



# Electricity Distribution Licence

BHP Billiton Nickel West Pty Ltd

EDL2, Version 6, 1 July 2015

**Economic Regulation Authority**

WESTERN AUSTRALIA

***ELECTRICITY INDUSTRY ACT 2004 (WA)***

Licensee Name: BHP Billiton Nickel West Pty Ltd  
ACN 004 184 598

Licence Area: The area set out in the map referred to in  
Schedule 1.

Commencement Date: 24 March 2006

Version Number: 6

Version Date: 1 July 2015

Expiry Date: 23 March 2036

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Signed by the Chief Executive Officer  
of the Economic Regulation Authority

1 July 2015

## ELECTRICITY DISTRIBUTION LICENCE

### 1 Definitions and Interpretation

1.1 In this *licence*, the following definitions apply unless the context otherwise requires:

**Act** means the *Electricity Industry Act 2004* (WA).

**applicable legislation** means:

- (a) the *Act*; and
- (b) the *Regulations* and the *Codes* that apply to the *licensee*.

**approved scheme** means a scheme approved under section 92 of the *Act*.

**asset management system** means the measures that are to be taken by the *licensee* for the proper maintenance, expansion or reduction of the *distribution system*.

**Authority** means the Economic Regulation Authority.

**business day** means a day which is not a Saturday, Sunday or a Public Holiday in Western Australia.

**Code** means:

- (a) the *Code of Conduct for the Supply of Electricity to Small Use Customers* or any such replacement Code approved pursuant to section 79 of the *Act*;
- (b) the *Electricity Industry Customer Transfer Code 2004*;
- (c) the *Electricity Industry (Metering) Code 2012*; and
- (d) the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005*.

**commencement date** means the date the *licence* was first granted by the *Authority* being the date specified in Schedule 1

**connection point** has the meaning given to that term in regulation 35 of the *Electricity Industry (Customer Contracts) Regulations 2005*.

**customer** has the meaning given to that term in section 3 of the *Act*.

**default supplier** has the meaning given to that term in regulation 35 of the *Electricity Industry (Customer Contracts) Regulations 2005*.

**distribution system** has the meaning given to that term in section 3 of the *Act*.

**electricity** has the meaning given to that term in section 3 of the *Act*.

**electronic means** means:

- (a) the internet;
- (b) email, being:
  - (i) in relation to the *Authority*, the *Authority's* email address as notified to the *licensee*; and
  - (ii) in relation to the *licensee*, the email address specified in the licence application or other such email address as notified in writing to the *Authority*; or
- (c) any other similar means,

but does not include facsimile or telephone.

**expiry date** means the date specified in Schedule 1.

**individual performance standards** mean any standards prescribed by the *Authority* for an individual *licensee* pursuant to clause 13 of the *licence*.

**interruption** means the temporary unavailability of supply from the *distribution system* to a *customer* but does not include disconnection.

**licence** means:

- (a) this document (excluding the title page and the second page of this document);
- (b) any Schedules to this document; and
- (c) any *individual performance standards* approved by the *Authority* pursuant to clause 13.

**licence area** is the area stated in Schedule 1 of this *licence*.

**licensee** means BHP Billiton Nickel West Pty Ltd, ACN 004 184 598.

**licensee's assets** means the *licensee's distribution system*, transmission system or generating works (as the case may be).

**notice** means a written notice, agreement, consent, direction, representation, advice, statement or other communication required or given pursuant to, or in connection with, this *licence*.

**operate** has the meaning given to that term in section 3 of the *Act*.

**performance audit** means an audit of the effectiveness of measures taken by the *licensee* to meet the *performance criteria* in this *licence*.

**performance criteria** means:

- (a) the terms and conditions of the *licence*; and
- (b) any other relevant matter in connection with the *applicable legislation* that the *Authority* determines should form part of the *performance audit*.

**priority restoration register** means a register, process or document that determines the order of restoration of power in the event of an unplanned *interruption*.

**publish** in relation to a report or information means either:

- (a) posting the report or information on the *licensee's* website; or
- (b) sending the report or information to the *Authority* to be published on the *Authority's* website.

**Regulations** means:

- (a) *Economic Regulation Authority (Licensing Funding) Regulations 2014*;
- (b) *Electricity Industry (Code of Conduct) Regulations 2005*;
- (c) *Electricity Industry (Customer Contracts) Regulations 2005*;
- (d) *Electricity Industry (Licence Conditions) Regulations 2005*;
- (e) *Electricity Industry (Obligation to Connect) Regulations 2005*; and
- (f) *Electricity Industry (Ombudsman Scheme) Regulations 2005*.

**related body corporate** has the meaning given to that term in section 50 of the *Corporations Act 2001* (Cwlth)

**reviewable decision** means a decision by the *Authority* pursuant to:

- (a) clause 13.2;
- (b) clause 14.2;
- (c) clause 14.4;
- (d) clause 17.1;
- (e) clause 20.5; or
- (f) clause 20.7,

of this *licence*.

**small use customer** has the same meaning as the meaning given to “customer” in section 90 of the *Act*.

**supply** has the meaning given to that term in section 3 of the *Act*.

**version date** means the date on which the *licence* was last amended pursuant to clause 10 or clause 11.

- 1.2 A reference in this *licence* to any *applicable legislation* includes, unless the context otherwise requires, any statutory modification, amendment or re-enactment of that *applicable legislation*.

## **2 Grant of Licence**

- 2.1 The *licensee* is granted a *licence* for the *licence area* to construct and *operate* a new *distribution system* or *operate* an existing *distribution system* in accordance with the terms and conditions of this *licence*.

## **3 Term**

- 3.1 This *licence* commences on the *commencement date* and continues until the earlier of:
- (a) the cancellation of the *licence* pursuant to clause 7 of this *licence*;
  - (b) the surrender of the *licence* pursuant to clause 8 of this *licence*; or
  - (c) the *expiry date*.

## **4 Fees**

- 4.1 The *licensee* must pay the applicable fees and charges in accordance with the *Regulations*.

## **5 Compliance**

- 5.1 Subject to any modifications or exemptions granted pursuant to the *Act*, the *licensee* must comply with any *applicable legislation*.

## **6 Transfer of Licence**

- 6.1 This *licence* may be transferred only in accordance with the *Act*.

## **7 Cancellation of Licence**

- 7.1 This *licence* may be cancelled only in accordance with the *Act*.

## **8 Surrender of Licence**

- 8.1 The *licensee* may only surrender the *licence* pursuant to this clause 8.
- 8.2 If the *licensee* intends to surrender the *licence* the *licensee* must, by *notice* in writing to the *Authority*:
- (a) set out the date that the *licensee* wishes the surrender of the *licence* to be effective; and
  - (b) set out the reasons why the *licensee* wishes to surrender the *licence*, including the reasons why it would not be contrary to the public interest for the surrender of the *licence* to be effective on the date set out in the *notice*.
- 8.3 Upon receipt of the *notice* from the *licensee* pursuant to clause 8.2, the *Authority* will *publish* the *notice*.
- 8.4 Notwithstanding clause 8.2, the surrender of the *licence* will only take effect on the later of the day that:
- (a) the *Authority* publishes a *notice* of the surrender in the Western Australian Government Gazette, such date to be at the discretion of the *Authority*; and
  - (b) the *licensee* hands back the *licence* to the *Authority*.
- 8.5 The *licensee* will not be entitled to a refund of any fees by the *Authority*.

## **9 Renewal of Licence**

- 9.1 This *licence* may be renewed only in accordance with the *Act*.

## **10 Amendment of Licence on Application of the Licensee**

- 10.1 The *licensee* may apply to the *Authority* to amend the *licence* in accordance with the *Act*.

## **11 Amendment of Licence by the Authority**

- 11.1 Subject to any *applicable legislation*, the *Authority* may amend the *licence* at any time in accordance with this clause.
- 11.2 Before amending the *licence* under clause 11.1, the *Authority* must:
- (a) provide the *licensee* with written *notice* of the proposed amendments under consideration by the *Authority*;
  - (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
  - (c) take into consideration those submissions.
- 11.3 This clause also applies to the substitution of the existing *licence*.
- 11.4 For avoidance of doubt, the *licensee* will not have to pay a fee for amendments under clause 11.

## **12 Accounting Records**

- 12.1 The *licensee* and any *related body corporate* must maintain accounting records that comply with standards issued by the Australian Accounting Standards Board or equivalent International Accounting Standards.

## **13 Individual Performance Standards**

- 13.1 Performance standards are contained in *applicable legislation*.

- 13.2 The *Authority* may prescribe *individual performance standards* applying to the *licensee* in respect of the *licensee's* obligations under this *licence* or the *applicable legislation*.
- 13.3 Before approving any *individual performance standards* under this clause, the *Authority* will:
- (a) provide the *licensee* with a copy of the proposed *individual performance standards*;
  - (b) allow 15 *business days* for the *licensee* to make submissions on the proposed *individual performance standards*; and
  - (c) take into consideration those submissions.
- 13.4 Once approved by the *Authority*, the *individual performance standards* are included as additional terms and conditions to this *licence*.

#### **14 Performance Audit**

- 14.1 The *licensee* must, unless otherwise notified in writing by the *Authority*, provide the *Authority* with a *performance audit* within 24 months after the *commencement date*, and every 24 months thereafter.
- 14.2 The *licensee* must comply, and must require the *licensee's* auditor to comply, with the *Authority's* standard audit guidelines.
- 14.3 The *licensee* may seek a review of any of the requirements of the *Authority's* standard audit guidelines in accordance with clause 19.1.
- 14.4 The *performance audit* must be conducted by an independent auditor approved by the *Authority*. If the *licensee* fails to nominate an auditor within one month of the date that the *performance audit* was due, or the auditor nominated by the *licensee* is rejected on two successive occasions by the *Authority*, the *Authority* may choose an independent auditor to conduct the *performance audit*.

#### **15 Reporting a Change in Circumstances**

- 15.1 The *licensee* must report to the *Authority*:
- (a) if the *licensee* is under external administration as defined by the *Corporations Act 2001* (Cwlth), within 2 *business days* of such external administration occurring; or
  - (b) if the *licensee*:
    - (i) experiences a change in the *licensee's* corporate, financial or technical circumstances upon which this *licence* was granted; and
    - (ii) the change may materially affect the *licensee's* ability to perform its obligations under this *licence*,within 10 *business days* of the change occurring; or
  - (c) if the:
    - (i) *licensee's* name;
    - (ii) *licensee's* ABN; or
    - (iii) *licensee's* address,changes, within 10 *business days* of the change occurring.

## **16 Provision of Information**

- 16.1 The *licensee* must provide to the *Authority*, in the manner and form prescribed by the *Authority*, specified information on any matter relevant to the operation or enforcement of the *licence*, the operation of the licensing scheme provided for in Part 2 of the *Act*, or the performance of the *Authority's* functions under that Part.

## **17 Publishing Information**

- 17.1 The *Authority* may direct the *licensee* to *publish*, within a specified timeframe, any information it considers relevant in connection with the *licensee* or the performance by the *licensee* of its obligations under this *licence*.
- 17.2 Subject to clause 17.3, the *licensee* must *publish* the information referred to in clause 17.1.
- 17.3 If the *licensee* considers that the information is confidential it must:
- (a) immediately notify the *Authority*; and
  - (b) seek a review of the *Authority's* decision in accordance with clause 19.1.
- 17.4 Once it has reviewed the decision, the *Authority* will direct the *licensee* in accordance with the review to:
- (a) *publish* the information;
  - (b) *publish* the information with the confidential information removed or modified; or
  - (c) not *publish* the information.

## **18 Notices**

- 18.1 Unless otherwise specified, all *notices* must be in writing.
- 18.2 A *notice* will be regarded as having been sent and received:
- (a) when delivered in person to the addressee; or
  - (b) 3 *business days* after the date of posting if the *notice* is posted in Western Australia; or
  - (c) 5 *business days* after the date of posting if the *notice* is posted outside Western Australia; or
  - (d) if sent by facsimile when, according to the sender's transmission report, the *notice* has been successfully received by the addressee; or
  - (e) if sent by *electronic means* when, according to the sender's electronic record, the *notice* has been successfully sent to the addressee.

## **19 Review of the Authority's Decisions**

- 19.1 The *licensee* may seek a review of a *reviewable decision* by the *Authority* pursuant to this *licence* in accordance with the following procedure:
- (a) the *licensee* shall make a submission on the subject of the *reviewable decision* within 10 *business days* (or other period as approved by the *Authority*) of the decision; and
  - (b) the *Authority* will consider the submission and provide the *licensee* with a written response within 20 *business days*.



19.2 For avoidance of doubt, this clause does not apply to a decision of the *Authority* pursuant to the *Act*, nor does it restrict the *licensee's* right to have a decision of the *Authority* reviewed in accordance with the *Act*.

## **20 Asset Management System**

20.1 The *licensee* must provide for an *asset management system* in respect of the *licensee's assets*.

20.2 The *licensee* must notify the *Authority* of the details of the *asset management system* within 5 *business days* from the later of:

(a) the *commencement date*; and

(b) the completion of construction of the *distribution system*.

20.3 The *licensee* must notify the *Authority* of any substantial change to the *asset management system* within 10 *business days* of such change.

20.4 The *licensee* must provide the *Authority* with a report by an independent expert, acceptable to the *Authority*, as to the effectiveness of the *asset management system* not less than once in every period of 24 months calculated from the *commencement date* (or any longer period that the *Authority* allows by *notice* in writing).

20.5 The *licensee* must comply, and must require the *licensee's* expert to comply, with the *Authority's* standard audit guidelines.

20.6 The *licensee* may seek a review of any of the requirements of the *Authority's* standard audit guidelines dealing with the *asset management system* in accordance with clause 19.1.

20.7 The review of the *asset management system* must be conducted by an independent expert approved by the *Authority*. If the *licensee* fails to nominate an independent expert within one month of the date that the review of the *asset management system* was due, or the independent expert nominated by the *licensee* is rejected on two successive occasions by the *Authority*, the *Authority* may choose an independent expert to conduct the review of the *asset management system*.

## **21 Approved Scheme**

21.1 The *licensee* must not *supply electricity* to *small use customers* unless the *licensee* is:

(c) a member of an *approved scheme*; and

(d) bound by, and compliant with, any decision or direction of the electricity ombudsman under the *approved scheme*.

## **22 Determination of Default Supplier**

22.1 The *licensee* must determine, from time to time, the *default supplier* for each *connection point* that connects to a *distribution system* operated by the *licensee*.

## **23 Marketers**

Not Used

## **24 Customer Contracts**

Not Used

**25 Amending the Standard Form Contract**

Not Used

**26 Directions by the Authority**

Not Used

**27 Supplier of Last Resort**

Not Used

**28 Notification of Default Supply**

Not Used

**29 Priority Restoration Register**

29.1 The licensee must create and maintain a *priority registration register*.

29.2 The *priority restoration register* must relate to all *customers* of the *licensee* including but not limited to *small use customers*.

29.3 The *priority registration register* must comply with any criteria determined by the Minister.

## Schedule 1 – Licence Details

### **1 Licence Area**

1.1 The *licence area* is the area as set out in plan ERA-EL-070(B) and ERA-EL-071(B).

### **2 Commencement Date**

2.1 24 March 2006.

### **3 Expiry Date**

3.1 23 March 2036.

## Schedule 2 – Additional Licence Clauses

1. **Compliance with the requirement to maintain a Priority Restoration Register**
- 1.1 Despite clause 29 of the *licence*, the *licensee* is not required to maintain a *priority restoration register* where the *distribution system* covered by this *licence* transports *electricity* to one *customer* only.
- 1.2 The *licensee* must notify the *Authority* within 10 *business days* of the *licensee* becoming aware that the *distribution system* covered by this *licence* transports *electricity* to more than one *customer*.

## **Schedule 3 – Licence Area Maps**

**Amendment Record Sheet**

Version Date	Description of Amendment
15 December 2006	Amend the title of the Electricity Distribution Licence 2 (EDL 2) from WMC Resources Ltd trading as Nickel West CAN 004 184 598 to BHP Billiton Nickel West Pty Ltd CAN 004 184 598.
29 January 2009	Change to customer definition.
13 January 2011	Electricity Licence Review 2010 amendment by substitution.
1 January 2013	New clause 29 following the approval of amendments to the <i>Code of Conduct for the Supply of Electricity to Small Use Customers</i> . Minor amendments to better implement the 2010 Electricity Licence Review incl. marking clauses 23-28 as 'Not Used' to maintain numbering consistency between all electricity licences.
1 July 2015	Electricity Licences Review 2015 amendment by substitution