

Contact: Tim Kelly

Ref: CR22/62967

Gawler



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27 September 2022

Australian Government
Clean Energy Regulator
GPO Box 621
Canberra ACT 2601

Email: CER-RETandEnergySection@cleanenergyregulator.gov.au.

To the Clean Energy Regulator

RE: CONSULTATION: 2023 Corporate Emissions Reduction Transparency report.

Thank you for the opportunity to provide feedback on this important area of policy.

The Town of Gawler has declared a climate emergency and is committed to taking action towards a safe climate that does not exceed 1.5 degrees of global warming, to avoid unacceptable impacts from climate change. We established a Climate Emergency Action Plan (CEAP) to guide future our activities. Our CEAP is focussing on three key areas:

1. Town of Gawler operations;
2. Enabling and influencing communities to respond to the climate emergency; and
3. Leadership and advocacy.

The renewable electricity transition is identified as the most significant way for Council and our community to contribute to reducing emissions.

For the Town of Gawler to lead communities, we are of the view that the accredited renewable electricity frameworks need to be reformed as a high priority. This is so consumers who wish to follow our lead and use renewable electricity but cannot generate enough on site renewables to cover their consumption, can purchase accredited renewables that are assured in law, clearly defined and fairly priced.

We remain deeply concerned about the lack of legal foundation to guide how and when renewable electricity use can be claimed. We seek clear guidance with regard to offsetting emissions and using carbon offsets. In the absence of these guidelines, there continues to be speculative and varying advice across government departments, government agencies, programs and service providers, causing risk and uncertainty and unfair costs for end users to make claims.

We advocate for reforms to be made to the National Greenhouse and Energy Reporting (NGER) Framework which the Clean Energy Regulator acknowledges as the legislated accounting framework for Australia's Climate Change laws and schemes. We strongly support the introduction of a market-based method for all customers market wide, rather than just for NGER Framework liable corporations and Climate Active carbon neutral participants, for the benefit of all renewable electricity and carbon offset customers.

Please find attached to this letter the Town of Gawler's submission on the 2023 Corporate Emissions Reduction Transparency report.

Once again, I thank you for the opportunity to provide feedback on this important area of policy.

If you have any further questions in regards to this submission, please contact Councils Environment and Sustainability Officer, Mr Tim Kelly on (08 8522 0143) or via email at Tim.Kelly@Gawler.sa.gov.au

Yours faithfully

A handwritten signature in black ink, appearing to read 'Henry Inat', written in a cursive style.

Mr Henry Inat
Chief Executive Officer

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Attached

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Canberra ACT 2601

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RE: 2023 Corporate Emissions Reduction Transparency report

Thank you for providing the opportunity to provide feedback on the Consultation Paper – 2023 Corporate Emissions Reduction Transparency (CERT) report.

The Town of Gawler Declared a Climate Emergency in January 2019 and has established its Climate Emergency Action Plan aimed at supporting and enabling our community to reduce emissions whilst Council leads and demonstrates action to achieve carbon neutral operations by 2030.

Council's operational emissions are approximately 2,000 tonnes CO₂-e per annum and represent approximately 1% of the broader community emissions profile for Gawler which has been estimated at approximately 200,000 tonnes CO₂-e per annum

ABOUT THIS SUBMISSION

With regard to the 2023 Corporate Emissions Reduction Transparency (CERT) report, the Town of Gawler is disappointed that key issues identified during the 2021 consultation have not been adequately acknowledged or addressed.

The CERT report does not yet provide “consistent and comparable data and information” as promoted in the Consultation Discussion Paper because the CERT report guidelines contradict the National Greenhouse and Energy Reporting (NGER) approach for scope 2 emissions and provide no legal framework for abatement claims relating to carbon offsets to work.

Council remain of the view that it is necessary to extend the scope of this proposal to the market and underpin the concept with legally established market based renewable electricity and carbon offset claim methods. These need to be fully integrated into the NGER Framework. Unfortunately, the current proposed approach results in voluntary efforts being double counted and allocated to third parties, which then results in those third parties doing less to make their claims. The net result is the that the scheme erodes and in some cases extinguishes the gains of voluntary action.

The submission is prepared not only in the interests of Council's operational needs, but also for our community, households and small to medium businesses that are seeking to buy assured renewable electricity and carbon offsets, at an affordable price.

Whilst the CERT report is prepared for NGER reporting corporations, all customers should have access to legal clarity and confidence that the Government assurance schemes are genuine and robust. The NGER Framework could support customers across the economy when making purchases of accredited renewable electricity and carbon offsets. However, at present, with what is proposed in the CERT, there are issues with the emissions reductions being claimed or claimable by CERT participants being also claimed by other customers, and there is still no legislated accounting framework that applies to all other non NGER Reporting customers.

This feedback is technical in nature and is regarded as important for establishing and maintaining the useability, transparency and integrity of Australia's clean energy and carbon offset markets.

RESPONSES TO THE DISCUSSION PAPER

Independent assurance of commitments and supporting information

The International Sustainability Standards Board (ISSB)

Whilst the ISSB appears committed to developing a comprehensive global baseline of sustainability-related disclosure standards, it is not clear how far this will guide carbon accounting in different jurisdictions. For the proposed ISSB standard on climate-related disclosures to have meaning, there needs to be domestic integration with climate change law - currently the *National Greenhouse and Energy Reporting Act* and its legislative instrument being the NGER Determination.

If Australia does not establish legislated market-based renewables and offsets accounting within its domestic markets, double counting will continue and statements and claims made in regard to the ISSB standards will not be credible.

Regrettably, Australia is already at this point with regard to voluntary accredited renewable electricity. In the case of electricity and scope 2 emissions reporting the Climate Active development of market-based claims has been made in the name of the Greenhouse Gas Protocol Scope 2 Guidance but has no legal foundation, does not meet 7 of the 8 Quality Criteria required and exists as an entirely double counted market.

Similarly, assurances made under ASAE 3000/ASAE 3410 or ISO 14064-3 and/or ISAE 3000/3410 are not adequate by themselves to verify any Australian claim because they too are not the foundational market based Greenhouse Gas (GHG) and renewables accounting framework. This missing piece can only be addressed by the Australian government through amendments to the NGER Determination.

Responses to Questions

- 1. Would recognition of the independent assurance of company commitments and/or progress statements increase transparency where progress data cannot otherwise be verified by the Clean Energy Regulator (e.g., international, scope 3 and emissions intensity commitments)?**

No. There must first be reforms to establish market-based accounting for scope 2 and scope 3 emissions accounting methods, including for carbon offsets to be established as negative scope 3 emissions, for any accounting framework to work across the Australian economy in a consistent and transparent manner.

- 2. Is limited assurance a sufficient minimum standard for the CERT report?**

Limited assurance might be possible where economy wide market-based accounting rules apply to scope 2 and scope 3 emissions. Similar to financial markets, there is one accounting framework that applies across the economy but assurances vary as appropriate to the size and complexity of sales of goods and services. For example

consumers are happy to buy groceries with nothing more than the price paid reflecting the listed price of the item. However for large financial investments, there is a higher level of process and complexity. Both examples are based around the same foundational debit and credit accounting rules for the Australian dollar.

- 3. Do Climate Active, RE100 and Science Based Targets provide sufficient verification and assurance to be included in the CERT report? Should other assurance arrangements and frameworks be considered?**

No. Climate Active, RE 100 and Science Based Targets lack the legal foundation to verify renewable electricity and carbon offset abatement claims.

- 4. Is independent assurance of commitments and/or progress appropriate for companies with complex reporting arrangements, such as equity-share or calendar year reporting?**

No. Assurance is not possible where the foundations of the market have not been established and claims may be double counted

Jurisdictional surrenders of Large Scale Generation Certificate (LGCs)

The jurisdictional surrender of LGCs is proposed to address the ACT situation is really an extension of the Renewable Power Percentage(RPP) concept. The Australian Capital Territory Government has established its approach to claim the RPP and purchase the balance in LGC or GreenPower related contracts. It is acknowledged that for ACTEW electricity consumers this currently serves as a collective mandatory RPP of 100% renewable electricity (It is actually 127% as consumers are still paying for the Small-scale Renewable Energy Scheme mandatory renewables, that have been incorrectly allocated to the grid without any adjustment for voluntary renewable customers).

- 1. Is the proposed approach for calculating a Jurisdictional Renewables Percentage appropriate for use in the CERT report’s market-based accounting?**

Conceptually there is merit in the accounting framework dealing with an additional jurisdictional RPP component. However, the equation as proposed would create a disintegrated method rather than enabling the specific jurisdictional component to be added in to a more holistic market-based method.

For market-based accounting to be applied consistently across the nation and economy for all users, claiming renewable electricity should be as per Table 1.

Table 1: Market Based Scope 2 accounting proposal for the NGER Determination

<p>7.2 Method —purchase and loss of electricity from main electricity grid in a State or Territory</p> <p>(1) Either of the following two methods must be used for estimating scope 2 emissions released from electricity purchased from the main electricity grid in a State or Territory and consumed from the operation of a facility during a year:</p> <p>Method 1 – Purchasing accredited renewable electricity</p> $Y = Q_{RPP} + Q_{Renewable}$ <p>where:</p> <p><i>Y</i> is the scope 2 emissions measured in CO₂-e tonnes.</p> <p><i>Q_{RPP}</i> is the total quantity of electricity purchased from the electricity grid and</p>
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consumed from the operation of the facility or activity measured in kilowatt hours and multiplied by the Renewable Power Percentage as published annually by the Clean Energy Regulator. Q_{RPP} has emissions of 0 tonnes CO₂-e.

$Q_{Renewable}$ is the total of electricity purchased from the electricity grid as accredited renewable electricity during the year and consumed from the operation of the facility or activity measured in kilowatt hours. $Q_{Renewable} = 0$ tonnes CO₂-e.

Notes:

Corporations seeking RET exemption for Trade Exposed Energy Intensive Industries are not entitled to claim Q_{RPP} for activities where an exemption is sought

$Q_{RPP} + Q_{Renewable}$ must equal the total quantity of electricity purchased from the electricity grid and consumed from the operation of the facility or activity measured in kilowatt hours

Method 2 – Purchasing standard grid electricity

$$Y = Q_{RPP} + Q_{GRID} \times \frac{RMF}{1000}$$

where:

Y is the scope 2 emissions measured in CO₂-e tonnes.

Q_{RPP} is the total quantity of electricity purchased from the electricity grid and consumed from the operation of the facility or activity measured in kilowatt hours and multiplied by the Renewable Power Percentage as published annually by the Clean Energy Regulator. Q_{RPP} has emissions of 0 tonnes CO₂-e.

Q_{GRID} is the total quantity of electricity purchased from the electricity grid and consumed from the operation of the facility or activity measured in kilowatt hours, minus Q_{RPP} .

RMF is the nationally determined scope 2 emission Residual Mix Factor, in kilograms of CO₂-e emissions per kilowatt hour, for Australia, as mentioned in Part 6 of Schedule 1.

Notes:

Corporations seeking RET exemption for Trade Exposed Energy Intensive Industries are not entitled to claim Q_{RPP} for activities where an exemption is sought

- (1A) The method in subsection (1) must, subject to subsection (2), also be used for estimating scope 2 emissions released from electricity consumed from the operation of a facility during a year if the operation of the facility or activity is constituted by an electricity transmission network or distribution network that is, or is part of, the main electricity grid in a State or Territory.
- (2) In applying that method for the purposes of subsection (1A), Q is the quantity of electricity losses for that network during the year.
- (3) For Q , if the electricity purchased (or lost) is measured in gigajoules, the quantity of kilowatt hours must be calculated by dividing the amount of gigajoules by 0.0036.

- (4) The *main electricity grid*, for a State or Territory, means:
- (a) for Western Australia—the Southwest Interconnected System; and
 - (b) for each other State or Territory—the electricity grid that provides electricity to the largest percentage of the State’s or Territory’s population.
 - (c) Under Market based accounting for Australia the *RMF* is a Nationally determined factor.

Notes:

For those businesses and entities that require location based Emissions Factors for dual reporting under the GHG Protocol Scope 2 Guidance or for other purposes, the National Greenhouse Accounts (NGA) Factors includes state and national location based factors. However, these factors are to be used for comparison purposes only and shall not be used as the basis for reputational, product or service based claims in Australia.

There are no other methods for this section.

However, to deal with the ACT jurisdictional situation, the approach above could be amended to the following (shown marked up with underlined and red text):

Method 1 – Purchasing accredited renewable electricity

$$Y = Q_{RPP} + Q_{\text{voluntary Renewable}}$$

where:

Y is the scope 2 emissions measured in CO₂-e tonnes.

Q_{RPP} is the total quantity of electricity purchased from the electricity grid and consumed from the operation of the facility or activity measured in kilowatt hours and multiplied by the Renewable Power Percentage as published annually for specific jurisdictions by the Clean Energy Regulator. Q_{RPP} has emissions of 0 tonnes CO₂-e.

$Q_{Renewable}$ is the total of electricity purchased from the electricity grid as accredited renewable electricity during the year and consumed from the operation of the facility or activity measured in kilowatt hours. $Q_{Renewable} = 0$ tonnes CO₂-e.

Notes:

Entities must ensure that they are using the appropriate Q_{RPP} value as this may be the national value or an increased value such as in the ACT jurisdiction or any other jurisdiction where a higher mandatory value applies.

Corporations seeking RET exemption for Trade Exposed Energy Intensive Industries are not entitled to claim Q_{RPP} for activities where an exemption is sought

$Q_{RPP} + Q_{\text{Voluntary Renewable}}$ must equal the total quantity of electricity purchased from the electricity grid and consumed from the operation of the facility or activity measured in kilowatt hours

It is noted that in the ACT, Method 2 of market-based accounting would not apply.

Residual Mix Factor (RMF)

CURRENT SITUATION

The NGER Framework requires corporations reporting electricity emissions to use the following physical accounting method as per the NGER Determination and NGER Technical Guidelines 2017-18 pg. 529

$$EFG\ scope2'_i = \frac{\text{Combustion emissions from electricity consumed from the grid in state } i (CE_C'_i)}{\text{Electricity sent out consumed from the grid in state } i (ESO_C'_i)}$$

And,

There is no other method for this section

Whilst this publication is no longer current, there has been no subsequent publication or public variation made by the Department to this method. The recent Emissions and Energy Reporting System User Guide (July 2022), appears to take the place of the NGER Technical guidelines but does not include how the Government prepares emission factors and does not provide any change from the 2017 publication.

Market-based accounting for scope 2 emissions is not yet covered by a legislated accounting framework such as the NGER Determination.

As such, there is no legal justification, authority or ethical case to double count behind the meter small scale renewables (such as household solar systems) that are already claimed (as private property), to then reallocate to NGER corporations as “claimable”.

It is understood that the Department of Climate Change, Energy, the Environment and Water (DCCEEW) has already been allocating all small-scale renewables to the grid via the Clean Energy Regulator (CER) data on small tradable certificates, but that this reallocation was arguably made in error. This should not continue.

Re Proposed Approach by the CER (shown below)

To calculate the ‘Claimable Renewables Percentage’, the following formula is proposed:

$$\text{Claimable Renewables Percentage} = \left(\frac{\text{MWh LGCs created for large scale solar, wind, hydro and biofuels} + \text{MWh of small scale solar generation}}{\text{MWh national electricity generation}} \right) * 100$$

The proposed approach is part of a broader equation in the context of market-based accounting that has not been properly described or disclosed in the 2023 CERT Consultation paper. The Residual Mix Factor is a concept described by the *GHG Protocol Scope 2 Guidance* to enable market-based renewable electricity accounting to underpin voluntary markets and prevent double counting, prevent free riding and support fair pricing.

The *GHG Protocol Scope 2 Guidance* refers to the Residual Mix Factor in the following ways:

- *Market-based method goes beyond just green power programs and recognizes a category of contractual instruments that should be used when calculating a market-based scope 2 result. These instruments may not be for green power or even renewable energy. They include:*
 - *Energy attribute certificates (GOs, RECs)*
 - *Direct contracts such as power purchase agreements (PPAs), where other instruments or energy attribute certificates do not exist*

- *Supplier-specific emission rates*
- *Residual mix (e.g., the emissions rate left after the three other contractual information items are removed from the system)*

Guidance provides global examples of each contractual instrument type provided.

- *The emissions from all untracked and unclaimed energy comprise a residual mix emission factor. Consumers who do not make specified purchases or who do not have access to supplier data should use the residual mix emission factor to calculate their market-based total.*
- **Residual mix** *(subnational or national) that uses energy production data and factors out voluntary purchases*
- **6.11.4 Residual mix** *To prevent double counting of GHG emission rate claims tracked through contractual instruments, the market-based method requires an emission factor that characterizes the emission rate of untracked or unclaimed energy. This emission factor creates a complete data set under the market-based method, and represents the regional emissions data that consumers should use if they operate in a market with choice for consumers, differentiated products, and supplier specific data, but did not purchase certificates or a specified product, do not have a contract with a specified source, or do not have supplier-specific information*

The proposed approach of the CER would not address existing systemic double counting but would lock in the continued double counting of small scale voluntary renewable effort so that NGER corporations can claim more and do less from a free ride. Whilst it is supported and recognised that the mandatory RPP has been removed from the RMF in order for this to be claimed as the first part of an electricity purchase, the Australian national RMF still has the following issues:

- Small scale behind the meter produced and consumed renewables are already claimed by the system owners. Despite this they have been inappropriately incorporated to dilute the NGER & NGA location-based factors and Climate Active RMF.
- The CERT reporting would lock in double counting of small scale renewables that have already been claimed.
- Voluntary renewables that have been tracked by the CER and claimed by customers in voluntary markets are yet to be removed from the residual mix.
- The RMF is not used by all grid electricity consumers that are not purchasing renewables. Indeed, the NGER Determination prevents NGER corporations from using anything other than a state location based grid factor. This means that the CERT report simply becomes a non-legal double counted contradiction to the NGER Framework whenever a renewable electricity end user claim is made.

Currently under the existing location-based accounting of the legislated NGER Determination and non-legislated National Greenhouse Accounts (NGA) Factors, NGER corporations are being allocated 60% of the small scale renewables effort that is already claimed by small system owners.

For market-based accounting of electricity and renewable electricity to work in Australia with integrity and fairness, the following approach to determine the RMF is described in a proposal to amend the NGER Determination.

Table 2: Proposal to amend the NGER Determination to incorporate market based accounting – Residual Mix Factor

7.4 Calculation of the Australian national Residual Mix Factor (RMF)

The Residual Mix Factor for Australia is calculated by the Clean Energy Regulator on an annual using the following method:

$$RMF = \frac{\text{Total GHG emissions from electricity sent out to the grid}}{(\text{Total electricity sent out and consumed from the grid} - RPP-VRE)}$$

where:

RPP is the mandatory large Scale Renewable Power Percentage as published by the Clean Energy Regulator on an annual basis

VRE is the national total of Voluntary Renewable Electricity consumed in a year as indicated by GreenPower and voluntary LGC surrender, published on an annual basis by the Clean Energy Regulator.

Notes:

There shall be no dilution of the RMF from electricity produced and consumed behind the meter by small scale renewable electricity systems (<100 kW nominal capacity) as these renewables are claimed by system owners. A net export proportion may be allocated towards the RMF where this is calculated by the Clean Energy Regulator.

There shall be no dilution of the RMF from electricity produced and consumed behind the meter by large scale renewable electricity systems (>100 kW nominal capacity) as these renewables are claimed by system owners under the NGER Act.

The approach described in Table 2 would contribute to the market-based reforms of the NGER Determination to eliminate the systemic double counting of renewable electricity, including to prevent the double counting of small scale renewable electricity systems.

The CER is reminded that LGCs actually have no legal attributes and without legal reform, these are not sufficient to underpin voluntary markets. The *Renewable Energy (Electricity) Act 2000* describes how LGCs are created under Section 18, and the form and content of LGCs under Section 25 It is important to note that these sections do not include any suggestion that the key attributes of “renewables use” or “zero scope 2 emissions” are incorporated into the LGCs for trading and end use claims. This could form part of reforms to establish market-based accounting but this reform has not yet been undertaken.

Questions

1. Is the proposed RMF methodology appropriate for the CERT report’s scope 2 market-based accounting?

Response

No. The double counting of behind the meter small scale renewables to be made claimable by NGER corporations is inconsistent with the concept of market-based accounting as it further locks in double counting.

The proposal has no legal foundation and would most likely be unacceptable to the millions of small scale system owners across Australia. In order to pursue such an approach, the Clean Energy Regulator should first contact every small scale system

owner that has installed a system in the 15 years prior to 2023-24, and advise them that the greenhouse reductions from the forward projected generation from their systems (deemed), is to be formerly double counted and reallocate to the grid so that NGER corporations can claim approximately 60% of the benefits as a free ride under the CERT report, and the rest allocated across all other consumers.

From a Town of Gawler perspective, Council has invested several hundred thousand dollars to install small scale renewable electricity across its sites so that renewable electricity use and zero emissions can be claimed towards its operations. Council would not support its behind the meter voluntary efforts being structurally claimed by NGER corporations leading them to do less when seeking to achieve 100% renewables for themselves. This would extinguish the achievement of the voluntary action of Council.

Similarly, more than 30% of households in the Town of Gawler have also invested in on site renewable electricity primarily for their own use. These households and other small scale system owners will likely feel the same way as Council and those with systems installed in the 15 years prior to 2023-24 should be contacted seeking their views.

The concept appears that it may be vulnerable to a legal challenge.

Considering the bigger picture, there is a need for a more holistic approach in carbon accounting proposals. The CER and DCCEEW should consider the requirements to develop and propose a nationally consistent and integrated market-based carbon accounting framework that applies to all market participants whether they are reporting as a mandatory requirement (for some or all of their activities) or participating as providers of products and services, or as end use customers.

In preparing a market-based framework, the GHG Protocol Scope 2 Guidance should be referred to for scope 2 accounting and in particular, the eight quality criteria referred to below in Table 7.1 should be a checklist for market based electricity accounting in Australia.

Table 7.1 Scope 2 Quality Criteria

Further explanation on select Scope 2 Quality Criteria can be found in Section 7.5.

All contractual instruments used in the market-based method for scope 2 accounting shall:

1. Convey the direct GHG emission rate attribute associated with the unit of electricity produced.
2. Be the only instruments that carry the GHG emission rate attribute claim associated with that quantity of electricity generation.
3. Be tracked and redeemed, retired, or canceled by or on behalf of the reporting entity.
4. Be issued and redeemed as close as possible to the period of energy consumption to which the instrument is applied.
5. Be sourced from the same market in which the reporting entity's electricity-consuming operations are located and to which the instrument is applied.

In addition, utility-specific emission factors shall:

6. Be calculated based on delivered electricity, incorporating certificates sourced and retired on behalf of its customers. Electricity from renewable facilities for which the attributes have been sold off (via contracts or certificates) shall be characterized as having the GHG attributes of the residual mix in the utility or supplier-specific emission factor.

In addition, companies purchasing electricity directly from generators or consuming on-site generation shall:

7. Ensure all contractual instruments conveying emissions claims be transferred to the reporting entity only. No other instruments that convey this claim to another end user shall be issued for the contracted electricity. The electricity from the facility shall not carry the GHG emission rate claim for use by a utility, for example, for the purpose of delivery and use claims.

Finally, to use any contractual instrument in the market-based method requires that:

8. An adjusted, residual mix characterizing the GHG intensity of unclaimed or publicly shared electricity shall be made available for consumer scope 2 calculations, or its absence shall be disclosed by the reporting entity.

CONCLUSION

The solutions proposed in this submission recognise that location-based accounting will always apply to scope 1 emissions (by definition), and that market based greenhouse gas accounting is already being widely used in scope 2 and scope 3 emissions markets.

However, the use of market-based accounting for scope 2 and scope 3 emissions is not only unsupported by legislation, but it also contradicts the existing NGER accounting framework which uses a different logic for scope 2 emissions accounting and does not yet guide scope 3 accounting including the use of carbon offsets. As a consequence, there is systemic double counting across voluntary renewable electricity and carbon offset markets which erodes the integrity and effectiveness of voluntary action.

This submission strongly urges the Clean Energy Regulator to collaborate with the Department of Climate Change, Energy, Environment and Water to establish a formalised economy wide approach for carbon markets to demonstrate legitimacy, integrity, consistency, fairness and to underpin consumer confidence.