**Application for Individual Retail Exemption**

# Nue Pty Ltd T/As Nu Energy

1. **Introduction**

Background to Nu Energy

Nue Pty Ltd (**Nu Energy**) is an Australian company whose current operations consist of the sale and installation of solar PV generating units and associated connection assets (**Generating Systems**) to customers. Nu Energy wishes to expand its business to enter the renewable electricity retail industry in Australia. Nu Energy will supply electricity to its customers using Generating Systems installed on their properties using a hire purchase model. It is intended that customers will be able to acquire solar electricity and will ultimately own a Generating System at a cheaper rate than they could do both separately. The kWh rate paid by customers for electricity generated by the Generating System is also expected to be cheaper than or equal to the rate customers are likely to be paying for electricity from a licensed retailer.

Similar recent solar exemptions

Nu Energy notes that the AER has recently granted exemptions from the requirement to hold a retailer authorisation under the National Energy Retail Law to several solar electricity retailers including:

* Australian Clean Energy Finance Fund on the 21st February 2014;
* SEL Absolute Return Fund SA Pty Ltd on the 21st February 2014;
* Repower Shoalhaven Incorporated on the 14th February 2014;
* Smart Commercial Solar, on the 31st January 2014; &
* Express Solar Pty Ltd, on the 20th December 2013.

As will become apparent, the business model set out in the applications submitted by the above companies is very similar to the business model proposed by Nu Energy. Accordingly, Nu Energy submits that it is appropriate for a retail licence exemption to be granted to it on similar terms.

In line with the conditions imposed on the above companies by the AER, Nu Energy is prepared to provide each of its customers a written plain English notice explaining that the contract is covered by Australian consumer protection laws and is separate to the customer’s contracts with their retailer and distributor that are covered under the National Energy Retail Law. Nu Energy submits that other conditions that can attach to other categories of exemption are not necessary or appropriate in the circumstances.

Business model

Nu Energy’s business model will be as follows:

* Nu Energy will enter into an electricity supply agreement (**ESA**), with customers pursuant to which it will install Generating Systems on the customer’s premises and sell the electricity generated by the Generating Systems to that customer up to the amount of consumption needed or desired by the Customer.
* The customer will be required to be connected to the grid and will need to have an electricity connection agreement with a licensed electricity distributor and a retail contract with a licensed electricity retailer.
* It is intended that any electricity not used by the customer will be sold by Nu Energy (or by the customer as agent for Nu Energy) to the relevant licensed local area retailer.
* Nu Energy will install the Generating Systems at no up-front cost to customers. Nu Energy will retain ownership of the Generating Systems throughout the term of the ESA (between 10 and 15 years, depending on the site specifics).
* The Generating System can be bought out by the customer prior to the end of the term of the ESA (if there is a residual/balloon on the hire purchase arrangement) or will automatically pass to the customer (if there is no residual/balloon on the hire purchase arrangement).
* All green energy credits during the term of the ESA will be owned by Nu Energy. The customer pays for the electricity consumed and a contribution towards the cost of the Generating System on a monthly basis for the term of the ESA. The customer will also be able to choose the residual/balloon on the hire-purchase arrangement subject to certain bounds.

Customers

Nu Energy anticipates that its customer base will primarily consist of SME customers across Australia. For the most part, it is expected that its customers will be <100kW. It is expected that all of the Generating Systems installed and operated under this arrangement will each have a total nameplate rating, as defined in the National Electricity Rules, of less than 5MW.

1. **General Particulars**
2. **Legal name:**

Nue Pty Ltd

1. **Trading name:**

Nu Energy

1. **ACN:**

81 107 122 154

1. **Address of registered office:**

2/4 Meaden Street, Southbank, VIC 3006

1. **Nominated contact:**

Ben Talbot, Director ben.talbot@nuenergy.com.au 0408 137 519

1. **Reason for seeking an individual exemption**

***Exceptional Activities:***Nu Energy's activities as set out in the Introduction are exceptional. Whilst Nu Energy’s operations will be small and limited to embedded generation within embedded networks, its proposed retail arrangement does not fall withinany existing National Energy Customer Framework (NECF) exemption categories.

***Limited resources:***While Nu Energy has an established business in the sale and installation of Generating Systems, it is new to the retail electricity market. As such, it does not currently have the resources to meet the onerous requirements of a full retail license.

***Existing consumer protections:***Retail customers of Nu Energy will be required to have contracts in place with an authorized retailer.As such, customers’ interests with regard to the security and reliability of their electricity supply will be adequately protected.

The ESA will be compliant with relevant consumer protection legislation, including the Australian Consumer Law. Also, many of Nu Energy’s customers will be business customers. Accordingly, the additional protections ordinarily afforded under the NECF are not necessary to protect consumers’ interests in this instance.

**7.           Address of the site**

The AER has advised that this question is not applicable to the type of energy selling that is the subject of this application as the business will sell electricity to many sites.

**8.           Nature of activities to be undertaken**

Please refer to the Introduction.

Nu Energy will sell solar electricity generated by Generating Systems installed by Nu Energy on customer’s premises. The electricity is primarily sold to the customer on whose premises the Generating Systems are located. Where the Generating Systems generate electricity that is in excess of the customer’s requirements, Nu Energy intends to sell this electricity back into the grid to a licensed retailer.

The feed in tariff is to accrue to the customer's existing bill. Nu Energy will not take over the connection of the meter or the arrangement between the customer and the electricity retailer. The exported energy will be monitored and Nu Energy may implement an export fee invoiced to the customer equal to and/or no greater the amount reimbursed to the customer from the electricity retailer.

Where the electricity generated by the Generating Systems is less than the customer’s requirements, it is intended that the customer will use all of the electricity produced by the Generating System and will purchase the additional electricity from its licensed electricity retailer under its retail contract.

**9.           Form of energy for which individual exemption is sought**

Electricity generated from embedded solar power generators. Sites at which Generating Systems will be installed will be connected to the main grid.

**10.      Will energy supply be established in an area where there is no other energy supply**

Nu Energy will not be establishing electricity supply in an area where there is no other energy supply available. Nu Energy’s business model functions only in areas where there is an existing electricity supply. As mentioned above, customers will be required to have a connection agreement with an authorised distributor and a retail contract with an authorised retailer.

**11.      Date the sale of energy will commence**

Nu Energy will commence promoting its new arrangement as soon as practicable after the registration of its individual exemption. Once it has signed up a customer and installed the requisite Generating System, Nu Energy will commence selling electricity.

**12.      Mailing addresses for residences at the site**

Not applicable.

**13.      Previous experience in selling energy**

Nu Energy does not have experience in the sale of energy. However, it has been selling and installing and maintaining Generating Systems for 20 years. The power purchase model that Nu Energy business is looking to enter is relatively new to the Australian market.

Nu Energy business model is based on similar models that operate in the United States and Europe as well as the similar recent solar exemptions listed above.

**14.      Current or previous exemptions**

Nu Energy has never held or been subject to any energy selling exemption, class energy selling exemption or retail licence in any State or Territory.

**15.      Arrangements in the event that Solar Professionals can no longer continue to supply electricity**

The customer’s premises will be able to be supplied with electricity by their authorised retailer in addition to (or instead of) the electricity supplied by Solar Professionals’ Generating System. If Nu Energy can no longer supply electricity, the customer’s electricity needs will be wholly met by their authorised retailer.

The customer can also self-supply from the installed Generating System when it takes ownership of it at the end of the ESA, or as otherwise agreed with Nu Energy.

1. **Particulars relating to the nature and scope of the proposed operation**

**1.          Customers**

Customers will not be Nu Energy tenants.

**2.           Other services**

Nu Energy will provide installation and maintenance services in respect of the Generating Systems on its customers’ premises in addition to the sale of electricity. The ESA also provides for a hire/purchase arrangement in which the solar panels are effectively leased to the customer for the term of the ESA, with hire costs being included in the customer’s monthly fee. Ownership of the Generating System will transfer to the customer after the term of the ESA.

**3.           Number and type of premises at the site**

There is no “site” as such. As mentioned above, Nu Energy will sell electricity to a number of different premises.

This information is provided in Part IV below.

**4.           Acquisition of energy**

Nu Energy will not be on-selling electricity purchased from an authorised retailer, nor will it be purchasing electricity from the wholesale market. Nu Energy may sell excess electricity generated from the Generating Systems that will be installed on customers’ premises.

**5.           Contracts for energy purchase**

The AER has advised that this question is not applicable to the type of energy selling that is the subject of this application.

**6.           Estimated aggregate annual amount of energy to be sold**

For the first year of operation, Nu Energy expects its aggregate energy sales to be approximately 2.4MWh.

**7.           Presence of customers on site owned/controlled by Nu Energy**

Nu Energy customers will not be within a site owned, controlled or operated by Nu Energy.

**8.           Separate metering**

Each premises will be separately metered. As part of the installation of the Generating Systems on each customer’s premises, Solar Professionals will install a separate meter that will measure the electricity consumed by the customer as well any excess electricity exported to the grid.

**9.           Types of meters**

Nu Energy will use metering which is appropriate for the purpose of measuring the consumed and exported electricity and which complies with the applicable energy laws.

These meters will be in addition to the meter used by the customer’s authorised retailer.

**10.      Accuracy standards for meters**

The meters will comply with applicable standard accuracy measures under the energy law and Australian Standards, and will comply with National Measurement Act 1960 (Cth) requirements for electricity meters installed from 1 January 2013.

**11.      Meter reading**

Meters will be read periodically (monthly or quarterly depending on the site specifics) at regular maintenance checks by Nu Energy staff. Meters will also be monitored remotely.

Meter readings will always occur prior to the bill. Customers will be given a choice to be billed monthly or quarterly and the meter readings will occur prior to the bill being issued to the customer. Meter readings may occur remotely if functionality exists. All meters readings that are invoiced will be from a pattern approved NMI meter.

**12.      Energy charges**

The AER has advised that this question is not applicable to the type of energy selling that is the subject of this application.

**13.      Billing**

Consistent with small customer billing timeframes under NECF, Nu Energy will issue a written invoice to the customer on the first day of each month. The customer will be required to pay the invoice by the fifteenth day of the month.

Nu Energy will issue invoices itself.

**14.      What dispute resolution procedures do you intend to put in place to deal with energy related complaints and issues?**

Electricity related complaints and issues will be dealt with under the dispute resolution clause of the ESA. This clause will provide that a customer can raise a complaint or issue with Nu Energy and Nu Energy is required to respond to the complaint within a set timeframe setting out its decision in relation to the dispute and the reasons behind it. Either party may choose to escalate the dispute to mediation. The customer may also refer the complaint to the relevant fair trading office or energy ombudsman if it is not happy with the outcome.

**15.      Availability of energy rebates or concessions**

Most of Nu Energy customers are likely to be large customers that do not qualify for concessions or rebates. To the extent that they do qualify, or are facing hardship, Nu Energy will endeavour to accommodate this and honour the relevant Government scheme.

The customer can be expected to receive the ultimate benefit of cost savings and the availability of renewable power over time. The bundled price the customer pays for both the Generating System and the electricity consumed over the term of the ESA are expected to be significantly cheaper than the cost of acquiring each item separately. At the expiry of the term, the customer will own valuable renewable electricity assets that will enable it to generate its own power from that time on.

Depending on the financing arrangement of the contract the c/kWh rate may incorporate maintenance/system costs. An example of this is in the PPA arrangement where the customer is charged for consumption on a c/kWh rate. The costs associated in enabling the system to operate at its maximum efficiency and the capital cost of the system is built into their tariff based on the contract term. As the performance of the system rests with Nu Energy, the customer will not incur additional charges unless there is a breach of contract (i.e. Incorrect use of the system by the customer).

In any instance where the customer requires ad-hoc support beyond the normal operating conditions of the system stipulated in the contract, a fee may be incurred by the customer and this fee will be itemized in their bill separate to the tariff charge for energy consumption.

In any instance of the customer being charged a tariff – they will only pay for the energy consumed from the system.

**16.      Will you make energy efficiency options available to your customers?**

The electricity that Nu Energy sells to its customers will be renewable solar generated electricity. Nu Energy can direct customers to demand-side management consultants if they require it.

**17.      Further information**

If the AER has any further questions or requires any additional information to assist it to process this Application, please contact Ben Talbot on 0408 137 519 or by email at ben.talbot@nuenergy.com.au.

1. **Additional information requirements**

**1.           What is your strategic direction and what are your objectives?**

Nu Energy’s objective is to build a sustainable business which simultaneously provides its customers with affordable renewable electricity and assists customers to purchase infrastructure that will allow them to continue using renewable electricity even after the expiry of the ESA.

Please refer to Part 1 – Introduction that sets out additional details on Nu Energy’s strategic directions and objectives.

**2.           What are your projected customer number forecasts?**

Nu Energy anticipates entering into ESAs with 20 customers across Victoria, Western Australian, South Australia, Queensland and New South Wales within 12 months. Accordingly, the project is not of the scale that would justify the imposition of retail licence conditions.

**3.           What are your projected annual aggregate energy sales (in kilowatt hours or megawatt hours)?**

For the first year of operation, Nu Energy expects its aggregate energy sales to be approximately (120,000 hours x 20 (100kW sites))= 2.4MWh.

**4.           What financial resources do you have to support your business?**

Nu Energy already has an existing business in the sale and installation of solar PV generating units it already has a level of liquidity to support the business. It has no debt.

**5.           Are you intending to sell to business customers, residential customers, or both?**

Nu Energy is offering only to SME clientele at this stage. Any changes to our prospective target group will be announced to the AER. In the current financial climate only solar systems around and under the 100kW rated output are viable.

**6.           How will your pricing structure work – is the customer charged only for their consumption or are there other fees?**

Customers will be charged on case-by-case basis according to site specifics. This will be calculated on an internal cash-flow analysis, incorporating:

* costs;
* risk factors;
* operation and maintenance;
* insurance;
* lending costs; &
* general return on investment.

**7.           In which jurisdictions do you intend to sell energy?**

Nu Energy anticipates that its customer base will initially consist of customers in Victoria, South Australia, Western Australia, New South Wales, Queensland and Tasmania.

**8.           Under what circumstances can the customer contract be terminated (for example, what happens if the customer moves house)?**

Circumstances in which Nu Energy may terminate the ESA include:

* where a customer defaults on payment and does not rectify that default within a reasonable timeframe;
* where the building or area where the Generating System is installed is sold; &/or
* if serious unforeseen damage to the Generating System occurs.

However, termination will only be considered after all attempts to negotiate a fair and reasonable resolution have been exhausted. For example, if the customer moves house, a negotiation process will commence which will consider all options, including:

* buy-out of the Generating System by the customer;
* the removal of Generating System by Nu Energy; &
* the transfer of the Generating System to the new tenant.

If in the event that the customer wishes to re-lease the system for another term the solar asset will reside with Nu Energy. If the customer also wishes to remove the system at the end of the contract term, the ownership of the system will reside with Nu Energy and a removal charge will be applied to the customer's final invoice.

There may also be an instance of this occurrence where a special request is made by the customer to not take on the asset. This will be handled on a case-by-case basis.

The are exit clauses in the contract that are agreed upon prior to commencement. Variations can be also agreed upon between Nu Energy and the customer on certain points of the exit clauses.

The points up for discussion include: Removal of system costs and buy-out costs at varying stages of the contract.

In the contract there is reference to a "Fair market" appraisal for removal of the system that will be conducted as required, in the event of occurrence.

In the situation of a potential ‘buy out’ – there may be penalties in buying out the asset within the first half of the term due to the loss in revenue that Nu Energy will suffer as a result of a change in position of the customer. These penalties will be made apparent to the customer prior to commencement of the contract. An amortized cost for buy-out and penalty rates will also be made available to the customer upfront.

**9.           What happens to the solar panels at the end of the contract? Who owns them?**

At the expiry of the term, the Generating System will normally become the property of the customer. The contract term is typically 10 years with the option to re-new as the end of term draws near. Terms other than 10 years carry a risk profile that is not feasible in this financial climate.