



Electricity Generation Licence

NewGen Power Kwinana Pty Ltd

EGL3, Version 4, 1 July 2015

Economic Regulation Authority

WESTERN AUSTRALIA

ELECTRICITY INDUSTRY ACT 2004 (WA)

Licensee Name:	NewGen Power Kwinana Pty Ltd ACN 116 827 546
Licence Area:	The area set out in the map referred to in Schedule 1
Licence Number:	EGL3
Commencement Date:	22 February 2006
Version Number:	4
Version Date:	1 July 2015
Expiry Date:	21 February 2036

Signed by the Chief Executive Officer
of the Economic Regulation Authority

1 July 2015

ELECTRICITY GENERATION 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*.

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*.

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.

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.

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

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

licence means:

- (a) this document (excluding the title page and the second page of this document);
- (b) the 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 NewGen Power Kwinana Pty Ltd, ACN 116 827 546.

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*.

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 17.3;
- (e) clause 20.5; or
- (f) clause 20.7,

of this *licence*.

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 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 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.

change, 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 described 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 *generating works*.
- 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*.

Schedule 1 – Licence Details

1 Licence Area

1.1 The *licence area* is set out in Plan Number ERA-EL-068.

2 Commencement Date

2.1 22 February 2006

3 Expiry Date

3.1 21 February 2036

Schedule 2 – Additional Licence Clauses (Not Used)

Schedule 3 – Licence Area Maps

Amendment Record Sheet

Version Date	Description of Amendment
29 January 2009	Change to customer definition.
13 January 2011	Electricity Licence Review 2010 amendment by substitution.
1 July 2015	Electricity Licences Review 2015 amendment by substitution.