

Decision to renew electricity retail licence ERL7

TEC Desert Pty Ltd & TEC Desert No. 2 Pty Ltd
(trading as Southern Cross Energy Partnership)

8 March 2021

Economic Regulation Authority

WESTERN AUSTRALIA

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1. Decision

1. Pursuant to sections 9 and 19 of the *Electricity Industry Act 2004*, the Economic Regulation Authority has renewed TEC Desert Pty Ltd & TEC Desert No. 2 Pty Ltd's (trading as Southern Cross Energy Partnership) [electricity retail licence ERL7](#).
2. Subject to its terms and conditions, the licence authorises Southern Cross Energy to supply electricity to BHP Billiton's Nickel West operations in Kambalda, Kalgoorlie, Leinster and Mt Keith (as set out in operating area ERA-EL-097(B) in the licence).
3. The term of the renewed licence is 15 years (the maximum period allowed by section 15(1) of the Electricity Act) from 9 March 2021.
4. As required by section 23(1) of the Electricity Act, the ERA will publish a notice of the renewal of the licence in the Government Gazette as soon as practicable.

2. Reasons

2.1 Licence

5. Section 7(4) of the Electricity Act requires a person to hold an electricity retail licence to sell electricity to customers.
6. The ERA first granted ERL7 to Southern Cross Energy on 30 June 2006 for a period of 15 years, with an expiry date of 29 June 2021.
7. On 15 January 2021, Southern Cross Energy applied to the ERA to renew ERL7.

2.2 Public consultation

8. On 28 January 2021, the ERA sought [public comment](#) on the licence renewal application. The period for submissions closed on 18 February 2021.
9. The ERA did not receive any submissions.

2.3 Financial and technical assessments

10. Under section 19(1) of the Electricity 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.
11. As part of its renewal application, Southern Cross Energy provided audited financial reports for the past three financial years for TransAlta Energy Australia Pty Ltd and a written declaration from TransAlta Energy Australia's chief executive officer that it has, and will retain, the financial resources to continue to undertake the activities authorised by the licence.¹
12. Based on the information provided, the ERA is satisfied that Southern Cross Energy has, and is likely to retain, the financial resources to provide the service in its operating area.
13. The ERA used Southern Cross Energy's licence compliance history to determine whether it has the technical resources to continue to provide the licensed service.
14. Based on its compliance history, the ERA considers that Southern Cross Energy has, and is likely to retain the technical ability to provide the service in its operating area.

2.4 Assessment of public interest

2.4.1 *Electricity Industry Act 2004*

15. Section 9 of the Electricity 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 8(5) of the

¹ TransAlta Energy Australia has 100 per cent ownership of Southern Cross Energy. The consolidated financial reports incorporate the assets, liabilities and results of TransAlta Energy Australia, but the reports do not separately report on the individual performance of Southern Cross Energy.

Electricity 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 are:

- 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 customers generally or of a class of customers.
- e. The interests of any licensee, or applicant for a licence, in respect of the area or areas to which the licence in respect of which the power exercised is exercised would apply.
- f. The importance of competition in electricity industry markets.
- g. The policy objectives of government in relation to the supply of electricity.

2.4.2 Economic Regulation Authority Act 2003

16. The ERA must also have regard to the matters set out in section 26 of the *Economic Regulation Authority Act 2003*:²
 - 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 need to encourage investment in relevant markets.
 - d. The legitimate business interests of investors and service providers in relevant markets.
 - e. The need to promote competitive and fair market conduct.
 - f. The need to prevent abuse of monopoly or market power.
 - g. The need to promote transparent decision-making processes that involve public consultation.

2.4.3 ERA assessment of public interest

17. The ERA has considered section 19(1) of the Electricity Act, the matters set out in section 9 and section 8(5) of the Electricity Act, section 26 of the ERA Act, TransAlta Energy Australia's financial reports for the past three years, the written declaration from TransAlta Energy Australia's chief executive officer and Southern Cross Energy's previous compliance history.

² The ERA has discretion to decide the weight it gives to each of the matters listed in section 26 of the ERA Act.

18. The interest of Southern Cross Energy's existing customer is best served by Southern Cross Energy continuing to be licensed, so it can maintain supply to that customer (section 8(5)(d) of the Electricity Act and section 26(2)(b) of the ERA Act).
19. The renewal of Southern Cross Energy's licence will support economic and regional growth, as the supply of electricity by Southern Cross Energy supports mining operations (section 8(5)(c) of the Electricity Act).
20. The ERA conducted public consultation on the licence renewal application and has stated in this decision the reasons for renewing the licence, which is consistent with section 26(g) of the ERA Act.
21. In all circumstances, after taking into account the matters in section 8(5) of the Electricity Act and section 26 of the ERA Act, the ERA is satisfied that renewing ERL7 would not be contrary to the public interest.