

## **Energy Savings Scheme - Scheme Regulator Exemptions Rule No. 1 of 2016**

### **1. Name and commencement**

- 1.1 This Rule is the *Energy Savings Scheme – Scheme Regulator Exemptions Rule No. 1 of 2016* and is deemed to have commenced upon the commencement of the Order.
- 1.2 From the date of its commencement onwards, this Rule replaces and revokes any previous rules made under section 120(5) of the Act.

### **2. Objects of Rule**

- 2.1 The objects of this Rule are to:
  - (a) outline the manner in which Scheme Participants must calculate and claim deductions from the total value of their Liable Acquisitions in accordance with the exemptions under the Order; and
  - (b) specify how Scheme Participants must establish their entitlement to make any deductions from the total value of their Liable Acquisitions in respect of an exemption in accordance with the Order.

### **3. Application of the Rule**

- 3.1 Without limiting the persons to whom this Rule applies, this Rule applies to Scheme Participants who claim deductions from the total value of their Liable Acquisitions on the basis that they are supplying electricity used in connection with a Specified Activity at the corresponding Location.

### **4. Status of this Rule**

- 4.1 This Rule is a rule made under the Order and section 120(5) of the Act.

### **5. Calculating the Exempt Proportion**

- 5.1 Pursuant to section 120(2) of the Act and the Order, a Scheme Participant may deduct from the total value of its Liable Acquisitions the Exempt Proportion of the electricity load (expressed in MWh) that is used in connection with a Specified Activity at the corresponding Location.

**Note:** The Exempt Proportion is the proportion specified in the relevant entry in Column 4 of the Schedule to the Order.

- 5.2 In calculating the Exempt Proportion, the Scheme Participant must use unadjusted data from the relevant NMI associated with a Location, which measures the electricity load used in connection with the relevant Specified Activity at the corresponding Location.
- 5.3 If there is more than one NMI associated with the Location, the Scheme Participant must calculate the Exempt Proportion using unadjusted data from each relevant NMI.

## 6. Deduction for losses

6.1 Pursuant to section 120(3) of the Act and the Order, in addition to the deduction under clause 5, a Scheme Participant may also deduct an adjustment for losses equal to 5% of the Exempt Proportion from the total value of its Liable Acquisitions. This allows for losses occurring between the purchase of electricity by the Scheme Participant and its use in connection with the relevant Specified Activity at the corresponding Location.

**Note:** An allowance of 5% is specified in the Order.

6.2 The Scheme Participant must account for the deduction for losses under clause 6.1 separately to the Exempt Proportion.

**Note:** An example of how this deduction is calculated is set out below.

### Example

#### *Assumptions*

This example assumes that:

- (a) a Scheme Participant purchased 104,000 MWh from the Market Operator to supply 100,000 MWh in connection with a Specified Activity at the corresponding Location for the Compliance Period;
- (b) the Exempt Proportion for the Specified Activity at the corresponding Location is 90%; and
- (c) Transmission/ distribution losses are 4,500 MWh.

#### *Calculation*

Electricity used in connection with the Specified Activity at the corresponding Location (NMI reading)	100,000 MWh
Exempt Proportion (90% of 100,000 MWh) (A)	90,000 MWh
Deduction for losses (5% of 90,000 MWh) (B)	4,500 MWh
<b>Value of electricity to be deducted from total value of Liable Acquisitions (sum of A and B)</b>	<b>94,500 MWh</b>

## 7. Establishing entitlement to deduct electricity

7.1 In order to show that the deductions made by a Scheme Participant are made in accordance with the Order, the Scheme Participant must:

- (a) provide sufficient evidence and/or calculations to the Scheme Regulator, to establish, to the Scheme Regulator's satisfaction, that it has supplied the amount of electricity claimed in the deduction in connection with the Specified Activity at the corresponding Location during the Compliance Period for each of the NMIs to which the deductions relate;
- (b) if requested by the Scheme Regulator, commission an independent audit of the deductions that it has claimed to verify that the deductions are made in

accordance with the Order. The Scheme Participant is to bear the costs of any such audit; and

- (c) if requested by the Scheme Regulator, provide any additional evidence and/or calculations to establish its claim for the deduction within the timeframe specified by the Scheme Regulator. The Scheme Participant must provide such evidence or calculations where requested even if an independent audit has been conducted under clause 7.1(b).

**Note:** The types of evidence that the Scheme Participant may provide, or which the Scheme Regulator or an auditor may request may include billing records and/or invoices showing electricity supply in connection with the Specified Activity at the corresponding Location for individual NMIs. Where NMIs cannot be associated with the Specified Activity and/or the Location, a Scheme Participant may provide, or be requested to provide:

- site electrical diagrams, network maps, MSATS data and/or a statutory declaration by a person acceptable to the Scheme Regulator identifying the NMIs associated with the Specified Activity or Location; or
- a description of the physical boundaries of the Location, including relevant street names or a map showing those boundaries.

## 8. Definitions and Interpretation

8.1 In this Rule:

**Act** means the *Electricity Supply Act 1995* (NSW).

**Compliance Period** means the twelve calendar month period of the previous year from 1 January to 31 December (inclusive).

**Energy Savings Scheme** means the scheme established by Part 9 of the Act.

**Exempt Proportion** has the meaning given to it in the Order for the purposes of section 120(2) of the Act.

**Order** means:

1. the *Energy Saving Scheme (Electricity Load Exemptions) Order 2015* published on 18 December 2015 in the NSW Government Gazette at pages 4149-4152;
2. any other order made under s 119(1) of the Act from time to time which contains a provision deeming this Rule to be a Rule made under that other order.

**Liable Acquisition** has the meaning given to that term under section 107 of the Act.

**MSATS** is the Market Settlements and Transfer Solutions administered by the Australian Energy Market Operator.

**NMI** means an individual National Meter Identifier.

**Scheme Participant** has the meaning given to that term under section 99 of the Act.

**Scheme Regulator** has the meaning given to that term under section 99 of the Act.

**Specified Activity** means an activity specified in Column 1 of the Schedule to the Order.

**Location** means a location specified in Column 2 of the Schedule to the Order.

8.2 Notes in this Rule do not form part of the Rule.