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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

20 May 2005

Public Submissions on Draft Electricity Generation and Draft Electricity Retail Licences

Dear Mr Phillips

We appreciate the opportunity to comment on the draft Electricity Generation Licence and draft Electricity Retail Licence. AGL Energy Sales & Marketing Limited ("AGL ES&M") comments on the Draft Electricity Retail Licence only.

As a general principle, AGL ES&M is of the view that Electricity Retail Licences should be limited to the licensing of energy retailers to sell electricity. Other obligations of the licensee should be addressed in codes, guidelines or other regulations. This framework will avoid duplication, including the necessity of amending multiple documents when an obligation is changed. Given the acceptance by Australian governments of the need to rationalise energy regulation, AGL ES&M supports the introduction of licences that do not further increase the differences between States.

Audit

Before the licensee can approach independent experts with a view to engage their services for a performance audit it is necessary to obtain the scope of work. AGL ES&M submits that clause 16.3(b) should be removed and a new clause added after clause 16.1 so that the Authority will furnish the licensee with the scope of work prior to tenders being sought.

AGL ES&M is concerned that the Authority is able to appoint an independent expert if it disapproves of the independent expert submitted by the licensee. AGL ES&M seeks to understand the grounds on which a submission can be refused.

Individual Performance Standards

AGL ES&M submits that approved performance standards should not be included as an additional term or condition of the licence. AGL ES&M is of the view that performance standards should be contained within a guideline produced by the Economic Regulation Authority ("Authority"), in consultation with affected parties, with detailed explanation of the information required. AGL suggests the Authority consider the performance standards applied in other states when prescribing individual performance standards. Nationally consistent regulatory reporting across the states is preferred as it provides benefits from a cost and comparison perspective.

Time for action

AGL ES&M considers that clause 18 of the licence would be more appropriately captured in a reporting guideline. To maintain a national approach, AGL ES&M proposes that clause 18.1 be amended to 5 business days in line with similar reporting for South Australia and New South Wales.

AGL ES&M also proposes that time restrictions for action in clauses 12, 16, Schedule 1 Clause 2 and Schedule 1 Clause 3 be amended. With normal everyday business demands, it may be difficult to respond within such short prescribed time requirements. AGL ES&M submits that time obligations on the above clauses imposed on the licensee should be amended to "within a reasonable time".

Publishing Information

AGL ES&M is concerned the Authority can direct Retailer's to publish confidential performance information. In a competitive environment, it is necessary that some performance information remains confidential. AGL ES&M seeks assurance that performance information will be kept confidential where required. AGL ES&M would also like to understand how the Authority will determine the confidentiality of information and circumstances requiring it to be published so the process remains transparent.

Definitions

AGL ES&M suggests the following amendments to the defined terms in the licence:

"applicable legislation includes:...cont."

- Add "but is not limited to" after "includes".

"Coordinator means the Coordinator of Energy"

- Remove, as "Coordinator" does not appear in the body of the licence.

"Customer means a person... cont."

- "Person" should be defined as a term.
- It is noted that a this licence is granted for a licensee to sell electricity to a "customer". AGL ES&M questions whether a "customer" therefore includes a party to a contract, for the purchase of wholesale electricity, where the electricity is not transported via a transmission system?

We understand that the structure and contents of retail licences are being considered as part of the National Regulatory Framework, and suggest for consistency any national development be taken into account when finalising the WA licences.

Should you have any queries in regard to the above response, please contact Pia Bentick, Manager Retail Compliance on (08) 8299 4172.

Yours sincerely,



Sean Kelly
General Manager Retail Regulation