

Australian Government
Department of Climate Change, Energy, Environment, and Water

Submitted via email: GuaranteeofOrigin@dceew.gov.au.

24 October 2023

Renewable Electricity Guarantee of Origin Approach Paper

The Australian Energy Council ('AEC') welcomes the opportunity to make a submission to the Department of Climate Change, Energy, Environment, and Water's ('Department') *Renewable Electricity Guarantee of Origin Approach Paper*.

The AEC is the peak industry body for electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. AEC members generate and sell energy to over 10 million homes and businesses and are major investors in renewable energy generation. The AEC supports reaching net-zero by 2050 as well as a 55 per cent emissions reduction target by 2035 and is committed to delivering the energy transition for the benefit of consumers.

The AEC is pleased to see the Federal Government remains committed to establishing the Renewable Electricity Guarantee of Origin ('REGO') scheme. The REGO is an important part of Australia's energy transition that will create an enduring certification framework to empower the voluntary market to confidently purchase clean energy, with the inclusion of energy attributes giving customers choice about the type of certificate they want to purchase.

The REGO is fundamentally about transparency – it provides a trusted database to support claims of renewable electricity generation from businesses, governments, and other voluntary entities. Unlike the current Renewable Energy Target ('RET'), the REGO is not intended to be an additionality scheme and incentives to encourage new renewable investment should be pursued through other policy mechanisms.

The AEC is wary of proposals to restrict the eligibility of REGOs which only serve to divert the scheme away from its intended purpose of transparency. Specifically, the restrictions to below baseline generation certificates proposed in this Approach Paper are driven by unrelated policy concerns, namely safeguarding against a reduction in the Large-scale Generation Certificate ('LGC') price. This may have perverse consequences if it prevents Australian customers accessing lower priced certificates.

General comments on Approach Paper

Since consultation began on the REGO scheme, some stakeholders have voiced concern about the proposal to allow all types of renewable generation to claim REGO certificates. These stakeholders contend that below baseline generation creating REGO certificates from 2025 will dampen the LGC price, and this will reduce incentives for the investment needed in renewable generation to reach Australia's climate targets.

This Approach Paper has responded to these concerns: "the Department acknowledges concerns about the potential for the introduction of below baseline REGO certificates to impact signals for investment in new renewable capacity. It is important to minimise risks to investment incentives". Some restrictions on below baseline REGO certificates have subsequently been proposed in this Paper.

In the AEC's view, these proposals are inconsistent with the intent of the REGO scheme, which is to promote transparency and give customers high confidence that they are purchasing clean energy. The

Department has clearly articulated this intent in its early consultation processes: “the REGO mechanism is designed to provide transparency around renewable electricity claims in the voluntary market”.¹ This intent formed the basis of the initially proposed REGO design feature to have broad eligibility for renewable generation, with the Department advising against alternatives that “limit the available supply of REGOs, which could increase costs for consumers in the voluntary market”.²

To now place restrictions on eligibility seems to represent a trade-off between customer costs and renewable investment signals, suggesting an additionality aspect that has never been communicated. This is despite stakeholder concerns about a reduced LGC price being considered and eventually rejected by the Clean Energy Regulator in public [analysis](#):

*REGOs would be expected to trade at a material discount to the price of LGCs because they can't be used for RET liability or shortfall redemption. Looking at the potential voluntary demand with NGER reporters, it is likely these surplus REGO certificates would be quickly consumed in additional voluntary demand and there will be no impact on the LGC price.*³

Equally, the AEC has some reservations about whether protection of the LGC price is a suitable policy goal for the REGO. Although it is not stated explicitly in the Approach Paper, the *Guarantee of Origin – Renewable Guarantee of Origin Webinar* on 12 October did reference the intent to restrict below baseline generation to avoid reducing the LGC price.

This type of policy consideration has been found to be irrelevant previously. For example, the Administrative Appeals Tribunal [adjudicated](#) in 2012 that market effects were not permitted as a relevant consideration for the Clean Energy Regulator when determining whether to include new generation under the LGC certification scheme.⁴ Presumably, given the REGO has no additionality aspect, the case for relevance of market effects would be even weaker here.

Below Baseline Restrictions

Surrendering of Below Baseline REGO Certificates

These restrictions will mean legacy generation has little incentive to participate in the scheme – reducing the coverage of the REGO – with legacy generation likely to find other forms of accreditation, like International Renewable Energy Certificate schemes. This proposal might have the effect then of shifting access to low priced clean energy certificates from Australian customers to overseas customers.

It would also seem to reduce the ability of customers to access 24/7 renewable generation at the cheapest price – a stated goal of the REGO and the reason for time stamping. Absent restrictions, legacy hydro generation could supply some additional certificates to customers at times when other forms of renewable generation are ordinarily low.

Outside of restricting customer access, the proposed reliance on ministerial discretion to implement any restrictions invites regulatory uncertainty into the REGO. It has been seen elsewhere, most recently in the ACCU market, that ministerial intervention can distort market prices and reduce

¹ Department of Climate Change, Energy, Environment, and Water, ‘Renewable Electricity Certification: Consultation Summary’, p1.

² Department of Climate Change, Energy, Environment, and Water, ‘Renewable Electricity Certification: Position Paper’, December 2022, p13.

³ Clean Energy Regulator, ‘RET Administration Report’, July 2023, p30.

⁴ Australian Paper Pty and Renewable Energy Regulator [2012] AATA 67 (7 February 2012).

confidence in the product.⁵ The approach here seems to invite similar risks unless tight parameters are placed around how ministerial discretion can be used.

The Approach Paper seems to state that the Minister will have total discretion to place restrictions and will only be limited in their consideration when removing restrictions: “the legislation may also specify considerations the Minister responsible for the legislation must consider when seeking to amend the regulations to remove surrender restrictions”. This seems counterintuitive on a policymaking basis – the onus should be on the decision-maker to justify a decision, rather than justify reversing a decision. And it is equally counterintuitive to the intent of the REGO – restrictions limit transparency of clean energy, so the regulatory framework should ensure these powers are used sparingly.

The AEC is comfortable with the Minister having powers to implement restrictions, but this should be exercised subsequent to legislation passing through Parliament. The overarching REGO legislation should allow for broad eligibility with no restrictions. The Minister should then have the power to place restrictions through disallowable regulations, with this power subject to strict assessment criteria, including an assessment of how these restrictions align with the transparency objective of the REGO scheme.

If the Department does go ahead with this proposal, any ministerial powers and assessment criteria should be part of the Exposure Draft consultation.

Below Baseline Status

The Approach Paper does not provide reasons for why this proposal is being made. The Department says it is “in response to feedback” but does not provide any further detail about what this feedback is and how a differentiation status will address it. The only practical purpose of enforcing a different certification status is to reduce the appeal of below baseline certificates, so it is presumably a response to safeguard the LGC price. As the LGC price is a component of customer electricity bills, maintaining a high LGC price does place some pressures on customer affordability.

Bringing in differentiation also risks adding unnecessary complexity for those purchasing certificates. The 1997 threshold that separates “legacy” renewable generation from “new” renewable generation is arbitrary. It was enforced under the RET for the sensible reason to prevent legacy hydro consuming incentives designed to encourage investment in what was then expensive wind and solar generation. This circumstance is no longer relevant to today’s market where wind and solar are now the dominant forms of renewable generation.

To enforce the same threshold under a contemporary certification scheme will surely only confuse customers participating in the voluntary market. The arbitrary nature of the 1997 threshold means there is no intuitive way for customers to understand the difference between pre and post 1997 generation, and why it matters. It also gives odd market signals to customers given it will imply that some renewable generation, which will be over 25 years old when the REGO scheme commences, is “new”.

The inclusion of energy attributes – namely a power station’s fuel source, year, and location – gives prospective customers the choice to determine what certificates they want and what value to place on those certificates. If customers think there needs to be a distinction between certain types of renewable generation, they will have the information to do that. The REGO should facilitate this

⁵ Hon Angus Taylor MP, ‘Emissions Reduction Fund Contracts’, 4 March 2022, <https://www.minister.industry.gov.au/ministers/taylor/media-releases/emissions-reduction-fund-contracts>.

decision-making through certifying to the customer that energy being purchased is clean energy – it should not be making other value judgments that may result in perceived integrity differences.

If the Department does proceed with this proposal, it will need to consider how below baseline generators that produce electricity above their 1997 baseline will be able to produce REGO certificates without being prejudiced by a differentiation stamp.

Other Issues

Small-scale Generation

During the first consultation stage, the AEC stated it was open to certification of small-scale generation if it could be done in a way that was not too complex. Based on the tone of the Approach Paper, it seems significant complexity remains. It may be preferable to have a separate voluntary scheme for small-scale or, as the Paper suggests, delay inclusion of small-scale to a date closer to 2030 so there is time for a better policy solution to be reached.

The intent to eventually include small-scale generation does invite other policy questions about the REGO. Small-scale generation will significantly increase the ceiling of certificate supply (beyond that of below baseline) and this supply will substantially grow year-on-year.

If it is allowed in the REGO scheme post-2030, the Department will need to consider how it can be administered efficiently, and whether customers purchasing renewable energy certificates would have expected it to be created from behind the meter assets.

Time Stamping

While the reasons for time stamping are well understood, the AEC remains concerned about the administrative burden it will place on electricity generators. More information is required about how the Department and CER intend to “ensure that administration processes are streamlined and practical”, especially if it is mandated for 1 January 2025.

There also seem to be some inconsistencies in the proposed approach that might invite double standards and add complexity to the REGO scheme. Specifically, the Department’s *Webinar* spoke about allowing for the creation of residual certificates that will not have time stamps, while small or remote generation may receive exemptions.

The benefits of mandated time stamping arguably rely on a uniform approach – a mandatory model that still has time stamped and non-time stamped certificates might encourage greenwashing if non-time stamped certificates are purchased to fill the “time gaps” when time stamped certificates are either unavailable or too expensive due to scarcity of supply.

The supply of residual certificates between 2025 and 2030 may be low enough to be manageable. However, from 2030 when small-scale generation presumably starts producing REGO certificates, an excess of non-time stamped certificates will be counterintuitive to the reasons for mandating time stamps from large generation.

While there should be capacity for time stamping on REGO certificates from 1 January 2025, the AEC prefers it to be a voluntary attribute until administrative costs are confidently low (undertaking pilot tests may be one way to assess this). If there is customer demand for certain time of day certificates, then that will be an incentive for businesses to invest in providing that attribute and differentiate their certificates.

Emissions Intensity Factor

An emissions intensity factor would enable customers to better understand the value of renewable electricity in decarbonising the grid, which is ultimately the reason for wanting low carbon energy over other fuel types. To that extent, a workable emissions intensity factor should have greater value than time stamping and could be administratively simple to implement given AEMO's Carbon Dioxide Emissions Intensity Index already has this information.

Exemptions for off-grid or remote grid generation could be granted (similar to how they have been proposed for time stamping) if data availability is seen as a challenge.

Compatibility with Other Schemes

With a clear timeline for commencement now in place, the Department should consider how the REGO scheme will co-exist with, and ideally facilitate, other certification schemes, including current schemes like GreenPower and Climate Active, and future schemes like the NSW Renewable Fuels Scheme. These schemes are characterised by additionality and have stricter eligibility criteria to encourage targeted technology investments.

There may be an opportunity for the REGO to set national standards for state schemes to follow to reduce the administrative burden on participants. This could involve establishing the REGO as the principal national database for renewable generation certificate information, with state schemes then using this information to implement their stricter additionality requirements.

Any questions about this submission should be addressed to Rhys Thomas, by email Rhys.Thomas@energycouncil.com.au or mobile on 0450 150 794.

Yours sincerely,

Rhys Thomas

Policy Adviser

Australian Energy Council