



V10/1421

Dr John Tamblyn  
Chairman  
Australian Energy Market Commission  
PO Box A2449  
SYDNEY SOUTH NSW 1235

  
Dear Dr Tamblyn

**Re: Submission to the Australian Energy Market Commission re: Draft National Electricity Amendment (Payments under Feed-in Tariff Schemes and Climate Change Funds) Rule 2010, Project Reference ERC0097**

The NSW Government supports the draft rule change proposal [Draft National Electricity Amendment (Payments under Feed-in Tariff Schemes and Climate Change Funds) Rule 2010] proposed by the Australian Energy Market Commission.

The draft rule change proposal will provide a clear mechanism for the recovery of direct costs of the NSW Solar Bonus Scheme and NSW Climate Change Fund in accordance with the national economic regulatory framework.

The NSW Government proposes some changes in regards to the definition of a *Jurisdictional Scheme* (new clause 6.18.7A) in order to ensure the Rule meets its aim of providing a mechanism for the recovery of Scheme costs.

The definition of a *jurisdictional scheme* currently refers to specific legislation, for example the Electricity Supply Amendment (Solar Bonus Scheme) Act 2009 (NSW) which amends the Electricity Supply Act to establish the NSW Solar Bonus Scheme (the Scheme). This definition should be amended to clarify that a jurisdictional scheme will continue to be covered by the Rule, even where there are subsequent legislative or regulatory amendments to the Scheme. There may also be other enforceable obligations imposed on distribution network service providers (DNSPs) in relation to the Scheme (eg licence conditions imposed by the Minister or directions under the State Owned Corporations Act 1989) and these should be considered as part of the Scheme (where relevant) for the purposes of the Rule.

This approach has the benefits of providing DNSPs with clarity as to what costs they can pass through to customers if mandated under Scheme legislation or directed by Government in relation to the Scheme. It will also reduce the administrative burden on the Australian Energy Regulator in determining whether a scheme is a *jurisdictional scheme*.

It should also be noted that the Solar Bonus Scheme is established under the Electricity Supply Act (rather than the Electricity Supply Amendment (Solar Bonus Scheme) Act 2009 which has been repealed). Likewise the Climate Change Fund is established under the Energy and Utilities Administration Act 1987 (rather than the Energy and Utilities Administration Amendment (Climate Change Fund) Act 2007 which has been repealed).

NSW amendment legislation is routinely repealed on the day after it comes into effect. Repeal does not affect the validity of the amendments made by the repealed legislation.

It is therefore preferable to define the Solar Bonus Scheme and the Climate Change Fund as Schemes established by the Electricity Supply Act 1995 (as amended from time to time) and the Energy and Utilities Administration Act 1987 (as amended from time to time).

Should you have any further enquiries about this matter, I have arranged for Ms Kate Freney, Energy Strategy and Reform, to assist you. Ms Freney may be contacted at the Department's Sydney Office on telephone number (02) 8281 7249.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Mark Duffy', is written above the printed name.

**Mark Duffy**  
**Deputy Director-General**  
**Minerals and Energy Division**

Encl.



## I & I NSW Submission to Draft AEMC Rule Change Proposal

The NSW Government supports the draft rule change proposal (Draft National Electricity Amendment (Payments under Feed-in Tariff Schemes and Climate Change Funds) Rule 2010) proposed by the Australian Energy Market Commission.

The draft rule change proposal will provide a clear mechanism for the recovery of direct costs of the NSW Solar Bonus Scheme and NSW Climate Change Fund in accordance with the national economic regulatory framework.

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