

Our Ref: D15/1470
Your Ref:
Contact Officer: Susan Faulbaum
Contact Phone: (08) 8213 3643

14 January 2015

Mr David Naismith
Unit 14/39 Herbert Street
St Leonards NSW 2065

Dear Mr Naismith

Sunlease Management and Sunlease's applications for an individual exemption from the requirement to hold an electricity retailer authorisation

I refer to your application from 18 November 2014, for individual exemptions under the National Energy Retail Law (Retail Law) for Sunlease Management Pty Ltd (ACN 602 471 867) and Sunlease Pty Ltd (ACN 152 570 995) (Sunlease Management and Sunlease, respectively).

I am writing to inform you that the Australian Energy Regulator (AER) has considered Sunlease Management's and Sunlease's applications for individual exemptions and that it decided, on 14 January 2015, to grant individual exemptions to both entities in accordance with s.110 of the Retail Law. This letter constitutes notice of intention to grant an individual exemption. Please note, the individual exemptions do not come into effect until Sunlease Management and Sunlease advise the AER that they each accept the conditions of this exemption.

In accordance with the National Electricity Retail Rules (Retail Rules), the AER has published the application on its website, and sought submissions from interested parties.¹ The AER did not receive any submissions in response to Sunlease Management and Sunlease's applications.

The AER has considered the policy principles relating to exempt selling in s. 114 of the Retail Law, being:

- a) regulatory arrangements for exempt sellers should not unnecessarily diverge from those applying to retailers,

¹ r. 155(3) and 156, National Energy Retail Rules.

- b) exempt customers, should, as far as practicable, be afforded the right to a choice of retailer in the same way comparable retail customers in the same jurisdiction have that right,
- c) exempt customers, should, as far as practicable, not be denied customer protections afforded to retail customers under this Law and Rules.

In making its decision the AER is also guided by the objective of the Retail Law², the exempt seller factors,³ and the customer related factors.⁴

The AER is satisfied that Sunlease Management and Sunlease should be exempt from the requirement to hold a national retailer authorisation, having regard to the above considerations. If Sunlease Management and Sunlease wish to change the way either of them sells electricity they should contact the AER as they may need to apply for an authorisation or another exemption. If these activities are not covered by this exemption Sunlease Management or Sunlease may be in breach of s. 88 of the Retail Law and we may take enforcement action or otherwise seek to ensure compliance.

The individual exemptions are subject to acceptance of the conditions⁵ set out at Schedule 1 and Schedule 2 to this letter. One of these conditions relates to information disclosure. Specifically, this condition is intended to ensure that your customers understand the nature of the service that you are providing and the protections they are entitled to (as opposed to the service and protections your customers would receive from their energy retailer).

For the individual exemptions to come into effect, Sunlease Management and Sunlease must advise the AER in writing, by **13 February 2015**, whether they each accept the attached conditions. Sunlease Management and Sunlease cannot commence energy selling under their individual exemptions until they have done so. Please be aware that the AER may vary conditions attached to an individual exemption at any time in accordance with rule 158 of the Retail Rules.

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

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.

⁵ r. 158 (1), Retail Rules.

Schedule 1: Instrument of exemption

INDIVIDUAL EXEMPTION FROM THE REQUIREMENT TO HOLD A RETAILER AUTHORISATION

The Australian Energy Regulator on 14 January 2015, decided pursuant to section 110 of the National Energy Retail Law, to grant Sunlease Management Pty Ltd (ACN ACN 602 471 867) (the exempt person) an individual exemption from the requirement to hold a retailer authorisation under section 88 of the National Energy Retail Law, subject to the following conditions.

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).

Schedule 2: Instrument of exemption

INDIVIDUAL EXEMPTION FROM THE REQUIREMENT TO HOLD A RETAILER AUTHORISATION

The Australian Energy Regulator on 14 January 2014, decided pursuant to section 110 of the National Energy Retail Law, to grant Sunlease Pty Ltd (ACN 152 570 995) (the exempt person) an individual exemption from the requirement to hold a retailer authorisation under section 88 of the National Energy Retail Law, subject to the following conditions.

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).