

Generation Licence

Electricity Industry Act 2004 (WA)

Generation Licence

The Economic Regulation Authority ('Authority'), established under the *Economic Regulation Authority Act 2003* hereby grants a generation licence ('Licence') to ('Licensee') subject to, and in accordance with, the terms set out in this licence.

Dated this <<Date>> day <<Month>> 20xx.

Signed by a delegate;
member; or
the Chairman of the Economic Regulation Authority.

Generation Licence

Electricity Industry Act 2004 (WA)

LICENCE EGL <<Number>>

Applicant's Full Name
(Licensee)

«ABN_ACN»

«ADDRESS»

Generation Licence

1 Definitions

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

applicable legislation includes:

- (a) the *Act*;
- (b) the *Regulations*; and
- (c) the *Codes*.

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

asset management system review means a review of the effectiveness of the *asset management 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 2004*;
- (b) the *Electricity Industry Customer Transfer Code 2004*;
- (c) the *Electricity Networks Access Code 2004*;
- (d) the *Electricity Industry Metering Code 2005*;
- (e) the *Reliability and Quality of Supply Code 2005*; or
- (d) a code prepared by the *Authority* or the Minister pursuant to section 39 of the *Act*.

commencement date means the date specified in Schedule 1.

customer means a person to whom electricity is sold for the purpose of consumption.

electricity includes electrical energy of any kind however produced, stored, transported or consumed.

electricity licensing email address means:

- (a) in relation to the *Authority*, the addressee's authorised *Authority* email address or other such email address as notified in writing to the *licensee*; and

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- (b) 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*.

expiry date means the date specified in Schedule 1.

generating works is described in Schedule 1 and means the apparatus, equipment, plant or buildings used, or to be used, for, or in connection with, the generation of *electricity*.

individual performance standards mean any standards prescribed by the *Authority* for an individual *licensee* pursuant to clause 14 of the *licence*.

licence means:

- (a) this licence;
- (b) Schedule 1; and
- (c) any *individual performance standards* approved by the *Authority* pursuant to clause 14.

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

licensee means the <<Name of licensee>>.

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 or **operation** in relation to the *generating works* includes —

- (a) to maintain the system; and
- (b) to make any modifications necessary or desirable for the operation of the system.

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*.

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) *Electricity Industry (Licensing Fees) Regulations 2005*; and
- (b) any regulations in force from time to time made pursuant to the *Act*.

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related body corporate has the meaning in section 50 of the *Corporations Act 2001 (Cwlth)*.

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

- (a) clause 14.3;
- (b) clause 15.3;
- (c) clause 16.5; or
- (d) clause 19.3,

of this *licence*.

supply means to generate *electricity*.

2 Grant of Licence

- 2.1 The *licensee* is granted a licence for the *licence area* to construct and operate *generating works* or operate existing *generating works* 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 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*.
- 5.2 Subject to the provisions of any *applicable legislation*, the *Authority* may direct the *licensee* in writing to do any measure necessary to:
- (a) correct the breach of any *applicable legislation*; or
 - (b) prevent the breach of any *applicable legislation* occurring again,

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and specify a time limit by which such action must be taken.

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 surrender the *licence* at any time by written *notice* to the *Authority*.

8.2 The surrender of the *licence* will take effect on the day that the *Authority* publishes a *notice* of the surrender in the *Gazette*.

8.3 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 the 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*.

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- 11.4 For avoidance of doubt, the *licensee* will not have to pay an associated application fee or licence fee for the purpose of clause 11.1.

12 Expansion or reduction of generating works

- 12.1 The *licensee* may expand or reduce the *generating works* if the relevant expansion or reduction is provided for in the *asset management system*.
- 12.2 If the relevant expansion or reduction is not provided for in the *asset management system*, the *licensee* must amend the *asset management system* before the expansion or reduction and notify the *Authority* in accordance with clause 16.2 of this *licence*.
- 12.3 The *licensee* must not expand the *generating works* outside the *licence area*.
- 12.4 The *licensee* must pay any applicable fees in accordance with the *Regulations*.

13 Accounting Records

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

14 Individual Performance Standards

- 14.1 Performance standards are contained in *applicable legislation*.
- 14.2 The *Authority* may prescribe *individual performance standards* in relation to the *licensee* of its obligations under this *licence* or the *applicable legislation*.
- 14.3 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.
- 14.4 Once approved by the *Authority*, the *performance standards* are included as additional terms and conditions to this *licence*.

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15 Performance Audit

- 15.1 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.
- 15.2 The *licensee* must comply, and must require the *licensee's* auditor to comply, with the *Authority's* standard audit guidelines dealing with the *performance audit*, including any minimum requirements relating to the appointment of the auditor, the scope of the audit, the conduct of the audit and the reporting of the results of the audit.
- 15.3 The *licensee* may seek a review of any of the requirements of the *Authority's* standard audit guidelines in accordance with clause 21.1.
- 15.4 The independent auditor may be nominated by the *licensee* but must be approved by the *Authority* prior to the audit pursuant to clause 15.1. Should the *Authority* reject the *licensee's* nomination of an independent auditor twice or, in the event that no nomination has been made by the *licensee* within 1 month of the date the audit was due, the *Authority* may choose an independent auditor who will conduct the audit.

16 Asset Management System

- 16.1 The *licensee* must provide for, and notify the *Authority* of, an *asset management system* in relation to the *generating works* within 2 *business days* from the *commencement date* or from the completion of construction of the *generating works*, whichever is later.
- 16.2 The *licensee* must notify the *Authority* of any material change to the *asset management system* within 10 *business days* of such change.
- 16.3 The *licensee* must, unless otherwise notified in writing by the *Authority*, provide the *Authority* with a report as to the effectiveness of the *asset management system* within 24 months after *commencement date* and every 24 months thereafter.
- 16.4 The *licensee* must comply, and must require the *licensee's* expert to comply, with the *Authority's* standard guidelines dealing with the *asset management system*, including any minimum requirements relating to the appointment of the expert, the scope of the review, the conduct of the review and the reporting of the results of the review.
- 16.5 The *licensee* may seek a review of any of the requirements of the *Authority's* standard guidelines dealing with the *asset management system* in accordance with clause 21.1.
- 16.6 The independent expert may be nominated by the *licensee* but must be approved by the *Authority* prior to the review pursuant to clause 16.3. Should the *Authority* reject the *licensee's* nomination of an independent expert twice or in the event that no independent expert has been nominated by the *licensee* within 1 month of the date the review was due, the *Authority* may choose an independent expert who will conduct the review.

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17 Reporting

- 17.1 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*; or
 - (b) if the *licensee* experiences a significant change in the *licensee's* corporate, financial or technical circumstances upon which this *licence* was granted which may affect the *licensee's* ability to meet its obligations under this *licence* within 10 *business days* of the change occurring.

18 Provision of information

- 18.1 The *licensee* must provide to the *Authority* any information that the *Authority* may require in connection with its functions under the *Act* in the time, manner and form specified by the *Authority*.

19 Publishing information

- 19.1 The *Authority* may direct the *licensee* to *publish* any information within a specified timeframe it considers relevant in connection with the *licensee* or the performance by the *licensee* of its obligations under this *licence*.
- 19.2 Subject to clause 19.3, the *licensee* must *publish* the information referred to in clause 19.1.
- 19.3 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 21.1.
- 19.4 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.

20 Notices

- 20.1 Unless otherwise specified, all *notices* must be in writing.
- 20.2 A *notice* will be regarded as having been sent and received:
- (a) when delivered in person to the addressee; or

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- (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 email when, according to the sender's electronic record, the *notice* has been successfully sent to the addressee's *electricity licensing email address*.

21 Review of the *Authority's* decisions

21.1 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*..
- (c) For the 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*.

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Schedule 1 – Licensee Details

- 1 Name and address of licensee
- 2 Operating (licence) area
- 3 Generating Works
- 4 Commencement Date
- 5 Expiry Date

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Amendment Record Sheet:

Amendment Date	Description of amendment

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