

Electricity Licence Review 2018

Decision

21 May 2018

Economic Regulation Authority

WESTERN AUSTRALIA

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Decision

The Economic Regulation Authority (**ERA**):

1. approves the licence amendments in the electricity licence templates attached to this Decision (Appendices 1, 2, 3, 4 and 5); and
2. in accordance with section 22 of the *Electricity Industry Act 2004* (**Act**), will issue new licences by substitution to all existing electricity licensees, which will incorporate the amendments in the licence templates relevant to the licensee.

Background

3. The Act governs the operation of the electricity licensing regime in Western Australia and defines the role and powers of the ERA with regard to licensing, monitoring and enforcement. The ERA is also responsible for these functions in the gas industry (under the *Energy Coordination Act 1994*) and water industry (under the *Water Services Act 2012*).
4. Under the Act, participants in the electricity industry who intend to, or currently, generate, transmit, distribute or sell electricity must hold an electricity licence (unless otherwise exempt).
5. The ERA issues and administers electricity generation, transmission, distribution, retail and integrated regional licences.¹ There are currently 64 electricity licences.
6. The ERA periodically reviews electricity licences to ensure it maintains a best practice licensing regime. The ERA previously conducted reviews of electricity licences in 2005, 2010 and 2015.
7. The ERA commenced the Electricity Licence Review 2018 (**Review**) in January 2018.
8. The scope of the Review was to examine the:
 - format of electricity licence templates; and
 - terms and conditions of electricity licences.
9. The objectives of the Review were to ensure that electricity licences:
 - are consistent with applicable legislation;²
 - minimise licensees' regulatory burden and compliance costs;
 - have clear and consistent terms and conditions across the licence types; and

¹ Electricity integrated regional licences authorise a combination of generation, transmission, distribution and retail services provided outside the South West Interconnected System.

² Applicable legislation includes the *Electricity Industry Act 2004* and its codes and regulations.

- are consistent with gas and water licences where possible.
10. The Review did not include examination of:
- electricity legislation, including subsidiary legislation;³
 - the ERA's *Code of Conduct for the Supply of Electricity to Small Use Customers (Code of Conduct)*;⁴
 - the processes and procedures that are contained in the ERA's regulatory guidelines;⁵
 - licence amendment proposals that are specific to a single licensee; or
 - licence exemptions.

Reasons

Review process

11. The following steps in the Review have been completed, or will be completed:

Project schedule	
Deliverable/milestone	Date
Publication of Discussion Paper on proposed licence amendments	2 February 2018 (completed)
Public submissions received	2 March 2018 (completed)
Licensees provided with 15 business days to make submissions on proposed amended licences ⁶	21 March 2018 (completed)
Publication of Decision	28 May 2018 (completed)
New licences issued	June 2018
New licences take effect	1 July 2018

³ With the exception of the [Code of Conduct](#), the ERA does not administer electricity legislation, specifically the Act or its codes and regulations. The Act and its codes and regulations are the responsibility of the State Government (Minister for Energy).

⁴ The [Code of Conduct](#) is administered by the ERA and regulates the conduct of retailers and distributors who supply electricity to residential and small business customers (customers who consume not more than 160 MWh of electricity per annum). The Code also applies to marketing agents that act on behalf of retailers. It has its own [review process](#).

⁵ <http://www.erawa.com.au/electricity/electricity-licensing/regulatory-guidelines>

⁶ Under the terms and conditions of a licence, the ERA is required to give licensees 15 business days to comment on licence amendments initiated by the ERA before they are made.

Submissions on Discussion Paper

12. Submissions in response to the Discussion Paper were received from:
- [Alinta Energy](#);
 - [APA Power](#);
 - [Perth Energy](#); and
 - [Western Power](#).
13. Alinta Energy, APA Power, Perth Energy and Western Power supported the licence amendments proposed by the ERA in its Discussion Paper. Alinta Energy also proposed two additional minor licence amendments:
- In the ERA's current electricity licences, sub-clause 1.1 lists all the codes and regulations made under the Act that are applicable to electricity licences. Alinta Energy notes that some of the codes listed under sub-clause 1.1 may not be applicable to a particular licence type. For example, compliance with the Code of Conduct is not applicable to generation licences. Alinta Energy suggested including in sub-clause 1.1 only those codes that are relevant to that licence type.
 - The ERA also proposed adopting the same approach to the regulations that are listed in sub-clause 1.1. For example, the *Electricity Industry (Obligation to Connect) Regulations 2005* do not apply to generation licences.
 - Alinta Energy proposed that reference to the Code of Conduct should include the year of gazettal. The year of gazettal has not previously been included in licences, as the Code of Conduct is reviewed more frequently than other energy codes.

Additional ERA initiated amendment

14. Following the publication of its Discussion Paper, the ERA identified an additional amendment to the retail licence template:
- In sub-clause 1.1 of the electricity licence templates, the term “reviewable decision” means a decision made by the ERA pursuant to one of the sub-clauses listed in the definition. Sub-clauses 5.1.5 and 5.1.7 in the new licence structure are listed in the definition and relates to the review of a licensee’s asset management system. However, sub-clauses 5.1.5 and 5.1.7 are not in retail licenses, as a retail licensee is not required to have an asset management system (the requirement to have an asset management system is placed on licensees that operate assets, such as generating works or a distribution system).
 - The ERA proposes to amend the definition of “reviewable decision” in the retail licence template to remove the reference to sub-clause 5.1.5 and 5.1.7 to avoid any confusion and ensure the retail licence template is consistent with the requirements placed on a retail licensee.

Consultation with licensees on final amended licence templates

15. In accordance with licence clause 11, the ERA provided licensees with 15 business days to make submissions on the final amended licence templates.
16. No submissions were received on the final amended licence templates.

Decision – Approved licence amendments

17. The ERA approves the following licence amendments:
 - A restructure of licences to make them easier to navigate and more accessible to the reader.
 - Amendments to address uncertainties in licence clauses 1.1 and 4.1⁷, which require a licensee to comply with “applicable legislation”. The amendments will remove the uncertainty to make it clear that a licensee must comply with the Act and its codes and regulations.
 - Removal of unnecessary clauses in retail and integrated regional licences:
 - Schedule 1 to a licence specifies the customer classes that the retailer is allowed to supply.
 - Schedule 2, clause 1.1 in the current licence informs 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.⁸
 - Clause 10 (renumbered to clause 3.1 in the new template) of the licence allows a licensee to apply to the ERA to amend the licence.
 - Due to licences containing Schedule 1 and clause 3.1, the ERA does not believe Schedule 2 is necessary and approves its removal from licences. It is self-evident that the licensee must apply to amend its licence if it wants to supply different customer classes to the ones permitted by the licence. Also, the licence does not take this approach with any other licence condition, even though other licence conditions are subject to amendment.
 - Current licences refer to both “map” and “plan” when identifying the licence operating area. To ensure consistency, the ERA approves using the term “plan” throughout the licence. “Plan” is used by Landgate and it is the term used in the notice published in the Government Gazette when a licence is granted or amended.
 - The ERA approves replacing *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.

⁷ Clause number refers to the clause number in the amended electricity licence templates, not existing electricity licences.

⁸ This only applies to licences that contain restrictions on the class(es) of customer that can be supplied.

- The ERA approves amending clause 1.2 to include the word “replacement”. This will ensure that when codes or regulations are replaced, the licence adopts the replacement instrument.
18. The ERA approves the two additional amendments proposed by Alinta Energy:
- The ERA approves Alinta Energy’s proposal to list only those codes in a licence that are relevant to that licence type. The ERA will also adopt the same approach to the regulations that are listed in sub-clause 1.1. The amendments will make it easier for licensees to identify the codes and regulations relevant to them.
 - The ERA approves Alinta Energy’s proposal to amend electricity licences to include the Code of Conduct’s year of gazettal. This will ensure consistency with the other codes and regulations listed in sub-clause 1.1 of the licence templates, which do include the year of gazettal in the title.
19. The ERA approves the following amendments to the term “reviewable decision” in sub-clause 1.1:
- Reviewable decision means a decision by the ERA pursuant to:⁹
- a) clause 3.8.3;
 - b) ~~clause 5.1.5~~ Not Used;
 - c) ~~clause 5.1.7~~ Not Used;
 - d) clause 5.2.2;
 - e) clause 5.3.2; or
 - f) clause 5.3.4.
20. The ERA is satisfied that the amendment of electricity licences by substitution will not be contrary to public interest.

⁹ Clause numbers refer to the relevant clauses in the amended retail licence template.

Appendices

Appendix 1 – Electricity Generation Licence Template

Appendix 2 – Electricity Transmission Licence Template

Appendix 3 – Electricity Distribution Licence Template

Appendix 4 – Electricity Retail Licence Template

Appendix 5 – Electricity Integrated Regional Licence Template