

Decision on electricity retail licence amendment (ERL2)

BHP Billiton Nickel West Pty Ltd

6 May 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 approves the amendment of BHP Billiton Nickel West Pty Ltd's electricity retail licence ERL2 to expand the licence area.
2. Subject to its terms and conditions, the licence authorises Nickel West to supply electricity in the Southern and Northern Goldfields areas (as set out in licence area plans ERA-EL-158 and ERA-EL-070/2).
3. The term of the amended licence is 15 years (the maximum period allowed by section 15(1) of the Electricity Act).
4. As required by section 23(1) of the Electricity Act, the ERA will publish a notice of the amendment of the licence in the Government Gazette as soon as practicable.

2. Reasons

2.1 Licence amendment

5. On 26 February 2021, BHP Billiton Nickel West Pty Ltd [applied](#) for an amendment to ERL2 to expand its licence area in the Southern Goldfields.
6. Nickel West sought to extend the Southern Goldfields licence area by 4 kilometres to the south of Redross Substation, south of Kambalda. The extension will enable Nickel West to supply electricity to the Cassini nickel mine from a new point of supply on Southern Cross Energy Partnership's network.
7. Under section 21 of the Electricity Act, the ERA may amend a licence in accordance with the application if it is satisfied that the application for the amendment of the licence has been made in a form approved by the ERA, and if the applicant has provided any additional information that the ERA may require for the proper consideration of the application.

2.2 Public consultation

8. On 29 March 2021, the ERA sought [public comment](#) on the licence amendment application. The period for submissions closed on 21 April 2021.
9. The ERA did not receive any submissions.

2.3 Financial and technical assessments

10. Section 19(1) of the Electricity Act requires the ERA to assess the financial and technical capacity of an applicant when it grants, renews or transfers a licence. There is no requirement to perform this assessment for a licence amendment application.
11. If the ERA considers a licence amendment will result in a substantial change to a licensee's business, there is scope to require financial and technical assessments.
12. The extension of Nickel West's Southern Goldfields licence area by four kilometres is a minor amendment. The ERA does not consider this amendment to be a substantial change to Nickel West's business.

2.4 Assessment of public interest

2.4.1 *Electricity Industry Act 2004*

13. Section 9 of the Electricity Act requires that the ERA must not approve the amendment of a licence unless it is satisfied that it would not be contrary to the public interest to do so. Section 9(2) of the Electricity Act states that in making that decision, the ERA is to take into account the matters set out in section 8(5) of the Electricity Act. Section 8(5) of the 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 order, if made, 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

14. The ERA must also have regard to the matters set out in section 26 of the *Economic Regulation Authority Act 2003* (ERA Act):¹
 - 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 Assessment of public interest

15. The ERA has considered the matters set out in section 26 of the ERA Act and the public interest test in section 8(5) of the Electricity Act and is satisfied that amending Nickel West's electricity retail licence would not be contrary to the public interest.
16. The expansion of the licence area under Nickel West's electricity retail licence will support economic and regional growth of mining operations in the southern goldfields area (section 8(5)(c) of the Electricity Act and section 26(2)(c) of the ERA Act).
17. The new point of supply will provide grid connected power to replace the temporary onsite diesel generation currently used at the Cassini nickel mine (section 8(5)(a) of the Electricity Act and section 26(2)(b) of the ERA Act).

¹ The ERA has discretion to decide the weight it gives to each of the matters listed in section 26 of the ERA Act in making its decision

18. The ERA conducted public consultation on the licence amendment application and has stated in this decision the reasons for amending the licence, which is consistent with section 26(g) of the ERA Act.
19. 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 amending ERL2 would not be contrary to the public interest.