

Senate Standing Committee on Environment and Communications
Legislation Committee
Answers to questions on notice
Environment portfolio

Question No: 220
Hearing: Supplementary Budget Estimates
Outcome: Agency
Programme: Clean Energy Regulator
Topic: SUSPENSION OF ACCREDITATION UNDER RENEWABLE ENERGY (ELECTRICITY) REGULATIONS 2001
Hansard Page: N/A
Question Date: 29 October 2014
Question Type: Written

Senator Back asked:

It is apparent that r4(1)(c) of the REE Regulations 2001 is one of the “other circumstances prescribed by the regulations” falling within s30E(5), does the CER agree?

- a. Does the CER agree that r4(1)(c) places an accredited power station under an ongoing positive obligation that, at all times, “must be operated in accordance with any relevant Commonwealth, State, Territory or local government planning and approval requirements”?
- b. Does the CER agree that a failure to satisfy the circumstances prescribed by r4(1)(c) does not necessarily mean that the accredited power station is “being operated in contravention of a law of the Commonwealth, a State or a Territory”, as prescribed by s30E(3)?

Answer:

1. No. The circumstances prescribed for the purposes of subsection 30E(5) of the *Renewable Energy (Electricity) Act 2000* (the REE Act) are set out in regulation 20D of the Renewable Energy (Electricity) Regulations 2001 (the REE Regulations).

Paragraph 4(1)(c) of the REE Regulations is made for the purposes of paragraph 14(2)(b) of the REE Act. That provision requires the Regulator to be satisfied, when determining if a power station is eligible for accreditation, if: (a) some or all of the power generated by the power station is generated from an eligible energy source; and (b) the power station satisfies any prescribed requirements. One of those requirements (set out in paragraph 4(1)(c) of the REE Regulations) is that the power station must be operated in accordance with any relevant Commonwealth, state, territory or local government planning and approval requirements.

2. No. Paragraph 4(1)(c) of the REE Regulations relates to the initial accreditation of a power station. It does not involve an ongoing obligation.
3. A failure to satisfy the circumstances prescribed by paragraph 4(1)(c) of the REE Regulations does not mean that the power station is “being operated in contravention of a law of the Commonwealth, a State or a Territory” (as that phrase is used in subsection 30E(3) of the REE Act). A failure to meet the circumstances prescribed by paragraph 4(1)(c) means that the Clean Energy Regulator will determine that the power station is not eligible for accreditation in the first place. Please see also Supplementary Budget Estimates 2014 Question 216.