



TransAlta Energy (Australia) Pty Ltd

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Assistant Director Licensing
Economic Regulation Authority
Level 6 Governor Stirling Tower
197 St Georges Terrace
PERTH WA 6000

Dear Assistant Director Licensing

Re: Application by Newmont AP Power Pty Ltd (Newmont AP) for Electricity Retail Licence (Licence)

We refer to the Economic Regulation Authority's (ERA) notice dated 28 October 2008 inviting public submissions relating to its consideration of Newmont AP's application for the Licence and the ERA's notice of extension of time for submissions dated 17 November 2008.

For the reason outlined below, TransAlta Energy (Australia) Pty Ltd (**TransAlta**) submits that the grant to Newmont AP of the Licence is not in the public interest and should be refused.

1. Background

Goldfields Power Pty Ltd (**GPPL**) (a company in which TransAlta's wholly owned subsidiary TEC Kalgoorlie Pty Ltd has a 50% shareholding) is a party to a confidential Power Purchase Agreement (**PPA**) with Newmont Power Pty Ltd (**NPPL**) under which GPPL supplies electricity to NPPL. The PPA imposes on NPPL clear obligations of exclusivity in relation to this electricity supply.

GPPL holds generation and retail licences under the *Electricity Industry Act 2004* (WA) (**Act**).

2. Submission

Under section 9(1) of the Act the ERA must not grant a licence if doing so would be contrary to the public interest.

When determining the public interest, section 8(5) of the Act prescribes a number of considerations which must be taken into account. One of these considerations is the interests of any licensee in respect of the area to which the licence, if granted, will apply.

TransAlta is concerned that if the ERA grants the Licence to Newmont AP, it will lead to a breach of the PPA by NPPL. This will have negative impacts on TransAlta's business in the region.

Accordingly, TransAlta submits that the grant to Newmont AP of the Licence is not in the public interest because it may result in adverse impacts on a licensee.

TransAlta would be pleased to meet with the ERA to discuss this submission at a mutually convenient time. If the ERA requires further information from TransAlta in connection with its deliberations, please contact us directly.

Yours faithfully

Aron Willis
General Manager
TRANSALTA ENERGY (AUSTRALIA) PTY LTD