20 May 2020

Tim Kelly
Adelaide

Climate Change Authority

submissions@climatechangeauthority.gov.au

Re: 2020 REVIEW OF THE EMISSIONS REDUCTION FUND

Thank you for providing the opportunity to provide input to the 2020 Review of the Emissions Reduction Fund (ERF).

Previously I provided input into the Climate Change Authority review of the National Greenhouse and Energy Reporting Act. In my submission provided description and evidence on the following matters:

- The NGER Tool is not fit for the broader economy wide purposes it is used for
- The NGER Act cannot achieve its objective of informing policy makers and the public without a statement of intent that the NGER methods apply to the whole economy in regard to public reporting, claims and the GHG intensity of goods and services.
- The methods for reporting scope 2 emissions under the NGER Framework are perverse and not fit for purpose.
- That a switch to contractual GHG accounting is warranted for scope 2 emissions
- It is recommended that there be one National Greenhouse and Energy Allocation and Accounting Framework for the whole economy!
- The scope and title of the National Greenhouse and Energy Reporting Act should be broadened to become the National Greenhouse and Energy Act, with application across the whole economy.
- A no double counting principle should be established to prevent farcical claims relating to renewable electricity, reduced emissions and use of carbon offsets including ACCUs.

The Climate Change Authority failed to properly acknowledge the key concerns identified in my submission and in their final report it stated that:

> The Authority finds the legislation is operating well, is meeting its objectives and is generally fit for purpose. The reporting scheme in particular has wide support from industry, governments and others who use the information reported.

The Climate Change Authority also found that the scheme “uses approaches to measuring energy and emissions that are fit for purpose” and “informs investors and others such as academics and analysts”. The Climate Change Authority made no mention of customers or the Australian Public as described in the Objects of the Act.

Whether the Climate Change Authority acknowledges that the NGER Framework does not not apply across the economy and is not fit for purpose or whether it chooses to ignore such concerns, the problems of an inadequate NGER Framework

remain. Australia's carbon and renewable electricity markets for end users and claims will continue to be farcical.

In this submission on the Climate Change Authority review of the Emissions Reduction Framework I argue that the need for a greenhouse gas and emissions allocation framework to underpin the trading and claims associated with Australian Carbon Credit Units, low carbon and renewable energy markets is more important than ever.

There are two key areas which result in Australia's carbon markets devoid of integrity.

Issue 1 is that there is no legal framework that guides carbon offsets as scope 3 emissions offsets that can be traded and used by other parties to claim against their scope 1, 2 and 3 emissions

Issue 2 is that in the absence of a National Greenhouse and Energy reporting Framework that covers rules for the whole economy, there has been no constraint on double counting of emissions reductions by different end users for both the renewable electricity and carbon offsets.

It is the role of the Climate Change Authority to demonstrate independent and critical thinking when it undertakes important reviews of frameworks aimed at tackling climate change.

If the Climate Change Authority disagrees with key claims and concerns identified in submissions, it should acknowledge them and provide counter arguments as to why it would dismiss such concerns. However, if it fails to acknowledge serious concerns and also fails to provide a counter arguments backed up with its evidence then the integrity of Review Reports produced by the Climate Change Authority is compromised.

If possible, I seek to discuss my submission with representatives from the Climate Change Authority.

Yours sincerely

Tim Kelly

1. Inviting Submissions to 2020 Review of the Emissions Reduction Fund

2. Areas of investigation for this review

2.1 How this review will interact with other Government processes

This review interacts with the National Greenhouse and Energy Reporting Act 2007, its regulations and other related legislative instruments such as the NGER Determination and NGER Technical Guidelines.

3. Overall performance of the ERF

How is the ERF performing overall? What parts of the ERF could be improved and how?

The Emissions Reduction Fund operates in a market devoid of accounting and allocation rules. The National Greenhouse and Energy reporting Framework applies only to NGER Reporting organisations and only for reporting. Broader economy market participates have established some conventions which adopt NGER methods, there are as many methods and conventions that operate in complete contradiction to NGER methods.

Scope 3 accounting is one area not covered by the NGER framework or any other accounting method adopted by Australian law or regulation. In this environment, the Australian Government has established the Emissions Reduction Fund without rules of currency and trading. The Carbon Credits (Carbon Farming Initiative) Act 2011 (Cth) (CFI Act) and the Renewable Energy (Electricity) Act 2000, describe how types of certificates are created but do not define how emissions reduction attributes or other use attributes are, or are not attached to those certificates for the purposes of trading. This leads directly to double counting and market confusion.

Worse still, the Australian government uses certificates (Large Scale Renewable Electricity Certificates, and Australian Carbon Credit Units) for different policy schemes and objectives that are not compatible.

For example, the purchasing of ACCUs related to energy efficiency projects, industrial fugitives, landfill and waste, and transport initiatives could make sense if this was simply a way for the Government to support the emissions reductions of those businesses. However, given that businesses not covered by the Safeguard mechanism may continue to claim the emissions reductions for their own claims and emissions reporting. The creation of ACCUs from those projects can then be claimed as a scope 3 emissions offset by third parties.

As ACCUs work in a pooled market separate to their conditions of origin, the double counting contaminates the entire pool and entire framework of the ERF and extinguishes the integrity of the system..

To establish integrity in Australian carbon and renewable energy markets, the Australian Government must decide how the emissions attributes will be dealt with respect to each scheme, define which attributes can be traded, under what circumstances and how end use claims should be made.

If the ERF framework is about leaving the emissions reductions attributes and claims with the system owners then ACCUs cannot then be used as a currency for voluntary offset markets where the attributes are traded to third parties.

If the ACCUs are to be used in voluntary markets, then the government should not use this currency to create a baseline and credit scheme which effectively would create ACCUs as emission permits created when a company does not pollute as much as it is allowed to.

The creation of Small Scale Renewable Electricity Certificates (STCs) established under the RET, although also with the attribute allocation being undefined in law, has widely been accepted as a mechanism whereby the household and small scale system owners sell the STCs a type of government incentive scheme where the emissions reduction and renewable electricity use stays with household etc.

The Large Scale Renewable Generation Certificates (LGCs) established under the RET, has widely been accepted for the attributes of renewable electricity use and reduced emissions to be traded with the LGCs and renewable claims forfeited by system owners that consumption of electricity used on site (although this accounting convention is also undefined in law).

None of these conventions are constant through time as Government Agencies struggle to provide accurate information when it is not possible to do so. Consultants advise on the loopholes and organisations struggle with dilemmas on double counting when seeking to cover project costs and reduce their emissions. Concepts such as voluntary carbon markets, carbon neutrality, renewable electricity use and renewable Hydrogen (from the grid) slip into the everyday vocabulary of politicians and market experts with no recognition or acknowledgement that such concepts are not yet supported by a legal accounting framework and may be completely double counted.

Recommendation

1. *Expand the NGER Framework to cover the allocation and reporting rules for the whole economy, including the role of scope 3 carbon offsets to be used by third parties to offset their scope 1, 2 or other scope 3 emissions.*
2. *Recommend to the Australian Government to define whether the emissions reduction/negative emission attributes of ACCUs remains with the system owner or is tradable for third parties to reduce their emissions. The suggestion is to split the schemes such that:*
    - *Clarify that ACCUs purchased by the Australian Government leave the emissions reduction attributes with the system owner, and a different carbon offset unit and scheme is created for trading of offsets for voluntary markets and third party claims.*

- *Carbon offsets created for voluntary markets incorporate the scope 3 emission reduction/negative emission attributes, and preclude user providers from being eligible to create these offsets. Example: The owner of an electricity efficiency project that claims reduced emissions from the action must not be able to participate in selling these emission reductions to a third party.*

3. *Establish a no double counting principle to apply to end user claims as one of the core carbon offset integrity tests.*

4. Maintaining integrity and optimising governance of the ERF

Do you have any views on the operation of the offsets integrity standards and the additionality provisions as key principles supporting the integrity of abatement under the ERF?

Because the ERF is not underpinned by a legal allocation and accounting framework and the program is riddled with double counting which undermines any additionality, there is no integrity to maintain.

The first step is to establish integrity by reforming the NGER Framework to apply across the economy, and carbon markets and then it might be possible to maintain integrity.

4.1 Crediting genuine, additional abatement

Abatement that is double counted is neither genuine nor additional. This is the case with all of the methods approved for non Safeguard liable system owners that will claim the emissions reductions for themselves whilst creating ACCUs that can be claimed by third parties. It is not a serious problem for ACCUs from vegetation or land based credit creation but is a fatal problem for the integrity of the ERF where ACCUs are created from sources not covered by the Safeguard Mechanism such as energy efficiency, street lighting, industrial fugitives capture and transport project, which are all double counted.

The Australian Government fully understands that this double counting occurs for ACCUs created by facilities that are also claiming the emissions reductions. It has described the issue in detail in the publication *The Safeguard Mechanism: Carbon Offsets and Avoiding Double Counting of Emissions Reductions.* Rather than fixing the problem for all participants in Australia's low carbon and renewable energy markets, the Australian Government has only taken steps to address this double counting for corporations covered by the Safeguard Mechanism. ACCUs produced by companies and projects not covered by the Safeguard Mechanism are not prevented from double counting which means that their claims are tainted. Offsets, offset products and services that use ACCUs are also tainted and the integrity of Australia's carbon and renewable energy market as a whole is tainted.

Double standards on additionality

The Australian Government has a double standard on additionality. It is a concern to see government claims that offsets are genuine and additional whilst the addtionality for voluntary renewable electricity has been neglected for a decade.

In addition to the **allocation** of renewable electricity being undefined in law to non NGER market participants, the **additionality** of voluntary renewables has been fully compromised by Australian Government policy in the following ways:

National/international additionality not achieved

National/international additionality has been compromised because the Australian Government has not made an adjustment to Australia's international commitments to add voluntary renewables to its reduction commitments.

Domestic additionality not achieved

Domestic additionality has been compromised as the Australian Government has not added an obligation to the RET to increase the Renewable Power Percentage (RPP) to match voluntary renewables. The RET was increased to both 20% and 45,000 GWh by the Rudd Government, then wound back to 41,000 GWh over time (and split to fund voluntary small scale renewables following the impacts of the solar credits multiplier policy which displaced 5MW of renewable electricity already required by law for every 1MW of deemed renewables created). The RET was further cut by the Abbott Government to 33,000 GWh with the then Minister claiming in writing, that the target was always based on only the 20% aspect (and this did not separate out voluntary renewables). With the RET being determined on the 20% value (including from voluntary renewables) to determine the RPP, and the 45,000 GWh target being cut back accordingly with no adjustments to the 20% from voluntary renewables, **the domestic additionality of voluntary renewables was extinguished.** It made no difference that voluntary renewables may have been additional to the annual determination of the RPP expressed as a GWh value, as they were never made additional to the 20%.

In the absence of additionality for voluntary renewables (both national/international and domestic), the allocation of the attributes of renewable electricity use and reduced emissions for GreenPower customers and those voluntarily retiring Large Scale Certificates to the CER becomes even more important.

Sadly the allocation of renewables to any type of end use customer of the grid has not been sorted out either. The GHG Scope 2 Protocol has provided guidance on establishing a market based Scope 2 accounting method (2015) but the Australian Government has not made reforms to enable market based accounting in Australia. (See my submission on the Climate Active Discussion Paper: Accounting for Electricity Emissions https://drive.google.com/drive/folders/1tBnG9JBxMxDxg2IplAIUcOYPCNPDyYy9

Recommendation

4. *That the Climate Change Authority acknowledges the need for integrated holistic reforms for both carbon offsets and voluntary renewables, ensuring the single end use allocation, additionality and overall integrity of Australis's low carbon markets*
5. *Eliminate the double standards on additionality which exist between voluntary renewables compared with ACCUs.*

4.2 Governance to support a mature ERF

Do you think the governance structures of the ERF remain fit for purpose?

It is presumptuous of the Climate Change Authority to refer to a 'mature ERF' when to date we do not even have basic legal rules on how emissions and emission reductions apply to the whole of the economy, or how carbon offsets can be traded as negative scope 3 emissions.

The Offsets Integrity Standards lack a '***No double counting principle'*** and there are no rules for allocation of emissions reductions and trading that extend to the broader market.

The Governance structures therefore fail and will continue to fail to underpin end user claims and the integrity of the market. The ERF could be made fit for purpose as an incentive reward scheme for emissions reduction, or it could be made fit for purpose as a scheme to create tradeable scope 3 reductions. Currently it is fit for neither purpose as accounting is undefined in law.

Recommendation

6. *Establish a no double counting assurance test in the Offset Integrity Standards to apply to end user claims no matter where they occur in the market. (Please note that such a principle has been requested for more than a decade in relation to renewable electricity claims and for a long time in relation to offset claims).*

4.3 Method development process

What are your views on method prioritisation, method development and method review processes in the ERF? Please include any thoughts on how these processes could be improved, including how the expertise of industry could be better incorporated.

The method review process has failed to connect to the broader requirements of a market system which would include the prevention of double counting and ensure that allocation and trading rules are established in law.

5. Managing risks to abatement

What are your views on the suitability of the permanence period discount? What are your views on the suitability of the risk of reversal buffer? What are your views on the risks posed to land-based abatement and the adequacy of ERF and project-level risk mitigation measures? What are your views on the risks to contracted abatement resulting from ERF projects being concentrated geographically and by method type?

Risks to abatement must be adequately managed for trust to be earned. The short 25 year permanence rule for vegetation (even with a discount penalty being applied) does nothing to earn trust or the integrity of offset projects. It appears to be a political decision rather than a science based decision.

It also reveals further double standards by the Australian Government where the emissions from fossil gas emissions are reported against the 100 year impact rather than the 25 year impact (which is much worse) yet the Government allows permanence for ACCUs of just 25 years. There is a concern that cherry picking timeframes to suit industry choices undermines integrity and trust.

It is noted that the *Expert Panel Report Examining Additional Sources of Low Cost Abatement Part A,* recommends that:

> Actions that could drive increased emissions reduction through the ERF. This includes, in limited circumstances, allowing ERF methods to award Australian Carbon Credit Units (ACCUs) over a shorter, compressed timeframe and ahead of when abatement is achieved.

If approved such a concept would further undermine the integrity of Australia's carbon markets. This suggestion violates the 'Don't count the chickens before the eggs hatch principle'. How could voluntary markets have confidence in carbon markets that have not even been based on carbon offsets achieved or landscape carbon sequestered?

What could possibly go wrong? Answer, everything and then it will be unlikely to recover the carbon reduction that was never achieved.

Phantom credits are not new to Australia's climate policy and were previously created by the Carbon Credits Multiplier for household solar PV and water heating systems. For every MWh of deemed renewables created, 5 MWh of real renewables already required by law was displaced (net loss of 4 MWh). The Australian Government was warned in advance that this was bad policy.

The scheme resulted in stalling large scale renewable electricity development in a short period of time and caused an embarrassing back down and corrective action by government to fix its bad policy

6. Opportunities for enhancing outcomes

6.1 The role of the ERF in future economic recovery efforts 9

What role could the ERF play in future economic recovery efforts?

Any role of the ERF in future economic recovery is dependent on having trust in the system which is not possible without reforming the NGER Framework to cover the ERF emissions trading aspects.

The low carbon and renewable energy markets have a massive potential to lead economic recovery towards a green industry and sustainable economy, but this can only be made possible with reforms that adequately underpin low carbon markets and fairness.

6.2 Opportunities for land-based ERF projects

Should the ERF more explicitly address climate resilience and impacts? If so, how?

An independent and scientific based review to assess permanence of offsets in a changing climate is necessary to assure the effectiveness of the ERF.

This is particularly important in areas vulnerable to drought, desertification, increased bushfires and increased prescription burning.

6.2.1 Building a climate resilient ERF

Should the ERF more explicitly address climate resilience and impacts? If so, how?

At this stage there should be a focus on stablishing the legal ground rules for the allocation and trading of emissions across the whole market.

6.2.2 Promoting best practice land management and multiple benefits

Is there a need for enhanced guidance on how to manage ERF projects for multiple benefits? If so, should this be part of the ERF or complementary programs and policies?

At this stage there should be a focus on stablishing the legal ground rules for the allocation and trading of emissions across the whole market.

Background

10.2 Issues of focus for the Department

The Department should focus on NGER Reform to underpin:

- carbon markets
- end user claims
- voluntary renewables
- renewable hydrogen concepts
- carbon neutrality claims
- renewable transport and EV concepts
- RE 100 companies
- GreenPower
- Trust in Australian schemes such as the ERF, CFI, ARENA funding, CEFC Finance and Climate Active

10.3 Expert panel review examining opportunities for further abatement

The proposals reflected by the *Report of the Expert Panel examining additional sources of low cost abatement*, delivered to the Australian Government on 14 February 2020 provide ideas to extend the role of ACCUs, shorten the requirements for ACCUs to be credited, incorporate best intent pledge and relax rules. The proposal seeks to use ACCUs as carbon offsets, incentives for businesses to reduce their emissions and as pollution permits when Safeguard companies release less pollution than they are allowed to. The report would expand the use of ACCUs for different and incompatible purposes.

The obvious omission is of course the allocation and trading rules that would underpin a low carbon market and prevent double counting.

The Climate Change Authority should acknowledge that carbon offsets are not the same as a government incentive scheme for polluters to reduce their emissions and are also not the same as baseline credit schemes to create credits for other corporations to pollute more. Whilst the three different policies may also be allocated with a certificate that has some connection to a tonne of greenhouse gas emissions it does not mean that these are interchangeable. A metre of steel pipe is not the same as a metre of string. An offset is not the same as an allowance and an incentive for an end user must not take the emission reduction away from the end user if they are still claiming the reduction.

There is a risk that Australian Government will continue to tangle units, certificates and objectives of different policies and policy purposes with reckless disregard for the perverse consequences that scrabbled egg like policy causes.

The Expert Panel review supports the further exploitation of policy weaknesses, largely for the benefit of polluters and to the further detriment of integrity.

How could an individual or company be confident in buying ACCU offsets to tackle climate change and improve sustainability, knowing that the ACCUs may have come from double counted origins or a lax baseline and credit origin under the Safeguard Mechanism where the credit was simply created by a company not polluting as much as it was allowed to.

There are major concerns in how the Expert Panel has prepared recommendations in the absence of foundation carbon accounting.

Renewable Electricity – Large Scale Certificates

The discussion regarding the future of Large Scale Certificates for Renewable Electricity is also devoid of recognition that LGCs legally do not incorporate any attributes.

There is already a blueprint that would enable the future of voluntary renewable electricity to be greatly enhanced and this was prepared in detail by the WRI-WBCSD in their GHG Protocol Scope 2 Guidance. My submission on the Climate Active : *Accounting for Electricity Emissions Discussion Paper* provides additional suggestions on how a market based method for electricity emissions accounting could be implemented in Australia.

It is apparent that the Expert Panel has not been able to address this topic with regard to scope 2 emissions accounting or in the detail that is required.

14 Appendices

Previous relevant submissions which now form part of this submission include:

2020 Tim Kelly submission on Climate Active Scope 2 Electricity Accounting April 2020 V3.pdf

https://drive.google.com/open?id=1qjiV1_bkSIpODeVGkW5TEl1TIVEgcuAY

2020 Tim Kelly Submission on the Independent Review of Carbon Markets Code of Conduct

https://drive.google.com/open?id=1h69IznYLAEip-551LrpwoTE-KIoJDp2L

2019 Tim Kelly Submission on the Review of the NGER Act Final

https://drive.google.com/open?id=1SuZl5QBVEGCDDMAXrexjLxJLIjAc1r2e

2020 Tim Kelly submission on Climate Active Scope 2 Electricity Accounting April 2020 V3

https://drive.google.com/open?id=1qjiV1_bkSIpODeVGkW5TEl1TIVEgcuAY

17 April 2020 (V3 Amended 22 April 2020)

Tim Kelly

Climate Active Team
Department of Industry, Science, Energy and Resources.
Email climate.active@industry.gov.au
Cc nationalgreenhouseaccounts@environment.gov.au

RE: CONSULTATION: ACCOUNTING FOR ELECTRICITY EMISSIONS

Thank you for providing the opportunity to provide feedback on this important area of policy.

I have a background in greenhouse gas emissions reporting, energy procurement, and participating in the processes for national and state greenhouse and energy schemes. This includes the Renewable Energy Target, the National Carbon Offset Scheme, the National Greenhouse and Energy Reporting Framework, GreenPower and Australian Energy Market consultation. At the state level in South Australia, I served in the Premier's Climate Change Council (2011-2014) and on the Essential Services Commission of South Australia – Consumer Advisory Panel (2011-2017).

I also actively contributed to the WRI Greenhouse Gas Protocol Technical Working Group for the development of Scope 2 Emission Reporting Guidance which is now part of the GHG Protocol suite of documents. I actively contributed to the initiation and progression of this guidance because of the lack of reform in Australia, particularly following the consultation on the then "Discussion Paper – treatment of voluntarily purchased renewable energy in the National Greenhouse and Energy Reporting System" undertaken in 2010. In this consultation there was also widespread feedback on the need for reform but the Government chose to continue with one system operating within a legal framework whilst another 'in context system' operated in complete contradiction outside the law at the same time to the current day.

The GHG Protocol Scope 2 Guidance enables jurisdictions to create accounting frameworks for the recognition of market base renewable electricity purchasing. I note that the market based methods described in this discussion paper are not consistent with the GHG Protocol Scope 2 guidelines as they are not market wide and do not stop double and triple counting. The methods presented are also proposed as a continuation of claims made outside of a legal framework and will therefore work in contradiction to the current NGER Framework.

The organisation I work for has declared a climate emergency and is committed to taking action towards a safe climate. Unfortunately the time required for management approval was not sufficient for a submission to be provided by my employer. However, there is continued strong interest in future engagement given a desire to maximise renewable energy use.

I have structured my submission in three parts.

Part 1 covers a list of key recommendations

Part 2 provides responses to the questions of the discussion paper

Part 3 provides detailed feedback on the discussion paper and justification for the responses to the questions. It is recommended that this detailed feedback is read and considered.

I strongly support the introduction of a market based method and believe that this is more than fifteen years overdue. However, the reforms must be covered by legislation in order to provide certainty, apply to all market participants and lead to fair pricing structures. It is recommended that the reforms to support market based accounting be made under the National Greenhouse and Energy reporting (NGER) Act through the NGER Determination, NGER Technical Guidelines and NGA Factors Workbook. This would enable the widespread adoption of market based scope 2 emissions reporting for all, whilst maintaining

the location based reporting for comparison, meeting the intent of the Greenhouse Gas Protocol Scope 2 Guidelines.

Yours sincerely

100% Accredited GreenPower customer

KEY RECOMMENDATIONS

1. Establish a no double counting principle to guide policy development and a supporting legal framework
2. The market based method must be established in law, with the most appropriate mechanism being reforms to the NGER Framework
3. The Market based method deal with both the Emission Reduction and Renewable Energy Use (ER&RE) attributes in an integrated way
4. Apply the market based method to the whole market
5. The purchasing of renewable electricity (GreenPower) and the voluntary surrender of Large Scale Certificates (LGCs)) to be integrated into one accreditation framework and one overall method administered by the Clean Energy Regulator, with the rules set by the Federal Government
6. Review the Renewable Energy Target now that Australia has either achieved or will shortly the 20% target, the RET will no longer be driving additional renewable generation and has no longer a functional objective. It also is the major cause for pricing unfairness of GreenPower, being a penalty charge above the cost of standard electricity. Also:
    a. Allocate mandatory Renewable Power Percentage (RPP) to all customers (other than RET exempt customers) such that the first ~20% can be claimed as zero emissions renewables whilst the RET is in operation
    b. Should the RET be repealed (in the near future or by 2030), the RPP will no longer be valid and these renewables should be made available to all market customers
    c. Should the RET be repealed, any renewables not purchased by the market as accredited renewable electricity, be included in the Residual Mix Factor (RMF)
7. Enable market access to pre-1997 renewables as accredited renewable market options
8. Establish both the Location Based Grid Factor (LBGF) and the RMF on a whole of grid boundary. That means that the following major grids would have a unique LBGF and an RMF:
    - Eastern and Southern Australia grid
    - Western Australia South West Interconnected System,
    - Darwin-Katherine Interconnected System
9. Discontinue the use of any second or third party ER&RE claims associated with Small Tradable Certificates (STCs), as the millions of households and businesses that have established small scale generation units to produce and consume renewable electricity behind their meters, have never given consent to forfeit their claims for renewable electricity use. Plus their renewables have never been counted to dilute the state grid factors. All that is traded is 'proof of deemed generation'.

With a more holistic approach to these reforms, the market based method for Scope 2 accounting could be fully established in Australia, eliminating many levels of multiple counting, confusion and unfair pricing. Greenhouse performance claims would primarily be made around the market choices of customers for electricity, with the location based method becoming the default comparison. Dual reporting would be undertaken in accordance with the GHG Protocol.

RESPONSES TO QUESTIONS

Question 1: *Do you agree in principle to the development of the market based method to better recognise and account for business investments in renewables, while avoiding double counting?*

Response

There is strong in principle support for the development of the market based method of scope 2 accounting in Australia which would underpin existing and future widespread claims and aspirations of electricity customers.

There is a huge untapped potential in customers that are seeking out renewable electricity purchased from the grid to own and claim, in support of reducing greenhouse gas emissions and transitioning to renewable electricity.

Without a market based accounting method underpinned by legislation through the National Greenhouse and Energy Reporting (NGER) Act and its related instruments of the NGER Determination, NGER Technical Guidelines and National Greenhouse Accounts Factors Workbook, all claims of renewable electricity use purchased from the grid cannot be valid.

For electricity purchased from or transferred via the grid, concepts such as renewable hydrogen, renewable public transport, renewable cities and territories, renewable businesses and homes simply cannot exist in a nation or jurisdiction that only recognises location based accounting in law.

Question 2a: *Do you agree with the 36 month vintage limitation on LGCs?*

Response

Ideally, the surrender of LGCs should be made much closer to the claim (within 12-18 months maximum), with the vintage of the LGC aligning with the vintage of the claim.

Question 2b: *Do you agree that LGCs and STC should only be used to reduce a business's electricity based emissions (i.e. not indirect, scope 3 emissions)?*

Response

STCs should not be used at all for any second or third party ER & RE claims, as the owners have never provided consent to give up their rights to claim the ER&RE attributes for their own use. Such a proposal amounts to yet another un-necessary double count and implicit theft from hundreds of thousands of households.

It is agreed that the role of LGCs be limited to ER&RE claims.

Question 2c: *Under the market based method, do you agree with accounting for LGCs in MWh as opposed to converting them into tonnes CO2-e?*

Response

There is in principle agreement for this approach.

However, for market based accounting to be formerly established in Australia, first, there is a requirement for the reforms to be made under the NGER Framework.

There is also a need for the Department to adequately reference its methodology in creating the LGCs, to de-rate the allocation of renewable electricity sent out by suppliers, requiring additional renewables to cover transmission losses and energy storage losses (pumped hydro and battery storage etc.).

Subject to these conditions of legitimacy being met, then it is agreed that the MWh approach enables the appropriate emissions reduction for that grid.

Question 3: Do you agree the RET can be thought of as an implicit renewable energy investment obligation?

Response

It is agreed that Australia's Market Based system could be designed to include the mandatory RET component as part of what makes up 100% accredited renewable electricity use for customers. However the design of the system must be properly described and incorporated into legal frameworks such as the NGER Framework and the Renewable Energy Electricity Act.

If an independent review of the RET by say the COAG Energy Security Board finds that the RET no longer has a major purpose, then there may be the potential to eliminate un-necessary costs and transition any parts that may still be required across to the NGER Framework.

Please note that this recommendation was submitted in GreenPower consultation ten years ago.

Question 4: *Do you agree that GreenPower should be accounted for consistently with retired LGCs (section 2)?*

Response

There should only be one method and one framework under which all trading of end use renewable electricity is provided to customers. GreenPower like any other Power Purchase Agreement or Purchasing Agreement contains the two elements 1) being a contract, and 2) providing assurance of attributes traded.

There is no sound reason for the GreenPower Framework not to be administered by the Clean Energy Regulator and to have a single framework for voluntary renewable electricity markets. There is no sound reason for an LGC not to be called a GreenPower certificate if administered by the CER. They are already the same thing.

The current system of having two different approaches to claim renewable electricity use through LGCs and GreenPower is not transparent and prevents good data, rule making and oversight of voluntary renewable markets.

The LGCs actually mean nothing until they are defined with ER&RE attributes under a legal framework such as the NGER Determination or Renewable Energy (Electricity) Act.

LGCs currently have no tradable attributes beyond being proof of generation.

Question 5*: Do you support the potential use of supplier-specific emission factors in the market based method?*

Response

This could work, subject to further requirements.

Where any electricity contract is claiming renewable electricity at zero emissions, the claim should be made through a single method (such as a truly national GreenPower scheme), underpinned by legislation and ideally administered by the Clean Energy Regulator.

The Department should acknowledge that there is no obvious assurance that organisations claiming renewables through LGC surrender actually surrender those certificates. At least with GreenPower, there is an assurance that the LGCs **are** voluntarily retired to the CER.

Should Australia's market based Scope 2 accounting framework approve the use of supplier specific emissions factors then these contracts (electricity, the ER&RE attributes must be netted out of the calculations in determining the residual grid mix factor.

There is a danger that provisions could be exploited such that companies might claim lower emissions where a supplier specific factor is lower than the residual grid mix, but claim the residual grid mix emissions where the supplier specific product is higher in its GHG intensity.

Question 6: *Do you agree with the treatment of exported electricity?*

Response

There should be no discouragement of STC creation or expectation that these would be voluntarily retired. Such an inference suggests that millions of householders were misled when they installed their household systems and sold STCs which were presented as being treated differently to LGCs

It is supported that Australia's market based system require that where a system qualifies to produce LGCs (i.e. above 100 kW), that where the owner occupier claims the ER&RE attributes, that LGCs should not be created or if they are, they must be voluntarily surrendered.

There is a need for an additional rule/rules to enable and describe local of site transfers via the grid. These might be for community energy schemes or a business establishing a larger site to produce renewables and convey these to other sites to consume renewables via the grid without excessive constraints or onerous requirements. Currently, once renewables are sent out to the grid then the location based factor applies and there is no other legal method to claim RE&ER attributes.

Australia's Market Based framework should enable this transfer via the local grid within an entity that has operational control (for community renewables or businesses) without the need to create LGCs or if LGCs are created, they should be voluntarily surrendered for this first party claim.

In essence, local community and businesses based transfers via the grid should be defined in a new category for local production and consumption which is either not counted or netted out of the location based and residual grid mix factors, as if they were produced and consumed behind a virtual meter.

Naturally any sold electricity exports or LGCs should not be claimed.

Question 7: *Do you agree that a state or jurisdictional government retiring LGCs on behalf of its citizens should be considered zero emissions electricity in a carbon account?*

Response

Where the market system is implemented in law and applied economy wide it should not matter whether the customer is an individual, or a bulk purchaser and provider of renewable electricity. This would support the ACTs role and claims, which to date sit outside NGER legal frameworks.

Under a market based system for Australia a jurisdiction claim (ACT Government for example) might involve:

- The jurisdictional state/government would purchase sufficient accredited renewables to underpin its claim.
- It would adopt the dual reporting approach of the GHG Scope 2 Protocol making it market based claim and reporting on the location based method for the NEM/Eastern and Southern Australia Grid, as the comparison.
- Those states exporting renewable electricity can still make acknowledgement that their exported renewables are assisting customers who buy the renewable electricity.

Question 8: *Do you agree with the treatment of carbon neutral certified electricity?*

Response

No, the concept of carbon neutral certified electricity undermines genuine renewable electricity and rebirths electricity as 'carbon neutral electricity from a renewable source' like rebirthing a stolen or wrecked car.

Question 9a: *Do you agree with taking a national approach to calculate the RMF (see discussion in section 11)***?**

Response

The proposed method to calculate the RMF has not deducted sufficient components including voluntary renewables and emission specific Power Purchase Agreements.

In keeping with a no double counting principle, it is recommended that the calculation remove all elements that would lead to double counting.

RMF = National EF / (1 – RPP, - VRs - ESPPAs)

RMF (residual mix factor), EF (emission factor), RP (renewable percentage), VRs (volunteer renewables) ESRPPs (emission specific Power Purchase Agreements),

Question 9b: *Do you agree with calculating the RMF, noting the intention to better reflect LGC issuance, as described above?*

Response

The determination of the RMF to underpin Australia's market base system is fully supported in principle, subject to:

- being applied to the whole market
- established under a legal framework such as the NGER Determination, Technical Guidelines and NGA Factors.

Without these reforms, the method cannot be legitimate.

Question 10: *Would you be interested in Climate Active accreditation for using 100% renewable energy as calculated according to the market based method?*

Response

Subject to a comprehensive package of reforms to implement the market based approach in law, there is strong support to participate in the Climate Active Program. Previously, I have supported participants in the Greenhouse Challenge Program and have taken a strong interest in the NCOS Carbon Neutral Program, because tackling climate change requires a whole of market approach not just Government and its preferred group of stakeholders.

One of the key objectives of many Climate Active participants is to demonstrate leadership. Without applying to the whole market, for most customers GreenPower will remain as an unfairly priced cost penalty for double counted attributes. The market based method if fully implemented through the NGER Framework would enable fairer pricing structures, legal certainty and eliminate double counting for the benefit of all.

The final paragraph of the discussion in section 10 suggests that: "Businesses certified as carbon neutral against the Standard will have a choice on which method to use when reporting their electricity emissions". This direction is rejected as it is not consistent with the Greenhouse Gas Protocol which guides that the market based system be used by all customers. Any approach that enables customers to pick and choose which system they report under continues multiple double counting. The market based method must become the primary method for making scope 2 emission and renewable electricity claims, applied to the whole market, with the location based method as the baseline comparison.

Both methods need to be reported in accordance with the GHG Protocol dual reporting approach.

This proposal is suggested outside of a legal framework. To ignore the plight of renewable electricity customers in the broader market is not acceptable. Without a legal foundation, the method is optional and just one of many other methods that have and are being devised. The method as proposed does not provide assurance and does not have integrity.

The method has addressed only the emissions accounting aspect or Emissions Reduction (ER) attribute. It has not addressed the other interdependent attribute of Renewable Energy (RE) use and how this is traded and allocated without double counting. Australia's market based method must address the how the market should allocate both the ER&RE attributes.

FEEDBACK ON THE DISCUSSION PAPER

1. Accounting methods

Existing Method (against the Standard)

The existing method used by the Climate Active/NCOS Carbon Neutral Standard is one of many informal methods adopted by various claimants and schemes. As it is not underpinned in law via the NGER framework the existing Climate Active method cannot be regarded as valid. Other methods adopted by end users include PPAs/contracts for:

1. Electricity purchased from a renewable generator provider without Large Scale Certificates
2. 80% electricity purchased from a renewable generator provider with matching LGCs and around 20% purchased without LGCs based on the logic that 20% is already paid for via the mandatory RET component (Examples include the City of Adelaide, the ACT Government and City of Sydney)
3. Standard electricity that picks up a concentration of renewables via the location based method such that South Australian Customers for example, claim greater than 50% renewables and a significantly lower state emission factor, largely paid for by customers across Australia
4. LGCs only, disassociated from electricity
5. GreenPower related LGCs only, disassociated from electricity
6. 100% GreenPower customers (noting that GreenPower is the only accredited option for most small to medium businesses and households) that are required to pay for 100% matching LGCs + the mandatory LGCs such that they are paying around for120% renewable electricity at significantly inflated prices.
7. More complex arrangements, with or without LGCs where there is a claim for the time of day demand, to be matched with time of day supply of renewables from a particular supplier, or a general renewable supply profile (The City of Sydney has incorporated this approach in their PPA).

With the exception of Example 3, none of these methods can be regarded as valid as none are supported in legislation via the NGER Framework. Even with example 3, this only applies to NGER liable corporations for their reporting. The NGER Framework location based approach, does not apply to all other electricity customers as it is not established for the NGA Factors to apply to the whole of market. It therefore does not apply to the retail and end user market.

NGER Does or Doesn't apply

The legal situation is that there is no legal framework to allocate any kind of electricity to any customer of the grid beyond the small number of NGER liable companies in their reporting. The Department and ACCC are welcome to provide an alternative legal assessment but both the Government and the ACCC have declined to do so for 15 years.

What does exist is continued ambiguity and contradictory ideas and 'in context' documents promoted and published by the Federal Government and various other organisations.

The Renewable Energy (Electricity) Act and Regulations do not describe any attributes of LGCs that can be traded to mean use of renewable electricity or lower emissions.

The NGER Legislation Package including the NGER Determination and NGER Technical Guidelines do not support the trading of renewable electricity or claims made for varying greenhouse gas intensities.

They describe one state based quasi location method only and make it clear that there is on other method as per the following extract from the NGER Technical Guidelines.

Extract: Section 7.2 NGER Determination or Page 525 NGER Technical Guidelines (Current versions).

$$Y = Q \times \frac{EF}{1\,000}$$

where:

Y is the scope 2 emissions measured in CO_2-e tonnes during the year.

Q is the quantity of electricity purchased during the year and consumed from the operation of the facility, measured in kilowatt hours.

EF is the scope 2 emission factor, in kilograms of CO_2-e emissions per kilowatt hour, either:

(a) provided by the supplier of the electricity; or

(b) if that factor is not available, the emission factor for the Northern Territory as mentioned in Part 6 of Schedule 1.

Note: There is no other method for this section.

The NGER Act, its Determination and Technical guidelines and accounting methods do not legally apply to individuals, companies or organisations that do not trigger the NGER Reporting requirements.

Despite the fact that in law there is no allocation or claims framework for the broader market, the Government makes a series of contradictory claims about the NGA Factors publication in its introduction.

It claims that:

"The *NGA Factors* is not published for the purposes of reporting under the *National Greenhouse and Energy Reporting Act 2007 (the NGER Act)".*

Response: If the NGA Factors are not published for reporting under the NGER Act and there is no other legislation that requires their publication, then why are they published at all? It seems a bizarre and confusing statement to make.

"While drawing on the *National Greenhouse and Energy Reporting (Measurement) Determination 2008,* the methods described in the *NGA Factors* have a general application to the estimation of a broader range of greenhouse emissions inventories".

Response: If the NGA Factors had a general application, then what legislation guides that **application** across the whole market?

Why have the NGA Factors not included other methods to guide claims of renewable electricity use and reduced emissions such as for GreenPower, for voluntary surrender of LGCs and to guide the transfer of STCs from householders?

In any formal legal assessment, I am confident that the trading of renewable electricity to end use consumers in Australia exists in anarchy and in contradiction to the limited application of the NGER Framework.

There seems to be an ever increasing number of approaches from advisors, corporations and individuals to claim the emissions reductions end use of renewable energy (ER&RE) without any foundation in a method established in law. As no law applies, it is possible for anyone to claim anything. ACCC responses to some claims are ad-hoc and inconsistent.

The discussion paper does not acknowledge the consequences of the double and triple counting, which includes:

- Free riding of both the ER&RE attributes by NGER reporting Corporations, given that the voluntary renewables paid for by GreenPower customers and customers voluntarily surrendering LGCs to the Clean Energy Regulator, are being counted to dilute the location based grid factors.
- Additional free riding of the RE&ER attributes by Energy Intensive Trade Exposed (EITE) corporations that are partially or fully exempt from contributing to the national Renewable Electricity Target (RET).

It is agreed that there is widespread and systemic double counting of the greenhouse reductions from renewable electricity given that 100% of grid renewables are allocated across all customers using the location based approach for NGER Liable Entities, printed on electricity bills across the market and all other methods and claims (including claims across state borders) are double or even triple counting the same benefit.

Market Based Method

The description of the market based method states that "The method allows for renewable energy delivered as a result of mandatory schemes like the Renewable Energy Target and voluntary purchases of renewable energy to be accounted for accurately". Whilst this statement has the potential to be true, it is not necessarily true that "t*he market based method allows for renewable energy delivered as a result of mandatory schemes like the Renewable Energy Target*. Market based schemes have the potential to vary depending on the country or jurisdiction. In order for each aspect such as voluntary and mandatory renewables to be allocated, they must first be described in the method and enacted via a legal framework.

It is agreed that a residual mix factor is required for the market based method to be enabled. However the following proposal suggested in this discussion paper is rejected.

> "In the absence of published RMFs in Australia, this paper proposes an approach to calculate a national RMF, using national averages for renewable energy generation and electricity emissions".

Unless the Residual Mix Factor is enacted through a legislative framework such as the NGER Determination and NGA Factors then the requirement for "Consumers who do not make specified purchases or who do not have access to supplier data should use the residual mix emission factor to calculate their market based total" (GHG Protocol Scope 2 Guidelines page 27) is not met. In essence, what is being suggested is that a very few Climate Active customers calculate emissions in one way, whilst NGER liable organisations and the electricity bills of all other customers use the location based method. This does not reduce double counting, it locks it in.

For these reforms to have meaning, the market based mechanism must be enabled for all consumers of grid electricity. The GHG Protocol describes a dual reporting approach which reflects different purposes, however there is nothing to prevent the market based approach becoming the primary recognised accounting methodology to support market frameworks and claims with the location based method continuing for comparison in dual reporting as described by the GHG Protocol.

What will be required is that all participants of the market including NGER liable corporations and non-climate active customers, adopt the market based approach in addition to any location based approach. This is essential to prevent a situation whereby customers simply choose the accounting framework that best serves their interests with disregard for the double counting that exists when the methods are crossed or cherry picked.

To ignore the need for these reforms to apply to the whole market and to be made through the NGER Framework is the equivalent of introducing new road rules for electric vehicles to drive on the right hand side of the road, whilst all other users drive on the left hand side of the road.

2. Renewable Energy Certificates

The following statement made in the Discussion Paper relating to Renewable Energy Certificates (large Scale Certificates or LGCs) is challenged as it has no foundation in law.

> "Renewable Energy Certificates allow the holder of the certificate to make a unique claim on the zero-emissions attribute associated with renewable energy generation. They allow a business to claim their electricity usage is being matched by the generation of renewables somewhere in the grid".

By convention only, Renewable Energy Certificates as LGCs have been used to make a claim, but it has been a recognised issue for more than a decade that no attributes have ever been legally attached to LGCs. The Renewable Energy Electricity Act (2000) describes how LGCs are created, but does not attach the ER&RE attributes to LGCs. The NGER Determination, NGER Technical Guidelines and NGA Factors make no mention of LGCs and do not describe them as having ER&RE attributes.

Without any ER&RE attributes being tied to an LGC, they remain a proof of generation certificate only, that can be used to meet the obligations of liable wholesalers and retailers under the RET, but are not suitable or valid for other purposes.

Suggestion Please reference the following statement and the method (as per Renewable Energy (Electricity) Regulations, Division 2.3—Eligible electricity generation, Subdivision 2.3.1—Accredited power stations which de-rates sent out renewables such that additional LGCs are required to cover transmission losses to the end user as described: "LGCs and STCs represent one MWh of electricity. This includes the majority of transmission losses from the point of generation, or fossil fuel generation displacement, to the end user (scope 3)".

Existing Method (assuming that this refers to the CLIMATE ACTIVE/ NCOS Carbon Neutral Standard Method)

Rule a STCs: Re: "…*STCs represent one MWh of electricity. This includes the majority of transmission losses from the point of generation, or fossil fuel generation displacement,* ***to the end user*** *(scope 3).*

It is deeply disturbing that Climate Active is suggesting that small scale certificates which are designed to support owner occupiers, could ever be suggested as enabling a second or third party end user ER&RE claim. This is or would be another form of double counting as STCs have never inferred that the STC producer (typically households and small businesses) would give up their ER&RE claim as a result of the sale.

An typical example of the full extent of information provided in a four-document proposal to a household customer seeking to install a solar system is as follows:

Pricing	
System Cost(ex GST)	$1
Plus GST	$1
System Cost(inc GST)	$1
STC Incentive(ex GST)	($
You Pay(inc GST)	***$9***

Across many years I have periodically checked with the Department on its treatment of renewable electricity produced and consumed behind the meter for both LGCs and STCs. Whilst the Department has been inconsistent in its advice on the role of STCs, and at one stage claimed in writing that household solar was included in the grid facto, it has subsequently confirmed that renewables produced and consumed behind the meter have never been counted to dilute grid factors. The following extract from the Department in late 2019 covers part of this checking.

> Afternoon Tim,
>
> Apologies for not getting back to you sooner, a lot happening here at the moment. That since the answer we provided you early last year early last year have researched into the use of on-grid and off-grid generation mixes in the calculation of the scope 2 emission factor.
> Currently, the renewable energy generation data is being sourced from the renewable energy team (within the Department), the Australian Energy Statistics (AES) Table O and NEM review software.
> We discriminate between on-grid and off-grid generation, **however, in calculating the scope 2 emission factor we exclude off-grid generation.**
>
> Kind Regards
> ******** [NGER Team Official]

On that basis the owners of these systems have never given up their rights and claims to this renewable electricity use and reduced emissions. There should never have been a double count facilitated by or suggested by the Climate Active/NCOS Carbon Neutral team that STCs could be used towards second or third party end user claim. The RE&ER attributes of small scale (Below 100kW) electricity produced and consumed behind the meter stay with the STC producer, household or business.

Rule b LGCs: The retirement of LGCs to make an RE&ER claim does not currently ensure against double counting, it ensures a double count against the established location based method without a complete package of reforms.

Rule c **Only LGCs retired over and above any RET liability may be used as an emissions reduction in a carbon account:**

If this rule applies, then why are have some members made 100% renewable claims based around paying for approximately 80% voluntary renewables and claiming the remaining~20% renewables from the mandatory RET? Big capital cities and even a territory are already claiming the mandatory ~20% as a reduction for part of their carbon account to claim zewro scope 2 electricity emissions and 100% renewable electricity use.

Rules d,e & f: Concepts or convention established under Climate Active that are not supported by a legislated framework

Market based method

The GHG Protocol does not specify how to design all aspects of a market based method. Whilst it does describe renewable electricity certificates as being separate from electricity, jurisdictions may still decide whether their market base system would be better served by supporting retail and end user renewable electricity in bundled packages, or whether to have ER&RE attributes traded separately from electricity.

For the market based method to be enabled for a retired certificate to be treated as an exclusive property right of ER&RE attributes that property right must be established in law. However, the reforms suggested in this discussion paper are not considering any changes to legislation so it is unclear as to why this consultation is being undertaken when it will not resolve fundamental problems.

Rules

Rule G STCs: Any proposal should rule out the use of STCs to make off site RE&ER claims as these attributes are claimed by the owner/occupiers of these systems. The Proposal creates double counting. Part of the problems related to STCs have been created by the department creating schemes and instruments with poor definition, poor objectives, vague or undefined attributes all in the absence of any legal foundation.

Rule H LGCs: LGCs could only ensure against double-counting if:

- market based method was applied economy wide
- the residual grid mix factor was established under a legal framework
- RE&ER attributes are defined as attributes of LGCs, that are tradable with LGCs under a legal framework.

Rule I LGCs: This rule must strengthened to enable consumers to legally claim the Renewable Power Percentage that they have already paid for.

It is suggested that:

- **Supported:-** Mandatory renewables (~20%) paid for by customers under the RET be allocated to all RET paying customers (meaning these would be removed from the residual grid mix and applied as the first ~20%)
- **Supported:-** EITE customers that do not contribute to the RET be precluded from claiming mandatory renewables that others have paid for (there is no carbon price so this does not have a financial impact)
- Unallocated renewables such as from pre 1997 hydro-electric schemes be allocated to the residual grid mix until or unless they are purchased by a consumer as renewable electricity
- The Renewable Electricity Target be reviewed in its entirety, as it is no longer the driver of new renewable investment because the target has been met or almost met
- The creation of Renewable Electricity Certificates as LGCs be transferred out of the Renewable Energy Electricity Act to the NGER Framework and be re-designed to be fit for purpose to support the market based approach
- Large Scale Certificates (RECS or LGCs) be created with ER&RE attributes that can be traded for those attributes in law.

RULE J, LGCs & STCs

The method must be brought into the NGER Framework for any level of certainty and integrity with all necessary changes to establish residual grid mix factors.

RULE K, National RMF and purchasing across states:

This rule should be reconsidered. Whilst there is a case for a national location based factor and a national residual grid mix factor, it also makes logical sense to determine a grid factor and residual grid mix factor based on the extent of a grid.

This approach would identify the Eastern Australian Grid (covering Qld, NSW, Vic, ACT & SA), the South Western Australia Grid and the Darwin Region Grid. Other

smaller grids would need to be informed by supplier based information. It can be argued that it does not make sense to bundle disconnected grids with a single factor. It also does not make sense for the current state location based approaches where those in one state can benefit from lower emissions paid for by consumers in other states.

It is recommended that both the location based grid factors and market based residual grid factors be determined for each separate grid.

Further consideration should also be made in regard to constraining the trading of LGCs for RE&ER claims across grid boundaries.

Those states that are producing and exporting surplus renewable electricity can continue to promote their role with respect to supporting a market based system through their export provider role. For example, renewable electricity from South Australia is provided to the market for consumers such as the ACT Government in a different state. Here is how it would work:

1) A grid wide location based emission factor is prepared (for comparing against in dual reporting
2) Renewable electricity use is claimed by consumers at zero scope 2&3 emissions or supplier specific greenhouse factors are used.
3) A grid wide residual mix factor is prepared for consumers purchasing the residual mix electricity, netting out
   - RET renewables (in the interim)
   - Voluntary renewables sold under accredited market frameworks
   - Supplier specific electricity sales
4) States can continue to report on net renewables exported/ imported across state borders (such as for RET obligations and accredited renewable sales)

The proposal to use STCs for third party RE&ER claims is rejected as the site owners and users have never given their consent to trade away their rights to their RE&ER claim.

RULE L, LGCs ~~and STCs~~: Re: Entirely electricity based emissions. This rule is supported subject to the method being fully integrated into the NGER Framework as described in the response to Rule I. As a preference, it makes the greatest sense for LGCs to be bundled with renewable electricity for retail markets. This is what some of the better PPAs are aspiring to achieve in order to assure as much as possible that the market based method is reflecting renewables generation fed into the grid for the purchaser to buy. Time of day load and supply matching as included in the City of Sydney PPA, is a further extension of this concept.

STCs should not be used in the Climate Active Program.

RULE M, LGC Expiry Ideally, there should be much tighter time limits for LGCs to be surrendered with a voluntary ER & RE claim. Surrendering of an LGC should match the vintage of the renewable electricity use claim. After 36 months, emissions factors may have changed significantly. It does not seem justifiable to use near three year old certificates to make an ER&RE claim.

3. Renewable Energy Target

Existing method

Emissions Reduction

It is agreed that under Australia's Renewable Energy (Electricity Act) and NGER Framework that there is no separate accounting method and that the emissions reduction (ER) benefits are absorbed into state location based grid factors.

This has not stopped end users from making up their own rules to claim that their mandatory contributions be claimed (currently near 20%) Examples being the City of Adelaide, City of Sydney and the ACT to name just a few, plus the concept of electric vehicles powered by renewables and "Renewable Hydrogen" as promoted by the Federal Government.

Renewable energy use

It should be acknowledged that there are no rules or guidance on claiming the Renewable Energy (RE) attributes.

This has resulted in grid customers claiming renewable electricity use and distortions such as South Australian customers claiming 50% renewable energy use via the grid, despite the funding of its renewables being made possible by a National scheme. The former South Australian Government has made a series of claims about its leadership and achievements in renewable electricity, which really should have been recognised as a national achievement clustered more in SA.

Conversely, the previous South Australian Government was heavily criticised after the 2016 Blackout for being irresponsible by the Federal Government in its rush to renewable electricity. This is despite the fact that South Australia's renewables were established under Federal Government RET Legislation, using NEM rules that did not guide planning or placement of renewable infrastructure beyond economic and financial processes.

There is also the problem of intestate double claiming of ER&RE attributes with and example being the ACT claims of renewable electricity use, including purchases from South Australia without any adjustment to South Australia's claims.

Market Based Method

It is agreed that a market based method in Australia could be established to treat the RET as a contractual arrangement as a result of mandated Government requirements.

However, the common theme of this submission is that any and all aspects of the market based method must be integrated into legislation and apply across all markets to ensure that it covers legal certainty, clarity and consistency for end users and retail customers.

It is not sufficient to make a statement that something happens under a market based approach. There are many specific decisions to be made to describe exactly what will be included in Australia's market based system, how it will work, how it will prevent double counting and free riding.

Has the RET served its purpose?

Whilst the RET is to continue to 2030, its objective to increase renewables has now been achieved or will be achieved within months.

The RET was increased to both 20% and 45,000 GWh by the Rudd Government, then wound back to 41,000 GWh over time (and split to fund voluntary small scale renewables following the impacts of the solar credits multiplier policy). The RET was further cut by the Abbott Government to 33,000 GWh with the then Minister claiming that the target was always based on only the 20% aspect (and this did not

separate out voluntary renewables which rendered their additionality as meaningless). The mechanism was also used to fund projects for the capture of waste coal mine gas.

In 2020, the RET has now virtually achieved its 20% objective. It is scheduled to continue to 2030 but is functionally obsolete as the cost of renewable electricity has dramatically reduced and new investment will be primarily for renewable electricity unless fossil fuels are subsidised or underpinned by governments. There is a question as to the economic efficiency of a mandated cost structure to create and trade certificates that are not required because the objective has already been achieved.

The RET has had a major impact on market choices for renewable electricity such as GreenPower, as the costs structures for households, small to medium businesses and many Councils have been based around a concept of paying in full for electricity, then paying a premium mostly for the cost of renewable electricity certificates or LGCs. This is an unfair pricing structure as there is no opportunity for ordinary consumers to benefit from the falling cost of renewable electricity. For more than a decade, consumers have paid a penalty for renewable electricity between ~$55 per MWh to $85 per MWh, for a certificate that was created for an entirely different objective and does not even include the ER&RE attributes to be transferred to the customer.

It is strongly recommended that the Renewable Energy Target and its mechanisms be reviewed regarding the economic efficiency, objectives and fitness for purpose in underpinning a market based approach for renewable energy and associated emission reductions choices of customers.

If there is no additional requirement of the RET to increase renewable electricity (as it is now cheaper even with firming), and if the price of LGCs shows signs of collapsing, then there is the potential for the mandatory provisions of LGCs to be removed. The LGCs could then simply become the proof of generation and embodiment of ER&RE attributes to support market base sales of renewable electricity. Such an option would create a further question as to whether the ~20% renewables established in the market between 2000 and 2020 should continue to be allocated across consumers or become unallocated once the RET scheme costs are removed.

Rules

Rule a) **The percentage of electricity attributable to the RET assigned an emission factor of zero**

This inclusion is welcome and supported but must be subject to reviewing the RET which has already achieved its stated objective and may now simply be adding inefficient and artificial costs to customers, plus continuing unfair pricing structures for renewable customers.

Rule b) **Not available to customers exempt from the RET.**

Agreed, where customers do not contribute to the RET, they should not receive a free ride to claim emissions reduction and renewable electricity use associated with standard grid supplied electricity. This could be solved by removing mandatory renewables from the RMF and requiring EITEIs to apply the RMF to their whole electricity consumption where an exemption has been sought.

4. GreenPower

Re: “GreenPower is a voluntary government accredited program”. This statement has several elements of vagueness and misinformation.

The program itself is not Government accredited. It is an accreditation program run out of a New South Wales Government Department. There is a difference between accrediting a program and accrediting products within a program.

The National GreenPower Steering Group (NGPSG) has representatives from government departments for South Australia, Victoria and the ACT. Queensland and Tasmanian government department representatives attend as observers only. There was once an observer by the Federal Government but that ceased many years ago.

The term 'Government Accredited' is naturally interpreted by consumers as being the Federal Government as the scheme operates in all states and territories. However, there is a chasm of disconnect between GreenPower, national rule making and greenhouse accounting practices. This disconnect has contributed to the failure to address concerns and the need for reforms of the program. The NGPSG has established a pattern of deflecting concerns about the program by saying that legislation, greenhouse accounting and allocation of ER&RE attributes is a federal matter whilst the Federal Government has established a pattern of deflecting away concerns by saying that GreenPower is a state based program.

GreenPower is not a Federal Government backed scheme. It operates outside of legislation and instructs consumers to make a second count of ER&RE attributes.

Many customers are aware of this and have abandoned GreenPower because of:

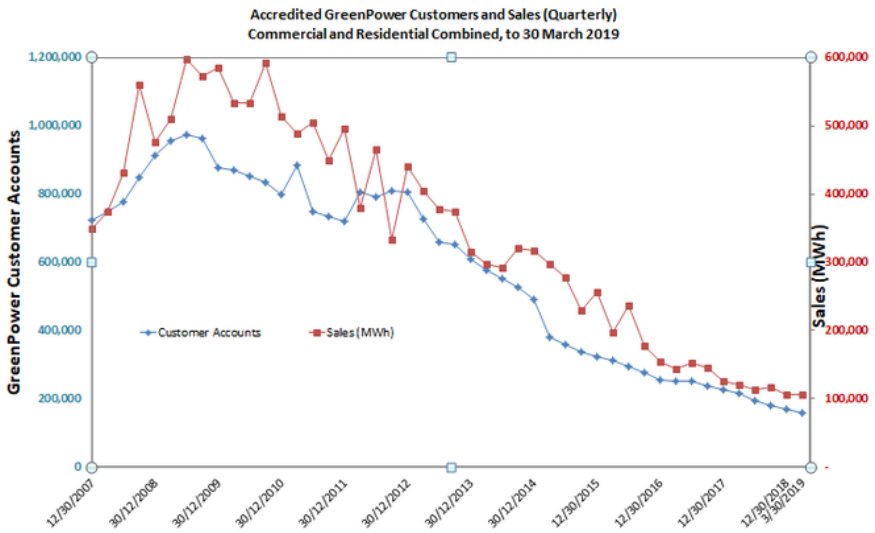
- The inability to make direct reductions to their annual greenhouse gas reporting (both NGER liable corporations and non NGER organisations).

  The inability of GreenPower purchasing to protect against carbon pass through costs during the now abandoned fixed price mechanism

- General pricing unfairness (by now renewable electricity should be on a par with or cheaper than fossil fuel electricity but remains as price penalty of +$55 to +85/MWh for most customers)

- The inability to claim mandatory RET contributions as part of achieving 100% accredited renewable electricity use.

Data for GreenPower Sales and customer numbers is no longer regularly released but up to March 2019, it shows a dramatic decline in customer numbers at a time where these numbers should have been increasing.



5. Power Purchase Agreements

The term Power Purchase Agreements has been used to infer some innovative arrangement for electricity and other attributes which have unique characteristics and can bypass established conventions.

One of the first of these to claim a Renewable PPA was by a major NSW university in 2015 which boasted "a new model of renewable energy purchasing" which upon further questioning was for electricity from a provider that operated a renewable generation source but no LGCs were included in the deal.

I argue that all electricity contracts are PPAs whether for GreenPower, standard mix electricity, electricity with LGCs and whether for a household, small business or major corporation. Having a separate section for PPAs as different from other contracts is an abstract false division. It is more important to legally define and assure the various attributes that could be included in *any* electricity contract.

Existing method

Re: "Under the existing method to account for electricity against the Standard, any LGCs from a PPA must be voluntarily retired… ", it should be acknowledged that for the broader market, with the exception of NGER liable Corporations, no rules apply and no legislation applies to underpin ER&RE claims.

Market based method

The proposed method does not fix the problems that participants under this Standard are a very small proportion of the market. There is no real reform until reforms are made under legislation to apply to the whole market.

Rule a) RE: "LGCs must be voluntary retired to ensure against double-counting". All reforms made be made through a legal mechanism such as the NGER Framework or else the surrender of LGCs will ensure continued double counting.

Rule b) Re Supplier Specific emission factors this approach is supported only where the electricity volume and emissions impact from such contracts are netted out of the Residual Grid Mix Factor. Otherwise the integrity of the RMF and entire framework is compromised.

6. Local renewable energy generation

Existing method

Rule b) **RE STCs:** The location based grid factor has never incorporated behind the meter values for production and consumption so there is no need to voluntarily surrender STCs as the system owners have never consented to the RE&ER attributes being separated from their ownership. Similarly, STCs should never have been used to underpin second or third party ER&RE claims.

Market based method

Under Australia's market based method, all aspects must be covered by a legal foundation such as the NGER Framework to be valid.

Rules

Rule a) **RE: Any STCs to be retired or not created.** This rule (in regard to STCs only) is not supported. It is at variance with the way Australia's voluntary on site renewables transition has been approached to date. The concept that STCs remove the ownership of the ER&RE attributes introduced in 2020 is inconsistent with more than a decade of disclosure on how these systems have been sold to households.

7. State and Territory targets

The discussion paper informs that several states and territories have renewable electricity targets over and above the RET. This is not actually a complete representation.

The previous South Australian Government established targets of 20% renewable electricity generation and 20% Renewable electricity consumption under the SA Climate Change and Greenhouse Gas Emissions Reduction Act 2007. This target was not under the RET but was entirely dependent on the RET as the functional mechanism that would fund the investment, and investment was attracted to South Australia. The same approach was used for the SA Government's 50 % renewable electricity target that was abandoned when the Labor Government was not returned in the last state election. The current state government does not have a target but maintains an aspiration for greater than 100% generation (with surplus renewable electricity to be exported. These targets and associated claims of leadership have been made with as much enthusiasm as those made by the ACT Government which has established its target to include around 80% GreenPower/LGC surrender based on contracts.

We therefore have a situation of some states claiming that which consumers in other states have paid for, then 'having their cake and eating it too' in over claiming leadership and use, whilst selling to others.

Existing method

Agreed, there is no Climate Active method or NGER method other than using the location based state grid factor. Also, there is no legal method that applies to the broader market (beyond NGER liable corporations) to allocate any type of electricity or emissions attribute to end use customers.

Because there is no legal allocation method for most customers there is a complete range of State ER&RE claims from claiming the state location based percentage if that is favourable, to claiming part of the mandatory RET plus additional renewables top make up the balance, to forecasting more than 100% renewables based on the state location based average.

Market based method

Under the described market based method that could be adopted in Australia, the concept of being assured based on the voluntary surrender of LGCs could work, but only where the reforms are made under a legal mechanism such as the NGER Determination.

Rule b: The following reforms would be essential under a legal mechanism for Rule b to operate with integrity.

- Reform the location based factors to apply to the particular grid, rather than the state and this would eliminate lots of unnecessary and perverse outcomes and claims (Eastern Australian Grid (EAG), South West Western Australian (SWWA) Grid, Darwin Region Grid (DRG), and supplier specific grids as applicable for rural and remote areas)
- Establish residual grid mix factors for the major grids (EAG, SWWA & DRG) to enable market based ER&RE allocation for retail and end use renewables for the same grid so that the dual reporting requirements (Location based and market based) are in reference to the same grid and are not perversely impacted and are in some way related.
- Treat States and Territory market based commitments the same way as any other end use customer, enabling renewable energy use (covering ER&RE attributes) but with a comprehensive market framework established in law.
- Adjustments to be made to the residual grid mix factor to net out any customer specific trades such as for accredited renewables or supplier emissions specific PPAs.

Rule c: **Re Claiming the mandatory RET component:**

Whilst there is in-principle support for customers to be credited for their mandatory RET contribution (and I have strongly argued for this over more than a decade) there is another option which must be considered in relation to the purpose of continuing the RET. It is recommended that before a determination is made on the inclusion of Rule C into Australia's market based accounting framework that there be a review of the RET.
The review should:

- Evaluate the economic efficiency and price impact on customers and particularly renewable electricity customers of continuing the RET given that its objective has been achieved and that future investment now favours renewable electricity.
- Evaluate whether the RET should be redesigned to support the market based system for electricity choices that include ER&RE attributes.
- Evaluate whether the Renewable Energy (electricity) Act should be repealed with any necessary residual components transferred to the NGER Framework.

Rule c) could then be addressed with the following reforms:

- Factor in any outcomes of a review of the RET
- Assess whether the RET component should be get allocated (as ~20% renewables) across all customers (excluding RET exempt customers) or should all renewables now become unallocated for a truly market based system to operate?

8. Climate Active certified carbon neutral electricity

Existing method

The existing method adds to confusion and double counting, particularly as there is no legal framework that defines and allocates either the emission reduction attribute or the renewable electricity use attribute (ER&RE). Whilst there may be appropriate treatment of LGCs, these certificates themselves have no attributes. The way they have been adopted as an integrity certificate is contrary to the legal situation as there are no attributes to prevent multiple related claims and ensure integrity.

An electricity provider (wholesaler or retailer or across both in a supply chain) can sell products in a way that rebirths renewable electricity sales. For example

1. A provider can produce electricity from renewable electricity generation
2. The LGCs may get sold for voluntary surrender, GreenPower or mandatory RET retirement. (Count 1)
3. Because there is no legal or rule guidance on what defines renewable electricity use, the renewable energy (RE) attribute is not forfeited
4. The provider may then attach a carbon offset to electricity sold to another customer with or without Climate Active certification.
5. Because the provider has electricity contracts with a wind or solar farm for example, the communication to the customer comes across as buying **carbon offset renewable electricity from a renewable provider** (Claim 2). Yet another form of double counting.

There is also a problem in the way that rebirthed carbon offset renewable electricity undercuts actual market based renewable electricity, particularly under the current approach where the price of renewables to most customers is the price of the LGC.

It is strongly recommended that the carbon neutral electricity concept be stopped. Households and businesses can still buy carbon offsets to cancel out their emissions should they choose t, but there have been very perverse double counting outcomes as a result of the carbon neutral electricity method.

Rules
Current rules A and B are not supported

Market Based Method
Rules

The proposed rules (same as 8 a and b) for Australia's market based method are not supported as the method rebirths renewable electricity through loopholes, and exploits the current low cost of carbon offsets to undermine genuine renewable electricity which is tied to an artificially inflated price.

9. Grid-imported (remaining) electricity

There are several aspects of the following description made in the discussion paper that are misleading.

> "The majority of businesses making a carbon neutral claim rely on power supplied by an electricity grid. It is not possible to determine the emissions from the exact electrons used by an individual business, as electricity from the grid comes from multiple and varied generation sources (e.g. from both fossil fuel based and renewable generation across a wide geographic area)".

Re: "*majority of businesses making a carbon neutral claim rely on power supplied by an electricity grid"*, it is my experience that when there is any kind or renewable claim involved for electricity purchased via the grid, businesses ignore the location based approach and cancel out emissions based on LGCs or even make claims without LGCs.

RE: "It is not possible to determine the emissions from the exact electrons used by an individual business, as electricity from the grid comes from multiple and varied generation sources". This statement is a fallacy justification as no system seeks to track individual electrons. The location based State Grid Average makes assumptions based on generation, consumption and flows using meters, just as the market based method makes assumptions based on generation, consumption and flows using meters. The state based grid factors also create additional artificial boundaries given the South Eastern Australian grid actually spans four states and a territory. New interconnectors will also strengthen its operation as a single grid.

The fallacy of 'we can't track elections' has been used as justification to defend the location based approach for at least fifteen years, where in reality every electricity account is actually based on a market based approach. I have never been able to successfully argue with my retailer that they cannot charge me because it is not possible to determine if I receive their electrons or electrons from other retailers.

The location base approach was adopted by governments for ease of application and there are many stakeholders that benefit from not being accountable for the source of their electricity. It is important however to encourage market choice that is real, fair and legal.

Existing method

The existing method as guided by the NGER Framework for NGER liable Corporations is the only legal method and it only applies to a small number of large emitting or energy consuming corporations.

There is no existing method for non-NGER electricity consumers, who make up the vast majority of customers.

The existing Climate Active/NCOS Carbon Neutral guidelines method is not followed as there are a multitude of ways to claim ER&RE benefits in part, or up to 100%.

Market based method

It is essential that careful thought go into how to calculate a national Residual Mix Factor and it is suggested that the following principles be used in determining what the calculation includes.

Principles for determining a grid based Residual Mix Factor (RMF)

1. Location based factors, RMFs and all associated reforms be made through a legal framework such as the NGER Determination, its Technical Guidelines and NGA Factors.
2. **The process for determining an RMF factor must prevent double counting.** That means only one end user should be able to claim Emissions Reduction and Renewables Use attributes in the market based system.
3. **A no double counting principle to be applied to the allocation of the renewable Energy (RE) use attributes in the market system.**
4. **The market base system be applied to the whole market.** This is required to prevent participants, NGER Corporations and non-participants from cherry picking the accounting method that best suits their claims. It also prevents the double counting that would occur if both methods were used to selectively make claims.
5. **Both the Location based factors and the Residual mix factors should be determined for the same complete grid in order for a level of comparison to be possible and the dual reporting requirements of the GHG Protocol to have meaning.** That means that NSW, QLD, VIC, Tas, SA and the ACT are all part of the same grid.
6. **All renewables should be made available in the market based method**, including pre-1997 renewables.
7. **The Mandated RET renewables (near 20%) should be removed from the RMF and allocated as near 20% zero emissions renewable electricity to RET liable customers.** (until such time as the RET is repealed when these renewables should become unallocated and open to the market**)**

10. Example

The example under the Market based method does not show dual reporting in accordance with the GHG Protocol.

The approach suggested would enable cherry picking across methods, and places no obligation on NGER liable corporations to participate.

If the market based system is to apply it must apply to all, and the location based method can continue for comparison through dual reporting and to be consistent with the GHG Protocol.

11. Discussion

The market based method as proposed by the discussion paper does not overcome the double counting issue or the many different double counting issues because the changes are not proposed under a legal framework and will not be adopted across the market.

If NGER liable corporations continue to use only the location based method and the market based method only applies to a small number of Climate Active Participants then the major double counting issues remain.

If the reforms only concentrate on the emissions reduction attribute without addressing the issue of which end users is allocated with the legal right to claim renewable electricity use then the method will be fatally incomplete, leading to market unfairness for some, free riding for others and rebirthing of renewables as offset electricity from a renewable source.

The national averages approach to calculate the RMF is not supported, neither is the continued use of the state based grid factor. The state grid factor is not a true location based method as the full extent of the location is the extent of the grid. There is also considerable distortion whereby customers across Australia have funded the RET, but customers in some states are able to claim a disproportionate benefit of this contribution. When used together, there is no relationship between the two values created.

It would be an improvement to base both values on the extent of each major grid including the Eastern Australia Grid, South West WA Grid, and Darwin Region Grid.

It is correct that Australia's market based system could enable both the voluntary and mandatory components explicitly in greenhouse reporting.

Renewables eroding the benefit of renewables

There is a major problem with the way the state grid factors have incorporated the dilution of emissions intensity from renewables, such that as the grid incorporates an ever increasing renewable electricity, the apparent emissions reduction from purchasing renewable electricity is eroded. Renewables have been competing with themselves! A major improvement of the market base system would be to calculate the RMF from fossil fuel electricity and unallocated renewables only. Initially RET renewables should be allocated to all customers (other than RET Exempt customers) as the first component of near 20%. Voluntary purchases should be able to be claimed on top of this with any shortfall calculated using the RMF.

There is a question about the future of the RET, now that it has no continuing functional objective. The use of the RET LGCs is the cause of the price of retail renewable electricity being a cost penalty for the vast majority end use customers rather than a choice for renewables that should be decreasing in price. If or when the RET is repealed, there is a case for the near 20% RET renewables to become unallocated and available for the voluntary market.

Pre RET old pre 1997 renewables are currently not able to be traded in the market as renewables. For a complete market to operate, the market based mechanism should enable all old and new renewables to be available to consumers.

12. Conclusion

In conclusion, the market based system is strongly supported in principle. It is the system that has already been adopted by communities and businesses purchasing GreenPower and Large Scale Certificates for voluntary surrender. It is the system that sits behind Power Purchase Agreements that support renewable electricity and justify claims relating to renewable electricity. It is the concept behind the ACT claims for renewable energy use and a growing number of capital city councils and other local council claims.

However, the policy and legal frameworks have not planned for or kept pace with the changes that are necessary for Australia to adopt a market based approach to underpin a low carbon economy or market choice. The current status of the broader market is one of confusion with many forms of double counting and conflicting claims as there is no actual guidance. Various parties organisations and individuals (including Climate Active) make up their own rules and conventions in conflict with the current NGER location based method. This is not sustainable, it is not credible and is unacceptable.

The scope of the reforms must span across the market be undertaken through a legal framework such as the NGER Framework.

The nine key recommendations made on Page 3, if implemented would enable a market based method to be introduced into Australia with integrity, certainty, fairness, consistency with the GHG Protocol Scope 2 Guidance and therefore establish the necessary legitimacy and credibility.

Yours sincerely

Tim Kelly

100% GreenPower Customer

APPENDIX 1 Renewable Energy claims are farcical

As advised to the Climate Change Authority, 2018

CASE STUDY Renewable energy claims in 2018 are farcical

The farcical situation of renewable energy end user claims in Australia

Over the past 12 years there have been calls for reform to create a legal, logical and single allocation of renewable energy and reduced emissions to end users. Successive Federal Government departments have steered discussion away from reform. Calls for reform in the 2010 consultation on Scope 2 emissions were rejected. In the period of the COAG complementarity principles, reforms were again blocked. Voluntary renewables collapsed further as customers continued to be charged the carbon pass through costs, and governments deemed the purchasing of renewables as non-complementary. In relation to NGER consultations, the Federal Government Department avoided public acknowledgement of the issues being raised and failed to address concerns raised. It was also reluctant to publish NGER related submissions and quickly deleted old submissions.

There is a long and documented history of concerns raised about GreenPower and, without repeating the technical aspects, my submission on the GreenPower Review covers the issues of a system without rules and riddled with double and triple counting. See:

Tim Kelly Submission
http://www.greenpower.gov.au/Business-Centre/Program-Review/~/media/4488FFC5C5B04BACAEA881E393F33BB8.pdf

Tim Kelly Submission - Summary of Recommendations
http://www.greenpower.gov.au/Business-Centre/Program-Review/~/media/6DDD9A53908E49AA9BE6A0AE098154AA.pdf

Now, in 2018, there are new developments with large government PPAs and an explosion of business PPAs. Many of these are claiming to be renewables, or coming from renewables. The trouble is that there is virtually no way to understand whether these claims include surrender of LGCs to ascertain if they are the second or the third count of the same renewable energy. Even if they do include the LGCs, this actually means nothing in terms of entitlement to claim use of renewables and lower emissions as thus convention is not established in law.

The former South Australian State Labor Government in late 2017 and early 2018 has been using the term "coming from renewables" to claim or imply that they are switching to 80% renewable Energy in 2018, and 100 % from 2019 through a PPA with Simec Zen, but they would not say if LGCs will be voluntarily retired. [UPDATE May 2018: The state department eventually confirmed that the PPA did not include voluntary surrender of Large Scale Certificates and the department now denies that it had claimed that the contract was for 80% renewable electricity or 100% renewable electricity].

The former South Australian Government was also claiming to support a "Green Hydrogen" plant to produce and export hydrogen from South Australia's renewable energy, but did not advise if the planning included accredited renewables as GreenPower or voluntary surrender of LGCs to for the electrolysis, chilling and compressing of the hydrogen.

Adelaide Brighton Cement have announced a renewable PPA but have clarified whether the PPA arrangements include the surrender of LGCs, and this is despite making contact with the company.

Many more organisations have made renewable PPA claims since March 2018 and it is impossible to track how many of these included the voluntary surrender of LGCs.

If we include the rise of electric vehicles into the mix, the situation is set to become even more of a wild west renewables claims market unless there is real reform. Also, consider the rise of batteries up to the 100 MW Tesla battery, where there are claims that these store renewables (rather than grid mix power). There are also an ever-growing number of other businesses, universities and communities all making claims on renewables every week, some with retirement of LGCs and many without.

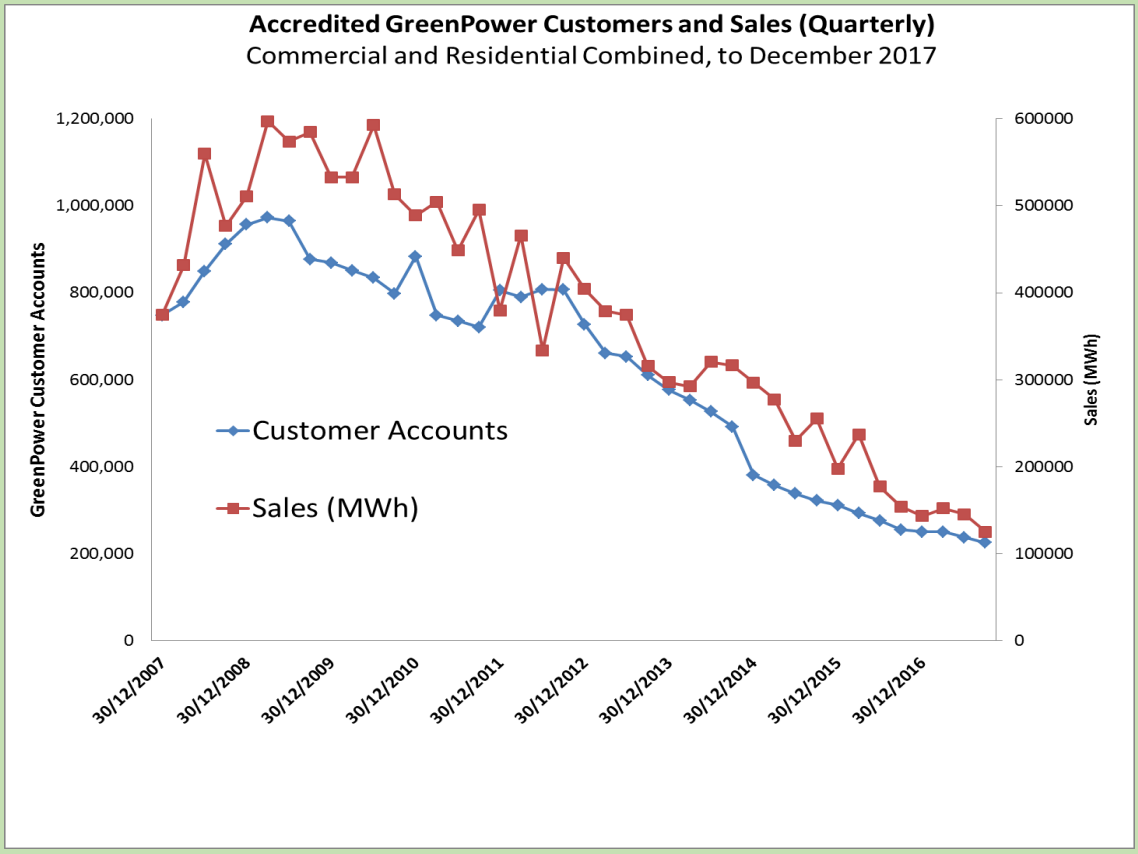
The approach by successive federal governments has been to let things go. It has never been the right time to address the basic accounting and allocation framework to underpin a low-carbon renewables economy. The Federal Government pulled out of the National GreenPower Steering Group (where it participated with observer status) but

maintained both the voluntary surrender approach and GreenPower in non-legal supplementary NGER reporting via the NCOS carbon neutral program for those claiming use of renewables and carbon neutrality.

Most businesses and Governments (local state and possibly federal) have abandoned GreenPower (which assures voluntary surrender of LGCs), in favour of manual LGC surrender or no LGCs at all. The direct voluntary surrender option, which is away from public scrutiny and assurance, has emboldened businesses towards not necessarily retiring the LGCs voluntarily or drifting away from purchasing LGCs altogether.

I attach a further August 2018 Renew Economy article (APPENDIX [2]) showing how the renewable PPA claims continue to be announced in the absence of any clarity or rules about the claims about being renewable or reducing the customers emissions. This article promotes that Sydney Airport has signed a PPA/Firming contract for 75% renewable electricity, and the article mentions around **eight other** renewable PPAs. There is no easy way of knowing (without chasing each company for answers) if any of these contracts are prepared as accredited GreenPower or include the voluntary retirement of LGCs to the Clean Energy Regulator. Each one could potentially be a triple count, given that NGER has already allocated these renewables across all customers in the state, and the LGCs can be used by third parties as GreenPower, voluntary surrender of LGCs or to meet legal obligations.

As for the GreenPower program itself, its collapse continues because customers, including governments, councils and businesses, are fully aware that it is a second count of renewables use and is also priced as a penalty rather than an alternative product. Residential customers do not trust the GreenPower scheme with the cryptic marketing language with the cryptic marketing language designed to avoid telling customers that it [the renewable energy] is double counted and not supported in law". At a time when the price of producing renewables has dramatically fallen, there has been no price relief for 100% GreenPower customers (like myself). The GreenPower customer numbers and sales have continued to collapse. At this rate, GreenPower will be extinct within 2 years, if not sooner.



Another development is the looming achievement of the RET. The whole concept of voluntary renewables has been based on being additional to the RET. Additionality has already been eroded by RET reviews and reductions but will soon become a meaningless concept when the RET has been achieved. Some market participants already see LGCs and additionality as redundant and are suggesting that the association with a facility makes the difference for renewables use.

Conclusion

In summary, the situation is a total mess. There is no legal mechanism to allocate any kind of electricity to any end user. Not in NGER, or in the RET legislation, not as green power or non-renewables. Any person or organisation can make up their own rules and accounting like the ACT Government has done (to claim a percentage of mandatory renewables with the remainder as GreenPower).

The ACCC approach to punish those without LGCs or earlier RECs surrender has now lost its punch, and was all bluff anyway as none of this is covered in legislation. The Federal Government could have legislated a physical accounting approach to legally allocate average emissions **to all** end users but chose not to do so, probably because this would have killed off voluntary renewables immediately. There is no integrity in the current double and triple counting of end use of renewables and no consistency in claims being made.

There is now a new opportunity through the NEG design, to adopt a contractual accounting and allocation approach that the community, governments and businesses have widely adopted, but which is not yet supported by NGER legislation. It would take a committed effort to work out such an approach that would also deal with the rise of batteries, EVs and losses. In my work with the GHG Protocol, there is no barrier for a nation or state to adopt contractual accounting but I do acknowledge that there are divided views. The Australian situation is different to the US, because our RET is to be reached in just a couple of years. With no further requirements for renewable electricity, additionality to the Renewable Power Percentage becomes meaningless. The allocation of renewable energy to an end use customer (by association) has become the main factor behind renewable PPA claims.

After nearly 8 years since this matter was last considered, now is the time for a genuine approach to build on the NGER Framework to properly allocate electricity related emissions to end users in a way that fully reflects the market choice. The growing flood of renewable energy claims made in complete contradiction to the NGER Framework, with double and triple counting, must stop and GreenPower must be reformed to become the only accreditation approach to assure household renewable energy contracts and business renewable PPAs.

It is beyond surprising that the Climate Change Authority did not acknowledge these issues in its discussion paper.

APPENDIX 2 RENEW ECONOMY ARTICLE

Sydney Airport turns to wind energy for 75 per cent of supply

reneweconomy.com.au/sydney-airport-turns-to-wind-energy-for-75-per-cent-of-supply-67427/

August 22, 2018

Sydney Airport has decided to turn to wind energy to reduce its electricity costs and lower emissions, and has signed a contract with Origin Energy that will result in three-quarters of its electricity supply coming from the Crudine Ridge wind farm in central west NSW.

A unique contracting arrangement with Origin will use increasingly popular "firming" contracts. In this case, that means that Origin will directly contract with Crudine Ridge and then guarantee the supply to Sydney Airport with "firming" generation or contracts when the wind is not blowing enough to meet the airports needs.

Crudine Ridge is a 135MW wind farm being developed at a cost of around $300 million around 45km south of Mudgee by a partnership of Partners Group and CWP Renewables. It began construction early this year and will be complete late next year.

Crudine Ridge has already contracted to supply around half of its output to Meridian Energy and its local retailer Powershop, as part of a series of renewable energy deals that enable it to lower its consumer tariffs by 5 per cent earlier this year.

Sydney Airport joins a rapidly growing number of corporate customers turning to wind and solar to lower their electricity costs and reduce their emissions, and "firming" contracts are also growing in popularity to hedge against price and supply variations.

Queensland zinc refiner Sun Metals last week formally opened its 116MW solar farm, while companies like CUB, Orora, and the Laverton steel works are also turning to renewables.

UK billionaire Sanjeev Gupta is planning 1GW of solar and storage to power his steelworks in Whyalla, and is using wind and solar to supply other corporate customers, while smaller businesses are also turning to renewables at record levels.

0. "This is a significant step forward for the business," Sydney Airport CEO Geoff Culbert said in a statement as he announced the company's latest results.
1. "This innovative arrangement enables us to lock in wholesale costs under attractive terms for one of our significant cost items, while supporting and fostering the growth of renewable energy in Australia."
2. Alex Hewitt, the head of CWP Renewables, which is also developing the massive Sapphire wind project that will also add solar and storage, as well as the 9GW wind and solar plan in the Pilbara, says it shows how more businesses can be supplied with "cheap and reliable" renewable energy.

At a separate event, Windlab CEO Roger Price – whose company last week signed a power purchase agreement with retailer Flow Power to take much of the output of the proposed 104MW Lakeland wind farm in north Queensland – says corporate interest is growing.

1/2

APPENDIX 3 PREVIOUS SUBMISSIONS AND CORRESPONDENCE DATING BACK TO 2005

The issues of double counting and absence of a legal framework are not new and should have been resolved more than a decade ago before so many stakeholders became excessively dependent on double counting.

The GHG Protocol Scope 2 Guidelines provide an opportunity for reform, but reforms must be comprehensive, market wide and made through a legal framework to have any meaning.

The following link makes approximately 45 past submissions and correspondence available.

https://drive.google.com/drive/folders/1tBnG9JBxMxDxg2IplAIUcOYPCNPDyYy9.

5 May 2020

Tim Kelly
Adelaide

Code Administrator, Australian Carbon Industry

code.administrator@carbonmarketinstitute.org

RE: Independent Review of the Carbon Industry Code of Conduct

Thank you for providing an opportunity to comment on the recommendations of the Independent Review of the Carbon Industry Code of Conduct.

I note that this review has covered some aspects in detail and made a number of important recommendations. However other key areas that should have been covered by the review are absent and will need to be addressed for end use consumers to have assurance and confidence in carbon industry products. This is particularly important for those people and organisations that voluntarily buy the carbon offsets as a part of offsetting their emissions in general or to make a carbon neutral claim.

LACK OF A LEGAL FRAMEWORK

One of the key issues for carbon markets in Australia is that with the exception of the limited number of corporations covered by the National Greenhouse and Energy Reporting Framework, there are no legal methods or rules to guide greenhouse allocation and accounting of Scope 1, 2 and 3 emissions. There is also no Federal Government legal framework to guide the creation or transfer of scope 3 emissions reductions in the form of carbon offsets. There is no legal guidance on how and when a Scope 3 carbon offset should be claimed against a scope 1 or 2 emission value, and no guidance as to whether it is appropriate for organisations to be claiming scope 3 emissions offsets against scope 1&2 only accounts where other significant scope 3 emissions are not counted. This means that voluntary carbon markets have been created and evolved without basic accounting and allocation rules.

The problem of there being no legal framework for emissions allocation and trading is not unique to carbon offsets. It also applies to the entire voluntary renewables market where end use claims of reduced emissions are at a minimum 100% double counted and often triple counted. To understand more about the farcical state of the renewable electricity markets, a number of my submissions, including my submission to the Climate Active consultation on Scope 2 Electricity Emissions (commenced February 2020) can be found here:
https://drive.google.com/drive/folders/1tBnG9JBxMxDxg2IplAIUcOYPCNPDyYy9

There are issues with the way some carbon offsets are created and traded which can be remedied, but even if the Code of Conduct could address these issues, it would not apply across the whole market and the Carbon Markets Institute does not have any authority to mandate rules for trading and accountang for offsets through the supply chain from supplier to end user.

In relation to Recommendation 22:

> "It is recommended that the development of model contract provisions and/or model agreements for Australian Carbon Credit Units (ACCUs) be informed by the legal standards and procurement policies of its government and major corporate stakeholders".

In so far carbon offsets are used in Australia by non NGER liable parties including voluntary end users, no model contract provisions can apply as no rules legally apply. It is noted that the intent of this Code of Conduct is aimed primarily at the supply side of the market chain and supply customers, but further attention is required to assure end user customers in the market.

An essential part of future Australian Carbon Markets is to have the legal foundation upon which to build market rules and codes of practice. Without a legal foundation this Code of Conduct cannot be regarded as having authority.

- It lacks transparency and accountability, as it ignores key problems and is itself not accountable against a legal framework
- Where double counting can be identified, issues of environmental integrity will persist
- legislative and regulatory compliance in relation to emissions trading and claims do not apply to the vast non NGER voluntary markets meaning that the code cannot adequately reference a legal foundation
- Consumers cannot be confident in carbon offsets until there is an emissions allocation and accounting framework established in law and such a framework incorporates a "No double counting principle" applied across the market from supply to the end use consumer.

The Objects of the Code should to be enhanced follows (marked up):

(1) define industry best practice for project developers, agents, aggregators and advisers in Australia's carbon projects industry;
(2) promote consumer protection and appropriate and open interaction with project owners and landowners;
(3) provide guidance to scheme participants; and
(4) **ensure** ~~promote~~ market integrity, accountability **across the whole market chain from creation to end user purchasing** and display international leadership in carbon project development

Recommendation

(1) The Australian Carbon Industry should acknowledge that no legal framework has been applied to the voluntary carbon offsets and renewable energy markets as a whole, and that an extension to the NGER Framework is required to establish this legal framework

USE OF AUSTRALIAN CARBON CREDIT UNITS

Carbon offset markets largely work as a market pool when common units are created and endorsed for use such as Australian Carbon Credit Units. When this happens, part of the uniqueness of a claim is surrendered as the supply and demand forces apply to the units as a whole rather than that of any particular project. Another feature of a pool based market is that bad carbon offsets contaminate the whole market.

When the Australian Government authorised a method for creating ACCUs from the replacement of street lighting to more efficient forms, it was warned about the risk that those with operational control of the asset were likely to claim the emissions reduction whilst also selling the carbon

offsets. It is likely that the vast majority of street lighting upgrades have been claimed by local government councils as an emissions reduction whilst selling the offset to third parties. There has been no advice not to do so.

As with the Renewable Energy (Electricity) Act 2000, the Carbon Credits (Carbon Farming Initiative—Commercial and Public Lighting) Methodology Determination 2015, only describes the creation of the offset, but not how it should be traded and used in claims. Therefore, a council that is converting its street lights to LEDs that would result in an emissions reduction off say 50%, is free to claim that emissions reduction for the reporting period as well as entering a contract for ACCUs to be created and sold to a third party. It is also technically possible for a council to buy these same ACCUs to offset their remaining street lighting emissions. It is technically possible for a 50% reduction in emissions to be claimed twice to cover all the street lighting emissions.

Whilst the Federal Government have not prevented against such loopholes and they are possible to exploit without breaking any law, the integrity of Australian Carbon Credit Units as a whole can be considered as contaminated by offsets where the benefit is still being claimed by the creator or system owner.

The solution is for a rule such that ***any supplier that is receiving an emissions benefit from an action should not be creating offsets for use in voluntary markets from that action***.

This problem is also applicable to the use of international offsets where the country of origin has not made an adjustment to their emissions to subtract the abatement from their inventory, when the offsets are sold to a customer in separate country.

Recommendations

(2) ***Australian Carbon Credit Units should not be accepted for use in this Code of Conduct due to the double counting of the emissions reduction benefit to the owners of street lighting and third party carbon offset customers.***

(3) ***The Code of Conduct should establish a no double counting test and preclude user-suppliers such that: 'any supplier that is receiving an emissions benefit from an action should not be creating offsets for use in voluntary markets from that action'***

(4) ***The no double counting test should be applied to all domestic and international offsets referred to in this Code of Conduct.***

RETIRED RENEWABLES REBIRTHED AND DOUBLE COUNTED THROUGH CARBON OFFSETS

I note that the Code of Conduct and the review does not cover renewable electricity and its use and claims by end consumers. It is an unnatural boundary to separate out two areas where indirect emissions markets have evolved as both cover direct and indirect emissions accounts. The Federal Government is consistent in advising that voluntary renewable electricity mechanisms are not offsets, but then provides guidance on how to claim renewable electricity purchasing as an offset. Doublethink is common in carbon markets.

There is one situation where the use of carbon offsets crashes into renewable electricity markets with unfair and unconscionable results. This occurs where carbon offsets are used to rebirth renewable electricity that should have been removed from the market. I have covered this loophole in my Climate Active submission as well.

The loophole that enables used renewables to be rebirthed

The loophole exploits the situation that Large Scale Certificates are themselves devoid of any attributes in law and that the convention for LGCs to be used to claim reduced emissions and use of renewable electricity use is not followed in a uniform manner. The way that LGCs have been adopted as an integrity certificate is contrary to the legal situation.

Loophole method:

1. A provider can produce electricity from renewable electricity generation
2. The LGCs may get sold for voluntary surrender, GreenPower or mandatory RET retirement. (Count 1)
3. Because there is no legal or rule guidance on what defines renewable electricity use, the renewable energy (RE) attributes are not forfeited
4. Electricity retailers may then attach a carbon offset to electricity sold to another customer.
5. The electricity retailers strongly promoting carbon offset renewable electricity can establish a renewable brand based on their asset base or whether they have PPAs to renewable generators regardless of whether LGCs from these sources are used to meet mandatory requirements or are sold to third parties.
6. Because the provider has electricity contracts with a wind or solar farm for example, the communication to the customer comes across as buying **carbon offset renewable electricity from a renewable provider** (Claim 2). Yet another form of double counting.

There is also a problem in the way that rebirthed carbon offset renewable electricity undercuts actual market based renewable electricity, particularly under the current approach where the price of renewables to most customers is the price of the LGC.

It is strongly recommended that the carbon neutral electricity concept be stopped. Households and businesses can still buy carbon offsets to cancel out their emissions should they choose to, but there have been very perverse double counting outcomes as a result of the carbon neutral electricity method.

I won't show examples of ambiguous marketing as this would upset the providers and is largely the fault of the Federal Government for not establishing a market wide set of rules. However, when looking up offers of carbon neutral electricity ambiguous marketing is common. Whilst each individual statement may be correct, the packages of information are tangled sufficiently for most consumers to not appreciate exactly what companies are claiming and offering.

Recommendation

(5) ***The Code of Conduct should prevent or at least discourage the use of carbon offsets being used in a way that could lead to a customer thinking that they are buying Carbon offset electricity from a renewable source when LGCs have been sold to a third party. Assessments should be made across the package of marketing of organisations, not on simply the detailed fine print of an electricity offer.***

Conclusion

In conclusion, this Code of Conduct has made an important start to ensure the integrity of Australia's carbon markets, but has not yet addressed the key and fundamental requirements for emissions

allocation and accounting to be established under a legal framework that applies to the whole market in Australia.

The Review has also not addressed the problem that offsets endorsed by this Code of Conduct include those created by supplier users that are also claiming the emissions reduction in association with their own activities

There are also unique problems such as the rebirthing of renewable electricity with carbon offsets through the marketing and brand packages of companies.

In order for the Code of Conduct and Australia's carbon markets to have integrity and become trusted, these issues must be addressed with urgency.

If possible, I would like to discuss mu submission with the Code Administrator

Yours sincerely

Tim Kelly

13/05/2020

Tim Kelly
Adelaide

Australian Government – Clean Energy Regulator
Emissions Reduction Fund Branch
CER-ERFConsultation@cleanenergyregulator.gov.au

RE: Draft guidance on the Emissions Reduction Fund's regulatory additionality requirement

Dear Emissions Reduction Fund Branch

Thank you for providing the opportunity to comment on the regulatory additionality component of Emissions Reduction Fund (ERF) projects that create Australian Carbon Credit Units (ACUs).

I have a background in greenhouse gas emissions reporting, energy procurement, and participating in the processes for national and state greenhouse and energy schemes. This includes the Renewable Energy Target, the National Carbon Offset Scheme, the National Greenhouse and Energy Reporting Framework, GreenPower and Australian Energy Market consultation. At the state level in South Australia, I served in the Premier's Climate Change Council (2011-2014) and on the Essential Services Commission of South Australia – Consumer Advisory Panel (2011-2017).

I also actively contributed to the WRI Greenhouse Gas Protocol Technical Working Group for the development of Scope 2 Emission Reporting Guidance which is now part of the GHG Protocol suite of documents. I actively contributed to the initiation and progression of this guidance.

My submission addresses the issues relating to the Australian Government's narrow focus on parts of a disintegrated carbon and renewables markets policy framework which is undefined at a strategic level and is riddled with confusion, double counting and triple counting. This consultation paper addresses the regulatory additionality of ERF projects and ACCUs, without addressing the potential for double counting and lack of a National Greenhouse and Energy Reporting Framework that applies to the whole economy. Without a holistic approach to providing a legal framework on how Scope 3 emissions can be traded and used to offset Scope 1, 2 and other scope 3 emissions, there is no legal integrity to any claim associated with the use of carbon offsets in Australia.

Allocation, - Who owns the emission reduction?

The allocation of an emission reduction benefit to just one end user is as important as offsets passing an additionality test. The CER has not and cannot adequately regulate just who receives or is allocated the emission reduction benefit associated with a project as the NGER Framework does not describe how emission offsets should be traded, nor does it describe that this trading is actually about trading scope 3 emission reductions, nor does it describe how scope 3 emission reduction offsets should be used to offset Scope 1, Scope 2 and other Scope 3 emissions, nor does it describe constraints and responsibilities associated with such trading and claims.
Even if the NGER Framework was reformed to cover Scope 3 offset accounting, the NGER legislation and framework does not legally apply beyond the reporting requirements of NGER liable corporations. This same problem applies to end use claims for renewable electricity which is another form of a negative or zero emission traded in markets.

Proposed New Approach

The proposed new approach is supported in principle, but is not sufficient in scope to address significant issues associated with ACCU carbon offsets and how they are used.

Street lighting

Carbon offset markets largely work as a market pool when common units such as ACCUs are created and endorsed for use. When this happens, part of the uniqueness of a claim is surrendered as the supply and demand forces apply to the units as a whole rather than that of any particular project. Another feature of a pool based market is that bad carbon offsets contaminate the whole market. Bad carbon offsets can be result from a number of compromising issues that are not limited to regulatory additionality. These can include but are not limited to double counting and inappropriate end use of the offsets.

When the Australian Government authorised a method for creating ACCUs from the replacement of street lighting to more efficient forms, it was warned about the risk that those with operational control of the asset were likely to claim the emissions reduction whilst also selling the carbon offsets.

The vast majority of street lighting upgrades have been claimed by local government councils as an emissions reduction whilst selling the offset to third parties. There has been no advice not to do so.

So here is a case where the creation of the carbon offset is fully compromised despite the action meeting an additionality test. It could be argued that additionality is itself compromised as the action is not in addition to an activity that is already being claimed as an emission reduction by the system owner.

As with the Renewable Energy (Electricity) Act 2000, the Carbon Credits (Carbon Farming Initiative—Commercial and Public Lighting) Methodology Determination 2015, only describes the creation of the offset, but not how it should be traded and used in claims. Therefore, a council that is converting its street lights to LEDs that would result in an emissions reduction off say 50%, is free to claim the emissions reduction for the reporting period as well as entering a contract for ACCUs to be created and sold to a third party. It is also technically possible for a council to buy these same ACCUs to offset their remaining street lighting emissions. It is technically possible for a 50% reduction in emissions to be claimed twice to cover all the street lighting emissions.

The double counting is not mitigated by any restrictions on a provider not purchasing its own ACCUs, as the concept of a market pool means that no matter where an ACCU that has been created from a user provider, is used, it is still being double counted. The proposed new approach should be tested against street lighting as a case study example, and should deal with how both additionality and the prevention of double counting could be addressed.

Because the Federal Government has not prevented against loopholes such the emissions reduction benefit being claimed by the creator or system owner and sold, they will be exploited and the integrity of Australian Carbon Credit Units as a whole can be considered as contaminated.

The solution is for a rule such that ***any supplier that is receiving an emissions benefit from an action should not be creating offsets for use in voluntary markets from that action***.

This problem is also applicable to the use of international offsets where the country of origin has not made an adjustment to their emissions to subtract the abatement from their inventory, when the offsets are sold to a customer in separate country.

Recommendations

- ***In addition to regulatory additionality, the CER should establish a no double counting test and preclude user-suppliers such that: 'any supplier that is receiving an emissions benefit from an action should not be creating offsets for use in voluntary markets from that action'***
- ***Apply the proposed approach to additionality and a process to prevent double counting to street lighting as a worked example.***

Climate Active certified carbon neutral electricity

Existing method

The Australian Government – Climate Active program certifies carbon offset products and services, including for electricity, but has not put in place guidance to prevent the rebirthing of renewable electricity that should have already been removed from the market and marketing claims and corporate promotions where Large Scale Certificates have been used to acquit mandatory RET requirements or sold to third parties. The existing Climate Active requirements add to the confusion and double counting in end use markets, particularly as there is no legal framework that defines and allocates either the emission reduction attribute or the renewable electricity use attribute (ER&RE). Whilst there may be appropriate treatment of LGCs, these certificates themselves have no attributes. This creates a loophole that is exploited through the inappropriate use of accredited carbon offsets to rebirth retired renewable electricity. Here is how the loophole works for an electricity provider:

1. A provider can produce electricity from renewable electricity generation
2. The LGCs may get sold for voluntary surrender, GreenPower or mandatory RET retirement (Count 1)
3. Because there is no legal guidance by the Australian Government on what defines renewable electricity use, the renewable energy (RE) attribute is not forfeited
4. The provider may then attach carbon offsets such as ACCUs to electricity sold to another customer with or without Climate Active certification, creating a carbon offset electricity product.
5. Because the provider has electricity contracts with a wind or solar farm for example, the communication to the customer comes across as buying **carbon offset renewable electricity from a renewable provider** (Claim 2). Yet another form of double counting.

The promotion described above has effectively been rebirthed extinguished renewable electricity.

The way that rebirthed carbon offset renewable electricity is promoted undercuts actual market based renewable electricity, particularly under the current approach where the price of renewables to most customers is the penalty price of the LGC.

So here is a case that the integrity of both the renewable energy end use market and the carbon offset market is undermined by the Australian Government not providing sufficient policy and regulatory oversight of low carbon and renewable energy markets should function as a whole. Whilst the regulatory and policy framework may prevent the Clean Energy Regulator from being able to perform its function, it does not prevent the Clean Energy Regulator from identifying areas in dire need of reform.

It is strongly recommended that the carbon neutral electricity concept be stopped. Households and businesses can still buy carbon offsets to cancel out their emissions should they choose to, but there have been very perverse double counting outcomes as a result of the carbon neutral electricity method which still connects to renewables marketing. The Alternative approach is to place a ban on electricity retailers from promoting their business as supporting electricity coming from renewables where there is any use of those renewables being sold for third parties to meet their mandatory obligations or to on sell as renewable electricity (GreenPower or LGCs for renewable PPAs).

Double standards on additionality

The Clean Energy Regulator's consultation on regulatory additionality for ACCUs is in stark contrast to the Australian Government's treatment of additionality for voluntary renewable electricity.
In addition to the allocation of renewable electricity being undefined in law to non NGER market participants, the additionality of voluntary renewables has been fully compromised by Australian Government policy.

National/international additionality not achieved
National/international additionality has been compromised because the federal Government has not made an adjustment to Australia's international commitments to add voluntary renewables to its reduction commitments.

Domestic additionality not achieved
Domestic additionality has been compromised as the Australian Government has not added an obligation to the RET to increase the Renewable Power Percentage (RPP) to match voluntary renewables.

The RET was increased to both 20% and 45,000 GWh by the Rudd Government, then wound back to 41,000 GWh over time (and split to fund voluntary small scale renewables following the impacts of the solar credits multiplier policy which displaced 5MW of renewable electricity already required by law for every 1MW of deemed renewables created). The RET was further cut by the Abbott Government to 33,000 GWh with the then Minister claiming in writing, that the target was always based on only the 20% aspect (and this did not separate out voluntary renewables). With the RET being determined on the 20% value (including from voluntary renewables) to determine the RPP, and the 45,000 GWh target being cut back accordingly with no adjustments to the 20% from voluntary renewables, **the domestic additionality of voluntary renewables was extinguished**. It made no difference that voluntary renewables may have been additional to the annual determination of the RPP expressed as a GWh value, as they were never made additional to the 20%.

In the absence of additionality for voluntary renewables (both national/international and domestic), the allocation of the attributes of renewable electricity use and reduced emissions for GreenPower customers and those voluntarily retiring Large Scale Certificates to the CER becomes even more important. Sadly the allocation of renewables to any type of end use customer of the grid has not been sorted out either. The GHG Scope 2 Protocol has provided guidance on establishing a market based Scope 2 accounting method (2015) but the Australian Government has not made reforms to enable market based accounting in Australia. (See my submission on the Climate Active Discussion Paper: Accounting for Electricity Emissions https://drive.google.com/drive/folders/1tBnG9JBxMxDxg2IplAIUcOYPCNPDyYy9

Integrated Holistic Reforms

The pattern of responses by the Australian Government to serious issues relating to carbon offsets, renewable electricity for end users and carbon accounting of scope 1, 2 & 3 emissions for non NGER market participants, has been to disintegrate the components of what should be a holistic accounting, allocation and regulatory framework such that only fragments of a framework exist and the scope of any particular consultation is so narrowly defined that the major market issues are avoided. This consultation is no exception.

Whilst it is beyond the scope of the Clean Energy Regulator to consider reforms to the NGER framework overall, it has a key role to identify the issues that undermine the integrity of Australian Carbon Credit Units approved under the Emissions Reduction Fund, and how these and other carbon offsets that are approved for use under Australian Government endorsed schemes and programs.

Key issues to note:

- Without reforms to establish a market based accounting and allocation framework for carbon offsets and GreenPower/renewable energy contracts for end users, Australia's clean energy and offset policy, programs do not have integrity.
- Without an overarching set of rules established under a legal framework such as the National Greenhouse and Energy Reporting Framework, Australia's carbon markets will continue to exist in a state of anarchy where advice and conventions are always open to varying interpretations and challenge.

- Until a '**No double counting'** principle is introduced into Australia's renewable and carbon markets to ensure that no end user is claiming the same emissions reduction benefit or use of a product then there can be no confidence in the products and claims associated with the use of ACCUs, GreenPower, and voluntary retirement of Large Scale Certificates.

These issues limit the ability of the CER to achieve its four strategic objectives of becoming:

- A trusted, relevant and expert institution
- Efficient and effective administration
- Engaged, active and compliant participants
- Secure and enduring infrastructure

Furthermore, such issues hamper the CER in achieving its purpose of accelerating Carbon Abatement for Australia.

Solution – NGER Reform
The good news is that the issues and problems caused by Australia not having a legal allocation and accounting framework that applies to the broader market (beyond NGER liable corporations) can be fixed and solutions have already been described.

The key and overarching reform is for the National Greenhouse and Energy reporting Framework to be extended for its methods to apply as the foundation set of allocation and accounting rules to the whole economy and markets, including for carbon offset and renewable electricity sold to end users. Within this broad reform, the following further reform components are required:

1. The NGER accounting methods must extend to cover how scope three emissions accounting allocation and trades are undertaken
2. The accounting methods to describe how scope 3 emissions and emissions reductions should be dealt with in market trades, including how scope 3 reductions from offsets are should be used when mitigating the Scope 1, 2 and other scope 3 emissions of organisations and end use customers.
3. Describe properly that carbon offsets are scope 3 offsets
4. Require that when organisations use scope 3 carbon offsets against their scope 1&2 emissions that they also acknowledge significant upstream and downstream scope 3 emissions.
5. The National Greenhouse Accounts (NGA) Factors to be formerly brought under the NGER Framework
6. A market based Scope 2 emissions accounting framework be properly established under the NGER Framework to support renewable electricity trading and end use claims (further detail on this recommendation is covered in my submission on the Climate Active Discussion Paper: Accounting for Electricity Emissions, and in other correspondence and submissions to the Australian Government extending back some 15 years. See: https://drive.google.com/drive/folders/1tBnG9JBxMxDxg2IplAIUcOYPCNPDyYy9
7. Establish a '**No double counting principle**' such that no two end users claim the same emissions reduction benefit or use of a commodity such as renewable electricity. (This is not a scope issue. Switching across scopes does not excuse double counting such as an organisation claiming an electricity efficiency benefit to reduce its scope 2 emissions whilst creating and selling ACCUs for a third party to use as a scope 3 emissions offset.

Also, please stop promoting concepts that are not formerly established or underpinned by a legal framework.

Recommendation

It is recommended that the Clean Energy Regulator:

- ***Acknowledge the lack of a legal foundation to support Australia's carbon offset and renewable electricity markets for end users due to the legal situation that the NGER Framework only applies to a limited number of NGER liable Corporations, only for reporting and without dealing with scope 3 accounting and offsets.***
- ***Recommend to the Department of Industry, Science, Energy and Resources that reforms in line with the 7 reform components identified above***

Please note: I continue attempts to engage with the right people in the Department of Industry, Science Energy and Resources including the NGER and Emissions Inventory Team but there have been no responses from the Department in two years other than from those who identify that these matters are not their responsibility. The right people do not respond. Public consultation on the annual NGER Determination was discontinued in 2019 such that only key industry partners could participate and any issues or concerns identified by the general community are no longer provided for the public record. It would therefore be inappropriate for a response to this consultation to include a suggestion that I contact the Department.

If at all possible, I would like to discuss the detail of this submission with a Clean Energy Regulator representative.

Yours sincerely

Tim Kelly

100% accredited GreenPower Customer

Carbon Offset consumer when purchasing flight tickets.