

Decision on Retail Licence Application for Newmont AP Power Pty Ltd

2 June 2009

Economic Regulation Authority



WESTERN AUSTRALIA

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DECISION

1. On 17 October 2008, Newmont AP Power Pty Ltd (Applicant) ACN: 133 305 307 applied to the Authority for the grant of an electricity retail licence to supply commercial and/or industrial customers in the South West Interconnected System (SWIS) in Western Australia.
2. The retail licence application was made pursuant to section 10 of the *Electricity Industry Act 2004* (Act).
3. Pursuant to sections 9 and 19 of the Act, the Authority approves the grant of the retail licence to the Applicant to supply electricity subject to, and in accordance with, the terms set out in the retail licence for a period of 15 years.

REASONS

1. The Authority engaged consultants BDO Kendalls (BDO) to examine the financial capacity of the Applicant to undertake the activities authorised by the retail licence. Following the assessment, BDO reported that it was satisfied that the Applicant has and will likely retain the financial resources to undertake the activities to be authorised by the licence.
2. The Authority engaged consultants Qualeng Consultants (Qualeng) to examine the technical capacity of the Applicant to undertake activities authorised by the generation licence. Following the assessment, Qualeng reported that it had formed the opinion that the Applicant has and is likely to retain the technical resources to undertake the activities authorised by the licence.
3. The Authority has considered the retail licence application including the consultants' assessments conducted for the purpose of the retail licence application and is satisfied that the Applicant meets the requirements of section 19(1) of the Act.
4. 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.
5. A notice seeking public submissions on the retail licence application was published on the Authority's web site, on 29 October 2008. On 18 November 2009, the period for public consultation was extended at the request of TransAlta Energy (Australia) Pty Ltd (TransAlta), which intended to lodge an objection to the grant of the licence. The Authority received two submissions concerning the grant of a retail licence to the Applicant; one from TransAlta and the other from Southern Cross Energy Pty Ltd. Both companies are subsidiaries of TransAlta Corporation (Canada).
6. After giving appropriate consideration to the two submissions (and their subsequent discussions with the Authority's Secretariat) referred to in paragraph 5, the Authority considered the public interest, including the matters set out in section 8(5) of the Act as required by section 9(2) and is satisfied that approval of a retail licence to the Applicant would not be contrary to the public interest.
7. The Authority has therefore decided to grant a retail licence to the Applicant for the supply of electricity to large use customers in the South West Interconnected System (SWIS) for a period of 15 years.

8. As required by section 23(1) of the Act, the Authority will publish a notice of its approval of the application in the *Government Gazette* as soon as is practicable.

LYNDON ROWE
CHAIRMAN