

Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

By email: AERExemptions@acr.gov.au

ACAT Submission -Tindo Energy Pty Ltd Application for Individual Exemption

I refer to your request dated 18 March 2020 for submissions in relation to the application by Tindo Energy Pty Ltd (Tindo) for an individual exemption from the requirement to hold a retailer authorisation under the National Energy Retail Law (NERL).

The ACT Civil and Administrative Tribunal (ACAT) is the jurisdictional energy ombudsman for the Australian Capital Territory. In that capacity, the ACAT has considered the Tindo application and wishes to express some concerns about the application which, if granted, would appear to have the effect of removing Tindo from any regulatory obligations under the NERL.

The ACAT understands that:

- Tindo Energy Pty Ltd is a solar panel manufacturer and is part of the Cool or Cosy group which includes Homeworks Co Pty Ltd (trading as 'Cool or Cosy'), Community Power Network and Solar Rental Company Pty Ltd (Solar Rental).
- Since 1984 Cool or Cosy has operated a solar Power Purchase Agreement (PPA) business in South Australia. It now has 14,000 solar systems installed in that State.
- Solar Rental Company holds Australian Credit Licence (ACL) 426040 for the financing of solar and battery systems for domestic clients.
- Tindo intends to sell to grid-connected residential customers and also to grid-connected business customers, initially in South Australia and Queensland, but with possible entry into other States and Territories. The NERL retailer exemption is sought in relation to Queensland, NSW, the ACT, South Australia and Tasmania.
- Tindo is not eligible to become a member of EWOSA and is regulated primarily through fair trading/Australian Consumer Law mechanisms. Solar Rental is a member of the Australian Financial Complaints Authority scheme.
- The company proposes to offer PPAs for less than 10 years (which is covered by a Class R8 registerable exemption under the AER (Retail) Exempt Selling Guideline) and for more than 10 years (where an R8 exemption is unavailable).

Tindo requests an individual exemption from the requirement to hold a retailer authorisation under the NERL because many of the obligations of a retailer authorisation will not apply to Tindo and the group is regulated under other schemes, particularly in relation to its credit licence.

ACAT does not oppose the grant of an exemption from the requirement to hold a retailer authorisation, as this would be unnecessarily onerous on the company given its proposed business model.

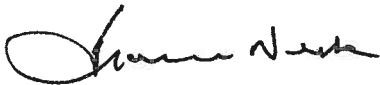
However, ACAT does not support an unconditional exemption irrespective of whether the PPA is for less than 10 years or for between 10 and 20 years.

In our submission, an appropriate NERL regulatory framework needs to be developed in the new, emerging areas of electricity generation and distribution technologies (solar generation, batteries, local grids, etc). The exemption for Tindo should be crafted by the AER:

- to include reasonable conditions for customer protection (as a minimum, conditions 24 and 25 which are applicable to Class R8 exemptions); and
- to provide for additional conditions as regulation of the new and emerging technologies progresses.

Please contact me if you would like any further information.

Yours sincerely



Graeme Neate AM

President

17 April 2020