INDEPENDENT COMPETITION AND REGULATORY COMMISSION

Legislative Assembly for the Australian Capital Territory
Standing Committee on Climate Change, Environment and Water

Inquiry into
ACT Government Greenhouse Gas Reduction Targets

Submission

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Introduction

The Independent Competition and Regulatory Commission (the Commission) is a statutory body set up to regulate prices, access to infrastructure services and other matters in relation to regulated industries and to investigate competitive neutrality complaints and government-regulated activities. The Commission also has responsibility for licensing utility services and ensuring compliance with licence conditions.

The Commission's objectives are defined in two principal Acts:

- *Independent Competition and Regulatory Commission Act 1997*
- *Utilities Act 2000.*

Under the *Independent Competition and Regulatory Commission Act 1997,* the Commission is responsible to the Attorney General for administrative matters such as the management and reporting of its human, physical and financial resources. It is also subject to the accountability mechanisms of the Legislative Assembly.

For the purposes of the *Utilities Act 2000,* the Commission is responsible to the Minister for the Environment, Climate Change and Water.

In addition to these functions, the Commission is the regulator of the Greenhouse Gas Abatement Scheme (GGAS) under the *Electricity (Greenhouse Gas Emissions) Act 2004*. This role requires the Commission to establish emission benchmarks for scheme participants each year and to monitor and report on compliance with the benchmarks.

As the licensing authority for public utility services in the ACT, the Commission is responsible for the oversight of licence conditions set under the licences issued to utilities. Most recently, the Commission has varied all electricity supply licences granted under the *Utilities Act 2000* to give effect to the ACT GreenPower Scheme and also to take account of requirements imposed under the electricity feed-in tariff scheme.

Under the GreenPower scheme, electricity retailers are required to offer to each potential new or re-connecting customer GreenPower product as a first option. Consumers have the option of accepting this offer or contracting to take an alternative source of power.

The new licence conditions also include requirements imposed under the *Electricity Feed-in (Renewable Energy Premium) Act 2008* (the Electricity Feed-in Act) and the Electricity Feed-in Code (an industry code determined under the Utilities Act). This requires electricity suppliers to connect households who wish to avail themselves of a PV-based feed-in electricity supply option at prices determined by the Minister for the Environment, Climate Change and Water. Under the *Electricity Feed-in Act*, the Commission is also required to provide advice to the Minister in the setting of the premium rate that is to be paid for electricity acquired from household based PV electricity generating units.

In general, the Commission is not subject to the direction or control of the Minister or any other referring authority in relation to any investigation, price direction, report, access agreement or arbitration, except where provided by the *Independent Competition and Regulatory Commission Act 1997* or another law of the Territory.

However, the Commission is required by the *Independent Competition and Regulatory Commission Act 1997* to consider a wide range of issues in determining its views. Importantly, section 20 of the Act sets out a number of matters which the Commission must have regard to when making a price direction. While many of the matters are financial and economic in nature, there is a strong emphasis on consumer protection, and on social and environmental impacts. Matters about which the Commission must have regard include:

- the protection of consumers from abuses of monopoly power in relation to both prices and standards of service
- standards of quality, reliability and safety of services
- the principles of ecologically sustainable development, and
- social impacts of decisions.

Both the *Independent Competition and Regulatory Commission Act 1997* and the *Utilities Act 2000*, require the Commission to consider such issues in its assessment of the public interest.

In making this submission to the Inquiry into ACT Greenhouse Gas Reduction Targets (the Inquiry), the Commission wishes to focus on three main issues, namely:

- the relationship between the ACT's legislated target and policy, and measures agreed to and implemented at a national level
- the social equity and economic issues, costs and opportunities in achieving any target set by the government, and
- the appropriate monitoring, reporting and review processes to accompany any target set by the government.

The Commission believes that these issues, in particular, are matters that have direct relevance to the legislation under which the Commission is required to function, and therefore it is appropriate that the Commission should express a view on these matters. This does not mean that the Commission does not have a concern about other matters included in the Inquiry's terms of reference. In particular, the Commission notes the inclusion in these terms of reference issues such as the efficacy of the existing programs within the current ACT Climate Change Strategy, the ACT's future energy supplies, and the climate change impacts on the sustainability of existing ecological communities to name a few. However, the Commission believes that its comments on the three main issues listed above will embrace matters that also fall under other items in the Inquiry's terms of reference.

The Commission has not sought to provide a view on the appropriate target for gas reduction. The ACT Government in its submission to the Inquiry has already set a visionary goal of zero net greenhouse gas (GHG) emissions for the ACT. It is the responsibility of the Commission to recognise this visionary goal in its consideration of pricing and competition matters that come before it. However, there are many aspects of what are the appropriate means by which this visionary goal can be achieved and how the process is managed and regulated where the Commission feels that it is appropriate that it provide an input to the Inquiry.

This submission therefore addresses each of the three main topic listed above and then draws a number of conclusions and recommendations for consideration by the Inquiry.

The ACT and National Target and Policy Measures

The ACT Government, and its GHG emission targets and programs operate within a federal system under which the Commonwealth Government is constituted to make laws for the nation as a whole, but state and territory governments are empowered to make laws that impact upon their own particular jurisdictions. Without needing to argue the strengths or weaknesses of this federal/state/territory system of government in Australia, it has long been recognised that there are costs to individual jurisdictions and the nation as a whole from differences in policies and laws in various parts of the country. The 'non-standard rail gauge' type issue is well known in Australia, and is acknowledged as imposing a cost on the nation which can be resolved by more standard approaches to issues that are of relevance and importance to the nation as a whole.

At the same time, and as reflected in the ACT Government's submission to the Inquiry, there is a degree of frustration felt at individual jurisdiction level about the delays often encountered in reaching agreement on national policies and programs. This frustration often results in individual jurisdictions adopting their own solutions to problems which ideally should be resolved at a national level with consistency across all parts of the nation.

This problem is particularly pronounced in the area of energy policy. Despite attempts through the Council of Australian Governments (CoAG) and the Ministerial Council on Energy (MCE), there is still a wide range of jurisdictional laws, policies and programs which are not nationally consistent. For example, the form of the GGAS program in the ACT and NSW is different in structure and operation to the various environmental gas reduction policies adopted in Victoria and South Australia. Similarly, the feed-in tariff program adopted in the ACT, based on payment on a gross electricity generated *versus* the net schemes operated in other states, and the limits as to generating capacity of household PV generators are areas of difference between the various jurisdictions despite attempts by the MCE to establish a standard set of principles that would address these types of issues.[1]

The cost to the nation of having inconsistent climate change programs and policies has been highlighted by the recently released report, *Strategic Review of Australian Government Climate Change Programs*[2] prepared for the Federal Minister of Finance and Deregulation by Roger Wilkins (the Wilkins Report). The terms of reference for the Wilkins Report noted:

> The Australian Government's climate change policy to introduce a national emissions trading scheme as the principal emissions reduction measure represents a fundamental shift in the way greenhouse gas emissions are managed.
>
> In this context, the Australian Government has agreed to review all its existing climate change programs to:
>
> - ensure they are complementary to the emissions trading scheme;

[1] CoAG has adopted National Principles for Feed-in Tariff Schemes (29 November 2008), but while highlighting the need for these schemes to be transitional and to be consistent with the Australian Energy Market Agreement, avoided the issue of endorsing 'gross' versus 'net' schemes. Consequentially, the ACT's unique gross scheme is proclaimed by the renewables industry as the most generous in Australia *albeit* at a greater cost to ACT consumers.

[2] Commonwealth of Australia, Department of Finance and Deregulation, 31 July 2008,

- phase out less efficient abatement programs and initiatives (programs) that will compromise the abatement incentives arising from the carbon price signal delivered by emissions trading; and
- rationalise duplicative and overlapping programs.[3]

In addressing this issue, the Wilkins Report established a set of principles that should be used by Australian Government in its deliberations about what complementary policies to a carbon trading scheme it should adopt. Importantly, the Wilkins report recommended that government '*should only retain or adopt policies to reduce carbon emissions if it can be demonstrated that they address some inefficiency in the way the emissions trading scheme is working.'*[4]

Taking this argument further, the Wilkins Report noted:

> Currently, there are in excess of 200 relevant programs around Australia in the States and Territories. Many have the potential to interfere with an emissions trading scheme. The States and Territories, over a decade, filled the policy vacuum left by the Commonwealth Government.[5]

In recognition of this emerging 'non-standard rail gauges' problem and in anticipation of a national carbon pollution reduction policy, CoAG in its November 2008 Communiqué announced an agreed set of climate change policy complementarity principles. In summary, these are:

1. The measures are targeted at a market failure that is not expected to be adequately addressed by the Carbon Pollution Reduction Scheme (CPRS) or that impinges on its effectiveness in driving emissions reductions
    a. Complementary measures should adhere to the principles of efficiency, effectiveness, equity and administrative simplicity and be kept under review
2. Complementary measures should be tightly targeted to the market failure identified as the reason for the measure being introduced
3. Complementary measures may also be targeted to manage the impact of the CPRS on particular sectors of the economy (for example to address equity or regional development concerns)
4. Complementary measures should generally be implemented by the level of government that is best able to deliver the measure.[6]

Notwithstanding the delay in the Australian Government finalising the form and operation of its proposed CPRS and the potential that this might be further delayed by difficulties in having the relevant legislation passed by the Australian Parliament, the principles that have been agreed by CoAG and that reflect those applied in the Wilkins Report to highlight conflict between the range of existing and potential carbon pollution reduction schemes deserves careful consideration by the Inquiry.

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[3] Ibid, p198

[4] Ibid p1

[5] Ibid p2

[6] CoAG Principles for Jurisdictions to Review and Streamline their Existing Climate Change Mitigation Measures, 29 October 2008 Communiqué

The ACT Government's submission expresses some concern with the proposed Australian Government's CPRS and states a view that the states and territories should be able to take direct action to reduce emission levels through mitigation programs established by each jurisdiction.[7] This is a reflection of a growing frustration with the process at a national level to implement policies and programs which address environmental concerns. But, as acknowledged by the ACT Government, there are risks with taking an approach that is out of step with the policies and programs that are operating in other states and that will eventually be implemented nationally. The ACT Government submission concludes:

> This risk will need to be considered in setting a legislated ACT target and in implementing measures to reduce GHG emissions that could impose a cost on business.[8]

From the perspective of the Commission and in the context of its statutory obligations and requirements, the Commission is concerned to ensure that the objectives of ecologically sustainable development and the social impacts of its decisions are carefully considered and addressed in policy measures that will ultimately flow through to energy prices. Any policy program designed to internalise the cost of carbon emissions and other environmental impacts will ultimately impact on the price final users pay for energy and other public utility services such as water and waste water services. The Commission therefore has some concern that in introducing targets and policy measures that are inconsistent across state and territory borders, users in the ACT may be required to pay prices which incorporate inefficient (in the sense that they are not complementary with the national policy or programs operating in other states but simply add additional costs in the ACT), ineffective (in the sense that they potentially are counter to national policies and potentially negate the intention of these policies) and/or duplicative policy programs.

Utility services, and in particular electricity supply, in one part of the nation versus another, are generally considered to be readily interchangeable commodities and services.[9] Thus, the impact of price differences between one jurisdiction and another can have a particularly adverse effect upon consumers who may be required to pay higher prices in one location to that applying in another without any additional functionality or service reliability. Household consumers and particularly those households that fall into lower socio economic groups are usually least able to afford the additional cost.

On the other hand, it is generally recognised that, to the extent that business will locate its activities on the basis of the costs to operate in a particular location, cost differences between jurisdictions are more likely to encourage the movement of business investment out of a more higher cost location, especially if a lower cost jurisdiction is located only a matter of a few kilometres away. Effectively it is more readily possible to move capital than it is for households to sell up and move location simply because it is cheaper to buy electricity or gas in one location rather than another. Furthermore, with new residential development occurring as close to the ACT as Queanbeyan with its wider urban development aspirations, in the longer term there will be a strong incentive for new residents to be attracted to the newer and

[7] ACT Government. Submission to the Legislative Assembly Inquiry on ACT Greenhouse Gas Reduction Targets, May 2009, p33

[8] Ibid p33

[9] Issues such as reliability and access to large volumes of electricity do result in some differences in supply in a regional sense, but for the purposes of the ACT and the surrounding areas in NSW, there is little difference in the availability of supply from one side of the border to the other.

emerging urban housing estates around Queanbeyan if it is perceived that the ACT is a high cost location to build and live.

It is this potential for businesses and capital to move more quickly than households that has a double adverse impact on those households remaining in the ACT. Not only are remaining household consumers responsible for the funding of any additional costs that has arisen from a potentially unique and possibly nationally inconsistent emissions program introduced in the ACT, but to the extent that capital has fled the ACT, household consumers also have to pick up the departing businesses' contribution to the fixed infrastructure costs for wires and pipes etc that would normally be shared across a larger business sector demand.

These impacts for the ACT may initially appear to be relatively minor. For example, there has been some debate in the Assembly about the cost to ACT consumers of the feed-in tariff scheme, and to date there is no final agreement on that matter.[10] Notwithstanding the Assembly debate, the fact remains that the Australian Energy Regulator (AER) has allowed a $48.2 million additional cost in ActewAGL's electricity distribution charges over the next five years which will be recovered from all electricity consumers in the ACT to fund the subsidy provided to households who can afford to participate in the scheme.[11]

In its Draft Decision on non contestable retail prices for 2009-10,[12] the Commission has highlighted the fact that the cost of the feed-in tariff program will progressively increase for consumers in the ACT as the expected take up rate for this program grows. The implication for ACT users is that not only is this cost increasing, but potentially it could be inconsistent with the costs incurred under a national carbon reduction scheme in the sense that ACT consumers will still be paying a price premium for feed-in tariff participants while at the same time paying higher prices reflecting the internalising of the carbon pollution costs in the price of electricity under a national carbon pricing scheme. As the ACT feed-in tariff guarantees a premium payment rate for 20 years, consumers could be paying for this program long after it has effectively been supplanted by other nationally consistent carbon reduction schemes.[13]

Thus, the Commission considers that the current inquiry should have regard to the CoAG November 2008 climate change complementarity principles as outlines above. These provide the fundamental starting point for any consideration of greenhouse reduction policies and programs that could be introduced in the ACT. They provide a clear framework in which proposals and options put to the Inquiry can be considered and tested. The temptation to simply adopt a broad smorgasbord of measures or even target certain areas without considering the wider consequences in the national context is fraught with danger and can potentially have adverse consequences that consumers in the ACT, particularly those that are not able to avoid the cost, will be required to pay for many years after the Inquiry has been

[10] ACT Hansard, Legislative Assembly, 26 February 2009, Debate on the Electricity Feed-in (Renewable Energy Premium) Amendment Bill 2009.

[11] This recovery will be on a per kWh consumption basis. The AER has also allowed for an unders and overs adjustment to these rates such that if the cost is lower, then the cost to users reduces, but if it is higher then the additional cost flows through to users' electricity charges.

[12] ICRC, Draft Decision, Retail Prices for Non-contestable Electricity Customers, 2009-2010, Report 2 of 2009, April 2009. p60.

[13] The feed-in tariff legislation provides for a review of the scheme every five years, but having entered into the scheme, it is unlikely that feed-in tariff recipients will accept without compensation a cessation of their premium payment after five years or any time other than the full 20 years that the legislation currently guarantees.

forgotten and national schemes which address the fundamental carbon cost issues have been devised and are operating throughout Australia.

Social Equity and Economic Costs

The Inquiry's terms of reference require consideration of a wide range of social and economic issues as part of its report to the Assembly. It is appropriate that these matters receive particular attention as any recommendation made by the Inquiry or policy action taken based on its recommendations needs to recognise the broader impacts of the suite of carbon reduction policies and programs that may be considered for use in the ACT.

In its submission to the Inquiry, the ACT Government has noted:

> Consideration needs to be given to the risk that the adoption of ACT targets more stringent than those under the CPRS or other jurisdictions may cause businesses which are not geographically bound within the ACT to migrate across the border... . The ACT Government will consider the best way to manage this risk in the light of the recommendations by the Legislative Assembly Inquiry.'[14]

However, as discussed above, it is not just businesses that may be attracted to move out of the ACT by inconsistency in environmental protection policies. Households may also be encouraged to move, although their ability to relocate is not as easy as for businesses. In fact, as previously noted, it may be that households will ultimately bear the greater part of the burden of the additional carbon reduction related costs as business will more readily be able to relocate to other jurisdictions while still being able to service and supply customers in the ACT.

The issues that are raised here are complex, but need to be carefully considered. While the Government submission implies that the Government will consider ways of managing this risk in the light of recommendations from the Inquiry, the Terms of Reference for the Inquiry clearly require the Inquiry to consider the social equity and economic costs and opportunities in achieving any target proposed by the Inquiry.

The task of undertaking a cost/benefit analysis of each of the options and recommendations that the Inquiry might make could prove to be yond the time frame available to the Inquiry. However, the Commission considers that it is important that the Inquiry at least establish a clear set of principles and guidelines that should be followed by the Government in testing recommendations. Furthermore, there would be some advantages for policy decision making if the Inquiry at least made some preliminary comments on the likely economic and social impacts of any recommendations that it makes.

It is only in this way that the potential for conflict between options recommended for the ACT and existing or planned programs at a national level can be identified and the wider community informed of the implications of the recommendations that the Government is considering. Full transparency and debate on these matters will ultimately better serve the community both in terms of support for the measures introduced and the willingness to abide by these measures, rather than a process which effectively hides the costs the community will bear while potentially trumpeting the claimed benefits.

[14] ACT Government Submission, op cit p33

To assist in this process, the Commission has set out below a suggested outline of the systematic cost/benefit/effectiveness evaluations that need to be undertaken to meet this overall requirement for an assessment of the social equity and economic issues, costs and opportunities in programs that might be recommended to meet the agree GHG emission target. This suggested set of principles, if adopted, would ensure that a consistent approach is adopted across the ACT public sector in its consideration of how to respond to the visionary goal of zero net emissions enunciated by the Minister in his submission to the Inquiry.

Already the Commission has noted that there is a degree of confusion across ACT government portfolios as to how to address aspirations to minimise the carbon footprint of the ACT. As a result, discussions on suggested programs often fail to consider the overall net benefit and cost of the proposal, but rather focus on the proposal within a silo mentality which has the potential to create just the type of inefficiencies, ineffectiveness and inequitable cost outcomes that the Commission has sought to highlight in this submission.

Figure 1. Suggested Cost/Benefit Evaluation Methodology

1. Determine efficiency of proposed GHG reduction program
    a. Estimate GHG savings
    b. Estimate cost to achieve GHG savings
    c. Determine efficiency factor as measured in either:
        i. Dollars per unit of GHG abated or
        ii. Units of GHG abated per dollar
2. Benchmark against alternative programs
    a. Comparison by:
        i. Efficiency factor
        ii. Total GHG abated
3. Determine social benefits
    a. Determine who can take advantage of the program (i.e., beneficiaries)
    b. Determine how program is funded
    c. Evaluate potential increase in social (CSO) obligations

As an example of how this methodology might be applied, consider a program to install insulation in public housing units. The application of the methodology would involve the following steps:

- Estimate GHG savings by determining expected reduction in electricity demand through more efficient heating and cooling
- Determine the cost of program by estimating amount of insulation multiplied by price of insulation
- Determine the efficiency factor equals GHG abatement divided by total cost of program
    - efficiency factor measured in GHG abated per dollar
- Compare results to alternatives
- Beneficiaries = public housing tenants

- If program financed from consolidated revenue, then cost borne by all Canberrans
- May reduce CSO payments as electricity demand would fall for those who might otherwise be the recipients of the present CSO scheme
- Potential increase in per kW subsidy due to increase in price of electricity

The methodology would also need to consider the issue of time on the calculations. For example, the costs to implement the program might occur in the first year or so, but the benefits may not be derived until some time later. Thus, some form of discounting of costs and benefits over time would need to be factored into the analysis in much the same way that occurs in standard cost/benefit analysis. In this process, the selection of the discount rate would be important, as to place a high discount rate on a project where the benefits occur some years later while the costs are all up front would effectively minimise the benefits and weight the analysis towards the costs. At the same time, the analysis of a program that has some costs up front with benefits following shortly thereafter, but incurs significant further costs some years later would be biased towards the benefits if a high discount rate was used.[15]

Monitoring, Reporting and Review Processes

The November 2008 CoAG climate change complementarity principles which the ACT Government agreed to, envisaged that measures undertaken by individual jurisdictions should be targeted at market failure not adequately addressed by the CPRS or that impinged on the CPRS effectiveness in driving emission reductions. Importantly, and of direct relevance for this item of the Inquiry's terms of reference, the CoAG principle went on to say:

> Complementary measures should adhere to the principles of efficiency, effectiveness, equity, and administrative simplicity and ***should be kept under review*** (emphasis added).

Fundamental to the successful operation and management of any public policy is the need for regular assessment of the continuing effectiveness and efficiency of the relevant program. This principle is generally acknowledged, and is for example embedded in the legislation passed by the Assembly establishing the feed-in tariff arrangement.

However, it is not enough simply to require that programs be reviewed periodically (or, for example, every five years which is a typical period set for these types of reviews). Rather, given the rapidly evolving nature of the greenhouse gas debate and roll out of policies and programs at both the federal and state/territory level, it is readily apparent that there is a real possibly of conflicting programs and policies being operational which in turn creates the real potential for inefficiency at the territory and national level, resulting in additional costs which inevitably are passed through to household consumers.

For example, already we are seeing action taken by NSW to address the complementarity issues surrounding the operation of the GGAS scheme (which operates in NSW as well as the ACT) with the emerging national CPRS scheme. In anticipation that a national CPRS scheme will be introduced to take effect from 1 July 2011, the NSW Government has introduced

[15] The Commission notes that the Productivity Commission is currently undertaking a supporting research project on determining the appropriate discount rate to use in cost/benefit analysis. The expected release of the Productivity Commission's research is July 2009. Details can be found at www.pc.gov.au/research/economic-models-frameworks/cost-benefit-discount.

legislation into the NSW Parliament which will alter the operation of the GGAS scheme from 1 July 2009 and introduce a new Energy Saving Scheme (EES).

It had always been intended that the once a national carbon reduction scheme had been introduced, the NSW Government would cease the GGAS program which had been set up as an early attempt at a jurisdictional level to value the cost of carbon production from current coal based electricity generation, and incorporate these costs into the cost of electricity paid by all consumers. With the introduction of the CPRS, there would no longer be a need for the GGAS program. However, the NSW Government has decided that there is a still a need to encourage energy efficiency practices (an objective that was in part met by the demand-side abatement component of the GGAS scheme). Thus, it is bringing in to being a mandatory energy efficiency scheme for electricity retailers and others whereby to meet their liabilities under the scheme, retailers will need to either participate in eligible energy efficiency activities or projects, or purchase certificates from persons who have undertaken such activity and created these tradeable certificates.

Without debating the merits or otherwise of the EES, the point to note is that NSW is actively taking steps to address what it perceives to be a failure in the proposed CPRS scheme. In so doing, it is reforming and replacing its existing GGAS program such that there is no conflict of schemes and incentives addressing demand-side efficiencies. An anticipatory policy response of this type requires access to data on the success or otherwise of the existing GGAS program. In this instance, the GGAS program has been carefully monitored and reported upon within NSW and within the ACT. The Commission is the responsible entity for gathering information on the operation of the GGAS scheme in the ACT and reports annually to the Assembly and the wider community.

Similarly with the electricity feed-in tariff in the ACT, the Commission is responsible to gather information on the scheme's take-up and other operational outcomes on a quarterly basis and report these to the responsible Minister. The principle to be noted is that timely and appropriate reporting on the performance of these programs supports a better informed policy debate and response as circumstances and policy decisions outside of the ACT's control evolve.

It is almost a standard requirement that some form of sunset clause be built into new legislation, particularly legislation which establishes programs or schemes that have a direct impact upon costs that are borne by the general community. Consistent with the CoAG principles, the Commission believes that it is important to incorporate standard sunset and review provisions into any carbon reduction scheme or program that is established in the ACT. The Commission is of the view that there is merit in government's having the ability to amend or withdraw programs even outside of standard review dates where it is apparent from the regular reporting on the scheme that it is no longer achieving its objective, or that it is having some unintended consequences which may not be in the best interest of the community as a whole.

The processes of review and assessment of these schemes and programs need to be rigorous just as the initial assessment of the need and appropriate form of the scheme needs to be rigorous. In these circumstances there area advantages to be had from having an independent and transparent review of the scheme by which all interested stakeholders are able to express a view and having it considered. Under the *Independent Competition and Regulatory Commission Act 1997*, the Commission has the powers to undertake such reviews and to provide independent and fully documented analysis of the efficiency and effectiveness of programs while at the same time allowing the government of the day to maintain an arms length position from the process but still have final responsibility for any decision made on what action should be taken. This approach allows a greater opportunity for all interest groups to have their views heard and publicly debated, while preserving the rights and responsibilities of the government of the day to make policy decisions based upon the evidence placed before it and any other matter that it may wish to consider.

Monitoring, reporting and review are fundamental elements of any program or policy initiative. However, in the circumstances that the ACT currently faces when it must consider not only its own position and policies, but also those of the Federal Government and the adjoining or nearby jurisdictions, there is an even greater imperative to incorporate a monitoring, reporting and review process into any program recommendations that are be made by the Inquiry. Furthermore, there is an additional advantage from having these monitoring, reporting and review functions at least in part being handled by an agency independent from the line departments reporting to the government of the day. The need to demonstrate independence has been clearly recognised in the approach that has already been taken in relation to the operation of the GGAS and feed-in tariff programs in the ACT. This precedence should be followed in recommendations coming from the Inquiry.

Summary

In making this submission to the Inquiry, the Commission has not sought to take a position on what should be the appropriate net carbon emission target for the ACT nor to recommend what programs should be adopted to achieve this target. Rather, the Commission has sought to address a number of the issues associated with making decisions on these matters, recognising that the outcome from decisions made based on the recommendations of the Inquiry will in turn impact on the prices paid by consumers in the ACT for energy, water and other public utilities.

It is within the remit of the Commission under the provisions of its legislation to have regard to the impact of decisions taken by governments on consumer costs and overall equity and welfare outcomes. While ultimately the Commission, in making pricing or other regulatory decisions, must have regard for the policy directions of the government of the day, it is the Commission that often finds itself in a position where it is the recipient of submissions espousing the social welfare and equity concerns of consumers.

In many of these circumstances, the Commission is not able within its powers to take action to mitigate the impact on prices of some of these decisions, and thus is forced to ‘pass through’ the cost that has arisen from the policy program that has been introduced. The Commission recognises that the ‘price ‘signal that is being sent is often intended to achieve a change in demand or other behaviour as part of some wider environmental or other policy objective (for example the use of the Water Abstraction Charge to send a clear price signal that water taken from the dam storages is not a ‘free’ good). However, the Commission is also conscious of the unintended consequences of some policy decisions which in addition to a price effect may have other unintended negative equity and welfare effects on the wider community.

Thus, the Commission in this submission has sought to highlight three important issues that need to be included in the final recommendations of the Inquiry, namely:

- **adoption of the CoAG November 2008 carbon emission complementarity principles** as providing the framework for consideration of what programs and schemes the ACT may adopt to achieve its carbon reduction target
- **adoption of the assessment principles outlined in this submission** as the basis for the methodology to be used to assess the cost/benefit of schemes and programs that might be adopted in the ACT, and
- **establishment of a clear monitoring, reporting and review process** including the use of statutory sunset clauses and the use of an independent body to collect, collate, and report on the programs, including potentially undertaking the assessment reviews themselves.

The Commission would welcome the opportunity to speak further to these recommendations if required.

June 2009

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