



Australian Government  
Clean Energy Regulator

CLEAN  
ENERGY  
REGULATOR

CAC707201

6 December 2018

s47F

Manager Environment – Strategy & Compliance  
Delta Electricity

s47F

Dear s47F

## Participation in the eighth Emissions Reduction Fund (ERF) auction on 10-11 December 2018 – notice of intended decision

1. I refer to your email of 4 December 2018 to s47F and s47F of the Clean Energy Regulator (CER) in which you advised that Sunset Power International Pty Ltd (Sunset Power) decided to pursue its auction applications<sup>1</sup> on the previously advised basis, namely that it will not undertake activities other than replacing turbine blades as part of the Vales Point Turbine Upgrade Project (assigned ID # ERF121628) (the project).
2. As the Manager of the Auctions and Contract section of the CER, I am a delegate of the CER under section 20G of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Act) for the purposes of determining whether auction qualification and auction registration applications are accepted.
3. I have formed the preliminary view that Sunset Power has not provided sufficient information or certainty that the project will generate the claimed amount of Australian carbon credit units (ACCUs), and, therefore, the project should not be permitted to participate in the auction scheduled for 10-11 December 2018.

<sup>1</sup> The relevant applications made by Sunset Power are its auction qualification application (assigned ID # CAC707201) of 8 November 2018 (the **auction qualification application**) and auction registration application (assigned ID # REG130490) of 30 November 2018 (the **auction registration application**).

4. My reasons for this preliminary view are set out in **Attachment A**.
5. My purpose in sending you this letter is to provide you with a final opportunity to provide sufficient information to enable the CER to make a final determination on your participation in the auction process.
6. Specifically, I am seeking any further information or submissions you wish to make as to how the project will be able to generate sufficient ACCUs to meet the proposed contractual obligation (currently specified as s47 ACCUs) during the term of the proposed carbon abatement contract. You may make submissions on other relevant matters, but I do not require you to provide or repeat any information that has already been provided to the CER - I have had regard to that material in forming my preliminary view.
7. All the information or submissions you have or will provide will be considered by either myself or another delegate of the CER. **In order to ensure this occurs prior to the auction, please provide any further relevant information or submissions before 3.00pm (AEDT) on Friday 7 December 2018.**
8. Please note that any decision of the CER to refuse to accept the applications, if such a decision is made, would not prevent Sunset Power from providing applications to participate in any ERF auction that may be conducted by the CER after the eighth ERF auction. Refusal of applications to enter a particular auction are not an automatic barrier to entry into further auctions where deficiencies in the previous applications are rectified.

Yours sincerely

s47F

Manager, Auctions and Contracts  
Emissions Reduction Fund Branch  
Clean Energy Regulator

s47F

s47F @cleanenergyregulator.gov.au  
[www.cleanenergyregulator.gov.au](http://www.cleanenergyregulator.gov.au)



**Attachment A – reasons for preliminary view**

1. All auction qualification and registration applications are assessed against publicly available Auction Guidelines. This ensures that only projects that have reasonable prospects of generating eligible abatement and being credited with the quantity of ACCUs claimed in auction applications are permitted to compete with others in the ERF procurement process. This in turn ensures that a level playing field is applied to all auction participants and that the purchasing principles set out in section 20G of the Act are properly applied and considered.
2. In relation to your applications, I am not satisfied that the project will be issued with the quantity of ACCUs proposed to be delivered in your applications. This is because you appear to be relying on an interpretation of the Carbon Credits (Carbon Farming Initiative—Facilities) Methodology Determination 2015 (the **Facilities Method**) that assumes that the claimed number of ACCUs will be issued for abatement directly resulting from the replacement of turbine blades.
3. As explained to you previously, the CER is not persuaded by Sunset Power's arguments in relation to its interpretation of the Facilities Method. This is because the CER is not satisfied that those arguments are consistent with a plain reading of the method. I note that Sunset Power has not taken the opportunity to reduce its arguments about its interpretation of the Facilities Method to writing.
4. In addition, as stated in your email of two days ago, Sunset Power has decided not to augment the project with additional eligible abatement activities likely to lead to the crediting of ACCUs.
5. Having assessed the information provided by Sunset Power in the substantial interactions with the CER to date (set out in Attachment B), and having regard to the Auctions Guidelines and section 20G of the Act, I have formed the preliminary view that Sunset Power has not provided sufficient information or certainty that the project will generate the claimed ACCUs, and, therefore, the project should not be permitted to participate in the auction scheduled for 10-11 December 2018.

**Attachment B – summary of information exchanged and considered**

- a. Information contained in the following applications and supporting material provided by or on behalf of Sunset Power to the CER:
  - i. project registration application dated 18 April 2018 relating to the project;
  - ii. the auction qualification application; and
  - iii. the auction registration application;
- b. information provided by or on behalf of Sunset Power to the CER, and information provided to Sunset Power by CER officers, during meetings and teleconferences held between CER officers and representatives of Sunset Power on the following dates (I have seen contemporaneous or near contemporaneous notes of meetings at which I was not present):
  - i. meeting of 25 October 2018 at CER offices in Canberra attended by s47F representing Sunset Power, and s47F representing the CER;
  - ii. meeting of 20 November 2018 at CER offices in Canberra attended by s47F and s47F representing Sunset Power, and s47F, s47F, s47F and myself representing the CER;
  - iii. meeting of 26 November 2018 at Delta Electricity offices in Sydney attended by s47F and s47F representing Sunset Power, and s47F and s47F representing the CER; and
  - iv. teleconference of 4 December attended by s47F representing Sunset Power, and s47F s47F and myself representing the CER;
- c. information provided by or on behalf of Sunset Power to the CER in the following correspondence:
  - i. email of 4 December 2018 from s47F to s47F and s47F and
- d. information provided by CER officers to Sunset Power in the following correspondence:
  - i. email of 7 November 2018 from s47F to s47F