



AUSTRALIAN ENERGY
REGULATOR

GPO Box 520
Melbourne VIC 3001
Telephone: (03) 9290 1444
Facsimile: (03) 9290 1457
www.aer.gov.au

Our Ref: D14/135679
Your Ref:
Contact Officer: Susan Faulbaum
Contact Phone: (08) 8213 3643

14 January 2015

Mr Huon Hoogesteger
Smart Commercial Solar
102/66 Berry St
North Sydney NSW 2060

Dear Mr Hoogesteger

Variation of conditions for The Smarter Group's individual exemption

We contacted you in July last year to advise of the Australian Energy Regulator's (AER's) intention to amend the conditions of the exemption we granted The Smarter Group on 31 January 2014.

As you would be aware, the individual exemptions approved for providers of solar panel purchase agreements (SPPAs) are different from most other exemptions registered with, or approved, by the AER in that they allow exemption holders to sell energy to multiple sites, whereas all other exemptions are site specific. The AER has reviewed its approach to regulating SPPA providers, including the conditions attached to exemptions of these types of energy sellers, and has decided to attach a new condition to these exemptions to ensure that SPPA providers only sell electricity through SPPAs and do not retail more broadly. An SPPA business holding an individual exemption that wishes to expand its energy sales activities will need to apply for either a retailer authorisation or another exemption, as appropriate.

Specifically, all exemptions granted SPPA providers will also be conditional upon the exempt seller:

- refraining from registering in the wholesale market for the purposes of purchasing energy
- not being the financially responsible retailer for the premises (rather, this must be an authorised retailer).

The AER may amend the conditions of any exemptions it has approved subject to the process specified in the National Energy Retail Rules (Retail Rules).¹ I therefore wish to advise that the AER decided, on 14 January 2015, to vary the conditions of The Smarter Group's individual exemption in accordance with rule 158 of the Retail Rules. The amended conditions are set out at Schedule 1 to this letter.

In making its decision the AER has considered the policy principles relating to exempt selling in s. 114 of the National Energy Retail Law (Retail Law), and has also been guided by the objective of the Retail Law², the exempt seller factors,³ and the customer related factors.⁴

Please advise in writing, by **13 February 2015**, whether you accept the condition variations.

If you have any further queries, or would like to discuss this further, please contact Susan Faulbaum on (08) 8213 3463.

Yours sincerely



Sarah Proudfoot
General Manager
Retail Markets
Australian Energy Regulator

¹ This process includes publishing and consulting on the proposed variation(s) (for a minimum of 20 business days), considering any submissions made, and making (and publishing) a formal decision (r. 155(3) and 156, National Energy Retail Rules).

² The National Energy Retail Law objective is to "promote efficient investment in and efficient operation and use of energy services for the long term interests of energy consumers with respect to price, quality, safety, reliability and security of supply of energy". (s. 13, Retail Law)

³ s. 115, Retail Law.

⁴ s. 116, Retail Law.

Schedule 1: Instrument of exemption

VARIATION OF CONDITIONS OF INDIVIDUAL RETAIL EXEMPTION

The Australian Energy Regulator, on 14 January 2015, decided pursuant to rule 158 of the National Energy Retail Rules, to vary the exemption conditions of the individual exemption granted The Smarter Group Pty Ltd (ACN: 155 596 928) (trading as Smart Commercial Solar) (the exempt seller) on 31 January 2014. The conditions applying to The Smarter Group are as follows.

Condition 1 - Information provision

The exempt seller must provide the customer in writing a plain English notice explaining that the contract is covered by Australian consumer protection laws and is separate to the customer's contract with their retailer and distributor which are covered under the National Energy Retail Law.

Condition 2 – Exemption limited to the sale of electricity through solar power purchase agreements

This exemption is conditional upon the exempt seller:

- refraining from registering in the wholesale market for the purposes of purchasing energy, and
- not being the financially responsible retailer for the premises (rather, this must be an authorised retailer).
- not being the financially responsible retailer for the premises (rather, this must be an authorised retailer).

