



**Western Power**

Our Ref: WAIT/FILE/(146)V1  
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Mr Adam Phillips  
Licensing, Monitoring and Customer Protection Division  
Economic Regulation Authority  
Level 6, Governor Stirling Tower  
197 St Georges Terrace  
**PERTH WA 6000**

Dear Adam

## **SUBMISSION ON ELECTRICITY LICENCE APPLICATION GUIDELINES AND GENERATION LICENCE**

Western Power is pleased to present its response to the invitation by the Economic Regulation Authority (“**ERA**”) for public submissions on the draft Electricity Licence Application Guidelines and draft Generation Licence. Thank you for providing the opportunity to participate in the development of these documents.

The ERA’s consultative approach, in particular Western Power’s participation in the industry reference group that had input into the first draft of the Generation Licence, is appreciated. The favourable consideration and incorporation of the reference group’s views in the production of the draft Generation Licence demonstrates the ERA’s commitment to developing a generation licensing regime that has the support of the major industry participants.

### **Draft Generation Licence**

The consultative process to date has resulted in a draft document that is generally suitable, however we make the following comments and suggestions with the intention of identifying issues that may require further consideration and/or assisting in the improvement of the document:

**Clause 2.1 (b)** The wording of this subclause will preclude arrangements that Western Power Generation currently has in place, and may want to pursue in the future, for sale of electricity directly to customers. These arrangements generally involve supply for consumption to customers located on Western Power Generation sites and where there is no transfer over the South West Interconnected System. Such arrangements are contemplated in the relevant legislation, and in some circumstances the relevant codes preclude any other arrangement. It is essential that an entity holding a generation licence is not precluded from selling electricity to a customer when it is appropriate or necessary to do so, and that such arrangements can be conducted without the need to obtain and maintain a retail licence.

We also believe that the issue of sale of electricity by generators involved in joint venture cogeneration arrangements is not adequately contemplated.

Western Power would like the opportunity to discuss both of these issues with you with a view to ensuring that generation licensing does not preclude activities that are both appropriate, and in some circumstances, necessary.

**Clause 10** The general use of the words “this clause” is confusing. The wording should be more specific (eg – ‘this clause 10.1’)

**Clause 10.2 (c)** Suggest possible amendment to “*reasonably* take into consideration those submissions”

**Clause 11** This clause calls for the licensee to notify the ERA of any breach of applicable legislation. It is unclear however what transpires if the licensee is unaware of that breach.

**Clause 11.4** The ability of the ERA to direct the licensee to take any measure necessary to correct a breach or prevent a breach occurring again and specify a time limit by which this measure should be taken is a fairly broad power and possibly a quality of reasonableness should accompany the power to specify the time period.

**Clause 13.1** There does not appear to be any period of time within which the initial asset management plan must be submitted.

**Clause 13.3** Suggest amendment to: “Within 24 months after the commencement date, the licensee must conduct a review as to the effectiveness of the asset management plan and prepare and present to the Authority a report on the conclusions reached on that review, and thereafter, every 24 months, conduct a similar review and prepare and present a further report to the Authority”

**Schedule 1 2** It is suggested that there should be a statement that individual performance standards must be consistent with all written laws.

**Schedule 1 3.1** the words “...any breach required by law....” are unclear.

**Schedule 2 5** Having the various time periods in Schedule 2 results in the draft Generation Licence being more difficult to follow. It is suggested that the time periods are quoted in the relevant clause.

### **Draft Electricity Licence Application Guidelines (“Guidelines”)**

It is noted that the guidelines summarise information concerning applications for an electricity licence and do not appear to impose any obligations on the applicant.

Western Power would like to make three general observations:

- the extent of information that the ERA is requesting in order to assess licence applications appears excessive. An applicant should only be required to provide sufficient information to demonstrate its financial and technical capacity to establish and/or suitably operate generation infrastructure;
- it would be preferable for the ERA to produce guidelines that give detailed information on the application process and can accordingly be 'relied upon' by a licence applicant; and
- the disclaimer in the 'Important Notice' appears to excuse the ERA from any obligation to honour the strict privacy policy that it is required to adhere to. Applicants need to be assured that sensitive and confidential information tendered will be appropriately managed.

Specific comments that we have on the document are:

**Clause 6.1.9** This clause is unreasonable if the applicant intends using contractors for operation and maintenance. Also, in the case of a joint venture, providing the requested details for what might be a multinational parent company is onerous and unnecessary.

**Clause 6.3.2.11** This clause requires greater definition of requirements. As is, the provision of supporting documentation could be a massive exercise.

**Clause 6.3.4.2** Subcontractors should not be included. On any works, they are numerous and their turnover high. Maintaining such information would be an onerous and unnecessary task.

**Clause 12** How is commercially confidential information protected in this process?

**Clause 17** What right of appeal does the licensee have in relation to cancellation of a licence?

Western Power is pleased to make this submission in support of the implementation of a generation licensing regime pursuant to the *Electricity Industry Act 2004 (WA)*.

We are keen to discuss with you the issues we have identified with Clause 2.1 (b) of the draft Generation Licence. To facilitate discussion on that issue, or any other aspect of our submission, please contact Andrew Everett, Principal Adviser New Business, on telephone 9326 4636.

Yours sincerely

**GREG DENTON  
EXECUTIVE MANAGER  
STRATEGY AND REFORM**