

Decision to renew gas trading licence GTL9 and approve amended standard form contract

Alinta Sales Pty Ltd

30 June 2020

Economic Regulation Authority

WESTERN AUSTRALIA

D209253

Decision

1. Pursuant to section 11WF of the *Energy Coordination Act 1994*, the Economic Regulation Authority approves Alinta Sales Pty Ltd's amended [standard form contract](#) for the sale of gas to small use customers.¹
2. Pursuant to sections 11K and 11S of the Act, the ERA has renewed Alinta's [gas trading licence GTL9](#).
3. Subject to its terms and conditions, the licence authorises Alinta 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).²
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.

¹ A 'small use customer' is a customer who consumes less than one terajoule of gas per year.

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

Reasons

Licence

5. 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.
6. On 1 July 2000, Alinta was granted three licences (GTL1, GTL2 and GTL3), one for each area that it supplies - Coastal, Great Southern and Goldfields-Esperance.³
7. On 17 August 2007, the three licences were replaced by substitution with a single licence, GTL9, which authorises Alinta to supply gas to all three supply areas.
8. On 1 July 2010, GTL9 was renewed for a period of 10 years.
9. On 15 April 2020, Alinta applied to the ERA to renew GTL9 and submitted an amended standard form contract for approval.

Standard form contract

10. Section 11WE of the Act provides that the ERA must not renew a gas trading licence unless the licensee has submitted a 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.
11. Alinta provided an amended standard form contract with its request to renew GTL9. The ERA provided feedback on the contract to Alinta. In response to this feedback, Alinta amended the contract.
12. 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.
13. The ERA considers that the standard form contract meets the relevant regulatory requirements.
14. The amended standard form contract replaces Alinta's previous standard form contract, which was approved by the ERA in 2016.

Public consultation

15. On 20 May 2020, the ERA sought [public comment](#) on the licence renewal application and the standard form contract. The period for submissions closed on 10 June 2020.
16. The ERA did not receive any submissions.

³ In 2000, the then Office of Energy (now Energy Policy WA) issued gas trading licences for a single supply area..

Financial and technical assessments

17. 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.
18. As part of its renewal application, Alinta provided its audited financial reports for the past three financial years and a written declaration from Alinta's Director that it has the financial resources to continue to undertake the activities authorised by the licence.
19. Based on this information, the ERA considers that Alinta complies with the financial requirements of section 11S(1) of the Act.
20. The ERA used Alinta's licence compliance history to determine whether it had the technical resources to continue to provide the licensed service.
21. Based on its compliance history the ERA considers that Alinta complies with the technical requirements of section 11S(1) of the Act.

Assessment of public interest – *Energy Coordination Act 1994*

22. 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, provides that, without limiting the other matters that may be taken into account, matters that are to be taken into account by the Governor in determining whether the making of the order would not be contrary to the public interest:
 - a. Environmental considerations.
 - b. Social welfare and equity considerations, including community service obligations.
 - c. Economic and regional development, including employment and investment growth.
 - d. The interests of gas customers generally or of a class of gas customers.
 - e. The interests of any licensee, or applicant for a licence, in respect of the supply area or part of a supply area to which the order, if made, would apply.
 - f. The importance of competition in gas industry markets.
 - g. The policy objectives of government in relation to the supply of gas.
 - h. Any other matter that he or she considers relevant.⁴

Assessment of public interest – *Economic Regulation Authority Act 2003*

23. The ERA must also have regard to the matters set out in section 26 of the *Economic Regulation Authority Act 2003*:⁵

⁴ The he or she in this clause refers to the Governor, as section 11H(3) is also used for licence exemption applications under section 11H(1).

⁵ The ERA has discretion as to the weight it gives to each of the matters listed in section 26 of the ERA Act in making its decision on Alinta's licence renewal application.

- a. The need to promote regulatory outcomes that are in the public interest.
- b. The long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets.
- c. The long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets.
- d. The need to encourage investment in relevant markets.
- e. The legitimate business interests of investors and service providers in relevant markets.
- f. The need to promote competitive and fair market conduct.
- g. The need to prevent abuse of monopoly or market power.
- h. The need to promote transparent decision-making processes that involve public consultation.

ERA assessment of public interest

24. The ERA has considered section 11K of the Act, the matters set out in section 11H(3) of the Act, Alinta's financial reports for the past three financial years, the written declaration from Alinta's Director and Alinta's previous compliance history.
25. In all circumstances, after taking into account the matters in section 11H(3) of the Act and section 26 of the ERA Act, the ERA is satisfied that renewing GTL9 would not be contrary to the public interest. The reasons for this include:
 - a. Alinta's participation in the small gas use market enhances competition and provides customers with a choice of retailer.
 - b. The interests of Alinta's existing customers are best met by Alinta being authorised to continue supplying them under a licence.