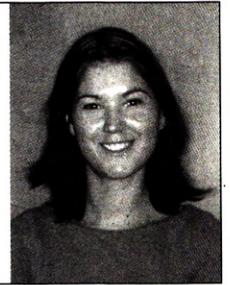


# Greenhouse Emissions and the Victorian Electricity Industry



By Catherine Symons, Madgwicks

Whether directly referable to global warming or not, the European heat-wave that immobilised parts of Europe last summer is indicative of a global trend toward increasingly erratic and unstable weather patterns - a phenomena that is generally associated with the greenhouse effect.

Whilst the Australian Federal Government continues to stand resolute on its decision not to ratify the Kyoto Protocol, this attitude has not received wholesale endorsement at the State level.

In July 2003, the Environmental Issues Subcommittee of the Young Lawyers' Law Reform Committee, made a submission on behalf of the Young Lawyers' Section ("YLS") in response to the Victorian Government's *Greenhouse Challenge for Energy - Consultation Paper*.<sup>1</sup>

In its submission, the YLS made repeated and substantial references to legislative measures introduced by the New South Wales Government in the form of amendments to the *Electricity Supply Act 1995* (NSW).

The YLS put forward the recommendation that the *Electricity Industry Act 2000* (Vic) be amended in similar fashion to its NSW counterpart, thereby introducing a number of target-based initiatives aimed at reducing, by a prescribed date, the level of greenhouse gas emissions attributable to the electricity industry.

By adopting this position, the YLS effectively supports a legislative program that, through a combination of market-based instruments and legal regulation will (it is hoped), encourage the electricity industry to progressively move toward decreased greenhouse gas emissions.

Under the NSW legislation, "participants" in the electricity industry - generally understood as comprising electricity retailers, generators, distributors, and to a lesser extent, large electricity customers - must effect a 5% per capita reduction in greenhouse gas emissions from 1989/90 levels by 2007. In practice, this translates to a requirement imposed on each individual participant to decrease greenhouse gas emissions to 7.27 tonnes per capita by 2007.

Under the NSW legislation, if a participant does not meet its target in any given year, it is able to carry forward up to 10% of any shortfall and make up for it in the following year (with the exception of the year commencing 1 January 2007). As participants must pay a penalty if a target is not met, the onus will be on participants to encourage their customers (electricity consumers) to use energy more efficiently.

The YLS is particularly supportive of this initiative, given that past attempts to procure voluntary commitments from the electricity industry to reduce greenhouse gas emissions have failed. It would seem that a commercial imperative is needed to stimulate tangible change.

The four key features of the NSW legislation identified by the YLS as meritorious, and capable of reproduction in the Victorian legislation, are the following:

- The introduction of annual, progressive, State-wide greenhouse gas reduction targets;
- A penalty regime to ensure compliance with targets;
- The establishment of a scheme that vests

legal ownership of greenhouse gas reductions in electricity industry participants; and

- The facilitation of trade-in certificates with values representing the amount of greenhouse gas reductions, giving owners the ability to earn revenue to cover the costs associated with reduction initiatives

The YLS has advocated a coordinated and uniform approach to the greenhouse problem in its submission and supports the introduction of similar measures across all parts of Australia, not just Victoria. A cohesive and decisive State approach would not only go some way to ameliorate the effect of the Federal Government's stance on the greenhouse issue, but would have the additional benefit of increasing the size of the market for renewable energy certificates in Australia. It is anticipated that this would eventually lead to the operation of a national emissions-trading scheme.

The YLS submission may be accessed via the Law Institute of Victoria website at [www.liv.asn.au/news/pro\\_issues/livsubs/2003/20030730greenhouse.pdf](http://www.liv.asn.au/news/pro_issues/livsubs/2003/20030730greenhouse.pdf)

<sup>1</sup> <http://www.greenhouse.vic.gov.au/challengeforenergy.htm>.

