

Our Ref: D/2009/00623

19 January 2009

Mr Rod Hayes
Managing Director
Regional Power Corporation trading as Horizon Power
PO Box 1066
BENTLEY DC WA 6983

Dear Mr Hayes

**SECTION 32 - ELECTRICITY INDUSTRY ACT 2004
NOTICE OF FAILURE TO COMPLY WITH LICENCE**

Reference is made to the following documents submitted to the Economic Regulation Authority ("the Authority") on 10 and 11 November 2008:

- report titled Asset Management Systems Review – Integrated Regional Licence Audit Report Rev 2 by GHD Pty Ltd ("the Asset Management Report"); and
- report titled Integrated Regional Licence (EIRL2) Performance Audit Report by Ernst and Young ("the Performance Audit") (together "the Reports").

Based on its assessment of the Reports, the Authority has formed the opinion that the Regional Power Corporation ("the Corporation") has contravened Integrated Regional Licence (EIRL2).

In accordance with section 32(1) of the Electricity Industry Act 2004, the Authority hereby serves the attached Notice on the Corporation. The Notice requires the Corporation to rectify the contraventions set out in the Notice ("the Contraventions") by no later than 30 September 2009.

In the Authority's opinion, implementing the actions identified in the post audit implementation plan in the Asset Management Report would rectify the Contraventions. The Corporation may of course choose alternative ways of rectifying the Contraventions. If the Corporation does choose alternative methods of rectifying the Contraventions, then the Authority is to be notified.

Yours sincerely

LYNDON ROWE
CHAIRMAN

cc Minister for Energy
Treasurer

Section 32
Electricity Industry Act 2004
NOTICE

TO: Regional Power Corporation, trading as Horizon Power
18 Brodie Hall Drive
Bentley WA 6102

TAKE NOTICE that pursuant to section 32(1) of the *Electricity Industry Act 2004* ("the Act), that by no later than 30 September 2009, you are hereby required to rectify the contraventions of Integrated Regional Licence Number (EIRL2) set out in the Schedule attached to this Notice and marked with the letter "A".

You are hereby notified that if you do not comply with this Notice, then in accordance with section 32(2) of the *Electricity Industry Act 2004* the Economic Regulation Authority ("the Authority") may take one or more of the following actions:

- a. serve the Regional Power Corporation with a letter of reprimand;
- b. subject to section 33 of the Act, order Regional Power Corporation to pay a monetary penalty fixed by the Authority but not exceeding \$100,000; and/or
- c. subject to section 33 of the Act, cause any or all of the contraventions to be rectified to the satisfaction of the Authority at the expense of Regional Power Corporation.

The Common Seal of the Economic Regulation Authority was hereto duly affixed by the Chairman of the Economic Regulation Authority on 19 January 2009:

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In the presence of:

Member: _____

Member: _____

Attachment: Schedule of Contraventions

Schedule of Contraventions

1. **Contravention of clause 5.1 of Integrated Regional Licence Number (EIRL2)**

1.1 Clause 5.1 of Integrated Regional Licence Number (EIRL2) states:

"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, Electricity Industry Metering Code 2005, Electricity Industry (Network Quality and Reliability of Supply) Code 2005 and the Code of Conduct for the Supply of Electricity to Small Use Customers 2004."

1.2 In the Economic Regulation Authority's opinion, Regional Power Corporation has contravened clause 5.1 of Integrated Regional Licence Number (EIRL2) as follows:

1.2.1 Clause 3.5(3) of the *Electricity Industry Metering Code 2005* ("the Metering Code") requires a network operator to, for each metering installation on its network, on and from the time of its connection to the network, provide, install, operate and maintain the metering installation in the manner prescribed (unless otherwise agreed). The report titled Integrated Regional Licence (EIRL2) Performance Audit Report by Ernst and Young ("the performance audit") discloses that Electricity Networks Corporation operates and maintains the metering installation on behalf of Regional Power Corporation. However, there was no written service level agreement ("the SLA") between Regional Power Corporation and Electricity Networks Corporation for metering services. As Regional Power Corporation has no oversight over the metering installation, the Authority considers that Regional Power Corporation cannot be considered to be operating or maintaining the metering installation and accordingly does not comply with this obligation (Section 5, page 7).

1.2.2 Clause 3.29 of the Metering Code requires a network operator to publish a list of registered metering installation providers, which includes details of the type of work each registered metering installation provider is authorised to carry out, and at least annually, update the list. The performance audit report discloses that Regional Power Corporation did not comply with this obligation (Section 5, page 16).

1.2.3 Clause 4.1(1) of the Metering Code requires a network operator to establish, maintain and administer a metering database containing standing data and energy data for each metering point on its network. The performance audit discloses that Electricity Networks

Corporation maintains and administers the metering database on behalf of Regional Power Corporation. However, there was no SLA between Regional Power Corporation and Electricity Networks Corporation for key activities relating to the maintenance and administration of the metering database. As Regional Power Corporation has no oversight over the metering database, the Authority considers that Regional Power Corporation cannot be considered to be maintaining or administering the metering database and accordingly does not comply with this obligation (Section 5, page 10).

- 1.2.4 Clause 4.1(3) of the Metering Code requires a network operator to prepare, and if applicable, must implement a disaster recovery plan to ensure that it is able, within 2 business days after the day of any disaster, to rebuild the metering database and provide energy data to Code participants. The performance audit discloses that this obligation is not addressed in the SLA between Regional Power Corporation and Electricity Networks Corporation. Therefore, Regional Power Corporation has not complied with this obligation (Section 5, page 11).
- 1.2.5 Clause 4.9 of the Metering Code requires a network operator to retain energy data in its metering database for each metering point on its network for at least the periods, and with the level of accessibility, prescribed. The performance audit discloses that this obligation is not addressed in the SLA between Regional Power Corporation and Electricity Networks Corporation. Therefore, Regional Power Corporation has not complied with this obligation (Section 5, page 12).
- 1.2.6 Clause 19 of the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005* (“the Quality Code”) provides that a distributor operating a relevant distribution system must, in specified circumstances, make a payment to a customer within a specific timeframe if a supply interruption exceeds 12 hours. The performance audit discloses that this obligation has not been complied with on three occasions. Therefore, Regional Power Corporation has not complied with this obligation (Section 5, page 16).
- 1.2.7 Clause 21(1) of the Quality Code provides a distributor operating a relevant distribution system must provide eligible customers with information about applying for payments for failure to meet the requirements in sections 18 and 19 of the Quality Code. The performance audit discloses that this obligation has not been complied with. Therefore, Regional Power Corporation has not complied with this obligation (Section 5, page 16).
- 1.2.8 Regulation 6 of the *Electricity Industry (Obligation to Connect) Regulations 2005* (“the Connection Regulations”) provides that a distributor that is obliged to attach or connect premises to the

distribution system under regulation 4 of the Connection Regulations must do so within a defined timeframe. The performance audit discloses that in one instance connection was not performed within the timeframe. Therefore, Regional Power Corporation has not complied with this obligation (Section 5, page 19).

- 1.2.9 Clause 6.10(1) of the *Code of Conduct for the Supply of Electricity to Small Use Customers* (“the Small Use Code”) requires a retailer to develop a hardship policy to assist customers in meeting their financial obligations and responsibilities to the retailer. Clause 6.10(3) of the Small Use Code states that a retailer must give a customer, financial counsellor or relevant consumer representative organisation, on request, details of the financial hardship policy, at no charge. The performance audit discloses that Regional Power Corporation does not retain a copy of the hardship policy and is unaware of a number of key elements of the policy. Therefore, Regional Power Corporation has not complied with this obligation (Section 5, page 30).
- 1.2.10 Clause 6.10(4) of the Small Use Code provides that a retailer must keep a record of the specified information related to the hardship policy. The performance audit discloses that this obligation has not been complied with (Section 5, page 30).
- 1.2.11 Clause 7 of the Small Use Code provides that a retailer and a distributor must, where appropriate, register a customer’s supply address as a life support equipment address. The performance audit discloses that Electricity Retail Corporation performs such tasks on behalf of Regional Power Corporation. However, Regional Power Corporation does not receive compliance reports from Electricity Retail Corporation (including the register of life support equipment addresses). Therefore, Regional Power Corporation has not complied with this obligation (Section 5, page 21).
- 1.2.12 Clause 10.8(2) of the Small Use Code provides that a distributor must publish information on distribution standards and metering arrangements on the distributor’s web site. The performance audit discloses that this obligation has not been complied with. Therefore, Regional Power Corporation has not complied with this obligation (Section 5, page 23).
- 1.2.13 Clause 13.8 of the Small Use Code provides a distributor must keep a record of the total number of connections provided and connections not provided on or before the agreed date. The performance audit discloses that, although Electricity Networks Corporation performs this obligation on behalf of Regional Power Corporation, Regional Power Corporation does not retain such records. Therefore, Regional Power Corporation has not complied with this obligation (Section 5, page 17).

1.2.14 Clause 13.9 of the Small Use Code provides a distributor must keep a record of the street light faults and repair indicators specified. The performance audit discloses that, although Electricity Networks Corporation performs this obligation on behalf of Regional Power Corporation, Regional Power Corporation does not retain such records. Therefore, Regional Power Corporation has not complied with this obligation (Section 5, page 17).

1.2.15 Clause 14.4(1) of the Small Use Code provides that a distributor must acknowledge and respond to a written query or complaint by a customer within the timeframes prescribed. The performance audit discloses one instance where a complaint was not acknowledged within the specified timeframe and two instances where the complaint was not resolved within 20 business days after acknowledgement. Therefore, Regional Power Corporation has not complied with this obligation (Section 5, page 24).

2. Contravention of clause 20.1 of Integrated Regional Licence Number (EIRL2)

2.1 Clause 20.1 of Integrated Regional Licence Number (EIRL2) states:

"The licensee must submit to the Coordinator a draft renewable source electricity contract by the time specified in the Act or by the Coordinator."

2.2 In the Economic Regulation Authority's opinion, Regional Power Corporation has contravened clause 20.1 of Integrated Regional Licence Number (EIRL2) as the performance audit discloses that Regional Power Corporation has not submitted a draft renewable source electricity contract to the Coordinator, instead relying on the current standard form contract (Section 5, page 42).

3. Contravention of clause 21.1 and clause 21.2 of Integrated Regional Licence Number (EIRL2)

3.1 Clause 21.1 and clause 21.2 of Integrated Regional Licence Number (EIRL2) states:

"The licensee must offer to purchase renewable source electricity from a renewable source electricity customer who wishes to sell electricity to the licensee."

"The offer to purchase electricity in clause 21.1 must be in the form of a renewable source electricity contract approved by the Coordinator in accordance with clause 20."

3.2 In the Economic Regulation Authority's opinion, Regional Power Corporation has contravened clause 21.1 and 21.2 of Integrated Regional

Licence Number (EIRL2) as the performance audit discloses that Regional Power Corporation has not submitted a draft renewable source electricity contract to the Coordinator, instead relying on the current standard form contract (Section 5, page 42).

4. Contravention of clause 27 of Integrated Regional Licence Number (EIRL2)

4.1 Clause 27.1 of Integrated Regional Licence Number (EIRL2) states:

"The licensee must provide for, and notify the Authority of, an asset management system in relation to the transmission system within 2 business days from the commencement date or from the completion of construction of the transmission system, whichever is later."

4.2 In the Economic Regulation Authority's opinion, the Regional Power Corporation has contravened clause 27.1 of Integrated Regional Licence Number (EIRL2) as follows:

4.2.1 The asset management system is defined in the Transmission Licence as "the measures that are to be taken by the licensee for the *proper* maintenance, expansion or reduction of the transmission system" (our emphasis). The report titled Asset Management Systems Review – Integrated Regional Licence Audit Report Rev 2 by GHD Pty Ltd ("the asset management report") discloses a number of deficiencies with the Regional Power Corporation's asset management system for its transmission system. In the Authority's opinion, some of the deficiencies disclosed in the asset management report are such that the Authority does not consider that the Regional Power Corporation's asset management system puts in place measures for the proper maintenance of the generation, distribution and transmission systems. In particular:

- (a) asset plans to manage Regional Power Corporation's generation assets are generally not in place (section 3.2.1, page 10);
- (b) disposal plans of stockpiles of disposal assets were not evident at any of the regional depots and the former power stations (section 3.2.3, page 12);
- (c) the absence of environmental analysis at regional and district level for both network and generation assets (section 3.2.4, pages 12-13);
- (d) the absence of a completed risk assessment for the generation assets (section 3.2.8, page 16);

- (e) in Carnarvon, the high level of risk to service continuity and public safety due to the poor standard of the distribution system infrastructure (section 4.2.1, page 31);
- (f) the exclusion of the distribution network problems observed in Carnarvon from the Risk Register and Asset Management Plan South Region (section 4.2.1, page 31);
- (g) in Carnarvon, the risk to service continuity due to a lack of maintenance resource for the 6.6kV/22kV equipment in the power station complex (section 4.2.1, page 33);
- (g) in West Kimberley, the operational and safety issues arising due to the absence of an over arching system of control related to Planned and Emergency Switching Programmes (section 4.3.1, pages 34-35); and
- (h) in Esperance, Wood pole steel reinforcement programmes have been suspended as a result of lack of resources available to perform this work (section 4.4.1, page 37).