

# Decision on electricity distribution and retail licence applications and standard form contract

Enwave WA Pty Ltd

5 March 2020

**Economic Regulation Authority**

WESTERN AUSTRALIA

D212432

## Economic Regulation Authority

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## Decision

1. Pursuant to section 51 of the *Electricity Industry Act 2004* (Electricity Act), the Economic Regulation Authority approves Enwave WA Pty Ltd's [standard form contract](#) for the sale of electricity to small use customers.<sup>1</sup>
2. Pursuant to sections 9 and 19 of the Electricity Act, the ERA grants Enwave WA electricity distribution licence EDL7 and electricity retail licence ERL28. ERL28 permits Enwave WA to supply electricity to small use customers.
3. The grant of EDL7 is subject to and in accordance with the terms and conditions in the licence for a period of 30 years.
4. The grant of ERL28 is subject to and in accordance with the terms and conditions in the licence for a period of 15 years.

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<sup>1</sup> A small use customer consumes no more than 160 megawatt-hours of electricity per year.

## Reasons

### Licence

5. On 5 December 2019, Enwave WA [applied](#) for an electricity distribution licence to operate a microgrid for Lot 600 in Peel Business Park and an electricity retail licence to sell electricity to commercial and industrial customers connected to the microgrid.
6. DevelopmentWA is developing Peel Business Park and appointed Enwave WA to operate the microgrid.<sup>2</sup>

### Standard form contract

7. As it applied for a retail licence to supply small use customers, Enwave WA submitted a draft standard form contract with its retail licence application. Section 50 of the Electricity Act provides that the ERA must not grant a retail licence unless the ERA has approved the standard form contract under which the applicant will supply electricity to small use customers pursuant to the licence.
8. On 4 February 2020, the ERA undertook public consultation on the draft standard form contract. The period for submissions closed on 24 February 2020. The ERA did not receive any submissions.
9. Under the Electricity Act, the ERA must not approve a standard form contract if it considers that the contract will not meet the requirements of the Act, the relevant regulations, any other written law, or any term, condition or provision of the electricity retail licence.
10. The ERA considers that the standard form contract meets the relevant regulatory requirements.

### Public consultation

11. On 10 December 2019, the ERA sought public comment on the licence applications. The ERA did not receive any submissions.

### Financial and technical assessments

12. Under section 19(1) of the Electricity 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.
13. The ERA engaged financial and technical consultants to examine the financial and technical ability of Enwave WA to undertake the activities to be authorised by the licences.

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<sup>2</sup> DevelopmentWA was formed from a merger between Landcorp and the Metropolitan Redevelopment Authority. It is the State Government's central development agency with a portfolio of industrial, commercial and residential projects.

14. Following the financial assessment of Enwave WA's applications, the financial consultant concluded that Enwave WA complies with the financial requirements of section 19(1) of the Electricity Act. The ERA has considered the financial consultant's report, including the information relied on in the report and the reasons for its conclusion. The ERA agrees with the conclusions in the financial consultant's report for the following reasons:
- a. Under the agreement between Enwave WA and DevelopmentWA, Enwave WA only needs capital to cover the costs of constructing customer connections and maintaining the microgrid.
  - b. Enwave WA's parent company, Enwave Australia Pty Ltd, is providing financial support to fund the capital and operating costs of Enwave WA's distribution and retail businesses until they become profitable.
  - c. The financial assessment of Enwave Australia's financial position shows it has the capacity to meet Enwave WA's funding needs when required.

Taking the above matters into account, the ERA is satisfied that Enwave WA complies with the financial requirements of section 19(1) of the Electricity Act.

15. Following the technical assessment of Enwave WA's applications, the technical consultant concluded that Enwave WA complies with the technical requirements of section 19(1) of the Electricity Act. The ERA has considered the technical consultant's report, including the information relied on in the report and the reasons for its conclusion. The ERA agrees with the conclusions in the technical consultant's report for the following reasons:
- a. The asset management documents provided in the distribution licence application demonstrate that Enwave WA can operate and maintain the microgrid effectively.
  - b. Enwave WA's parent company, Enwave Australia Pty Ltd, has experience in operating small utility networks, such as electricity microgrids, in other jurisdictions in Australia. Enwave Australia will provide support to Enwave WA to operate the microgrid.
  - c. Enwave WA's retail licence application provides an adequate description of how it will manage customer accounts and information.

Taking the above matters into account, the ERA is satisfied that Enwave WA complies with the technical requirements of section 19(1) of the Electricity Act.

### **Assessment of public interest – *Electricity Industry Act 2004***

16. Section 9(1) of the Electricity Act states that the ERA must grant a licence if it is satisfied that it would not be contrary to the public interest to do so. In determining whether the grant would not be contrary to the public interest, section 8(5) of the Electricity Act provides that, without limiting the other matters that may be taken into account, matters that are to be taken into account by the Governor in determining whether the making of the order would not be contrary to the public interest are:
- a. environmental considerations.
  - b. social welfare and equity considerations, including community service obligations.
  - c. economic and regional development, including employment and investment growth.

- d. the interests of customers generally or of a class of customers.
- e. the interests of any licensee, or applicant for a licence, in respect of the area or areas to which the order, if made, would apply.<sup>3</sup>
- f. the importance of competition in electricity industry markets.
- g. the policy objectives of government in relation to the supply of electricity.

### **Assessment of public interest – *Economic Regulation Authority Act 2003***

17. The ERA must also have regard to the matters set out in section 26 of the *Economic Regulation Authority Act 2003* (ERA Act):<sup>4</sup>

- a. the need to promote regulatory outcomes that are in the public interest.
- b. the long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets.
- c. the long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets.
- d. the need to encourage investment in relevant markets.
- e. the legitimate business interests of investors and service providers in relevant markets.
- f. the need to promote competitive and fair market conduct.
- g. the need to prevent abuse of monopoly or market power.
- h. the need to promote transparent decision-making processes that involve public consultation.

### **ERA assessment of public interest**

18. The ERA has considered section 9(1) of the Electricity Act, the matters set out in section 8(5) of the Electricity Act, the reports of its financial and technical experts and evidence of Enwave WA's ability to undertake the activities to be authorised by the licences provided with the application.

19. In all circumstances, after taking into account the matters in section 8(5) of the Electricity Act and section 26 of the ERA Act, the ERA is satisfied that granting an electricity distribution licence and electricity retail licence to Enwave WA would not be contrary to the public interest. The reasons for this include:

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<sup>3</sup> The Governor may, by order, exempt any person or class of persons from all or any of the provisions of section 7(1) to (4) covering the requirement for a licence.

<sup>4</sup> The ERA has discretion as to the weight it gives to each of the matters listed in section 26 of the ERA Act in making its decision on Enwave WA's applications for an electricity distribution licence and electricity retail licence.

- a. The distribution and retail licences will require Enwave WA to provide electricity supply services in accordance with performance and service standards and provide consumer protections to customers on the microgrid.<sup>5</sup>
- b. The distribution and retail licences granted to Enwave WA will be non-exclusive and Enwave WA has advised that other retailers will be allowed to operate on the microgrid in competition to Enwave WA.
- c. Fifty per cent of the electricity supplied to customers will come from renewable sources. Solar generation and battery storage will be connected to the microgrid.
- d. Enwave WA will offer customers a retail tariff that is lower than the equivalent regulated tariff that the customer is eligible for.

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<sup>5</sup> The protections include those available under the *Code of Conduct for the Supply of Electricity to Small Use Customers* and access to the Electricity Ombudsman Scheme.