

Decision to renew electricity retail licence ERL11

Landfill Gas and Power Pty Ltd

4 June 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 Landfill Gas and Power Pty Ltd's electricity retail licence [ERL11](#).
2. Subject to its terms and conditions, the licence authorises Landfill Gas and Power to supply electricity to large use business customers within the South West Interconnected System (as set out in operating area plan ERA-EL-084(B) in the licence).¹
3. The term of the renewed 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 renewal of the licence in the Government Gazette as soon as practicable.

¹ A large use customer is a customer who consumes more than 160 megawatt hours of electricity per year.

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 ERL11 to Landfill Gas and Power on 30 June 2006 for a period of 15 years, with an expiry date of 29 June 2021.
7. On 4 May 2021, Landfill Gas and Power applied to the ERA to renew ERL11.

2.2 Public consultation

8. On 5 May 2021, the ERA sought [public comment](#) on the licence renewal application. The period for submissions closed on 26 May 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, Landfill Gas and Power provided audited financial reports for the past three financial years for the parent company Energy Developments Pty Ltd and a written declaration from Energy Developments' Chief Executive Officer that Landfill Gas and Power has, and will retain, the financial resources to continue to undertake the activities authorised by the licence.²
12. Based on the information provided, the ERA is satisfied that Landfill Gas and Power has, and is likely to retain, the financial resources to provide the service in its operating area.
13. The ERA used Landfill Gas and Power'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 Landfill Gas and Power has, and is likely to retain, the technical resources to undertake the activities authorised by the licence.

² Landfill Gas and Power is wholly owned by Energy Developments. Whilst the financial position of Landfill Gas and Power is not shown in Energy Developments' financial reports, the reports show that Energy Developments has the financial resources to support Landfill Gas and Power.

2.4 Assessment of public interest

2.4.1 *Electricity Industry Act 2004*

15. Section 9(1) 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 9(2) requires the ERA to take into account the matters referred to in section 8(5) of the Electricity Act when determining whether the renewal would not be contrary to the public interest. Those matters 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*:³
- 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.

³ The ERA has discretion to the weight it gives to each of the matters listed in section 26 of the ERA Act in making its decision.

2.4.3 *ERA assessment of public interest*

17. The ERA has considered the:
 - the matters set out in sections 8(5) and 9 of the Electricity Act
 - section 19(1) of the Electricity Act
 - section 26 of the ERA Act
 - the financial statements for Energy Developments for the past three financial years
 - the written declaration from Energy Developments' Chief Executive Officer
 - Landfill Gas and Power's licence compliance history.
18. Renewing Landfill Gas and Power's licence will allow Landfill Gas and Power to continue to use landfill gas to generate renewable electricity (section 8(5)(a) of the Electricity Act).
19. The interests of Landfill Gas and Power's existing customers are best served by Landfill Gas and Power continuing to be licensed, so it can maintain supply to those customers (section 8(5)(d) of the Electricity Act and section 26(2)(b) of the ERA Act).
20. The continued operation of Landfill Gas and Power promotes retail competition in the electricity market (section 8(5)(f) of the Electricity Act and sections 26(1)(e) and (f) of the ERA Act).
21. The ERA conducted public consultation on the licence renewal application and has stated in this decision the reasons for renewing the licence (section 26(g) of the ERA Act).
22. 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 ERL11 would not be contrary to the public interest.