

# Decision on gas trading licence application and standard form contract

IPower Pty Ltd and IPower2 Pty Ltd trading as Simply Energy

6 February 2018

**Economic Regulation Authority**

WESTERN AUSTRALIA

## Economic Regulation Authority

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## Decision

1. Pursuant to section 11WF of the *Energy Coordination Act 1994 (Act)*, the Economic Regulation Authority (**ERA**) approves the [standard form contract](#) for the sale of gas to small use customers<sup>1</sup> submitted by IPower Pty Ltd and IPower 2 Pty Ltd, a partnership trading as Simply Energy (**Applicant**).
2. Pursuant to sections 11K and 11S of the Act, the ERA has granted [Gas Trading Licence No. 16](#) to the Applicant.
3. Subject to its terms and conditions, the licence authorises the Applicant to sell gas transported through a distribution system<sup>2</sup> to small use customers for ten years (the maximum period allowed by section 11O of the Act).
4. As required by section 11T of the Act, the ERA will publish a notice of the grant of licence in the Government Gazette as soon as practicable.

## Reasons

5. On 12 October 2017, the Applicant [applied](#) for a gas trading licence to sell gas to small use customers within the Coastal Supply Area.<sup>3</sup>
6. Section 11G of the Act requires a person to hold a gas trading licence to sell gas to small use customers that is transported through a distribution system.

## Grant of licence

7. Under section 11S(1) of the Act, the ERA must grant a licence if it is satisfied that the Applicant has and is likely to retain, or will acquire within a reasonable timeframe, and is then likely to retain, the financial and technical resources to undertake the activities authorised by the licence.
8. The ERA engaged financial and technical consultants to examine the Applicant's financial and technical resources to undertake the activities to be authorised by a licence. Following the assessment of the application:
  - The financial consultant concluded that the Applicant complies with the financial requirements under section 11S(1) of the Act; and
  - The technical consultant concluded that the Applicant complies with the technical requirements under section 11S(1) of the Act.

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<sup>1</sup> Customers whose annual consumption of gas is not more than 1 terajoule.

<sup>2</sup> 'Distribution system' is defined in section 3 of the Act and includes a system of pipelines, mains, and gas service pipes, designed to operate at a pressure of less than 1.9 megapascals, for the transportation of gas to customers.

<sup>3</sup> The 'Coastal Supply Area' stretches from Geraldton to Augusta and includes the Perth metropolitan area. The boundaries of this area are defined in map ERA-GAS-014, which is part of the licence.

9. Section 11K of the Act requires that the ERA must not grant a licence unless it is satisfied that it would not be contrary to the public interest to do so. Section 11H(3) of the Act, without limitation, specifies the matters the ERA must consider.
10. From 23 October 2017 to 13 November 2017, the ERA sought public comment on the Applicant's licence application in accordance with the ERA's [Public Consultation Guidelines – Electricity, Gas and Water Licences and Electricity & Gas Standard Form Contracts \(Consultation Guidelines\)](#). The ERA received no submissions.
11. The ERA has considered the matters set out in section 11H(3) of the Act, as required by section 11K. Having regard to this, and the assessments of the Applicant's financial and technical resources to undertake the activities to be authorised by the licence, the ERA is satisfied that granting a gas trading licence to the Applicant would not be contrary to the public interest.

### **Approval of standard form contract**

12. Section 11WE of the Act provides that the ERA must not grant, renew or approve a transfer of a licence unless the applicant has submitted a draft standard form contract, and the ERA has approved the standard form contract under which the applicant will supply gas to customers pursuant to the licence.
13. The Applicant provided its draft standard form contract for the supply of gas to small use customers with its licence application. The ERA provided feedback to the Applicant about the contract. In response to this feedback, the Applicant amended the draft contract.
14. In accordance with the Consultation Guidelines, the ERA undertook public consultation on the proposed standard form contract from 2 January 2018 to 23 January 2018. The ERA received no submissions.
15. Under section 11WF of the Act, the ERA must not approve a standard form contract if it considers that the contract will not meet the requirements of the *Energy Coordination (Customer Contracts) Regulations 2004*, will be inconsistent with the Act or any other written law, or will be inconsistent with any term, condition or provision of the licence.
16. The ERA has considered the Applicant's proposed gas standard form contract and is satisfied that it meets the requirements of section 11WF of the Act.