

Decision on Amendment to Customer Definition - Electricity Licences

29 January 2009

Economic Regulation Authority

 WESTERN AUSTRALIA

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DECISION

1. The Economic Regulation Authority (Authority) has determined that the definition of customer in all electricity licences is inconsistent with the definition of customer in the *Electricity Industry Act 2004 (Act)* and that all electricity licences require amendment to rectify this inconsistency.
2. Pursuant to section 22 and section 9 of the Act, the Authority approves the amendment to all electricity licences whereby the definition of customer in all electricity licences is the same as the definition in the Act.

REASONS

3. In the Act, the term customer is defined as:
a person to whom *electricity* is sold for the purpose of consumption.

In all electricity licences the term customer is defined as:

a person to whom *electricity* is sold for the purpose of consumption. For the avoidance of doubt, a *customer* is not a person who resells *electricity*, but is the person who is the end user or consumer of the *electricity*.

The second sentence of the licence definition was included when the electricity licence template was designed, in 2004.

4. At that time, the *Electricity Industry Exemption Order 2005 (2005 Exemption Order)* was not promulgated and the definition was extended, primarily for retail licences, to clarify that the customer was the person who consumed electricity (rather than an on-seller), reflecting the policy intent at the time, that on-sellers of electricity involved with commercial premises; e.g. strata companies, lifestyle villages and caravan parks were not to be licensed. It was also intended that the extended definition would clarify for a retailer who its customers actually were.
5. Following the gazettal of the 2005 Exemption Order, the qualification in the customer definition in electricity licences was no longer appropriate.
6. The retention of this qualified definition, post the 2005 Exemption Order, contradicts clear customer supply arrangements in the electricity supply market and, in particular, potentially requires retailers to assume customer service responsibilities for persons, where a direct contractual relationship between that retailer and person does not exist.
7. Section 9 of the Act states that the Authority must not exercise a power conferred by Division 3 of the Act unless the Authority is satisfied that it would not be contrary to the public interest to do so. The amendment corrects an inconsistency in all electricity licences and the proposed correction did not warrant a period of public consultation.
8. In its consideration of the amendment, the Authority considered the public interest, including the matters set out in section 8(5) of the Act as required by section 9(2) of the Act. The Authority is satisfied that approval of this amendment would not be contrary to the public interest.

9. The Authority has therefore decided to amend all electricity licences by removing the existing definition of customer and replacing it with the definition from the Act.

LYNDON ROWE
CHAIRMAN