21-08-2024

Tim Kelly

To:

Assistant Secretary, National Inventory Systems and International Reporting Branch
Department of Climate Change, Energy, the Environment and Water
Cc: Director Emissions Reduction Division

Chair and Chief Executive Officer, Clean Energy Regulator
Cc Manager, Large-scale Renewables

Chief Executive Officer, Australian Competition and Consumer Commission
Cc Executive General Manager I Sustainability Taskforce

Chair and Members of the Senate Greenwashing Inquiry, Senate Standing Committees on Environment and Communications

To DCCEEW, CER, ACCC and Senate Greenwashing Inquiry Chair and members.

RE: Three areas of policy failure that contribute to systemic double counting, unfair pricing, free riding, market confusion and greenwashing

In this correspondence, I call upon DCCEEW, the CER and ACCC to collectively acknowledge and address the concerns relating to double counting of renewable electricity, unfair pricing, free riding, market confusion and greenwashing in the following three areas:

1. RECless Power Purchase Agreements
2. The 'behind the meter loophole for large scale renewables'
3. No clear and consistent legislated definition of renewable electricity use from the grid.

These issues are long standing and have continued as significant problems since the Renewable Energy (Electricity) Act was established in year 2000 and continued as the National Greenhouse and Energy Reporting Act was established on 2007. Indeed the problems were clearly identified during consultation on what would become the NGER Act and in nearly every consultation opportunity since. Names of departments and some key terms and certificates titles may have changed during this time but the problems have remained the same.

Renewable electricity via the grid is not legally defined and is being claimed in a variety of and market-based logics at the same time.

DCCEEW in an online meeting with me claimed that there is no [systemic] double counting, but this denial is not plausible. The location-based approach associated with

default billing information across Australia creates location-based beliefs and claims of renewable electricity consumption on a state-by-state basis. There is no information printed on bills to guide consumers in what percentage of renewable electricity they are allocated. Any differences between market-based accounting and location-based accounting are not translated across to renewable electricity use information for consumers and there is no guidance that prevents double counting across both logics.

GreenPower and voluntary surrender of LGCs create a second count of renewable electricity use. LGCs do not legally incorporate the attributes of renewable electricity use at zero emissions. The entire voluntary market is based on non-legislated conventions that are used inconsistently and in competition with location-based claims. This created the foundation for systemic free riding, unfair pricing and legalised greenwashing. Without legislated rules to define how to prevent double counting and greenwashing, double counting and greenwashing is normalised.

In this correspondence I focus on three specific concerns:

1. Renewable Power Purchase Agreements that do not include voluntary surrender of LGCs above mandatory requirements. These are referred to as RECless PPAs (LGC less PPAs).

These may involve buying electricity from a renewable generator, with shortfalls made up by electricity from the wholesale market. Providers have referred to these as '*Renewable PPA*s' or '*contracting for renewables'* and allowed customers to buy various percentages of LGCs. When no additional voluntary LGCs are purchased, there is no mandatory requirement for the customer entity to disclose that they are only buying standard grid electricity.

Whilst claims from customers buying GreenPower are verified as buying and surrendering GreenPower LGCs, the voluntary surrender of LGCs is a non-public process and cannot be checked using the REC registry.

Recently Rio Tinto announced that it had established Australia's largest Renewable Power Purchase Agreement to power its Gladstone operations and power its infrastructure. When asked if it was surrendering LGCs to cover 100%, the company evaded a direct answer and when pressed, advised that it had nothing further to add.

This response leads to extreme concern that Rio Tinto may be establishing a RECless PPA for its Gladstone operations. It may be purchasing sufficient LGCs to cover its mandadory requirements for its Gladstone operations or to cover other mandatory LGC liabilities for other operations but without disclosure that it is surrendering 100% mandatory + voluntary LGCs for its Gladstone operations there is a question over its claim.

If Rio Tinto are claiming renewables use with a RECless claim, this would be triple counting:

> Count 1, The renewables are allocated across all customers in Queensland
>
> Count 2, The renewables are claimed by those using market-based accounting

Count 3, The renewables are claimed by Rio Tinto.

There is no way for ordinary stakeholders could know if Rio Tinto are greenwashing or not because renewable electricity use via the grid is not legally defined, claims can be made without any accreditation and there is no corresponding transparency of whether LGCs are to be surrendered or not. Even during operations, the REC Registry is **not useable** to ascertain whether individual customers or sites are surrendering LGCs for the sites claimed.

There are many contracts and situations I have seen where RECless PPAs may be claimed as renewable PPAs. Indeed a South Australian Government Minister published a video regarding its purchasing of electricity as renewable electricity when it was not purchasing any voluntary LGCs, challenging others to follow its lead. It took many months to get this deceptive video removed.

2. The behind the meter loophole for large scale renewables

The *Behind the meter Loophole for large Scale Renewables* exploits the underdefined accounting frameworks to produce, consume, claim renewable electricity use onsite and sell the renewable LGCs offsite all at the same time.

The scale of the loophole for those *producing consuming and claiming* large-scale renewables behind the meter, whilst *selling the LGCs as a revenue stream* for those very same renewables that have already been consumed, is now likely larger than the entire voluntary renewables market several times over.

This problem was clearly identified during the consultation on what would become the NGER Framework during 2006 and virtually every year since, in all NGER consultations and many other consultations. These consultations include but are not limited to the RET, Climate Active, the CERT, CCA, NEG, Emissions Trading and many more plus direct correspondence with agencies DCCEEW and its predecessors, the CER and its predecessor and CCA. In 2006 concerns were expressed as:

> *For example, a user-generator of renewable electricity can claim use of renewable electricity from on site renewable sources at zero emissions towards the Greenhouse Challenge. At the same time, Renewable Energy Certificates from that system can be sold, taken up by liable electricity retailers or wholesalers, or Green Power customers. This creates a situation whereby 2 MWh of renewable electricity can be claimed for 1 MWh of renewables produced.*

and

> *At a slightly larger scale at treatment plants for example, on-site electricity from methane can be used, claimed as zero emissions under the AGO Greenhouse Challenge Plus, and then the RECs can be sold as well. So how big could this problem get?*

DCCEEW, and the CER have never acknowledged the problem or concern throughout all those dozens of consultation processes.

The problem is now likely to be massive and several times larger than the entire voluntary market but it is not possible to quantify because under the policies and guidance of DCCEEW and the CER, there is no way of tracking renewables which are claimed on site and then sold as well as LGCs.

The CER does not create the necessary data to quantify this problem via the REC Registry and has indicated that it has no intention of doing so.

DCCEEW denies that this is double counting, denies the existence of the problem and does not acknowledge the concerns about this loophole raised during consultations.

DCCEEW

DCCEEW have denied that there is any double counting before and after market-based accounting began to be acknowledged in recent years.

In a meeting with DCCEEW representatives in 2023, the Department claimed that this problem was not double counting because it was different accounting using the location-based method as opposed to the market-based method.

> ***However, when both methods are used to claim renewable electricity use, to claim that infrastructure is being powered by renewables use, to claim this as progress towards reducing emissions towards net zero, and to accept a Climate Leaders award when claiming onsite renewables use and selling the LGCs as a revenue stream, then this can only be described as double counting.***
>
> ***How can it be anything other than double counting?***

DCCEEW and the CER have supported both methods to be used as a choice in Climate Active and the Corporate Emissions Reduction Transparency (CERT) Rereporting scheme.

Whilst providing some limited an inadequate description of what the two accounting methods are, there has been no clear guidance on what the different methods should and should not be used for.

Both of these agencies have not established any clear legislative or non-legislative guidance on which method should be used to claim renewable electricity, to claim zero Scope 2 emissions or to claim progress to net zero. The end result is that both methods are used at the same time for all of the claims mentioned above and this has resulted in systemic double counting, free riding and yes, legal greenwashing.

SA Water provides the perfect example of exploiting this loophole, but it is not just them, The practice has been normalised in the water industry since before 2010. Now it is happening at a much larger scale in the mining and resources processing sector and on large buildings and remote locations. Without legislation and guidance to close the loophole, businesses don't actually know what they should do to prevent double counting and greenwashing.

Clean Energy Regulator

The Clean Energy regulator advised the Senate Greenwashing Inquiry Committee that:

> *Double counting of abatement claims in relation to carbon units and certificates. It is the CER's view that only the party cancelling the carbon units and certificates can make the net emissions reduction or*

> *use of renewable energy claim. This ensures that the abatement value of units and certificates is counted only once* (July 2023).

However, the CER did not inform the Committee that it also accepted location-based accounting as an alternative and free choice to make claims under Government schemes like Climate Active and the Corporate Emissions Reduction Transparency (CERT) reporting scheme, that the CER created.

The CER did not mention the loophole that large scale renewables could be produced, consumed and claimed on site with the LGCs sold to third parties as a revenue stream which results in systemic double counting.

ACCC

The ACCC has provided its **Making environmental claims: A guide for business (2023)** document that states:

> *If you are generating and using renewable energy and plan to use this to make claims relating to emissions, it is good practice to only make claims about the emissions reduction achieved if any tradeable certificates associated with the electricity generation are retired rather than sold.*

However, this 'should' statement has no legal foundation and is incomplete because it only describes good practice with regard to the emissions reduction, not the renewable electricity use component. It is also not possible to implement because location-based accounting is not prevented for making the claims or renewable electricity use at zero scope 2 emissions, or to power infrastructure, or as progress to net zero, or the claim climate leadership and accept awards.

Indeed some of those larger corporations producing, consuming, claiming and selling those same renewables as LGCs, claim that they have a legal requirement to use location-based reporting under the NGER Framework so therefore they are entitled to make the location-based claim whilst selling all the LGCs as a revenue stream

For example, this is the position of SA Water, which claims its on-site renewables as powering its infrastructure, as reducing its emissions, as progress towards net zero and in accepting Climate Leader awards whilst selling its LGCs as a revenue stream. SA Water justifies its actions on the current policy settings of Government (which allow for the loophole):

> *SA Water has been reporting to NGERS since the inception of the National Greenhouse and Energy Reporting Act 2007. SA Water's NGERS reporting is completed on the basis of location-based accounting whereby onsite renewable consumption is automatically zero emissions.*
>
> *The grid-imported electricity use for each state is multiplied by the relevant emissions factor for that state. SA Water reports under NGERS in accordance with the requirements of the Act. SA Water is aware that amendments are under consideration to NGERS reporting which will enable reporting of scope 2 emissions under the market-based method as part of a dual reporting regime. SA Water*

will continue to deliver its emissions reporting as per the NGER determination.

LGCs created by SA Water are sold or surrendered to achieve value for SA Water's investment.

Like Kerry Packer at the House of Representatives Select Committee pointed out in 1991, business will follow legislation and legislated rules, not should statements that may be "*contrary to the spirit*" of a framework or legislation that is itself so contradictory, inconsistent and ill-defined to enable systemic double counting.

Seeking acknowledgement and a solution not deflection

All three agencies have had multiple opportunities to understand, acknowledge and address the *Behind the meter loophole for large scale renewables* but to date responses are characterised by denial, deflection, silence on the identified issues or dismissiveness in polite yet hostile responses. None of this addresses the problem that the Behind the meter loophole extinguishes the integrity of voluntary markets at a scale that is unquantified but likely larger than the entire voluntary market, perhaps several times over.

In over 18 years, no department or agency has taken responsibility for acknowledging or addressing this problem so now I am asking for a collective response.

I am not asking each agency to address and fix the entire problem. I am asking for all three agencies to collectively acknowledge the problem of the ***Behind the meter Loophole for Large Scale Renewables***, collaborate for a lasting solution and each agency play its part in the big picture of policy development and reform, regulation, guidance, protection of consumers and market integrity. This is essential for the prevention of double counting, free riding, unfair pricing and to stop greenwashing.

3. Need for a clear and consistent legislated definition of renewable electricity use from the grid.

No legal definition of renewable electricity use via the grid (and in relation to LGC transfers) exists.

The scale of renewable electricity markets continues to grow at a staggering rate without legal foundations or a consistent definition of renewable electricity use across the broader economy. The entre voluntary market exists in confusion and is built on interpretations of non-legal conventions that lack clarity. Ordinary consumers are being exploited to pay for more than 100% LGCs when buying accredited renewable electricity whilst Corporations can exploit loopholes.

The ACCC does not have clear rules to hold businesses to account when they apply loopholes and greenwash, because the current accreditation frameworks (voluntary surrender of LGCs and by extension GreenPower), are built on double counting and cause greenwashing even when unintentional.

The CER cannot regulate something that is based on a common industry convention that is applied inconsistently. The CER can only regulate practices in accordance with legislation and regulation.

NOTE:

> ***This matter is not about electrons and any reference to not being able to track an electron is a distractive straw person argument.*** *The matter is about how metered data is used to allocate attributes and liabilities, just as we have the market framework for multiple retailers to exist using the same grid, to establish market contracts.*

No guidance for ordinary grid customers

No ordinary customer is informed of their default renewable electricity. It is just not defined by DCCEEW or shown on electricity bills. No ordinary customer is informed of their default market-based emissions using the National Residual Mix Factor.

Bills typically either show state location-based emissions for customers buying standard grid electricity whilst GreenPower customers are shown a market-based value. There is no clarification about which method is shown on customer bills. Without such clarification, the location-based accounting used on ordinary customer bills equates to a total count of renewable electricity, meaning that all market-based claims are a double count of the same renewable electricity and zero emissions.

The AER Better Bills Guidance does not provide any guidance relating to renewable electricity use of which methods have been used to show greenhouse gas emissions values on bills, or what the different accounting methods should be used for. None of the information can be trusted without legislation, economy wide standards and guidance that underpins the information shown.

DCCEEW has repeatedly deflected anything that mentions GreenPower to the state run National GreenPower Steering Committee (NGPSG) and the NGSP deflects straight back to DCCEEW as the department that makes the accounting rules. GreenPower have confirmed that they will follow accounting rules when they are prepared by DCCEEW and enacted by the Federal Government and will align with whatever DCCEEW's Climate Active does.

Because DCCEEW, the CER and ACCC have abrogated their responsibilities to inform government policy formulation and the Australian public about renewable electricity purchased from corporations and emissions, consumer rights and guarantees have been disregarded for decades.

Ordinary GreenPower customers are paying for 129.75% LGCs for renewable electricity that is not legally allocated to them and is double counted, whilst corporations and large system owners can profit from selling LGCs and still claim 100% on site renewables use.

> ***In what other market would situation continue where customers get charged 129.75% for a product that they never actually receive, and it is double counted?***
>
> ***Please tell me why this is OK?***

Other corporations can make uncheckable claims of Renewable Power Purchase Agreements that may not include voluntary surrender of LGCs (RECless) and may be a triple count of renewable electricity.

4. Conclusion

Each Department or agency continues to deny, fail to acknowledge or deflect concerns to another agency in a perpetual labyrinth without ever acknowledging the part they play in failing to reform the legislation and market rules or to properly call out a broken system.

The polite but hostile responses used against me by agencies to dismiss and deflect concerns over decades are not helping to fix the problems.

Examples:

CER – Manager Large-scale Renewables | Renewable Energy Target

> *The CER has been very clear that we cannot respond to policy issues, and that you need consult with DCCEEW, ACCC or the relevant jurisdictions on the nature of specific claims.*
> *The new questions you ask are matters of policy and jurisdictions, as such the CER will not be providing a response to your specific questions and the CER will not be responding to enquiries of the same nature or line of questioning.*

DCCEEW - Assistant Secretary, National Inventory Systems and International Reporting Branch

> *I understand the discussion was wide ranging and that you have a number of outstanding questions raised in your letter. In this response, I will provide some general feedback on particular items you raised with direct relevance to the NGER Scheme and the National Greenhouse Accounts Factors, which are areas for which I have responsibility.* ***(Two partial responses on a single sided A4 Response on just two questions whilst the vast majority of issues and questions ignored/deflected).***

DCCEEW - Deputy Secretary, Emissions Reduction

> *I understand officers from my Branch have responded to your correspondence by both email and phone calls. In their responses they advised you that transparent accounting of renewable electricity and the avoidance of double counting is a fundamental principle of both the NGER Scheme and the National Greenhouse Accounts* ***(*****They hadn't at that stage, the emails were not a response. There was a brief phone call on another matter. Double counting is still not addressed).**

I call upon DCCEEW, the CER and ACCC to collectively acknowledge and address the three key concerns outlined above being:

1. RECless Power Purchase Agreements
2. The Behind the meter loophole for large scale renewables
3. No clear and consistent legislated definition of renewable electricity use from the grid.

Whilst the Departments and agencies do not pass legislation, they do prepare policy and policy advice to ministers and Government regarding legislation, legislative instruments and reforms, including the annual NGER Determination, National Greenhouse Accounts (NGA) Factors publication and other policy and guidance documents used by regulators, market sellers, traders and end use customers.

The public as stakeholders, investors and customers deserve to be treated with respect and have legislated, clear and consistent guidance on electricity, renewable electricity consumption and related greenhouse gas emissions. Consumers are meant to have rights and guarantees for accurate information and disclosure about what they are buying and have paid for. Consumers should not need to continue to put up with double and triple counting, being overcharged for renewables or have others free riding and greenwashing on their efforts and financial contributions.

I share this correspondence with the Senate Greenwashing Inquiry members because I believe that these issues are relevant to their inquiry and are not being fully and openly communicated by the DCCEEW and other agencies.

Yours sincerely

Tim Kelly

100% GreenPower customer

Tim Kelly
Adelaide

04-06-2024

Letter to the Senate Greenwashing Inquiry

To the Senate Inquiry

URGENT

I have been reading the responses provided by Agencies recently and am concerned that the information that I provided previously has not led to better questioning to expose the real issues that have normalised Greenwashing in carbon emissions and renewable products and claims.

If the Senate Committee concludes its inquiry based on the disclosure to date, it will be another wasted opportunity to provide the clarity to markets and consumers that is desperately required.

I strongly urge the Committee to further seek a delay to the publication date on the basis that Agencies have not provided full and transparent disclosure about what they know and information which is crucial to understanding the real problems that cause Greenwashing has not been disclosed.

In this late correspondence, I alert the Committee to an overview of the incomplete responses by Agencies and advise that more information and significant detail can be provided to validate the overview.

I will alert the committee over the next few days to serious omissions by the Clean Energy Regulator, DCCEEW and the ACCC.

I begin by providing the following information in relation to the Clean Energy Regulator submission to the Committee.

CLEAN ENERGY REGULATOR

The Clean Energy Regulator should be recalled to provide information on the two accounting frameworks used for electricity (and this can also apply to ACCU carbon offsets)

The Clean Energy Regulator submission to the Senate Inquiry on Greenwashing stated that:

"Double counting of abatement claims in relation to carbon units and certificates. It is the CER's view that only the party cancelling the carbon units and certificates can make the net emissions reduction or use of renewable energy claim. This ensures that the abatement value of units and certificates is counted only once" (July 2023)".

This statement to the Senate Committee is not truthful. There are two accounting methods that apply for both certificate types and the CER is only referring to one of these accounting methods. Both methods continue to date 04-06-2024 and are used to claim renewable electricity use, zero scope to emissions and abatement relating to offset projects. The two methods are **Location-based Accounting** and **Market-based Accounting.**

The CER did not disclose that the Corporate Emissions Reduction Transparency Report scheme enables participants to make a choice as to which method they choose to make their claims. The CER stayed silent about Climate Active participants also having this choice, nor did they disclose that they have been very active in the Defence of Corporations making location-based claims whilst selling certificates to third parties which then also make claims.

The use of the two different methods without defined legislated guidance on which method should be used to make end user claims of renewables use, zero scope 2 emissions and or carbon abatement claims relating to ACCU Carbon offset projects causes systemic double counting.

After the CER submission to the Greenwashing inquiry was published, I wrote to the CER and asked: *Please clarify the CER position because it is not clear in CER publications and case studies.* I commented that: "*Obviously when the renewables are claimed on site through NGER reporting and in counting towards emission reduction goals, and the LGCs are sold for the renewables that have already been consumed on site, there is double counting".*

The Reply that I received was as follows:

Thu, 22 Feb 2024 at 10:42, Aicken, Paddy wrote:

OFFICIAL

Hi Tim,

Apologies for the extended delay. .....As we've indicated in previous correspondence over the past few years the CER recognises there are two accounting frameworks for Scope 2 emissions (location and market based). Certificates such as LGCs and ACCUs are only recognised in a market-based accounting framework.

The CER's submission to the Senate Inquiry is framed in terms of market-based accounting as this is the accounting system that most closely aligns with the CER's certificate schemes and the other elements of the submission. As stated in the submission, the CER's view is that in market-based accounting it is only the party cancelling certificates that can make claims. The CER does not believe there is double counting between claims made under location and market-based frameworks, but as evidenced through CERT, encourages parties to be clear on the framework used and context of claims they are making.

The problem is that the CER did not disclose or discuss the two different accounting methods in play. Nor did they disclose that businesses have a choice which accounting method they follow, or that there is no legislated or adequate guidance on which method should be used towards renewable electricity use claims, zero scope 2 emission claims or ACCU carbon offset claims. Location based and Market based Frameworks that are accepted for electricity accounting are not adequately defined in law. The Location based and Market based frameworks accepted for abatement projects relating to ACCUs are just not defined at all.

CER has actively defended Corporations not surrendering LGCs

In May 2021, I wrote to the Essential Services Commission regarding the South Australian Water Corporation for its application for a Solar Farm Electricity Generation Licence. Because SA water

has an outstanding legal obligation to operate the Adelaide Desalination Plant as a carbon neutral operation I challenged that SA Water was a fit and proper person to hold such a licence when their practice was to claim on site renewables generation and use, whilst selling the LGCs as a revenue stream.

My concern included:

For SA Water to meet its legal obligation for the Adelaide Desalination Plant to be carbon neutral, it should commit to the federal Governments Climate Active accreditation scheme (which replaced the NCOS Carbon Neutral Program in 2019). Under this scheme, SA Water would not be permitted to sell LGCs to third parties for electricity produced and consumed on site and claimed towards achieving carbon neutrality. SA Water would still be able to sell excess electricity and excess LGCs.

ESCOSA then referred the matter to the CER without informing me and the CER provided the following vigorous response defending SA Water's location-based accounting claim.

Response from the CER

On Thu, 24 Jun 2021 at 10:29, ...@cer.gov.au> wrote:

Dear Mr Kelly,

The Essential Services Commission of South Australia (ESCOSA) has contacted the Clean Energy Regulator in relation to the SA Water - Myponga Electricity Generation Licence requesting that we assist you with information.

ESCOSA has identified that you have raised concerns about policy matters regarding the design of the Large-scale Renewable Energy Targe scheme (LRET) administered for the Commonwealth by the Clean Energy Regulator. Specifically, you have identified that electricity users could be subsidising the electricity consumed by large users of electricity like SA Water through their participation in the LRET and that they possibly do not deliver services at least cost through their participation in the LRET.

The points you have raised were given fulsome consideration by the Australian Government when the RET scheme was developed in the late 1990s. The explanatory memorandum for the scheme is published on the Federal Register of Legislation. This explains that the then Prime Minister, Hon John Howard, announced a range of greenhouse response measures on 20 November 1997 in order for Australia to contribute towards globally abating greenhouse gases and to assist us in meeting our agreed Kyoto targets. The initiatives outlined in the Prime Minister's statement Safeguarding the Future: Australia's Response to Climate Change, included "a number of measures directed at reducing emissions from the electricity sector, one of Australia's major contributors to greenhouse gas emissions." Thus a renewables target was put in place for Australia "to position itself to cost-effectively reduce emissions in the long run by increased use of renewables."

In considering implementation mechanisms for this measure, the Government considered four options and identified the LRET as the most cost effective approach possible. This model being preferred because it provided certainty in meeting the (then) 2% (now 20%) renewables target, it provided a low-cost market-based mechanism, and was supported by industry. Under the scheme, each liable entity must surrender Large-scale Generation Certificate (LGCs) in proportion to the electricity they acquire

based on the Renewable Power Percentage, which makes the prospect for cross subsidy negligeable.

In addition to the above mentioned concerns, ESCOSA has communicated to us that you assert SA Water is exaggerating claims in respect of their greenhouse gas abatement. As you would know from our previous correspondence to you on 9 October 2020, the Clean Energy Regulator does not have a role in verifying the accuracy of claims by businesses around the use of renewable energy such as the one you refer to. If you believe that a particular entity is making inaccurate or misleading claims, then the Australian Competition and Consumer Commission is the appropriate Commonwealth body for you to turn to.

I trust this email provides you with sufficient additional information to that already provided to you at State Government level.

Kind regards

John …….

I did regard the response by the CER as dismissive of the concerns and that it was largely a straw person argument response that did not address the issue. I responded again but my no further response was forthcoming and my request to have misrepresentation withdrawn was ignored:

Dear John

ESCOSA chose to forward my submission (without my prior knowledge) on contextual matters that were not the core concern that I had raised with ESCOSA.

the core issue for ESCOSA is that is about whether this project, as part of SA Water's Zero Cost Electricity Future, will be partly funded by all other electricity customers if SA Water sell LGCs related to renewable electricity produced and consumed on site, whilst claiming the claiming the zero scope 2 emissions for this electricity under its NGER Reporting. It is not disputed that it can do this, and it will result in double counting, but the issue is that this is not in the long term interests of electricity consumers with respect to the price as SA Water are getting all the benefits (not all electricity consumers which would be the case if it was say a wind farm selling to the NEM).

The history of the RET is not relevant to the growth of producer-consumers exploiting double counting loopholes or whether the cost impact on all other consumers who receive zero benefit from this, is in their long-term interest.

I reject that I have claimed that SA Water have exaggerated claims. This is not true and I request that you and ESCOSA withdraw this statement. No exaggerated claims are possible as there is no legal method for making renewable electricity use claims. What I do say is that where SAW produce and consume renewable electricity on site and claim use of renewable electricity (direct or implied) whilst selling the LGCs to third parties rather than voluntarily surrendering them to you (CER) then there is double counting of both renewable electricity use and the associated zero emissions that can be claimed when LGCs are used in voluntary markets like GreenPower. All I suggested was that this approach is unethical.

As for the CER not having a role in verifying the accuracy of claims, the current work of the CER to develop the CERT using methods for renewable electricity and offsets that are in contradictory to legal NGER methods, I think that the CER is playing a large role in this space.

Yours sincerely

Tim Kelly

Following the CER defending SA Water's selling of its LGCs whilst making on site renewables claims for the renewables it has sold, SA Water has continued to embed its Zero Cost Energy Strategy to claim that its infrastructure is being powered by renewables, towards 100% renewable electricity use and net zero despite selling all the LGCs it can.

Here is an SA water response to clarify what it is doing from last week:

SA Water Reference: CN:002426883

Hello Tim,

I have followed up with our Environmental Performance and Compliance team who have provided me this information for you. I hope this assists you in your enquiry.

SA Water has been reporting to NGERS since the inception of the National Greenhouse and Energy Reporting Act 2007. SA Waters NGERS reporting is completed on the basis of location-based accounting whereby onsite renewable consumption is automatically zero emissions.

The grid-imported electricity use for each state is multiplied by the relevant emissions factor for that state. SA Water reports under NGERS in accordance with the requirements of the Act. SA Water is aware that amendments are under consideration to NGERS reporting which will enable reporting of scope 2 emissions under the market-based method as part of a dual reporting regime. SA Water will continue to deliver its emissions reporting as per the NGER determination.

LGCs created by SA Water are sold or surrendered to achieve value for SA Water's investment. The primary aim of the ZCEF program is to achieve a net zero cost outcome and a reduction in overall emissions is a secondary outcome.

Yours sincerely,

……..

Complex Correspondence Officer

SA Water

The CER Statement to the Senate Committee that: *It is the CER's view that only the party cancelling the carbon units and certificates can make the net emissions reduction or use of renewable energy claim"* is just not truthful.

In fact, I suggest that this pattern of large scale behind the meter claims is now common with the vast majority of the on-site large scale renewables projects where substantial on-site production and consumption is occurring. This includes the growing number of on-site projects for mining and resource processing, water treatment and pumping, large scale shopping centre renewables and the list goes on. These are facilitated by what is called the **Behind the meter double counting loophole** whereby LGCs can be sold whilst claiming renewables use. The emissions reductions and renewables use is double counted when claimed on site and by grid customers and voluntary renewable customers buying LGCs.

I also contend that the scale of the behind the meter loophole double counting loophole is now likely to be many times greater than the entire voluntary market for GreenPower and LGCs.

Notes:

- This matter is never about chasing electrons, it is about how accounting is used in relation to production, consumption, meter reading and contracts.
- This is not the only major loophole and area of major concern. There are others that have not been properly disclosed to the Committee.

RECOMMENDATION

The Senate Greenwashing Inquiry recall the Clean Energy Regulator to fully disclose information about the two different accounting methods being used and what if any steps are being taken to clarify which method is appropriate for end user claims of renewable electricity use, zero scope 2 emissions and abatement relating to ACCU carbon offsets.

I Will send through separate comments relating to information provided by DCCEEW and the ACCC which is equally as bad.

Sincerely

Tim Kelly