

The Renewable Energy (Electricity) Amendment (Feed-in-Tariff) Bill 2008



8 September 2008

Recommendations of the Australian Climate Justice Program

The following recommendations are made to improve the Renewable Energy (Electricity) Amendment (Feed-in-Tariff) Bill 2008 and to help it achieve its objectives. These recommendations are provided to supplement the submission of the Australian Climate Justice Program on this inquiry, dated 15 August 2008.

The Access Objective

Ensuring connection to the grid

34A Feeding-in of electricity to grid by owners of qualifying generators

(1) Electricity retailers must: permit an owner of a qualifying generator to feed into the grid...

To ensure connection to the grid, an obligation to connect must precede feed-in. For example, the German law states that "Grid system operators shall immediately and as a priority connect plants generating electricity from renewable energy sources or from mine gas to their systems..."

<http://onlinepact.org/a1.html>

The PACT website also provides the following as an example: (1) Upon the written request of an Eligible Producer, the Grid Operator shall immediately connect his Eligible Plant to the electricity grid and as a priority. <http://onlinepact.org/a1.html>

1: We recommend that the Bill be amended to impose upon electricity retailers an obligation to connect qualifying generators.

Extending and reinforcing the grid

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The Bill is silent on this feature. Lack of grid capacity can be used as an excuse for not connecting.¹

The German law states that: ... "if...feeding in the electricity requires the grid system operator to upgrade its grid at a reasonable economic expense...the grid system operator shall upgrade its grid without undue delay, if so requested by a party interested in feeding in electricity."

<http://onlinepact.org/a2.html>

The PACT website also provides the following as an example: (2) The Grid Operator shall, at the written request of an Eligible Producer, promptly reinforce the grid where this is necessary in order to accept electricity from that producer's Eligible Plant into the grid. <http://onlinepact.org/a2.html>

2. We recommend that the Bill be amended to ensure that if upgrading the grid is necessary in order to accept electricity from a qualifying generator, the grid operator will be obliged to promptly upgrade the system at its expense.

Costs of connecting and reinforcing

The Bill is silent on this feature. It is critical to make clear who pays the costs of connecting, and how these costs are shared.²

The German law applies shallow connection charging: "(1) The costs associated with connecting plants generating electricity from renewable energy sources or from mine gas to the technically and economically most suitable grid connection point and with installing the necessary measuring devices for recording the quantity of electrical energy transmitted and received shall be borne by the plant operator...(2) The costs associated with upgrading the grid ... from the need to accommodate new, reactivated, extended or otherwise modernized plants generating electricity from renewable energy sources or from mine gas for the purchase and transmission of electricity from renewable energy sources shall be borne by the grid system operator whose grid needs to be upgraded. He shall specify the required investment costs in detail. The grid system operator may add these costs when determining the charges for use of the grid."

<http://onlinepact.org/a3.html>

The PACT website also provides the following example: (3) The costs of connecting an Eligible Plant to the electricity grid, including, where necessary, grid reinforcement costs, shall be borne in accordance with the Shallow Charging method. <http://onlinepact.org/a3.html>

3. We recommend that the existing laws setting out how the costs of connecting and reinforcing the grid are borne be carefully assessed. If these laws are inadequate, the Bill should be amended so that this is clearly provided for.

Transparency

Following the inclusion of the above three features, it is important to ensure that access to the grid, and its cost, are transparent, objective and non-discriminatory.

The PACT website provides the following example of this feature:

¹ We note that the *Draft National Code of Practice for Embedded Generation* may be important in this area.

² We note that the existing national electricity law and the *Draft National Code of Practice for Embedded Generation* may be important in this area.

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(1) The Grid Operator shall prepare, publish and apply transparent, objective and non-discriminatory rules for:

- a) connecting Eligible Plants to the grid, including reinforcement and costs;
- b) charging transmission and distribution fees;
- c) the sharing of grid system costs between all producers benefiting from them; and
- d) determining and allocating grid capacity.

(2) An Eligible Producer shall be provided with a comprehensive and detailed estimate of the costs associated with connection of his Eligible Plant to the grid.

<http://onlinepact.org/a4.html>

4. We recommend that, following the inclusion of the first three features of the Access Objective, an amendment is made to ensure that access to the grid, and its cost, are transparent, objective and non-discriminatory.

The Price Objective

Technologies and plants to be covered

34D Feed-in-tariff rates

(3) The Minister may set a target level of installed capacity to be achieved. If the Minister sets a target level of installed capacity to be achieved, the Minister cannot change it until the fifth anniversary of the date on which the target level was initially set.

The main usefulness of FITs is through replacing large-scale convention electricity plants and covering rapidly increasing electricity demand. This contribution requires no limits to be placed on either plant sizes or the overall installed capacity of renewable energy plants producing electricity. Any check on cost should be managed through the tariff rates.

5. We recommend that proposed s 34D(3) be removed or amended to ensure that no limit is placed on plant sizes or the overall installed capacity of renewable energy plants producing electricity.

Priority purchase obligation

The Bill does not contain a priority purchase obligation for grid operators. This is needed so that the grid operator cannot refuse to connect eligible plants on the basis that there is sufficient existing (fossil-based) electricity on the system. This is one of the most important features of a good FIT law. (Note that this feature is different from, and additional to, ensuring connection to the grid).

Cf. German law: "Grid system operators shall immediately and as a priority connect plants generating electricity from renewable energy sources or from mine gas to their systems..."

<http://onlinepact.org/p2.html>

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The PACT website also provides the following example: The Buyer shall purchase, and the Grid Operator shall transmit, as a priority the electricity produced from the Eligible Plant. The Buyer shall not refuse to purchase, and the Grid Operator shall not refuse to transmit, such electricity on the grounds of insufficient grid capacity. <http://onlinepact.org/p2.html>

6. We recommend that the Bill be amended to impose a priority purchase obligation for grid operators.

Getting the tariff right

This feature requires the following tasks to be met:

- set technology-specific tariffs (or prices) at a reasonable level
- guarantee payment for a certain number of years and
- establish a mechanism for adjusting the tariff (or price)

No recommendations are made.

The 20 year guarantee period is commendable as it converges with the average life-time of many renewable electricity plants and long-term loans commonly cover this time period.

<http://onlinepact.org/p3b.html>

Financing the FIT law

No recommendations are made.

Combining with other support mechanisms

Not examined. No recommendations are made.

Supplementary features

Combines with targets

The Bill is designed to support renewable energy technologies not adequately assisted by the mandatory renewable energy target. Careful consideration should be given to how the Bill will combine with the mandatory renewable energy target to maximise the effectiveness of both measures.

Regular progress reports

5 Review of operation of Act

(1) The Minister must cause to be prepared an independent report on the operation of the amendments made by this Act...

(2) ...

(3) ...

(4) A report prepared under subsection (1) must include:

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- a) *Details of total renewable energy produced from each source listed in section 17 of the Renewable Energy (Electricity) Act 2000; and*
- b) *Total payments made under the feed-in-tariff rate scheme established by section 34C of the Renewable Energy (Electricity) Act 2000; and*
- c) *Total amounts of levies received under the Renewable Energy (Electricity) Feed-in-Tariff Levy Act 2008.*

There are a number of other areas that the report may encompass, including: growth rates and average production costs of the eligible technologies; progress towards the achievement of targets; economic, social and environmental benefits of the law (such as the amount of investment and export trade, the number of jobs created and the amount of carbon dioxide emissions avoided); additional costs for the consumer; ecological effects of the use of renewable energy sources on nature and landscapes; and whether in all the circumstances tariff adjustments are necessary.

7. We recommend that the inclusion of additional reporting areas be considered for the independent report on the operation of the amendments.

Meeting technical and safety standards

No recommendations are made.

Local content

Not examined. No recommendations are made.

Minimising administrative barriers

Not examined. However, there may be administrative barriers that may need to be addressed to ensure the greatest effectiveness of the feed-in-tariff.

Law not a policy

It is commendable that the FIT is being proposed as legislation, not as a policy. It is important to ensure that producers know for certain that they have rights to supply their energy to the grid. A FIT law would provide that certainty. This will place producers in a strong position if the grid operator is reluctant to connect, because the legal basis for the relationship between the producer and grid operator is founded in a law, not in a policy or in contract. Even if a contract is necessary to implement the law, the backing of the law will ensure that the need for a contract cannot obstruct obligations set out in the law. It also means that investment security is increased, and improves the changes of more renewable energy plants being built.

One potential area of concern is the reference under the proposed s 34D(15) that the rates are not legislative instruments:

34D Feed-in-tariff rates

(15) The feed-in-tariff rates set under subsection (1) or (2) and the statement made under subsection (14) by the Minister are not legislative instruments and section 42 (disallowance) of the Legislative Instruments Act 2003 does not apply to them.

There may be good reason for this reference; however it should be ensured that this will not reduce the reliance that renewable energy generators can place upon the rates.