

# Decision to renew gas trading licence GTL12 and approve amended standard form contract

Perth Energy Pty Ltd

26 November 2019

Economic Regulation Authority

WESTERN AUSTRALIA

D209429

## Decision

1. Pursuant to section 11WF of the *Energy Coordination Act 1994* (Act), the Economic Regulation Authority has approved Perth Energy Pty Ltd's [amended standard form contract](#) for the sale of gas to small use customers.<sup>1</sup>
2. Pursuant to sections 11K and 11S of the Act, the ERA has renewed Perth Energy's [Gas Trading Licence GTL12](#).
3. Subject to its terms and conditions, the licence authorises Perth Energy to sell gas transported through a distribution system to small use customers in Western Australia for 10 years (the maximum period allowed by section 11O of the Act).<sup>2</sup>
4. As required by section 11T of the Act, the ERA will publish a notice of the renewal of the licence in the Government Gazette as soon as practicable.

## Reasons

5. The ERA first granted GTL12 to Perth Energy on 30 November 2009 for a period of 10 years, with an expiry date of 29 November 2019.
6. On 7 October 2019, Perth Energy applied to the ERA to renew GTL12 and submitted an amended standard form contract for approval.
7. Section 11G of the Act requires a person to hold a gas trading licence to sell gas to small use customers that is transported through a distribution system.

### Renewal of licence

8. Under section 11S(1) of the Act, the ERA must renew a licence if it is satisfied that the licensee has and is likely to retain, or will acquire within a reasonable timeframe, and is then likely to retain, the financial and technical resources to undertake the activities authorised by the licence.
9. As part of its renewal application, Perth Energy provided its audited financial reports for the past three financial years and a written declaration from Perth Energy's chief financial officer that it has the financial resources to continue to undertake the activities authorised by the licence. Earlier this year, Perth Energy was acquired by AGL Energy Limited, one of the largest energy suppliers in Australia.
10. Based on this information, the ERA considers that Perth Energy complies with the financial requirements of section 11S(1) of the Act.
11. Perth Energy's licence compliance history was used to determine if it has the technical resources to continue to provide the licensed service. Based on its compliance history, and AGL's recent acquisition of Perth Energy, the ERA considers that Perth Energy complies with the technical requirements of section 11S(1) of the Act.

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<sup>1</sup> Small use customers are customers who consume less than one terajoule of gas per year.

<sup>2</sup> 'Distribution system' is defined in section 3 of the Act and includes a system of pipelines, mains, and gas service pipes, designed to operate at a pressure of less than 1.9 megapascals, for the transportation of gas to customers.

12. Section 11K of the Act requires that the ERA must not renew a licence unless it is satisfied that it would not be contrary to the public interest to do so. Section 11H(3) of the Act, without limitation, specifies the matters the ERA must consider.
13. In performing its functions, the ERA must have regard to the matters set out in section 26 of the *Economic Regulation Authority Act 2003*, including the long-term interests of consumers.
14. From 8 November to 22 November 2019, the ERA sought public comment on Perth Energy's application to renew GTL12. The ERA received no submissions.
15. The ERA's assessment of the public interest considered that:
  - Perth Energy's participation in the small use gas market enhances competition.
  - The interests of Perth Energy's existing customers are best served by Perth Energy continuing to be licensed, so it can maintain supply to those customers.
16. Having regard to all the matters in this decision, the ERA is satisfied that renewing GTL12 would not be contrary to the public interest.

### **Approval of standard form contract**

17. Section 11WE of the Act provides that the ERA must not renew a gas trading licence unless the licensee has submitted a draft standard form contract to the ERA and the ERA has approved the standard form contract under which the licensee will supply gas to customers pursuant to the licence.
18. Perth Energy provided an amended standard form contract with its request to renew GTL12. The ERA provided feedback on the contract to Perth Energy. In response to this feedback, Perth Energy amended the draft contract.
19. The ERA undertook public consultation on the proposed standard form contract from 8 November to 22 November 2019. The ERA received no submissions.
20. Under section 11WF of the Act, the ERA must not approve a standard form contract if it considers that the contract will not meet the requirements of the *Energy Coordination (Customer Contracts) Regulations 2004*, will be inconsistent with the Act or any other written law, or will be inconsistent with any term, condition or provision of the licence.
21. The ERA is satisfied that Perth Energy's standard form contract meets the requirements of section 11WF of the Act.
22. The amended standard form contract replaces Perth Energy's previous standard form contract, which was approved by the ERA in 2011.