



australian network of environmental defender's offices

Submission on *Discussion Paper 4 – Treatment of new waste coal mine gas power generation in the RET* and *Discussion Paper 5 – the treatment of ‘Solar Credits’ Renewable Energy Certificates under the RET*

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The Australian Network of Environmental Defender's Offices (ANEDO) consists of nine independently constituted and managed community environmental law centres located in each State and Territory of Australia.

Each EDO is dedicated to protecting the environment in the public interest. EDOs provide legal representation and advice, take an active role in environmental law reform and policy formulation, and offer a significant education program designed to facilitate public participation in environmental decision making.

Contact Us

EDO ACT (tel. 02 6247 9420)
edoact@edo.org.au

EDO NSW (tel. 02 9262 6989)
edonsw@edo.org.au

EDO NQ (tel. 07 4031 4766)
edonq@edo.org.au

EDO NT (tel. 08 8982 1182)
edont@edo.org.au

EDO QLD (tel. 07 3211 4466)
edoqld@edo.org.au

EDO SA (tel. 08 8410 3833)
edosa@edo.org.au

EDO TAS (tel. 03 6223 2770)
edotas@edo.org.au

EDOVIC (tel. 03 9328 4811)
edovic@edo.org.au

EDO WA (tel. 08 9221 3030)
edowa@edo.org.au

Submitted to: RET@climatechange.gov.au

For further information, please contact Rachel.walmsley@edo.org.au

Introduction

The Australian Network of Environmental Defender's Offices Inc (ANEDO) is a network of 9 community legal centres in each state and territory, specialising in public interest environmental law and policy. ANEDO welcomes the opportunity to provide comment on *Discussion Paper 4 – Treatment of new waste coal mine gas power generation in the RET* and *Discussion Paper 5 – the treatment of ‘Solar Credits’ Renewable Energy Certificates under the RET*.

The EDO has commented extensively on renewable energy at the Commonwealth level including submissions on the Exposure Draft legislation¹, the Senate inquiry into a national feed-in tariff² and the COAG Working Group on Climate Change and Water.³

We make comment on Discussion Papers 4 and 5 below.

Discussion Paper 4

Question 2: whether new waste coal mine gas projects should become eligible to create RECs under the RET.

Given ANEDO's role, our comments with respect to Discussion Paper 4 are limited to Question 2, with a focus on the question of whether or not new waste coal mine gas ('WCMG') projects should become eligible to create RECs under the RET.

First, it is critical to recognise that, to our knowledge, there was no public consultation on the decision of the Government to include existing WCMG projects in the RET scheme as a transitional measure until 2020. We therefore make some preliminary comments about the general appropriateness of including *any* WCMG projects in the RET scheme.

ANEDO acknowledges that the decision to include existing WCMG projects was a transitional measure to assist existing operations that would incur significant costs due to the cessation of the NSW Greenhouse Gas Reduction Scheme and the transition to the CPRS⁴. However, our view is that providing this transitional assistance through the RET scheme is inappropriate.

As noted in past submissions, ANEDO's view is that renewable energy represents the most viable long term solution to shift to a low carbon economy in Australia. The RET scheme is the Government's key policy measure aimed at incentivising the renewable energy sector in Australia, to ensure that it is given the necessary support to become competitive in the energy market. As such, our view is that the focus of the RET scheme

¹ ANEDO Submission on the Renewable Energy Target scheme – exposure draft legislation- 13 February 2009. Available at: <http://www.edo.org.au/policy/090219ret.pdf>.

² ANEDO Submission to the Inquiry into the Renewable Energy (Electricity) Amendment (Feed in Tariff) Bill 2008- 13 August 2008. Available at: http://www.edo.org.au/policy/080801senate_inq_renew_energy_amndts.pdf.

³ ANEDO Submission to the COAG Working Group on Climate Change and Water – Design Options for the Expanded National Renewable Energy Target Scheme; 30 July 2008. Available at: <http://www.edo.org.au/policy/080730nrets.pdf>.

⁴ Joint Media Release by Senator Wong and Minister Combet (17 August 2009). Available at: <http://www.climatechange.gov.au/~media/Files/minister/combet/2009/Media%20Releases/August/090817-joint-ret.ashx>.

must remain on enhancing the competitiveness of the renewable energy sector in Australia. Therefore, the inclusion of non-renewable energy sources unacceptably undermines the RET scheme, as it is fundamentally contrary to the premise of the scheme.

ANEDO acknowledges that it is important to encourage electricity generation from WCMG to the extent that it ensures that the gas is not otherwise wasted and released as methane. However, incentives or regulatory measures to encourage generation of electricity from this waste product are more appropriate as a separate policy measure outside of the Government's primary renewable energy policy. It would compromise the RET scheme to further extend eligibility for RECs to energy produced by fossil fuels. This is regardless of the fact that the annual target will be 'topped up' to ensure that renewable energy generation is not displaced by the inclusion of WCMG projects.

Given ANEDO's position generally in relation to the inclusion of fossil fuel based energy sources in the RET, it follows that our view is that it is clearly inappropriate to expand the application of the RET to expanded or new WCMG operations. At most, WCMG should remain within the RET scheme as a transitional measure only for existing projects. To extend it to new projects would retreat from the 'transitional assistance' nature of its inclusion, and would provide even more assistance to the coal industry which is unwarranted.

ANEDO also agrees with concerns raised in Discussion Paper 4. First, including expanded and new WCMG projects would place an additional burden on the Regulator. ANEDO's view is that this additional complexity for the Regulator would distract the focus of the scheme away from the primary focus, namely genuine renewable energy generation. This focus is made explicit in the first object of the *Renewable Energy (Electricity) Act 2000*, being 'to encourage the additional generation of electricity from renewable sources'.

Second, the inclusion of additional WCMG projects would place an additional burden on liable entities under the scheme for a *non-renewable resource*, as the scheme target would be increased to offset the inclusion of WCMG projects. Liable entities under the scheme would be required to purchase more RECs to accommodate the WCMG projects. Consumers would also be faced with increased electricity prices. ANEDO therefore submits that it is perverse to include new WCMG projects in the RET scheme as it would place an additional burden on liable entities and consumers for the generation of a non-renewable resource, without enhancing the percentage of renewable energy in the market. WCMG projects should be supported and given incentives through alternative policy measures.

Nevertheless, if the Government determines to include new WCMG projects in the RET scheme, ANEDO strongly submits that this should be for a limited timeframe only (and at the latest 2020), and subject to regular and ongoing assessment as to its efficacy. This should be mandated in the legislation, to ensure that the scheme can be amended if the inclusion of WCMG projects distorts the ability of the scheme to promote renewable energy. This is particularly important given that the RET scheme already has some weaknesses, as we have noted in previous ANEDO submissions⁵.

⁵ For example, see ANEDO Submission on the Renewable Energy Target scheme – exposure draft legislation- 13 February 2009. Available at: <http://www.edo.org.au/policy/090219ret.pdf>.

Finally, ANEDO submits that WCMG projects should not benefit both from the inclusion in the RET scheme as well as having access to funding assistance under the proposed Coal Sector Adjustment Fund. As ANEDO has noted in relation to other proposed assistance packages, our view is that any assistance provided to non-renewable energy sources should be limited and of a transitional nature only. Given that it is already Government policy that priority will be given to WCMG electricity generation projects in terms of allocating funding through the \$270 million Coal Sector Adjustment Fund, ANEDO's view as stated above is that all WCMG projects should be excluded from the RET scheme. If, however, the Government is minded to include new WCMG projects in the scheme, ANEDO submits that further assistance through the Coal Sector Adjustment Fund should not be provided given the excessively high levels of compensation already allocated to the coal sector.

Discussion Paper 5

As we have submitted previously, ANEDO supports the solar credits scheme that involves a multiplier being applied to the electricity generated by small-scale operators for the first 5 years of the expanded RET scheme. We are of the view that it is imperative that the domestic and small-scale industrial sector is encouraged to generate renewable energy through the use of such incentive mechanisms.⁶ We address the two discussion questions below.

Question 1: Should annual targets under the RET be increased to offset the additional RECs created by the Solar Credits multiplier mechanism?

ANEDO submits that an annual mechanism must be introduced to increase the annual renewable energy target by the number of RECs that have been granted for solar energy not actually generated. We support ACF, Greenpeace, CANA and NCC in this regard. Such a mechanism will ensure that the integrity of the target is maintained. If the target is not adjusted in this manner then the 20 percent target by 2020 will in reality be lower depending on the number of 'phantom' solar credits granted. ANEDO submits that given the need to rapidly deploy renewable energy technologies in light of the projected impacts of climate change, it is important that a robust renewable energy target is actually achieved.

The Discussion Paper suggests that the scope of the solar incentive scheme is not likely to significantly affect the overall target given the large increase in the target and the 1.5KW/hr limit. However, ANEDO is not aware of any modelling that forecasts to what extent this incentive will be taken up and how many RECs will be created that are not backed up by generation. If the Department has undertaken modelling into the projected uptake of Solar Credits ANEDO submits that this modelling should be made publicly available.

Question 2: If RET targets are increased to offset additional RECs created by the Solar Credits Multiplier, which mechanism for achieving this would be suitable?

In order to operationalise the review mechanism, ANEDO supports the first option in the Discussion Paper of annually recalibrating the target commensurate with Solar Credit

⁶ However, we reiterate our view that a more effective means of encouraging the uptake of renewable energy for small scale operators is through a gross feed-in tariff.

uptake in the previous year. We do not believe that this will create further uncertainty for liable entities as the price of RECs is dependent on the market which is inherently unpredictable.⁷ Furthermore, the incentive is only available for the first 1.5 KW of production, which naturally limits the number of Solar Credits that can be created. In addition the multiplier progressively decreases and the multiplier figures are available up to 2015. Thus, an annual recalibration to account for solar credits will not introduce significant uncertainty for liable entities.

We do not support the third option of increasing the target immediately based on the projected uptake of Solar Credits as this is fraught with uncertainty and is open to error. It is important that the target is adjusted based on actual solar credit RECs created.

For further information on this submission please contact Rachel Walmsley on rachel.walmsley@edo.org.au or (02) 9262 6989.

⁷ We note that in relation to REC prices, a review of factors influencing price fluctuations and consideration of options such as a Government-guaranteed price floor for RECs and increasing the target, may be warranted as part of a broader review and strengthening of the Act to better achieve its aims.