

Electricity Licence Review 2018

Discussion Paper

February 2018

Economic Regulation Authority

WESTERN AUSTRALIA

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Executive Summary

The *Electricity Industry Act 2004* (**Electricity Act**) governs the operation of the electricity licensing scheme in Western Australia and defines the functions and powers of the Economic Regulation Authority (**ERA**) with regard to administering licences, and monitoring and enforcing licence compliance.¹

The ERA periodically reviews its licences to ensure it maintains a best practice licensing scheme. The ERA previously conducted reviews of electricity licences in 2005, 2010 and 2015. The current licence templates have required few modifications since they were first developed. Licensees have rarely needed to apply for amendments to the generic licence templates. Based on the ERA's experience administering the electricity licensing scheme, and feedback received from licensees, it appears that in general the current licence templates are achieving their intended goals.

In 2007, the Authority released its best practice licensing guidelines², which state that:

to minimise compliance costs, a licensor should ensure its processes incorporate simple and targeted language, are consistent with other laws and integrated across jurisdictions, are flexible and are formulated with input from interested parties.

The scope of the Electricity Licence Review 2018 (**Review**) is to examine:

- the format of electricity licence templates; and
- the terms and conditions applicable to electricity generation, transmission, distribution, retail and integrated regional licence templates.

The Review does not include examination of:

- electricity legislation, including subsidiary legislation;
- the ERA's *Code of Conduct for the Supply of Electricity to Small Use Customers* (**Customer Code**);³
- the ERA's processes and procedures that are contained in its "regulatory guidelines"⁴ documents;
- licence amendment proposals that are specific to a single licensee; or
- licence exemptions.

¹ The ERA is also responsible for licensing the gas industry (under the *Energy Coordination Act 1994*) and the water industry (under the *Water Services Act 2012*).

² http://www.erawa.com.au/cproot/4902/2/Best_Practice_Utility_Licensing_Jan_2007.pdf

³ The **Customer Code** is administered by the ERA and regulates the conduct of retailers, distributors and electricity marketing agents who supply electricity to residential and small business customers (customers who consume not more than 160 MWh of electricity per annum). It has its own review process.

⁴ This is the collection of documents that can be found in:

<http://www.erawa.com.au/electricity/electricity-licensing/regulatory-guidelines>

The objectives of the Review are to ensure that electricity licences:

- are consistent with applicable legislation;⁵
- minimise licensees' regulatory burden and compliance costs;
- have clear and consistent terms and conditions across the licence types; and
- are consistent with gas and water licences where possible.

As a part of the review process, the ERA has issued this Discussion Paper and is seeking public submissions on issues within the scope of the Review. Submissions should provide clear and well-substantiated proposals.

Invitation to make submissions

Interested parties are invited to make submissions by **4:00 pm (WST) on Friday 2 March 2018**. Submissions should be marked to the attention of Alex Kroon, Manager Projects.

We prefer to receive submissions electronically via our [online form](#).

If you are not able to submit online, please use one of the following options:

- Postal address: PO Box 8469, PERTH BC WA 6849
- Office address: Level 4, Albert Facey House, 469 Wellington Street, PERTH WA 6000
- Email address: publicsubmissions@erawa.com.au

CONFIDENTIALITY

All submissions will be treated as being in the public domain and placed on ERA's website, unless an interested party clearly indicates the parts of the submission for which confidentiality is claimed, and specifies in reasonable detail the basis for the claim. Any claim of confidentiality will be considered in accordance with the *Economic Regulation Authority Act 2003*.

The publication of a submission on the ERA's website shall not be taken as indicating that the ERA has knowledge either actual or constructive of the contents of a particular submission and, in particular, whether the submission in whole or part contains information of a confidential nature and no duty of confidence will arise for the ERA.

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⁵ Applicable legislation includes the *Electricity Industry Act 2004* and its codes and regulations.

1 Background

1.1 Electricity licensing scheme

1.1.1 Legislation

On 1 January 2005, the ERA was given the role of licensing Western Australian electricity supply services in accordance with the *Electricity Act 1945*.

Section 7 of the Electricity Act requires that:

- (1) A person must not construct or operate generating works except under the authority of a generation licence or an integrated regional licence.
- (2) A person must not construct or operate a transmission system except under the authority of a transmission licence or an integrated regional licence.
- (3) A person must not construct or operate a distribution system except under the authority of a distribution licence or an integrated regional licence.
- (4) A person must not sell electricity to customers except under the authority of a retail licence or an integrated regional licence.

With the exception of the Customer Code (which is administered by the ERA), the legislation referred to in this Discussion Paper is administered by the Government of Western Australia. If stakeholders wish to seek legislative changes, or apply for a licence exemption, they should contact the Department of Treasury's [Public Utilities Office](#).

1.1.2 Licences

The ERA currently administers 94 licences across the utilities industry (covering electricity, gas and water), with electricity licences making up 64 of the licences. Consistent with section 4 of the Electricity Act, there are five classes of electricity licence:

- Generation licences (**EGL**), which authorise the construction and operation of generating works. Generating works with a capacity less than 30 MW are exempt from requiring a licence (see *Electricity Industry Exemption Order 2005*).
- Transmission licences (**ETL**), which authorise the construction and operation of transmission systems to transport electricity at nominal voltages of 66 kV or higher.
- Distribution licences (**EDL**), which authorise the construction and operation of distribution systems to transport electricity at nominal voltages of less than 66 kV.
- Retail licences (**ERL**), which authorise the sale of electricity to customers.
- Integrated regional licences (**EIRL**), which authorise the construction and operation of any combination of generation, transmission, distribution and retail activities otherwise than through the South West Interconnected System (**SWIS**).⁶

Table 1 provides an overview of the current number of licensees and licensed services in the electricity industry.

⁶ The SWIS consists mainly of Western Power's electricity network, which is located between Kalbarri, Albany and Kalgoorlie, and includes the Perth metropolitan area.

Table 1 – Electricity Licences

Classification	Number of licences	Share (%)	Number of licensed services	Share (%)
Generation	26	40	31	41
Transmission	3	5	7	10
Distribution	4	6	7	10
Retail	23	36	29	39
Integrated Regional ⁷	8	13	N/A	N/A
Total	64	100	74	100

A list of current electricity licensees can be found on the ERA's website, along with the electricity licences themselves.⁸

Section 11(3) of the Electricity Act requires that the terms and conditions of licences of the same class and same licence area must be substantially similar, except to the extent that the ERA considers appropriate. So most licences are identical to the relevant licence template, although the specific circumstances of a small number of licensees have required the ERA to deviate from the template. For example, Western Power's distribution licence contains a clause specific to its licence that requires it to maintain and operate a 'trouble call fault management system'.⁹

Section 11 of the Electricity Act provides the ERA with the power to determine terms and conditions of a licence. Without limiting that power, Schedule 1 of the Electricity Act specifies that a licence can include conditions on a range of matters, including the provision of information to the Authority and customers, electricity supply standards and compliance with specified codes (a complete list of the provisions in Schedule 1 of the Electricity Act is in Appendix 2).

In previous licence reviews across the electricity, gas and water sectors, the ERA has found merit in having licence templates that contain:

- identical licence obligations across licences within a utility sector;
- identical licence obligations across licence categories within a utility sector; and
- scope for imposing individually tailored licence conditions where suitable.

Appendix 2 lists all licence clauses across the five different electricity licence classes.

⁷ EIRLs authorise any combination of generation, transmission, distribution or retail services otherwise than through the SWIS. The eight EIRLs authorise 18 electricity services that make up the total difference between the number of licences other than EIRLs and the licensed services.

⁸ <http://www.erawa.com.au/electricity/electricity-licensing/licence-holders>

⁹ A system to record and manage fault reports that Western Power receives from the public and its own staff.

1.1.3 Licence exemptions

Under section 8 of the Electricity Act, the Governor may exempt any person or class of persons from requiring a licence. Licence exemptions are published in the Government Gazette.

The Public Utilities Office administers licence exemptions.

There are licence exemptions for:

- Self-supply;
- residential and commercial on-selling, including retirement villages and shopping centres;
- caravan parks;
- generating works with a capacity under 30 MW;
- most Aboriginal communities;
- supply to commercial customers where the generating works is located on the same premises as the customer that consumes the electricity (for example, mine sites); and
- suppliers of electricity through solar power purchase agreements.¹⁰

Current licence exemptions can be found in:

- section 7(5) of the Electricity Act;
- *Electricity Industry Exemption Order 2005*;
- *Electricity Industry (Caravan Park Operators) Exemption Order 2005*; and
- *Electricity Industry (Solar Power Purchase Agreements) Exemption Order 2016*.

¹⁰ A solar power purchase agreement involves a supplier installing and maintaining a solar power system at a customer's premises at no up-front capital cost to the customer. In exchange, the customer agrees to purchase from the supplier the electricity generated by the system.

2 Electricity licence review

Whilst there is no specific statutory requirement for the ERA to review its licences, the ERA aims to review its licence templates regularly to ensure that it maintains a best practice licensing scheme.

2.1 Scope

The scope of the Review is to examine:

- the format of electricity licence templates; and
- the terms and conditions of electricity licences.

The Review does not include examination of:

- electricity legislation (which is administered by the State Government);
- the ERA's Customer Code, which has its own statutory biennial review process that includes extensive consultation with licensees and stakeholders;
- the ERA's processes and procedures that are contained in its "regulatory guidelines"¹¹ documents; for example, the Licence Application Guidelines and Audit Guidelines (these documents are reviewed separately by the ERA);
- licence amendment proposals that are specific to a single licensee (an application for an individual licence amendment should be lodged with the ERA, to be considered separately to this review); or
- licence exemptions (these are administered by the Department of Treasury, Public Utilities Office).

The objectives of the Review are to ensure electricity licences:

- are consistent with applicable legislation;¹²
- minimise licensees' regulatory burden and compliance costs;
- have clear and consistent terms and conditions across the licence types; and
- are consistent with gas and water licences where possible.

2.2 Electricity licence review process

The ERA requested and received from licensees, issues for inclusion in this Discussion Paper. Issues raised by licensees that fall within the Review's scope have been included in this Discussion Paper. The ERA has also included issues it considers relevant to this Review.

The ERA has published this Discussion Paper to seek public comment on potential amendments to each of the licence templates and licences granted to existing licensees.

¹¹ <http://www.erawa.com.au/electricity/electricity-licensing/regulatory-guidelines>

¹² Applicable legislation includes the *Electricity Industry Act 2004* and its codes and regulations.

Depending upon the nature and complexity of the issues raised during the public consultation period, the ERA may decide to form a reference group to provide it with advice regarding the matters raised.

The ERA may also decide to undertake a second round of public consultation on one or more issues raised during the initial public consultation period.

If the issues raised during the initial public consultation do not warrant the establishment of a reference group and / or a second round of public consultation, the ERA will publish its decision and amend electricity licences in accordance with that decision.

Table 2 – Timetable

Activity	Time frame
Publish Discussion Paper	February 2018
Public Submissions	March 2018
Decision	May 2018
Licensees provided with 15 business days to make submissions on amended licences ¹³	May 2018
New licences issued	June 2018

2.3 Repeal of generation licensing

In 2016, the then Minister for Energy endorsed a proposal to repeal the requirement for electricity generating works to be licensed. Changes to the Electricity Act to implement this proposal were introduced into State Parliament on 14 September 2016 as part of the *Licensing and Other Authorisations Amendment Bill 2016*. The Bill did not receive Parliamentary approval.

Changes to the Electricity Act, including the repeal of generating licensing, are a matter for the State Government and do not fall within the scope of this Review.

Further information about this proposal can be obtained from the Public Utilities Office.

¹³ Under the terms and conditions of a licence, the ERA is required to give licensees 15 business days to comment on licence amendments before they come into effect.

3 Proposals

This section lists the licence template amendments proposed by the ERA. Some of the amendments proposed apply to one licence class only, while others apply to two or more licence classes. Each proposal clearly specifies the licence class(es) to which it applies.

Marked-up versions of the proposed new licence templates are attached (Appendices 3 to 7). The marked-up versions also include minor changes that do not warrant specific attention in this Discussion Paper.

The ERA welcomes stakeholder feedback on the proposals and the licence templates.

3.1 Licence structure

In 2016, the ERA restructured its water licences to make them easier to navigate and more accessible to the reader. There is similar scope to improve the clarity of electricity licences. The ERA proposes making the structure of electricity licences consistent with water licences where possible by making the following changes:

- Insert an index (contents page) in the licence to improve navigation around the document.
- Move the licence specific information from Schedule 1 to clause 2. Schedule 1 includes important information, such as the activities that the licence authorises and the licence commencement date and expiry date. It is more suitable to place this information at the beginning of the licence rather than in a Schedule at the back of the licence where it is less visible. It will also address the duplication that currently exists in retail licences where clause 2 and Schedule 1 both cover what activities a licensee is authorised to carry out.
- Restructure the licence clauses under the following headings:
 - **Definitions and interpretation** – identifies the definitions used in the licence and includes the ‘interpretation’ clause, which explains that a reference in the licence to any ‘applicable legislation’ includes any modification, amendment or re-enactment of the legislation.
 - **Licence authorisation** – identifies what service(s) are authorised under the licence.
 - **Licence administration** – sets out processes for how the licence is administered.
 - **General licence obligations** – licence conditions of a general nature that do not fall into other categories, but apply to all licensees.
 - **Assets and performance of licensee** – covers asset management reviews, performance audits and performance reporting (applicable to all licensees).
 - **Customers** – covers customer protection conditions (where applicable).
- Identify the applicable section of the Electricity Act to the licence condition where relevant (some licence conditions are mandated by the Electricity Act and it is helpful to identify the relevant section of the Electricity Act within the licence).

Proposal 1

The ERA proposes restructuring the licence templates by:

- A. Inserting an index;
- B. Moving the licence-specific information from Schedule 1 to clause 2;
- C. Grouping licence clauses under related headings; and
- D. Identifying the applicable section of the Act to the licence condition, where relevant.

3.2 Applying “applicable legislation” to a licensee

The licence definition of “applicable legislation” is the regulations and codes that “apply” to the licensee.

applicable legislation means:

- (a) the *Act*; and
- (b) the *Regulations* and the *Codes* that apply to the *licensee*.

The purpose of licence clause 5.1 is to require licensees to comply with “applicable legislation”.

5. Compliance

5.1 Subject to any modifications or exemptions granted pursuant to the *Act*, the *licensee* must comply with any *applicable legislation*.

“Codes” include the *Electricity Industry (Metering) Code 2012 (Metering Code)* and *Electricity Industry (Customer Transfer) Code 2016 (Customer Transfer Code)*.

Both the Metering Code¹⁴ and Customer Transfer Code¹⁵ say that they apply to a licensee where it is a term or condition of the licence that they must comply with the code. It is therefore the role of the licence to require a person (the licensee) to comply with the code. However, it is unclear if the drafting in current licences achieves this. The licence definition of “applicable legislation” refers to codes and regulations that “apply” to a licensee and clause 5.1 states that the licensee “must comply with any *applicable legislation*”. The cause of the problem appears to be the word “apply” in the definition of “applicable legislation”. The codes do not apply themselves to a licensee; that is the job of the licence. Therefore, there is a potential disconnect between the codes and the licence in requiring a licensee to comply with the codes.

This may only be a problem for some licences, as the *Electricity Industry (Licence Condition) Regulations 2005 (Licence Condition Regulations)* make it a condition of certain licences that the licensee must comply with the Metering Code and Customer Transfer Code.

¹⁴ Clause 1.2(1) of the Metering Code.

¹⁵ Clause 1.2 of the Customer Transfer Code.

For example, regulation 5 makes compliance with the Customer Transfer Code a mandatory licence condition for a:

- transmission, distribution or integrated regional licence held by relevant Electricity Corporations (Horizon Power and Western Power); and
- retail licence and integrated regional licence that authorise the sale of electricity transported through a transmission or distribution system operated by a relevant Electricity Corporation.

There are other licensees not covered by these provisions in the Licence Condition Regulations, which may create a risk of having licences that do not require them to comply with the Metering Code and Customer Transfer Code.

To make it clear that a licence requires compliance with “applicable legislation”, in particular the Metering Code and Customer Transfer Code, it is proposed that the definition of “applicable legislation” is amended to remove the words “that apply to the licensee” and to maintain clause 5.1 in its current form.

Proposal 2

The ERA proposes an amendment to the definition of “applicable legislation” as follows:

applicable legislation means:

- (a) the *Act*; and
- (b) the *Regulations* and the *Codes* ~~that apply to the licensee~~.

3.3 Compliance with “applicable legislation”

As discussed in section 3.2, licence clause 5.1 requires licensees to comply with “applicable legislation”. The legislation includes the Electricity Act and some of its codes and regulations.

Not all parts of the Electricity Act, codes or regulations will necessarily be relevant to a licensee. For example, Part 8 of the Electricity Act¹⁶ applies only to network operators. It does not apply to generators or retailers.

A licensee has questioned whether the current drafting of licence clause 5.1 inadvertently requires it to comply with all parts of the Electricity Act, even if some parts are not relevant to its operations. It is also noted that not all parts of a code or regulations may be applicable to a licensee.

In light of this concern, the licensee has requested the review of the definition of “applicable legislation”.

The ERA does not share the licensee’s concerns. The Electricity Act (and legislation generally) is drafted in terms of obligations / prohibitions that apply to a specified person or class of persons. The effect of licence clause 5.1 and the definition of “applicable legislation” does not

¹⁶ Part 8 of the Electricity Act provides for the establishment of the network access regime, including the *Electricity Networks Access Code*.

require a licensee to comply with an obligation that is clearly expressed to apply to someone else.

For example, the obligation in section 104 of the Electricity Act for the Minister to establish the *Electricity Networks Access Code* is not taken to apply to licensees because the licence requires compliance with the Electricity Act.

The ERA believes the most efficient approach to ensuring licensees understand the provisions of a legislative instrument that they must comply with is to manage it through the ERA's audit and compliance reporting processes.

The ERA provides guidance through the licence and compliance policy documents, including the Electricity Compliance Reporting Manual,¹⁷ to assist licensees to identify the legislative obligations that are directly relevant to the provision of services under the different classes of licence. Licensees also have input to the audit planning process on how an obligation may apply to its particular circumstances. For example, the requirement to comply with all, or part, of the Metering Code, may differ depending on the business relationships and the licensee's customer base.

The ERA's compliance reporting and audit processes apply a risk-based approach to compliance, which has regard to the likelihood, and the consequences, of a licence contravention. The consequences of a contravention are assessed in the context of a licensee's circumstances. In licence audits, licensees have an opportunity to provide input to the ERA and the auditor to tailor the scope of an audit to reflect the licensee's business operations.¹⁸

The ERA considers that assessing compliance with the Electricity Act (and the codes and regulations) through the compliance reporting and audit process, rather than through licence conditions, is the most effective way to manage this matter.

Proposal 3

The ERA proposes that all licences continue to require compliance with the Electricity Act and the relevant codes and regulations, but individual licensee compliance continues to be managed through the compliance reporting and audit process.

3.4 Licence operating area map

Current licences refer to "map" and "plan" when identifying the licence operating area. To ensure consistency, the ERA proposes to use the term "plan" throughout the licence. "Plan" is considered preferable to "map" as Landgate (which produces the plans) uses this term and it is the term used in the notice published in the Government Gazette when a licence is granted or amended.

¹⁷ <https://www.erawa.com.au/electricity/electricity-licensing/regulatory-guidelines>

¹⁸ The ERA's [Audit Guidelines](#) sets out the process for determining audit priorities.

Proposal 4

The ERA proposes replacing the term “map” with “plan” to ensure consistency throughout a licence.

3.5 New Customer Transfer Code

The ERA proposes to amend the definition of “Code” to replace *Electricity Industry Customer Transfer Code 2004* with *Electricity Industry (Customer Transfer) Code 2016*.

The 2004 Code was repealed and replaced with the 2016 Code by the Minister for Energy on 20 September 2016.

Proposal 5

The ERA proposes to update licences to reflect that the *Electricity Industry (Customer Transfer) Code 2016* has replaced the *Electricity Industry Customer Transfer Code 2004*.

3.6 Adopting replacement codes and regulations

Clause 1.2 of the licence states:

“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*.”

The definition of “Codes” was previously amended in respect of the Customer Code to make it explicit that any replacement Customer Code is also covered in the definition. However, this clarification is not in place for the other codes or regulations listed in the licence, which creates an inconsistency. In 2016, the Customer Transfer Code was repealed and replaced, and in 2012 the Metering Code was repealed and replaced.

To address this inconsistency, it is proposed that clause 1.2 is amended to include the word “replacement”. This will ensure that when codes or regulations are replaced, the licence adopts the replacement instrument.

A consequential amendment to the definition of “Codes” is also proposed that removes the words “or any such replacement Code approved pursuant to section 79 of the Act” that relate to the Customer Code, as it will no longer be required if clause 1.2 is amended to include all “applicable legislation” that is replaced.

Proposal 6

1. The ERA proposes amending clause 1.2 to include the word “replacement” as follows:

“A reference in this *licence* to any *applicable legislation* includes, unless the context otherwise requires, any statutory modification, amendment, **replacement** or re-enactment of that *applicable legislation*.”

2. The ERA proposes to amend the definition of “Codes” as follows:

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~~ 2016;
- (c) ~~the Electricity Industry (Metering) Code 2012;~~ and
- (d) ~~the Electricity Industry (Network Quality and Reliability of Supply) Code 2005.~~

3.7 Licence clauses reflecting specific legislative requirements

Some licence conditions are based on specific legislative requirements. This is where a licence contains a specific obligation on a licensee or class of licensee that is derived from legislation, such as the Electricity Act. For example:

- EGL, ETL, EDL, ERL and EIRL licence clause 14 (Performance Audit) adds additional context about the administration of the licence conditions imposed under section 13 of the Electricity Act.
- EGL, ETL, EDL and EIRL licence clause 20 (Asset Management System) adds additional context about the administration of the licence conditions imposed under section 14 of the Electricity Act.

This approach clarifies:

- how the particular statutory obligation is administered within the licensing scheme; and
- what each licensee’s obligations are.

A licensee has questioned this approach, suggesting it may create regulatory uncertainty, particularly if an obligation in a code or regulation is changed and that obligation also appears in a licence. In this situation, a licensee may have to comply with two different standards temporarily until the licence(s) is amended to reflect the changes to the legislation.

Clause 1.2 of licences states:

“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*.”

Clause 1.2 ensures that a licence adopts any legislative amendments at the time they are made. However, to ensure consistency between licences and relevant legislation, the ERA endeavours to amend affected licences to adopt legislative changes as soon as practicable. In any event, clause 1.2 ensures the time it takes to amend the licences will not have a material effect on licensees.

The Electricity Act and its associated codes and regulations are rarely amended. For example, the Metering Code has been amended only once since its inception in 2005. Therefore, the opportunity for regulatory uncertainty created through legislative amendments arises infrequently.

While the ERA acknowledges the licensee’s concerns, it does not believe there is sufficient justification to remove licence conditions drawn directly from legislation. The current approach of including legislative obligations in licences has worked well by providing transparency and reducing the risk of licensee non-compliance. Some obligations in the Electricity Act are also mandated as licence conditions and therefore need to be in the licence.

Proposal 7

The ERA proposes that the current approach of including specific legislative obligations in licences is retained.

3.8 Supplying different customer classes

The Electricity Act defines small use customers as those consuming not more than 160 MWh of electricity per annum. This definition creates the two primary customer classes from a licensing perspective: small use and large use customers.

Licensees with small use customers have a number of additional customer protection obligations. This includes the legislative requirement for retail and integrated regional licensees to have an ERA-approved standard form contract as a precondition for selling electricity to small use customers (section 51 of the Electricity Act).

Eleven retail licensees have ERA-approved standard form contracts.¹⁹ Some of these retailers supply small use business customers only. The ERA has the following approach to clarify when a licence amendment is required to extend the customer classes that a licensee is authorised to supply electricity:

- When a licence is granted to sell electricity to large use customers only, Schedule 2 (Licence-specific conditions) requires the licensee to seek approval for a standard form contract before commencing supply to small use customers, should it decide to do so in the future.

¹⁹ <https://www.erawa.com.au/electricity/electricity-licensing/standard-form-contracts>

- When the licence has been granted, and a standard form contract has been approved for the supply of electricity to small use business customers only, Schedule 2 (Licence specific conditions) requires the licensee to amend its standard form contract and seek ERA approval for the amendments if it wants to supply residential customers. This ensures the standard form contract contains clauses specific to residential customers.

This approach was introduced following the Electricity Licence Review 2015, to make it clear when a licence amendment and / or standard form contract amendment is required if a retail or integrated regional licensee wishes to supply customer classes not covered by its current licence.

However, it is debateable whether these additional licence conditions are necessary. Schedule 1 to a licence specifies the customer classes that the retailer is allowed to supply electricity to. Under licence clause 10, a licensee may apply to the ERA to amend the licence in accordance with the Electricity Act.

In light of Schedule 1 and clause 10, it may not be necessary to have an additional clause in Schedule 2 that informs the licensee that it must apply for a licence amendment (and submit a standard form contract or amendments to an existing standard form contract for approval) if it wants to change the scope of its licence. It is self-evident that the licensee will have to apply to amend its licence if it wants to supply different customer classes.

The licence does not take this approach with any other licence condition, even though other licence conditions can be subject to amendment.

Proposal 8

The ERA proposes that Schedule 2, clause 1.1 is removed from ERLs and EIRLs where it relates to informing the licensee of licence and standard form contract amendments that are required if the licensee wants to change the scope of its retail activities to include new customer classes.

Appendices

Appendix 1 – Schedule 1 of the Electricity Act: Licence terms and conditions

Without limiting that power, Schedule 1 of the Electricity Act specifies that a licence can include conditions related to:

- the preparation and implementation of strategies for the management of greenhouse gas emissions (EGL & EIRL) and publication of records regarding greenhouse gas emissions (EGL, ERL & EIRL);
- the preparation and implementation of strategies to encourage the use of renewable energy (ERL & EIRL);
- the provision of information to customers in relation to consumption, conservation and efficiency (ERL & EIRL);
- any methods or principles to be applied by the licensee in determining fees or charges payable by prescribed customers (ERL & EIRL);
- the provision of information to customers regarding the disaggregated components of a fee or charge applied by a retailer, including what components relate to generation; transmission; distribution and retail costs (ERL & EIRL);
- the extent to which the licensee's customers may be of a particular class;
- maintenance by the licensee of specific accounting records;
- preventing the licensee from engaging in particular business activities in the electricity industry in Western Australia;
- methods or standards of supply;
- compliance with specified codes;
- procedures for licence surrender;
- the provision of information by the licensee to the ERA;
- the lodgement of securities by the licensee with the ERA;
- the performance of functions by the licensee;
- the publication of performance information;
- any obligations of the licensee to public authorities and other licensees;
- regulation of the construction or operation (or both) of any generating works, transmission system or distribution system; and
- the disposal or transfer of property, rights or liabilities.

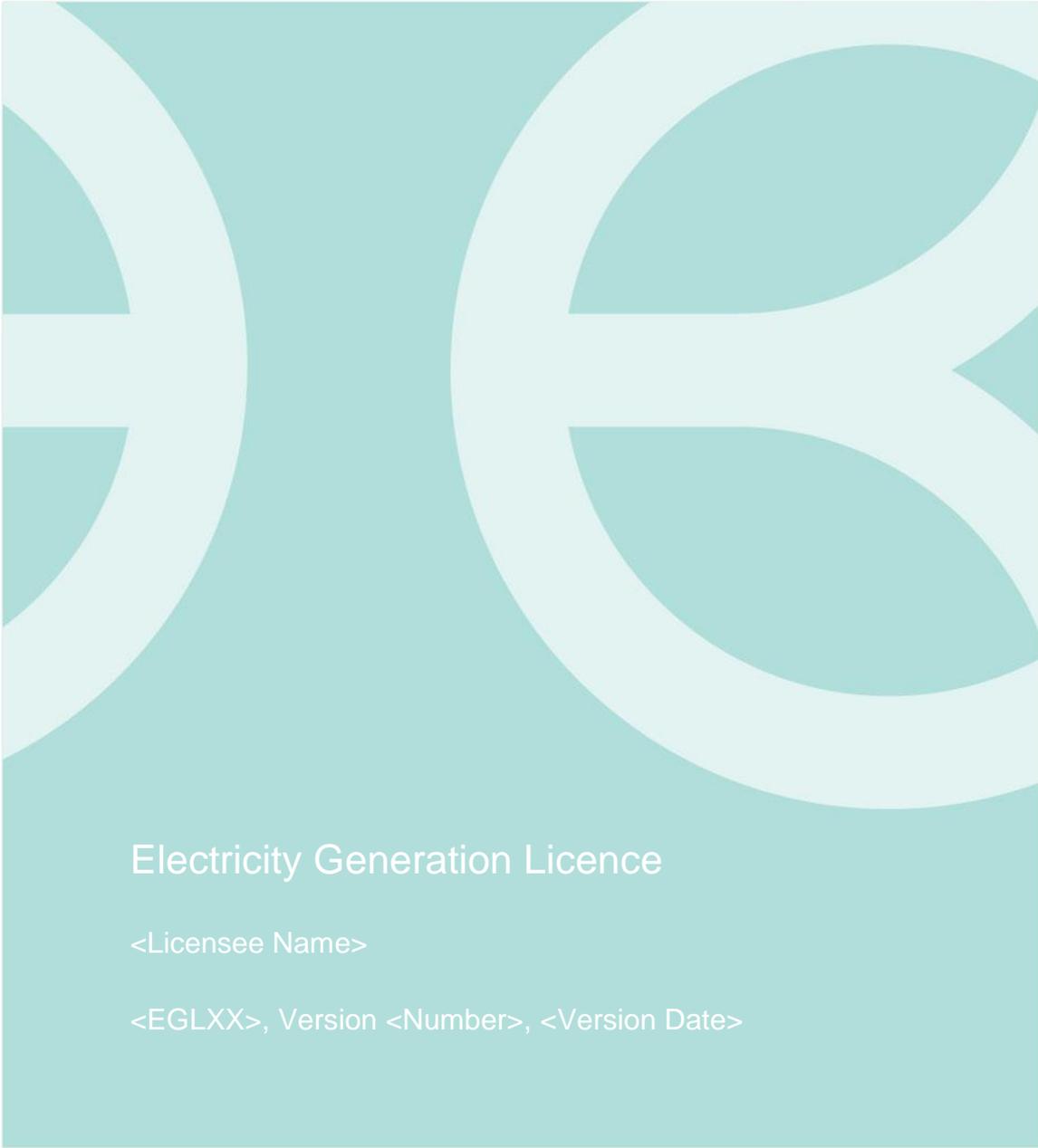
Appendix 2 – Current licence clauses

	EGL	ETL	EDL	ERL	EIRL	Comment
Main Licence Document						
1	X	X	X	X	X	Generic
2	X	X	X	X	X	Generic
3	X	X	X	X	X	Generic
4	X	X	X	X	X	Generic
5	X	X	X	X	X	Generic
6	X	X	X	X	X	Generic
7	X	X	X	X	X	Generic
8	X	X	X	X	X	Generic
9	X	X	X	X	X	Generic
10	X	X	X	X	X	Generic
11	X	X	X	X	X	Generic
12	X	X	X	X	X	Generic
13	X	X	X	X	X	Generic
14	X	X	X	X	X	Generic.
15	X	X	X	X	X	Section 13 of the Electricity Act. Generic but with some variation within the licence clause between the different licence categories.
16	X	X	X	X	X	Generic
17	X	X	X	X	X	Generic
18	X	X	X	X	X	Generic
19	X	X	X	X	X	Generic
20	X	X	X	Not Used	(X)	Applicable to licensees with infrastructure assets. Section 14 of the Electricity Act.
21	Not Used	Not Used	Not Used	X	(X)	Included in all ERLs but applies only to the supply to small use customers. Section 101 (Membership of scheme) of the Electricity Act.
22	Not Used	Not Used	X	Not Used	(X)	
23	Not Used	Not Used	Not Used	X	(X)	Included in all ERLs but applies only to the supply to small use customers.
24	Not Used	Not Used	Not Used	X	(X)	Included in all ERLs but applies only to the supply to small use customers.
25	Not Used	Not Used	Not Used	X	(X)	Included in all ERLs but applies only to the supply to small use customers.
26	Not Used	Not Used	Not Used	X	(X)	Included in all ERLs but applies only to the supply to small use customers. Section 53 of the Electricity Act.
27	Not Used	Not Used	Not Used	X	(X)	Included in all ERLs but applies only to the supply to small use customers. Section 76 of the Electricity Act.
28	Not Used	Not Used	Not Used	X	(X)	Included in all ERLs but applies only to the supply to small use customers. Regulation 38 of the Contract Regulations.
29	Not Used	Not Used	X	Not Used	(X)	

	EGL	ETL	EDL	ERL	EIRL	Comment
Schedule 1						
1 Licence Area	x	x	x	x	x	Generic
2 Commencement Date	x	x	x	x	x	Generic
3 Expiry Date	x	x	x	x	x	Generic
4 Activities Authorised by this Licence	Not Used	Not Used	Not Used	(x)	(x)	Included in ERLs and EIRLs where there is a restriction on the customer classes that the retailer can supply.
Schedule 2						
Individual licence obligations	(x)	(x)	(x)	(x)	(x)	Licence conditions that are specific to individual licensees.

*The brackets signify where a clause applies to a sub-group with specific characteristics within that licence type.

Appendix 3 – Electricity Generation Licence Template



Electricity Generation Licence

<Licensee Name>

<EGLXX>, Version <Number>, <Version Date>

Economic Regulation Authority

WESTERN AUSTRALIA

ELECTRICITY INDUSTRY ACT 2004 (WA)

Licensee Name: <Licensee Name>
<ABN/ACN number>

Licence Area: The area set out in the ~~map~~plan referred to in clause 2.5.

Licence Number <EGLXX>

Commencement Date: <Commencement Date>

Version Number: <Number>

Version Date: <Version Date>

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

DD Month Year

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ERA note:

A restructure of electricity licences is proposed to make them clearer, more accessible and consistent with water licences.

The proposal is to:

- Insert a contents page.
- Move the licence specific information from Schedule 1 to clause 2.
- Restructure the licence clauses under new headings that group similar clauses together.
- Identify the applicable section of the Act to the licence condition, where relevant.

Further information on the restructure of the licences is in section 3.1 of the Discussion Paper.

Proposed amendments to clauses are tracked in blue/red. The restructure is not in track changes due to the volume of changes that are being proposed. Comment boxes identify the original clause reference in the current licence template.

1. DEFINITIONS AND INTERPRETATION

Commented [ERA1]: Currently licence clause 1

1.1 Definitions

1.1.1 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*.~~

Commented [ERA2]: "Authority" is being changed to "ERA" – see new definition below.

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~~;
- (a) the *Electricity Industry (Customer Transfer) Code 2016*;
- (b) the *Electricity Industry (Metering) Code 2012*; and
- (c) the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005*.

commencement date means the date the licence was first granted by the *ERA* being the date specified in clause 2.2.

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 *ERA*, the *ERA*'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 *ERA*; or
 - (iii) any other similar means,
- but does not include facsimile or telephone.

ERA means the Economic Regulation Authority.

Commented [ERA3]: All the references to "Authority" in this template have been replaced with "ERA".

expiry date means the date specified in clause 2.3.

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

individual performance standards mean any standards prescribed by the *ERA* for an individual *licensee* pursuant to clause 5.2 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 *ERA* pursuant to clause 5.2.

licence area is the area stated in clause 2.5 of this licence.

licensee means <Licensee Name>, <ABN/ACN number> .

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 *ERA* 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 *ERA* to be published on the *ERA'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 *ERA* pursuant to:

- (a) clause ~~13.2~~ 3.8.3;
- (b) clause ~~14.2~~ 5.1.5;
- (c) clause ~~14.4~~ 5.1.7;
- (d) clause ~~17.3~~ 5.2.2;
- (e) clause ~~20.5~~ 5.3.2; or
- (f) clause ~~20.7~~ 5.3.4.

of this *licence*.

version date means the date on which the *licence* was last amended pursuant to clause 3.1 or clause 3.2.

1.2 Interpretation

- 1.2.1 A reference in this *licence* to any *applicable legislation* includes, unless the context otherwise requires, any statutory modification, amendment, **replacement** or re-enactment of that *applicable legislation*.

Commented [ERA4]: The clause references have been updated to reflect the change in clause numbering resulting from the restructure of the template.

2. LICENCE AUTHORISATION

2.1 Activities authorised under this licence

Commented [ERA5]: Currently licence clause 2

2.1.1 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*.

2.2 Commencement date

Commented [ERA6]: Currently Schedule 1

2.2.1 <insert date>

2.3 Expiry date

Commented [ERA7]: Currently Schedule 1

2.3.1 <insert expiry date>

2.4 Term [Section 15 of the Act]

Commented [ERA8]: Currently licence clause 3

2.4.1 This *licence* commences on the *commencement date* and continues until the earlier of:

- (g) the cancellation of the *licence* pursuant to clause 3.5 of this *licence*;
- (h) the surrender of the *licence* pursuant to clause 3.6 of this *licence*; or
- (i) the *expiry date*.

2.5 Licence area

Commented [ERA9]: Currently Schedule 1

2.5.1 The *licence area* is set out in plan(s):

ERA-EL-XXX

2.5.2 The *licence area* plan(s) is provided in Schedule 2.

3. LICENCE ADMINISTRATION

3.1 Amendment of licence by the licensee [Section 21 of the Act]

Commented [ERA10]: Currently licence clause 10

3.1.1 The *licensee* may apply to the *ERA* to amend the *licence* in accordance with the *Act*.

3.2 Amendment of licence by the ERA [Section 22 of the Act]

Commented [ERA11]: Currently licence clause 11

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

3.2.2 Before amending the *licence* under clause 3.2.1, the *ERA* must:

- (a) provide the *licensee* with written *notice* of the proposed amendments under consideration by the *ERA*;

- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
- (c) take into consideration those submissions.

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

3.2.4 For avoidance of doubt, the *licensee* will not have to pay a fee for amendments under clause 3.2.1.

3.3 **Transfer of licence** **[Section 18 of the Act]**

Commented [ERA12]: Currently licence clause 6

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

3.4 **Renewal of licence** **[Section 16 of the Act]**

Commented [ERA13]: Currently licence clause 9

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

3.5 **Cancellation of licence** **[Section 35 of the Act]**

Commented [ERA14]: Currently licence clause 7

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

3.6 **Surrender of licence** **[Schedule 1 of the Act]**

Commented [ERA15]: Currently licence clause 8

3.6.1 The *licensee* may only surrender the *licence* pursuant to this clause 3.6.

3.6.2 If the *licensee* intends to surrender the *licence* the *licensee* must, by *notice* in writing to the *ERA*:

- (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*.

3.6.3 Upon receipt of the *notice* from the *licensee* pursuant to clause 3.6.2, the *ERA* will publish the *notice*.

3.6.4 Notwithstanding clause 3.6.2, the surrender of the *licence* will only take effect on the later of the day that:

- (a) the *ERA* publishes a notice of the surrender in the Western Australian Government Gazette, such date to be at the discretion of the *ERA*; and
- (b) the *licensee* hands back the *licence* to the *ERA*.

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

3.7 **Notices**

Commented [ERA16]: Currently licence clause 18

- 3.7.1 Unless otherwise specified, all *notices* must be in writing.
- 3.7.2 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.

3.8 Publishing information

Commented [ERA17]: Currently licence clause 17

- 3.8.1 The *ERA* 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*.
- 3.8.2 Subject to clause 3.8.3, the *licensee* must *publish* the information referred to in clause 3.8.1.
- 3.8.3 If the *licensee* considers that the information is confidential it must:
- (a) immediately notify the *ERA*; and
 - (b) seek a review of the *ERA*'s decision in accordance with clause 3.9.
- 3.8.4 Once it has reviewed the decision, the *ERA* 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.

3.9 Review of the ERA's decisions

Commented [ERA18]: Currently licence clause 19

- 3.9.1 The *licensee* may seek a review of a *reviewable decision* by the *ERA* 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 *ERA*) of the decision; and
 - (b) the *ERA* will consider the submission and provide the *licensee* with a written response within 20 *business days*.

3.9.2 For avoidance of doubt, this clause does not apply to a decision of the *ERA* pursuant to the *Act*, nor does it restrict the *licensee's* right to have a decision of the *ERA* reviewed in accordance with the *Act*.

4. GENERAL LICENCE OBLIGATIONS

4.1 Compliance with applicable legislation

Commented [ERA19]: Currently licence clause 5

4.1.1 Subject to any modifications or exemptions granted pursuant to the *Act*, the *licensee* must comply with any *applicable legislation*.

4.2 Fees

Commented [ERA20]: Currently licence clause 4

4.2.1 The *licensee* must pay the applicable fees and charges in accordance with the *Regulations*.

4.3 Accounting records [Schedule 1 of the Act]

Commented [ERA21]: Currently licence clause 12

4.3.1 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.

4.4 Reporting a change in circumstances

Commented [ERA22]: Currently licence clause 15

4.4.1 The *licensee* must report to the *ERA*:

(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.

4.5 Provision of information [Schedule 1 of the Act]

Commented [ERA23]: Currently licence clause 16

4.5.1 The *licensee* must provide to the *ERA*, in the manner and form described by the *ERA*, 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 *ERA*'s functions under that Part.

5. AUDITS AND PERFORMANCE REPORTING OBLIGATIONS

5.1 Asset management system [Section 14 of the Act]

Commented [ERA24]: Currently licence clause 20

- 5.1.1 The *licensee* must provide for an *asset management system* in respect of the *licensee*'s *assets*.
- 5.1.2 The *licensee* must notify the *ERA* 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*.
- 5.1.3 The *licensee* must notify the *ERA* of any substantial change to the *asset management system* within ten *business days* of such change.
- 5.1.4 The *licensee* must provide the *ERA* with a report by an independent expert, acceptable to the *ERA*, 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 *ERA* allows by *notice* in writing).
- 5.1.5 The *licensee* must comply, and must require the *licensee*'s expert to comply, with the *ERA*'s standard audit guidelines.
- 5.1.6 The *licensee* may seek a review of any of the requirements of the *ERA*'s standard audit guidelines dealing with the *asset management system* in accordance with clause 3.9.
- 5.1.7 The review of the *asset management system* must be conducted by an independent expert approved by the *ERA*. 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 *ERA*, the *ERA* may choose an independent expert to conduct the review of the *asset management system*.

5.2 Individual performance standards

Commented [ERA25]: Currently licence clause 13

- 5.2.1 Performance standards are contained in *applicable legislation*.
- 5.2.2 The *ERA* may prescribe *individual performance standards* applying to the *licensee* in respect of the *licensee*'s obligations under this *licence* or the *applicable legislation*.
- 5.2.3 Before approving any *individual performance standards* under this clause, the *ERA* 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.

5.2.4 Once approved by the *ERA*, the *individual performance standards* are included as additional terms and conditions to this *licence*.

5.3 Performance audit
[Section 13 of the Act]

Commented [ERA26]: Currently licence clause 14

5.3.1 The *licensee* must, unless otherwise notified in writing by the *ERA*, provide the *ERA* with a *performance audit* within 24 months after the *commencement date*, and every 24 months thereafter.

5.3.2 The *licensee* must comply, and must require the *licensee's* auditor to comply, with the *ERA's* standard audit guidelines.

5.3.3 The *licensee* may seek a review of any of the requirements of the *ERA's* standard audit guidelines in accordance with clause 3.9.

5.3.4 The *performance audit* must be conducted by an independent auditor approved by the *ERA*. 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 *ERA*, the *ERA* may choose an independent auditor to conduct the *performance audit*.

Schedule 1 – Additional Licence Clauses

Commented [ERA27]: Currently Schedule 2

(Not Used)

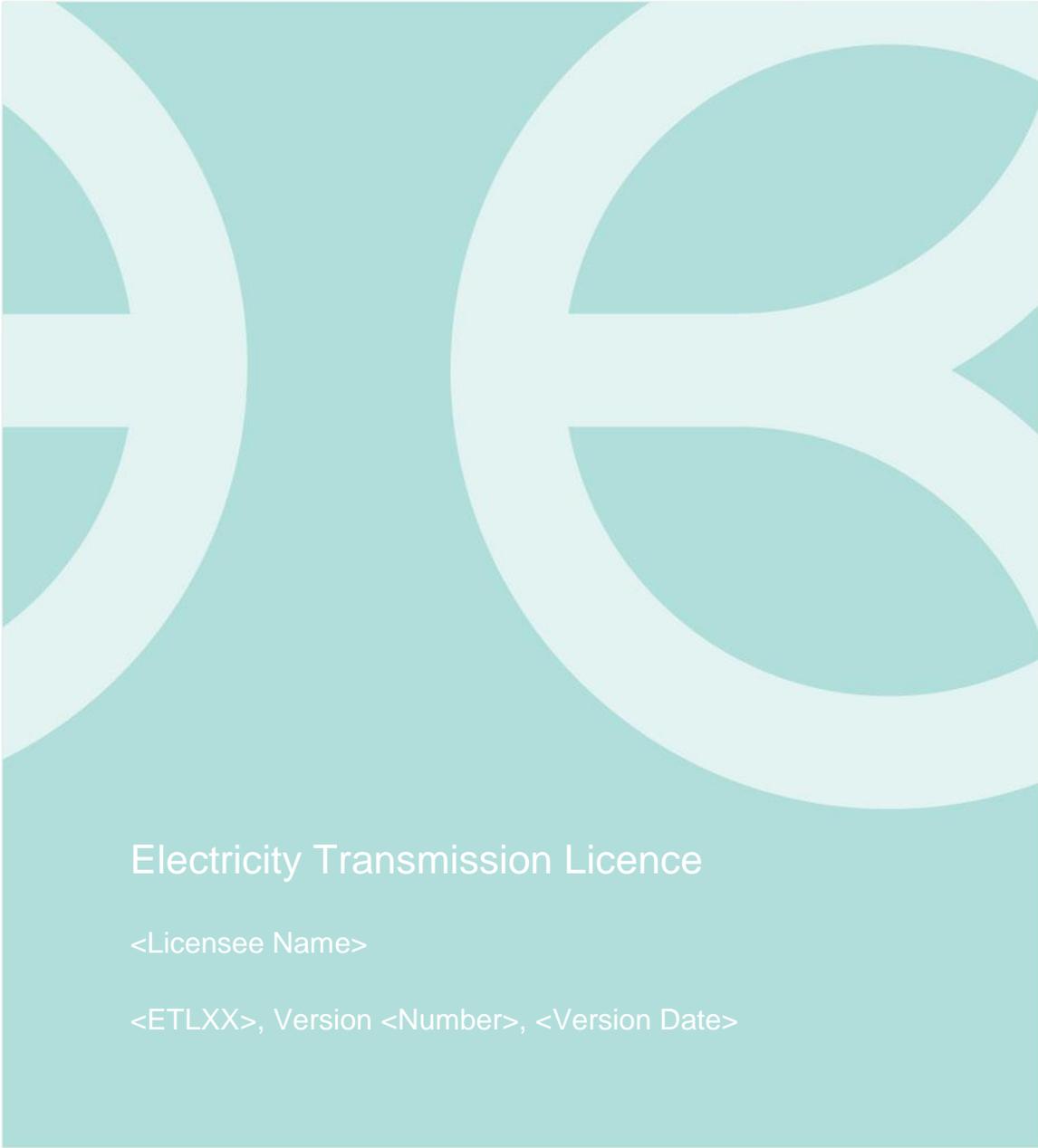
Schedule 2 – Licence Area **MapsPlans**

Commented [ERA28]: Currently Schedule 3

Amendment Record Sheet

Version Date	Description of Amendment
<DD Month Year>	<Grant or Amendment details>

Appendix 4 – Electricity Transmission Licence Template



Electricity Transmission Licence

<Licensee Name>

<ETLXX>, Version <Number>, <Version Date>

Economic Regulation Authority

WESTERN AUSTRALIA

ELECTRICITY INDUSTRY ACT 2004 (WA)

Licensee Name: <Licensee Name>
<ABN/ACN Number>
Licence Area: The area set out in the **mapplan** referred to in clause 2.5.
Licence Number: <ETLXX>
Commencement Date: <Commencement Date>
Version Number: <Number>
Version Date <Version Date>

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

DD Month Year

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1. DEFINITIONS AND INTERPRETATION

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1.1 Definitions

1.1.1 In this *licence*, the following definitions apply unless the context otherwise requires:

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- (a) the *Act*; and
- (b) the *Regulations* and the *Codes that apply to the licensee*.

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~~**Authority** means the *Economic Regulation Authority*.~~

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business day means a day which is not a Saturday, Sunday or a Public Holiday in Western Australia.

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- (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~~;
- (a) the *Electricity Industry (Customer Transfer) Code 2004*~~16~~;
- (b) the *Electricity Industry (Metering) Code 2012*; and
- (c) the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005*.

commencement date means the date the licence was first granted by the *ERA* being the date specified in clause 2.2.

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 *ERA*, the *ERA*'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 *ERA*; or
 - (iii) any other similar means,
- but does not include facsimile or telephone.

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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 *ERA* pursuant to clause 5.2.

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licensee means <Licensee Name>, <ABN/ACN Number> .

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

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performance audit means an audit of the effectiveness of measures taken by the *licensee* to meet the *performance criteria* in this *licence*.

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- (a) the terms and conditions of the *licence*; and
- (b) any other relevant matter in connection with the *applicable legislation* that the *ERA* 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 *ERA* to be published on the *ERA'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 *ERA* pursuant to:

- (g) clause ~~13.2~~ 3.8.3;
- (h) clause ~~14.2~~ 5.1.5;
- (i) clause ~~14.4~~ 5.1.7;
- (j) clause ~~17.3~~ 5.2.2;
- (k) clause ~~20.5~~ 5.3.2; or
- (l) clause ~~20.7~~ 5.3.4.

of this *licence*.

transmission system has the meaning given to that term in section 3 of the *Act*.

version date means the date on which the *licence* was last amended pursuant to clause 3.1 or clause 3.2.

1.2 Interpretation

- 1.2.1 A reference in this *licence* to any *applicable legislation* includes, unless the context otherwise requires, any statutory modification, amendment, **replacement** or re-enactment of that *applicable legislation*.

Commented [ERA4]: The clause references have been updated to reflect the change in clause numbering resulting from the restructure of the template.

2. LICENCE AUTHORISATION

2.1 Activities authorised under this licence

Commented [ERA5]: Currently licence clause 2

2.1.1 The *licensee* is granted a licence for the *licence area* to construct and *operate* a new *transmission system* or *operate* an existing *transmission system* in accordance with the terms and conditions of this *licence*.

2.2 Commencement date

Commented [ERA6]: Currently Schedule 1

2.2.1 <insert date>

2.3 Expiry Date

Commented [ERA7]: Currently Schedule 1

2.3.1 <insert expiry date>

2.4 Term [Section 15 of the Act]

Commented [ERA8]: Currently licence clause 3

2.4.1 This *licence* commences on the *commencement date* and continues until the earlier of:

- (m) the cancellation of the *licence* pursuant to clause 3.5 of this *licence*;
- (n) the surrender of the *licence* pursuant to clause 3.6 of this *licence*; or
- (o) the *expiry date*.

2.5 Licence area

Commented [ERA9]: Currently Schedule 1

2.5.1 The *licence area* is set out in plan(s):

ERA-EL-XXX

2.5.2 The *licence area* plan(s) is provided in Schedule 2.

3. LICENCE ADMINISTRATION

3.1 Amendment of licence by the licensee [Section 21 of the Act]

Commented [ERA10]: Currently licence clause 10

3.1.1 The *licensee* may apply to the *ERA* to amend the *licence* in accordance with the *Act*.

3.2 Amendment of licence by the ERA [Section 22 of the Act]

Commented [ERA11]: Currently licence clause 11

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

3.2.2 Before amending the *licence* under clause 3.2.1, the *ERA* must:

- (a) provide the *licensee* with written *notice* of the proposed amendments under consideration by the *ERA*;

- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
- (c) take into consideration those submissions.

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

3.2.4 For avoidance of doubt, the *licensee* will not have to pay a fee for amendments under clause 3.2.1.

3.3 **Transfer of licence**
[Section 18 of the Act]

Commented [ERA12]: Currently licence clause 6

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

3.4 **Renewal of licence**
[Section 16 of the Act]

Commented [ERA13]: Currently licence clause 9

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

3.5 **Cancellation of licence**
[Section 35 of the Act]

Commented [ERA14]: Currently licence clause 7

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

3.6 **Surrender of licence**
[Schedule 1 of the Act]

Commented [ERA15]: Currently licence clause 8

3.6.1 The *licensee* may only surrender the *licence* pursuant to this clause 3.6.

3.6.2 If the *licensee* intends to surrender the *licence* the *licensee* must, by *notice* in writing to the ERA:

- (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*.

3.6.3 Upon receipt of the *notice* from the *licensee* pursuant to clause 3.6.2, the ERA will publish the *notice*.

3.6.4 Notwithstanding clause 3.6.2, the surrender of the *licence* will only take effect on the later of the day that:

- (a) the ERA publishes a notice of the surrender in the Western Australian Government Gazette, such date to be at the discretion of the ERA; and
- (b) the *licensee* hands back the *licence* to the ERA.

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

3.7 Notices

Commented [ERA16]: Currently licence clause 18

3.7.1 Unless otherwise specified, all *notices* must be in writing.

3.7.2 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.

3.8 Publishing information

Commented [ERA17]: Currently licence clause 17

3.8.1 The *ERA* 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*.

3.8.2 Subject to clause 3.8.3, the *licensee* must *publish* the information referred to in clause 3.8.1.

3.8.3 If the *licensee* considers that the information is confidential it must:

- (a) immediately notify the *ERA*; and
- (b) seek a review of the *ERA*'s decision in accordance with clause 3.9.

3.8.4 Once it has reviewed the decision, the *ERA* 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.

3.9 Review of the ERA's decisions

Commented [ERA18]: Currently licence clause 19

3.9.1 The *licensee* may seek a review of a *reviewable decision* by the *ERA* 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 *ERA*) of the decision; and
- (b) the *ERA* will consider the submission and provide the *licensee* with a written response within 20 *business days*.

3.9.2 For avoidance of doubt, this clause does not apply to a decision of the *ERA* pursuant to the *Act*, nor does it restrict the *licensee's* right to have a decision of the *ERA* reviewed in accordance with the *Act*.

4. GENERAL LICENCE OBLIGATIONS

4.1 Compliance with applicable legislation

Commented [ERA19]: Currently licence clause 5

4.1.1 Subject to any modifications or exemptions granted pursuant to the *Act*, the *licensee* must comply with any *applicable legislation*.

4.2 Fees

Commented [ERA20]: Currently licence clause 4

4.2.1 The *licensee* must pay the applicable fees and charges in accordance with the *Regulations*.

4.3 Accounting records [Schedule 1 of the Act]

Commented [ERA21]: Currently licence clause 12

4.3.1 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.

4.4 Reporting a change in circumstances

Commented [ERA22]: Currently licence clause 15

4.4.1 The *licensee* must report to the *ERA*:

(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.

4.5 Provision of information [Schedule 1 of the Act]

Commented [ERA23]: Currently licence clause 16

4.5.1 The *licensee* must provide to the *ERA*, in the manner and form described by the *ERA*, 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 *ERA*'s functions under that Part.

5. AUDITS AND PERFORMANCE REPORTING OBLIGATIONS

5.1 Asset management system [Section 14 of the Act]

Commented [ERA24]: Currently licence clause 20

- 5.1.1 The *licensee* must provide for an *asset management system* in respect of the *licensee*'s *assets*.
- 5.1.2 The *licensee* must notify the *ERA* 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*.
- 5.1.3 The *licensee* must notify the *ERA* of any substantial change to the *asset management system* within ten *business days* of such change.
- 5.1.4 The *licensee* must provide the *ERA* with a report by an independent expert, acceptable to the *ERA*, 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 *ERA* allows by *notice* in writing).
- 5.1.5 The *licensee* must comply, and must require the *licensee*'s expert to comply, with the *ERA*'s standard audit guidelines.
- 5.1.6 The *licensee* may seek a review of any of the requirements of the *ERA*'s standard audit guidelines dealing with the *asset management system* in accordance with clause 3.9.
- 5.1.7 The review of the *asset management system* must be conducted by an independent expert approved by the *ERA*. 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 *ERA*, the *ERA* may choose an independent expert to conduct the review of the *asset management system*.

5.2 Individual performance standards

Commented [ERA25]: Currently licence clause 13

- 5.2.1 Performance standards are contained in *applicable legislation*.
- 5.2.2 The *ERA* may prescribe *individual performance standards* applying to the *licensee* in respect of the *licensee*'s obligations under this *licence* or the *applicable legislation*.
- 5.2.3 Before approving any *individual performance standards* under this clause, the *ERA* 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.

5.2.4 Once approved by the *ERA*, the *individual performance standards* are included as additional *terms and conditions* to this *licence*.

5.3 Performance audit
[Section 13 of the Act]

Commented [ERA26]: Currently licence clause 14

5.3.1 The *licensee* must, unless otherwise notified in writing by the *ERA*, provide the *ERA* with a *performance audit* within 24 months after the *commencement date*, and every 24 months thereafter.

5.3.2 The *licensee* must comply, and must require the *licensee's* auditor to comply, with the *ERA's* standard audit guidelines.

5.3.3 The *licensee* may seek a review of any of the requirements of the *ERA's* standard audit guidelines in accordance with clause 3.9.

5.3.4 The *performance audit* must be conducted by an independent auditor approved by the *ERA*. 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 *ERA*, the *ERA* may choose an independent auditor to conduct the *performance audit*.

Schedule 1 – Additional Licence Clauses

(Not Used)

Commented [ERA27]: Currently Schedule 2

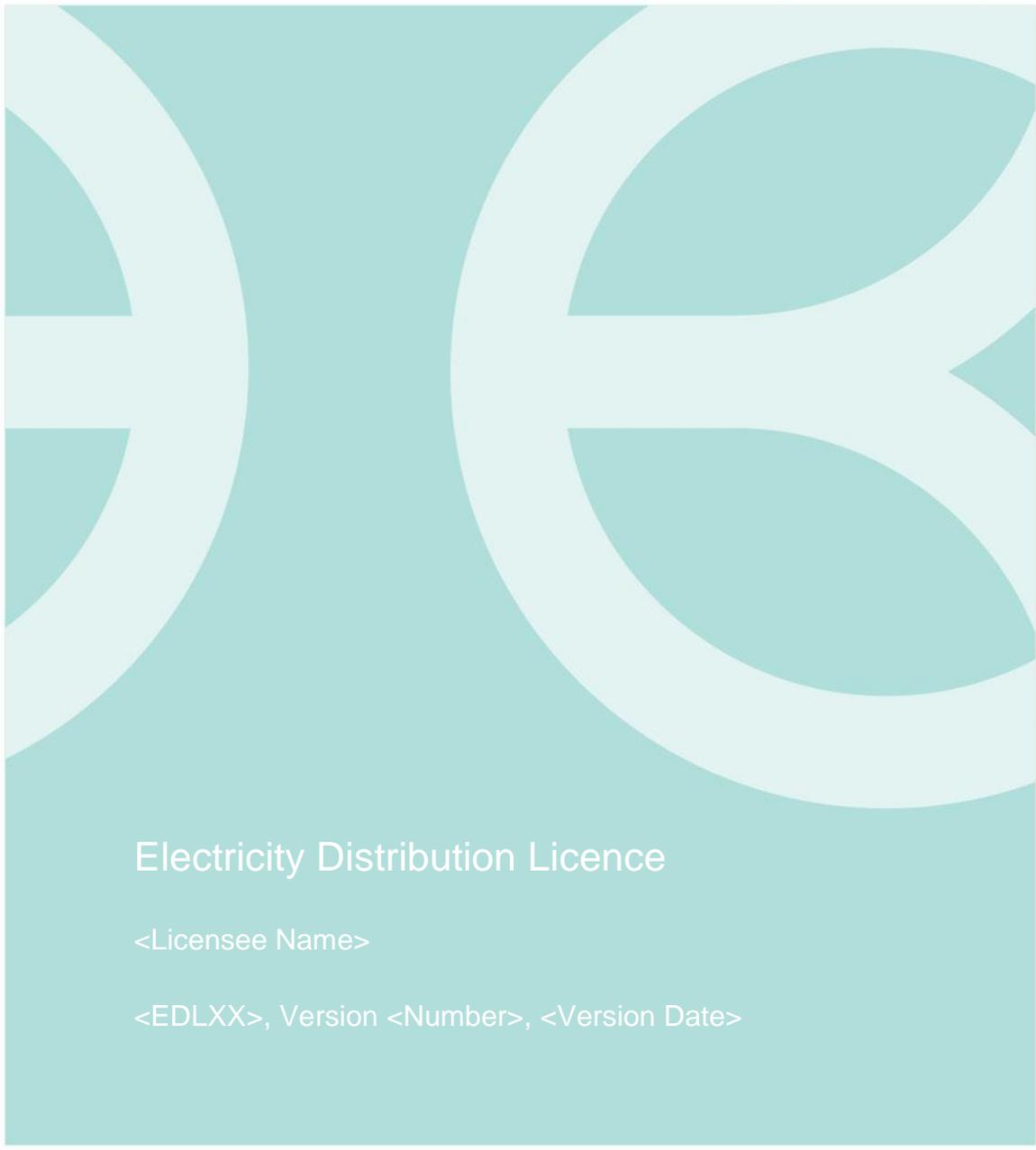
Schedule 2 – Licence Area **Maps**Plans

Commented [ERA28]: Currently Schedule 3

Amendment Record Sheet

Version Date	Description of Amendment
<DD Month Year>	<Grant or Amendment details>

Appendix 5 – Electricity Distribution Licence Template



Electricity Distribution Licence

<Licensee Name>

<EDLXX>, Version <Number>, <Version Date>

Economic Regulation Authority

WESTERN AUSTRALIA

ELECTRICITY INDUSTRY ACT 2004 (WA)

Licensee Name: <Licensee Name>
<ABN/ACN Number>

Licence Area: The area set out in the ~~map~~plan referred to in clause 2.5.

Licence Number: <EDLXX>

Commencement Date: <Commencement Date>

Version Number: <Number>

Version Date <Version Date>

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

DD Month Year

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ERA note:

A restructure of electricity licences is proposed to make them clearer, more accessible and consistent with water licences.

The proposal is to:

- Insert a contents page.
- Move the licence specific information from Schedule 1 to clause 2.
- Restructure the licence clauses under new headings that group similar clauses together.
- Identify the applicable section of the Act to the licence condition, where relevant.

Further information on the restructure of the licences is in section 3.1 of the Discussion Paper.

Proposed amendments to clauses are tracked in blue/red. The restructure is not in track changes due to the volume of changes that are being proposed. Comment boxes identify the original clause reference in the current licence template.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

1.1.1 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.~~

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 *licensee's assets*.

~~**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,~~
- (a) the *Electricity Industry (Customer Transfer) Code 2004*~~16~~;
- (b) the *Electricity Industry (Metering) Code 2012*; and
- (c) the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005*.

Commented [ERA1]: "Authority" is being changed to "ERA" – see new definition below.

commencement date means the date the licence was first granted by the *ERA* being the date specified in clause 2.2.

connection point has the meaning given to that term in regulation 35 of the *Electricity Industry (Customer Contracts) Regulations 2005*.

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

default supplier has the meaning given to that term in regulation 35 of the *Electricity Industry (Customer Contracts) Regulations 2005*.

distribution system has the meaning given to that term in section 3 of the *Act*.

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 *ERA*, the *ERA*'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 *ERA*; or
 - (iii) any other similar means,

but does not include facsimile or telephone.

ERA means the Economic Regulation Authority.

expiry date means the date specified in clause 2.3.

individual performance standards mean any standards prescribed by the *ERA* for an individual *licensee* pursuant to clause 5.2 of the *licence*.

interruption means the temporary unavailability of supply from the *distribution system* to a *customer* but does not include disconnection.

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 *ERA* pursuant to clause 5.2.

licence area is the area stated in clause 2.5 of this *licence*.

licensee means <Licensee Name>, <ABN/ACN Number> .

Commented [ERA2]: All the references to "Authority" in this template have been replaced with "ERA"

Commented [ERA3]: While the definition of "interruption" is present in distribution licences granted by the ERA, until now it has not been in the distribution licence template.

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 *ERA* determines should form part of the *performance audit*.

priority restoration register means a register, process or document that determines the order of restoration of power in the event of an unplanned *interruption*.

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 *ERA* to be published on the *ERA'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 *ERA* pursuant to:

- (g) clause ~~43.2~~ 3.8.3;
- (h) clause ~~44.2~~ 5.1.5;
- (i) clause ~~44.4~~ 5.1.7;
- (j) clause ~~47.3~~ 5.2.2;

Commented [ERA4]: The clause references have been updated to reflect the change in clause numbering resulting from the restructure of the template.

- (k) clause ~~20.5~~ 5.3.2; or
 - (l) clause ~~20.7~~ 5.3.4.
- of this *licence*.

small use customer has the same meaning as the meaning given to “customer” in section 47 of the *Act*.

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

version date means the date on which the *licence* was last amended pursuant to clause 3.1 or clause 3.2.

1.2 Interpretation

1.2.1 A reference in this *licence* to any *applicable legislation* includes, unless the context otherwise requires, any statutory modification, amendment, **replacement** or re-enactment of that *applicable legislation*.

2. LICENCE AUTHORISATION

2.1 Activities authorised under this licence

Commented [ERA5]: Currently licence clause 2

2.1.1 The *licensee* is granted a licence for the *licence area* to construct and *operate* a new *distribution system* or *operate* an existing *distribution system* in accordance with the terms and conditions of this *licence*.

2.2 Commencement date

Commented [ERA6]: Currently Schedule 1

2.2.1 <insert date>

2.3 Expiry date

Commented [ERA7]: Currently Schedule 1

2.3.1 <insert expiry date>

2.4 Term [Section 15 of the Act]

Commented [ERA8]: Currently licence clause 3

2.4.1 This *licence* commences on the *commencement date* and continues until the earlier of:

- (m) the cancellation of the *licence* pursuant to clause 3.5 of this *licence*;
- (n) the surrender of the *licence* pursuant to clause 3.6 of this *licence*; or
- (o) the *expiry date*.

2.5 Licence area

Commented [ERA9]: Currently Schedule 1

2.5.1 The *licence area* is set out in plan(s):

ERA-EL-XXX

2.5.2 The *licence area* plan(s) is provided in Schedule 2.

3. LICENCE ADMINISTRATION

3.1 Amendment of licence by the licensee [Section 21 of the Act]

Commented [ERA10]: Currently licence clause 10

3.1.1 The *licensee* may apply to the *ERA* to amend the *licence* in accordance with the *Act*.

3.2 Amendment of licence by the ERA [Section 22 of the Act]

Commented [ERA11]: Currently licence clause 11

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

3.2.2 Before amending the *licence* under clause 3.2.1, the *ERA* must:

- (a) provide the *licensee* with written *notice* of the proposed amendments under consideration by the *ERA*;
- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
- (c) take into consideration those submissions.

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

3.2.4 For avoidance of doubt, the *licensee* will not have to pay a fee for amendments under clause 3.2.1.

3.3 Transfer of licence [Section 18 of the Act]

Commented [ERA12]: Currently licence clause 6

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

3.4 Renewal of licence [Section 16 of the Act]

Commented [ERA13]: Currently licence clause 9

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

3.5 Cancellation of licence [Section 35 of the Act]

Commented [ERA14]: Currently licence clause 7

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

3.6 Surrender of licence [Schedule 1 of the Act]

Commented [ERA15]: Currently licence clause 8

3.6.1 The *licensee* may only surrender the *licence* pursuant to this clause 3.6.

3.6.2 If the *licensee* intends to surrender the *licence* the *licensee* must, by *notice* in writing to the *ERA*:

- (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*.

3.6.3 Upon receipt of the *notice* from the *licensee* pursuant to clause 3.6.2, the *ERA* will publish the *notice*.

3.6.4 Notwithstanding clause 3.6.2, the surrender of the *licence* will only take effect on the later of the day that:

- (a) the *ERA* publishes a notice of the surrender in the Western Australian Government Gazette, such date to be at the discretion of the *ERA*; and
- (b) the *licensee* hands back the *licence* to the *ERA*.

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

3.7 Notices

Commented [ERA16]: Currently licence clause 18

3.7.1 Unless otherwise specified, all *notices* must be in writing.

3.7.2 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.

3.8 Publishing information

Commented [ERA17]: Currently licence clause 17

3.8.1 The *ERA* 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*.

3.8.2 Subject to clause 3.8.3, the *licensee* must *publish* the information referred to in clause 3.8.1.

3.8.3 If the *licensee* considers that the information is confidential it must:

- (a) immediately notify the *ERA*; and
- (b) seek a review of the *ERA*'s decision in accordance with clause 3.9.

3.8.4 Once it has reviewed the decision, the *ERA* 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.

3.9 **Review of the ERA's decisions**

Commented [ERA18]: Currently licence clause 19

3.9.1 The *licensee* may seek a review of a *reviewable decision* by the *ERA* 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 *ERA*) of the decision; and
- (b) the *ERA* will consider the submission and provide the *licensee* with a written response within 20 *business days*.

3.9.2 For avoidance of doubt, this clause does not apply to a decision of the *ERA* pursuant to the *Act*, nor does it restrict the *licensee's* right to have a decision of the *ERA* reviewed in accordance with the *Act*.

4. GENERAL LICENCE OBLIGATIONS

4.1 **Compliance with applicable legislation**

Commented [ERA19]: Currently licence clause 5

4.1.1 Subject to any modifications or exemptions granted pursuant to the *Act*, the *licensee* must comply with any *applicable legislation*.

4.2 **Fees**

Commented [ERA20]: Currently licence clause 4

4.2.1 The *licensee* must pay the applicable fees and charges in accordance with the *Regulations*.

4.3 **Accounting records** **[Schedule 1 of the Act]**

Commented [ERA21]: Currently licence clause 12

4.3.1 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.

4.4 **Reporting a change in circumstances**

Commented [ERA22]: Currently licence clause 15

4.4.1 The *licensee* must report to the *ERA*:

- (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.

4.5 **Provision of information** [Schedule 1 of the Act]

Commented [ERA23]: Currently licence clause 16

- 4.5.1 The *licensee* must provide to the *ERA*, in the manner and form described by the *ERA*, 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 *ERA's* functions under that Part.

5. AUDITS AND PERFORMANCE REPORTING OBLIGATIONS

5.1 **Asset management system** [Section 14 of the Act]

Commented [ERA24]: Currently licence clause 20

- 5.1.1 The *licensee* must provide for an *asset management system* in respect of the *licensee's assets*.
- 5.1.2 The *licensee* must notify the *ERA* 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*.
- 5.1.3 The *licensee* must notify the *ERA* of any substantial change to the *asset management system* within ten *business days* of such change.
- 5.1.4 The *licensee* must provide the *ERA* with a report by an independent expert, acceptable to the *ERA*, 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 *ERA* allows by *notice* in writing).
- 5.1.5 The *licensee* must comply, and must require the *licensee's* expert to comply, with the *ERA's* standard audit guidelines.
- 5.1.6 The *licensee* may seek a review of any of the requirements of the *ERA's* standard audit guidelines dealing with the *asset management system* in accordance with clause 3.9.
- 5.1.7 The review of the *asset management system* must be conducted by an independent expert approved by the *ERA*. 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 *ERA*, the *ERA* may choose an independent expert to conduct the review of the *asset management system*.

5.2 Individual performance standards

Commented [ERA25]: Currently licence clause 13

- 5.2.1 Performance standards are contained in *applicable legislation*.
- 5.2.2 The *ERA* may prescribe *individual performance standards* applying to the *licensee* in respect of the *licensee's* obligations under this *licence* or the *applicable legislation*.
- 5.2.3 Before approving any *individual performance standards* under this clause, the *ERA* 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.
- 5.2.4 Once approved by the *ERA*, the *individual performance standards* are included as additional *terms and conditions* to this *licence*.

5.3 Performance audit [Section 13 of the Act]

Commented [ERA26]: Currently licence clause 14

- 5.3.1 The *licensee* must, unless otherwise notified in writing by the *ERA*, provide the *ERA* with a *performance audit* within 24 months after the *commencement date*, and every 24 months thereafter.
- 5.3.2 The *licensee* must comply, and must require the *licensee's* auditor to comply, with the *ERA's* standard audit guidelines.
- 5.3.3 The *licensee* may seek a review of any of the requirements of the *ERA's* standard audit guidelines in accordance with clause 3.9.
- 5.3.4 The *performance audit* must be conducted by an independent auditor approved by the *ERA*. 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 *ERA*, the *ERA* may choose an independent auditor to conduct the *performance audit*.

6. CUSTOMERS

6.1 Approved Scheme [Section 101 of the Act]

Commented [ERA27]: Currently licence clause 21

- 6.1.1 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*.

6.2 Determination of Default Supplier

Commented [ERA28]: Currently licence clause 22

6.2.1 The *licensee* must determine, from time to time, the *default supplier* for each *connection point* that connects to a *distribution system* operated by the *licensee*.

6.3 Marketers

Commented [ERA29]: Currently licence clause 23

Not Used.

6.4 Customer Contracts
[\[Section 54 of the Act\]](#)

Commented [ERA30]: Currently licence clause 24

Not Used.

6.5 Amending the Standard Form Contract
[\[Section 52 of the Act\]](#)

Commented [ERA31]: Currently licence clause 25

Not Used.

6.6 Directions by the ERA to amend Standard Form Contract
[\[Section 53 of the Act\]](#)

Commented [ERA32]: Currently licence clause 26

Not Used.

6.7 Supplier of Last Resort
[\[Section 76 of the Act\]](#)

Commented [ERA33]: Currently licence clause 27

Not Used.

6.8 Notification of Last Resort

Commented [ERA34]: Currently licence clause 28

Not Used.

6.9 Priority Restoration Register

Commented [ERA35]: Currently licence clause 29

6.9.1 The *licensee* must create and maintain a *priority restoration register*.

6.9.2 The *priority restoration register* must relate to all *customers* of the *licensee* including but not limited to *small use customers*.

6.9.3 The *priority restoration register* must comply with any criteria determined by the Minister.

Schedule 1 – Additional Licence Clauses

Commented [ERA36]: Currently Schedule 2

(Not Used)

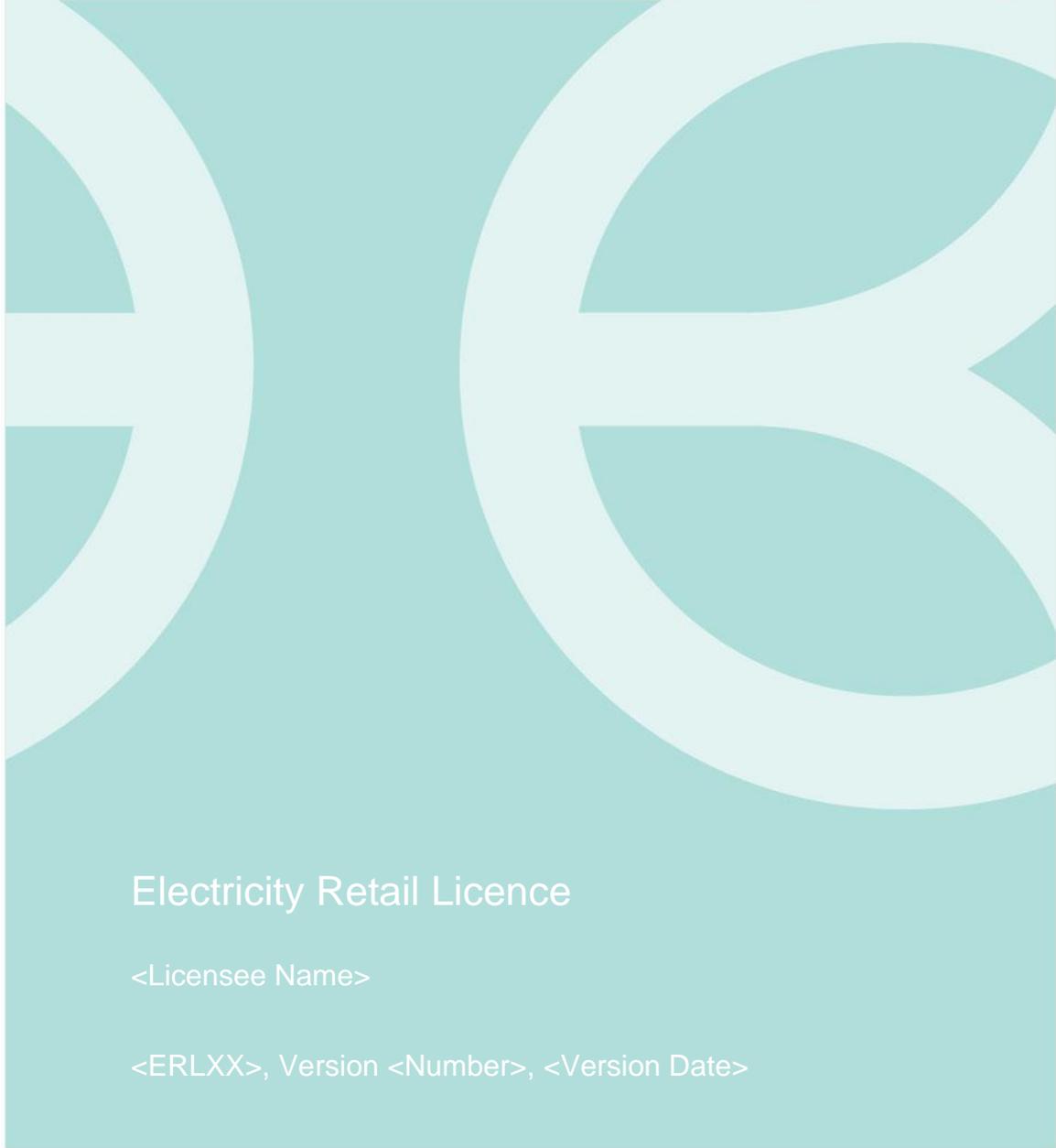
Schedule 2 – Licence Area **MapsPlans**

Commented [ERA37]: Currently Schedule 3

Amendment Record Sheet

Version Date	Description of Amendment
<DD Month Year>	<Grant or Amendment details>

Appendix 6 – Electricity Retail Licence Template



Electricity Retail Licence

<Licensee Name>

<ERLXX>, Version <Number>, <Version Date>

Economic Regulation Authority

WESTERN AUSTRALIA

ELECTRICITY INDUSTRY ACT 2004 (WA)

Licensee Name: <Licensee Name>
<ABN/ACN Number>

Licence Area: The area set out in the ~~map~~plan referred to in clause 2.5.

Licence Number: <ERLXX>

Commencement Date: <Commencement Date>

Version Number: <Number>

Version Date: <Version Date>

Expiry Date <Expiry Date>

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

DD Month Year

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ERA note:

A restructure of electricity licences is proposed to make them clearer, more accessible and consistent with water licences.

The proposal is to:

- Insert a contents page.
- Move the licence specific information from Schedule 1 to clause 2.
- Restructure the licence clauses under new headings that group similar clauses together.
- Identify the applicable section of the Act to the licence condition, where relevant.

Further information on the restructure of the licences is in section 3.1 of the Discussion Paper.

Proposed amendments to clauses are tracked in blue/red. The restructure is not in track changes due to the volume of changes that are being proposed. Comment boxes identify the original clause reference in the current licence template.

1. DEFINITIONS AND INTERPRETATION

Commented [ERA1]: Currently licence clause 1

1.1 Definitions

1.1.1 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.~~

approved scheme means a scheme approved under section 92 of the *Act*.

~~**Authority** means the *Economic Regulation Authority*.~~

Commented [ERA2]: "Authority" is being changed to "ERA" – see new definition below.

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* ~~16~~;
- (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 *ERA* being the date specified in clause 2.2.

connection point has the meaning given to that term in regulation 35 of the *Electricity Industry (Customer Contracts) Regulations 2005*.

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

default supplier has the meaning given to that term in regulation 35 of the *Electricity Industry (Customer Contracts) Regulations 2005*.

distribution system has the meaning given to that term in section 3 of the *Act*.

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

electricity marketing agent has the meaning given to that term in section 78 of the *Act*.

electronic means means:

- (a) the internet;
- (b) email, being:
 - (i) in relation to the *ERA*, the *ERA*'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 *ERA*; or
 - (iii) any other similar means,but does not include facsimile or telephone.

ERA means the Economic Regulation Authority.

expiry date means the date specified in clause 2.3.

individual performance standards mean any standards prescribed by the *ERA* for an individual *licensee* pursuant to clause 5.2 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 *ERA* pursuant to clause 5.2.

licence area is the area stated in clause 2.5 of this *licence*.

licensee means <Licensee Name>, <ABN/ACN Number>.

non-standard contract has the meaning given to that term in section 47 of the *Act*.

Commented [ERA3]: The definition of "distribution system" will be included only in retail licences that have current clause 2 in Schedule 2 (exemption from complying with the *Electricity Industry (Customer Transfer) Code 2016*).

Commented [ERA4]: All the references to "Authority" in this template have been replaced with "ERA".

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*.

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 *ERA* 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 *ERA* to be published on the *ERA'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 *ERA* pursuant to:

- (g) clause ~~13.2~~ 3.8.3;
- (h) clause ~~14.2~~ 5.1.5;
- (i) clause ~~14.4~~ 5.1.7;
- (j) clause ~~17.3~~ 5.2.2;
- (k) clause ~~20.5~~ 5.3.2; or
- (l) clause ~~20.7~~ 5.3.4.

of this *licence*.

small use customer has the same meaning as the meaning given to "customer" in section 47 of the *Act*.

Commented [ERA5]: The clause references have been updated to reflect the change in clause numbering resulting from the restructure of the template.

standard form contract has the meaning given to that term in section 47 of the *Act*.

supplier of last resort has the meaning given to that term in section 69(1) of the *Act*.

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

transmission system has the meaning given to that term in section 3 of the *Act*.

version date means the date on which the *licence* was last amended pursuant to clause 3.1 or clause 3.2.

Commented [ERA6]: The definition of "transmission system" will be included only in retail licences that have current clause 2 in Schedule 2 (exemption from complying with the *Electricity Industry (Customer Transfer) Code 2016*).

1.2 Interpretation

1.2.1 A reference in this *licence* to any *applicable legislation* includes, unless the context otherwise requires, any statutory modification, amendment, **replacement** or re-enactment of that *applicable legislation*.

2. LICENCE AUTHORISATION

2.1 Activities authorised under this licence

2.1.1 The *licensee* is granted a *licence* for the *licence area* to sell *electricity* to *customers* in accordance with the terms and conditions of this *licence*.

Commented [ERA7]: Currently licence clause 2 and Schedule 1.

[ERA note](#)

This clause 2.1.1 will be included in retail licences where the retailer is authorised to supply all classes of customers (such as Synergy's ERL1). Where a retail licensee has a restriction on the classes of customer it is authorised to supply, this clause will be amended accordingly. For example, if a retail licensee is prohibited from supplying small use customers or residential customers, this clause 2.1.1 will reflect the retail activities that are currently authorised by Schedule 1, clause 4 in its licence. This allows for the removal of current Schedule 1 from retail licences.

2.2 Commencement date

2.2.1 <insert date>

Commented [ERA8]: Currently Schedule 1

2.3 Expiry date

2.3.1 <insert expiry date>

Commented [ERA9]: Currently Schedule 1

2.4 Term [\[Section 15 of the Act\]](#)

Commented [ERA10]: Currently licence clause 3

2.4.1 This *licence* commences on the *commencement date* and continues until the earlier of:

- (a) the cancellation of the *licence* pursuant to clause 3.5 of this *licence*;
- (b) the surrender of the *licence* pursuant to clause 3.6 of this *licence*; or
- (c) the *expiry date*.

2.5 Licence area

Commented [ERA11]: Currently Schedule 1

2.5.1 The *licence area* is set out in plan(s):

ERA-EL-XXX

2.5.2 The *licence area* plan(s) is provided in Schedule 2.

3. LICENCE ADMINISTRATION

3.1 Amendment of licence by the licensee
[Section 21 of the Act]

Commented [ERA12]: Currently licence clause 10

3.1.1 The *licensee* may apply to the *ERA* to amend the *licence* in accordance with the *Act*.

3.2 Amendment of licence by the ERA
[Section 22 of the Act]

Commented [ERA13]: Currently licence clause 11

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

3.2.2 Before amending the *licence* under clause 3.2.1, the *ERA* must:

- (a) provide the *licensee* with written *notice* of the proposed amendments under consideration by the *ERA*;
- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
- (c) take into consideration those submissions.

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

3.2.4 For avoidance of doubt, the *licensee* will not have to pay a fee for amendments under clause 3.2.1.

3.3 Transfer of licence
[Section 18 of the Act]

Commented [ERA14]: Currently licence clause 6

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

3.4 Renewal of licence
[Section 16 of the Act]

Commented [ERA15]: Currently licence clause 9

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

3.5 Cancellation of licence
[Section 35 of the Act]

Commented [ERA16]: Currently licence clause 7

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

3.6 Surrender of licence
[Schedule 1 of the Act]

Commented [ERA17]: Currently licence clause 8

3.6.1 The *licensee* may only surrender the *licence* pursuant to this clause 3.6.

3.6.2 If the *licensee* intends to surrender the *licence* the *licensee* must, by *notice* in writing to the *ERA*:

- (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*.

3.6.3 Upon receipt of the *notice* from the *licensee* pursuant to clause 3.6.2, the *ERA* will publish the *notice*.

3.6.4 Notwithstanding clause 3.6.2, the surrender of the *licence* will only take effect on the later of the day that:

- (a) the *ERA* publishes a notice of the surrender in the Western Australian Government Gazette, such date to be at the discretion of the *ERA*; and
- (b) the *licensee* hands back the *licence* to the *ERA*.

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

3.7 Notices

Commented [ERA18]: Currently licence clause 18

3.7.1 Unless otherwise specified, all *notices* must be in writing.

3.7.2 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.

3.8 Publishing information

Commented [ERA19]: Currently licence clause 17

3.8.1 The *ERA* 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*.

3.8.2 Subject to clause 3.8.3, the *licensee* must *publish* the information referred to in clause 3.8.1.

3.8.3 If the *licensee* considers that the information is confidential it must:

- (a) immediately notify the *ERA*; and

(b) seek a review of the *ERA*'s decision in accordance with clause 3.9.

3.8.4 Once it has reviewed the decision, the *ERA* 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.

3.9 **Review of the ERA's decisions**

Commented [ERA20]: Currently licence clause 19

3.9.1 The *licensee* may seek a review of a *reviewable decision* by the *ERA* 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 *ERA*) of the decision; and
- (b) the *ERA* will consider the submission and provide the *licensee* with a written response within 20 *business days*.

3.9.2 For avoidance of doubt, this clause does not apply to a decision of the *ERA* pursuant to the *Act*, nor does it restrict the *licensee*'s right to have a decision of the *ERA* reviewed in accordance with the *Act*.

4. **GENERAL LICENCE OBLIGATIONS**

4.1 **Compliance with applicable legislation**

Commented [ERA21]: Currently licence clause 5

4.1.1 Subject to any modifications or exemptions granted pursuant to the *Act*, the *licensee* must comply with any *applicable legislation*.

4.2 **Fees**

Commented [ERA22]: Currently licence clause 4

4.2.1 The *licensee* must pay the applicable fees and charges in accordance with the *Regulations*.

4.3 **Accounting records** **[Schedule 1 of the Act]**

Commented [ERA23]: Currently licence clause 12

4.3.1 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.

4.4 **Reporting a change in circumstances**

Commented [ERA24]: Currently licence clause 15

4.4.1 The *licensee* must report to the *ERA*:

- (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.

4.5 **Provision of information** **[Schedule 1 of the Act]**

Commented [ERA25]: Currently licence clause 16

4.5.1 The *licensee* must provide to the *ERA*, in the manner and form described by the *ERA*, *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 *ERA's* functions under that Part.

5. **AUDITS AND PERFORMANCE REPORTING OBLIGATIONS**

5.1 **Asset management system** **[Section 14 of the Act]**

Commented [ERA26]: Currently licence clause 20

Not Used.

5.2 **Individual performance standards**

Commented [ERA27]: Currently licence clause 13

5.2.1 Performance standards are contained in *applicable legislation*.

5.2.2 The *ERA* may prescribe *individual performance standards* applying to the *licensee* in respect of the *licensee's* obligations under this *licence* or the *applicable legislation*.

5.2.3 Before approving any *individual performance standards* under this clause, the *ERA* 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.

5.2.4 Once approved by the *ERA*, the *individual performance standards* are included as additional terms and conditions to this *licence*.

5.3 Performance audit
[Section 13 of the Act]

Commented [ERA28]: Currently licence clause 14

- 5.3.1 The *licensee* must, unless otherwise notified in writing by the *ERA*, provide the *ERA* with a *performance audit* within 24 months after the *commencement date*, and every 24 months thereafter.
- 5.3.2 The *licensee* must comply, and must require the *licensee's* auditor to comply, with the *ERA's* standard audit guidelines.
- 5.3.3 The *licensee* may seek a review of any of the requirements of the *ERA's* standard audit guidelines in accordance with clause 3.9.
- 5.3.4 The *performance audit* must be conducted by an independent auditor approved by the *ERA*. 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 *ERA*, the *ERA* may choose an independent auditor to conduct the *performance audit*.

6. CUSTOMERS

6.1 Approved Scheme
[Section 101 of the Act]

Commented [ERA29]: Currently licence clause 21

- 6.1.1 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*.

6.2 Determination of Default Supplier

Commented [ERA30]: Currently licence clause 22

Not Used.

6.3 Marketers

Commented [ERA31]: Currently licence clause 23

- 6.3.1 The *licensee* must ensure that an *electricity marketing agent* of the *licensee* complies with the *Code of Conduct for the Supply of Electricity to Small Use Customers*.
- 6.3.2 The *licensee* must report a breach by the *electricity marketing agent* of the applicable conditions of the *Code of Conduct for the Supply of Electricity to Small Use Customers* within three *business days* of becoming aware of the breach.

6.4 Customer Contracts
[Section 54 of the Act]

Commented [ERA32]: Currently licence clause 24

- 6.4.1 Subject to the *Regulations*, the *licensee* must not *supply electricity* to a *small use customer* otherwise than under:
- (a) a *standard form contract*, or
 - (b) a *non-standard contract* that complies with the *Act*.

6.4.2 The *licensee* must, if directed by the *ERA*, review the *standard form contract* and submit to the *ERA* the results of that review within the time specified by the *ERA*.

6.4.3 The *licensee* must comply with any direction given by the *ERA* in relation to the scope, process or methodology of the review referred to in clause 6.4.2.

6.5 Amending the Standard Form Contract
[Section 52 of the Act]

Commented [ERA33]: Currently licence clause 25

6.5.1 The *licensee* may only amend the *standard form contract* with the *ERA*'s approval.

6.5.2 The *licensee* may amend the *standard form contract* at any time by submitting to the *ERA*:

- (a) a proposed amendment to the *standard form contract*; or
- (b) a proposed substituted *standard form contract*.

6.5.3 The *ERA* may:

- (a) approve the amendment to the *standard form contract* or substituted *standard form contract*; or
- (b) specify the amendments the *licensee* must make to the amended or substituted *standard form contract* before the *ERA* will amend the *standard form contract*,
and notify the *licensee* of its decision within a reasonable time.

6.5.4 The *ERA* may, at any time, by *notice* in writing, direct the *licensee* to amend the *standard form contract* by specifying:

- (a) the amendments to be made to the *standard form contract*; and
- (b) the latest date at which the amendments will come into force.

6.6 Directions by the ERA to amend Standard Form Contract
[Section 53 of the Act]

Commented [ERA34]: Currently licence clause 26

6.6.1 The *licensee* must comply with any direction given by the *ERA* pursuant to section 53 of the *Act*.

6.7 Supplier of Last Resort
[Section 76 of the Act]

Commented [ERA35]: Currently licence clause 27

6.7.1 If the *licensee* is designated a *supplier of last resort* under the *Act*, the *licensee* must perform the functions of the *supplier of last resort*.

6.8 Notification of Last Resort

Commented [ERA36]: Currently licence clause 28

6.8.1 Where the *licensee* becomes aware of a *small use customer* taking a *supply of electricity* that is deemed to be supplied under the *licensee's standard form contract* in accordance with the *Electricity Industry (Customer Contracts) Regulations 2005*, the *licensee* must, within five days after becoming aware, notify the *small use customer* in writing:

- (a) that the *licensee* is the *default supplier* for that *connection point*, and
- (b) the effect of regulation 37 of the *Electricity Industry (Customer Contracts) Regulations 2005*.

6.9 Priority Restoration Register

Not Used.

Commented [ERA37]: Currently licence clause 29

Schedule 1 – Additional Licence Clauses

Commented [ERA38]: Currently Schedule 2

(Not Used)

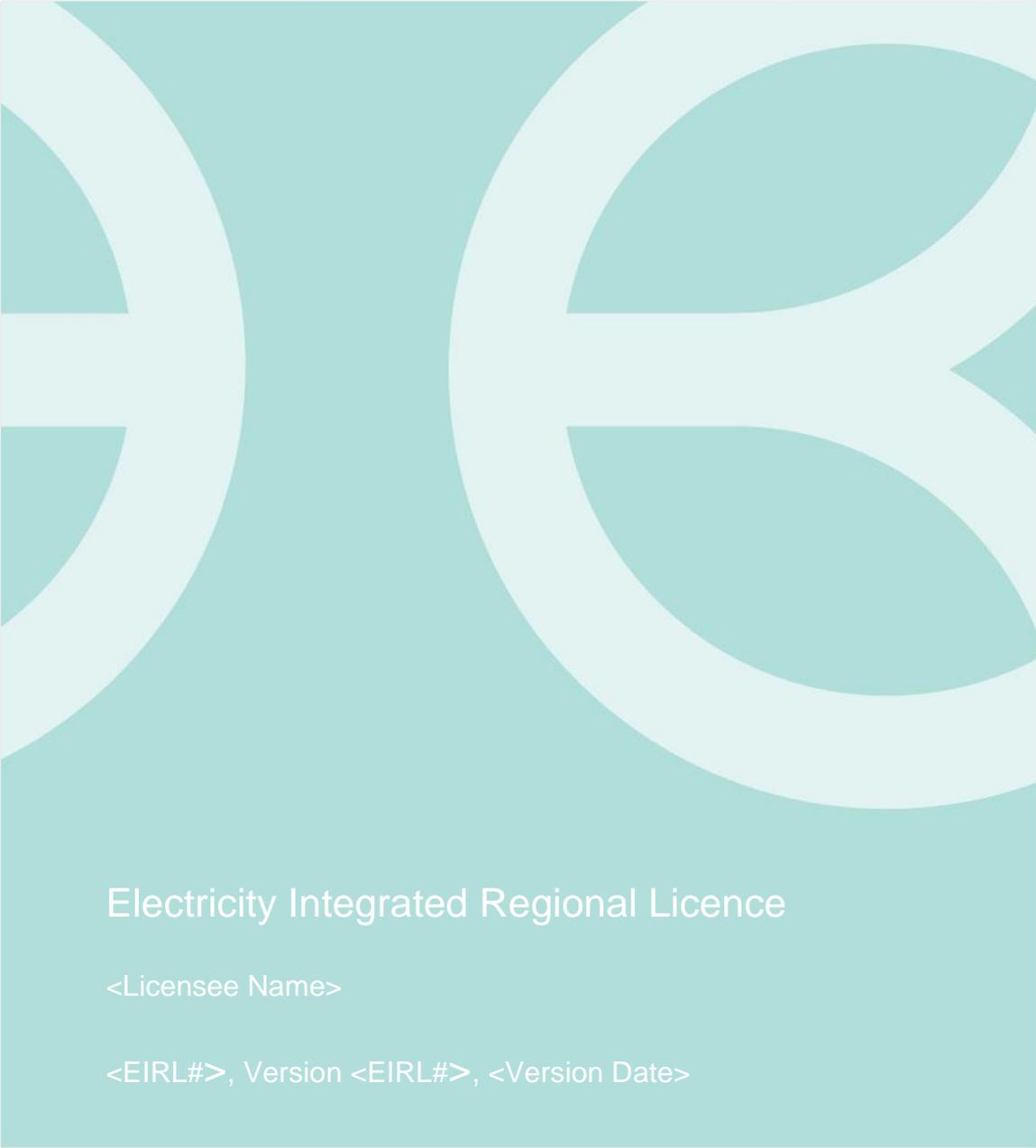
Schedule 2 – Licence Area **MapsPlans**

Commented [ERA39]: Currently Schedule 3

Amendment Record Sheet

<DD Month Year>	<Grant or Amendment details>

Appendix 7 – Electricity Integrated Regional Licence Template



Electricity Integrated Regional Licence

<Licensee Name>

<EIRL#>, Version <EIRL#>, <Version Date>

Economic Regulation Authority

WESTERN AUSTRALIA

ELECTRICITY INDUSTRY ACT 2004 (WA)

Licensee Name: <Licensee Name>
<ABN/CAN>

Licence Area: The area set out in the **mapplan** referred to in clause 2.5.

Licence Number: <EIRL#>

Commencement Date: <Commencement Date>

Version Number: <#>

Version Date: <Version Date>

Expiry Date: <Expiry Date>

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

DD Month Year

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ERA note:

A restructure of electricity licences is proposed to make them clearer, more accessible and consistent with water licences.

The proposal is to:

- Insert a contents page.
- Move the licence specific information from Schedule 1 to clause 2.
- Restructure the licence clauses under new headings that group similar clauses together.
- Identify the applicable section of the Act to the licence condition, where relevant.

Further information on the restructure of the licences is in section 3.1 of the Discussion Paper.

Proposed amendments to clauses are tracked in blue/red. The restructure is not in track changes due to the volume of changes that are being proposed. Comment boxes identify the original clause reference in the current licence template.

1. DEFINITIONS AND INTERPRETATION

Commented [ERA1]: Currently licence clause 1

1.1 Definitions

1.1.1 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*.

approved scheme means a scheme approved under section 92 of the *Act*.

~~**Authority** means the *Economic Regulation Authority*.~~

Commented [ERA2]: "Authority" is being changed to "ERA" – see new definition below.

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 200416*;
- (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 *ERA* being the date specified in clause 2.2.

connection point has the meaning given to that term in regulation 35 of the *Electricity Industry (Customer Contracts) Regulations 2005*.

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

default supplier has the meaning given to that term in regulation 35 of the *Electricity Industry (Customer Contracts) Regulations 2005*.

distribution system has the meaning given to that term in section 3 of the *Act*.

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

electricity marketing agent has the meaning given to that term in section 78 of the *Act*.

electronic means means:

- (a) the internet;
- (b) email, being:
 - (i) in relation to the *ERA*, the *ERA*'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 *ERA*; or
 - (iii) any other similar means,

but does not include facsimile or telephone.

ERA means the Economic Regulation Authority.

Commented [ERA3]: All the references to "Authority" in this template have been replaced with "ERA".

expiry date means the date specified in clause 2.3.

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

individual performance standards mean any standards prescribed by the *ERA* for an individual *licensee* pursuant to clause 5.2 of the *licence*.

interruption means the temporary unavailability of *supply* from the *distribution system* to a *customer* but does not include disconnection.

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 *ERA* pursuant to clause 5.2.

licence area is the area stated in clause 2.5 of this *licence*.

licensee means <Licensee Name>, <ABN/CAN>.

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

non-standard contract has the meaning given to that term in section 47 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 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 *ERA* determines should form part of the *performance audit*.

priority restoration register means a register, process or document that determines the order of restoration of power in the event of an unplanned *interruption*.

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 *ERA* to be published on the *ERA'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 *ERA* pursuant to:

- (g) clause ~~13.2~~ 3.8.3;
- (h) clause ~~14.2~~ 5.1.5;
- (i) clause ~~14.4~~ 5.1.7;

Commented [ERA4]: The clause references have been updated to reflect the change in clause numbering resulting from the restructure of the template.

- (j) clause ~~17.3~~ 5.2.2;
- (k) clause ~~20.5~~ 5.3.2; or
- (l) clause ~~20.7~~ 5.3.4.

of this *licence*.

small use customer has the same meaning as the meaning given to “customer” in section 47 of the *Act*.

South West Interconnected System has the meaning given to that term in section 3 of the *Act*.

standard form contract has the meaning given to that term in section 47 of the *Act*.

supplier of last resort has the meaning given to that term in section 69(1) of the *Act*.

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

transmission system has the meaning given to that term in section 3 of the *Act*.

version date means the date on which the *licence* was last amended pursuant to clause 3.1 or clause 3.2.

1.2 Interpretation

- 1.2.1 A reference in this *licence* to any *applicable legislation* includes, unless the context otherwise requires, any statutory modification, amendment, **replacement** or re-enactment of that *applicable legislation*.

2. LICENCE AUTHORISATION

2.1 Activities authorised under this licence

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

- (a) construct and *operate generating works* or operate existing *generating works*;
- (b) construct and *operate a new transmission system* or *operate an existing transmission system*;
- (c) construct and *operate a new distribution system* or *operate an existing distribution system*; and
- (d) **sell electricity to customers**;

in accordance with the terms and conditions of this *licence* and for the purpose of *supplying electricity to customers* otherwise than through the *South West Interconnected System*.

2.2 Commencement date

- 2.2.1 <insert date>

Commented [ERA5]: Currently licence clause 2 and Schedule 1.

Commented [ERA6]: “Not Used” will be inserted where the individual sub-clause is not relevant (for example, if a licensee is only authorised to operate a distribution system).

Commented [ERA7]: Where a retail licensee has a restriction on the classes of customer it is authorised to supply, this sub-clause will be amended accordingly. For example, if a retail licensee is prohibited from supplying small use customers or residential customers, this sub-clause will reflect the retail activities that are currently authorised by Schedule 1, clause 4 in its licence.

Commented [ERA8]: Currently Schedule 1

2.3 Expiry date

Commented [ERA9]: Currently Schedule 1

2.3.1 <insert expiry date>

2.4 Term
[Section 15 of the Act]

Commented [ERA10]: Currently licence clause 3

2.4.1 This *licence* commences on the *commencement date* and continues until the earlier of:

- (a) the cancellation of the *licence* pursuant to clause 3.5 of this *licence*;
- (b) the surrender of the *licence* pursuant to clause 3.6 of this *licence*; or
- (c) the *expiry date*.

2.5 Licence area

Commented [ERA11]: Currently Schedule 1

2.5.1 The *licence area* is set out in plan(s):

ERA-EL-XXX

2.5.2 The *licence area* plan(s) is provided in Schedule 2.

3. LICENCE ADMINISTRATION

3.1 Amendment of licence by the licensee
[Section 21 of the Act]

Commented [ERA12]: Currently licence clause 10

3.1.1 The *licensee* may apply to the *ERA* to amend the *licence* in accordance with the *Act*.

3.2 Amendment of licence by the ERA
[Section 22 of the Act]

Commented [ERA13]: Currently licence clause 11

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

3.2.2 Before amending the *licence* under clause 3.2.1, the *ERA* must:

- (a) provide the *licensee* with written *notice* of the proposed amendments under consideration by the *ERA*;
- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
- (c) take into consideration those submissions.

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

3.2.4 For avoidance of doubt, the *licensee* will not have to pay a fee for amendments under clause 3.2.1.

3.3 Transfer of licence
[Section 18 of the Act]

Commented [ERA14]: Currently licence clause 6

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

3.4 Renewal of licence
[Section 16 of the Act]

Commented [ERA15]: Currently licence clause 9

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

3.5 Cancellation of licence
[Section 35 of the Act]

Commented [ERA16]: Currently licence clause 7

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

3.6 Surrender of licence
[Schedule 1 of the Act]

Commented [ERA17]: Currently licence clause 8

3.6.1 The *licensee* may only surrender the *licence* pursuant to this clause 3.6.

3.6.2 If the *licensee* intends to surrender the *licence* the *licensee* must, by *notice* in writing to the *ERA*:

- (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*.

3.6.3 Upon receipt of the *notice* from the *licensee* pursuant to clause 3.6.2, the *ERA* will publish the *notice*.

3.6.4 Notwithstanding clause 3.6.2, the surrender of the *licence* will only take effect on the later of the day that:

- (a) the *ERA* publishes a notice of the surrender in the Western Australian Government Gazette, such date to be at the discretion of the *ERA*; and
- (b) the *licensee* hands back the *licence* to the *ERA*.

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

3.7 Notices

Commented [ERA18]: Currently licence clause 18

3.7.1 Unless otherwise specified, all *notices* must be in writing.

3.7.2 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.

3.8 Publishing information [Schedule 1 of the Act]

Commented [ERA19]: Currently licence clause 17

- 3.8.1 The *ERA* 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*.
- 3.8.2 Subject to clause 3.8.3, the *licensee* must *publish* the information referred to in clause 3.8.1.
- 3.8.3 If the *licensee* considers that the information is confidential it must:
 - (a) immediately notify the *ERA*; and
 - (b) seek a review of the *ERA*'s decision in accordance with clause 3.9.
- 3.8.4 Once it has reviewed the decision, the *ERA* 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.

3.9 Review of the ERA's decisions

Commented [ERA20]: Currently licence clause 19

- 3.9.1 The *licensee* may seek a review of a *reviewable decision* by the *ERA* 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 *ERA*) of the decision; and
 - (b) the *ERA* will consider the submission and provide the *licensee* with a written response within 20 *business days*.
- 3.9.2 For avoidance of doubt, this clause does not apply to a decision of the *ERA* pursuant to the *Act*, nor does it restrict the *licensee*'s right to have a decision of the *ERA* reviewed in accordance with the *Act*.

4. GENERAL LICENCE OBLIGATIONS

4.1 Compliance with applicable legislation

Commented [ERA21]: Currently licence clause 5

- 4.1.1 Subject to any modifications or exemptions granted pursuant to the *Act*, the *licensee* must comply with any *applicable legislation*.

4.2 Fees

Commented [ERA22]: Currently licence clause 4

4.2.1 The *licensee* must pay the applicable fees and charges in accordance with the *Regulations*.

4.3 Accounting records [Schedule 1 of the Act]

Commented [ERA23]: Currently licence clause 12

4.3.1 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.

4.4 Reporting a change in circumstances

Commented [ERA24]: Currently licence clause 15

4.4.1 The *licensee* must report to the *ERA*:

(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.

4.5 Provision of information [Schedule 1 of the Act]

Commented [ERA25]: Currently licence clause 16

4.5.1 The *licensee* must provide to the *ERA*, in the manner and form described by the *ERA*, 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 *ERA's* functions under that Part.

5. AUDITS AND PERFORMANCE REPORTING OBLIGATIONS

5.1 Asset management system [Section 14 of the Act]

Commented [ERA26]: Currently licence clause 20

5.1.1 The *licensee* must provide for an *asset management system* in respect of the *licensee's* assets.

- 5.1.2 The *licensee* must notify the *ERA* 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 *licensee's assets*.
- 5.1.3 The *licensee* must notify the *ERA* of any substantial change to the *asset management system* within 10 *business days* of such change.
- 5.1.4 The *licensee* must provide the *ERA* with a report by an independent expert, acceptable to the *ERA*, 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 *ERA* allows by *notice* in writing).
- 5.1.5 The *licensee* must comply, and must require the *licensee's* expert to comply, with the *ERA's* standard audit guidelines.
- 5.1.6 The *licensee* may seek a review of any of the requirements of the *ERA's* standard audit guidelines dealing with the *asset management system* in accordance with clause 3.9.
- 5.1.7 The review of the *asset management system* must be conducted by an independent expert approved by the *ERA*. 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 *ERA*, the *ERA* may choose an independent expert to conduct the review of the *asset management system*.

5.2 Individual performance standards

- 5.2.1 Performance standards are contained in *applicable legislation*.
- 5.2.2 The *ERA* may prescribe *individual performance standards* applying to the *licensee* in respect of the *licensee's* obligations under this *licence* or the *applicable legislation*.
- 5.2.3 Before approving any *individual performance standards* under this clause, the *ERA* 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.
- 5.2.4 Once approved by the *ERA*, the *individual performance standards* are included as additional *terms and conditions* to this *licence*.

5.3 Performance audit [Section 13 of the Act]

- 5.3.1 The *licensee* must, unless otherwise notified in writing by the *ERA*, provide the *ERA* with a *performance audit* within 24 months after the *commencement date*, and every 24 months thereafter.

Commented [ERA27]: Currently licence clause 13

Commented [ERA28]: Currently licence clause 14

- 5.3.2 The *licensee* must comply, and must require the *licensee's* auditor to comply, with the *ERA's* standard audit guidelines.
- 5.3.3 The *licensee* may seek a review of any of the requirements of the *ERA's* standard audit guidelines in accordance with clause 3.9.
- 5.3.4 The *performance audit* must be conducted by an independent auditor approved by the *ERA*. 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 *ERA*, the *ERA* may choose an independent auditor to conduct the *performance audit*.

6. CUSTOMERS

6.1 Approved Scheme [Section 101 of the Act]

Commented [ERA29]: Currently licence clause 21

- 6.1.1 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*.

6.2 Determination of Default Supplier

Commented [ERA30]: Currently licence clause 22

- 6.2.1 The *licensee* must determine, from time to time, the *default supplier* for each *connection point* that connects to a *distribution system operated by the licensee*.

6.3 Marketers

Commented [ERA31]: Currently licence clause 23

- 6.3.1 The *licensee* must ensure that an *electricity marketing agent* of the *licensee* complies with the *Code of Conduct for the Supply of Electricity to Small Use Customers*.

6.4 Customer Contracts [Section 54 of the Act]

Commented [ERA32]: Currently licence clause 24

- 6.4.1 Subject to the *Regulations*, the *licensee* must not *supply electricity to a small use customer* otherwise than under:
 - (a) a *standard form contract*; or
 - (b) a *non-standard contract* that complies with the *Act*.
- 6.4.2 The *licensee* must, if directed by the *ERA*, review the *standard form contract* and submit to the *ERA* the results of that review within the time specified by the *ERA*.
- 6.4.3 The *licensee* must comply with any direction given by the *ERA* in relation to the scope, process or methodology of the review referred to in clause 6.4.2.

6.5 Amending the Standard Form Contract [Section 52 of the Act]

Commented [ERA33]: Currently licence clause 25

- 6.5.1 The *licensee* may only amend the *standard form contract* with the *ERA's* approval.

6.5.2 The *licensee* may amend the *standard form contract* at any time by submitting to the *ERA*:

- (a) a proposed amendment to the *standard form contract*, or
- (b) a proposed substituted *standard form contract*.

6.5.3 The *ERA* may:

- (a) approve the amendment to the *standard form contract* or substituted *standard form contract*, or
- (b) specify the amendments the *licensee* must make to the amended or substituted *standard form contract* before the *ERA* will amend the *standard form contract*,
and notify the *licensee* of its decision within a reasonable time.

6.5.4 The *ERA* may, at any time, by *notice* in writing, direct the *licensee* to amend the *standard form contract* by specifying:

- (a) the amendments to be made to the *standard form contract*; and
- (b) the latest date at which the amendments will come into force.

6.6 Directions by the ERA to amend Standard Form Contract
[Section 53 of the Act]

Commented [ERA34]: Currently licence clause 26

6.6.1 The *licensee* must comply with any direction given by the *ERA* pursuant to section 53 of the *Act*.

6.7 Supplier of Last Resort
[Section 76 of the Act]

Commented [ERA35]: Currently licence clause 27

6.7.1 If the *licensee* is designated a *supplier of last resort* under the *Act*, the *licensee* must perform the functions of the *supplier of last resort*.

6.8 Notification of Last Resort

Commented [ERA36]: Currently licence clause 28

6.8.1 Where the *licensee* becomes aware of a *small use customer* taking a *supply* of *electricity* that is deemed to be supplied under the *licensee's standard form contract* in accordance with the *Electricity Industry (Customer Contracts) Regulations 2005*, the *licensee* must, within five days after becoming aware, notify the *small use customer* in writing:

- (a) that the *licensee* is the *default supplier* for that *connection point*; and
- (b) the effect of regulation 37 of the *Electricity Industry (Customer Contracts) Regulations 2005*.

6.9 Priority Restoration Register

Commented [ERA37]: Currently licence clause 29.

6.9.1 The *licensee* must create and maintain a *priority registration register*.

This clause is only included in integrated regional licences that authorise the licensee to construct and operate a distribution system.

6.9.2 The *priority restoration register* must relate to all *customers* of the *licensee* including but not limited to *small use customers*.

6.9.3 The *priority registration register* must comply with any criteria determined by the Minister.

Schedule 1 – Additional Licence Clauses

Commented [ERA38]: Currently Schedule 2

(Not Used)

Schedule 2 – Licence Area **Maps** **Plans**

Commented [ERA39]: Currently Schedule 3

Amendment Record Sheet

Version Date	Description of Amendment
<DD Month Year>	<Grant or Amendment details>