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Secretary
Senate ECITA Reference Committee
Parliament House
Canberra ACT 2600

Via email: ecita.sen@aph.gov.au

Dear Secretary

Re: Inquiry into The Renewable Energy (Electricity) Amendment Bill 2002

Thank you for the opportunity to contribute to the above inquiry. Pacific Hydro is making this submission as the leading renewable energy company in Australia. We, therefore, feel qualified to comment on the efficiency and effectiveness of the Renewable Energy (Electricity) Act 2000 and to provide the Committee with some key points that we would wish to see addressed in the Amendment Bill. Our focus is on the highly contentious area of the introductory baseline and we expand upon this in the course of this submission.

We agree with Dr Kemp, Minister for the Environment & Heritage, when in the reading of the Bill for the second time he stated that the Renewable Energy (Electricity) Act 2000 was a world-leading piece of legislation, which a number of countries have identified as a model for replication within their own jurisdictions. Our experience of the intent and implementation of the Act has shown a marked contrast between what was intended and what has been delivered. In the following paragraphs we summarise our understanding of what was intended from the Act in 2000 and what the major flaws are in its regulation and implementation.

Intent of the Renewable Energy (Electricity) Act 2000

When the Renewable Energy (Electricity) Act 2000 was announced, the then Federal Environment Minister, Robert Hill, made a number of key statements and these were made in the Explanatory Memorandum accompanying the Act. I have listed below four of the statements that demonstrate clearly the intent of the Legislation:

- "Energy suppliers will be required to source an additional two per cent of their power from renewable sources by 2010."
- "This measure is part of a strategic approach to addressing the problem of climate change. It guarantees a market for new renewable energy which provides a boost to this developing industry."
- "The new regulations are expected to spark an unprecedented $2 billion boom in renewable energy projects."
- "The measure has the potential to reduce Australia's greenhouse gas emissions by more than 7 million tonnes per annum."

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These measures show that the intent of the Legislation was to kick-start a new industry in Australia with over $2 billion of investment in renewable energy projects. The emphasis was also on additional renewable energy sources with an accompanying substantial reduction in greenhouse gases. While this intent was unequivocal the interpretation of the regulations has lead to a flawed implementation that threatens the very spirit on which the legislation was founded.

Actual Implementation of the Act

As a member of the Australian Business Council for Sustainable Energy (BCSE), we are supportive of the submission that they have made to the Committee. We have unqualified agreement that the major flaw in the implementation of the Legislation relates to the way that baselines have been determined for existing large-scale hydro projects. The determination of the baselines has had the effect that the REC production capability of the existing old large-scale hydro projects is such that no new renewable projects are needed until at least 2008.

The fact that some new projects are in existence and are being built is not because the work undertaken by BCSE is incorrect, it is because the owners of the large-scale hydro projects are not seeking to claim their RECs and therefore flood the market with cheap REC capability, which would immediately stall all plans for genuine new renewable energy capacity. However, their existence is causing a damaging overhang in the REC market.

The capability of two or three large-scale hydro players to dominate the market in the aforementioned manner, also means that the basic tenets of creating a competitive market for RECs have been substantially undermined because of the market power they possess. To illustrate this point further, one of the large-scale hydro companies has the capability of absorbing 75% of the first three years of available RECs under the Legislation. This constitutes monopoly power and is an area that needs immediate rectification through this Bill Amendment process to ensure that it does not contravene sections 45 and 46 of the Trade Practices Act. All of the figures quoted above have been derived from the work undertaken by the Australian EcoGeneration Association prior to the formation of the BCSE and its assumptions and findings have been corroborated with the Office of the Renewable Energy Regulator.

Thus, in practice, we are now working with an Act that was conceptually leading edge but has been blunted to the point of ineffectiveness and, through the monopoly power conferred on two to three large-scale hydro participants, may be of concern to the ACCC.

What Needs to be Done

We are heartened by Dr Kemp's statement that the clarification of definitions, including those related to renewable energy sources, is particularly important from the standpoint of investors in renewable energy. We are also wholly supportive of the Minister's intention that the policy review of the Renewable Energy (Electricity) Act 2000 commence January 2003 and be conducted in a timely, open and transparent manner. Our recommendation on what needs to be done to the regulations does not constitute a policy change, but is of a clarification nature aimed at improving the efficiency and the effectiveness of the operation of the Renewable Energy Act, which is the prime focus of this Amendment Bill.

Pacific Hydro is, therefore, seeking clarity in what constitutes baseline generation. In this respect we believe that the definition used in the UK model of the MRET Legislation is appropriate. The UK model had a clear cut-off date, with a transition period to capture projects that were in the process of construction.

Consistent with that model, we advocate that the Bill needs to state the following eligibility to REC generation:

a) Only projects reaching practical completion and handover after the 1 January 1997 should be eligible for RECs, with the exception of those projects described in (b) below;

b) Any project that was in the process of construction during the period 1994-1997, which should capture all work-in-progress projects, should have a baseline determined that reflects its average capability up until January 1997. Therefore, any additional generation over and above that figure is 'new' and 'additional' and is clearly a gain to Australia in seeking to reduce its overall greenhouse gas emissions.

The above changes are simple and will lead to an increase in the efficiency and effectiveness of the administration of the Legislation. This change needs to be undertaken now because it is of a character that is entirely compatible with the aims of the Amendment Bill and is necessary to correct an unintended consequence of the legislation that is undermining its very foundation.

I should be pleased to attend a public hearing in Canberra on Friday 15 November, should the Committee wish to invite me, to clarify any aspect of the submission.

If you need any further information please contact either myself or Roy Adair on the telephone numbers above.

Yours sincerely

Jeff Harding
Managing Director