

Decision on standard form contract and application for transfer and amendment of Electricity Retail Licence 5

Wesfarmers Kleenheat Gas Pty Ltd

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Economic Regulation Authority

WESTERN AUSTRALIA

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Decision

1. Pursuant to section 51 of the *Electricity Industry Act 2004 (Act)*, the Economic Regulation Authority (**Authority**) approves the standard form contract for the supply of electricity to small use customers as submitted by Wesfarmers Kleenheat Gas Pty Ltd (**Applicant**).
2. Pursuant to sections 9 and 19 of the Act, the Authority approves the transfer and amendment of electricity retail licence 5 (**ERL5**) from Premier Power Sales Pty Ltd (**PPS**) to the Applicant to sell electricity to contestable customers¹, subject to, and in accordance with, the terms set out in the retail licence.
3. As required by section 23(1) of the Act, the Authority will publish a notice of the grant of licence in the Government Gazette as soon as practicable.

Reasons

4. On 23 March 2015, the Applicant applied for the transfer and amendment of ERL5 from PPS to the Applicant. ERL5 authorises the licence holder to sell electricity to large use customers consuming more than 160MWh of electricity per annum. The Applicant has applied to amend ERL5 to allow for the sale of electricity to contestable customers.

Standard form contract

5. Section 50 of the Act provides that the Authority must not grant, renew or approve a transfer of a retail licence unless the applicant has submitted a draft standard form contract, and the Authority has approved the standard form contract under which the applicant will supply electricity to small use customers pursuant to the licence.
6. The Applicant provided its draft standard form contract for the supply of electricity to small use customers with its licence application. Feedback was provided to the Applicant regarding the contract. In response to this feedback, the Applicant amended the contract.
7. In accordance with the Authority's *Public Consultation Guidelines – For Electricity, Gas & Water Licences and Electricity & Gas Standard Form Contracts (July 2006)*, the Authority undertook public consultation on the proposed standard form contract from 27 May to 17 June 2015. No submissions were received.
8. Under the Act, the Authority must not approve a standard form contract if it considers that the contract will not meet the requirements of the contract regulations, will be inconsistent with the Act or any other written law, or will be inconsistent with any term, condition or provision of the licence concerned.
9. The Authority has considered the Applicant's proposed electricity standard form contract. The Authority is satisfied that the contract meets the requirements of the Act.

¹ At the time of this decision, a contestable customer is one who consumes more than 50MWh of electricity per annum.

Transfer and amendment of licence

10. Under section 19(1) of the Act the Authority must approve the transfer of a licence if it is satisfied that the applicant has and is likely to retain, or will acquire within a reasonable timeframe and is likely to retain, the financial and technical resources to undertake the activities authorised by the licence.
11. The Authority engaged a financial consultant to examine the financial capacity of the Applicant to undertake the activities authorised by the retail licence. Following the assessment, the consultant concluded that the Applicant has and will likely retain the financial resources to undertake the activities authorised by the licence.
12. The Authority engaged a technical consultant to examine the technical capacity of the Applicant to undertake the activities authorised by the retail licence. Following the assessment, the consultant concluded that the Applicant has and is likely to retain the technical resources to undertake the activities authorised by the licence.
13. The Authority has considered the application to transfer ERL5, including the consultants' assessments conducted for the purpose of the application and is satisfied that the Applicant meets the requirements of section 19(1) of the Act.
14. Pursuant to section 21 of the Act, the Authority may amend a licence if the applicant has made the application in a form approved by the Authority.
15. Section 9(1) of the Act states that the Authority must not exercise a power conferred by Part 2, Division 3 of the Act (general licensing provisions) unless the Authority is satisfied that it would not be contrary to the public interest to do so.
16. Section 9(2) of the Act provides that, when determining whether the exercise of the power would not be contrary to the public interest, the Authority must, without limiting the other matters that may be taken into account, take into account the matters referred to in section 8(5) of the Act.
17. A notice seeking public submissions on the application to transfer and amend ERL5 was published on 9 April 2015 and the submission period closed on 1 May 2015. No submissions were received.
18. Section 100 of the Act provides that the Authority is not to approve the transfer of a retail licence to a person who proposes to supply electricity to small use customers unless it is satisfied that the licensee is, or will be if the licence is granted, a member of the Energy & Water Ombudsman Scheme.
19. The Applicant is in discussions with the Energy and Water Ombudsman regarding membership for electricity. The Authority is satisfied that the Applicant will, upon grant of the licence, become a member of the ombudsman scheme.
20. In its consideration of the Application, the Authority considered the public interest, including all of the matters set out in section 8(5) of the Act as required by section 9(2) and the Applicant's capacity to undertake the activities authorised by the licence as required by section 19 of the Act. The Authority is satisfied that approval of the transfer of electricity retail licence to the Applicant and the subsequent amendment to authorise the sale of electricity to contestable customers would not be contrary to the public interest.