

Decision to renew electricity retail licence ERL10 and approve amended standard form contract

Perth Energy Pty Ltd

24 June 2021

Economic Regulation Authority

WESTERN AUSTRALIA

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Economic Regulation Authority

Level 4, Albert Facey House

469 Wellington Street, Perth WA 6000

Telephone 08 6557 7900

Email info@erawa.com.au

Website www.erawa.com.au

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1. Decision

1. Pursuant to section 51 of the *Electricity Industry Act 2004*, the Economic Regulation Authority approves Perth Energy's [amended standard form contract](#) for the supply of electricity to small and large use business customers.¹
2. Pursuant to sections 9 and 19 of the *Electricity Industry Act 2004*, the Economic Regulation Authority has renewed Perth Energy Pty Ltd's [electricity retail licence ERL10](#).
3. Subject to its terms and conditions, the licence authorises Perth Energy to provide electricity services in the South West Interconnected System (as set out in operating area ERA-EL-107(B) in the licence).
4. The term of the renewed licence is 15 years (the maximum period allowed by section 15(1) of the Electricity Act) from 25 June 2021.
5. 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 small use customer is a customer who consumes not more than 160 megawatt hours of electricity per year.

2. Reasons

2.1 Licence

6. Section 7(4) of the Electricity Act requires a person to hold an electricity retail licence to sell electricity to customers.
7. The ERA first granted ERL10 to Perth Energy on 30 June 2006 for a period of 15 years, with an expiry date of 29 June 2021.
8. On 7 April 2021, Perth Energy applied to the ERA to renew ERL10.

2.2 Standard form contract

9. Section 50 of the Electricity Act provides that the ERA must not renew an electricity retail 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 electricity to customers pursuant to the licence.
10. Under section 51 of the Electricity Act, the ERA must not approve a standard form contract if it considers that the contract will not meet the requirements of the *Electricity Industry (Customer Contracts) Regulations 2005*, will be inconsistent with the Electricity Act or any other written law, or will be inconsistent with any term, condition or provision of the licence.
11. Perth Energy provided a standard form contract with its application to renew ERL10.
12. The ERA considers that, after amendment, the standard form contract meets the relevant regulatory requirements.
13. The amended standard form contract replaces Perth Energy's previous standard form contract, which was approved by the ERA in 2018.

2.3 Electricity ombudsman scheme

14. Section 100 of the Electricity Act provides that the ERA must not renew a retail licence unless it is satisfied that the licensee is a member of an approved ombudsman scheme.
15. Perth Energy is a member of the Electricity Industry Ombudsman (WA) Scheme.

2.4 Public consultation

16. On 29 April 2021, the ERA sought [public comment](#) on the licence renewal application. The period for submissions closed on 20 May 2021.
17. The ERA did not receive any submissions.

2.5 Financial and technical assessments

18. 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.

19. As part of its renewal application, Perth Energy provided audited financial statements for the past three financial years for Perth Energy and a written declaration from the Head of Perth Energy that it has, and will retain, the financial resources to continue to undertake the activities authorised by the licence.²
20. Based on the information provided, the ERA is satisfied that Perth Energy has, and is likely to retain, the financial resources to provide the service in its operating areas.
21. The ERA used Perth Energy's licence compliance history to determine whether it has the technical resources to continue to provide the licensed service.
22. Based on its compliance history, the ERA considers that Perth Energy has, and is likely to retain the technical ability to provide the service in its operating areas.

2.6 Assessment of public interest

2.6.1 *Electricity Industry Act 2004*

23. 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 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.

2.6.2 *Economic Regulation Authority Act 2003*

24. The ERA must also have regard to the matters set out in section 26(1) of the *Economic Regulation Authority Act 2003*:³

² On 9 September 2019, Perth Energy was acquired by AGL Energy. The 2019/20 consolidated financial statements for AGL Energy do not separately report on the individual performance of Perth Energy. Although the standalone financial position of Perth Energy is not available in AGL Energy's financial reports, the financial performance of AGL Energy shows it has substantial financial resources to support the operations of Perth Energy.

³ 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.

- 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.

2.6.3 ERA assessment of public interest

25. The ERA has considered:

- the matters set out in section 9 and section 8(5) of the Electricity Act
- section 19(1) of the Electricity Act
- section 26(1) of the ERA Act
- Perth Energy's and AGL Energy's financial statements for the past three financial years
- the written declaration from the Head of Perth Energy
- Perth Energy's compliance history
- the outcome of the public consultation (no submissions received).

26. 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 (section 8(5)(d) of the Electricity Act and section 26(1)(b) of the ERA Act).

27. Perth Energy's participation in the electricity market for business customers enhances competition and provides business customers with a choice of retailer (section 8(5)(f) of the Electricity Act and sections 26(1)(e) and (f) of the ERA Act).

28. Perth Energy's participation in the electricity market for customers who consume more than 50 megawatt hours of electricity per year enhances competition and provides customers with a choice of retailer (section 8(5)(f) of the Electricity Act and sections 26(1)(e) and (f) of the ERA Act).

29. 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(1)(g) of the ERA Act.

30. In all circumstances, after taking into account the matters in section 8(5) of the Electricity Act and section 26(1) of the ERA Act, the ERA is satisfied that renewing ERL10 would not be contrary to the public interest.