on things such as being able to occasionally get a hand-out from somewhere else in the department to be able to do things like safety campaigns. It has been difficult - in fact, it has been so difficult that when I asked for extra funds a couple of years ago, the budget process gave us a \$400 000 loan, and we are supposed to pay back that loan. I found that hard to believe at the time.

Hon ANTHONY FELS: Within the issue of the Tenterden fire was raised in the debate, how could the office of EnergySafety been able to prevent such a tragedy, or is it really the responsibility of Western Power or such an energy provider to monitor and regulate such matters themselves? How would the office of EnergySafety have noticed a potential problem and been able to prevent such a tragedy?

Mr Koenig: There are several factors involved in looking at how such a thing might have been prevented. It must be acknowledged that the primary responsibility for avoiding these kinds of safety failures and disasters clearly sit with the industry organisations such as Western Power. That is where the primary responsibility absolutely has to sit. It has the people and the ability to manage those things to avoid such incidents. As a safety regulator, we have an obligation and a role to play

to make sure such organisations are maintaining their network in a safe operational state. We monitor, therefore, the way the network is behaving and the safety incidents that occur such as conductor failures, poles breaking etc - the kinds of things that lead to safety disasters. From that, we build up a picture of where there appears to be problem areas, and then we try to home in on those through liaison with the industry organisation. We say, "What are you doing to address issues that are raising their head?" We also do systematic compliance audits of certain aspects of those utility businesses. For example, we recently conducted a specific audit of part of Alinta's high-pressure gas distribution system. Geoff's group has been actively involved in that.

It was a real shame that the fire at Tenterden happened because only three years before that a very similar fire occurred near Mt Barker on the same feeder line with an almost identical scenario in which a conductor clash started a fire. Luckily, it was arrested and diverted before it went into Mt Barker itself. The township was seriously threatened. It was a serious fire. We drew that to Western Powers attention; we told them it had some serious problems and it needed to follow through, check the rest of the line and learn from this and take appropriate actions. We did not have the legislative powers at that time to force it to do it; in fact, we still do not. I am still waiting on a bill to be reintroduced into Parliament. It was introduced in October 2003 to give us better order-making powers to require actions to be taken. However, that bill unfortunately lapsed without debate in the upper house in 2004. It is waiting to be reintroduced. Without the order-making powers, we were not able to force Western Power to undertake the survey and remedial action that we reasonably believed would have flushed out the problem that later took place at Tenterden.

I think we are currently very tightly stretched with resources; therefore, the amount of attention we can give to individual incidents such as Mt Barker is very limited because we are so tightly staffed and resourced. In other words, we can afford to spend only so much time on any one thing, and there is a degree of risk attached to that situation: sometimes we might have to close a file on something that really should be given quite a bit more attention. Regrettably, we have had to do that on a number of incidents during the past couple of years because of our tight resourcing.

Hon ANTHONY FELS: Are you saying there is nothing in this bill that will give you more powers to prevent such things, other than having more funding and having more people on the ground to monitor the situation?

Mr Koenig: That is correct. I hope this legislation will provide the right funding base for us, and I hope that the other legislation, which I know the government intends to introduce in the future, will provide us with the appropriate regulatory enforcement powers. One without the other is only part the picture of what we need.

Hon ANTHONY FELS: I refer to the issue of a levy versus a tax. If most citizens or members the community are in one way or another consumers of energy - gas or electricity - and are paying taxes, which is presently funding the office, why not just stick with pursuing a bigger budget item from the government for funding the office rather than imposing a levy on industry to do this?

[10.20 am]

Mr Koenig: Certainly that is an option for the government, and it has always been an option for the government. However, as I mentioned earlier, the government did a policy review on this through the functional review that took place some three years ago and concluded, after looking around Australia, that this was an appropriate way to fund this office. Therefore, it took on the policy position to make us fully industry funded.

Hon ANTHONY FELS: Does the office of EnergySafety intend to maintain the safety out there? Will it just inspect everything that is there, or will it be able to enforce proper safety standards?

Mr Koenig: We have a regime that relies on a range of mechanisms for ensuring compliance with technical and safety standards that are in place by the legislation. In the case of consumer installations, we have a regime whereby the utility organisations, such as Western Power, Horizon,

Alinta etc, have a statutory obligation to do the inspections of consumers' installations before connecting them to their system. They are obligated to do that. They do that under oversight from my office. In other words, we control that through a system whereby they submit an inspection plan that we then, once it is acceptable, approve, and it sets out how they will do the inspection work and at what frequency, and so on. Their inspectors also operate under the authority of my office individually; in other words, we can also control the conduct of inspectors in that regard to make sure that appropriate standards are applied and it does not become something that is sloppy and a minimalist activity within the utility organisation as part of an endeavour to just cut costs. We have a fairly tight, but not unreasonably tight, oversight of how those inspections are carried out. In the remote areas where there are no utilities, we carry out those inspections ourselves, such as for pastoralists and remote locations. Out on the Eyre Highway, for example, the motels along there, we will do an occasional inspection of the premises there, both for gas and electricity, in relation to work that has been done by various gas fitters or electrical contractors from time to time. We do maintain close surveillance of that, and we receive reports from those entities and from our own inspectors about any inappropriate conduct and non-compliance by the people doing the work out there, and we then carry out the prosecutions and disciplinary actions as appropriate. That system will not change in any way as a result of this, other than that we will have better resources and we will not need to close as many files on some things that we cannot afford to spend time on as before. Broadly, that system will remain and will continue. There is evidence that the system works very well. In fact, we can demonstrate that there has been a very good decline in the number of serious defects in the installation work that has been carried out by industry over the past five years. In relation to inspecting what the utilities are doing, which is our own job directly, because that is the other side of the picture - in other words, what do we inspect with regard to what Western Power, Horizon or Alinta are doing in terms of new pipelines, new transmission towers or distribution lines down in the local streets - we keep a very broad eye on those things. However, the level of inspection work that we are able to carry out there is very dependent on our internal resources. Certainly we will be able to do much better with that with the additional resources that are proposed per this business plan. At the moment, we are in a somewhat minimalist state with that, which is in keeping with what I mentioned earlier with regard to the issues arising at Tenterden. That does not mean to say that we are not doing any of it; it is just that we would like to be doing more of that. Certainly this proposal, if it is approved, will give us that opportunity.

Hon ANTHONY FELS: With some of the rural, regional and remote supplies, particularly for electricity, one of the problems with reliability is probably related to some of the safety issues as well. Some of the reasons that reliability falls down are issues that would also be affected by safety. Would customers in those areas expect improved reliability, given the improved safety monitoring in those areas?

Mr Koenig: I believe so, but I might add that one of the things we do aside from safety-related work is that we support quite strongly the work of the Economic Regulation Authority and the Ombudsman's office in relation to complaints about reliability and quality of electricity and gas supply. For example, we used to directly administer ourselves the quality and reliability of electricity supply under regulation, but those regulations were recently changed so that those requirements became licence conditions instead for the electricity industry. That is fine, but what happens now is that the enforcement of that is done by the ERA with our assistance, because we have the technical resources to be able to do investigations and make recommendations about actions.

Hon KEN TRAVERS: But it has not duplicated your technical expertise?

Mr Koenig: It has not duplicated our technical expertise. It relies very much on us for that technical expertise. In fact, we are in the process of establishing an MOU with the ERA for that very purpose.

Hon KEN TRAVERS: Does it fund you for that?

Mr Koenig: No. The intention is that whatever work we do, because it is so closely related to our safety-related work - which is what Hon Anthony Fels has mentioned as well - we would fund this from ourselves from whatever funding we have.

Hon KEN TRAVERS: What you are doing is safety related, but you then provide other feedback to it?

Mr Koenig: Yes. It is incidental to the safety-related work we do, and it is really not worth trying to separate it out.

Hon ANTHONY FELS: How will the office of EnergySafety be accountable to Parliament under this proposal versus its being funded out of the budget items under DOCEP?

Mr Koenig: The budget proposals for EnergySafety will probably be much more explicitly available to everyone to see, particularly in Parliament, through the business plan process that these bills set up than would be the normal budgetary process, whereby whatever we have for EnergySafety is contained within what would be the departmental submission under the portfolio at budget time. In other words, the level of detail about what EnergySafety does that would be available for scrutiny through this business plan is much greater than would be available to Parliament through the normal budget process. I say that because the business plan has to be tabled in Parliament as part of the minister's determination. Under clause 15, the levy notice has to be laid before each house of Parliament within six sitting days of that house next following the publication of the levy notice in the *Gazette*. With that, the levy notice would inevitably - I admit that it does not say that here - be accompanied by the business plan, which provides the basis for the -

Hon KEN TRAVERS: If someone moves a disallowance motion, I can assure you that the business plan will probably be provided by the minister very quickly!

[10.30 am]

Mr Koenig: That is right; I am confident it will be in the public domain at that time.

Hon ANTHONY FELS: You said that the business plan will apply over a five-year period. Will that not be much the same as the budget process you go through now anyway?

Mr Koenig: Yes. We had originally planned for the levy to be imposed every two years and, therefore, to go through this exercise every two years. However, Treasury convinced us to go through it on a year-by-year businesses as a normal budget. That is what we have done.

Hon ANTHONY FELS: You mentioned previously some of the very small providers on which it might not be worth imposing a levy, which is good. How far do you see this bill being a deterrent for new energy providers coming into the market because of the compliance costs and the additional compliance costs?

Mr Koenig: I genuinely believe that, from a total operational perspective, it will be seen as such a small cost that it will have no impact in that sense.

Hon ANTHONY FELS: Would any minor players in the market probably be exempted?

Mr Koenig: Yes. The very small network operators will be exempted. The threshold cut-off must be determined as part of the levy determination process, so I cannot prejudge that. However, there is no way that we would see the small privately run network with about 30 customers near the Eyre Highway as part of this regime. We will not discourage people who are doing those kinds of things.

Hon ANTHONY FELS: Do you feel that there should be any back-up from consolidated revenue for any extraordinary circumstances such as a natural disaster or act of terrorism that you might have to deal with that would not be funded under this bill?

Mr Koenig: Yes, I can see that there could be cases whereby EnergySafety might ask the minister for some special funding on that basis. However, we would deal with a special request for funding on a case-by-case basis in special one-off situations perhaps. In other words, I think that opportunity is always available and for the government to provide some additional funding for special purposes that it sees as appropriate.

Hon ANTHONY FELS: Do you see any role for DOCEP or the existing department to be able to fund public awareness campaigns out of its budget allocation rather than from funds raised from this energy levy?

Mr Koenig: I will be honest. If this legislation is passed, the other divisions and the department will not be interested in funding any of those sorts of activities in the future. They will expect all the funds that we need to come through this process - in other words a combination of licence fee income and levy income. What assistance we have received in the past is just in recognition of the special difficulties we had rather than something to be seen as a precedent for future use.

Hon ANTHONY FELS: Will you need to put into your business plan an amount for public awareness campaigning?

Mr Koenig: Yes. It is shown on page 34 as future expenditure. In other words, it has been allowed for in the figures. We hope that, as per this forecast, we can undertake regular safety promotional work in future.

Hon KEN TRAVERS: That concludes our hearing. You will receive a copy of the transcript. We usually give five days but we would like it as soon as possible after your corrections. We are on a fairly tight reporting time lines to get the bill back into the house, in which I am sure you support us. The couple of questions on notice will appear in the transcript and we would like that information as soon as possible also, although we realise it is a difficult time in terms of holiday periods. We would also be pleased to receive any other information you have about how similar schemes operating on the east coast. You referred us to some information. Thank you very much for your time this morning and your very comprehensive answers.

Mr Koenig: Thank you very much.

Hearing concluded at 10.35 am
