



# Electricity Generation Licence

Wind Portfolio Pty Ltd

EGL26, Version 1, 23 June 2017

**Economic Regulation Authority**

WESTERN AUSTRALIA

***ELECTRICITY INDUSTRY ACT 2004 (WA)***

Licensee Name: Wind Portfolio Pty Ltd  
ABN 84 114 267 695

Licence Area: The area set out in the map referred to in Schedule 1.

Licence Number EGL26

Commencement Date: 23 June 2017

Version Number: 1

Version Date: 23 June 2017

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Chair of the Economic Regulation Authority

23 June 2017

## 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 2016*;
- (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) any 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 Wind Portfolio Pty Ltd, ABN 84 114 267 695 .

**licensee's assets** means the *licensee's distribution system, transmission system or generating works* (as the case may be).

1.2 **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** 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 (Cwth)*.

**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.

- 1.3 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 (Cwth)* 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,changes, 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) three *business days* after the date of posting if the *notice* is posted in Western Australia; or
- (c) five *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 five *business days* from the later of:

- (a) the commencement date; and
- (b) the completion of construction of the *licensee's assets*.

20.3 The *licensee* must notify the *Authority* of any substantial change to the *asset management system* within ten *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-146

**2. Commencement Date**

2.1 23 June 2017

**3. Expiry Date**

3.1 22 June 2047

# **Schedule 2 – Additional Licence Clauses**

## **(Not Used)**

## **Schedule 3 – Licence Area Maps**

## Amendment Record Sheet

Version Date	Description of Amendment
23 June 2017	Grant of EGL26