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Submission - Review of The National Greenhouse And Energy Reporting Legislation:

Thank you for the opportunity to contribute to this most important Review of the National Greenhouse and Energy Reporting Act and whether the legislation is achieving its objectives, is fit for purpose, and if any improvements are needed.

As a former Principal Climate Change Advisor working in a major water utility and the former Chief Executive of the Conservation Council of South Australia, 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 development on Scope 2 Emission Reporting Guidance which is now part of the GHG Protocol suite of documents. This enabled the recognition of contractual greenhouse gas emissions accounting in jurisdictions. I note that the NEG, in its focus on retailer Greenhouse Gas (GHG) emissions, should it continue to be established with a deferred emissions constraint, will necessarily incorporate contractual GHG accounting and monitoring, as the previous state grid average approach is not suitable for the way in which the NEG is designed to operate.

I welcome the commitment by the Climate Change Authority to talk to stakeholders to complement the written submissions and therefore request the opportunity to discuss my submission with a representative from the Authority.

Yours sincerely

Tim Kelly

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SCOPE OF THE REVIEW

The scope of the review is inadequate because it fails to test whether the objects of the NGER Act 2007 are being achieved.

It is of significant concern that the review is focusing on an incomplete interpretation of the objects of the Act by redefining three key elements rather than simply reviewing whether the implementation of the legislation is supporting and achieving the objects of the ACT.

The Review has identified the following:

> The legislation has three key elements. It:
>
> - requires companies over certain thresholds to measure and report their greenhouse gas emissions as well as their energy production and use to the Australian Government
> - underpins the safeguard mechanism, which places emissions limits on large facilities and provides a framework for them to measure, report and manage their emissions
> - establishes the greenhouse and energy auditing framework applying to audits required under the reporting scheme, the safeguard and other climate change policies such as the Emissions Reduction Fund and the Renewable Energy Target.
>
> - This review will focus on these aspects of the legislation with a view to determining whether each of the individual elements is achieving its objectives, is fit for purpose and if any improvements are needed.

This interpretation fails to acknowledge and address whether the following key and currently primary objective of the legislation is being achieved:

> **3 Objects**
>
> (1) The first object of this Act is to introduce a single national reporting framework for the reporting and dissemination of information related to greenhouse gas emissions, greenhouse gas projects, energy consumption and energy production of corporations to:
>
> (b) inform government policy formulation and the Australian public; and

I argue that if this review does not address whether the key objects of the Act are being supported and achieved, then it would not meet the requirement to review the operation of the Act.

In particular, the scope fails to pay due regard to informing the Australian public in order to make a wide variety of decisions, including which companies to support and what products to buy with regard to Greenhouse Gas (GHG) emissions intensity.

In this submission I will highlight current weaknesses in the legislation and in its implementation which have caused a catastrophic failure of accurate accounting of greenhouse gas emissions, greenhouse gas products, energy consumption and energy production of corporations to inform government policy and the Australian Government.

My first recommendation relates not only to ensuring that there is an effective review by focusing on the objectives of the Act, but also to consider the whole economy, not just a segment of the economy.

Recommendation 1

The scope of the review be broadened to:

(1) Determine whether the Objects of the ACT are being achieved

(2) Assess whether the NGER Act, and related documents of the Framework are meeting the needs of the whole economy and market participants in support of sales of goods and services that include GHG intensity attributes towards transitioning to a low carbon economy

(3) Acknowledge issues of concern and make recommendations.

1. MORE THAN A DECADE OF ISSUES BEING IGNORED

Retail Renewable electricity: GreenPower, Voluntary Surrender of LGCs and PPAs

In the discussion paper, there is brief and flippant mention of voluntary actions:

> "Companies may also report emissions and energy data under other state-based, local or voluntary initiatives. For example, many states have energy efficiency programs under which companies may need to report energy use. Some companies may also participate in voluntary environmental or carbon neutral accreditation schemes that require emissions and energy reporting".

The discussion paper fails to acknowledge that the NGER Framework is selectively applied in relation to retail renewable electricity sales as accredited GreenPower and voluntary surrender of Renewable electricity certificates to the Clean Energy Regulator. The '*Elephant in the room'* that has been an issue even whilst NGER Legislation was being proposed in 2007, is that the NGER Framework including the NGER Determination and NGER Technical Guidelines simply does not support concepts of customers purchasing renewable or lower emission electricity. GreenPower claims by its customers are 100% double counted, as are claims relating to the voluntary surrender of Large Scale Certificates because the NGER Framework has already allocated the lower emissions across all customers in a state.

These issues have been raised more than two dozen times in 11 years of NGER Consultations and Energy White Paper reviews, AEMC reviews ACCC complaints, in the 2010 NGER Review undertaken by the Department, in many GreenPower Reviews, in complaints to the ACCC and AER and again in my last seven submissions on the National Energy Guarantee. They are typically dismissed under a wildcard excuse of being voluntary action. However, double counting and a lack of legal foundation are real issues, acknowledged by officials in private and ignored and omitted in written material such as this NGER Consultation Discussion Paper.

When any other product is sold with claims, attributes are not separated from the product, allocated across all customers and defined as voluntary action. Free Range eggs are not branded as voluntary action to separate the free range component, allocate free range across all egg buying customers and with the customer that paid for the attributes being denied that which they specifically paid for. Yet this is the perverse world of what happens with accredited renewable electricity.

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 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.

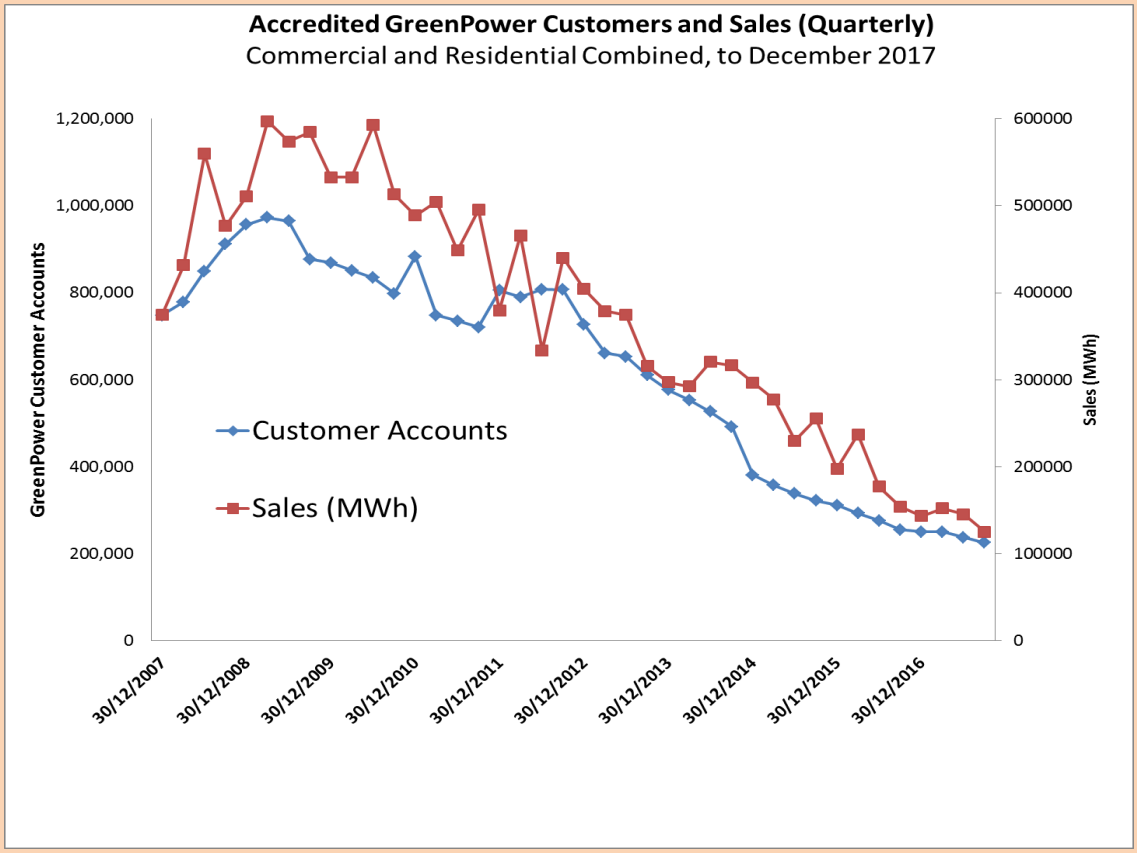
The approach by successive federal governments has been to let things go. It has never been the right time to address the basic accounting and allocation framework to underpin a low-carbon renewables economy. The Federal Government pulled out of the National GreenPower Steering Group (where it participated 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 1) 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.

Fugitive Emissions relating to the fossil gas industry

Another issue that have been continuously smothered from receiving frank and full attention includes the fugitive emissions relating to gaseous fossil fuels which may leak from the landscape away from pipework, fittings, flaring, exploration and production well infrastructure. These are the fugitive leaks which may start or be accelerated as a result of dewatering and/or hydraulic fracturing activities causing fossil gas to leak from shallow formations, wells and rivers waterways, faults, geological joints and fractures and seeps:

2. CONSULTATION QUESTIONS: CHAPTER 2

Q. 1 Do the National Greenhouse and Energy Reporting scheme reporting thresholds balance coverage with administrative costs? Should thresholds be increased, decreased or kept as is?

The question implies that the NGER Framework is merely about a certain number of corporations reporting. This implication is flawed. The NGER Framework is widely used to underpin greenhouse claims relating to corporations, businesses, products and consumer choices across the economy regardless of the NGER thresholds.

The National Greenhouse Accounts (NGA) Factors are widely used in the printing of greenhouse gas emissions on the electricity bills of nearly all Australian households. The NGA Factors and NGER Technical Guidelines are used in the Governments Carbon Neutral Program and on the set of National Carbon Offset Standard Documents. The NGER Framework, despite legally not applying to the broader economy, is widely adopted as the rulebook for the broader economy and trading of low carbon products and services.

Disturbingly however, the NGER Act and key parts of framework are ignored by the broader economy, by GreenPower, by Departmental advice on claiming zero scope 2 emissions and by market participants where it does not suit the narrative or claims of the day. This is possible, because the legislation only applies to liable reporting organisations. The end result is that the Federal Government has created the situation where low GHG emission claims are made in contradiction to NGER methods, are claimed falsely under sanction by the Federal Government in the name of the NGER, NCOS and Carbon Neutral Programs. There is a culture of impunity in a market with no rules.

NGER Scope 2 Method, NGER Technical Guidelines, 2017-18

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

Note: There is no other method for this section.

$$EFG\ scope2_i^t = \frac{Combustion\ emissions\ from\ electricity\ consumed\ from\ the\ grid\ in\ state\ i\ (CE\_C_i^t)}{Electricity\ sent\ out\ consumed\ from\ the\ grid\ in\ state\ i\ (ESO\_C_i^t)}$$

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Recommendation 2

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.

Recommendation

The Scope of the Act should be broadened to cover the Greenhouse and Energy rules for economy wide claims relating to Business reporting, and GHG emissions attributes of goods and services traded in Australian Markets.

Recommendation

The Objects of the Act should provide for:

- Mandatory reporting by Corporations to the Clean Energy Regulator above a defined threshold
- Rules and guidance for Greenhouse and Energy reporting by businesses and traders when making public claims, and annual reports which may include GHG related information and disclosure across the whole economy
- A legal foundation for allocating renewable energy use to end use customers buying accredited renewable electricity
- A legal foundation to allocating electricity related emissions to end use electricity customers.

Recommendation

Above all else, a reformed the National Greenhouse and Energy must include a *'No Double counting*' principle for the end use allocation and claims relating to renewable electricity and allocation of GHG emission reductions to end use electricity customers.

Q. 2 Should the scope of reporting under the National Greenhouse and Energy Reporting scheme be expanded or reduced e.g. to include or exclude certain greenhouse gases, emissions sources, inventory sectors or types of entities who report?

As above, The NGER Act and broader framework is already used widely across the economy, not just by NGER liable Corporations. The Scope of the NGER Act should be broadened to legally support related NGER Methods and factors to guide GHG emissions attributes of goods and services traded in Australian Markets and all related claims made by businesses.

The current situation could be compared to a transport system where trucks and busses above a threshold drive on the left hand side of the road but all other cars, bicycles and pedestrians may drive on all sides of the road and footpaths as there are no rules. This does not work

3. STREAMLINING EMISSIONS AND ENERGY REPORTING

RE: Single national framework for reporting and disseminating emissions and energy information (NGER Act s 3.1).

As above, The NGER Act and broader framework is already used widely across the economy, not just by NGER liable Corporations. The Scope of the NGER Act should be broadened to legally support related NGER Methods and factors to guide GHG emissions attributes of goods and services traded in Australian Markets and all related claims made by businesses.

The NGER Framework needs to be the rulebook to underpin all claims and annual reports, not just those by Corporations above a threshold.

RE: Increasing interest in companies reporting on climate-related financial risks.

The current NGER Act and Framework creates an entirely distorted picture of the greenhouse constraint risk facing many companies.

The NGER Act requires companies to report standard grid emissions for every MWh of electricity they buy, which does not accurately reflect the emissions related to their electricity Power Purchasing Agreements. The following distortions occur:

- In a state with more renewable electricity generation such as South Australia, despite that generation being driven by the RET and paid for by the mandatory obligations across Australia, the consumers in South Australia get a free ride to claim lower emissions. This is significant, particularly for bigger customers such as BHP, Liberty-One Steel, the State Government and SA Water who claim lowering of emissions as achievement. Others such as customers in New South Wales and Victoria are paying more for these claims and not receiving full recognition of their financial contribution so the situation is not fair. This distortion should be corrected before public outcry and for the Corporations to report in a framework that reflects their greenhouse risk profile.
- Should Liberty-One Steel transition to renewable electricity traded through the grid, they would still need to report average state GHG emissions associated with this purchase through the NGER Reporting Framework. Even if they ensure that their product is accredited, as the emissions avoidance will still be shared across all customers in the state.
- Residential and small business GreenPower customers are paying for the lower emissions of NGER liable Corporations, because GreenPower has no foundation in law and is fully double counted with regard to 'use' and 'reduced emission' attributes.
- Even Trade Exposed Energy Intensive industries that may have full or partial exemption from contributing to the Renewable Electricity Target, still get the emission reduction benefits paid for by others.
- It appears that the Federal Government (from correspondence sent to me) has counted all the behind the meter renewables estimate (including from all household generation) to dilute the grid factors in the National Greenhouse Accounts Factors workbook. I am awaiting a secondary confirmation (for about six months so far) of this development as it would be entirely contradictory to the NGER Technical guidelines and would have caused all domestic renewables to be counted twice without the knowledge or consent of two million households. This appears to have happened towards diluting grid factors when at the same time, behind the meter fossil fuel generation was not factored into the grid factors. In the short term it makes businesses look better but it also hides risk exposure to future national and international greenhouse constraints.

  The scale of the problem would be significant, an example.
  South Australia: Electricity use 2016-17=12,442 GWh
  Rooftop solar generation = 9.2% and this is included in the NGER NGA grid factors.
  BHP in SA for its Olympic dam mine and smelter typically uses around 10% of total SA electricity. So woulf have received ~10% of the household 9,2% (0.92%) as zero carbon electricity (~115,000 MWh/yr) from the diluted NGA factor.
  If BHP had to pay for this emission reduction by buying and surrendering LGCs, the cost based on today's (early 2018) REC price of $84/LGC would be about $9,600,000. This would represent a substantial free ride emission reduction year by year from mostly householders that believe they are producing and consuming their own electricity at zero scope 2 emissions.

Despite such free riding under the NGER Framework, there are now situations where businesses contracting to renewable electricity generators for their Power Purchasing Agreements without Large Scale Certificates or as GreenPower are claiming /inferring renewable use and reduced emissions outside the NGER Framework. They can do this because there are no rules across the entire economy and the Federal Government has created the perfect culture of impunity. The ACCC have in no legal guidance to take action.

When companies claim attributes that they have not paid for there is failure to recognize and quantify their carbon exposure risk.

Q. 3 Do you have any feedback on the annual policy and consultation process to update the measurement determination?

The annual policy and consultation process to update the Measurement Determination has been a failed process. It has not led the Department to listen to issues, acknowledge issues or adequately respond to issues or refer issues on to senior policy makers and politicians to make reforms. Submissions have been made in regard to this annual process year after year zero progress. It is only in the last 10 months that the Department has again begun to respond to correspondence, after years of failing to honour commitments to discuss issues. This only took place following several ministerial complaints and advocacy by a state Greens MP to write to the Department and ask why communications had stopped for several years.

Failure to have an adequate practice for publishing NGER Determination Submissions

There have also been challenges in getting the Department to publish NGER submissions so that concerns are at least documented on the public record. The Department would make commitments to place submissions on the public record and simply not follow through and deliver their promise. Even after submissions were sometimes published, the Department has been quick to remove them from the public record within 12 months.

I note that the 2018 NGER Determination Submissions have not yet been published, and this year, there was no longer even a commitment to publish these submissions.

Inadequate Timeframes

The 2018 NGER Determination Consultation was released without warning with less than 5 business days for stakeholders to respond. I believe that there were only two submissions received, and one of these was mine. See submission samples in the **Appendix 2 and Appendix 3**.

Recommendation

The NGER Annual Determination Process should be broadened in scope to seek feedback, acknowledge and respond to important issues as they arise. Never again should they be completely ignored for a decade which has resulted in the farcical situation of renewable electricity claims. The matter of acknowledging and responding to the concerns about landscape fugitive emissions away from wells and infrastructure caused by dewatering and hydraulic fracturing should also have been addressed by the Annual NGER Determination consultation process but continues as an omission from GHG inventories.

Q. 4 Are the methods for reporting emissions and energy in the measurement determination fit for purpose?

The methods for reporting scope 2 emissions under the NGER Framework are perverse and not fit for purpose.

The broader question that the Authority should be asking is about whether they support all participants in a carbon constrained electricity market and the broader economy.

- State Governments ignore the Scope 2 Physical accounting method
- GreenPower ignores the scope 2 physical accounting Method
- All businesses claiming to be switching to renewables through their ever more innovative and tenuous Power Purchasing Agreement claims; - ignore the scope 2 physical accounting method.
- The Federal Department of Environment and Energy – Clean Energy Branch and COAG Energy Security Board have just completed a major exercise to ignore the NGER Scope 2 Physical Accounting Method in the development of the NEG
- The NEG Design itself was about trading emissions with electricity to retailers and large end user consumers which by its design, ignores the NGER Scope 2 physical accounting approach

In my work with the GHG Protocol, it has been identified that there is no barrier for a nation or state to adopt contractual GHG accounting for scope 2 electricity allocation and claims, but the Federal Government has just paid no attention to the need for reform and evolution of the Scope 2 Method in the NGER Determination rules.

Recommendation

Given the widespread practice of completely ignoring the Scope 2 physical accounting method to allocate and report scope 2 emissions, a switch to contractual GHG accounting is warranted. This is particularly important for establishing an integrity based foundation for the National Energy Guarantee should it progress ***with or without*** a constraint mechanism and would be a major reform.

Contractual scope 2 emissions would result in true customer choice and could mean that a constraint mechanism may not even be necessary, but if it is, a carbon price or limit could be more easily applied at the point of electricity sale to the end user.

Special Question on the NEG – Never answered

> ***In broad terms, will the NGER physical allocation approach for scope 2 emissions (allocation and reporting) for end users be replaced with an NGER contractual GHG accounting model that the NEG lends itself to, implies and requires?***
>
> **If the answer to the question is yes:**
> All stakeholders should be advised that the most significant change to Australia's Greenhouse accounting and allocation system for Scope 2 emissions will be taking place. The detail can be worked out over the next 10 months before the next NGER Determination is prepared. A twelve month phase in from July 2019 would then be possible before the NEG is enacted. Stakeholders (Corporations and all electricity end users) can then also be informed that a reformed NGER Contractual Scope 2 approach will provide end-user consumers better choice to buy lower emissions electricity by choosing a retailer with lower emissions or buying

renewable electricity assured by the NEG Registry and legally supported. This will be a major benefit (The NEG would then work even without an emissions constraint in my view).

If the answer is no:
There will be nothing but confusion and more multiple accounting. We will never have a clear legal mechanism for anyone to claim use of renewable electricity or any kind of electricity at any GHG intensity. People will be asking why electricity of known emissions is provided to large market customers (including end users) and retailers but they still report standard grid emissions. People will be asking why accredited renewables are still double counted for no good reason. Corporations will not know what emissions data they could or should place in the public realm in relation to their electricity consumption and their social licence claims. There will be questions about why two very different approaches are used at the same time and which one is real?

4. FUGITIVE LANDSCAPE LEAKS AWAY FROM WELLS AND INFRASTRUCTURE

The method for assessing landscape fugitive emissions caused by or accelerated by dewatering and hydraulic fracturing has not been acknowledged or addressed in NGER methods. There is still not even a requirement for pre activity baseline measurements and sampling. These are the leaks from bubbling rivers, water wells, faults fissures and seeps which may have increased as a result of human activities but are not adequately addressed by the framework.

The consequences of not understanding these upstream leaks is significant particularly where fossil gas is presented by the industry as being a clean energy fuel. It is the life cycle data that determines and can inform consumers and the general public (remember the Object of the Act) whether one fuel is better than another in avoiding emissions. If exploration, production and transmission fugitive leaks are less than 1% fossil gas might be a bit better than coal in generating electricity. Once above 2% then fossil gas is probably as bad as coal in causing GHG emissions on a whole of life basis.

Recommendation

NGER Methods adequately acknowledge fugitive landscape emissions caused or accelerated by dewatering, hydraulic fracturing and other human interventions.

Q. 5 Does the frequency and timing for reporting cause any particular issues for companies?

No comment

Q. 6 Is the Emissions and Energy Reporting System tool easy to use and fit for purpose?

No, The NGER Tool is not fit for the broader economy wide purposes it is used for. These wider purposes fit under the Act - . **"***An Act to provide for the reporting* ***and dissemination of information related to greenhouse gas emissions, greenhouse gas projects, energy production and energy consumption, and for other purposes".***

However, the NGER Act **should** be strengthened for clarity in how it applies to the broader economy.

Currently the Reporting Tool does not provide for the necessary level of public dissemination of information under the following object

> (1) The first object of this Act is to introduce a single national reporting framework for the reporting and dissemination of information related to greenhouse gas emissions, greenhouse gas projects, energy consumption and energy production of corporations to: (b) inform government policy formulation and the Australian public;

There is a question as to why the Australian Government has allowed carbon claims associated with goods and services including renewable electricity claims, to exist in a state of confusion without basic rules causing significant unfairness.

Q 7 Are there emissions and energy data that companies would like to report through the Emissions and Energy Reporting System but are currently unable to? Would the development of a voluntary tool be useful for this information?

There must be no place for voluntary tools that are designed to blatantly ignore basic principles of integrity and no double counting.

The difference between reporting to the Clean Energy Regulator and all other public claims and sales of goods and services should only be in the threshold, not in methodologies. There must be uniform and economy wide methods which apply to and public or annual reporting and claims of the greenhouse intensity of goods and services.

To date, the voluntary programs sanctioned by the Federal Government in relation to GreenPower, Voluntary reporting of Scope 2 LGCs as GreenPower or LGC Surrender under the NGER Framework, NCOS documents and Carbon Neutral Claims have all been code for double counting renewable energy use and zero scope 2 emissions. This has been unconscionable behavior by the Federal Government in my view.

The use of so called ‘voluntary reporting’ for renewable electricity claims:

- Fails the test of transparency because it is impossible to understand which end user is entitled to claim use of renewable electricity
- Fails the test of comparability as it is impossible to compare the merits of renewable electricity purchase as GreenPower at a penalty of up to $85/MWh against a company claiming an innovative Power Purchase Agreement with a renewable Generator even where the LGCs are traded to third parties
- Fails accuracy because even accredited renewables are 100% double counted, and So called Renewable PPAs without LGCs are triple counted
- Fails completeness as it is not integrated into one economy wide legislative framework with the NGER reporting
- Fails integrity because there is none
- Would fail any *No Double Counting Principle.*

Recommendation

NGER Methods should be designed as economy wide methods to underpin public reporting, claims and sales of goods and services relating to greenhouse intensity and allocation of

attributes, such as which customers can claim use of renewable electricity. Mandatory reporting to the Clean Energy Regulator will continue to apply to those corporations operating above greenhouse and energy thresholds.

Q. 8 Are there opportunities to streamline emissions and energy reporting obligations under the National Greenhouse and Energy Reporting scheme and other programs?

Yes

Recommendation

Retail Electricity - One reform with a no double counting principle (applies with or without a NEG Constraint Mechanism)

The single reform is for the NGER Determination and NGER Technical guidelines to replace the *physical allocation approach* for scope 2 emissions to electricity end users with the *contractual GHG allocation approach* that has been proposed by the COAG ESB to large customers and retailers. This just needs to be extended to all and end users to create a single market wide GHG accounting framework that would underpin the electricity transition.

The revised NGER Determination would then be the legislative instrument to support the NEG Emissions Registry in its operation.

For consumers, the mess of double and triple counting, false and competing claims and insecurity of customers would be resolved and the retail-end user markets would work as follows:

- End use customers large and small that buy high GHG emissions electricity or buy from a high GHG emissions retailer should report and be accountable for high scope 2 GHG emissions
- Customers that choose a lower GHG emissions electricity retailer should be legally allocated those lower scope 2 GHG emissions
- Customers that buy accredited GreenPower should be legally allocated zero scope 2 GHG emissions
- Retailers should be able to compete on the GHG intensity of their products.
- Competition and transparency of the electricity market will be greatly improved compared to the current mess where there is no legislated economy wide GHG or renewables allocation framework for end users. Multiple claims for renewable energy, double and triple counting of avoided emissions and free riding on emissions reduction are completely undermining fair market principles.

5. GREENPOWER

Recommendation

GreenPower should be brought into the Federal Government jurisdiction so that there is accountability to:

- Create the legislated rules that work with and support the program
- Ensure that the program reflects and operates under the same legislated rules.

For over a decade the Federal Government has washed its hands of GreenPower issues claiming that it is a state based program.

For over a decade, the National GreenPower Steering Committee has failed to address the basic double counting and unfairness issues claiming that the Federal Government is the rule maker. **No more chaos please!**

Recommendation

The Climate Change Authority should make a very clear recommendation to fix the GreenPower program or close the program.

There is a Banking Royal Commission that looked upon fees for no service in a very unfavourable way. GreenPower operates as fees for no product as the customers do not legally receive the zero scope 2 emissions that they are advised to claim under both GreenPower and Federal Government guidelines.

GreenPower customers do not receive the renewable electricity 'use' attribute that is widely inferred. Plus, every MWh claimed is at least double counted.

Q. 9 How does the National Greenhouse and Energy Reporting scheme contribute to providing useful information for climate-related risk disclosure or other data users and are any enhancements to the reporting scheme desirable?

The scheme contributes utter confusion and double counting to all aspects of renewable energy end user claims.

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.

There has been an absolute refusal by the Federal Government to incorporate a no double counting principle. Double and triple counting has flourished, as has the unfairness of charges applied to GreenPower customers that seek to act with integrity.

Q. 10 Is reporting of emissions and energy data meeting the needs of data users and inducing change in business operations? If so, how?

No,

Many corporations and councils have stopped buying accredited GreenPower and Large Scale Certificates to voluntarily surrender as they cannot report zero scope 2 emissions in their NGER compliant reporting. Whilst the Government has promoted "voluntary reporting options" businesses and organisations know that this is just double counting and that the penalty payments they are making are grossly unfair.

Very few organisations utilise the voluntary scope 2 offset reporting under the non-legal NGER voluntary reporting mechanism established by the Federal Government perhaps because they know it is fundamentally wrong. They would prefer to contract with a renewable energy generator in a PPA to suggest some linkage, despite this approach not yet being supported by the NGER Framework.

Q. 11 Are there learnings from international emissions and energy reporting schemes that could be applied in Australia?

I participated in the Scope 2 GHG Protocol guidelines which were released in 2015. Through this process, it is clear that jurisdictions are free to introduce contractual GHG accounting or remain with physical allocation of scope 2 emissions. When choosing forms of contractual greenhouse gas accounting, any residual grid mix factors should not include dilution from renewable electricity products sold at a particular GHG emissions intensity.

The Federal Government has claimed that its methods are in alignment with the GHG Protocol but this is not correct. The current NGER Technical Guidelines and NGA Factors simply apply the physical accounting approach whilst simultaneously turning a blind eye to contractual claims with no adjustment to grid factors. There has been no formal adoption of contractual accounting, just double counting. Australia's approach is no longer consistent with the GHG Protocol.

Recommendation

The NGER framework should formally adopt contractual scope 2 GHG accounting which is recognised by the GHG Protocol as an option for jurisdictions.

6. CONSULTATION QUESTIONS: CHAPTER 3, SAFEGUARD MECHANISM

The safeguard mechanism would not be necessary if the fundamental policy settings were right, including to establish a contractual GHG allocation and accounting framework for electricity sold to end users.

Q. 17 Should facilities be able to use the same emission reductions to meet safeguard mechanism and Emissions Reduction Fund contract obligations?

A *No Double Counting Principle* for claims should be extended to the safeguard mechanism

PURCHASING AUSTRALIAN CARBON CREDIT UNITS TO REDUCE NET EMISSIONS

There is double counting deeply entangled with the production and claims associated with ACCUs. For example, councils may create ACCUs from street lighting upgrades. They may claim reduced emissions from the lower electricity consumption at the same time as the ACCUs are sold to third parties to claim an emission offset. As it stands, this type of scheme 100% double counts the emission reductions by two different parties. There should be better guidance to prevent double claims.

7. CHAPTER 2. CHAPTER 4 DATA USE AND PUBLICATION

Q. 19 Are the publication thresholds set at the right level?

Publication thresholds apply to corporations that are liable for reporting under the NGER Scheme. Beyond this however, all public reporting, greenhouse claims and sales of goods and services to that incorporate GHG emission claims should also apply NGER methods.

Recommendation

It is recommended that there be one National Greenhouse and Energy Allocation and Accounting Framework for the whole economy!

Q. 20 Are any changes required to the data reported, when it is published or how it is published?

The NGER Public framework should be by facility for those facilities that by themselves are above NGER reporting thresholds. It is annoying when data is aggregated so that the GHG emissions from major facilities like the Olympic Dam Mine at Roxby Downs, is concealed within aggregated corporation data. This does not meet the object for disseminating information to the public.

The NGER data also amalgamates all forms of energy use in MJ, rather than electricity consumption being segregated out as MWh. In aggregating such different forms of energy consumption, the federal government is failing to deliver on the on full disclosure of information to the public. It is not possible to work backwards from the scope 2 emissions data to determine electricity consumption as the NGA Factors differ in every state.

The NGER Framework should also do a better job in dealing with scope 3 emissions. Whilst liable corporations may not be required to report on scope 3 emissions, when they sell goods and services in consumer markets including in electricity markets, these products should incorporate full GHG acknowledgement.

Q. 21 Do the rules for data publication and sharing balance the public interest with commercial or other interests or should they be changed?

Recommendation

The rules should be changed as follows:

- Published data should describe electricity consumption in MWh, separately from other energy consumption in GJ
- Facilities that trigger the reporting thresholds should report their emissions and energy use (MWh electricity and GJ other energy consumption) as an identifiable subset of that Corporation. Smaller facilities that do not trigger the threshold could be aggregated within a corporation.

Q. 22 Are the processes in place for accessing National Greenhouse and Energy Reporting data efficient and user-friendly?

That depends on whether the single table is the only data available

http://www.cleanenergyregulator.gov.au/NGER/National%20greenhouse%20and%20energy%20reporting%20data/Corporate%20emissions%20and%20energy%20data/corporate-emissions-and-energy-data-2016-17

If more data is available then please advise.

The table should be downloadable in an Excel spread sheet

Q. 23 How do you access and use emissions and energy data published or shared under the National Greenhouse and Energy Reporting legislation and are any improvements required?

As above

Q. 24 How should the National Greenhouse and Energy Reporting scheme evolve over time to support changing data needs?

As previously stated:

- The scheme should be reformed to apply to the whole economy guiding the methods for greenhouse and energy allocation, reporting and claims relating to goods and services sold. The reporting by NGER liable organisations is really just part of the broader need for an economy wide framework.
- 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 NGER Scope 2 physical allocation approach to allocate emissions to end users of electricity should be transitioned to a contractual allocation and accounting approach. This will stop the double counting, stop the current farcical situation of claims without attributes and begin to bring back fairness for GreenPower Customers.
- The method for the allocation of accredited renewable electricity to end use customers (GreenPower) should be established in the NGER Technical Guidelines, consistent with reforms of the NGER Act and NGER Determination. There should only be one method and this should be managed by the NEG or NGER Registry. GreenPower should be based primarily upon legal allocation of the attributes of ‘use’ and ‘zero scope 2 emissions’ to customers rather than failed spurious claims of additionality.

8. CONSULTATION QUESTIONS: CHAPTER 5, AUDITS

Q. 25 Is the audit framework in the National Greenhouse and Energy Reporting legislation effective and efficient at ensuring compliance?

The scope of the audit processes is too narrow because the farcical situation of renewable electricity claims had has not been acknowledged or acted upon.

Q. 26 Are there opportunities for improving the audit framework such as reducing the cost of audits or making the audits more effective?

No comment

Q. 27 What other government or non-government programs use the National Greenhouse and Energy Reporting audit framework?

NCOS, the NCOS Carbon Neutral Program, GreenPower, NGER Voluntary Scope 2 guidelines and every electricity bill in the country, all use or misuse or selectively use an inadequate NGER Framework.

Recommendation

A variety of different audits, not just those designed to apply to NGER Reporting, should be applied to assure the integrity of all of all programs.

Q. 28 Do the requirements for auditors effectively balance the cost and quality of audits?

No comment

Q. 29 Are there enough quality auditors available?

No comment

9. CONSULTATION QUESTIONS: CHAPTER 6

Q. 30 Is the guidance provided by the Clean Energy Regulator on its website, and through other channels such as by phone or email helpful in complying with National Greenhouse and Energy Reporting legislation obligations? How (if at all) could it be improved?

The Clean Energy Regulator provides no reliable guidance on the emissions content of goods and services traded in markets outside of NGER Reporting because there are no legislated rules. If there were rules, the CER could provide guidance and the ACCC and AER could then act in the interests of end use customers that pay for lower emissions and renewables.

Q. 31 Does the timing of obligations for National Greenhouse and Energy Reporting and the safeguard mechanism allow sufficient time to meet the obligations?

No comment

Q. 32 Does the Clean Energy Regulator have sufficient powers to encourage compliance with the National Greenhouse and Energy Reporting legislation?

No

The question is not relevant in a market environment where the NGER Framework does not apply to the whole economy. The double and triple counting issues of accredited renewable electricity and use of Australian Carbon Credit Units are occurring just outside the framework in the murky waters of poor and incomplete definition.

The question should be relevant with the rapid increase of corporations, businesses, universities, state and local governments making PPA claims that they are buying and using renewable electricity when not as GreenPower or voluntary LGC surrender to the CER.

The question cannot apply until there are legislated rules.

Questions in law about GreenPower (and voluntary surrender of LGCs)

The ACCC was contacted in 2005-06 regarding various potential pathways to double counting claims of renewable electricity by consumers. One of the pathways identified was that Renewable Electricity Certificates (RECs) had no actual attributes in law, so whether the RECs were essential to make claims was a topic in question. Another issue was that the AGO Factors and Methods methodology at the time, allocated all renewable electricity generated in a state to all consumers in that state. This is the Physical Accounting Approach for Scope 2 emissions which still applies in the NGER Determination and NGER Technical Guidelines in August 2018.

Efforts were made to seek help from the Department and the ACCC to establish legal clarity and stop double counting practices but no reforms eventuated.

Indeed, the ACCC made the situation worse through their Website which promoted: *"Switching to electricity officially accredited as coming from these sources—known as GreenPower™—is a recommended way of reducing your carbon footprint"* (ACCC Website July 2008).

In response to what was seen as an unsupported and misleading message, the ACCC was contacted with the following question on 29 June 2008.

> "*Please show me the legislation or even the logic that supports such a statement because my understanding is that no such mechanism exists for a customer to reduce their carbon footprint when buying renewables".*

The ACCC did not ever provide a response based in law and there was significant misrepresentation of my concerns at many stages and at many levels.

On 3 May 2010, after a lengthy investigation, the Commonwealth Ombudsman simply stated that *"the ACCC sought the views of the Department on the NGER Act, and in the absence of any judicial determination of the Act, it was not unreasonable for the ACCC to adopt the views of the Department".*

This response effectively avoided answering the question in law and buried the matter for nearly a decade without addressing the legal shortcomings or the double counting. Now in 2018 claims have become farcical in a market environment of confusion' anarchy and impunity.

GreenPower and the Federal Government still publish guidelines which guide GreenPower customers and those that surrender LGCs to claim zero scope 2 emissions and excuse the double counting as voluntary action. It is still double counting and it is still not supported in law.

The Federal Government has resisted changing the claim to a donation so it remains as a penalty charge for a product that is not delivered to the consumer.

It is payment for no product.

Because the Department continued to advocate mechanisms that had no legal standing and did not align with NGER, there is no legal requirement for businesses claiming use of renewables and reduced emissions to comply with these approaches. Businesses are now making up their own rules.

Q. 33 What has been your experience of any compliance or enforcement activities by the Clean Energy Regulator?

The Clean Energy Regulator has not had sufficient rules to be in a position to administer compliance and enforcement of renewable energy, low emission electricity claims in the broader economy.

Q. 34 Are there any opportunities for improvements in the Clean Energy Regulator's decision making and review process?

The REC Registry, the NGER Registry and NEG Registry should all be administered by the same regulator in order to support further consolidation and a single economy wide mechanism.

Q. 35 Are there any other matters relevant to this review you wish to raise?

The process should be more accountable for receiving and acknowledging genuine issues, concerns and complaints. I should not be asking for acknowledgement of issues that were identified over a decade ago, and specifically identified in 2008 consultation on the first NGER Bill, and in every significant consultation opportunity throughout the last decade. The double counting issues and lack of a legal foundation for retail renewable electricity should have been properly acknowledged by now, and fixed with integrity, rather than dismissed in near silence.

I attach a small sample of historic submissions in addition to a recent Renew Economy article demonstrating the weekly additions to renewable claims based on Power Purchase Agreements.

APPENDIX 1 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.

APPENDIX 2 2018 NGER Determination Submission

6 June 2018

Tim Kelly
Adelaide
South Australia

National Greenhouse and Energy Reporting
Email: nationalgreenhouseaccounts@environment.gov.au

RE: National Greenhouse and Energy Reporting (Measurement) Amendment Determination 2017: consultation draft

Thank you for providing the opportunity to comment on proposed the NGER Amendment determination for 2018. On this occasion there is no possibility of providing adequate feedback as insufficient time and notification has been provided by the department (not even time for a spell check). I also note that the scope of NGER consultation becomes ever narrower in its terms preventing issues from being discussed, acknowledged and addressed. These matters are not only historic but also cumulative and growing, with the consequence that the NGER Determination is not adequately serving the objectives of the NGER Act, Particularly to the now primary (first) objective: "inform government policy formulation and the Australian public".

I note that there is an intent by the Department to review intent behind the Determination of scope 2 emissions for electricity and ensure the NGERs Measurement Determination reflects the intent in the next tranche of amendments. However, this provides no certainty that the review will address the long standing issues to legally allocate renewables use and lower GHG emissions to customers that purchase accredited renewable energy. Nor does it provide assurance that double counting issues will be addressed, just as they were not addressed in the 2010 review. It is also worth noting that there are much broader issues which need to be addressed in any NGER Review, including the needs for:

- A high level objective for the Act to be about supporting and economy wide approach to transitioning to a low carbon economy, not just isolated segments and schemes.
- Landscape fugitive emissions away from gas wells, potentially caused or aggravated by dewatering and hydraulic fracturing to be addressed.
- Anomalies in deforestation and reafforestation.
- Supporting retail accredited renewables to exist in law without double counting
- Ensuring that household and business renewables produced and consumed behind the meter are not double counted to dilute grid or pool factors or another third party

- The introduction of a no double counting principle into the NGER Framework. Just as we would expect in the banking sector.

In the limited time to assemble a submission, I attach extracts from previous correspondence. Reforms are particularly important as the National Energy Guarantee is being developed. To date, the Department has shown little sign that it will embrace this opportunity.

The matter of whether household and business renewables produced and consumed behind the meter should be properly disclosed in the 2018-19 NGER Determination as an absolute minimum. These householders and businesses have never been told that the zero emissions electricity that they are claiming for themselves (without selling LGCs) has also been used/ potentially used by the Department to dilute the grid factor. In states such as South Australia that now have ten % renewables coming from their own on site systems such disclosure is essential and would be consistent with the primary Object of the Act. As a part of the planned review, there also needs to be serious consideration of how net surplus decentralised renewables should be traded.

Context

The Clean Energy Regulator describes the NGER Framework as follows as "a national system for reporting greenhouse gas emissions, energy consumption and energy production by Australian corporations". However, the NGER Framework is used for much more than this. Emissions factors used in the framework are also used as a foundation of customer claims, emissions factors are used under the National Carbon Offset Standard, and there is a need for the Government of Australia to recognise and assist in evolving the framework to be the foundation of trading and claims both mandatory and voluntary greenhouse related markets. The continued absence of this economy wide applicability of the NGER Framework will continue to suggests that Australia does not yet have complete greenhouse accounting framework.

Recommendation 1

> *The NGER Determination should reflect that the scheme is a single National accounting framework for greenhouse accounting and allocation for the purpose of underpinning the accounting of GHG emissions and the allocation of GHG emissions in mandatory and voluntary markets.*

Two key principles required

A principle of no double counting is requirewd to prevent confusion where there are two claims for the same scope of emissions. This is particularly required for the allocation of scope 2 emissions to end users of electricity where double counting of lower emissions from renewable energy continues to be 100% for GreenPower and for customers that claim lower emissions through the voluntary surrender of LRET Certificates.

Another principle for full fuel cycle emissions accounting for policy comparisons is required. This is because there are false benefits where decisions ignore upstream emissions when determining value for money of greenhouse gas emissions reduced ($/CO2-e).

Recommendation 2

> *The NGER vDetermination and/or Framework as a whole, should introduce a principles of no double counting of claims for emissions of the same scope, and a principle for policy decisions to be made at least on the basis of full fuel cycle accounting.*

Fugitive emissions of gaseous fossil fuels

The methods described for determining fugitive emissions from fossil fuels remain of key concern with the rapid expansion of this industry. Current methods still appear to ignore landscape scale leakage which may occur away from exploration and production wells through fissures cracks, geological faults, water pathways etc, which may result directly or indirectly from drilling dewatering or hydraulic fracturing activities.

The NGER Determination outlines mass balance calculations yet if there are certain leakage pathways omitted from the calculations and methods, then the end result is only a partial answer. I understand that various universities are now undertaking a range of activities to monitor landscape scale emissions from the industry, yet there is no requirement for baseline scale assessment of fugitive emissions before new activities start in a region.

Recommendation 3

> *The NGER Determination should require that all pathways to landscape scale leakage are assessed prior to exploration and production activities for gaseous fossil fuel production. Until more detailed methods are developed, the NGER Determination should include and over-arching principle or statement to require that there be a robust assessment of all potential pathways for leakage to be assessed*
>
> *The NGER Determination should require that all pathways to landscape scale leakage are monitored and quantified throughout the life of exploration, production activities and continue until the sites are adequately decommissioned*

Scope 2 emissions

The treatment of scope 2 emissions in the NGER determinations is appalling and provides no useful benefit for end use policy or end use customers.

The NGER Determination provides no legal support or underpinning for the GreenPower accreditation framework and has proved to be a major barrier for the further development of end use markets for renewable electricity. Currently, the biggest generator–retailers are concerned about falling profits in peak times due to falling demand and peak prices, yet nothing has been done towards reforms for such companies to sell more accredited renewable

Every MWh GreenPower sold continues to be 100% double counted and the attributes of renewable energy use and reduced emissions are not yet allocated to the paying GreenPower customer (same with voluntary surrender of Large Scale Renewable Energy Certificates.

The stakes keep getting higher as the grid based electricity sector looks at how to adapt to a changing customer base that look to on-site and community scale renewables and battery storage for solutions that will continue to reduce demand from centralised power and make going off grid feasible option for more households and businesses. Furthermore, there are entire cities and regions now making commitments to be 100% renewable or carbon neutral, yet retail renewables such as GreenPower, LRET Certificate surrender and SmilePower are not underpinned by legislation or the NGER Framework allocation in order for retail renewables to be legitimate.

I note that from the review of the NCOS in 2015 that it was suggested that there was a very small difference between state NGA Factors state emission factors as currently published an what would happen if GreenPower and voluntary surrendered LGCs were netted out to create a residual factor that would enable GreenPower contractual accounting and create integrity. However, no follow up reform has been proposed in this NGER Determination.

I therefore continue my recommendation for reforms to the NGER Determination, Methods and NGA Factors, to formerly establish contractual accounting for end user electricity customers that are seeking to buy renewable electricity. In support of this I make the following points:

- The GreenPower Accreditation Program is in crisis with household and business customers still crashing
- The State Governments running the GreenPower Program have virtually stopped publically supporting the program in promotions .
- If the grid electricity sector is concerned about a grid exit death spiral (either for generators or the grid or both), then one way to keep customers attracted to the grid is to reform GreenPower, starting with legislative reforms then followed by industry pricing structure reform to give value for money.
- Customers need to be at the centre of a low carbon economy for its success and sales, but with GreenPower, they are marginalised.
- It doesn't matter what fraction of a grid GreenPower customers are, or how small the change to the intensity factor might be, the lack of integrity in legislation, allocation, and double counting applies to 100% of all GreenPower sales
- Whilst some marketing refers to GreenPower as displacing renewables the GreenPower Marketing Guidelines and so much promotion in the public domain still misrepresent GreenPower as 'reducing customer emissions', 'reducing your emissions', 'reducing household emissions' and this is all double counted and deceptive.

Continued collapse of GreenPower

The GreenPower customer numbers and sales are falling for a number of reasons and some of these are preventable. For some customers the issue could be about value for money. Whilst the cost of producing renewable electricity falls, the price of GreenPower to end use customers continues to be a penalty above all other electricity costs, such that even as renewables become cheaper than fossil fuels, GreenPower customers will continue to pay more. It is acknowledged that the NGER Framework does not set prices

however, the way it allocates emissions does impact on pricing structures and results in a number of perverse outcomes that will ultimately drive more renewable customers away from the grid.

CASE STUDY 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

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.

The 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 won't say if LGCs will be voluntarily retired.

The South Australian Government is also claiming to support a "Green Hydrogen" plant to produce and export hydrogen from South Australia's renewable energy, but won't advise if the planning includes 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 not responded to clarify whether the PPA arrangements include the surrender of LGCs, and this is despite making contact with the company.

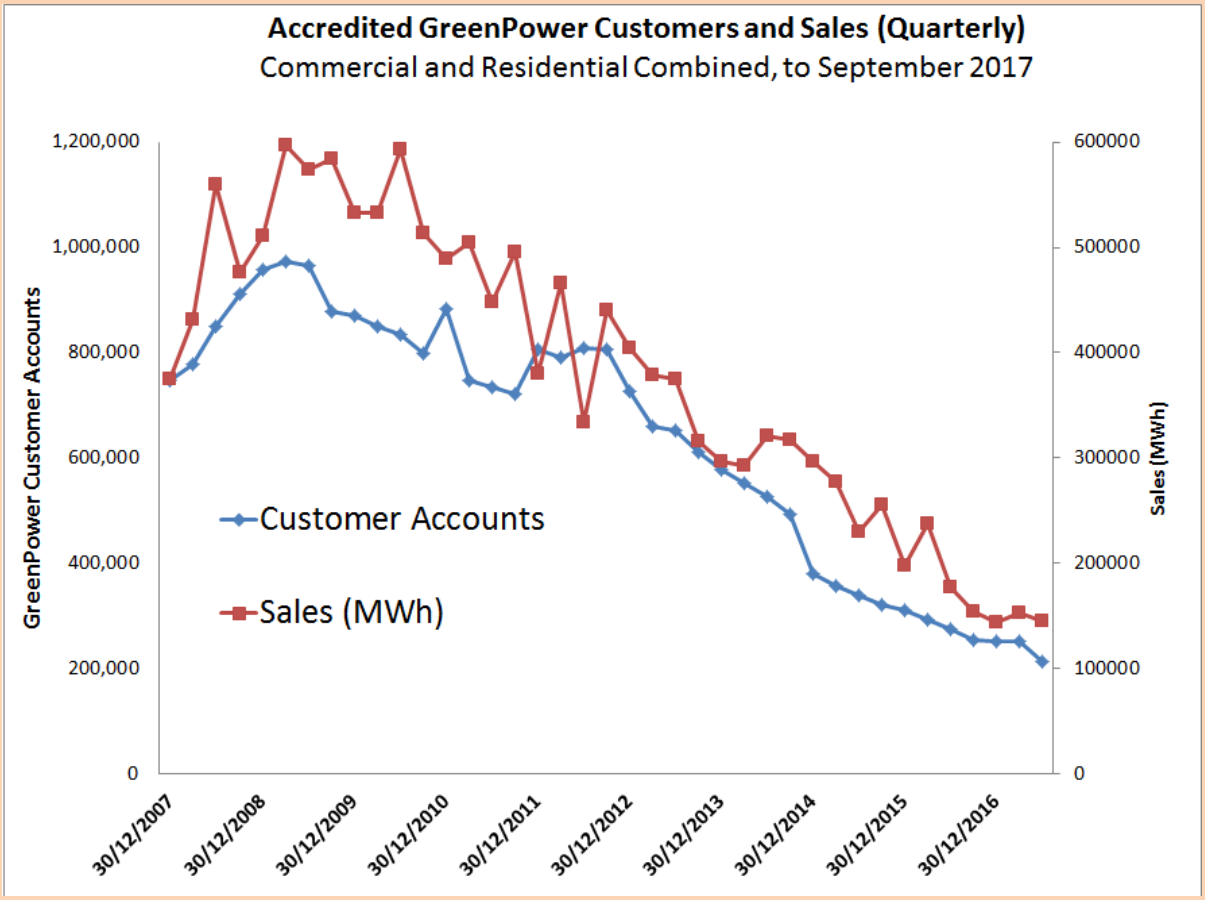
If we include the rise of electric vehicles into the mix, the situation is set to become even more of a wild west

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.

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.

From what I understand, the National GreenPower Steering Group have had discussions with the Federal Government Department following the 2014 RET and GreenPower Reviews, but it does not look like there is much progress and there is certainly no involvement with the public. I am not sure of any dialogue between the National GreenPower Steering Group and the Energy Security Board.

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.

The solution towards bringing about GreenPower reform could start this year with the new 2018/19 NGER Determination & NGA Factors formerly creating contractually based emissions allocation for electricity end users and electricity products. This would include establishing a new emissions factor for residual grid emissions netting out the dilution from GreenPower sales.

There is an opportunity for Australia to lead the world by moving beyond the grid average system altogether (for customer purposes) and only use the contractual accounting and residual mix factor (The GHG Protocol team was not against the further evolution of greenhouse accounting frameworks). State Average emissions may be required for planning electricity infrastructure but are not needed for allocating emissions to electricity end users.

Further detail of the issues of the NGER Framework and scope 2 emissions reporting, are descrtibed in Attachment 1, similar to the material provided in previous NGER reviews. On this occasion however, there is a greater opportunity to begin reforms to enable Australian GreenPower customers to report emissions in accordance with the new Greenhouse Gas Protocol contractual accounting approach.

This year I would hope that there is some clear thinking in regard to the role of end use customers being provided good information that they require in regard to their scope 2 and 3 electricity emissions as guided by the NGER Determination.

Recommendation 4

*Could the National Greenhouse Accounts Team please acknowledge the issues associated with GreenPower and all retail renewable energy products not having a foundation in legislation to cover the allocation of the attributes of '**renewable energy use'** or' **reduced emissions'** to voluntary renewable customers.*

Thank you for the opportunity to comment. I would be happy to discuss any aspect in further detail.

Kind regards

Tim Kelly

ATTACHMENT 1:

GreenPower - Lack of a legal foundation and double counting

The Word 'GreenPower':

- does not exist in the National Greenhouse and Energy Reporting Act or related legal documents such as the NGER Determination
- does not exist in the National Carbon Offset Standard
- does not exist in the Renewable (Energy Electricity) Act . This act describes how Renewable Energy Certificates may be crated, but does not describe any attributes that are associated with RECs during change of ownership. They are proof of creation certificates only.

National Greenhouse and Energy Reporting Framework

The National Greenhouse and Energy Reporting Determination explicitly excludes any form of allocating electricity use to customers other than the grid average method shown.

7.2 Method 1—purchase of electricity from main electricity grid in a State or Territory

(1) The following method must be used for estimating scope 2 emissions released from electricity purchased from the main electricity grid in a State or Territory and consumed from the operation of a facility during a year:

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

where:

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

Q, subject to subsection (2), is the quantity of electricity purchased from the electricity grid 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, for the State or Territory in which the consumption occurs as mentioned in Part 6 of Schedule 1.

Note: There is no other method for this section.

See NGER Determination (2008), as amended 2013 page 315

http://www.comlaw.gov.au/Details/F2013C00661/Download

Once emissions have been divided up and allocated in this way, it is not possible to allocate reduced emissions to GreenPower customers without double counting.

Non- Legal Guidelines

Clean Energy Regulator Provision of contextual greenhouse gas emission data (DOCx 381 kB)

The Australian Government under the Clean Energy Regulator - guides corporations to double count emissions reductions as "contextual data" where in fact GreenPower is portrayed as an offset to reduce scope 2 emissions for a company, in direct contradiction of the NGER Determination.

See page 2 and Page 3 of the document via the following link
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GreenPower Rules and Marketing Guidelines

Over numerous years and numerous complaints, the GreenPower marketing has gradually changed from a product that is directly marketed towards reducing the greenhouse gas emissions of consumers to something that increases renewable energy in the grid. Yet many contradictory marketing statements continue within GreenPower marketing to create the impression and guidance that GreenPower reduces customer emissions.

For Example, Section 2.2 clause 8 of the GreenPower Marketing guidelines advise that:

> **8** Statements relating to greenhouse gas emission reductions must meet the following requirements:
>
> 8.1 Carbon claims may refer to the reduction of emission intensity of the electricity grid or electricity generation in Australia or the world
>
> 8.2 Carbon claims may refer to the individuals or entities reduction in emission intensity of **their electricity consumption**
>
> http://www.greenpower.gov.au/~/media/Business%20Centre/Program%20Rules/Marketing%20Guidelines%202012/GRP_Provider_Marketing_Guide_Oct2012.pdf

National Carbon Offset Standard (NCOS) – Carbon Neutral Guidelines

Whilst the NCOS does not cover GreenPower as either an offset or a lower emissions electricity option, guidelines that are made in the name of the Standard, guide participants to claim GreenPower to reduce their emissions as follows:

Alignment with the GHG Protocol – Scope 2 Guidance

…..“The purchase of GreenPower™ from an accredited GreenPower Product or the voluntary cancellation of Large-scale Generation Certificates (LGCs) is considered to be equivalent to the direct use of renewable energy. On that basis, GreenPower™ purchases or voluntary cancellation of LGCs (including where selfgenerated) are treated as a zero-emissions electricity source in an LCA or greenhouse gas inventory”….

See Page 14.

http://www.climatechange.gov.au/sites/climatechange/files/documents/06_2013/NCOS-Guidelines-5-June-2013.pdf

The NCOS implies that because here is little difference in the overall state emissions factor between the contractual base residual mix and physical Average grid factor , that double counting is OK. This approach lacks integrity and is disrespectful of the intent of the GHG Protocol.

APPENDIX 3 2017 NGER DETERMINATION SUBMISSION

9 June 2017

Tim Kelly
Adelaide
South Australia

National Greenhouse and Energy Reporting
Email: nationalgreenhouseaccounts@environment.gov.au

RE: National Greenhouse and Energy Reporting (Measurement) Amendment Determination 2017: consultation draft

Thank you for providing the opportunity to comment on proposed the NGER Amendment determination for 2017. On this occasion, it is appropriate for me to refer to my 2016 NGER Determination submission as none of the issues that raised in 2016 have been acknowledged or addressed.

I also refer to the limited correspondence between myself and NationalGreenhouseAccounts to discuss my 2016 submission, noting that despite a promise to engage in this correspondence, on previous occasions and after further follow up, that NationalGreenhouseAccounts team simply will not respond or engage in these matters.

---------- Forwarded message ----------
From: NationalGreenHouseAccounts
<nationalgreenhouseaccounts@environment.gov.auDate: 26 August 2016 at 10:54
Subject: RE: NGER Determination [SEC=UNCLASSIFIED]
To: Tim Kelly <timkellyXXXXXXX>

Hi Tim,

I apologise for the lateness in our reply. We will address the matters included in your submission and get back to you next week.

Regards,

National Inventory Team | International Climate Change and Energy Innovation Division

Department of the Environment and Energy
C: John Gorton Building, King Edward Terrace, Parkes, ACT, 2600
-: GPO Box 787, Canberra ACT 2601
+: nationalgreenhouseaccounts@environment.gov.au

From: Tim Kelly [mailto: timkellyXXXXXXXXXX]
Sent: Wednesday, 10 August 2016 11:19 PM

To: NationalGreenHouseAccounts
Subject: NGER Determination

Dear NGER Team,
I note the release of the 2016/17 NGER Determination.
I note that:

- submissions were not published
- Issues of Scope 2 emissions, double counting, adoption of a residual emissions factor to enable companies to report against the GHG Protocol with integrity were not addressed.
- I note that another year for reform has been lost and the NGER Team are still not willing to engage in a meaningful way towards reforming retail renewables so that they can actually work.

Very disappointed that it is not possible to even discuss these matters and my submission with your team.

Kind regards
Tim Kelly

XXXXXXXXX

I would be pleased to discuss my submission with the NGER Accounts Team

Kind regards
Tim Kelly

RESUBMITTED FOR THE 2017 NGER DETERMINATION CONSULTATION
30 May 2016

Tim Kelly
Adelaide
South Australia

National Greenhouse and Energy Reporting
Email: nationalgreenhouseaccounts@environment.gov.au

RE: National Greenhouse and Energy Reporting (Measurement) Amendment Determination No. 1 2016: consultation draft

Dear NGER Framework Team,

Thank you for providing the opportunity to comment on proposed the NGER Amendment determination for 2016. Please note that I regard the four working days to respond to the draft 2016 NGER Determination as inadequate. It was not possible for me to provide a detailed submission in such a tight timeframe and I hope that this hurried submission is accepted, noting that it is being submitted on the weekend after the Friday close date.

I raise a number of continuing and unresolved issues in relation to the NGER Determination which prevents the NGER Framework from operating effectively in my view.

Context

The Clean Energy Regulator describes the NGER Framework as follows as "a national system for reporting greenhouse gas emissions, energy consumption and energy production by Australian corporations". However, the NGER Framework is used for much more than this. Emissions factors used in the framework are also used as a foundation of customer claims, emissions factors are used under the National Carbon Offset Standard, and there is a need for the Government of Australia to recognise and assist in evolving the framework to be the foundation of trading and claims both mandatory and voluntary greenhouse related markets. The continued absence of this economy wide applicability of the NGER Framework will continue to suggests that Australia does not yet have complete greenhouse accounting framework.

Recommendation 1

> *The NGER Determination should reflect that the scheme is a single National accounting framework for greenhouse accounting and allocation for the purpose of underpinning the accounting of GHG emissions and the allocation of GHG emissions in mandatory and voluntary markets.*

Two key principles required

A principle of no double counting is requirewd to prevent confusion where there are two claims for the same scope of emissions. This is particularly required for the allocation of scope 2 emissions to end users of electricity where double counting of lower emissions from renewable energy continues to be 100% for GreenPower and for customers that claim lower emissions through the voluntary surrender of LRET Certificates.

Another principle for full fuel cycle emissions accounting for policy comparisons is required. This is because there are false benefits where decisions ignore upstream emissions when determining value for money of greenhouse gas emissions reduced ($/CO2-e).

Recommendation 2

The NGER vDetermination and/or Framework as a whole, should introduce a principles of no double counting of claims for emissions of the same scope, and a principle for policy decisions to be made at least on the basis of full fuel cycle accounting.

Fugitive emissions of gaseous fossil fuels

The methods described for determining fugitive emissions from fossil fuels remain of key concern with the rapid expansion of this industry. Current methods still appear to ignore landscape scale leakage which may occur away from exploration and production wells through fissures cracks, geological faults, water pathways etc, which may result directly or indirectly from drilling dewatering or hydraulic fracturing activities.

The NGER Determination outlines mass balance calculations yet if there are certain leakage pathways omitted from the calculations and methods, then the end result is only a partial answer. I understand that various universities are now undertaking a range of activities to monitor landscape scale emissions from the industry, yet there is no requirement for baseline scale assessment of fugitive emissions before new activities start in a region.

Recommendation 3

The NGER Determination should require that all pathways to landscape scale leakage are assessed prior to exploration and production activities for gaseous fossil fuel production. Until more detailed methods are developed, the NGER Determination should include and over-arching principle or statement to require that there be a robust assessment of all potential pathways for leakage to be assessed

The NGER Determination should require that all pathways to landscape scale leakage are monitored and quantified throughout the life of exploration, production activities and continue until the sites are adequately decommissioned

Scope 2 emissions

The treatment of scope 2 emissions in the NGER determinations is appalling and provides no useful benefit for end use policy or end use customers.

The NGER Determination provides no legal support or underpinning for the GreenPower accreditation framework and has proved to be a major barrier for the further development of end use markets for renewable electricity. Currently, the biggest generator–retailers are concerned about falling profits in peak times due to falling demand and peak prices, yet nothing has been done towards reforms for such companies to sell more accredited renewable

Every MWh GreenPower sold continues to be 100% double counted and the attributes of renewable energy use and reduced emissions are not yet allocated to the paying GreenPower customer (same with voluntary surrender of Large Scale Renewable Energy Certificates.

The stakes keep getting higher as the grid based electricity sector looks at how to adapt to a changing customer base that look to on-site and community scale renewables and battery storage for solutions that will continue to reduce demand from centralised power and make going off grid feasible option for more households and businesses. Furthermore, there are entire cities and regions now making commitments to be 100% renewable or carbon neutral, yet retail renewables such as GreenPower, LRET Certificate surrender and SmilePower are not underpinned by legislation or the NGER Framework allocation in order for retail renewables to be legitimate.

I note that from the review of the NCOS in 2015 that it was suggested that there was a very small difference between state NGA Factors state emission factors as currently published an what would happen if GreenPower and voluntary surrendered LGCs were netted out to create a residual factor that would enable GreenPower contractual accounting and create integrity. However, no follow up reform has been proposed in this NGER Determination.

I therefore continue my recommendation for reforms to the NGER Determination, Methods and NGA Factors, to formerly establish contractual accounting for end user electricity customers that are seeking to buy renewable electricity. In support of this I make the following points:

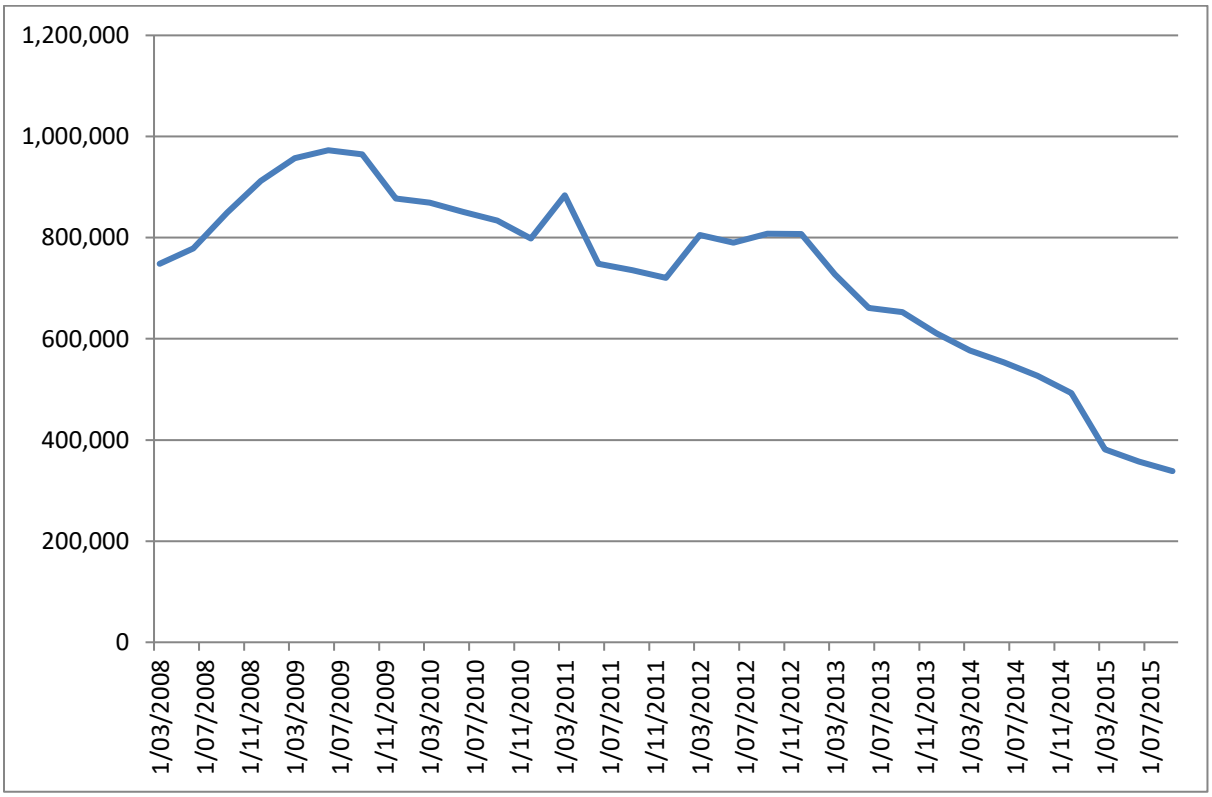
- The GreenPower Accreditation Program is in crisis with household and business customers still crashing
- The State Governments running the GreenPower Program have virtually stopped publically supporting the program in promotions .
- If the grid electricity sector is concerned about a grid exit death spiral (either for generators or the grid or both), then one way to keep customers attracted to the grid is to reform GreenPower, starting with legislative reforms then followed by industry pricing structure reform to give value for money.
- Customers need to be at the centre of a low carbon economy for its success and sales, but with GreenPower, they are marginalised.
- It doesn't matter what fraction of a grid GreenPower customers are, or how small the change to the intensity factor might be, the lack of integrity in legislation, allocation, and double counting applies to 100% of all GreenPower sales
- Whilst some marketing refers to GreenPower as displacing renewables the GreenPower Marketing Guidelines and so much promotion in the public domain still misrepresent

GreenPower as 'reducing customer emissions', 'reducing your emissions', 'reducing household emissions' and this is all double counted and deceptive.

Continued collapse of GreenPower

The GreenPower customer numbers and sales are falling for a number of reasons and some of these are preventable. Fo some customers the issue could be about value for money. Whilst the cost of producing renewable electricity falls, the price of GreenPower to end use customers continues to be a penalty above all other electricity costs, such that even as renewables become cheaper than fossil fuels, GreenPower customers will continue to pay more. It is acknowledged that the NGER Framework does not set prices however, the way it allocates emissions does impact on pricing structures and results in a number of perverse outcomes that will ultimately drive more renewable customers away from the grid.

Table 1:Decline of GreenPower customer numbers since 2009



The solution towards bringing about GreenPower reform could start this year with the new 2016/17 NGER Determination & NGA Factors formerly creating contractually based emissions allocation for electricity end users and electricity products. This would include establishing a new emissions factor for residual grid emissions netting out the dilution from GreenPower sales.

There is an opportunity for Australia to lead the world by moving beyond the grid average system altogether (for customer purposes) and only use the contractual accounting and residual mix factor (The GHG Protocol team was not against the further evolution of greenhouse accounting frameworks). State Average emissions may be required for planning electricity infrastructure but are not needed for allocating emissions to electricity end users.

Further detail of the issues of the NGER Framework and scope 2 emissions reporting, are descrtibed in Attachment 1, similar to the material provided in previous NGER reviews. On this occasion however, there is a greater opportunity to begin reforms to enable Australian GreenPower customers to report emissions in accordance with the new Greenhouse Gas Protocol contractual accounting approach.

This year I would hope that there is some clear thinking in regard to the role of end use customers being provided good information that they require in regard to their scope 2 and 3 electricity emissions as guided by the NGER Determination.

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Once emissions have been divided up and allocated in this way, it is not possible to allocate reduced emissions to GreenPower customers without double counting.

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Over numerous years and numerous complaints, the GreenPower marketing has gradually changed from a product that is directly marketed towards reducing the greenhouse gas emissions of consumers to something that increases renewable energy in the grid. Yet many contradictory marketing statements continue within GreenPower marketing to create the impression and guidance that GreenPower reduces customer emissions.

For Example, Section 2.2 clause 8 of the GreenPower Marketing guidelines advise that:

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Whilst the NCOS does not cover GreenPower as either an offset or a lower emissions electricity option, guidelines that are made in the name of the Standard, guide participants to claim GreenPower to reduce their emissions as follows:

Alignment with the GHG Protocol – Scope 2 Guidance

…..“The purchase of GreenPower™ from an accredited GreenPower Product or the voluntary cancellation of Large-scale Generation Certificates (LGCs) is considered to be equivalent to the direct use of renewable energy. On that basis, GreenPower™ purchases or voluntary cancellation of LGCs (including where selfgenerated) are treated as a zero-emissions electricity source in an LCA or greenhouse gas inventory”….

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The NCOS implies that because here is little difference in the overall state emissions factor between the contractual base residual mix and physical Average grid factor , that double counting is OK. This approach lacks integrity and is disrespectful of the intent of the GHG Protocol.

APPENDIX 4 2015 GREENPOWER REVIEW - SUMMARY OF RECOMMENDATIONS

The full submission is available here:

https://www.greenpower.gov.au/Business-Centre/Program-Review/~/media/4488FFC5C5B04BACAEA881E393F33BB8.pdf

Summary of structural reforms suggested for GreenPower to work as a product.

27 March 2015

Governance

- The Federal Government should assume overall responsibility for the success of GreenPower in Australia. As the Jurisdiction that makes the legislation and accounting frameworks it should also accept the responsibility to ensure that the GreenPower rules are consistent with legislation and integrated with climate and renewables policy.
- The National GreenPower Steering Group should be an independent committee supported by the Federal Government to serve the best interests of the GreenPower program and GreenPower customers.
- The National GreenPower Steering Group should include representation of GreenPower customers.

Renewable Energy (Electricity) Act (2000)

- The Act should be amended to describe that the following attributes are attached to Large-scale Generation Certificates for trading in GreenPower accredited electricity contracts to support the allocation to GreenPower Customers
    - Renewable Energy Use
    - Reduced greenhouse gas emissions (zero scope 2 emissions and scope 3 emissions as defined by life cycle assessment).

National Greenhouse and Energy Reporting Act (2007) and related framework and NGER Determination

- The methodology for allocating end use emissions to electricity customers should be amended to provide for contractual accounting
    - GreenPower customers should be allocated zero scope 2 emissions
    - Scope 3 emissions allocated to GreenPower customers should be related to those associated with Renewable Energy
    - Renewable energy from old pre 1997 renewable power systems should also be able to be purchased by customers for zero scope 2 emissions. This would not be GreenPower, but would establish a formal place in the market for the Momentum Energy SmilePower product and potentially for old Snowy hydro-electric power (NGER is about allocation not additionality)
    - Scope 3 emissions allocated to customers from old renewable power systems relate to those associated with old renewable energy infrastructure.
    - Grid Power emissions should relate to the residual mix of emissions after netting out the impacts of GreenPower and any other contractually based electricity sales products (as per the 2015 GHG Protocol Scope 2 Guidelines)
    - In allocating the residual grid mix emissions standard electricity customers, whole grid factors should be the starting point (such as for the Eastern Australia Grid and the separate South West WA grid), with GreenPower and contractual sales netted out of this mix.

National Carbon Offset Standard

- The National Carbon Offset Standard should properly incorporate GreenPower as a way to reduce emissions associated with electricity use.

Achieving 100%

- The current 15% Renewable Power Percentage (RPP) and any old pre 97 renewables (not sold as low emission electricity) should be the recognised starting point for any GreenPower purchasing to ensure that a 100% GreenPower customer is not forced to pay for 115% renewables.

GreenPower Pricing Structures

- GreenPower pricing should be based around the cost of producing and delivering renewable electricity rather than as a penalty above standard electricity.

AER and AEMC

The AER and AEMC should recognise and support the role of GreenPower as a genuine part of the retail electricity market.

Tim Kelly
100% GreenPower customer

APPENDIX 4 2010 SUBMISSION ON THE TREATMENT OF RENEWABLES UNDER NGERS

Submission:

Discussion Paper – treatment of voluntarily purchased renewable energy in the National Greenhouse and Energy Reporting System

Contact Details

Name of Organisation:	Private Citizen
Name of Author:	Tim Kelly
Phone Number:	0419 831 933
Email:	
Website:	
Date:	10 September 2010

Confidentiality

All submissions will be treated as public documents, unless the author of the submission clearly indicates the contrary by marking all or part of the submission as 'confidential'. Public submissions may be published in full on the Department of Climate Change and Energy Efficiency website, including any personal information of authors and/or other third parties contained in the submission. If any part of the submission should be treated as confidential then please provide two versions of the submission, one with the confidential information removed for publication.
A request made under the *Freedom of Information Act 1982* for access to a submission marked confidential will be determined in accordance with that Act.

Do you want this submission to be treated as confidential? NO

TO - reporting@climatechange.gov.au

If emailing a submission, please include "NGERS treatment of renewable energy – feedback" in the subject heading.

Feedback on option 1: 'no change' – continue to calculate scope 2 emissions for electricity based on existing state-based emissions factors.

Option 1 is not supported

Option 1 allocates '**reduced emissions'** associated with renewable energy to all customers in proportion of '**use'** under the NGER Framework. This approach extinguishes the concept of voluntary purchases of GreenPower and renewable energy to reduce customer emissions. The NGER Framework also underpins the disclosure of greenhouse gas emissions on electricity bills in Australia.

The fundamental problem is that it is not possible to allocate '***use of renewables',*** and '*reduced emissions*' to GreenPower customers a second time without double counting, lying and going to elaborate lengths to try to confuse simple accounting processes.

It is possible only to acknowledge GreenPower as a **donation scheme** that in a scope 3 sense allows those contributing to GreenPower to donate reduced emissions and renewable electricity use to all other customers. This is not what GreenPower customers are seeking and not how GreenPower is marketed on the GreenPower website and by the Federal Government.

When GreenPower advertise "GreenPower- "Make the switch and cut **your** greenhouse gasses today" there is a disregard for:

- Section 52 of the Trade Practices Act 1974 giving an untruthful impression. - *There is a big difference between 'your' and 'everyone's greenhouse gas reductions'*
- Section 53, Section 55A of the Trade Practices Act is disregarded because the goods have already been assigned to all grid users in proportion of their electricity use. GreenPower is marketed in a way that does
    - "falsely represent that goods are of a particular standard, quality, value, grade, composition, style or model or have had a particular history or particular previous use;"
    - and makes "… a false or misleading representation concerning the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy". In promoting GreenPower as something customers can buy to reduce their emissions.

GreenPower contributing customers should not be misled about the " nature, the characteristics, the suitability for their purpose or the quantity of any services" associated with the GreenPower scheme. The scheme as it currently exists is a donation mechanism only.

On the DCCEE website stakeholders are advised that:

> *"Through the GreenPower initiative, Australian households and businesses can choose to purchase some, or all, of their electricity from renewable sources. By purchasing GreenPower you can further reduce your personal carbon pollution emissions."*
>
> http://www.climatechange.gov.au/en/individual/carbon-footprint.aspx,
>
> (May 25- September 2010)

This statement is untrue as the reduced emissions are not allocated to the GreenPower contributing customer.

Given that similar renewable energy schemes in the United Kingdom and the United States orf America are being increasingly recognised as tariff type donation schemes that do not reduce customer emissions, the DCCEE should abandon the physical accounting approach where voluntary renewable energy schemes are used and where customers in different states are cross subsidising renewable energy in other states without any change to their emission factors.

If the DCCEE persists with Option 1 and the GreenPower scheme as currently marketed, the matter must ultimately end up in the Federal Court of Australia for an independent determination of NGERs Law and GreenPower together with state disclosure laws and how they interact with the Trade Practices Act.

Feedback on option 2: reporting through the Online System for Comprehensive Activity Reporting (OSCAR) the amount of GreenPower™ purchased.

"Option 2: as for Option 1, but in addition reporting corporations can report through OSCAR the amount of GreenPower™ purchased. Publication of reporting corporations' scope 2 emissions would include two figures: the first based on existing state-based emissions factors while the second would be an 'adjusted' figure reflecting the corporation's individual renewable energy purchases".

Option 2 creates a second set of accounting rules without foundation and is therefore not supported
Such accounting is not tolerated in business and does not underpin the integrity of GreenPower. How can there be any legitimate claim of reduced emissions by a GreenPower customer when the reduced emissions are still allocated to all consumers in proportion of use?

If the DCCEE adopts with Option 2 and the GreenPower scheme continues as currently marketed, the matter must ultimately end up in the Federal Court of Australia for an independent determination of NGERs Law, State disclosure laws and how they interact with the Trade Practices Act.

Feedback on option 3: 'hybrid' approach to adjust existing state-based emissions factors by 'netting out' voluntarily purchased renewable energy.

Option 3 is a small step in the right direction
Option 3 stops the double counting for so that GreenPower customers can become true customers of reduced emissions and renewable energy allocated to their households and businesses. Option 3 will initiate true reform that can be adopted in other parts of the world for the concept of voluntary renewable energy consumer markets to continue with integrity.

Comparability
Option 3 will enable customers to compare their low emissions electricity with the standard electricity with open and transparent billing information

Accuracy
Option 3 provides integrity for renewable energy products and there would be no double counting.

Administrative complexity
Through GreenPower, ORER and NGERs, the DCCEE already collects all necessary information to exclude voluntary renewables from the state grid factors without any significant additional complexity. In fact better integration between these agencies and organisations will most likely reduce duplication and un-necessary complications.

Completeness
Option 3 does provide a single integrated accounting framework that deals with both mandatory and voluntary renewables.

Time series consistency
DCCEE could continue to monitor *total emissions sent into the grid* for its purposes of *'monitoring of national and jurisdictions'* emissions trends.

Variation on Option 3 – Fully separate renewable electricity from fossil fuels.

A variation on Option 3 could provide additional improvements.

Option 3 by itself deals only with a small fraction of total electricity sent into the grid. Renewable energy required under the MRET (and pre 1997 renewables) are a much higher proportion of electricity sent into the grid, and has a greater impact on the state grid factor.

With the Physical accounting approach, buying GreenPower results in apparent diminishing of the effectiveness of the option to reduce emissions every year as the state emissions factor becomes more diluted with renewables. The comparison should however be between renewable energy and fossil fuel electricity. The comparison is about growing with coal or gas, or growing state electricity generation with renewables.

The variation on Option 3 that splits renewables from fossil fuels I have termed the "Customer Choice Model" for allocating greenhouse gas emissions to customers. The key difference with the customer choice model is that it underpins the mandatory costs of the Renewable Energy Target and any future carbon price with the accounting system and enables customers to pay fairly for what they buy in an open and transparent way.

The Customer Choice model involves:

- Netting the non fuel burning renewables out of the state grid factors for complete segregation of renewable energy and fossil fuels components.
- Legally allocating the attributes of "*zero scope 2 emissions"* and "*use of renewable energy*" with Renewable Energy Certificates.
- Separate showing of emissions associated with renewable energy and fossil fuels in customer billing with a zero scope 2 emissions factor for the renewable component and an average fossil fuel scope 2 grid factor for the standard electricity component from non-renewable sources.
- Minimum renewable power percentages (RPP) to be shown on customer bills and charged accordingly

- Any additional voluntary renewable energy shown above the RPP and charged accordingly
- Defining 100% Renewable Energy Consumption as the RPP + any existing pre 1997 renewables + the balance to equal 100% (with transmission losses taken into account the same way that is currently done for standard electricity)
- Establishing a principle of no double counting of scope 2 emissions.

Feedback on option 4: 'contract-based' approach to calculating scope 2 emissions.

Option 4 may be appropriate for specific large scale projects but would be unachievable for all individual accounts.

APPENDIX 5 2007 SUBMISSION SENATE COMMITTEE - NATIONAL GREENHOUSE AND ENERGY REPORTING BILL

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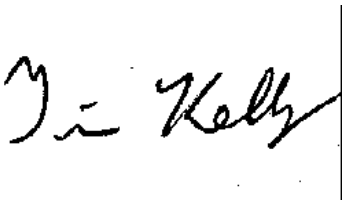
Private submission to the Senate Committee on the National Greenhouse and Energy Reporting Bill 2007

Please Keep this document and other attached documents confidential

Please note that I would prefer this submission to remain confidential as my opinions based on my knowledge and experiences through working as a climate change advisor, challenge many current claims of individuals, businesses, states, and the robustness of current Greenhouse and Renewable energy accounting practices in Australia. I work for a state owned utility, and for me to be criticising the state Government and other businesses may place my effectiveness and job security at risk. None the less I believe that current double accounting problems at all levels must be fixed for Greenhouse and Energy Reporting to be respected and robust for the longer term. This Bill could provide an opportunity for the Senate Committee to make sure that double accounting is outlawed. Even if my submission doesn't remain confidential and there are negative consequences for me, I would have no regrets.



Private Citizen

Date 26-8-2007

To the Senate Committee on the National Greenhouse and Energy Reporting Bill 2007

I welcome the opportunity to comment on this Bill, and particularly to comment on those aspects which have not yet been improved despite my earlier submission to the COAG Climate Change Group on *A National System for Streamlined Greenhouse and Energy Reporting by Business - Draft Regulation Impact Statement(2006).*

In this previous submission I not only highlighted problems of double accounting at an individual or organisation level, but also at a state level. For your information, I have attached my submission to COAG and my more recent submission to the New South Wales Government on the proposed New South Wales Mandatory Renewable Energy Target (NRET) legislation. These documents describe the serious and growing nature of double accounting of renewable energy in Australia. Processes and guidelines must also be established that competently deal with trading of other carbon products such as forestry credits as they too are traded beyond site boundaries and between states.

Prevention of Double Accounting Required

The draft Bill offers no decisive clause/s that would direct improvements to prevent double accounting to be made. There is no direct mention of the *Australian and Greenhouse Office Factors and Methods Workbook* in this legislation, yet this is the key document that is suggested as the basis for reporting in the Explanatory Memorandum and it must be improved. The only brief mention of existing problems in the AGO Factors and Methods workbook and that there needs to be improvement is buried deep within the Explanatory Memorandum about the Bill on page 53. This mention states that

> *"3 respondents (2 companies, 1 private citizen) expressed concern with the use of the AGO Factors and Methods Workbook (F&M Workbook) in its current form.* ***The F&M Workbook will be developed further with the assistance of the proposed Reporting Advisory Group as part of the forward process****.*

This response is totally inadequate in my view and shows a failure by the Australian Greenhouse Office to comprehend the scale of the problems described in my paper on *Greenhouse Confusion – Renewable energy, Smoke and Mirrors* (attached). Unless the *National Greenhouse and Energy Reporting Bill (2007)* includes a specific directive for the AGO Factors and Methods workbook (and all other reporting methodologies that may be associated with greenhouse and energy reporting) to prevent potential and actual double accounting (including through belief) the problems will continue and grow, becoming even harder to fix in the future.

Adequate reporting processes that reflect the true influence of state policies on greenhouse and energy performance.

The full intent of section 5 "Act excludes some State and Territory laws" is not made clear. I can only assume that the objective of this section is to standardise reporting for the states (which would be a good thing if done in a way that accounted for interstate greenhouse product trading and prevented double accounting) yet this section is so unclear that it could be used to the detriment of established state policies and programs that have merit.

Whilst Australia still has states, there will still be state based initiatives and programs, state targets etc, and state based reporting on progress towards these. Unless the Australian Government and Australian Greenhouse Office is intending to abandon state based initiatives, reporting and associated use of state aggregated greenhouse gas emission factors, I suggest that section 5 be re-drafted to:

- Reflect transparently the objective/objectives of this section;
- Protect state based programs and policies subject to not causing double accounting across state borders;
- Focus on how state based reporting will co-exist with National Energy and Greenhouse reporting through the National Greenhouse and Energy Reporting legislation (For example, if South Australian wind farms sell 50% on the nations wind power to consumers and liable wholesalers and retailers outside of South Australia, then the benefits of lower greenhouse emissions and renewables usage associated with this energy should no longer be counted in South Australia). This approach should also be mirrored for forestry and other carbon credit trading.

Proposed amendments to the Act

The following amendments to the act are suggested in the context of the discussion above and recommendations contained in my previous submissions and *Greenhouse Confusion – Renewable energy, Smoke and Mirrors* (2007) paper.

Part 1, Division 1, Preliminary Section 5 Act excludes some State and Territory laws

This Section should be re-drafted

EDIT TO

Section 5 Act to integrate state based reporting with National Reporting Standards and Methods.

(2) This Act is intended to **apply the reporting requirements and standards of States to ensure consistent reporting standards so far as information that relates to:**

(a) greenhouse gas emissions; or

(b) greenhouse gas projects; or

(c) energy consumption; or

(d) energy production;

(e) **renewable energy generation**

(f) renewable energy consumption

(g) production or consumption of specific energy sources or products of varying greenhouse emissions intensities

so far as they would otherwise apply in relation to a constitutional corporation **and State energy and greenhouse reporting**

Division 2—Interpretation

Definitions

ADD THE FOLLOWING DEFINITIONS

Greenhouse intensity – The amount of greenhouse gas emissions caused through a given activity, energy product, aggregated state or standard electricity data or other carbon products.

Double Counting (of benefits) – the counting of greenhouse avoidance or renewable energy use that creates a benefit that is claimed twice by single or multiple parties. This would include any policy, scheme, interaction between schemes that allows one or more parties to claim the same benefits more than once through either the legal ownership, over-lapping programs or schemes or through an ongoing belief.

9 Facilities

4) Regulations made for the purposes of paragraph (1)(a) may specify:

(a) the circumstances in which an activity or activities (including ancillary activities) will form part of a single undertaking or enterprise; and

(b) what activities are attributable to particular industry sectors.

ADD A NEW CLAUSE

(c) methodologies to deal with the trading of renewable energy and carbon benefits into or out of a facility that prevent double counting.

10 Emissions, energy production and energy consumption etc.

(1) References to the following:

ADD

(g) *production* of renewable energy

(h) *consumption* of energy consumption
(i) *varying greenhouse emissions intensities* for energy production or consumption of specific energy sources or products of

EDIT TO

(3) The Minister may determine, by legislative instrument, **the Australian Greenhouse Office (AGO) Factors and Methods Workbook** ~~methods~~, or criteria for methods, by which the amounts of the emissions, reduction, removal, offsets, production or consumption are to be measured for the purposes of this Act and may specify:

- (a) different methods or criteria for different industry sectors; and
- (b) different methods or criteria depending on the circumstances in which the emissions, reduction, removal, offsets, production or consumption occurred.

ADD A NEW CLAUSE

The Minister must takes steps to ensure that the AGO Factors and Methods Workbook and any other criteria of methods, prevent double accounting of emissions avoidance and consumption of renewable energy that exist or may arise from accounting methodology, overlapping policies, multiple schemes and state claims whether by parallel legal entitlements, loopholes or uncorrected beliefs.

11 Operational control

A controlling corporation or another member of the corporation's

group has ***operational control*** over a facility if:

(a) it has the authority to introduce and implement any or all of

the following for the facility:

(i) operating policies;

(ii) health and safety policies;

(iii) environmental policies;

ADD A NEW SUB CLAUSE

(iv) financial constraints that prevent the funding and implementation of greenhouse management initiatives and policies.

Part 6—Administration

Division 1—The Greenhouse and Energy Data Officer

49 Establishment

There is to be a Greenhouse and Energy Data Officer.

COMMENT

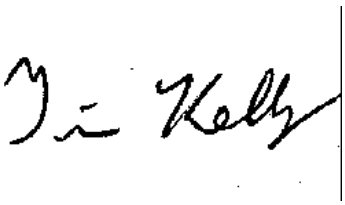
I believe that this Officer should be established under an independent statutory authority that is better able to consider the long term implications of managing a robust energy and greenhouse reporting framework with less direct influence by Government and Industry that has caused many of the overlapping reporting requirements, schemes policies and double accounting problems that we now face.

In Conclusion

I do have a large amount of correspondence and discussions with Government Agencies on greenhouse accounting issues which show that the issues I raise are real, but to date have not been adequately addressed.

I trust that my thoughts and suggestions can assist the Senate Committee in ensuring that this legislation is robust, effective, and will support the further development of a *National Emissions Permit and Trading System* or a *National Emissions Levy and Trading system* in Australia.

Kind regards



Private Citizen

Date 26-8-2007

ATTACHMENTS

1. Tim Kelly Private Citizen - Private submission on A National System for Streamlined Greenhouse and Energy Reporting by Business - Draft Regulation Impact Statement
   Filename:-Submission National Greenhouse Reporting- Tim Kelly.doc

2. Tim Kelly Private Citizen – Private Submission on the Renewable Energy (New South Wales) Bill
   This includes in the Appendix:

Tim Kelly Private Citizen - Greenhouse Confusion - Renewable Energy, Smoke and Mirrors

Filename:-Tim Kelly Submission on NRET-1.doc