

SUBMISSION ON THE NATIONAL ENERGY GUARANTEE CONSULTATION PAPER

Overview

1. This submission deals with a single design issue: the interaction of the National Energy Guarantee ('NEG') with State and Territory emission reduction measures. It suggests that the NEG should be designed in a way that allows States and Territories to promote additional emission reductions in the electricity sector. It puts forward two options for how this could be achieved.

The pre-NEG position

2. The national large-scale renewable energy target currently provides a floor on which State and Territory emission reduction measures can build, rather than putting a ceiling on their emission reduction efforts.
3. This characteristic of current arrangements is related to the use of large-scale certificates ('LGCs') representing accredited renewable energy under the *Renewable Energy (Electricity) Act 2000* (Cth) ('*REE Act*'). How this works can be illustrated by the example of the Australian Capital Territory.
4. The ACT has set a statutory target of 100 per cent 'for the use of renewable energy (electricity) in the Territory by 2020'.¹ The main mechanism to achieve this is the grant of feed-in entitlements under ACT legislation to large-scale renewable energy projects.²
5. As a condition of providing those feed-in entitlements, renewable energy providers must surrender the LGCs generated by their projects. As the ACT Government explains in an outline of its scheme:

All the LGCs from all generators will be transferred to the Territory and voluntarily surrendered to the Clean Energy Regulator. In this way the government ensures that generation is above and beyond national renewable energy targets and that it is resulting in additional carbon abatement in the electricity sector.³
6. As acknowledged in modelling commissioned by the Commonwealth Government in 2016, the effect of the ACT scheme is to create additional demand for LGCs, over and above the large-scale target in the Commonwealth Act. The modelling suggested that the ACT scheme would create additional demand for 1,226,000 LGCs each year

¹ *Climate Change and Greenhouse Gas Reduction Act 2010* (ACT) s 9; *Climate Change and Greenhouse Gas Reduction (Renewable Energy Targets) Determination 2016* (ACT) s 3.

² *Electricity Feed-in (Large-scale Renewable Energy Generation) Act 2011* (ACT).

³ Environment, Planning and Sustainable Development Directorate (ACT), *How Do the ACT's Renewable Energy Reverse Auctions Work?* (27 December 2017) <<https://www.environment.act.gov.au/energy/cleaner-energy/how-do-the-acts-renewable-energy-reverse-auctions-work>>.

between 2018 and 2030, an increase of approximately 3.7 per cent on the national large-scale renewable energy target.⁴

7. The technique of surrendering renewable energy certificates to promote additional renewable energy generation is also used by GreenPower. Consumers purchasing GreenPower know that the renewable energy they are supporting is additional to the national target because the LGCs associated with that energy are surrendered for extinguishment.⁵ In the 2016 modelling, this was assumed to create additional demand for 1,000,000 LGCs per year, further boosting large-scale renewable energy above the national target.⁶
8. The ability to surrender LGCs for extinguishment was introduced by the Howard Government in 2006. In introducing this amendment, the Government made clear its intention was to ‘allow interested individuals or organisations to purchase certificates and voluntarily retire them from circulation’ and that ‘[t]his could be done for a wide range of reasons, including for philanthropic purposes.’⁷
9. As is clear from this statement, the ability of individuals and organisations to build on the national large-scale target – that is, to promote additional renewable energy and emission reductions over and above that mandated by Commonwealth law – was a deliberate design feature of the current arrangements.

The proposed NEG approach

10. The Consultation Paper proposes to replicate the current position for GreenPower, but change it for State and Territory schemes.
11. The Consultation Paper states that ‘[t]he emissions requirement could be designed such that voluntary programs like GreenPower are additional to the emissions requirement’.⁸ This would replicate the position under the *REE Act*, under which renewable energy purchased by consumers under GreenPower-accredited schemes is additional to the large-scale renewable energy target.
12. However, the Consultation Paper suggests that state-based mitigation instruments would not be treated in this way. The NEG would not preclude states from having their own clean energy policies, which states may wish to pursue ‘to encourage investment in low-

⁴ ACIL Allen Consulting, *Electricity Sector Modelling for Australia’s Emission Projections 2016* (ACIL Allen 2016) A-7, Table A3. The 3.7% is my calculation, arrived at by dividing the 1,226,000 figure by the mandated demand for 33,000,000 large-scale certificates that applies between 2021 and 2030.

⁵ National GreenPower Steering Group, *National GreenPower Accreditation Program: Program Rules* (Version 10) (GreenPower Program Manager: Accreditation, 2016) 12.

⁶ ACIL Allen Consulting, above n 4.

⁷ Commonwealth, *Parliamentary Debates*, House of Representatives, 2 March 2006, 5 (Greg Hunt).

⁸ Consultation Paper p 21.

emissions generation in their state such as to achieve investment or employment policy objectives'.⁹ However, 'the electricity emissions targets would remain unchanged and retailers contracting with generators receiving subsidies through state renewable energy schemes would be able to count their generation towards meeting emissions requirements under the Guarantee.'¹⁰ In short, while consumer purchases of GreenPower would generate abatement additional to the emission reduction obligation, the generation of renewable energy under state-based schemes would not.

Critique of the proposed NEG approach

13. The proposed approach would prevent State and Territory Governments from giving effect to the wishes of their electors to pursue more ambitious, and effective, emission reduction efforts.
14. More pragmatically, the proposed approach would also make it very unlikely that State and Territory Governments will support the NEG. As it is proposed to implement the NEG through the co-operative legislative arrangements of the National Electricity Law, this lack of support would mean that the NEG could not be implemented.

Alternative option 1: Replicate the GreenPower approach

15. One solution to these problems could be to treat renewable energy supported by State and Territory schemes in the same manner as GreenPower purchases. Under this approach, zero-emissions energy subsidised by the States and Territories would not be able to be used by retailers to bring down their emissions intensity. As the *REE Act* is to continue in force, one way to implement this requirement would be to provide that where an LGC is surrendered to the Clean Energy Regulator under the *REE Act*, the associated electricity is not to be taken into account in calculating a retailer's emissions intensity under the NEG.
16. This approach would put State and Territory schemes on the same footing as GreenPower. It would effectively maintain the status quo, under which Commonwealth measures provide a floor on which both State renewable energy measures and GreenPower can build.

⁹ Ibid p 28.

¹⁰ Ibid.

Alternative option 2: State-based targets meeting minimum standard set by Commonwealth

17. A second solution would be to allow the States to set their own emissions-intensity targets under the National Energy Guarantee, as long as they meet a Commonwealth requirement for a minimum rate of decline in emissions intensity.
18. For consistency with the reliability requirement, this could be done on a NEM region basis. Each NEM region would have a different starting point for its emissions intensity. However, this would not affect the workability of a minimum requirement set by the Commonwealth that the emissions intensity in each NEM region decline by, for example, 5 per cent per year.
19. This scheme design would be consistent with a federal model which has often been advocated for environmental management, under which the federal government sets minimum standards that the states may go beyond. In this case, the Commonwealth would set a requirement judged sufficient to contribute to meeting Australia's international obligations, but a State could go further if its citizens support deeper emission reductions in their jurisdiction.
20. This approach would have the attraction of providing one instrument by which emission reductions would be achieved in the National Electricity Market. The accommodation of Commonwealth and State interests would be conducive to this remaining the case over time.

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