



independent competition and regulatory commission

**ACT Greenhouse Gas  
Abatement Scheme**  
**Compliance and operation of the  
Scheme for the 2007 compliance  
year**  
**Report 3 of 2008**  
**June 2008**

# Contents

<b>Introduction</b>	<b>2</b>
<b>Benchmark participants for 2007</b>	<b>2</b>
<b>Compliance process</b>	<b>3</b>
Penalties	4
<b>Compliance outcomes</b>	<b>5</b>
<b>Certificates surrendered</b>	<b>6</b>
Types of abatement certificates surrendered in 2007	6
Number of abatement certificates surrendered	7
<b>Territory greenhouse gas benchmarks</b>	<b>7</b>
Decrease in benchmark level	8
<b>Regulation of the Scheme in 2007</b>	<b>8</b>
<b>Delegation of functions</b>	<b>9</b>

## Introduction

This is the third annual report on the ACT Greenhouse Gas Abatement Scheme (the Scheme). It covers the 2007 calendar year.

The Scheme was established in the ACT through the *Electricity (Greenhouse Gas Emissions) Act 2004* (the Act) and commenced on 1 January 2005. The Scheme is designed to reduce or offset greenhouse gas emissions associated with the production of electricity.

The ACT Scheme mirrors the NSW Greenhouse Gas Abatement Scheme, which is administered by the Independent Pricing and Regulatory Tribunal (IPART). The NSW Scheme commenced in January 2003. The NSW and ACT schemes are, in many respects, operated as a single scheme. Under this arrangement, NSW IPART administers the overall Scheme and accredits abatement projects, while the Independent Competition and Regulatory Commission (the Commission) is the regulator of the Scheme in the ACT.<sup>1</sup>

The Commission has a number of functions as regulator. These include:

- determining the greenhouse gas reduction target, or electricity sector benchmark, for the ACT in any given year<sup>2</sup>
- allocating a share of the benchmark to participants based on their market share of electricity sales in the ACT
- ensuring that electricity retailers in the ACT meet legislated targets for offsetting emissions.

In November 2007, the ACT Legislative Assembly amended the Act to extend the Scheme from 2012 until 2020.

## Benchmark participants for 2007

The ACT Scheme is mandatory for all electricity retailers.<sup>3</sup> During 2007, there were 17 entities licensed to retail electricity in the ACT. The licence of one of these retailers was suspended following its suspension from operating in the National Electricity Market. An entity whose licence is suspended is still required to meet all of its statutory and other regulatory obligations including, in the case of electricity retailers, to participate in the Scheme.

Under the Scheme, *large customers* can elect to become benchmark participants and manage their greenhouse gas emissions. Any person or customer who is likely to use at least 100 GWh of electricity at one or more sites over a calendar year qualifies as a large customer.<sup>4</sup> Currently no user in the ACT operates on a scale large enough to qualify as a large customer.

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1. Act, s. 49.

2. Act, s. 13. The benchmark for 2007 was 7.27 tonnes of carbon dioxide (CO<sub>2</sub>) equivalent per capita, Act, s. 7. The electricity sector benchmark was set at 2,372,928 tonnes of CO<sub>2</sub> equivalent in the Electricity (Greenhouse Gas Emissions) Determination 2006 NI2006-431.

3. Act, s. 9(1)(a).

4. Act, s. 9(1)(c); Electricity (Greenhouse Gas Emissions) Regulation 2004 s. 8, s. 6(1).

The Act also provides for *market customers*—that is, customers whose electricity load qualifies as a market load and who supply that electricity to the ACT—to qualify as benchmark participants. There are currently no market customers in the ACT.<sup>5</sup>

Consequently, all participants in the ACT Scheme in 2007 were electricity retailers and, as such, were mandatory participants.

## Compliance process

All benchmark participants must demonstrate compliance with the Scheme through the submission to the Commission of an annual greenhouse gas benchmark statement. The statement calculates a benchmark participant's greenhouse gas benchmark, shortfall and any consequent liability for a greenhouse penalty. As part of the compliance process, benchmark statements must be independently audited. Auditors must be selected from IPART's Audit and Technical Services Panel.

The Act requires that the reports be submitted to the Commission by 1 March of the year following the compliance year, or at a later date as set by the regulator. To align with the NSW reporting times, the Commission has agreed to a later submission date, 18 March.<sup>6</sup>

Benchmark participants who exceed their greenhouse gas benchmark may abate their liability through the surrender of greenhouse gas abatement certificates (abatement certificates). Benchmark participants, except in compliance years 2007 and 2020, have the option of carrying forward a shortfall of up to 10 per cent of their respective benchmarks to the next compliance year.<sup>7</sup> This was not permitted in 2007 (the first year to meet the eventual target of 7.27 tonnes of CO<sub>2</sub> per capita level) and will not be permitted in 2020 (the final year for which targets have currently been set). Benchmark participants that do not supply electricity in the ACT during the compliance year will not be required to surrender abatement certificates and may demonstrate compliance by completing a declaration.<sup>8</sup>

If a benchmark participant does not comply with its allocated benchmark a penalty is payable to the Territory.<sup>9</sup> The amount payable is currently \$11.50 per tonne of carbon dioxide equivalent emitted over and above the allocated benchmark that was not offset by the submission of abatement certificates.<sup>10</sup>

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5. Act, s. 9(1)(b).

6. *Guide to completing the annual greenhouse gas benchmark statement for benchmark participants in the ACT*, p. 2.

7. Act, s. 12(1), (6).

8. An electricity retailer supplier that has not supplied electricity in the ACT in a given compliance year may demonstrate compliance by completing an annual greenhouse gas benchmark statement – form 2” (*Guide to completing the annual greenhouse gas benchmark statement for benchmark participants in the ACT*, pp. 21–22).

9. Act, s. 16(1).

10. Electricity (Greenhouse Gas Emissions) Regulation 2004 s. 12.

## Penalties

Section 16 of the Act specifies that the penalty is the amount prescribed by regulation adjusted in accordance with the regulations and may be adjusted in accordance with movements in the All Groups Consumer Price Index (CPI) for Canberra issued by the Australian Statistician.<sup>11</sup>

Division 2.2 of the Electricity (Greenhouse Gas Emissions) Regulation 2004 (the Regulation) prescribes details of the greenhouse penalty. Section 12 sets the starting penalty at \$10.50 per tonne of carbon dioxide equivalent of greenhouse shortfall (t CO<sub>2</sub>-e) with the provision that this is to be adjusted on 1 July 2005 and annually thereafter.

Section 13 of the Regulation sets out a formula for adjustment of the penalty in line with the CPI as follows:

### **13 CPI adjustment to greenhouse penalty—Act, s. 16(3)**

- (1) The amount of the greenhouse penalty is to be adjusted on 1 July each year, beginning 1 July 2005, by the following formula and rounded to the nearest half dollar:

$$\text{greenhouse penalty for the previous year} \times \frac{A}{B}$$

- (2) In this section:

**A** means the sum of the CPI numbers for each quarter of the year previous to the year beginning on 1 July when the adjustment is to be made.

**B** means the sum of the CPI numbers for each quarter of the year 2 years previous to the year beginning on 1 July when the adjustment is to be made.

A penalty adjustment series from commencement of the legislation in 2004 to 2007 is set out in Table 1.

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11. In November 2007, s. 16(6) of the Act (the section dealing with greenhouse penalties) was amended to change the definition of the Consumer Price Index (CPI) to use the figures relevant to Canberra rather than Sydney.

Table 1: ACT Greenhouse Gas Abatement Scheme—greenhouse penalties (by year)

Indexation year	Starting penalty \$ / per t CO <sub>2</sub> -e	A <sup>1</sup>	B <sup>2</sup>	CPI indexation factor (A/B as of 1 July)	Adjusted penalty	Adjusted penalty (\$ rounded)	Compliance year
2004 <sup>3</sup>	\$10.50	n/a	n/a	n/a	n/a	n/a	n/a
2004–05	\$10.50	586.6	573.5	1.023 <sup>4</sup>	10.74	10.50	2005
2005–06	\$10.50	607.7	586.6	1.036 <sup>5</sup>	10.90	11.00	2006
2006–07	\$11.00	625.5	607.7	1.029 <sup>6</sup>	11.32	11.50	2007
2007–08	\$11.50	tbd	625.5	tbd <sup>7</sup>	tbd	tbd	2008

n/a = not applicable      tbd = to be determined

Notes:

- 1 The sum of the CPI numbers for each quarter of the year previous to the year beginning on 1 July when the adjustment is to be made.
- 2 The sum of the CPI numbers for each quarter of the year two years previous to the year beginning on 1 July when the adjustment is to be made.
- 3 Section 12 of the Electricity (Greenhouse Gas Emissions) Regulation 2004 sets the starting penalty at \$10.50 per tonne of carbon dioxide equivalent of greenhouse shortfall (t CO<sub>2</sub>-e).
- 4 As of 1 July 2005.
- 5 As of 1 July 2006.
- 6 As of 1 July 2007.
- 7 As of 1 July 2008.

## Compliance outcomes

The Commission assessed that all but one of the ACT benchmark participants met their obligations under the Scheme in the 2007 compliance year. Specifically:

- Twelve benchmark participants surrendered sufficient abatement certificates to meet their greenhouse gas benchmarks.
- Four benchmark participants had no, or minimal, sales in the ACT in 2007 and were not required to surrender any abatement certificates.
- One benchmark participant failed to meet all benchmark statement and surrender requirements.
- In 2007, no benchmark participants were entitled to carry forward part of their liability to 2008.<sup>12</sup>

Table 2 provides a summary of benchmark participants' performance against compliance requirements.

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12. Act, s. 12(1), (6).

Table 2: Benchmark participants' compliance for 2007

Surrendered sufficient certificates to meet 2007 benchmark	Were not required to surrender certificates in 2007	Failed to meet all benchmark statement and surrender requirements
ActewAGL Retail Ltd	Red Energy Pty Ltd	Energy One Pty Ltd
AGL Sales Pty Ltd	Jackgreen Pty Ltd	
AGL Sales (Queensland Electricity) Pty Ltd	Dodo Power & Gas Pty Ltd	
Aurora Energy Pty Ltd	ERM Pty Ltd	
Country Energy		
Energy Australia		
Integral Energy Australia		
Origin Energy Electricity Ltd		
Powerdirect Pty Ltd		
Sun Retail Pty Ltd		
TRUenergy Pty Ltd		
TRUenergy Yallourn Pty Ltd		

## Certificates surrendered

### Types of abatement certificates surrendered in 2007

There are five types of abatement certificate that can be surrendered to offset a benchmark shortfall:

- **Generation certificates** are created through the generation of electricity in a way that results in reduced greenhouse gas emissions.
- **Demand side abatement certificates** are created at the user end through activities that reduce, or increase the efficiency of, electricity consumption.
- **Renewable energy certificates (RECs)** are created through the generation of electricity through eligible renewable means pursuant to the *Renewable Energy (Electricity) Act 2000* (Cth): RECs are not equivalent to abatement certificates and there is a limit on the number of RECs that may be counted towards a benchmark participant's greenhouse gas benchmark in any given year.<sup>13</sup>
- **Large user abatement certificates** are non-tradeable certificates that can be created by large electricity customers to claim credit for reducing greenhouse gas emissions from non-electricity related industrial processes at sites that they own and control.
- **Carbon sequestration certificates** are certificates created through the storing of carbon in forest growth for a guaranteed 100 years.

Generation certificates, demand side abatement certificates, large user abatement certificates, and carbon sequestration certificates are collectively known as NSW greenhouse gas

13. Act, s. 19(2); Electricity (Greenhouse Gas Emissions) Regulation 2004.

abatement certificates (NGACs). IPART regulates the creation and sale of NGACs as part its role as Scheme administrator.

Other than NGACs, benchmark participants may also surrender RECs to abate their greenhouse gas emissions. There is a limit to the number of RECs that the benchmark participant may surrender in any given year. For 2007, the limit on the number of RECs is 2.70 per cent of total energy acquisitions by the benchmark participant.<sup>14</sup> The Australian Government Office of the Renewable Energy Regulator regulates the creation and sale of RECs. NGACs account for the majority of abatement certificates that are surrendered in the ACT Scheme.

## Number of abatement certificates surrendered

A total of 403,024 certificates were surrendered under the ACT Scheme in 2007. Of the certificates surrendered, 323,131 were to the NSW and ACT Greenhouse Gas Abatement Scheme Registry, administered by IPART as part of its role as Scheme administrator and 79,893 were Renewable Energy Certificates surrendered under the Commonwealth Scheme. Out of the NGACs surrendered, only generation certificates and demand side abatement certificates were surrendered to the ACT for the 2007 compliance year. A breakdown is provided in Table 3.

Table 3: Breakdown of certificates surrendered to the ACT in 2007

Abatement certificates (total)	Generation certificates	Demand side abatement certificates	Renewable energy certificates
403,024	268,401	54,730	79,893

Table 3 shows that 66 per cent of certificates surrendered were generation certificates. Renewable energy certificates accounted for 14 per cent of the total and 20 per cent were demand side abatement certificates.

## Territory greenhouse gas benchmarks

The ACT Scheme sets an annual per capita benchmark for greenhouse gas emission reductions by the ACT electricity sector as a whole (Territory greenhouse gas benchmarks). These progressively dropped from 2005 to 2007 and will now remain the same until the end of the scheme in 2020, as follows:

- for the year 2005—7.96 tonnes of carbon dioxide equivalent of greenhouse gas emissions per head of ACT population
- for the year 2006—7.62 tonnes of carbon dioxide equivalent of greenhouse gas emissions per head of ACT population

14. s. 39 *Renewable Energy (Electricity) Act 2000* (Cth).

- for each of the years 2007 to 2020—7.27 tonnes of carbon dioxide equivalent of greenhouse gas emissions per head of ACT population.

The electricity sector benchmark is translated into annual benchmarks for each benchmark participant. The Commission, as compliance regulator, determines a number of key factors that benchmark participants use to determine their individual greenhouse gas benchmarks.

These factors are:

- ACT pool coefficient
- total ACT electricity demand
- total ACT population.

These factors are used to calculate the annual electricity sector benchmark. This benchmark represents the total amount of greenhouse gas emissions allowable for the consumption of electricity in the ACT. Benchmark participants are allocated a share of this benchmark based on the volume of their electricity sales as a proportion of the total ACT electricity demand.

## Decrease in benchmark level

The estimate of electricity demand for the ACT is determined using the methodology developed by IPART. The estimate is based on the medium projections of end-use electricity consumption for NSW and the ACT, as estimated in the TransGrid NSW annual planning report for the particular compliance year. As the data were aggregated for NSW and the ACT, IPART used its best endeavours to estimate the ACT's share. The figure IPART arrived at for the ACT, and which up until 2005 was the figure used, was 4.5 per cent of the combined demand. The Commission has since obtained details of the ACT's projected demand directly from TransGrid. These data indicate that the ACT's share is actually less than IPART had previously estimated; that is, 3.9 per cent.

The Commission estimates the total ACT population based on the estimates made by the Australian Bureau of Statistics in its publication, *Population Projections, Australia*. Data are provided for three main series of projections: series A (high growth), B (medium growth) and C (low growth). In 2005, the Commission used the series B projections to estimate the ACT population. Subsequently, the Commission came to the view that series C more accurately represented the ACT's current population growth. Low-range data were used to estimate the ACT population for 2006.

As a result, the benchmark determined for the ACT benchmark participants for 2006 was significantly lower than the 2005 benchmark, as were benchmark participants' liabilities under the Scheme for 2006. Low-range data were again used in 2007.

## Regulation of the Scheme in 2007

In 2007, one benchmark participant made a very late submission of its benchmark statement and failed to meet requirements for independent audit of the statement. Some participants made a small number of mistakes in completing their benchmark statements. Otherwise, benchmark statements were completed correctly. One benchmark statement was submitted unsigned. The Commission was able to acquire a signed copy later after a request was made.

A few benchmark participants over-surrendered NGACs. They were given the choice of either reversing their surrender of the excess NGACs or carrying them forward for use in 2007. In addition to the benchmark participant referred to above, a second benchmark participant did not submit their statement by the due date. This participant is a new entrant to the market and had not yet begun retailing in the ACT. They submitted their statement as soon as requested to do so by the Commission.

In 2007, the auditors performed much better than in 2006. Reports were generally thorough and comprehensively covered required matters. Any mistakes in the reports were few and relatively minor.

The Commission is currently working with one benchmark participant in relation to their outstanding compliance obligations (see discussion above).

## **Delegation of functions**

The Act allows the Commission to delegate its regulatory functions to a member of staff or anyone else approved by the Minister.<sup>15</sup> No functions were delegated in 2007.

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15. Act, s. 50(3).