



Western  
Australia

# ***Economic Regulation Authority***

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## **Generation Licence**

Electricity Industry Act 2004 (WA)

Licence <number>

***Applicant Name***

**(Licensee)**

***ABN/ACN***

***Applicant Address***

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# 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 of the *generation 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*; 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 2.

**customer** means a person to whom electricity is sold for the purpose of consumption. For the avoidance of doubt, a *customer* is not a person who resells electricity, but is the person who is the end user or consumer of the electricity.

**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
- (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 2.

**generating works** are described in Schedule 2 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** means any standards prescribed by the *Authority* for an individual *licensee* pursuant to Schedule 1, clause 2 of the *licence*.

**licence** means:

- (a) this licence;
- (b) Schedule 1;
- (c) Schedule 2; and
- (d) any *individual performance standards* approved by the *Authority* pursuant to Schedule 1, clause 2.

**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 works; and
- (b) to make any modifications necessary or desirable for the operation of the works.

**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:

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

**Regulations** means any regulations in force from time to time made pursuant to the *Act*.

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

**statutory instruments** means all relevant instruments made under a *written law* including all directions, notices, orders and other instruments given or made under a *written law* and includes, as existing from time to time.

**written law** means:

- (a) all Western Australian Acts and all Western Australian subsidiary legislation for the time being in force; and
- (b) all Commonwealth Acts and all Commonwealth subsidiary legislation for the time being in force, where the term “subsidiary legislation” has the meaning given to it under the *Interpretation Act 1984*, if “Commonwealth Act” were substituted for “written law”.

## **2 Purpose of Licence**

2.1 The *licensee* is granted a licence to:

- (a) construct and *operate generating works*; and.
- (b) provide electricity to a person who is not a *customer*,

in accordance with the terms and conditions of this *licence* and any applicable *written laws* and *statutory instruments*.

## **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 6 of this *licence*;
- (b) the surrender of the *licence* pursuant to clause 7 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 Transfer of Licence**

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

## **6 Cancellation of Licence**

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

## **7 Surrender of licence**

7.1 The *licensee* may surrender the licence at any time by written notice to the *Authority*.

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

7.3 The *licensee* will not be entitled to a refund of any fees by the *Authority*.

## **8 Renewal of licence**

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

## **9 Amendment of licence on application of the licensee**

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

## **10 Amendment of the licence by the Authority**

10.1 Subject to any *applicable legislation*, the *Authority* may amend the *licence* at any time in accordance with this clause.

10.2 Before amending the *licence* under clause 10.1, 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.

10.3 This clause also applies to the substitution of the existing *licence*.

10.4 For avoidance of doubt, the licensee will not have to pay an associated application fee or licence fee for the purpose of clause 10.1.

## **11 Compliance**

11.1 Subject to any modifications or exemptions determined by the *Authority*, Minister or Governor (as the case may be) the *licensee* must comply with any *applicable legislation*.

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

## **12 Performance Audit**

12.1 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.

12.2 Before arranging the *performance audit*, the *licensee* must provide the *Authority* with the name, contact details and details of an independent expert proposed to conduct the *performance audit*.

12.3 The *Authority* will consider the details of the proposed independent expert and provide the *licensee* with:

- (a) written approval or disapproval of the proposed independent expert;
- (b) the proposed scope of work; and

- (c) the proposed *performance criteria* that the independent expert should use for the *performance audit*,  
within 5 *business days* of receipt of the information in clause 12.2.
- 12.4 The *licensee* may make submissions on the proposed scope of work and proposed *performance criteria* within 15 *business days*.
- 12.5 The *Authority* will consider the submissions by the *licensee* pursuant to clause 12.4 and provide the *licensee* with:
  - (a) the scope of work; and
  - (b) the *performance criteria* that the independent expert should use for the *performance audit*,  
within 20 *business days* of receipt of the information in clause 12.2.
- 12.6 If the *Authority* disapproves the proposed independent expert, pursuant to clause 12.3, the *licensee* may submit another proposed independent expert to be considered by the *Authority* within 10 *business days*.
- 12.7 If the *Authority* disapproves the proposed independent expert submitted pursuant to clause 12.6, the *Authority* may choose the independent expert.

### **13 Asset Management System**

- 13.1 The *licensee* must provide for, and notify the *Authority* of, an *asset management system* in respect of the *generation works* within 2 *business days* from the *commencement date* or from the completion of construction of *generation works*, whichever is later.
- 13.2 The *licensee* must notify the *Authority* of any material changes to the *asset management system* within 10 *business days*.
- 13.3 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* not less than once in every 24 months calculated from the grant of the licence.
- 13.4 Before arranging the *asset management system* review, the *licensee* must provide the *Authority* with the name, contact details and details of the independent expert proposed to conduct the *asset management system* review.
- 13.5 The *Authority* will consider the details of the proposed independent expert and provide the *licensee* with:
  - (a) written approval or disapproval of the proposed independent expert; and
  - (b) the proposed scope of work,  
within 20 *business days* of receipt of the information in clause 13.4.
- 13.6 The *licensee* may make submissions on the proposed scope of work within 15 *business days*.
- 13.7 The *Authority* will consider the submissions by the *licensee* pursuant to clause 13.6 and provide the *licensee* with the scope of work within 20 *business days* of receipt of the information in clause 13.2.

- 13.8 If the *Authority* disapproves the proposed independent expert, the *licensee* may submit another proposed independent expert to be considered by the *Authority* within 10 *business days*.
- 13.9 If the *Authority* disapproves the proposed independent expert submitted pursuant to clause 13.8, the *Authority* may choose the independent expert.

## **14 Reporting**

- 14.1 The *licensee* must report to the *Authority*:
- (a) if the *licensee* is under external administration as defined by the *Corporations Act 2001 (Cth)*; or
  - (b) if the *licensee* experiences a significant change in its circumstances which may affect the *licensee's* ability to meet its obligations under this *licence*,
- within 2 *business days*.

## **15 Provision of information**

- 15.1 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*.

## **16 Notices**

- 16.1 Unless otherwise specified, all *notices* must be in writing.
- 16.2 A *notice* will be regarded as having been sent and received:
- (a) when delivered in person to the addressee;
  - (b) 3 *business days* after the date of posting if the *notice* is posted in Western Australia; and
  - (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*.

# Schedule 1 – Additional Terms and Conditions

## 1 Accounting records

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

## 2 Individual performance standards

- 2.1 Performance standards are contained in *applicable legislation*.
- 2.2 The *Authority* may prescribe *individual performance standards* in relation to the construction and *operation* of the *generation works*.
- 2.3 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.
- 2.4 Once approved by the *Authority*, the *performance standards* are included as additional terms and conditions to this *licence*.

## 3 Expansion or reduction of Generation Works

- 3.1 The *licensee* may expand or reduce the *generation works*:
- (a) if the relevant expansion or reduction is provided for in the *asset management system* and if necessary, material changes to the *asset management system* are made; and
  - (b) if the *licensee* pays the applicable fees in accordance with the *Regulations*.

## 4 Publishing information

- 4.1 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*.
- 4.2 Subject to clause 4.4, the *licensee* must *publish* the information referred to in clause 4.1 unless it considers the information is confidential.
- 4.3 If the *licensee* considers that the information is confidential it must:
- (a) immediately notify the *Authority*; and
  - (b) provide the *Authority* with submissions on the matter within 5 *business days*.



- 4.4 Once it has considered the *licensee's* submissions, the *Authority* must decide whether to direct the *licensee* to:
- (a) *publish* the information;
  - (b) *publish* the information with the confidential information removed or modified; or
  - (c) not *publish* the information,
- and notify the *licensee* of its decision within a reasonable time.

## Schedule 2 – Licensee Details

**1 Name and address of licensee**

**2 Generation Works**

2.1 Physical description:

2.2 Installed Capacity:

**3 Commencement Date**

**4 Expiry Date**