



13 April 2006

The Secretary
Senate ECITA Legislation Committee
Parliament House
CANBERRA ACT 2600
Email ecita.sen@aph.gov.au

Dear Dr Holland

Re: Inquiry into the provisions of the *Renewable Energy (Electricity) Amendment Bill 2006*

Thank you for the opportunity to provide input to the Senate Environment, Communications, Information Technology and the Arts Legislation Committee's Inquiry (the Inquiry) into the provisions of the *Renewable Energy (Electricity) Amendment Bill 2006* (the Amendment Bill). Please find enclosed Hydro Tasmania's submission to this Inquiry.

The Commonwealth Government's Mandatory Renewable Energy Target (MRET) has successfully promoted significant investment in additional renewable energy around Australia, including encouraging retention of, and enhancements to, existing renewable energy assets. In addition, it has provided the market required to establish local manufacturing facilities, thus fulfilling an important policy objective of the measure.

Hydro Tasmania generally supports the clauses of the Amendment Bill, including the move to generate greater transparency of the Renewable Energy Certificate Market (REC) market and the ability of the Regulator to provide provisional accreditation, with some changes recommended.

However, investment in new renewable energy is likely to stall by 2007 due to a restricted market and subsequent lack of commercial viability. This will also put pressure on the associated manufacturing industry that has developed to support the industry. While we support the Government's adoption of many of the Tambling Report's recommendations within the Amendment Bill, we are concerned that its key findings on target size and duration have not been included.

We welcome the opportunity to provide the Committee with further information about the contents of this submission or any other issues both at the public hearing for this Inquiry and in a supplementary submission if required.

Yours sincerely

Geoff Willis
Chief Executive Officer

**SENATE ECITA LEGISLATION COMMITTEE
INQUIRY INTO THE PROVISIONS OF THE
RENEWABLE ENERGY (ELECTRICITY) AMENDMENT BILL 2006**

Hydro Tasmania Submission

Introduction

Hydro Tasmania is the pre-eminent renewable energy generator in Australia, producing approximately 60% of Australia's renewable energy, and is internationally recognised for its expertise in sustainable hydro power production.

The Mandatory Renewable Energy Target (MRET) provides Hydro Tasmania with the economic incentive to upgrade and refurbish our existing aging hydro assets (on average 45 years old) in order to produce additional renewable energy above 1997 generation levels, as well as to commission new mini-hydro developments. Appendix 1 provides details of our activities to date.

In addition, Roaring 40s Pty Ltd, a joint venture company owned by Hydro Tasmania and China Light and Power (CLP) Asia, has undertaken a significant wind development programme as a result of the MRET.

This submission provides details of:

1. Our well documented concerns that the Government has not adopted the recommendations of the 2003 review of the MRET (the Tambling Review) regarding the size and duration of the target.
2. Changes we believe are required to the provisions of the *Renewable Energy (Electricity) Amendment Bill 2006* (the Amendment Bill), including:
 - a. Subsection 12(b)(2) - provision of guiding parameters with regard to the Regulator's powers to give provisional accreditation;
 - b. Subsection (13)(1) – no changes proposed, but we highlight our concerns regarding the definition of components of a power station;
 - c. Section 19 – provision requiring the Regulator to provide required information to generators by 15 November to facilitate creation of RECs by 31 December;
 - d. Section 20A – provision of guiding parameters with regard to the Regulator's powers to amend electricity generation returns; and
 - e. Subsection 30(F) – provision of guiding parameters with regard to the Regulator's powers to vary 1997 eligible renewable power baselines; and inclusion of actions or policies by state, territory or local government, as well as voluntary water release and water management agreements, as reasons for variation of 1997 eligible renewable power baselines.

1. The Government should, at a minimum, adopt Recommendations 8 and 9 of the Tambling Report

The Tambling Review concluded with 30 recommendations on the future operation of the MRET scheme. Hydro Tasmania endorses most of these recommendations, and commends the Government's decision to include many of these in the current Amendment Bill. However, we are concerned that two key recommendations regarding the size and duration of the target have been rejected.

As noted in our submission to the Tambling Review¹, the MRET target has been diluted over time due to higher than expected electricity demand growth. This means that the intended target of an additional 2% of renewable generation by 2010 is very unlikely to be reached. Furthermore, a smaller target means that investment in new renewable energy is likely to stall by 2007 due to a restricted market and consequent lack of commercial viability.

The Tambling Report recognised this, concluding that:

"The Review Panel....considers that there is a strong case for an increase in the target post-2010. Such an approach would help maintain the momentum created by the first decade of MRET without adversely affecting electricity users in the short term."

"....steady progress towards a target of 20,000 GWh in 2020 will:

- Maintain the momentum established by the 9500 GWh target and provide ongoing certainty and industry development.*
- Provide a minimum critical mass of investment needed to enable the industry to demonstrate its commercial viability, including the possible domestic manufacture of components for renewable energy projects.*
- Provide a domestic demand base to allow the development of further export markets.*
- Provide a more managed investment framework that will promote cost effective technology improvements and industry learning."*

Recommendations 8 and 9 of the Tambling Report propose increasing the target to 20,000 GWh by 2020, and extending the end date of the measure beyond 2020. Hydro Tasmania has consistently supported the adoption by Government of these recommendations as the minimum needed to sustain the renewable energy industry, as we forecast that 2007 was likely to become an investment cliff for developers.

Hydro Tasmania strongly urges the Government to reconsider its position regarding the size and duration of the target and submits that, at a minimum, the Amendment Bill be altered to include Recommendations 8 and 9 of the Tambling Review to ensure the fledgling renewable energy industry is sustained. The MRET has generally been viewed as a successful Commonwealth programme, and it would be unfortunate if the past

¹ <http://www.mretreview.gov.au/pubs/mret-submission104.pdf>

successes, including job creation, were partially lost. This view is also supported by many others in the renewable energy industry.

2. There are changes required to certain clauses of the Amendment Bill

Hydro Tasmania generally supports the provisions of the Amendment Bill, including the move to generate greater transparency of the Renewable Energy Certificate Market (REC) market and the ability of the Regulator to provide provisional accreditation. However, we submit that the following changes are required.

a. Subsection 12B(2) - Regulator may give provisional accreditation

Subsection 12(b)(2) of the Amendment Bill gives the Regulator the power to refuse an application for the provisional accreditation of a power station if not satisfied that some or all of the proposed components of the system would, if assembled, be a power station for the purposes of the Act.

While we welcome the ability of the Regulator to provide provisional accreditation to new power stations, we are concerned that subsection 12B(2) gives few bounds to the Regulator's power to refuse such an application.

Hydro Tasmania submits that the following guiding parameters should be included within section 12 of the legislation:

- the Regulator must act reasonably in making a decision;
- the decision must be based upon reliable evidence;
- the decision must be based upon expert opinion regarding what constitutes a power station's assets;
- the Regulator must notify the affected party within a specified period of making the decision; and
- the Regulator must provide reasons for his decision within a specified period after receiving a request for such reasons from the affected party; and
- the Regulator's decision must be reviewable under section 66 of the Act, so that the affected party can request the Regulator to reconsider the decision by adopting a merits review approach.

b. Subsection 13(1) – Application for accreditation

Hydro Tasmania supports the changes to subsection 13(1) of the legislation. However, as noted in our submission to the Tambling Review, we have concerns regarding the definition of the components of a power station, as defined in the *Renewable Energy (Electricity) Regulations 2000* (the Regulations). In particular, the current definition of AUX under Regulation 14 effectively precludes the ability of mini-hydro schemes built on existing water supply systems to earn RECs, despite the fact they are creating additional renewable energy that would otherwise not be captured.

While we acknowledge that the Terms of Reference of this Inquiry do not extend to the Regulations, we wish to draw to the Government's attention that we intend to pursue this matter when changes to the Regulations associated with the Amendment Bill are made.

c. Section 19 – When certificates may be created

Section 19 of the Amendment Bill requires generators to create certificates by 31 December of the year following generation. While Hydro Tasmania supports this approach, we are concerned that there may be occasions where it is not possible for this to occur due to delays in receiving information from the Regulator that is needed prior to creating RECs.

For example, prior to creating all RECs from a power station, Hydro Tasmania requires confirmation from the Regulator of the number of RECs eligible for creation from that power station. There have been occasions to date where Hydro Tasmania has not received confirmation from the Regulator until mid December in the year following generation. We are concerned that if the Regulator was for some reason unable to provide this information by 31 December, we would be ineligible to create the RECs from that year.

Hydro Tasmania submits that this clause of the Amendment Bill should include a requirement that the Regulator provides all required information to generators by 15 November, including, but not limited to, confirmation of annual generation returns and notification of interconnected power stations. This timing would ensure sufficient time to use this information to create RECs for each power station by 31 December.

d. Section 20A - Amending generation returns

Section 20A of the Amendment Bill gives the Regulator the power to amend an electricity generation return either at the request of the generator or on his/her own initiative. However, it gives no bound to this power. Furthermore, there is an inconsistency regarding the time period within which a change may be made, being 12 months if a generator requests the change but up to four years if the Regulator initiates the change.

Hydro Tasmania submits that the following guiding parameters should be included within the legislation:

- the Regulator must act reasonably in making the decision;
- the decision must be based upon reliable evidence;
- the Regulator must notify the affected party within a specified period of making the decision;
- the Regulator must provide reasons for his decision within a specified period of time after receiving a request from the affected party for such reasons;
- 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 certainty; and

- the Regulator's decision must be reviewable under section 66 of the Act, so that the affected party can request the Regulator to reconsider the decision by adopting a merits review approach.

e. Section 30F – Varying 1997 eligible renewable power baselines

Subsection 30F(1) of the Amendment Bill gives the Regulator the power to vary the 1997 eligible renewable power baseline in the circumstances prescribed by the Regulations. However, no bounds are placed on this power. This creates an uncertain environment for investment.

To ensure investor certainty, particularly with regard to long-term deals for RECs produced by existing generators, Hydro Tasmania submits that the following guiding parameters should be included within the legislation:

- the Regulator must act reasonably in making the decision;
- the decision must be based upon reliable evidence;
- the Regulator must notify the affected person within a specified period of making the decision;
- the Regulator must provide reasons for his decision within a specified period of receiving a request from the affected party for such reasons; and
- the Regulator's decision must be reviewable under section 66 of the Act, so that the affected party can request the Regulator to reconsider the decision by adopting a merits review approach.

Subsection 30F(2) states that the Regulations may allow the 1997 eligible renewable power baseline to be varied if an action or policy of the Commonwealth Government reduces the ability of a power station to generate electricity for a sustained period. However, as detailed in our submission to the MRET Review, such reduced generation capacity may occur under either of the following additional circumstances:

- voluntarily entering into water release agreements or changing a station's operating regime for environmental purposes, either of which action may result in reduced generation capacity. In fact, and by way of example, Hydro Tasmania voluntarily commenced water releases for environmental purposes into the Mersey River in 1999. This reduces the generating capacity of four run-of-the-river power stations on the Forth River, and costs of the order of \$700,000 per annum in lost revenue; and
- the State government may require environmental variations to Hydro Tasmania's Special Water Licence following the outcomes of the water management planning process that is currently under way in Tasmania pursuant to the *Water Management Act 1999*.

We submit that in either of these circumstances, a downward adjustment of the eligible renewable power baseline is necessary and appropriate in order to maintain the incentive to increase the new renewable energy production of the affected stations by enhancements or upgrades. We note that a failure to allow adjustments to the baseline

in such cases would act as a disincentive for Hydro Tasmania (and other hydro-electric generators) to voluntarily enter into water release or water management agreements for environmental purposes. Such a disincentive is inappropriate for a renewable energy measure that otherwise seeks to ensure compliance with environmental laws, and encourage and require more ecologically sustainable energy production.

Hydro Tasmania therefore submits that Section 30F(2) should be amended to include actions or policies by state, territory or local government as well as voluntary water release and water management agreements.

Appendix 1 - MRET is driving Hydro Tasmania's development activities

The Mandatory Renewable Energy Target (MRET) provides Hydro Tasmania with an additional incentive to upgrade and refurbish our existing aging hydro assets (on average 45 years old) in order to produce additional renewable energy above 1997 generation levels. We are also developing new mini-hydro projects as a result of the measure.

Upgrades and refurbishments

Hydro Tasmania has invested more than \$100 million on the upgrade and refurbishments of its hydro generation facilities in the period April 2001 to January 2006. The MRET has been an important consideration in these activities, including work at Poatina, Trevallyn and Tungatinah power stations.

A further \$100 to \$200 million is planned for upgrade and refurbishment works over the next five years. These are under review for implementation. They include refurbishment to maintain asset performance and output at 1997 levels, as well as upgrades to increase output and efficiency including mini-hydro developments.

Mini-hydro developments

Hydro Tasmania is developing mini hydro projects throughout Australia, leveraging off our significant hydro-electric experience.

Activities that have been undertaken as a result of the MRET include:

- Established Nieterana mini-hydro (8 GWh) in Tasmania.
- Opportunities are under consideration to capture renewable energy associated with the existing environmental flows. A mini-hydro associated with the Meander irrigation scheme is expected to have an additional annual output of 10.5 GWh.

Hydro Tasmania has also developed Terminal Storage Mini-hydro (1.9 MW) in South Australia, which is a mini-hydro built on an existing water supply. While this power station is eligible to be accredited under the MRET, the current definitions of the components of a power station precludes it from being able to create RECs.

Hydro Tasmania has identified up to 40 MW of mini-hydro projects that could be similarly developed on existing water supply schemes, irrigation dams and reservoirs throughout Australia. However these are unlikely to proceed unless a change to the Regulations is made to enable them to create RECs.

As detailed in section 2b of this submission, we intend to pursue this issue when changes to the Regulations associated with the Amendment Bill are made.