

Application for Individual Retail Exemption

September 2013



I. Introduction

Express Solar Pty Ltd (**Express Solar**) is an Australian green energy company that distributes and installs solar energy systems and related technology. Express Solar's objective is to become a major renewable energy retailer for the Australian domestic market, with a view to expanding overseas to the U.S. and U.K. Express Solar will supply electricity generated from the solar systems, which are installed at the residential and commercial customer's site, to these customers at a lower rate than they can procure from traditional authorised retailers.

II. General Particulars

1. Legal Name	Express Solar Pty Ltd
2. Trading name	Express Power Australia
3. ACN	154 342 971
4. Address of registered office	Unit 12 62-66 Newton Road Wetherill Park NSW 2164
5. Nominated Contact	Donghua Wang Managing Director donghua.wang@expresssolar.com.au 0434 555 855

6. Reason for seeking the Individual Exemption

Express Solar's business model is a novel way of retailing energy which is new to the Australian market. It does not fit with the Retail Energy Legislation or the categories of exemption. Express Solar's customers' interests will be protected as their utility service will be an authorised retailer, and the customer must have an authorised retailer in order to enter into the Power Purchase Agreement (**PPA**).

The PPA has been drafted taking into account the Retail Energy Legislation. For example, the agreement contains a 10 day cooling off period as is required by the legislation, and also contains dispute resolution clauses.

The PPA has been drafted to be compliant with other state and federal consumer/homeowner protections – including the Australian Consumer Law (**ACL**) and state building legislation. The customer's interests will be protected by statutory guarantees under this legislation.

7. Address of the Site

Not Applicable to Express Solar’s operations – Express Solar is seeking a multi site exemption.

8. The Primary Activity of Express Solar

The sale of renewable energy which is generated by solar systems owned by Express Solar, and installed on the customer’s property. The systems are maintained at no charge to the customer.

9. The Form of Energy

The form of energy is electricity generated from solar power.

In order to enter into an agreement with Express Solar, the customer will have to already have a contract with an authorised retailer. This electricity network will be connected to the grid.

10. Energy Supply

It is not possible for Express Solar’s business model to operate in an area where there is no electricity supply. Express Solar’s main business is grid-connected solar systems.

11. Date of Commencing Retail Operations

Express Solar is ready to commence retail operations as soon as possible.

12. Mailing Address of the Site

Not applicable.

13. Previous Experience as an Energy Retailer

This is the first time that Express Solar has engaged in retail energy operations, and the Power Purchase model is uncommon in the Australian market. Express Solar’s business model is based on similar models used in the US and Europe.

14. Current Authorisations /Exemptions

Not applicable.

15. Arrangements in the Event of Failure to Supply

As the customer’s home will already be powered by electricity from a non-renewable source, this question is not applicable. If the home is not being powered by energy from the system, it will be powered by the customer’s authorised retailer.

III. Particulars Relating to the Scope of the Proposed Operations

1. Customers

Not applicable.

2. Other Services

Express Solar will also provide installation and maintenance services. The installation process is regulated by home building legislation applicable in each state.

3. Total Number of Dwellings/Premises at the Site

There is no "site" but Express Solar's present customer base is comprised of 20% commercial (large) clients, and 80% residential (small).

Ultimately, Express Solar aims to have a client base made up of an equal amount of small and large customers, but initial business operations have focused on securing a residential agreement which is compliant with relevant state and federal legislation.

Express Solar intends to operate in the following jurisdictions:

Year 1: South Australia, New South Wales, Western Australia and the Northern Territory.

Year 2: Expand into Tasmania.

Year 3: Expand into Victoria.

4. Sale of Energy

The premise of the 'power purchase' model is that the customer agrees to have a Solar PV system installed on their property and to pay for the energy it generates.

This differs from a traditional solar panel arrangement as the system remains the property of Express Solar for the duration of the agreement (15 years). In exchange for the free system, warranty on the system and maintenance, all rebates and credits remain the property of Express Solar and the customer pays for the energy on a monthly basis at a flat rate.

5. Purchase of Energy

Not applicable

6. Estimated Aggregate Annual Amount of Energy likely to be Sold and Average Expected Consumption

Redacted for commercial confidentiality.

7. Customers

Not applicable

8. Metering of Premises

Redacted for commercial confidentiality.

9. Types of Meters

Express Solar will use a remotely read interval meter, which is one of the integrated functions of the inverter. The production record is read from the inverter. All the real-time data from inverter will be uploaded to the server of Express Solar through the Solar iTrack.

10. Accuracy Standards Applicable to the Meters

The type of power meter to be used is a function of the inverter. It complies with standards set for grid-tied operation, safety and electromagnetic compatibility including: AS4777, IEC 62109-1, IEC62109-2, AS/NZS 3100.

11. Frequency of Reading the Meters

Express Solar will monitor the meters constantly through the Solar iTrack system. The data is updated every five minutes. Express Solar will use the data collected by the Solar iTrack to bill the customer on a monthly basis.

12. Charges

Not applicable - customers will be separately metered.

13. Billing customers

Express Solar will issue a bill to the customer on the first day of every month, based on the data collected by the Solar iTrack. Payment will be due on the thirteenth day of every month.

Customers have the option to arrange direct debit, and if they pay by direct debit, will receive a monthly discount of \$5.00 off the cost of their bill. The direct debit charges will be processed on the thirteenth day of each month.

14. Dispute Resolution Procedures

There is a dispute resolution clause in the customer agreement which provides that:

- The customer may raise a complaint with Express Solar, and Express Solar will respond to the dispute within a set timeframe, setting out the reasons for its decision in relation to the dispute; and

- If the customer is not happy with the outcome of the dispute, then it may refer the complaint to the relevant fair trading office or ombudsman in its state or territory.

Express Solar has implemented a Customer Care Team to respond to customer queries over telephone and email, with a structured hierarchy to ensure any complaints are escalated promptly, and issues are resolved within 48 hours if practicable.

There are also provisions in the agreement which provide for any dispute in relation to a statutory warranty relating to any Building Work.

15. Energy Rebates

The system installed on the homeowner's property remains the property of Express Solar for the duration of the Agreement (15 years). As such, any and all green energy certificates and rebates created for the System are the property of, and for the benefit of, Express Solar. This does not apply to any energy concessions that the customer is eligible for.

The customer receives the benefit of a fully maintained Solar Panel System at no upfront cost and will get their feed in tariff from their authorised retailer for all the electricity not used as a result of the use of solar energy.

16. Energy Efficiency/ Renewable Energy Options

The service provided by Express Solar is a renewable, solar energy service.

17. Additional Information for Assessment

An individual exemption is more appropriate than a retailer authorisation with respect to Express Solar's operations for the following reasons:

- The 'power purchase' model is a novel way of retailing energy which is new to the Australian market. It does not fit with the Retail Energy Legislation or the categories of exemption. The grant of an individual exemption with agreed conditions will enable the power purchase model to develop, at the same time it is assessed to determine its place in the market, and whether an authorisation is required, or new type of authorisation should be implemented.
- While Express Solar has been operating in the solar panel industry for some years, Express Solar is effectively a 'start up' in the retail energy market. The requirements of an authorisation are onerous and at this stage of its operations, Express Solar does not have the resources to meet these requirements, though it may do so as the business expands.

The purpose of the retail energy customer framework is to regulate the energy market and protect energy consumers. Under the power purchase model, customers are required to have an electricity supply agreement in place with an authorised retailer. The customer's interests are already protected by their agreement with their retailer. Furthermore, the PPA

has been drafted with the retail energy legislation in mind, and is compliant with state home building legislation and the Australian Consumer Law.

IV. Additional Particulars Relevant to Express Solar's Operations

1. Implications for other Areas of Law/Consumer Protections

Given that the power purchase model requires the solar system to be installed on the customer's property by a building contractor arranged by Express Solar, the arrangement is captured by state home building legislation. As such, the customer's interests are protected by legislation in the following general areas, including but not limited to:

- Legislative guarantees in relation to the building work and the performance of the building work
- Dispute resolution
- Cooling off rights and notice periods
- Notices prior to the commencement of the works

The PPA has also been reviewed to ensure it does not contravene Australian Consumer Law, and in particular the unfair terms provisions of the legislation.

2. Implications for other Agencies

If the customer is not happy with the outcome of a dispute raised, the customer can refer the dispute to the ombudsman or fair trading office in their state or territory.

3. Termination of the Agreement

Clause 17 of the PPA outlines termination. The customer can:

- Terminate the agreement without penalty within 10 business days
- Terminate for Express Solar's material breach of the agreement

If the customer sells their property, there are transfer provisions set out under the agreement. These are:

- a. The customer can transfer the Agreement and the monthly payments to the purchaser, subject to the Purchaser signing a transfer agreement to assume the customer's rights and Monthly Payment obligations under the Agreement; or
- b. The customer can buy out the System, ending the PPA.

The ownership of the System is transferred from Express Solar to the customer. The customer can add the value of the System to the sale contract. If the purchaser would like to continue to use the Solar iTrack, they can enter into a separate agreement with Express Solar to pay an annual fee in the range of \$100.00- \$200.00.

The 'buy out' value of the System will depend on the year it is sold. Customers will be provided with a Value Statement upon entering the Agreement, which sets out the value of the System each year, for the 15 year term of the Agreement.

At the end of the 15 year term of the Agreement, ownership of the solar system automatically transfers to the customer. The customer can pay an annual fee to Express Solar to continue to use the Solar iTrack.

However, if the customer has been paying a lower rate, the customer has two options at the end of the term. The customer can:

- a. renew the Agreement for another term during which time the System remains the property of Express Solar; or
- b. purchase the System at a discounted rate.

4. Guarantee of the Solar System and Building Works

The building works are guaranteed under the state building legislation.

The solar panel is guaranteed pursuant to a limited warranty under the agreement. The system is warranted for the duration of the term, and Express Solar agrees to maintain, repair and/or replace the system at no charge to the customer.

There is also a one (1) year roof warranty for any damage caused to the customer's roof as a result of the installation of the system.

5. Multi Site Exemption based on Capacity

Redacted for commercial confidentiality.

V. Conclusion

Express Solar's aim is to increase the consumption of green energy in Australia. While a retail authorisation may be a suitable method of regulating Express Solar's operations in the future, Express Solar submits that the grant of an individual exemption with various conditions is more appropriate at this initial stage, as it will enable the model to mature in the market while ensuring that the consumer's rights are protected.