



ENFORCEABLE UNDERTAKING

Renewable Energy (Electricity) Act 2000

Section 154Q

Undertaking to the Regulator given for the purposes of paragraph 154Q(1)(a) of the
Renewable Energy (Electricity) Act 2000

by

SOLARGEN PTY LTD

ACN: 120 816 739

Glossary

1. In this undertaking, unless the contrary intention appears, the following definitions apply:

“**Act**” means the *Renewable Energy (Electricity) Act 2000*.

“**CEC**” means the Clean Energy Council

“**ORER**” means the Office of the Renewable Energy Regulator.

“**SHCP**” means Solar Homes and Communities Plan.

“**Certificate**” means renewable energy certificate as defined in section 5 of the Act.

“**LGCs**” means Large-scale Generation Certificates.

“**REC Registry**” means internet based REC Registry where all certificates are created, traded and surrendered.

“**Regulations**” means the *Renewable Energy (Electricity) Act 2001*.

“**Regulator**” means the Renewable Energy Regulator under section 142 of the Act.

“**small generation unit**” has the same meaning as it has under the Act.

Person giving undertaking

2. This undertaking is given to the Regulator by SolarGen Pty Ltd for the purposes of paragraph 154Q(1)(a) of the Act.



Background

3. SolarGen Pty Ltd is a duly incorporated company engaged in trade or commerce in Australia.
4. SolarGen Pty Ltd is an Australian owned company. SolarGen Pty Ltd is a registered person and agent under the Act, which allows SolarGen Pty Ltd to have certificates assigned to them on behalf of owners of SGU systems and allows them to create certificates for these SGU installations on the REC Registry. SolarGen Pty Ltd is an independent trader of certificates in Australia. SolarGen Pty Ltd is a registered person under Part 2, Division 2 of the Act.

The creation of Certificates

5. Under the Act, registered persons may create certificates in respect of energy which has been generated from renewable energy sources specified in the Act and Regulations.
6. Under Part 2, Division 4, Subdivision BA of the Act, a registered person can create certificates in respect of a small generation unit.
7. The Act and the Regulations set out the conditions which must be satisfied before certificates can be created in respect of a small generation unit.
8. The Act and the Regulations provide that, in specified circumstances, a person is entitled to create a number of certificates based on the multiplier formula set out in section 23B of the Act and regulation 20AA of the Regulations.
 - at the time the small generation unit is installed at the eligible premises, there is no pre-approval or funding agreement in force in respect of the unit under the SHCP, the RRP GP or the NSSP and no financial assistance has been provided in respect of the unit under the SHCP, the RRP GP or the NSSP; and
 - at the time the small generation unit is installed at the eligible premises, financial assistance under the SHCP, the PVRP, the RRP GP or the NSSP has not been approved or provided in respect of any other small generation unit at the eligible premises.
9. If these circumstances are not present in respect of a small generation unit, the person who is entitled to create certificates in respect of the unit is not entitled to create the number of certificates based on the application of the multiplier formula.

Improper creation of certificates by SolarGen Pty Ltd

10. On 12 February 2010, SolarGen Pty Ltd created 106 certificates in respect of the installation of a small generation unit.
11. The ORER has conducted an investigation into the creation of those certificates. The ORER has concluded its investigation and, based on the results of that



investigation, the Regulator is satisfied that on 12 February 2010, SolarGen Pty Ltd created 106 certificates by applying the multiplier formula in circumstances where it was not entitled to do so because at the time the small generation unit was installed, there was a pre-approval in force in respect of the unit under the SHCP.

12. Accordingly, the Regulator is satisfied that on 12 February 2010, SolarGen Pty Ltd created 87 certificates in circumstances in which SolarGen Pty Ltd was not entitled to create those certificates.
13. SolarGen Pty Ltd acknowledges that it was not entitled to create the certificates referred to at paragraph 12.

Undertaking

14. Under subparagraph 154Q(1)(a) of the Act, the Regulator may accept a written undertaking given by a person that the person will, in order to comply with this Act, the regulations or the associated provisions, take specified action; namely
15. SolarGen Pty Ltd hereby undertakes to, on or before 30 July 2011, surrender to the Regulator under section 28A of the Act **87** LGCs to compensate for the creation of the certificates referred to in paragraphs 10, 11, 12 and 13.

Commencement of Undertaking

16. This Undertaking comes into effect when:
 - a. the Undertaking is executed by SolarGen Pty Ltd; and
 - b. the Regulator accepts the undertaking so executed.

Acknowledgements

17. SolarGen Pty Ltd acknowledges:
 - 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 ORER will, from time to time, make public reference to this undertaking and the circumstances giving rise to this undertaking;
 - c. this undertaking in no way derogates from the rights and remedies available to any other person arising from any conduct of SolarGen Pty Ltd.

Executed by

SolarGen Pty Ltd ACN 120 816 739 by its authorised officers pursuant to s 127(1) of the *Corporations Act 2001*



Australian Government
Office of the Renewable Energy Regulator

Marcus Denny

Director

Secretary/Director

This 10th day of June 2011

ACCEPTED BY THE REGULATOR PURSUANT TO PARAGRAPH 154Q(1)(d) OF
THE RENEWABLE ENERGY (ELECTRICITY) ACT 2000.

Andrew Livingston

Andrew Livingston

Renewable Energy Regulator under the Act

This 16 day of June 2011