



REGULATING THE POWER SHIFT: THE STATE, CAPITAL AND ELECTRICITY PRIVATISATION IN AUSTRALIA

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In 1990, British political economist Grahame Thompson observed:

One of the most remarkable features of the 'conservative turn' experienced in the UK since 1980 is the paradoxical emergence of extensive *reregulation* of economic activity in a period supposedly typified by drastic *deregulation*. (Thompson, 1990: 135)

Thompson's comments point to one of the central, but least understood, contradictions of neo-liberalism: that a system which is justified on the premise of a withdrawal of state intervention in the economy has entailed an active role for the state in its implementation and maintenance. This article examines the realities of neo-liberalism in practice through an analysis of the history and experience of electricity privatisation in Australia. Such realities are contrasted with common assumptions made about neo-liberalism by both its advocates and some of its opponents. The case of electricity privatisation, it is argued, highlights not only the failure of neo-liberalism to deliver its promised benefits, but also the centrality of the capitalist state and class conflict to the dynamics of neo-liberalism in practice. We therefore reject the 'withering away of the state' approach to understanding neo-liberalism. In doing this we are contributing to a critique of the role of capital and the state in neo-liberalism.

Neo-liberalism, Capital and the State

According to neo-liberal theory, 'markets', when freed from state interference, are the most efficient, and most moral, way of providing goods and services in society. Although most neo-liberals admit a limited role for the state in enforcing the rule of law and, sometimes, in providing a 'safety net', they nonetheless argue for a severe reduction in the state provision of services such as education and health care, and a dismantling of regulations limiting corporate powers. Through privatisation, deregulation and marketisation, argue neo-liberals, a more prosperous and more free, although not necessarily a more equal, society will eventuate. For neo-liberals it is not only the scope of government activity that must be reduced, but the size of government as well. Neo-liberals therefore call for significant cuts to state spending.

Over the last twenty years, the neo-liberal philosophy has come to dominate policy making in Australia and stands as the dominant ideological frame through which society is understood within the media, the bureaucracy and political elites. Australian scholars have produced many valuable critiques of both the theory and practice of neo-liberalism – or 'economic rationalism' with which it is synonymous (Argy, 1998; Bell, 1997; Carroll & Manne, 1992; Fairbrother, Svensen & Teicher, 1997a; Pusey, 1991; Quiggin, 1996; Rees, Ridley & Stilwell, 1993; Sawyer, 1982; Self, 1993; Stretton & Orchard, 1994). These have tended to detail the inability of neo-liberal markets to deliver socially just outcomes and the ideological dogmatism inherent in neo-liberal theory. Implicit in the language, if not the actual analysis of a number of these critiques, however, is the notion that neo-liberalism entails a 'withering away of the state' (Fairbrother, Teicher & Svensen, 1997b), a 'retreat of the state' (Quiggin, 1996: 26) or 'small government' (Argy, 1998: 80-87). Such assumptions are mirrored by critiques of neo-liberalism internationally, with Susan Strange's (1996) *The Retreat of the State* being perhaps the best known example.

Yet, there is a growing body of literature which recognises the central role played by the state and capital in constructing, regulating and maintaining a neo-liberal economy in Australia and elsewhere in the world. There are two main aspects to this critique. The first is the

recognition that neo-liberalism did not simply arise organically out of the crisis of the Keynesian welfare state¹ from the 1970s onwards (see for example Arrighi, 2002). Rather, the economic crisis of the 1970s provided the context for a mobilisation by particular fractions of capital in an attempt to shape state policy making in their own interests. In Australia, for example, Bell (1997: 81, 116-7) has written of a 'neo-liberal coalition' and Kaptein (1993: 103) of a 'neo-liberal power bloc' which brought together leading fractions of Australian capital and which actively pursued the dismantling of the key institutions and social truths underpinning the Australian Settlement – tariff protections and arbitration – as well as those underpinning Australia's post-war Keynesian welfare state. This was not merely a mobilisation aimed at increasing capital's profitability, it was also an attempt to diminish the power of organised labour which had been bolstered in the post-war years by full employment and, in the late 1960s and into the 1970s, by militant unionism. This is captured by Berger who argues, 'a defining characteristic of the rise of neo-liberalism has been an historic victory of capital over labour' (Berger, 1999: 453).

The second aspect of this critique is a recognition of the role of the capitalist state in the construction and maintenance of neo-liberalism. Partly this stems from an appreciation of centrality of the state to the reproduction of capitalist economic relations in general. As Bell states, 'the neoliberal concept of a 'free market' is a contradiction in terms: markets are always and everywhere artefacts of state power and regulatory capacity' (Bell, 1997: 258). Neo-liberals, and some of their critics, fail to understand this. As Jessop writes, 'the capital relation cannot be reproduced entirely through market exchange' (Jessop, 2002: 18). The state is crucial for providing the framework within which

1 The terms 'Keynesian welfare state' and 'Keynesian social democracies' are used here as shorthand for a range of policies, institutions and social relations which coincided during the post-war years in many western capitalist democracies. This is not to deny the particularities of national configurations. Australia, for example, had a far less comprehensive welfare state system than did Britain or Sweden, with the wages system serving as the primary vehicle for redistribution, and can thus be described as a 'residual' welfare system (see Castles, 1985). Nor is this to suggest a direct correlation between the economic prescriptions advocated by Keynes, and the macro-economic policies which bore his name (for a discussion of this issue in the Australian context see Battin, 1997).

capitalist relations can exist through such activities as the provision of infrastructure, the regulation of markets, the maintenance of 'social cohesion' (Jessop, 2002: 21) or the correction of 'market failure' (Jessop, 2002: 41). Even a pluralist such as Charles Lindblom argues that the state must 'induce' business to perform its role in capitalist society (Lindblom, 1977: 173-4). Radical neo-liberal ideology is blind to this because it is an idealist form of bourgeois individualism – what Evan Jones calls 'idealist economics' (Jones, 2000). It misunderstands and mystifies capitalist social relations at the same time as deifying them.

The recognition that the state is central to neo-liberalism stems also from observation of neo-liberalism in practice. It was primarily through the capitalist state that the institutions and ideologies underpinning Keynesian social democracies were dismantled, and it has been through the capitalist state that neo-liberalism has been maintained and extended. Albo captures the essence of this when he writes:

it is entirely misleading to see neoliberalism as an attack on the state in favor of the market, or as a hollowing out of the state to the global and local, or a bypassing of the state by corporate power. Neoliberalism has operated through the institutions of the nation-state (Albo, 2002: 51).

A number of Australian scholars have recognised this point. Tim Anderson, for example, argues that contrary to neo-liberal rhetoric, neo-liberalism in practice has meant:

a market re-regulation to guarantee new and profitable markets to large corporations, and a social re-regulation to restrict the meaning of citizenship, where this conflicts with the delivery of profitable markets to large corporations (Anderson, 1999: 18).

Frank Stilwell argues that:

In practice, the policies [of neo-liberalism] have been less about 'slimming the state' than about aiming the state more directly to serve the interests of capital, and the financial sector in particular. (Stilwell, 2000: 52).

Similarly, Dick Bryan states that neo-liberalism has entailed 'an explicit agenda to enforce the power of capital' (Bryan, 2000: 345). Following from these critiques we understand neo-liberalism as a new 'mode of regulation' (Jessop, 2002) that seeks to overturn and dismantle the hegemonies and institutions that constituted the post-war class compromise, and to further socialise the costs of capitalist profitability. In doing this neo-liberalism entails a deepening of the processes of commodification, a transfer of power from labour to capital, and a transfer of resources from public to private. Using electricity privatisation as a case study, the remainder of this article builds upon such critiques to present a fuller picture of actually existing neo-liberalism than is offered by neo-liberalism's advocates or by adherents to the 'withering away of the state' thesis.

Making the case for Electricity Privatisation in Australia

Electricity privatisation in Australia did not arise out of popular struggles or discontent. Rather, leading fractions of capital played a key role in advocating and supporting privatisation, particularly the financial markets, the media and energy intensive industries (Kelly, 1992: 224). The Business Council of Australia (BCA) 'played a prominent role' in electricity reform in Australia. It formed an Electricity Task Force to 'provide a leadership role to support and achieve reforms in the electricity industry, thereby assisting Australian enterprises in becoming internationally competitive' (Daniels, 1993: 67). The BCA persuaded the government to direct the Bureau of Industry Economics (BIE) to undertake a series of studies identifying the costs of infrastructure services such as electricity, comparing their performance with the best overseas, and publishing the comparisons regularly. The BCA committed 'considerable financial and personnel resources' to this benchmarking exercise as well as associated studies (Daniels, 1993: 60, 63).

Not surprisingly, the BCA-funded studies found some gaps between the performance of Australian services and the best around the world. Nor is it surprising that the BCA recommended that government services be exposed to more competition from the private sector 'by removing the monopoly powers of government business enterprises and other barriers

to competition' (Daniels, 1993: 66-7) and that some of these enterprises should be divested to the private sector where they could be performed more efficiently (Loton, 1993: 4).

Business owners and executives also played a central role in setting up, funding and promoting think tanks and staffing their boards. These corporate funded think tanks proliferated in Australia in the 1980s and 1990s and campaigned tirelessly to get privatisation and deregulation onto the political agenda. During the 1990s they published about 900 reports and discussion papers each year and held some 600 conferences and symposia (G. Murray & Pacheco, 2001).

Perhaps the most effective instance of this corporate sponsorship of neo-liberal opinion was *Project Victoria*. It was established in 1990 when 13 business organisations commissioned the Tasman Institute and the Institute for Public Affairs (IPA) to outline a comprehensive neo-liberal agenda for Victoria. These organisations included the Australian Chamber of Manufacturers, the BCA, the State Chamber of Commerce and Industry, the Victorian Employers Federation and the Victorian Farmers Federation. *Project Victoria* set the agenda for privatisation and provided detailed advice on its implementation in Victoria. It covered water, ports, electricity, public transport and workers compensation. The Kennett Government implemented most of *Project Victoria's* recommendations after it was elected and in some cases went further, slashing the public service workforce by more than three times the 1991 report recommendations (Kohler, 1997: 15).

Business was also critical of community service obligations embedded in the State electricity supply arrangements, including uniform tariffs across the State to cross-subsidise remote customers and non-statutory environmental obligations. According to *Project Victoria*, these obligations caused business users to be overcharged by 28% (not including farmers who were subsidised) and impeded 'competitiveness by distorting service provision' (Moore & Porter, 1991: 4-6).

While such business-funded rhetoric painted a grim picture of the government-owned electricity industry in Australia, it ignored the real efficiency improvements that had been taking place under the existing system. The Industries Assistance Commission (IAC), for example,

recognised that, when it came to electricity supply, the state authorities were in fact improving their efficiency and productivity. The Electricity Commission of NSW had reduced staffing by 30 percent in two years and the State Electricity Commission of Victoria (SECV) had reduced staffing, cut operating costs, reduced reserve plant margins and cut average electricity prices by 3 percent a year since 1985 (cited in Access Economics, 2001: 14). Project Victoria's preliminary report, *Victoria: An Agenda for Change*, while noting that the State Electricity Commission of Victoria (SECV) had been one of the least productive electricity providers in Australia, admitted that one of the reasons had been its reliance on low-grade brown coal, which requires a more capital intensive electricity generation process, and that performance had improved markedly during the late 1980s (Moore & Porter, 1991: 4-4, 4-5).

The real reason that business was advocating privatisation had less to do with efficiency than with allowing private firms 'to get a piece of the action' (Porter, 2001) by opening up ready-made monopoly firms for private corporations to purchase at bargain prices. Under privatisation businesses would be able to shift more of the costs of electricity supply onto the householder, thus further socialising the costs of capitalist profitability. Furthermore, privatisation was viewed as a vehicle for undermining trade union power. In the words of Michael Porter (2001), head of the neo-liberal Tasman Institute, privatisation would remove 'the "ball and chain" and the labour market practices that stop business... from prospering'.

Despite the questionable assumptions upon which proponents of privatisation based their arguments, Commonwealth agencies and some state governments took up the privatisation baton from business. The IAC played a key role in influencing and supporting the 'reform' process through its many reports which were widely covered in the media (Corden, 1994: 112-3). Other supporting agencies included Treasury, the Department of Finance, and the Bureaus of Agricultural Economics, Industry Economics and Labour Market Research (Duncan & McAdam, 1985: 38). Although noting improvements in performance within the state-owned electricity industry, the IAC did not accept that full efficiency could be achieved without private ownership. It recommended

that, in advance of privatisation, the public utilities should be corporatised and that generation, transmission and distribution sectors in each state should be separated. New investment should be subject to competitive tender in the private sector. The Commission also proposed the division of generation capacity into separate competing companies with open access to the transmission and distribution networks for new private generating facilities.

These recommendations were endorsed at the 1991 Special Premier's Conference. They were also strongly supported by the major international bureaucracies: the IMF, the World Bank and the OECD. They were subsequently adopted, first in Victoria and then in other states. A National Competition Council was set up to oversee the restructuring process.

Such moves went against the tide of popular sentiment. Privatisation met with strong community opposition in most states. Public opinion was clearly against private ownership of electricity. A 1994 Saulwick *Age* national poll had found that over two thirds of those surveyed favoured public ownership; and an EPAC study the same year had also found that most Australians supported government provision of infrastructure (Miller, 1995: 6). The initial reluctance of States, other than Victoria, to privatise government services, because it was politically unpopular, was overcome by incentive payments of \$16 billion from the federal government. It was only because of 'intense pressure' and financial incentives from the federal government and other states that South Australia agreed to restructure its electricity industry and then join the National Electricity Market (NEM) (Booth, 2000: 107-9). The Olsen government had been re-elected in 1997 after promising not to privatise its electricity. However, within weeks it reneged and announced the sale. The business community in South Australia was strongly in favour of privatisation of electricity but there was also solid community opposition and the government lost office at the following election in 2002 (Spoehr, 2000: 16).

State governments found privatisation attractive, despite public opinion, because it promised a short term influx of money into government coffers. A primary political motivation for privatisation in the states of Victoria and South Australia was debt reduction. However, although

state debt fell from \$76 billion in 1993 to \$47 billion in 1997, taxpayers were often not any better off, particularly with respect to electricity privatisations (Leeuwen, 1997: 9).

In the early 1990s the Victorian state government had such a large government debt (\$32 billion) that its credit rating was downgraded by international rating agencies. Privatisation was supposed to be a way of reducing the government debt and therefore taxes and charges to business. In fact the SECV's debt was not really a problem. In the year before it was broken up, 1992/3, 'it paid \$995 million in interest, a \$191 million dividend to the State Government, and had a profit of \$207 million' (Skulley, 1995: 32).

In South Australia, where electricity privatisation was promoted as a debt reduction measure, the debt was portrayed as being out of control. However, the Electricity Trust of South Australia (ETSA) had contributed some \$2 billion dollars to state revenue over the previous decade and its operating costs had decreased significantly (Kelton & Wheatley, 2001b: 23). Neo-liberal economist, Richard Blandy, later confirmed that:

revenues earned by ETSA for the South Australian government before it was privatised would match, if not exceed, the interest on South Australian debt retired as a result of ETSA's sale. Hence, South Australians now face historically high electricity prices compared with the rest of Australia for no net benefit to the state government finances (Blandy, 2002: 11).

This supports John Quiggin's argument that:

The privatisation of the South Australian electricity industry has reduced the net worth of the public sector ... the interest savings on the sale price will fall consistently short of the earnings foregone through privatisation. This is consistent with most Australian experience of privatisation (Quiggin, 2003: 68).

In summary, electricity privatisation, like neo-liberalism in general, has been a class-based project through and through – driven by business interests and state elites and justified on the grounds of small government, efficiency and debt reduction. The goal of debt reduction

has not been realised, as this capacity has been diminished through the jettisoning of state-owned revenue sources in the form of electricity utilities. For capital, the goal has been the transformation of publicly owned monopolies into private oligopolies, and the reduction of union power.

Implementing Privatisation - Neoliberalism in Practice

Because electricity is not a commodity that can be easily traded in shops or on the stock market, the establishment of a wholesale market in electricity that would foster competition required the creation of a whole new set of institutions and regulations to ensure supply and demand are balanced at all times, ancillary services are supplied and maintained, and incentives exist for investment in new infrastructure (Beder, 2003: 9-11). Such interventionist state activities fly in the face of neo-liberal rhetoric about 'small government', but by investigating such regulations it is possible to advance our understanding of 'actually existing neo-liberalism'.

In Victoria the government had to establish a power pool where wholesale electricity prices would be set according to complex rules. It mandated that all electricity had to be traded through this power pool. To help generators and retailers cope with the wildly fluctuating prices of the pool, a system of vesting contracts was introduced. Drawing on the UK model, a formula was devised to pay distribution companies based on the consumer price index.

In the other states, governments restructured their electricity services by separating generation, transmission, distribution and retail supply and corporatising the ensuing organisations. Barriers to interstate trade were removed and open access for electricity generators to use electricity networks established. The Commonwealth government set up a partial national electricity grid covering 7 million customers in Eastern and Southern Australia by 2001 (Beder, 2003).

The National Electricity Market (NEM) began operations in 1998, with Victoria, NSW and SA taking part. Queensland later joined and Tasmania will join when the 'Basslink' to the mainland is completed.

The government established a National Electricity Market Management Company (NEMMCO) to run the NEM — which in turn set up numerous working groups on things like dispatch, pricing, interconnection options, plant modelling, reliability, metering, and security — and a National Electricity Code Administrator (NECA) to regulate it. NEMMCO has a budget of around \$60 million and employs over 200 staff. The ACCC also has regulatory responsibility over the industry, and the states have their own regulatory bodies responsible for the industry.

During 2002 the Council of Australian Governments (COAG) conducted a review of NEM, which identified some deficiencies in the energy market, including excessive regulation, perceptions of conflict of interest, excessive generator market power and power pool volatility, fragmented transmission network planning, and ad hoc responses to greenhouse gas emissions. To remedy these deficiencies it recommended that a National Energy Regulator be created in place of the various state regulatory bodies (COAG, 2002). Thus, the new privatised electricity environment is underpinned by new and extensive (rather than by a lack of) state regulatory structures.

Despite the promises of neoliberal advocates, prices went up after privatisation and deregulation. According to Booth (whose figures are based upon accounts published annually by the distribution companies themselves), the distribution companies made huge profits (30 or 40% of their total revenue) — much higher than have been earned by most listed companies in Australia (Booth, 2000: 64-8). This has been at the expense of consumers, and points to the class interests at work in the privatisation of electricity and, indeed, in the neo-liberal turn more generally.

NEM operated on the same principle as the Victorian power pool which had been modelled on the now defunct UK power pool. Following the UK experience, there had been plenty of warnings of the potential for price manipulation in the national market, and not surprisingly this occurred in Australia too. Generators were able to withhold capacity on hot days until the price peaked and they could then rebid their capacity at inflated prices. Generators admitted that the reason for rebidding was 'financial optimisation'. Until 2001 electricity prices to households did not suffer much 'mainly through tight government controls'. These were

progressively removed after that date as retail markets were opened to competition and the pain of skyrocketing rates began to be felt (Anon., 2001: 54; James, 2001b: 19; Sexton, 2001; Wilson, 2001: 8).

After the market had been operating for a few years, price manipulation was confirmed by a study done by the Australian Bureau of Agricultural and Resource Economics, a supporter of deregulation and competition in electricity markets (ABARE, 2002). Whilst prices were initially manipulated by physical withholding capacity, generators moved to economic withholding in 2000: that is, bidding large chunks of their capacity at very high prices (ACCC, 2002: 77-8).

After privatisation the NEM pool prices for SA increased and were much higher than for other participating states. By 2002 residential rates had increased by forty percent since 1994, and householders now pay more for their electricity than anywhere else in Australia, thirty percent more than in non-privatised NSW (compared with ten percent more pre-privatisation and the opening of markets) (Beechey, 2001: 16; Morton, 2000). Clearly then, the effect of electricity privatisation was to secure greater freedoms – the freedom to set prices and to withhold supply – for businesses who moved into the electricity market. Prices in the privatised electricity market have not been competitive, contrary to the predictions of neo-liberal advocates.

In early 2001 only ten percent of major employers in South Australia had been able to secure new electricity contracts to cover them when their old ones expired. Those with new contracts faced heavy price increases (James, 2001a; Kelton & Wheatley, 2001a: 19; Wilson, 2001: 8). These large businesses, which originally pushed for privatisation and deregulation, found that they were worse off. Spot prices were so high that:

a new summer pastime has grown in SA called "curtailment", a term used to describe a situation where a business might find the cost of electricity so high they can make more money by shutting down their operation and on-selling the power they would have used (Sexton, 2001).

Fuses and transformers across SA failed, and transmission across high-voltage lines was deliberately cut off to avoid potential fires on very hot days. There were 500 outages in January 2001 alone. Unions claimed that the 900 workers employed to check and repair powerlines in 1991 had been reduced to about 300, whilst maintenance crews were reduced from 270 to 90. According to SA auditor-general Ken McPherson, the leasing arrangements did not require companies leasing generating facilities to upgrade or even maintain those facilities. Certainly, the market provided no incentive to do so (Beechey, 2001: 16; Kelton & Wheatley, 2001b: 23).

As with the infamous example of California, it has become clear that NEM provides no incentive for generators to invest in new capacity because undersupply keeps pool prices very high. Having the standby plant necessary to ensure system reliability 'erodes generator profit... Generator profit is inversely proportional to the levels of reserve plant with no incentive for system reliability' (Searle, 2001: 24). A rush of new companies undercutting each other to get customers has not happened. Rather, as in the US and the UK, the industry is consolidating amongst existing companies who are seeking to cushion themselves against market fluctuations and become big enough to avoid competition (Beder, 2003).

The big users of electricity in Australia — aluminium, cement, paper and glass — were the consumers that gained most from the 'reform' process during the 1990s before NEM prices began to escalate (Mitchell, 2002: 54). Additionally, aluminium smelters, which consume 16% of all Australian electricity, have been exempted from having to buy their electricity from NEM. Because of their strong lobbying, rather than face the vagaries of the market, they have been guaranteed fixed prices for their electricity, which, in effect, are subsidised by other ratepayers (AAP, 2002: 17). Thus the process of electricity privatisation has exposed individual consumers to a new electricity market which has entailed increased costs and reductions in reliability. At the same time, state intervention has facilitated the emergence of new oligopolies in the electricity industry, and ensured that major capitalist consumers of electricity are cushioned from the fluctuations of this new market.

Another major consequence of electricity privatisation has been heavy job losses. Between the mid 1990s and 2003, nationwide employment in the sector fell from 83,000 to 33,000 (Wilson, 2003). Not only has this cut costs for capital, it has also eroded union power – a key objective and consequence of neo-liberalism. For example, the CFMEU's John Maitland notes that electricity privatisation has led to the rise of contract labour in the electricity industry which has undermined union power and resulted in 'inferior wages and working conditions' (Maitland, 2001). Furthermore, those communities built around the electricity industry have been particularly hard hit by electricity privatisation. Victoria's Latrobe Valley experienced job losses of 16,000 as a result of privatisation (Halliday, 2000). Such areas have often been centres of strong union presence and identification. As neo-liberalism restructures the economic and social geography of such areas, so does it threaten those features that have been central to union strength. Concurrent with these job losses was the implementation by the Kennett government of punitive anti-union legislation, which restricted the rights of workers to organise collectively (Teicher & Van Gramberg, 1999: 163-7). Rather than an example of 'free labour markets' the Kennett reforms relied upon the coercive powers of the state to enforce freedoms for capital.

Conclusion

Electricity privatisation and deregulation in Australia have been encouraged, facilitated and implemented by governments and state agencies. The costs of the 'reforms' have been borne by the electricity sector workforce, which has been decimated, and by the rural and residential consumers, who have borne the brunt of the resultant electricity prices rises. An essential public service has been transferred to private control in two states, and other states have electricity prices determined by an electricity market that is subject to price manipulation by profit-oriented electricity suppliers. Regulatory structures set up to ensure the smooth running of the market have failed to prevent this price manipulation or ensure reliability of supply. The winners have been those corporations able to buy up the former state-owned industries and impose higher prices on consumers.

Electricity privatisation has thus entailed an interventionist state, instituting new forms of governance and working aggressively to secure freedoms for capital. Contrary to the pronouncements of neo-liberals themselves, neo-liberalism has not heralded a 'withering away of the state'. Rather it has resulted in what Andrew Gamble termed 'the free economy and the strong state' (Gamble, 1994). Neo-liberalism does not deliver the benefits promised by its adherents precisely because of its class nature.

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