INTERGEN

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3 June 2009

The Secretary
Senate Standing Committee on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600

By Email: economics.sen@aph.gov.au

Re: Inquiry into the Carbon Pollution Reduction Scheme Bill 2009 and related Bills

Thank you for the opportunity to make a submission in relation to the CPRS Bill and related Bills.

InterGen (Australia) is owned by InterGen N.V. ("InterGen") and the China Hua Neng Group ("CHG"), and is a leading developer and operator of electricity generation facilities worldwide. As a privately owned investor and operator of power generation assets, InterGen (Australia) provides one of the best examples of international investor response to regulatory risk associated with the Carbon Pollution Reduction Scheme (CPRS).

InterGen (Australia) supports the joint submission made by the ESAA, NGF and ERAA to this inquiry.

Although InterGen (Australia) welcomes two (2) changes proposed to the Scheme announced by the Government; namely a deferred start date till 1 July 2011 and a capped price of $10/tonne CO_2e for the first year, the fundamental omissions with the CPRS that we previously highlighted have not been addressed.

InterGen (Australia) encourages the Government to use the additional time made available by the deferred start date to get the design of the scheme right. We will only be in a position to support the CPRS if the following two key issues are addressed.

1. The key failing of the Carbon Pollution Reduction Scheme Bill 2009 for our sector is that the Electricity Sector Adjustment Scheme (ESAS) does not adequately address the issues of asset value loss and investor confidence. *The methodology proposed allocates compensation with no correlation to asset value loss or remaining asset life.* As proposed it fails to recognise the clear deterioration in value terms for coal generators and is skewed toward compensation for the older, most emissions intensive station's nearest to decommissioning. It implements a compensation regime that compensates the least efficient plant in the market for loss, while deteriorating the comparative advantage and investment incentives of the cleanest coal fired technologies.

   This has sent an adverse investment signal to the owners of the most efficient black coal plant such as ours.

The CPRS is the only carbon cap and trade scheme in the world we are aware of where owners of power generation plant are required to purchase permits for 100 percent of carbon emissions. Other schemes (e.g. EU ETS and proposed Canadian and US schemes) have extended phase-in periods or require permits to be acquired around a threshold level of emissions.

The draft legislation must be amended to ensure adequacy of electricity supply whilst transitioning from high emissions intensive plant to low emission intensive plant. This can be achieved by:

- providing adequate compensation in an equitable way that reflects the true loss of asset value of generation assets taking into account the remaining asset life of those assets; and,

- ensuring that those companies who have invested in the newest, cleanest power generation assets are not comparatively disadvantaged. This will achieve the governments objective of 'ameliorating the risk of adversely affecting the investment environment' as stated in the White Paper.

2. It is imperative that the design of the auction system allows deferred settlement for those industries, such as power generation, that will have a large genuine requirement to finance permits to cover their emissions.

   The cost of acquiring permits will become the single biggest cost for some businesses such as ours. It is imperative that auction design and settlement processes mitigate this cash imposition.

Attached is a copy of our previous submission on the CPRS Bill for your reference .

Yours sincerely

Brent Gunther
Managing Director
InterGen (Australia) Pty Ltd

20 March 2009

The Secretary
Senate Standing Committee on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600

By Email: economics.sen@aph.gov.au

Re: Inquiry into the exposure drafts of the legislation to implement the CPRS

Thank you for the opportunity to make a submission in relation to the exposure drafts of the legislation to implement a CPRS.

InterGen (Australia) is owned by InterGen N.V. ("InterGen") and the China Hua Neng Group ("CHG"), and is a leading developer and operator of electricity generation facilities worldwide. As a privately owned investor and operator of power generation assets, InterGen (Australia) provides one of the best examples of international investor response to regulatory risk associated with the Carbon Pollution Reduction Scheme (CPRS).

1. The fundamental problem with the Carbon Pollution Reduction Scheme Bill 2009

The power generation sector is the single largest contributor to greenhouse gases. It is also an essential service. It is therefore imperative that for any carbon regime to work the legislation must 'get it right' for this sector. This means that the legislation must:

- reduce emissions from this sector over time, but at the same time
- ensure the continuity of supply of baseload electricity to the economy, which includes continued investment in the sector

Unfortunately, Part 9 'Coal-fired electricity generation' of the Carbon Pollution Reduction Bill implements a compensation regime that is in direct contrast to these two key objectives.

Our company views this issue as the largest flaw with the draft legislation.

We have devoted our submission to commenting on two (2) key issues for our business.

2. Issue 1 - Part 9 of the Carbon Pollution Reduction Scheme Bill 2009

The Carbon Pollution Reduction Scheme Bill 2009 states 'This Act sets up a scheme to reduce pollution caused by emissions of carbon dioxide and other greenhouse gases' as its simplified objective. Part 9 – Coal-fired electricity generation, then states 'the object of this Part is to contribute to the maintenance of investor confidence in electricity generation. It does so by providing limited transitional assistance in respect of generation where………those assets are likely to suffer a significant decline in value as a result of the introduction of such a scheme.'

A scheme that implements a compensation regime that compensates the least efficient plant in the market for loss, while deteriorating the comparative advantage and investment incentives of the cleanest coal fired technologies does not achieve the objectives of the legislation. The Electricity Sector Adjustment Scheme as proposed fails to recognise the clear deterioration in value terms for all coal generators and is skewed toward compensation for the older, most emissions intensive station's nearest to decommissioning.

The methodology proposed allocates compensation with no correlation to asset value loss or remaining asset life. This has sent an extremely adverse investment signal to the owners of the most efficient black coal plant. Brown coal generators are anticipated to receive around 75% of the ACIL Tasman modelled asset value loss (compensation of $3.4 billion compared with modelled loss of $4.5 billion), whereas black coal stations are expected to only receive around 7% (compensation of $440 million compared with modelled loss of $5.9 billion)[1]. For our business we are expected to incur loss of asset value in the order of hundreds of millions of dollars, with little or no compensation expected to be received under the current Bill.

2.1. The amendment that must be made to Part 9

The legislation must be amended to ensure adequacy of electricity supply whilst transitioning from high emissions intensive plant to low emission intensive plant. This can be achieved by:

- providing compensation in an equitable way that reflects the true loss of asset value of generation assets taking into account the remaining asset life of those assets,
- ensuring that those companies who have invested in the newest, cleanest power generation assets are not comparatively disadvantaged. This will achieve the governments objective of 'ameliorating the risk of adversely affecting the investment environment' as stated in the White Paper.

3. Issue 2 - Part 4 of the Carbon Pollution Reduction Scheme Bill 2009

Section 103 of the Bill – 'Auctions of Australian Emission Units' deals with the 'Policies, procedures and rules for auctioning Australian emission units'. We welcome the Government's intention to release a discussion paper in the near future on aspects of permit auction design.

It is imperative that the design of the auction system allows deferred settlement for those industries, such as power generation, that will have a large genuine requirement to finance permits to cover their emissions. Without deferred settlement auctioning will:

- significantly increase costs due to impact on cash flow
- impose significant new equity or debt funding requirements in a time of global financial distress, the cost and conditions attached with such funding is unknown
- lead to significant competitor advantage to those facilities e.g. brown coal generation assets, that are issued with a substantial number of free permits compared to those assets that will be entitled to no or minimal free permits.

The cost of acquiring permits will become the single biggest cost for some businesses such as ours. It is imperative that auction design and settlement processes mitigate this cash imposition.

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[1] ACIL Tasman Briefing Note 6, 19 December 2008, Australia's Low Pollution Future – the CPRS white paper of December 2008.

4. About InterGen (Australia)

InterGen (Australia), as a privately owned investor and operator of power generation assets, provides one of the best examples of international investor response to regulatory risk associated with the Carbon Pollution Reduction Scheme (CPRS).

InterGen (Australia) is owned by InterGen N.V. (“InterGen”) and the China Hua Neng Group (“CHG”), and is a leading developer and operator of electricity generation facilities worldwide.

- InterGen currently owns 7,563 MW (5,708 net equity MW) in seven highly efficient natural gas-fired facilities, all of which utilize combined cycle generation technology, and three advanced technology, coal-fired facilities. CHG is China's leading power generation company and with over 70,000 MW of generation is the fourth largest generator in the world.
- Since the Company’s inception in 1995, InterGen has developed, commissioned and operated over 20 different electric generation plants totalling over 16,000 MW of generation capacity in 10 different countries. InterGen both develops and acquires projects as owner, operator, and manager, and targets opportunities in developed markets. InterGen owns and operates four power generation facilities in Europe and has experienced the successes and challenges associated with the European Union’s Emissions Trading Scheme.
- CHG has a diverse generation portfolio of gas, coal, nuclear, wind, hydro, and solar plants. Currently in partnership with CSIRO, CHG is also developing a carbon capture demonstration plant. CHG owns 60% of the Thermal Power Research Institute, the largest research body of its kind in China that amongst other projects is actively undertaking research into the advancement of power generation technology. CHG has completed or has under construction more than ten ultra-supercritical coal fired power stations in China.
- In Australia, InterGen has invested in some of the newest and most greenhouse efficient coal generation.
- InterGen (Australia) has a major interest in the Millmerran and Callide C black coal power projects, both of which utilise supercritical boiler technology. Accordingly it is differentiated from every other owner of coal fired generation in the NEM due to the young age of its facilities. At the time of InterGen’s investment decision, the Australian Government was committed to meeting its international commitments through voluntary measures, and the introduction of a national emissions trading scheme was not under active consideration.

Yours sincerely

Brent Gunther
Managing Director
InterGen (Australia) Pty Ltd