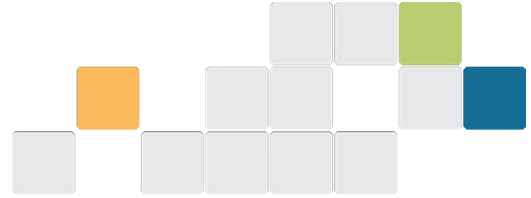




**Australian Government**  
**Clean Energy Regulator**



23 September 2024

Stephen Palethorpe  
Committee Secretary  
Environment and Communications References Committee  
The Senate

Dear Mr Palethorpe

## **Inquiry into greenwashing**

Thank you for your correspondence of 2 September 2024 inviting the Clean Energy Regulator (CER) to respond to correspondence that may potentially contain adverse reflections on the CER provided by Mr Tim Kelly to the Senate Environment and Communications References Committee (Committee) as part of its inquiry into greenwashing.

In short, it appears to us that Mr Kelly considers there could be double counting of the use of renewable energy owing to different parties variously using market-based accounting (that is, cancelling Large-scale Generation Certificates), Power Purchase Agreements where the party may be selling the Large-scale Generation Certificates (LGCs) and National Greenhouse and Energy Reporting (NGER) location-based accounting.

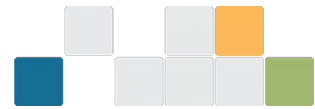
If we have interpreted the essence of Mr Kelly's submission correctly, then our view is that there may be substance to his concern that outside of these government schemes companies may use inappropriate combinations of information to misrepresent their emissions. The CER acknowledges that in our submission to the Committee in June 2023 we were not explicit that our comments about the use of LGCs were in relation to market-based accounting. LGCs are not used in location-based facility level accounting. However, we reject his potentially adverse reflections on the CER as:

- a) we are a regulator and implement the schemes consistent with the legislative requirements, and
- b) our regulatory powers do not include being able to regulate greenwashing.

The role of the CER is to administer legislated schemes that reduce greenhouse gas emissions and increase the use of renewable energy. These schemes include the National Greenhouse and Energy Reporting (NGER) Scheme, Australian Carbon Credit Unit (ACCU) Scheme and the Renewable Energy Target (RET). The Department of Climate Change, Energy, the Environment and Water (DCCEEW), has policy responsibility for these schemes.

The Australian Competition and Consumer Commission (ACCC) and the Australian Securities & Investments Commission (ASIC) may have powers to investigate greenwashing depending on the actual details of the case. The CER holds important data from carbon emissions and energy use reporting, and we can and do share relevant information with the ACCC and ASIC in support of their roles in investigating environmental and sustainability claims.





The following is some additional information to assist the Committee on the CER's powers which do not extend to false or misleading claims about scope 2 electricity emissions and/or use of renewable energy.

### **National Greenhouse and Energy Reporting (NGER)**

The CER implements the regulatory framework for scope 2 reporting consistent with the requirements of the legislation.

The NGER Determination (a statutory instrument) includes a location-based accounting framework applied to organisations that emit over certain thresholds. From 1 July 2023, in addition to reporting scope 2 emissions using the location-based method, NGER reporters have the option to additionally report using the market-based method for estimating scope 2 emissions. Under this market method there are strict requirements about the claims that can be made in relation to Large Generation Certificates (LGCs) that have been surrendered. This means that those certificates cannot be sold and no other entity may claim the emissions benefit for that unit of renewable electricity generation. This is the first time that a market-based emissions accounting method has been available under the NGER scheme.

Including both location-based and market-based reporting approaches allows NGER reporters to recognise their market-based claim of renewable electricity consumption, while maintaining the information provided by location-based reporting. The two reporting approaches are not intended to be compared or added together. LGCs are not used in location-based facility level accounting.

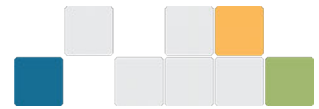
### **Renewable Energy Target (RET)**

There is a common industry view that we support that to claim the use of renewable energy in market-based accounting, parties must surrender Large-scale Generation Certificates (LGCs) commensurate with that claim. The *Renewable Energy (Electricity) Act 2000* (REE Act) creates a specific provision under section 28A for entities to surrender LGCs for reasons other than statutory liability under the RET. Once an LGC has been surrendered it cannot be used for other purposes. The CER has no regulatory powers relating to LGCs beyond those in the REE Act and associated regulations.

Further, GreenPower is a voluntary renewable energy accreditation program. Electricity retailers sell GreenPower to customers and are required to surrender a LGC for each unit of GreenPower sold. The NSW Department of Climate Change, Energy, the Environment and Water administers the scheme on behalf of a steering group consisting of multiple state and territory governments. The CER does not have a role in administering GreenPower.

### **Corporate Emissions Reduction Transparency (CERT) Report**

The CERT Report is a voluntary initiative that allows participants to use either, or a combination of, location and market-based (cancellation of LGCs) accounting frameworks to make their claims. The accounting method or methods used by the participants are stated in the reports.



## Conclusion

The CER acknowledges that in our submission to the Committee in June 2023 we were not explicit that we framed it in terms of market-based accounting. We trust this response provides clarity and we would be happy to clarify or elaborate on aspects of this response or our original submission if required.

Yours sincerely

Mr Mark Williamson  
Acting Chair and CEO  
Clean Energy Regulator