

22 Aug 2019

Att: Stephen Procter,
Strategic Delivery Manager, Sustainability Programs
Energy, Climate Change and Sustainability
NSW Department of Planning, Industry and Environment
sustainability@environment.nsw.gov.au

Dear Stephen

Re: Submission on the Consultation Paper on the NSW ESS Rule Change 2018-2019

Northmore Gordon is an active participant in the NSW Energy Saving Scheme (ESS) through working with several Accredited Certificate Providers, and strongly supports its continuation. We focus on helping industrial and large commercial businesses reduce energy costs, as well as helping them access the value of ESCs to unlock energy and carbon projects.

In our experience, the ESS is proven to overcome some significant financial barriers to uptake of energy efficiency, and using certificates for energy efficiency projects helps to build inertia for more projects within business. Central to the use of the scheme its integrity, and flexibility to create certificates for a wide variety of different type of projects using methods such as PIAM&V and MBM which are now building significant momentum.

In addition to the questions raised in the consultation paper and our responses attached, we would also like to discuss another couple of points. Due to complexity in the PIAM&V and MBM methods, the long duration of these projects (up to 3 years), significant financial obligations for Accredited Certificate Providers and associated service providers, and subsequent commercial risks, we would like to see the following weaknesses addressed:

1. An open dialogue with the Regulator around eligibility of projects, estimation techniques for energy savings, and use of certain data or M&V techniques *prior* to submitting projects to IPART for final approval where projects either 'pass' or 'fail'.
2. Flexibility for Accredited Certificate Providers to achieve good commercial outcomes for clients through the use of conservative approaches that balance accuracy and cost. For example if it can be proven that an energy saving calculation is conservative but doesn't meet some aspects of the ESS Rule, there could be some requirement for the Regulator to accept that energy savings have occurred, and to waive the need to meet all (non-material) conditions.

Please find attached our detailed response to questions raised in the consultation paper.

I am happy to discuss this submission with you in detail.

Yours sincerely
Northmore Gordon Pty Ltd

Craig Morgan
Managing Director
craig@northmoregordon.com
+61 448 119 979

2.1 Commencement date and transitional arrangements

Do you agree with the proposed transitional arrangement?

Whilst this commencement date is fine in principle, there are extreme negative unintended consequences to existing PIAM&V projects that are currently underway if the rule changes go ahead as planned in this paper. The proposed cut-off date for projects with implementation dates prior to Feb 2020 will not work. We have further detailed this in our response to section 3.2.

Is this approximate three-month timeframe sufficient for preparing your business to be ready to comply with the new ESS rule?

In principle this is sufficient time but the proposed rule changes do not allow us to transition some existing projects to the new Rule in the required timeframe.

Can you foresee any particular part of the new ESS Rule for which it will be difficult to get 'business-ready' within the proposed timeframe?

Yes, if any of the proposed rule change affect existing projects, some of which are in their Baseline Periods and may not create certificates until early 2022.

2.3 Generating system limit adjustments

Do you agree with the proposed changes to Section 5.4(i)(ii)?

Yes, except for the requirement for the generator to be non-exporting in its entirety. We recommend that this requirement either be changed to say that 95% of the energy generated should not be exported, or removed altogether.

The requirement for generators to be non-exporting limits the potential for embedded generation to create energy savings and greenhouse gas reductions for NSW. This is because of the arrangements for network connection of embedded generators. If an embedded generator has a non-exporting network connection agreement, it will generally have to operate at set-back level that is less than site demand. E.g. a 2 MWe embedded generator may have to turn down as soon as the site demand falls below 2.5 MWe to maintain a 500kW minimum import to the site. Alternatively, a 2 MWe generator on a site with an exporting connection agreement can continue to operate at full load even with site demand falling to around 2MW or below.

Further, some generation sources such as waste-heat to energy, some process heat recovery systems, and some embedded generators are either much easier to operate in steady state, or have ramp rates that are slower than the fluctuations in site demand. In both cases, some level of allowed export to the grid might remove a barrier to these systems being designed and installed.

When using gas-fired cogeneration there is little financial incentive to export due to low wholesale power prices. The likelihood that this will unleash large amounts of exporting cogeneration is therefore low. A business case for waste heat-to-energy or embedded cogeneration is always dominated by the co-benefits of heat and power to the site, and never the prospect of large of income from the wholesale power market.

Another potential benefit of allowing export is that some sites may be able to do a 'Virtual PPA' similar to solar PPAs, with other sites that are either owned by itself, or others, improving the business case for these systems.

We also note that if a large 30 MW waste heat-to-energy generator were to be developed on a plant that was operating 24x7 it would be potentially eligible to create 50,000 ESCs every 65 days, and might contribute 4% to overall scheme annual quantities. Whilst this has potential to deliver significant quantities of ESCs to the scheme (a positive), there are unlikely to be large numbers of sites where this is possible.

Do you perceive any significant impacts, either positive or negative, associated with increasing the ESS cap on generating systems from 5MW to 30MW?

See above.

2.4 Creation of Energy Saving Certificates

Do you agree with the proposed updates to Equation 1 in Clause 6.5?

Yes.

2.5 ESC Registration data collection requirements

No comment.

3.1 Clarification of Energy Savings included in the PIAM&V method

Do you agree with the proposed changes to Clause 7A.1?

No. This introduces additional uncertainty for ACPs in seeking to comply with an already complex rule with a regulator that already exercises what seems to be significant discretion. In theory the regulator could use this to require excessive investigation of minute details that cannot be realistically accounted for, particularly within complex industrial processes or large measurement boundaries, especially when detailed asset registers are not normally maintained in Australian industry.

It would be a benefit if there was more context around why this rule change is proposed so we might be able to offer other solutions that help you meet the intent whilst providing more certainty to ACPs.

3.2 Baseline energy model measurement procedures

Do you agree with the proposed changes to Measurement Procedures of the PIAM&V method?

No.

There is currently merit in having flexibility to choose a suitable baseline measurement period from a range of past years. One reason is to ensure the baseline period produced data that was suitable for a regression model to meet suitable statistical requirements. It is recognised that the further back the baseline, the less years of forward creation are eligible and this provides a necessary incentive to have the baseline as recent as possible. When using a site boundary as

the project boundary, good quality historic gas and electricity data are usually available, and hence practical to use for baseline modelling purposes. In these circumstances, however, it would be both impractical (or impossible) and unnecessary for an M&V Professional to have written an M&V plan prior to the end of a baseline period.

In some circumstances an End User might not engage an ACP until shortly before implementation if they are uncertain of the approval for capital expenditure (this is unfortunate but a reality). In this situation the business case relying on ESC creation may not be able to proceed due to the technicality of requiring M&VP sign off for the M&V plan before the end of the baseline. This would hinder implementation of valuable emission reductions.

This requirement is impractical.

Do you have any specific concerns in relation to the cut-off date of 17 February 2020?

Yes.

The proposed modifications to the Rule are that it would apply where applications are made for ESC registrations after 17 February 2020. This would therefore affect many PIAM&V projects that are currently underway with an Operating Period ending in 2019 or 2020. Baseline modelling for many of these projects is already developed, and most would not have had M&V Professional signoff of the Baseline Energy modelling before the end of the Baseline Period.

The date should be no earlier than 1 July 2021.

Would this change present any particular issues for your business?

Yes.

This proposed rule change is impractical and significantly constrains the necessary flexibility to choose a baseline period that might be suitable for a wide range of reasons such as:

- It was a stable period of operation where energy data correlated well with independent variables
- The effective range of the independent variables was wide, giving rise to a more precise model
- Data quality was high with few measurement periods that need to be excluded

The M&V Professional is required to assert that the Baseline Energy Modelling is suitable in any case. The ACP should generally be well placed to assess the risks that the Baseline Energy Modelling won't meet the rule and engage with M&V Professionals early in the process.

A 'without prejudice' approach to seeking advice from the Regulator would also assist ACPs raising any concerns they have with a Baseline energy model before investing significant time into projects that are likely to fail to meet the requirements of the Rule.

3.3 Method Requirements Published by the Scheme Administrator

Do you agree with the proposed changes to Clause 7A.16 of the PIAM&V method?

No.

The addition to the Rule to meet additional “Method Requirements” opens up more uncertainty for ACPs. It is also not clear how these Method requirements will be scrutinised, who will decide they are appropriate, what they will apply to, and whether they will be implemented in a controlled manner. Whilst in theory they may help to clarify some things, it could simply place an extra cost burden on ACPs, and put existing projects at risk.

ACPs can operate efficiently and effectively in a market where there are known and clear rules and regulations. The introduction of another set of documentary requirements has the potential to further raise operating costs for ACPs, and poses significant risks that there could be conflicting guidance between the Act, Regulations, ESS Rule and PIAM&V Method Requirements. On top of this, many ACPs are already operating multiple methods within the NSW Energy Saving Scheme, and in the VEU, SA REES, and Federal Carbon Farming Initiative meaning there is already a significant cost burden to stay abreast of all rule changes. Simplification should be the goal, whilst this change appears to further complicate the process of complying with the Regulatory requirements of the ESS Rule.

In some cases, however, a set of clear additions to the Rule itself could reduce risk for ACPs, cost of compliance, and improve certainty of energy savings for NSW taxpayers. One example would be to simplify the rules around operating periods and baseline periods for commercial buildings such that a 9 or 12 month monitoring period is required in all circumstances. This simplifies things, and removes uncertainty for all parties.

We note that there is no guidance on:

- How often could these Method requirements be updated?
- How retrospectively could these Method requirements apply to projects?
- What is the cost impact of unknown Method requirements?
- What is the impact on existing projects where nomination forms are already signed?
- What role is there for ACPs to dispute any interpretation by the Regulator and resolve any conflict with the Rule?

3.4 Update to Counted Energy Savings

Do you agree with the proposed changes to Clause 7A.16 of the PIAM&V method? Please provide reasoning supporting your response.

Yes