

Transmission Licence

Electricity Industry Act 2004 (WA)

Transmission Licence

The Economic Regulation Authority (Authority), established under the Economic Regulation Authority Act 2003 hereby grants a transmission licence to NewGen Neerabup Partnership subject to, and in accordance with, the terms set out in this licence in place of the licence granted on 26 March 2008.

Dated this 29th day of January 2009.

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

Transmission Licence

Electricity Industry Act 2004 (WA)

LICENCE ETL5

***NewGen Neerabup Partnership
(Licensee)***

*Comprising :
ERM Neerabup Pty Ltd (ACN 126 964 583)
and
BBP Neerabup Power Pty Ltd (ACN 128 916 478)*

***Level 4, St Georges Square
225 St Georges Terrace
Perth WA 6000***

***GPO Box 2742
Cloisters Square WA 6850***

Transmission Licence

1 Definitions

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

applicable legislation includes:

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

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*.

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
- (f) 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.

customer service charter means the charter prepared by a retailer pursuant to Part 11 of the *Code of Conduct for the Supply of Electricity to Small Use Customers 2004*.

distribution system is described in Schedule 1 and means any apparatus, equipment, plant or buildings used, or to be used, for, or in connection with, the transportation of *electricity* at nominal voltages of less than 66kV.

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

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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 1.

generating works 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 17 of the *licence*.

licence means:

- (a) this licence;
- (b) Schedule 1; and
- (c) any *individual performance standards* approved by the *Authority* pursuant to clause 17.

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

licensee means NewGen Neerabup Partnership.

non-standard contract has the meaning in section 54(3) of the *Act*.

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 *distribution system* 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 (Code of Conduct) Regulations 2005*;
- (b) *Electricity Industry (Customer Contracts) Regulations 2005*;

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- (c) *Electricity Industry (Licence Conditions) Regulations 2005;*
- (d) *Electricity Industry (Licensing Fees) Regulations 2005;*
- (e) *Electricity Industry (Obligation to Connect) Regulations 2005;*
- (f) *Electricity Industry (Ombudsman) Regulations 2005;* and
- (g) 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 (Cwlth)*.

review guidelines means the guidelines for the review of customer service charters published on the *Authority's* website.

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

- (a) clause 17.2;
- (b) clause 18.2;
- (c) clause 19.4; or
- (d) clause 22.1,

of this *licence*.

transmission system means any apparatus, equipment, plant or buildings used, or to be used, for, or in connection with, the transportation of electricity at nominal voltages of 66kV or higher.

2 Grant of Licence

2.1 The *licensee* is granted a *licence* for the *licence area* to:

- (a) construct and *operate* a new *transmission system* or *operate* an existing *transmission system*;
- (b) *supply electricity* from:
 - (i) *generating works*;
 - (ii) *transmission system*; or
 - (iii) another *distribution system*;
 to:
 - (i) a *customer* on behalf of a retailer; or
 - (ii) another *distribution system*;
- (c) provide connection services to:
 - (i) *generating works*;
 - (ii) *transmission system*;
 - (iii) another *distribution system*; or
 - (iv) *customers* on behalf of a retailer,

in accordance with the terms and conditions of this *licence*.

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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* including, but not limited to, the *Electricity Industry Customer Transfer Code 2004*, the *Electricity Industry Metering Code 2005*, the *Reliability and Quality of Supply Code 2005* and the *Code of Conduct for the Supply of Electricity to Small Use Customers 2004*.
- 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, 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*.

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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*.
- 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 Customer Service Charter

- 12.1 The *licensee* must prepare a *customer service charter* if it supplies *electricity* to *small use customers*.
- 12.2 The *licensee* must, unless otherwise notified in writing by the *Authority*, review the *customer service charter* at least once every 36 months from the grant of the licence and submit to the *Authority* the results of that review within 5 *business days* after it is completed.
- 12.3 The *licensee* may, at any time, review the *customer service charter* and submit to the *Authority* the results of that review within 5 *business days* after it is completed.
- 12.4 Any review of the *customer service charter* must have regard to the *review guidelines*.
- 12.5 When the *licensee* has reviewed the *customer service charter* pursuant to clauses 12.2 or 12.3 of this *licence*, the *Authority* will examine:
- (a) the review pursuant to clauses 12.2 or 12.3 of this *licence*; and
 - (b) the *customer service charter*,
- and publish the review and the *Authority's* assessment of the review on the *Authority's* website within a reasonable time of receiving the review.

13 Amending the Customer Service Charter

- 13.1 The *licensee* may amend the *customer service charter* at any time by submitting to the *Authority*:
- (a) an amendment to the *customer service charter*, or
 - (b) a substituted *customer service charter*.

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13.2 The *Authority* may examine the amendment and publish the *Authority's* assessment of the amendment on the *Authority's* website within a reasonable time of receiving the amendment.

14 Approved Scheme

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

- (a) a member of an *approved scheme*; and
- (b) bound by, and compliant with, any decision or direction of the electricity ombudsman under the *approved scheme*.

15 Expansion or Reduction of Transmission Systems

15.1 The *licensee* may expand or reduce the *transmission systems* if the relevant expansion or reduction is provided for in the *asset management system*.

15.2 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 19.2 of this *licence*.

15.3 The *licensee* must not expand the *transmission systems* outside the *licence area*.

15.4 The *licensee* must pay any applicable fees in accordance with the *Regulations*.

16 Accounting Records

16.1 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.

17 Individual Performance Standards

17.1 Performance standards are contained in *applicable legislation*.

17.2 The *Authority* may prescribe *individual performance standards* in relation to the *licensee* of its obligations under this *licence* or the *applicable legislation*.

17.3 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.

17.4 Once approved by the *Authority*, the *performance standards* are included as additional terms and conditions to this *licence*.

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18 Performance Audit

- 18.1 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.
- 18.2 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.
- 18.3 The *licensee* may seek a review of any of the requirements of the *Authority's* standard audit guidelines in accordance with clause 24.1.
- 18.4 The independent auditor may be nominated by the *licensee* but must be approved by the *Authority* prior to the audit pursuant to clause 18.1. 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.

19 Asset Management System

- 19.1 The *licensee* must provide for, and notify the *Authority* of, an *asset management system* in relation to the *distribution system* within 2 *business days* from the *commencement date* or from the completion of construction of the *distribution system*, whichever is later.
- 19.2 The *licensee* must notify the *Authority* of any material change to the asset management system within 10 *business days* of such change.
- 19.3 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 the *commencement date* and every 24 months thereafter.
- 19.4 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.
- 19.5 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 24.1.
- 19.6 The independent expert may be nominated by the *licensee* but must be approved by the *Authority* prior to the review pursuant to clause 19.3. 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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20 Reporting

- 20.1 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.

21 Provision of Information

- 21.1 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*.

22 Publishing Information

- 22.1 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*.
- 22.2 Subject to clause 22.3, the *licensee* must *publish* the information referred to in clause 22.1.
- 22.3 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 24.1.
- 22.4 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.

23 Notices

- 23.1 Unless otherwise specified, all *notices* must be in writing.
- 23.2 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

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- (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*.

24 Review of the Authority's Decisions

24.1 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*.

24.2 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

NewGen Neerabup Partnership

Comprising :
ERM Neerabup Pty Ltd (ACN 126 964 583), and
BBP Neerabup Power Pty Ltd (ACN 128 916 478)

*Level 4, St Georges Square
225 St Georges Terrace
Perth WA 6000*

*GPO Box 2742
Cloisters Square WA 6850*

2 Operating (Licence) Area

The *licence area* is located in the City of Wanneroo, Neerabup on Diagram 61476, 57378 and 89547, Reserve 11598 on Deposit Plan 187676 and 156983 (**Plan No. ERA-EL-092A**).

3 Transmission System

The 2.5km long 330kV transmission line will connect the power station to Western Power's Neerabup terminal, 2.5 km to the south east of the power station.

4 Commencement Date

26 March 2008.

5 Expiry Date

25 March 2038

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Amendment Record Sheet:

Amendment Date	Description of Amendment
29 January 2009	Change to customer definition

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