

Decision on Generation Licence Application for NewGen Power Kwinana Pty Ltd

22 February 2006

Economic Regulation Authority

 WESTERN AUSTRALIA

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DECISION

1. On 6 January 2006 NewGen Power Kwinana Pty Ltd (**Applicant**) submitted an application to the Economic Regulation Authority (**Authority**) for a Generation Licence to construct and operate the proposed gas fired NewGen Kwinana Power Station for a term of 30 years (**Application**). The Power Station is located in the Kwinana Industrial Area at Kwinana approximately 30 km south of Perth.
2. The Application was made pursuant to section 10 of the *Electricity Industry Act 2004* (**Act**).
3. Pursuant to section 19 and section 9 of the Act, the Authority approves the grant of a Generation Licence to the Applicant to supply electricity subject to, and in accordance with, the terms set out in the Licence. The term of the licence is 30 years.

REASONS

4. Section 19 of the Act sets out the factors governing the Authority's decision to grant, renew, or transfer an electricity supply licence. Subsections (1) and (2) are reproduced below:
 - (1) *Subject to section 9, the Authority must grant, renew or approve the transfer of a licence if it is satisfied that the applicant –*
 - (a) *has, and is likely to retain; or*
 - (b) *will acquire within a reasonable time after the grant, renewal or transfer, and is then likely to retain,*

the financial and technical resources to undertake the activities authorised, or to be authorised by the licence.
 - (2) *The Authority must take reasonable steps to make a decision in respect of an application for –*
 - (a) *the grant or renewal of a licence; or*
 - (b) *approval to transfer a licence,*

within 90 days after the application is made.
5. The Authority engaged Stamfords to examine the financial capacity of the Applicant to undertake the activities authorised by the licence. Following the assessment Stamfords concluded that the Applicant has the financial resources to undertake the activities authorised by the Generation Licence under the Act.
6. The Authority engaged McGill Engineering Services Pty Ltd (**McGill Engineering**) to examine the technical capacity of the Applicant to undertake activities authorised by the licence. Following the assessment McGill Engineering concluded that the Applicant has, or will acquire soon after approval, the technical resources to undertake the activities authorised by the Generation Licence under the Act.

7. The Authority has considered the Application and the advisers' reports and is satisfied that the Applicant meets the requirements of section 19(1) of the Act.
8. Section 9 of the Act states that the Authority must not exercise a power conferred by Division 3 of the Act (General licensing provisions) unless the Authority is satisfied that it would not be contrary to the public interest to do so.
9. A notice regarding receipt of the Application was published on the Authority's website in January 2006. The Authority did not receive any objection to the grant of a Generation Licence to the Applicant.
10. In its consideration of the Application, the Authority considered the public interest, including the matters set out in section 8(5) of the Act as required by section 9(2) of the Act. The Authority is satisfied that approval of a Generation Licence to the Applicant would not be contrary to the public interest.
11. The Authority has therefore decided to grant a Generation Licence to NewGen Power Kwinana Pty Ltd for the construction and operation of the NewGen Kwinana Power Station in the Kwinana Industrial Area. The term of the licence is 30 years.
12. As required by section 23(1) of the Act, the Authority will publish notice of its approval of the Application in the *Government Gazette* as soon as is practicable.