

Electricity Feed-in (Large-scale Renewable Energy Generation) FiT Support Payment Assessment Method 2020

Disallowable instrument DI2020–174

made under the

Electricity Feed-in (Large-Scale Renewable Energy Generation) Act 2011, s 17A (Meaning of FiT support payment)

EXPLANATORY STATEMENT

This explanatory statement relates to the *Electricity Feed-in (Large-scale Renewable Energy Generation) FiT Support Payment Assessment Method 2020* (the instrument) as presented to the ACT Legislative Assembly. It has been prepared in order to assist the reader of the instrument and to help inform debate on the instrument. It does not form part of the instrument and has not been endorsed by the Legislative Assembly.

The explanatory statement must be read in conjunction with the instrument. It is not, and is not meant to be, a comprehensive description of the instrument. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Background

The *Electricity Feed-in (Large-scale Renewable Energy Generation) Act 2011* (the Act) allows for the Minister to grant feed-in tariffs (FiTs) to renewable energy generators. FiTs represent a guaranteed price for the energy created by the generators.

Section 17A of the Act provides that a FiT support payment means the amount calculated by the payment formula as defined in the Act, or an assessment method approved by the Minister. Section 17A(2) of the Act provides that the Minister may only approve an assessment method if the Minister is satisfied on reasonable grounds that applying the method will minimise the cost for electricity consumers and will not disadvantage an existing holder of a FiT entitlement.

Electricity prices in the wholesale electricity spot market can vary between a market floor price, which is negative, and a market price cap. These prices are set based on a competitive bid held every five minutes by the Australian Energy Market Operator. Sufficient generation is procured in each five-minute period to meet forecast demand. The price of the highest-bidding generator that is required to meet this demand sets the wholesale price, and all generators receive this price for their output, irrespective of the price they bid.

A FiT arrangement that includes payments during times of significant negative pricing is not necessarily cost-effective for the ACT's electricity consumers. Under such an arrangement, when prices are negative, the FiT purchaser (the electricity retailer) pays a large amount of money to the generator holding the FiT entitlement. This cost is ultimately borne by ACT consumers. The generator receives this payment from the purchaser, however the generator is paid a negative amount by the market for their electricity generated during this time. As such, the generator's net benefit from generating during a time of negative pricing is modest, whereas electricity retailers, and consumers, are required to pay a significant cost.

Negative prices are generally indicative of an oversupply of electricity in the market. Accordingly, there is little to no benefit to electricity reliability and supply in encouraging more generation when prices are negative. Recent industry practice has increasingly seen the determination of alternative payment methods to avoid paying for electricity when the price is negative. This provides an incentive for the generators to stop generating, during times of negative pricing, which assists the market by reducing undesirable generation, and increases the cost effectiveness of the FiT.

Overview of the instrument

The instrument approves an assessment method that sets a payment of zero dollars when spot price values for eligible electricity drop below negative twenty dollars. This assessment method is considered a representative point at which the total value of the electricity produced, and the large-scale generation certificates (LGCs) created, by the generator is zero.

By removing payments when the price of electricity is negative, the assessment method determined by the instrument is anticipated to minimise the cost for electricity consumers, and so complies with section 17A(2)(a) of the Act.

The instrument only impacts new FiT entitlements granted after 1 July 2020. As such, it complies with section 17A(2)(b) of the Act in not disadvantaging an existing holder of a FiT entitlement.

Human Rights

This instrument does not engage with or limit any human rights.

Regulatory impact statement

A Regulatory Impact Statement (RIS) is not required, in accordance with section 34(1) of the *Legislation Act 2001*, as the instrument is not likely to impose appreciable costs on the community. The new assessment method is anticipated to minimise costs for electricity consumers in the ACT community. Further s36(1)(b) of the *Legislation Act* provides that in this instance a RIS is not necessary as the disallowable instrument does not operate to the disadvantage of anyone by adversely affecting the person's rights or imposing liabilities on the person.

Scrutiny of Bills Committee Principles

This instrument is consistent with the Scrutiny of Bills Committee Principles in that it:

- (a) Does not unduly trespass on personal rights and liberties;
- (b) Does not make rights, liberties, and/or obligations unduly dependent upon insufficiently defined administrative powers;
- (c) Does not make rights, liberties and/or obligations unduly dependent upon nonreviewable decisions;
- (d) Does not inappropriately delegate legislative powers; and
- (e) Does not insufficiently subject the exercise of legislative power to parliamentary scrutiny.

Provisions in detail

Clause 1 Name of instrument

This clause names the disallowable instrument.

Clause 2 Commencement

This clause provides that the instrument will commence on the day after its notification day.

Clause 3 FIT support payment method

This clause sets a new assessment method for FiT entitlements granted after 1 July 2020.