

Australian Energy Regulator

Application for individual exemption

PPA Direct Pty Limited

ACN 163 029 187

PPA Direct Pty Limited (**PPA Direct**) is a proprietary limited company that has been established as a joint venture between a number of people interested in and participating in the industry. The shareholders in the company are a combination of those who have expertise in designing solar systems and utilising technology, those who have the expertise to install and maintain solar systems and those with the capacity to introduce the concept to small business customers which may benefit from the arrangements proposed.

PPA Direct has developed a concept under which a small business customer (**Customer**) is provided with a fully installed and maintained solar system at its premises, for no cost, and in exchange the Customer agrees to purchase the energy generated at the site from PPA Direct under a power purchase agreement (**PPA**). The energy sold under the PPA is sold at a fixed price and provides both certainty in relation to energy costs in the future and savings for the Customer as the market price increases predicted will be avoided. Any additional energy that is required by the Customer to that which is generated on site will be purchased from the Customer's retailer of choice in the ordinary course.

With this application, PPA Direct is seeking an individual retail exemption to cover the sale of energy to each of its Customers under a PPA.

Below is the information required by Appendix B of the AER (Retail) Exempt Selling Guide. In an email from the Director of the Retail Markets Branch of the Australian Energy Regulator (**AER**), Ms Susan Faulbaum, to Mr Glenn Melton of 12 May 2014, it was indicated that a number of the requirements set out in Appendix B would not be relevant to the type of energy selling in which PPA Direct is involved. Those requirements are indicated below with "Not relevant to type of energy selling". Ms Faulbaum also indicated that there were some other elements of the business model on which information would be required, and those elements are set out in a separate section below under the heading "*Business model information requested*".

General information requirements

1. **Your legal name. If you are a body corporate or community corporation, please indicate this.**

PPA Direct Pty Limited is a proprietary limited company established under the *Corporations Act 2001* (Cth)

2. **Your trading name if different to your legal name.**

PPA Direct does not have a trading name which is different to its legal name

3. **Australian Business Number (ABN) or Australian Company Number (ACN).**

PPA Direct's ACN is 163 029 187 and its ABN is 67 163 029 187

4. **Registered postal address for correspondence. We may verify this information with the Australian Securities and Investments Commission (ASIC) or other relevant agency.**

The address of the registered office of PPA Direct is:

Unit 1, 185 Morgan Street
Wagga Wagga NSW 2650

The principal place of business of PPA Direct is:

495 David Street
Albury NSW 2640

5. **Nominated contact person, including their position in the organisation and contact details.**

Glenn Melton
Director
8 Stead Street
Wodonga VIC 3690

Email: glenn@ecoforlife.com.au

Tel (mob): 0423 800 858

6. **Why you are seeking an individual exemption, and why you believe that an exemption (rather than a retailer authorisation) is appropriate to your circumstances.**

PPA Direct is seeking an individual exemption as it is not a traditional retailer and adopts a business model which offers a non-traditional approach to the selling of energy.

PPA Direct has developed a proposal pursuant to which any Customer which chooses to participate will receive, at no cost, a solar system installed on either the roof or the ground at the premises from which it conducts its business. PPA Direct is granted a licence to install, maintain and operate the solar system on the property. If the Customer does not own the property itself, the owner of the property is requested to consent to the property licence.

The solar system provided by PPA Direct is designed in consultation with the Customer, utilising software modelling using 30 years of climate data for the applicable area and with reference to the Customer's historical interval data which is supplied by the Customer's retailer of choice. This ensures both that the solar system is suitable for the climate and that the size of the solar system is commensurate to the needs of the Customer's business. Involving the Customer also enables the Customer to determine the extent to which it wishes to rely on solar generated energy supplied by PPA Direct at a fixed price and the extent to which it wishes to continue to purchase energy from its retailer of choice at market prices. Designing the solar system by reference to previous energy usage has the added advantage of ensuring that the Customer is never exposed to costs or liabilities in connection with the solar system which are not consistent with its own energy needs whether during the term of the arrangement or when it is over. It also ensures that PPA Direct does not seek to charge a higher price for energy to cover the cost of an unnecessarily large solar system for its own benefit.

The solar system includes a meter which satisfies applicable Australian Standards to ensure accurate measurement and invoicing of energy. The equipment installed also includes a modem to enable remote monitoring of the performance of the equipment. PPA Direct will remotely monitor the solar system throughout the term of the arrangement and maintain the system.

Customers are invited to participate in an arrangement for a period of 10, 20 or 25 years (although there can be some flexibility on term). The term of the arrangement determines the amortisation rate of the cost of the solar system and, coupled with anticipated usage, is reflected in the price of the energy per kWh. At the end of the term, title in the solar system passes to the Customer without cost and the Customer then is able to generate its own energy.

In consideration for the provision of the solar system, the Customer grants the property licence and agrees to enter into the PPA. Under the PPA, the Customer agrees to purchase, at a pre-determined rate per kWh, a minimum amount of energy. The minimum amount also is determined by reference to previous usage and will always be less than 100% of usual consumption so that the Customer is never required to purchase from PPA Direct any more energy than it normally uses. The Customer is required to use any energy it purchases on the site on which that energy is generated.

PPA Direct only sells energy which is generated at the Customer's site and never on-sells energy generated elsewhere or by another person. PPA Direct does not attempt to replace the Customer's retailer of choice but only to provide a proportion of the Customer's current energy needs. If additional energy is required, for example, if the Customer's business expands, or the energy actually generated on site is less than the total requirements of the Customer, that additional energy will be acquired from the Customer's retailer of choice in the normal course.

Under the PPA the Customer also assigns to PPA Direct rights to any small scale technology certificates (**STCs**) which may be available with respect to

the solar system at the Customer's site. For the Customer this has the advantage of not being exposed to market fluctuations in the price of STCs and not being required to familiarise itself with the way in which STCs are sold and traded. For PPA Direct it has the benefit of the value of the STCs which it can use to meet some of the cost of the solar system and allow it to offer a lower price for the energy than it might if it did not receive the benefit of the STCs.

On the basis of the elements described above, it is clear that PPA Direct offers a bespoke energy selling arrangement which is tailored for each individual Customer, is designed to be a private arrangement and does not exclude the Customer's access to its retailer of choice. PPA Direct only sells to a single Customer in any one arrangement. It does not establish a distribution network. As a consequence, the approach of PPA Direct is not suited to a retailer authorisation of the kind normally granted to sellers of energy which sell to a range of customers across a range of sites. Nevertheless, PPA Direct does sell energy so an individual exemption is appropriate.

7. **The address of the site at which you intend to sell energy, including a map of the site and a brief description of this site and its current and future use/s.**

Not relevant to type of energy selling

8. **The primary activity of your business (for example, managing a shopping centre).**

PPA Direct's primary business is the supply and installation of a solar system on the property from which a Customer operates its business, the generation of energy at that property and the sale of the energy to that Customer for use on that property. PPA Direct will enter into a number of such arrangements with a number of Customers on different sites. Each arrangement will be separate and independent of every other arrangement. As title in the solar system will be transferred to the Customer at the end of the arrangement, an element of PPA Direct's business will also involve the supply of solar systems.

9. **The form of energy for which you are seeking the individual exemption (electricity or gas). For electricity, please state whether the network you propose to sell is directly or indirectly connected to the main grid or is (or will be) an off-grid network.**

Not relevant to type of energy selling

10. **Are you establishing, or have you established, energy supply in an area where there are no other viable energy supply arrangements available.**

Not relevant to type of energy selling

11. **The date from which you intend to commence selling energy.**

PPA Direct wishes to commence selling energy as soon as possible. As the concept was conceived prior to the commencement of the current authorisation regime, it already has some Customers interested and wishes to satisfy those Customer's needs as soon as it can.

12. **Mailing addresses for premises at the site (where applicable). We may use this information to ensure that potential customers are able to participate in our consultation process.**

PPA Direct intends to sell energy to a range of Customers at a variety of sites, most of which remain unknown at this time. PPA Direct has a number of identifiable potential Customers at this time but is restricted from disclosing Customer details by obligations of confidentiality. PPA Direct may be able to obtain the consent of some potential Customers to disclosure if AER considers that is important, but PPA Direct cannot anticipate whether or not such consent would be forthcoming even if requested.

13. **Details of any experience in selling energy, for example:**

- (a) date/s and location/s of previous operations**
- (b) form/s of energy sold**
- (c) scale of operations (that is, the number, size and type of customers)**
- (d) an explanation of which activities will be conducted in-house and which will be contracted out to third parties.**

PPA Direct is a newly established company and consequently does not have any experience selling energy. However, each director has extensive experience in the solar photovoltaic industry, primarily in connection with design, installation, sales, monitoring, maintenance and repairs. Each employee or contractor will similarly be required to have experience in its field of expertise.

With respect to (d), above, PPA Direct has been established by a number of people with different areas of expertise which complement each other. Consequently, each of those shareholders will perform a role which is commensurate with its area of expertise, such as solar system design, project management (including administration, application for relevant regulatory approvals, and so on), installation, maintenance and sales. Thus, in a strict sense these functions will be "outsourced" but they are in fact being performed by shareholders in PPA Direct or their associated trading entities so can equally be considered 'in-house'.

The exception is billing. PPA Direct will engage a third party to carry out the billing function. A modem will be installed at each property which will feed

data to the billing company. After calculating the amount due for each time period for each Customer by multiplying the data captured from the meter by the agreed fixed rate per kWh, the billing company will issue an invoice directly to the Customer. The billing company will also update the accounting records of PPA Direct with details of each invoice. Customers will have a direct debit arrangement to facilitate accurate and timely payment of invoices. If there are problems with payment, the matter will be referred to PPA Direct to allow it to deal directly with the Customer within the terms of the PPA. In order to optimise the billing process, EDM1 meters will be installed. These Australian made and calibrated meters are approved by NEMMCO and meet applicable Australian standards as well as international standards. Each meter is supplied with an individual NATA endorsed test report confirming its independent calibration. Use of high quality meters ensures accuracy in metering and billing and avoids disputes in relation to invoicing.

14. **Whether you currently hold, or have previously held or been subject to, an energy selling exemption or a retail licence (retailer authorisation) in any state or territory. If so, please provide details.**

PPA Direct is a newly established entity and it does not hold nor has previously held or been subject to a an energy selling exemption or retail licence (retailer authorisation) in any state or territory.

15. **What arrangements you have made in the event that you can no longer continue supplying energy (e.g., has the retailer that sells to you agreed that they will service the customers).**

Not relevant to type of energy selling

Particulars relating to the nature and scope of the proposed operations

1. **Will your customers be your tenants? If so, are they residential or commercial/retail? Are they covered by residential or retail tenancy, or other legislation governing accommodation that is a person's principal place of residence (for example, retirement village legislation, residential parks or manufactured home estates legislation) in your state or territory?**

Not relevant to type of energy selling

2. **Are you providing other services (for example, accommodation/leasing of property) to persons on the site who you intend to sell energy to? Or will your only commercial relationship to persons on the site be the sale of energy? If you are providing other services, please specify what these services are, and the contractual or leasing arrangements under which these services are being provided.**

PPA Direct's role is limited to the supply, installation and maintenance of the solar system and the sale of energy. The initial supply, installation and maintenance of each solar system is pursuant to a property licence entered into with the Customer and, where the Customer is not the owner of the property, with the consent of the owner. Under the property licence PPA Direct is granted the right to access the property to install and operate the solar system. It is also required to maintain the solar system and remediate the property if it causes damage or if, for any reason, it is required to remove the solar system.

Under the PPA between PPA Direct and the Customer title in the solar system will pass to the Customer automatically at the end of the arrangement, provided the Customer has paid what it owes under the PPA.

During the term of the arrangement, PPA Direct will be the owner of the solar system itself. This ensures that all contractual arrangements are between the PPA Direct and the Customer and will not be subject to any interference between a third party owner of the solar system. This approach ensures the integrity of the relationship between PPA Direct and the Customer and will both minimise any problems and facilitate their resolution if any arise.

3. **What is the total number of dwellings/premises at the site? Please provide a breakdown between residential and business customers (and whether they are small or large as defined for the jurisdiction in which you intend to operate).¹**

Not relevant to type of energy selling

4. **Will you be on-selling energy (that is, selling energy purchased from an authorised retailer) or purchasing it directly from the wholesale market?**

Not relevant to type of energy selling

5. **If purchasing from an authorised retailer, have you formed, or do you intend to form, a bulk purchase contract with the energy retailer, and how far into the future does this, or will this, contract**

¹ For electricity, large customers are customers who consume 100 MWh pa or more in New South Wales, the ACT, Queensland and Victoria, and 160MWh pa in South Australia; and for gas, customers who consume 1TJ pa or more.

apply? If you have formed, or intend to form, a contract, please provide a brief summary of this arrangement.

Not relevant to type of energy selling

6. **What is the estimated aggregate annual amount of energy you are likely to sell (kilowatt hours or megawatt hours for electricity and mega joules or gigajoules for gas) and the average expected consumption of customers for each type of customer you service (that is, residential customers and retail or commercial customers)?**

Not relevant to type of energy selling

7. **Will your customers be wholly contained within a site owned, controlled or operated by you? (For the purposes of this question, a body corporate may be taken to ‘operate’ premises it oversees).**

Not relevant to type of energy selling

8. **Will each premises/dwelling be separately metered? If the application is for a new development or a redevelopment and customers will not be separately metered, please explain why not.**

Not relevant to type of energy selling

9. **What types of meters will be used? For example, basic/accumulation meters, manually read interval meters or remotely read interval meters? Will these meters allow your customers to change retailers (i.e. not source their energy from you)?**

As mentioned in 13(d) in the first section above, EDM I meters will be installed at each property. These Australian made and calibrated meters are approved by AEMO and meet applicable Australian standards as well as international standards. Each meter is supplied with an individual National Association of Testing Authorities endorsed test report confirming its independent calibration.

All EDM I meters are either National Measurements Institute ‘pattern approved’ and/or ‘type tested’. This means that the metrology and method of construction has been proven by the National Measurements laboratory for Australian conditions.

Each meter will hold internally at least 400 days of 1/2 hour interval data. This means that if there is any problem with the remote monitoring and data retrieval that is to be used, there is a back-up of information which will be utilised on a site visit if necessary.

These meters are used by all Australian distributors and by most Australian retailers of energy. There is nothing in the meter which prevents the use by the Customer of energy provided by its retailer of choice, nor which will prevent the Customer changing its retailer of choice from time to time. PPA Direct does not seek to replace the Customer's retailer of choice and under the terms of the PPA, the Customer is expressly permitted and required to maintain its relationship with a retailer of choice in order to ensure access to a supply of energy independent from the supply generated by PPA Direct on the Customer's property.

10. **What accuracy standards apply to the meters? Do the meters comply with Australian Standards? If so, specify which Standard or Standards. For electricity meters, will the meters comply with National Measurement Act 1960 (Cth) requirements for electricity meters installed from 1 January 2013?**²

Yes, each meter will:

- (a) comply with Australian Standard AS62053.21;
- (b) will be a utility meter of at least class 2 or better; and
- (c) will comply with the National Measurement Act 1960 (Cth) requirements for meters installed from 1 January 2013.

11. **If customer dwellings/premises are separately metered, how often do you propose the meters to be read and by whom?**

Not relevant to type of energy selling

12. **How will you determine energy charges if customers are not separately metered?**

Not relevant to type of energy selling

13. **In what form and how often will customers be billed? Will you be issuing bills yourself or through a billing agent?**

Not relevant to type of energy selling

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

Given that each arrangement to be entered into between PPA Direct and a Customer is a one-off arrangement and the business of PPA Direct is a low volume business, no detailed dispute resolution procedures have been included in the PPA or the property licence. If there is any dispute arising, it will be handled personally by a director of PPA Direct who will discuss the

² For further information, see www.measurement.gov.au.

issue with an appropriate counterpart within the Customer's organisation. PPA Direct considers that a direct, personal approach between principals is more likely to result in prompt resolution in the circumstances than having a detailed dispute resolution process set out in the documentation which is more suited to a retail or consumer dispute. PPA Direct and its Customer are equals and there is no dominant position held by either one that requires to be mitigated by including a detailed dispute resolution process. Ultimately, if a dispute cannot be resolved satisfactorily, the Customer has the right to terminate the property licence or the PPA or both. Inclusion of such a right ensures there is no imbalance in the process of negotiation of a resolution in the ordinary course of a contractual dispute.

Furthermore, PPA Direct remains subject to all applicable competition, consumer and fair trading legislation, whether state or federal, including the *Competition and Consumer Act 2010* (Cth) and the *Fair Trading Act 1987* (NSW) (or its equivalent in any state or territory where PPA Direct conducts business, as each state and territory has such legislation in force). Such legislation ensures the Customer has the benefit of certain standards of behaviour and performance and will give the Customer access to the dispute resolution procedures designed to facilitate efficient and effective resolution of disputes in relation to such contracts.

In addition, the shareholder in PPA Direct which is to undertake the installation of solar systems is accredited by the Clean Energy Council, is a licensed electrician and is licensed in solar design, install and off-grid. The installer is required to comply with the Clean Energy Council Member Code of Conduct and each Customer has access to all the benefits and protections that arise as a result of those accreditations, memberships and licences. Insurance is carried by both the installer and, as a requirement under the property licence and PPA, PPA Direct. A Customer will not be precluded from having access to any applicable statutory insurance regime that may apply as a consequence of or in relation to the licences carried and approvals sought and obtained.

15. **What energy rebates or concessions are available for your customers and, if applicable, how can customers claim these?**

Not relevant to type of energy selling

16. **Will you make energy efficiency options available to your customers? Will your network incorporate solar or other generation options for sustainability purposes? If so, will you use gross or net metering?**

Not relevant to type of energy selling

Business model information requested

These are the additional questions raised in the email of 12 May 2014 from Ms Susan Faulbaum to Glenn Melton, who is a director and the primary contact for PPA Direct.

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

PPA Direct's strategic direction is to approach small businesses in country areas (meaning those in rural areas as well as towns outside the primary metropolitan areas of each state in which PPA Direct intends to operate) which may benefit from having access to its own source of solar generated energy. Such benefits may include having a degree of control over the source of energy, being able to budget more accurately for energy costs, given the fixed price of energy, avoiding exposure to the unpredictable (in timing and amount) increases in costs that may be imposed by retailers of energy, managing costs and, not insignificantly, participating directly in a cleaner approach to the generation of energy (which may be of significance to actual or potential customers of that business).

PPA Direct's objectives are to facilitate the participation of small businesses in the generation of clean energy and the assumption of a greater degree of control by each such business over its financial position. Naturally, PPA Direct also seeks to make a modest profit from providing the services it does, but its pricing structure ensures that those benefits are not arbitrary nor unlimited.

2. What are your projected customer number forecasts?

PPA Direct has found it very difficult to predict the number of customers it will be able to attract. Interest in such an approach can be influenced by a range of factors, not the least of which is the uncertainty surrounding the continuing availability of STCs and whether or not current contracts will be grand-fathered if and when the STC programme is terminated. While the approach PPA Direct adopts is not, in one sense, entirely dependent on the availability of STCs, utilisation of STCs makes the pricing of energy much more attractive than it would be if STCs were not available. PPA Direct has also found that there are geographical pockets where interest is greater than in others. It also is aware that there are many others in the market offering similar arrangements. Coupled with the potential demise of the STC programme is the fact that PPA Direct is also limited by the pace at which it can keep up with installations and the availability of resources (both physical components like panels which come from overseas and financial resources).

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

See the response above. As it is difficult to anticipate customer numbers, it is even more difficult to project annual aggregate energy sales as each customer has different requirements both as a consequence of its energy usage and its decision in relation to the proportion of its energy requirements that it wishes to have generated on site.

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

As mentioned above, PPA Direct anticipates applying the proceeds of selling STCs toward the cost of each solar system installed. As a consequence, significant amounts of capital are not required at this point in time as the primary issue is covering exposure between supply of components and realisation of STC proceeds. Nevertheless, PPA Direct has been able to negotiate arrangements with a number of suppliers of panels and other components to agree to delay the requirement to pay until STC proceeds are available. PPA Direct has also been able to establish arrangements with one major Australian bank and a number of private investors to provide loan funds which will enable PPA Direct to optimise the economics of the approach.

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

PPA Direct intends to sell to business customers exclusively. The approach developed by PPA Direct is best suited to small business customers with consistent energy needs and regular cash flow, who have an interest in the benefits listed above in paragraph 1 of this section. A small business is often more desirous than a residential customer of being able to budget in advance for energy costs and, with predictions of increasing costs in the market, the more energy a business uses, the greater the financial benefits (through savings) of a fixed price energy source going forward. In addition, businesses are more likely to see the benefits of a medium to long term solution energy needs, which is consistent with the 10, 20 or 25 year terms offered by PPA Direct. Small business customers are also less likely to relocate - in many cases it will be a family enterprise with strong roots in the community which wants to remain in its current location in the local environment.

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

A Customer is charged only for energy it has agreed to use, plus the nominal costs of billing. When a Customer enters into a PPA with PPA Direct it agrees to purchase a certain minimum amount of energy. The amount is determined prior to entry into the PPA and is calculated by reference to a proportion (always less than 100%) of the Customer's historical usage. Each month, the Customer pays the greater of that minimum amount or actual consumption. The nominal costs of the third party billing company are added to the invoice (at cost) given the benefits to the Customer from having the billing process managed by a third party expert provider.

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

PPA Direct intends to sell energy primarily in Victoria and New South Wales. Nevertheless, sales in the ACT, Queensland, South Australia, the Northern Territory and Western Australia would not be excluded. At this time PPA Direct does not intend to sell energy in Tasmania.

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

A Customer can terminate the property licence if PPA Direct commits a material breach of its obligations under that licence. If the licence is terminated PPA Direct will no longer be able to generate energy and the PPA will also come to an end.

The Customer may terminate the PPA at any time on 90 days' notice to PPA Direct. If the Customer terminates the PPA, it will be required to pay an agreed amount which is a genuine pre-estimate of loss of bargain damages reflecting the anticipated consumption of energy by the Customer. Upon payment of that amount, title in the solar system will pass to the Customer.

If the Customer wishes to move premises it will be encouraged to assign the PPA to any new owner of the property or the business. New owners will also be encouraged to take up the benefit.

Alternatively, a Customer wishing to relocate can terminate the PPA, pay the agreed pre-estimate of loss of bargain damages and then sell the property with the solar system as part of the sale.

Where the Customer is selling the business, the purchaser of the business would be encouraged to take an assignment of the arrangement with PPA Direct or, if it is the business entity which is to be sold, the PPA will move with the sale in the ordinary course.

Even where the PPA is not assigned, one of the benefits of obtaining the consent of the owner of the property to the arrangement initially is that the owner will either allow PPA to continue to maintain the solar system or it will allow PPA Direct to remove the system in the worst case.

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

Upon expiry of the PPA, title in the entire solar system automatically transfers to the Customer without any further payment.

As described in paragraph 8 in this section, if the PPA is terminated early, in most cases, an agreed amount, which is a genuine pre-estimate of loss of bargain damages, will be payable by the Customer to PPA Direct. Upon payment of that amount, title in the solar system will also pass to the Customer automatically. Where such an amount is payable, but it is not paid, PPA Direct may remove the solar system. Where the PPA is terminated as a consequence of the property licence having been terminated by the Customer as a consequence of PPA Direct's material breach, the Customer will not be required to pay the genuine pre-estimate of damages but will be entitled to title in the solar system.