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Greenhouse Gas Reduction Scheme Transition Review
Department of Water and Energy
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SYDNEY NSW 2001

By e-mail: ggastransition@dwe.nsw.gov.au

Dear Sir/Madam

Energy Developments Limited (EDL)
EDL Submission on the Transitional Arrangements for the NSW Greenhouse Gas Reduction Scheme Consultation Paper

EDL thanks the GGAS-NETS Transition Working Group for the opportunity to comment on the *Consultation Paper on Transitional Arrangements for the NSW Greenhouse Gas Reduction Scheme* (**Consultation Paper**).

EDL's Background

By way of background, EDL is a leading provider of independent, renewable and low greenhouse gas (**GHG**) emission energy, including landfill gas (**LFG**) and coal mine methane (**CMM**) generated electricity.

EDL is a significant participant in the NSW Greenhouse Gas Abatement Scheme (**GGAS**), and was an early mover in GHG abatement activities. EDL has seen GHG abatement activities flourish under GGAS, with the market for New South Wales Greenhouse Gas Abatement Certificates (**NGAC**) supporting this important activity.

Through the generation of electricity from LFG and CMM, EDL's activities result in the avoidance of greenhouse emissions by:

1. converting highly polluting GHG methane to less polluting carbon dioxide; and
2. offsetting demand for more emissions intensive electricity.

Transition Plan Objectives

EDL supports the long term reduction of greenhouse emissions and accepts the likelihood of a National Emissions Trading Scheme (**NETS**) commencing in the mid-term. EDL supports the proposed objectives of the transition plan as stated in the Consultation Paper, namely:

- Effectiveness, in reducing greenhouse gas emissions;
- Efficiency, by ensuring that the transitional arrangements do not detract from the overall economic efficiency of GGAS and the NETS, in particular to effect abatement at minimum cost;

- Fairness, by ensuring that investments made viable as a result of GGAS are not rendered uneconomic by the termination of GGAS and its replacement with a NETS; and
- Regulatory certainty and confidence in carbon markets, by minimising avoidable impacts of the transitional arrangements and the termination of GGAS on both the NGAC and NETS permit markets.

The comments below address elements raised in the Discussions Paper which, in EDL's view, might compromise these objectives, and may lead to a perverse environmental result of increased GHG emissions.

In managing the transition from GGAS to ETS, EDL's principal concern is that the design features do not unintentionally penalise the environmentally beneficial activity of turning waste LFG and CMM methane into electricity. Without careful consideration of the transition from GGAS to NETS, EDL is concerned that there is the potential for the transition to NETS to provide a perverse environmental result, and for early mover LFG and CMM electricity generators such as EDL to suffer unfair disadvantage as a consequence of the abatement activities. EDL considers that such disadvantage will jeopardise the transition plan meeting its objectives.

EDL is concerned that under certain conditions the transition from GGAS to NETS may cause CMM and LFG waste to energy services to be penalised in a manner that is disproportionate to the environmental benefit they provide. A poorly designed transition could lead to the untimely closure of CMM and LFG energy generating facilities, leading to a perverse environmental outcome.

The cumulative impact of a range of emissions policy changes could make it difficult for companies such as EDL to continue these greenhouse gas reduction activities, which are amongst the most cost effective forms of abatement and low emission energy generation.

EDL's Position

EDL does not agree with the suggestion that transitional arrangements be limited to 2012, nor does EDL accept the Consultation Paper assertions that investors and GGAS participants only had a reasonable expectation of earning NGAC revenues until 2012.

The clear policy of GGAS was to reduce GHG emissions associated with the production and use of electricity and to encourage participation in activities to offset the production of GHG emissions, and long term capital intensive LFG and CMM electricity generation activities were a clear part of this policy. The decision to commit to LFG and CMM electricity generation activities requires a clear assessment by management, markets and lenders about the longevity of an underlying scheme such as GGAS, and the clear assessment (prior to the 2006 extension) was that GGAS was a long term policy, and was always highly likely to be extended, and (upon the 2006 extension) was that GGAS would remain until 2020 and beyond. Insofar as the 2006 extension contemplated a possible (not definite) transition from GGAS to another scheme, the expectation was that the other scheme be complementary to GGAS, and directly value the abatement activities supported by GGAS, rather than the "no-offsets" approach currently associated with a NETS.

Until 3 June 2007 there was no certainty that any emissions trading scheme would commence in Australia, regardless of the high level aspirational plans of the National Emissions Trading Taskforce (NETT). There remained significant issues around the ability of the state and territory governments to implement a national scheme, particularly given the wavering support for the scheme in Queensland and Western Australia during their state elections.

Further, the emissions trading scheme model proposed by the State and Territory Governments in February 2007 covered emissions from stationary generators of greater than 30 MW capacity for the first 5 years. This model raised a clear expectation that projects below the 30MW threshold, such as those generating electricity from fugitive emission sources, would not be covered under the ETS, and would continue to be part of GGAS.

EDL therefore committed to the methane gas abatement projects, particularly the CMM projects at German Creek and Moranbah North (projects representing approximately $100 million of investment since 2004), on the basis that either the scheme would run to at least 2020 or, were the scheme to be replaced, existing projects would not be devalued, and instead would benefit from appropriate grandfathering or compensation.

SECTION 4.2.2

EDL considers that the arguments raised in section 4.2.2 regarding incentives for electricity generation from both CMM and LFG are imperfect.

Without the financial recognition of methane generation, most methane would be flared as opposed to used in generation. This is because the capital expenditure involved in developing generation projects is not supported by current or even projected electricity prices that include a carbon price.

Methane generation projects create in the order of 4 NGACs per MWh, which even at the current heavily discounted market prices, equates to revenue of around $30/MWh.

If fugitive emissions from the coal (and waste sectors) are covered under a NETS, EDL may:

- Incur a permit liability;
- Lose income through the improper transitioning of GGAS;
- Be ineligible as an offset provider;
- Be ineligible to receive compensation; and
- Be locked into long term wholesale contracts at prices that do not value the above.

In addition, CMM projects are the only type of fugitive methane projects that do not receive Renewable Energy Certificates. Because of this, other incentives have been and arguably are still needed which support the development, and continued application, of such material projects.

EDL respectfully recommends that the NSW Government continue to liaise with the NETS scheme designers to protect early movers such as EDL who have committed projects under GGAS. In the event that the only protection will be compensation, this compensation should not be limited to the period up to 2012, but rather extended at least until 2020.

EDL's preference would be for compensation to be by way of the free allocation of permits, but EDL considers that monetary compensation from the proceeds of permit auctions or a mix of monetary compensation and free allocation of permits is also acceptable, provided the compensation is appropriately assessed. EDL is generally supportive of the NPV compensation principles referred to in Consultation Paper section 4.2.1, and considers that NGAC revenue and loss of NGAC revenue should be taken into account in assessing compensation. EDL considers it appropriate that any freely allocated permits come out of the existing cap as referred to in the Consultation Paper.

SECTION 4.3

EDL supports the proposal to transfer existing NGACs to the NETS on a tonne-for-tonne CO2e basis. EDL also supports the proposal comment regarding treating existing / new NGACS as offset credits under NETS, provided there are no impediments to CMM and LFG projects transitioning or moving across from GGAS to NETS.

NGACs are legitimate avoided emissions, and as long as the permits come from the existing cap then there is no issue regarding double counting. EDL considers the possibility that NGACs may be cheaper than future NETS offset credits should not be considered to be a “poor” market outcome, noting that energy efficiency and methane abatement projects provide some of the most economic greenhouse gas abatement options.

SECTION 4.4

EDL considers that a cut-off date of 1 September 2008 for all new accreditation is reasonable in the instance where GGAS does not become part of the framework for early action abatement.

Again, EDL thanks the GGAS-NETS Transition Working Group for the opportunity to comment on the Consultation Paper.

Please do not hesitate to contact us should you wish to discuss any aspects of our comments.

Yours faithfully

Greg Pritchard
Chief Executive Officer
Energy Developments Limited