

Chapter 2

Issues

Support for the bill

2.1 There was general support for the majority of amendments to the Renewable Energy Bill, which can be attributed to the administrative – and fairly uncontentious – nature of the amendments. Submitters pointed to some of the important changes that can be expected from the amendments, including:

...the move to greater transparency of the Renewable Energy Certificate (REC) market and the ability of the Regulator to provide provisional accreditation.¹

.....

...increase the transparency of the MRET scheme and will simplify the administration of The Act.²

.....

...enabling the Regulator to provide provisional accreditation (without this replacing the need for the required accreditation process) for generation projects before they become operational, will strengthen stakeholder confidence in proposed renewable energy projects, and make project development somewhat more certain.³

2.2 The Office of the Renewable Energy Regulator also stated its support for the bill, commenting:

The Office welcomes those effectiveness and efficiency improvements identified by the MRET Review of September 2003 and adopted by the Commonwealth Government in its statement of 15 June 2004 ‘MRET: adding muscle, not fat’.⁴

Expanding the Mandatory Renewable Energy Target

2.3 The majority of evidence to the inquiry expressed strong views about the failure of this bill to propose amendments to the Mandatory Renewable Energy Target (MRET) scheme. The key changes proposed in submissions were:

- an extension to the 2010 target date for the scheme; and
- an increase to the 9500 GWh renewable energy base currently set.

1 Hydro Tasmania, *Submission 6*, p. [1].

2 Renewable Energy Generators Australia Ltd, *Submission 1*, p. 1.

3 Australian Wind Energy Association, *Submission 8*, p. 1.

4 Office of the Renewable Energy Regulator, *Submission 2*, p. 1.

2.4 Submitters referred to the importance of the MRET scheme in promoting investment in renewable energy technologies in Australia, and in responding to global warming.⁵ The Australian Wind Energy Association commented on the achievements of the MRET scheme to date:

Industry growth has also led to the establishment of manufacturing facilities to support wind farm installations. These facilities have included a nacelle factory in Tasmania, blade manufacturing in Victoria and tower manufacturing in Tasmania, Victoria and South Australia. The local manufacturing industry now employs several hundred people in regional centres.⁶

2.5 It was argued that the decision to not increase the MRET target is jeopardising the ongoing development of renewable energy sources in the marketplace:

For example, Roaring 40s' proposed Heemskirk Wind Farm in Tasmania is now under threat due to a lack of demand for the renewable energy certificates (RECs) associated with the project.⁷

2.6 Evidence submitted to the inquiry urged the federal government to adopt recommendations 8 and 9 of the Tambling Report, which propose an increase to, and expansion of, the MRET target.⁸ A submitter argued that the number of projects needed to meet the cumulative MRET target set for 2010 is already almost fully subscribed, and the industry is 'already seeing evidence of Australian companies moving offshore as the market declines in Australia', resulting in a loss of skills, employment opportunities and knowledge.⁹ This view was shared by the Australian Wind Energy Association.¹⁰

2.7 The Australian Business Council for Sustainable Energy painted a grimmer view of the current state of the market, commenting that the new investment in renewable energy projects 'has now effectively stalled'.¹¹

2.8 Bioenergy Australia commented on the limitations currently imposed by the MRET target of 2010:

The project life of a bioenergy plant would typically be in excess of twenty years and capital recovery is typically fifteen years or more. The longer the period for capital recovery, the less this cost affects the electricity selling

5 See for example, Hydro Tasmania, *Submission 6*, p. [1]; Renewable Energy Generators Australia Ltd, *Submission 1*, p. 1; Australian Business Council for Sustainable Energy, *Submission 7*, p. 1.

6 Australian Wind Energy Association, *Submission 8*, p. 1.

7 Roaring 40s, *Submission 3*, p. 2.

8 *Submission 3*, p. 2.

9 *Submission 1*, pp 2–3.

10 *Submission 8*, p. 2.

11 *Submission 7*, p. 1.

price. As the target only reaches 9,500 GWh/a in 2010, many proponents see this 'cliff' at 2020 as being a disincentive for a project with an economic life of 20 to 30 years.¹²

2.9 However, the findings of the Energy Market Review do not support the expansion of the MRET target:

The MRET is a more costly measure to reduce greenhouse gas emissions than it needs to be as it focuses exclusively on renewable energy sources rather than least cost greenhouse gas abatement, such as reducing energy consumption through improving energy efficiency.¹³

2.10 The report argued that the MRET scheme focuses on expanding the renewable energy industry to conserve non-renewable sources, which in reality is 'not an issue' for Australia given our abundant supply of coal and large natural gas resources, and may result in unnecessary cost escalations in the price of energy.¹⁴ This, it stated, detracts from the true target of reducing greenhouse gas emissions, and diverts 'investment away from more efficient carbon reducing options' and could lead to 'entrenchment in a particular fuel source, technology or production technique'.¹⁵

2.11 The Energy Market Review supported the introduction of a national economy wide emissions trading system to abate the same level of emissions as intended through a number of separate schemes currently in operation.¹⁶ Following announcement of agreement to implement the new emission trading system, these existing schemes, including the MRET, would cease to operate. The report commented that any form of a compensatory subsidy to support the renewable energy market following cessation of the scheme should be provided outside of the energy market, thus avoiding distortion of the energy market to support the growth of a particular section of the industry.¹⁷

12 Bioenergy Australia, *Submission 4*, pp. 3–4.

13 Energy Market Review, *Towards a Truly National and Efficient Energy Market*, Council of Australian Governments, 2002, p. 230.

14 Energy Market Review, *Towards a Truly National and Efficient Energy Market*, Council of Australian Governments, 2002, p. 230, p. 7.

15 Energy Market Review, *Towards a Truly National and Efficient Energy Market*, Council of Australian Governments, 2002, pp 230–231.

16 Emission reduction schemes are: the MRET; Generator Efficiency Standards; the Greenhouse Gas Abatement Program – Stationary Energy Projects; the NSW Electricity Retailer Greenhouse Benchmarks; and, the Queensland 13 per cent Gas Scheme. See Energy Market Review, *Towards a Truly National and Efficient Energy Market*, Council of Australian Governments, 2002, p. 233.

17 Energy Market Review, *Towards a Truly National and Efficient Energy Market*, Council of Australian Governments, 2002, p. 234.

Eligible renewable energy sources

2.12 The Renewable Energy (Electricity) Amendment Bill 2006 proposes to make changes to the list of eligible renewable energy sources, which includes removing those items from the definition described as 'redundant and/or not sources, but rather processes or technologies for transforming energy sources into electricity'.¹⁸ The revised list of renewable energy sources in section 17 of the Act is:

- (a) hydro;
- (b) wave;
- (c) tide;
- (d) ocean;
- (e) wind;
- (f) solar;
- (g) geothermal-aquifer;
- (h) hot dry rock;
- (i) energy crops;
- (j) wood waste;
- (k) agricultural waste;
- (l) waste from processing of agricultural products;
- (m) food waste;
- (n) food processing waste;
- (o) bagasse;
- (p) black liquor;
- (q) biomass-based components of municipal solid waste;
- (r) landfill gas;
- (s) sewage gas and biomass-based components of sewage;
- (t) any other energy source prescribed by the regulations.

2.13 Concern was raised that although the new section 17 effectively consolidates 'various solar energy and hydro energy sources into a simpler, more coherent list', it has not adequately addressed the diversity of biomass energy resources.¹⁹ Bioenergy Australia commented that biomass is captured in items (i) to (s) of the proposed amendment, but does not include, for example, 'high lipid content algae, capturing carbon dioxide from power station stacks'.²⁰

18 *Renewable Energy (Electricity) Amendment Bill 2006, Explanatory Memorandum*, p. 22.

19 Bioenergy Australia, *Submission 4*, p. 3.

20 *Submission 4*, p. 3.

2.14 The Australian Business Council for Sustainable Energy echoed this view:

By requiring amendments to the Act every time a new bioenergy technology is developed imposes a considerable degree of inflexibility...that will inhibit innovation and potentially increase the cost of the MRET scheme (and any scheme modelled on the Renewable Energy Act) as it artificially restricts the potential supply of renewable energy.²¹

2.15 It was noted that paragraph 17(t) allows for regulations to add to the list of eligible renewable energy sources, however, a reliance on modification to the Regulations can pose an avoidable administrative burden.

2.16 The committee notes that the Tambling Report considered this issue at some length, and did not favour consolidation of the definitions of biomass, but was supportive of reforms to section 17 of the act along the lines proposed in the current bill. The committee also notes that under section 140(da) of the Act, energy sources for renewable energy certificates are attached to those certificates. Any consolidation of the definitions in section 17 may reduce the information available in the renewable energy market.

Anti-gaming provisions

2.17 The new section 30D is intended to prevent collusive behaviour between power stations which may seek to create additional Renewable Energy Certificates (RECs) without an increase in the amount of energy generated from renewable sources. The Australian Business Council for Sustainable Energy expressed concern at this provision, arguing that:

Due to the unique processing and harvesting demands of the sugar industry it may in the future find itself inadvertently in breach of this clause of the Act.²²

2.18 However, the Explanatory Memorandum to the bill describes measures taken to manage such cases:

New section 30D also requires the Regulator to take into account information that demonstrates that specified indicators of gaming were not the result of a gaming arrangement, in deciding on whether to suspend the accreditation of a power station. This means that the Regulator must have regard to any operational or industry restructuring factors when considering suspending the accreditation of a power station.²³

21 Australian Business Council for Sustainable Energy, *Submission 7*, p. 4.

22 *Submission 7*, p. 2.

23 *Renewable Energy (Electricity) Amendment Bill 2006, Explanatory Memorandum*, p. 30.

2.19 The committee reiterates the observation in made in 2002, that:

There is no reason to consider that the legitimate operations of sugar mills would be classified as gaming by the Regulator, but it must also be recognised that gaming could occur in the sugar industry, by reason of their use of a readily transportable fuel source and multiple linked power stations. The Committee is not convinced of the necessity to limit or further define the powers envisaged by the bill.²⁴

2.20 It is the opinion of the committee that there is sufficient recourse to ensure that the legitimate operations of sugar industry are not inadvertently penalised by the anti-gaming provisions of the bill.

Powers of the Regulator

2.21 Amendments or 'guiding parameters' that limit the power of the Regulator have been proposed for inclusion in the bill.²⁵ The Renewable Energy Generators Australia Ltd (REGA) commented that these should legislate to:

... ensure the Regulator acts reasonably in making decisions; that those decisions are based on reliable evidence; that the reasons for the decision are provided to the affected party; and that the affected party has an avenue to request the regulator to reconsider the decision.²⁶

2.22 Hydro Tasmania extended this approach, suggesting the provisions should also include that the Regulator 'must notify the affected party within a specified period of time'.²⁷ They also recommended the inclusion of additional provisions which relate to specific sections of the bill:

the decision must be based upon expert opinion regarding what constitutes a power station's assets (section 12)²⁸

the time period within which the Regulator may initiate a change must be the same as that within which a generator may request a change, ie. 12 months, to provide generator capacity (section 20A)²⁹

2.23 Hydro Tasmania was of the view that, in relation to the new time limit imposed on generators creating RECs under section 19 of the Act, a time limit should also be applied to the Regulator to provide:

24 Senate Environment, Communications, Information Technology and the Arts Legislation Committee, *Provisions of the Renewable Energy (Electricity) Amendment Bill 2002*, December 2002, pp 17–18.

25 Hydro Tasmania, *Submission 6*, pp [5–7].

26 Renewable Energy Generators Australia Ltd, *Submission 1*, p. 2.

27 *Submission 1*, pp 5, 6, 7.

28 *Submission 1*, p. 5.

29 *Submission 1*, p. 6.

...all required information to generators by 15 November, including, but not limited to, confirmation of annual generation returns and notification of interconnected power stations.³⁰

2.24 The committee notes the concerns relating to powers of the Regulator. However, decisions by the regulator are subject to judicial review. It would be legally redundant to amend the act to require the regulator to 'act reasonably', and the committee is surprised at the criticism implicit in such suggestions, which do not seem to be matched by any evidence of concerns about the work of the regulator. The committee does not consider there to be sufficient justification to propose amendments to the relevant sections of the Act.

Conclusion

2.25 The bill seeks to streamline elements of the energy industry and promote market transparency. Whilst it was clear from evidence to the inquiry that the bill does not address a key concern of submitters – that is, changes to the MRET scheme – the amendments proposed will implement small, but important changes to the operation of the energy market in Australia.

Recommendation

2.26 The committee recommends that the bill be passed.

Senator Alan Eggleston
Chair

30 Hydro Tasmania, *Submission 6*, p. [4].

