

# Form G

Commonwealth of Australia  
*Competition and Consumer Act 2010 — subsection 93 (1)*  
**NOTIFICATION OF EXCLUSIVE DEALING**

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Competition and Consumer Act 2010*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

**1. Applicant**

- (a) Name of person giving notice:

N98928 United Energy Distribution Pty Ltd (ABN 70 064 651 029) (“UE”)

- (b) Short description of business carried on by that person:

UE is a distributor of electricity in south east Melbourne and the Mornington Peninsula in Victoria.

- (c) Address in Australia for service of documents on that person:

Mr Christopher Gill  
Head of Legal  
United Energy & Multinet Gas  
Level 3, 6 Nexus Court,  
Mulgrave, Victoria 3170

**2. Notified arrangement**

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

Supply of:

- solar energy equipment (including batteries, solar panels, control systems and associated equipment) (“**Solar Energy Equipment**”) to be installed on customers’ premises; and
- the electricity from the Solar Energy Equipment to the customer.

- (b) Description of the conduct or proposed conduct:

UE is proposing to install Solar Energy Equipment on certain customers’ premises (intended to be less than 100 customers in the next 12 months). The Solar Energy Equipment will generate energy which the relevant customer may use for their ordinary domestic purposes. UE may also access the energy stored in the Solar Energy Equipment at certain specified times (for example, on days in which the ambient air temperature in any

part of the UE network is forecast to reach or exceed, or reaches, 35°C) for the purpose of distributing the energy within the electricity distribution network operated by UE.

UE has entered into an arrangement with Powershop Australia Pty Ltd (“**Powershop**”), which is a licensed electricity retailer, whereby Powershop has agreed to supply electricity to customers from the Solar Energy Equipment.

Accordingly, UE’s conduct may be characterised as UE proposing to:

- supply or offer to supply, or supply or offer to supply at a particular price, the Solar Energy Equipment to a customer on condition that the customer acquire services from Powershop (a licensed electricity retailer) for the supply of electricity from the Solar Energy Equipment to the customer; or
- refuse to supply, or refuse to supply at a particular price, the Solar Energy Equipment to customers for the reason that the customer will not acquire services from Powershop (a licensed electricity retailer) for the supply of electricity from the Solar Energy Equipment to the customer.

The customer remains unrestricted in appointing an electricity retailer of its choice in order to receive a supply of electricity from the distributor’s network (i.e. traditional electricity supply). This proposal does not affect the customer’s arrangements with their electricity retailer for those services.

**3. Persons, or classes of persons, affected or likely to be affected by the notified conduct**

- (a) Class or classes of persons to which the conduct relates:

Electricity consumers within UE’s distribution area of south east Melbourne and the Mornington Peninsula in Victoria.

- (b) Number of those persons:

- (i) At present time:

None.

- (ii) Estimated within the next year:

Less than 100.

- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

Not applicable.

#### **4. Public benefit claims**

##### **(a) Arguments in support of notification:**

The notified conduct will have the following public benefits:

- by using the energy produced by the solar panels, customers can lower their electricity costs;
- it encourages consumers to utilise renewable energy sources; and
- installing the Solar Energy Equipment can provide an alternative to costly capital works programs and upgrading on existing infrastructure works which in turn benefits consumers by reducing the costs of providing distribution services.

##### **(b) Facts and evidence relied upon in support of these claims:**

UE considers that the proposed conduct is unlikely to have any effect on competition in either the retail or distribution electricity markets. UE is proposing to enter into arrangements with a small number of customers, accordingly, there remain opportunities for other distribution and retail electricity providers to enter into similar arrangements with other customers.

By entering into the arrangements with UE, customers are able to acquire solar panels and reap the benefits associated with using solar power.

Although customers are required to enter into an arrangement with Powershop, they are otherwise free to choose which electricity retailer they will use to supply electricity from the distributor's network (i.e. traditional electricity supply) and to supply electricity generated from the Solar Energy Equipment to the distributor's network.

#### **5. Market definition**

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

The relevant market is the Victorian distribution and retail electricity market.

#### **6. Public detriments**

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:

UE does not consider that the proposed conduct will result in any public detriments.

- (b) Facts and evidence relevant to these detriments:

As above.

**7. Further information**

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Mr Christopher Gill  
Head of Legal  
United Energy & Multinet Gas  
Level 3, 6 Nexus Court,  
Mulgrave, Victoria 3170

Dated 22 February 2016

Signed by/on behalf of the applicant

  
.....  
(Signature)

Lisa Huett  
King & Wood Mallesons  
Partner

