

## UNDERTAKING TO THE CLEAN ENERGY REGULATOR

Undertaking to the Clean Energy Regulator given for the purposes of section 154Q of the  
*Renewable Energy (Electricity) Act 2000*

by

Community Energy Group Pty Ltd ('Community Energy Group') (ACN 612 461 677) and  
Liangping Guo

### 1. Glossary

1.1 In this Undertaking, unless the contrary intention appears, the following definitions apply:

**Act** means the *Renewable Energy (Electricity) Act 2000* (Cth).

**Business day** means a day that is not a Saturday, a Sunday or a declared public holiday in the state of New South Wales.

**CEC** means Clean Energy Council.

**Certificate** means Small-scale Technology Certificate.

**Clean Energy Regulator** means the Regulator established pursuant to Part 2 of the *Clean Energy Regulator Act 2011* (Cth)

**Compliant PV System** means a SGU that is AS/NZS 5033 compliant, comprising a CEC approved inverter that is listed at <http://www.cleanenergycouncil.org.au/>.

**Community Energy Group** means Community Energy Group Pty Ltd (ACN 612 461 677) registered office unit 1 of 354 Chisholm Road Auburn NSW 2144.

**Defect** means a failure to satisfy the requirements listed in regulation 39(a) to (d) of the Regulations.

**Inspector** means an inspector registered by the Clean Energy Regulator for the purpose of conducting inspections program under section 23AAA of the Act.

**PV** means photovoltaic.

**REC Registry** means the public registry of information maintained by the Regulator in accordance with Part 13 of the Act and which is published at <http://www.rec-registry.gov.au>.

**REC Registry Account** means Community Energy Groups' REC Registry Account 42998.

**Regulations** means the *Renewable Energy (Electricity) Regulations 2001* (Cth).

**Regulator** means the Clean Energy Regulator.

**Regulatory Requirements** means the legislative requirements to be complied with for the installation of solar PV panels in Australia in order to qualify for RECs. These requirements include without limitation the Act, Regulations, CEC Guidance, Australian Standards, Federal and State based Australia Consumer Law and laws in respect of health and safety.

**SGU** means a small generation unit as defined in sub regulation 3(2) of the Regulations.

Sites means the 24 solar PV system installations listed at Annexure A to this Undertaking

## **2. Background**

### *Person giving this Undertaking*

- 2.1 This Undertaking is given to the Regulator by Community Energy Group Pty Ltd and its director, Liangping GUO, an executive officer as defined by section 5 of the Act, jointly and severally for the purposes of section 154Q of the Act.
- 2.2 Community Energy Group is an Australian propriety company limited by shares.
- 2.3 Community Energy Group has been a registered person under the Act since 14 October 2017.
- 2.4 Community Energy Group's registration under the Act was permanently suspended on 13 December 2019.

### *Creation of certificates*

- 2.5 The Regulator is a statutory agency responsible for administering and enforcing the Act and Regulations.
- 2.6 Under the Act, registered persons can create certificates for electricity generated from certain renewable energy sources. Regulation 20AC of the Regulations sets out the conditions that must be satisfied before certificates can be created in relation to a solar PV system.
- 2.7 Included in those conditions is the requirement, under sub regulation 20AC(5) of the Regulations, to obtain a written statement by the installer of the solar PV system stating the name of the designer and the name of the installer of the solar PV system.
- 2.8 Designers and installers of solar PV systems must be accredited by the CEC accreditation scheme and must comply with the CEC's code of conduct.

### *Improper creation of certificates*

- 2.9 Community Energy Group provided false or misleading information to the Regulator claiming systems had been designed and installed by a CEC accredited installer when, in fact, that person did not design or install the systems.
- 2.10 Consequently, Community Energy Group improperly created, in contravention of section 24A of the Act, certificates that did not meet the requirements under regulation 20AC of the Regulations.

## **3. Undertaking**

- 3.1 Under section 154Q of the Act, the Regulator may accept any of the following undertakings:
  - a) a written undertaking given by a person that the person will, in order to comply with the Act, the Regulations or the associated provisions, take specified action;

- b) a written undertaking given by a person that the person will, in order to comply with the Act, the Regulations or the associated provisions, refrain from taking specified action;
- c) a written undertaking given by a person that the person will take specified action directed towards ensuring that the person does not contravene the Act, the Regulations or the associated provisions, or is unlikely to contravene the Act, the Regulations or the associated provisions, in the future; or
- d) a written undertaking given by a person that the person will surrender one or more renewable energy certificates under section 28A of the Act, to compensate for the creation of one or more certificates that the person was not entitled to create.

3.2 Community Energy Group and its director, Liangping Guo, hereby undertakes, at their own expense to:

*Inspection and rectification of sites*

On or before 30 October 2020;

- a) for those Sites identified in Annexure A to this Undertaking, write to the owners of the Sites (and where relevant, the occupiers of the Sites) to obtain consent to inspect the solar PV systems;
- b) If any owner or occupier of the sites decline to consent to the inspection, Community Energy Group must provide to the Regulator a Statutory Declaration for each affected site including:
  - i. the details of any such owners or occupiers of the installation;
  - ii. steps taken to contact them and seek their consent, together with correspondence sent to those owners or occupiers seeking such consent.

On or before 28 February 2021;

- c) arrange for an inspector agreed with the Regulator, to inspect each of the solar PV systems at the Sites, in accordance with regulation 39(a) to (d) of the Regulations, to assess whether the solar PV system has any defects; and
- d) if any inspection identifies any defect with the installation of a particular solar PV system at a Site, arrange for a CEC-accredited installer (or installers), agreed with the Regulator, to remedy any defective part of that installation, ensuring that the rectified installation complies with the Regulations.

*Report in writing*

Due no later than 5pm on the first business day of each month, starting 1 November 2020 until such a time as all Undertakings have been completed in full, provide to the Regulator:

- e) a written report, in a form agreed to by the Regulator, as to the progress made with respect to the Undertakings at clauses 3.2(a) to (d);
- f) evidence of the inspection by the inspector of the Sites, including photographs of the solar PV systems at the Sites including solar panel serial numbers;

- g) a statutory declaration from the inspector who carried out the inspection, stating that the solar PV system does, or does not, have a defect, and if it does have a defect, the nature of that defect;
- h) evidence of any rectification work completed under clause 3.2(d) of the Undertaking, including submission of all compliance paperwork including Certificates of Compliance - Electrical Work and photographs of the solar PV systems at the Sites including of panel serial numbers;
- i) for any rectification work completed under clause 3.2(d) of the Undertaking, a statutory declaration from the CEC-accredited installer who carried out the rectification, containing written statements of compliance, in accordance with regulation 20AC(5) of the Regulations.

*Certificates held within account*

- j) Upon receipt of each written report submitted under clause 3.2(e) to (i) the Regulator will:
  - i. assess the information provided and determine whether each site satisfies the Regulatory requirements; and
  - ii. determine the number of certificates that were created with respect to each site that has been inspected and satisfies the Regulatory requirements.
- k) On or before the last business day of each month the Regulator will:
  - i. notify Mr Liangping Guo of the Regulator's determination under 3.2(j); and
  - ii. transfer into a general account held by Mr Liangping Guo an equal number of certificates to the number of certificates determined by the Regulator under 3.2(j)(ii).
- l) If, by the time the Undertaking ceases to have effect, the Regulator has determined that Community Energy Group have not provided the relevant documentation in 3.2(j) for a site to satisfy the Regulatory requirements under 3.2(j), any certificates in relation to those sites will be surrendered to the Regulator.
- m) For instances where the owner or occupier of the sites decline to consent to an inspection, the Regulator has a discretion whether to transfer any certificates into Mr Liangping Guo's account in relation to that site.

*Ownership and directorship*

- n) In the event of a change in ownership or change of directors of Community Energy Group, Mr Liangping Guo or any other director of Community Energy Group must bring the existence of the Undertaking to the attention of the new owners/directors and provide them a copy of the Undertaking or direct them to the website of the Clean Energy Regulator;

- o) Community Energy Group will notify the Regulator no later than 10 business days after a change in ownership or change of directors of Community Energy Group and provide the contact details of the new owners or directors.

#### **4. Acknowledgements**

4.1 Community Energy Group and its director Liangping Guo, acknowledges that:

- a) the Regulator will make this Undertaking publicly available, including by publishing it on the Regulator's website;
- b) the Regulator and officers of the Regulator may, from time to time, make public reference to this Undertaking;
- c) this Undertaking in no way derogates from the rights and remedies available to the Commonwealth and any other person arising from any conduct of Community Energy Group;
- d) it bears all costs associated with its compliance with this Undertaking;
- e) the director, Liangping Guo, remains responsible for the completion of this Undertaking irrespective of any change in the ownership of Community Energy Group;
- f) where an event or issue occurs that may prevent the fulfillment of clause 3.2 of the Undertaking, the Regulator will not consent to vary the dates specified in clauses 3.2 unless a request that outlines the event or issue and reasons why the variation is required is submitted in writing as soon as reasonably practicable after the event or issue occurs, but no later than seven calendar days prior to the specified date; and
- g) breaching this Undertaking may result in the Regulator enforcing this Undertaking through the Federal Court.

4.2 The Regulator acknowledges that:

- h) the COVID-19 Pandemic may prevent fulfilment of clause 3.2 of the Undertaking by the dates specified;
- i) the dates specified in clause 3.2 may need to be varied as a result of restrictions imposed during the COVID-19 Pandemic; and
- j) Community Energy Group will provide details of the issues or events which require variation of clause 3.2 as a result of the COVID-19 Pandemic to the Regulator as soon as reasonably practicable for the Regulator's consideration and consent.

#### **Commencement of enforceable undertaking**

4.3 This undertaking comes into effect when:

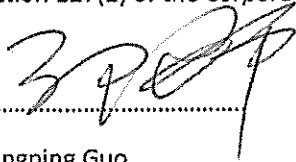
- a) the Undertaking is executed by Community Energy Group, and jointly its director Liangping Guo, and

b) the Regulator accepts the Undertaking so executed.

4.4 This Undertaking ceases to have effect once the matters referred to in clause 3.2 have been completed to the satisfaction of the Regulator, or 31 March 2021, whichever comes first.

**Executed by**

Community Energy Group Pty Ltd (ACN 612 461 677) by its authorised officer pursuant to section 127(1) of the *Corporations Act 2001*.



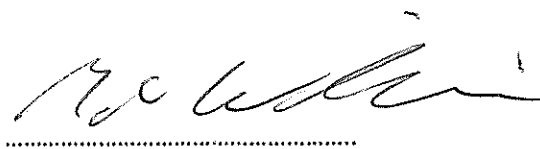
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Liangping Guo

Director

This 20<sup>th</sup> day of October 2020

Accepted by the Regulator pursuant to section 154Q of the *Renewable Energy (Electricity) Act 2000*.



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Mark Williamson

Delegate of the Regulator

This 9<sup>th</sup> day of NOVEMBER 2020