

Our Ref: D14/135465  
Your Ref:  
Contact Officer: Susan Faulbaum  
Contact Phone: (08) 8213 3643

14 January 2015

Mr Donghua Wang  
Managing Director  
Express Power Australia  
Unit 12, 62-66 Newton Road  
Wetherill Park NSW 2164

Dear Mr Wang

### **Variation of conditions for Express Solar'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 Express Solar on 20 December 2013.

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).<sup>1</sup> I therefore wish to advise that the AER decided, on 14 January 2015, to vary the conditions of Express Solar'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 Law<sup>2</sup>, the exempt seller factors,<sup>3</sup> and the customer related factors.<sup>4</sup>

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

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<sup>1</sup> 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).

<sup>2</sup> 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)

<sup>3</sup> s. 115, Retail Law.

<sup>4</sup> 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 Express Solar Pty Ltd (ACN 154 342 971) (trading as Express Power Australia) (the exempt seller) on 20 December 2013. The conditions applying to Express Solar's exemption 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).

