



Economic Regulation Authority

Decision on electricity distribution and retail licence applications and standard form contract

Ocean Reef Renewable Energy Pty Ltd

24 May 2023

D261118

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1. Decision

1. Pursuant to section 51 of the *Electricity Industry Act 2004* (Electricity Act), the Economic Regulation Authority (the ERA) approves Ocean Reef Renewable Energy Pty Ltd's (ORRE) standard form contract for the sale of electricity to small use customers.¹
2. Pursuant to sections 9 and 19 of the Electricity Act, the ERA grants ORRE electricity distribution licence EDL9 and electricity retail licence ERL32. ERL32 permits ORRE to supply electricity to small and large use customers.
3. The grant of EDL9 is subject to and in accordance with the terms and conditions in the licence for a period of 30 years.
4. The grant of ERL32 is subject to and in accordance with the terms and conditions in the licence for a period of 15 years.
5. As required by section 23(1) of the Electricity Act, the ERA will publish a notice of the grant of the licences in the Government Gazette as soon as practicable.

¹ A 'small use customer' consumes not more than 160 megawatt hours of electricity per year.

2. Reasons

2.1 Application

6. On 20 February 2023, ORRE applied for an electricity distribution licence to operate the electricity microgrid at the Ocean Reef Marina and an electricity retail licence to sell electricity to commercial and residential customers connected to the microgrid.

The microgrid will comprise:

- an embedded electricity network and related infrastructure, including metering.
 - embedded generation and battery storage infrastructure.
 - Commercial and residential customers.
7. The Ocean Reef Marina is a greenfield mixed-use precinct located on the coast, 30km north of Perth in the City of Joondalup, Western Australia. The Ocean Reef Marina is being developed by DevelopmentWA and it selected ORRE to operate the marina's microgrid.²

2.2 Standard Form Contract

8. As it applied for a retail licence to supply small use customers, ORRE submitted a draft standard form contract with its retail licence application. Section 50 of the Electricity Act provides that the ERA must not grant a retail licence unless the ERA has approved the standard form contract under which the applicant will supply electricity to small use customers pursuant to the licence.
9. Under 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 Act, the relevant regulations, any other written law, or any term, condition or provision of the electricity retail licence.
10. The ERA considers that the standard form contract meets the relevant regulatory requirements.

2.3 Public consultation

11. On 23 February 2023, the ERA sought public comment on ORRE's licence applications. No submissions were received.

² DevelopmentWA was formed from a merger between Landcorp and the Metropolitan Redevelopment Authority. It is the State Government's central development agency with a portfolio of industrial, commercial and residential projects.

2.4 Assessments

2.4.1 *Financial assessment*

12. Under section 19(1) of the Electricity Act, the ERA must grant a licence if it is satisfied that the licensee has and is likely to retain, or will acquire within a reasonable time, and is then likely to retain, the financial and technical resources to undertake the activities authorised by the licence(s).
13. The ERA engaged financial and technical consultants (experts) to examine the financial and technical ability of ORRE to undertake the activities authorised by the licences.
14. Following the financial assessment of ORRE's applications, the financial consultant concluded that ORRE complies with the financial requirements of section 19(1) of the Electricity Act.
15. The ERA has considered the financial consultant's report, including the information relied on in the report and the reasons for its conclusion. The ERA agrees with the consultant's conclusions in the financial report for the following reasons:
 - a. The financial assessment of ORRE's immediate parent company, Zenith Micro-Grid Pty Ltd and ultimate parent company, Elemental Infrastructure HoldCo Pty Ltd and its controlled entities (the Group), show that the Group has the capacity to finance the operation of the microgrid, including the supply of electricity to the microgrid's customers.
 - b. Under the agreement between ORRE and Development WA, ORRE (through the Group's entities) only needs to cover a portion of the costs to support its distribution and retailing operations, as capital costs for the construction of the distribution network will be funded by Development WA.
 - c. ORRE's 15-year forecast of its revenue, expenses and cashflows indicate it can support its funding requirements.

2.4.2 *Technical assessment*

16. Following the technical assessment of ORRE's applications, the technical consultant concluded that ORRE complies with the technical requirements of section 19(1) of the Electricity Act.
17. The ERA has considered the technical consultant's report, including the information relied on in the report and the reasons for its conclusion. The ERA agrees with the consultant's conclusions in the technical report for the following reasons:
 - a. Synergy, a service provider with considerable experience in providing electricity retail services to residential and commercial customers, will provide metering, billing, and customer support services on behalf of ORRE under a services contract.
 - b. The asset management documents provided in the distribution licence application demonstrate that ORRE can operate and maintain the microgrid effectively.
 - c. ORRE will utilise the resources and experience of its parent company, Zenith Energy, which operates 14 remote generation and microgrid assets across Western Australia and the Northern Territory, providing a contracted and operational capacity of 407 MW to a diverse mix of customers.

2.4.3 Public interest

2.4.3.1 Electricity Industry Act 2004

18. Section 9 of the Electricity Act requires that the ERA must not grant a licence unless it is satisfied that it would not be contrary to the public interest to do so. Without limiting the other matters that may be taken into account, section 9(2) of the Electricity Act requires that the ERA 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.

2.4.3.2 Economic Regulation Authority Act 2003

19. When making a decision on whether or not to grant a licence, the ERA must also have regard to the matters set out in section 26(1) on 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 Under section 26(2) of the ERA Act, the ERA has discretion as to the weight it gives to the matters in section 26(1).

2.4.3.3 Assessment of the public interest

20. The ERA has considered:

- The matters set out in section 9(2) and section 8(5) of the Electricity Act.
- Section 19(1) of the Electricity Act.
- Section 26(1) of the ERA Act.
- The reports of the financial and technical experts engaged by the ERA.
- Information provided in ORRE's application on its ability to undertake the activities to be authorised by the licences.

21. The ERA is satisfied that granting an electricity distribution licence and electricity retail licence to ORRE would not be contrary to the public interest, because:

- a. The distribution and retail licences will require ORRE to provide electricity supply services in accordance with performance and service standards, including providing consumer protections to customers on the microgrid (sections 8(5)(d) and (g) of the Electricity Act and sections 26(1)(a) and (b) of the ERA Act).⁴
- b. Fifty percent of the electricity supplied to customers will come from renewable sources, which will be further increased to sixty five percent over time. This is aligned to the environmental considerations ERA is required to give when considering an application for granting a licence (sections 8(5)(a) and (g) of the Electricity Act and section 26(1)(a) of the ERA Act).
- c. ORRE customers will benefit from a lower retail tariff than the equivalent regulated tariff that the customer is eligible for (section 8(5)(d) of the Electricity Act and sections 26(1)(a) and (b) of the ERA Act).
- d. The distribution and retail licences granted to ORRE will be non-exclusive and customers on the microgrid will have the ability to choose their retailer if more than one retailer is operating on the microgrid (sections 8(5)(d) and (f) of the Electricity Act and sections 26(1)(a), (e) and (f) of the ERA Act).
- e. The development will create employment opportunities, such as in the hospitality and retail sectors (section 8(5)(c) of the Electricity Act).

⁴ The protections include those available under the *Code of Conduct for the Supply of Electricity to Small Use Customers* and access to the Electricity Ombudsman Scheme.