

# Decision on standard form contract and application to amend Electricity Retail Licence 18

AER Retail Pty Ltd

3 September 2015

**Economic Regulation Authority**

WESTERN AUSTRALIA

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Economic Regulation Authority  
Perth, Western Australia  
Phone: (08) 6557 7900

## Decision

1. Pursuant to section 51 of the *Electricity Industry Act 2004* (**Act**), the Economic Regulation Authority (**Authority**) approves the standard form contract for the supply of electricity to small use business customers as submitted by AER Retail Pty Ltd (**Applicant**).
2. Pursuant to sections 9 and 21 of the Act, the Authority approves the amendment of Electricity Retail Licence 18 (**ERL18**), subject to, and in accordance with, the terms set out in the retail licence.
3. As required by section 23(1) of the Act, the Authority will publish a notice of the grant of licence in the Government Gazette as soon as practicable.

## Reasons

4. On 16 July 2015, the Applicant applied for the amendment of ERL20 to allow for the sale of electricity to small use customers. A small use customer is a customer who consumes up to 160 MWh per annum.<sup>1</sup>

### Standard form contract

5. Section 50(2) of the Act provides that where a licence was granted but the licensee did not intend to supply small use customers, a licensee may, subsequent to the grant of a licence, submit to the Authority a draft of a standard form contract under which the licensee will supply electricity to small use customers pursuant to the licence if the standard form contract is approved by the Authority.
6. The Applicant provided its draft standard form contract for the supply of electricity to small use business customers with its licence amendment application.
7. The Authority undertook public consultation on the proposed standard form contract from 27 July to 17 August 2015. No submissions were received.
8. Under the Act, the Authority must not approve a standard form contract if it considers that the contract will not meet the requirements of the contract regulations, will be inconsistent with the Act or any other written law, or will be inconsistent with any term, condition or provision of the licence concerned.
9. The Authority has considered the Applicant's proposed electricity standard form contract. The Authority is satisfied that the contract meets the requirements of the Act.

### Amendment of licence

10. Pursuant to section 21 of the Act, the Authority may amend a licence if the applicant has made the application in a form approved by the Authority.

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<sup>1</sup> At the time of this decision, a contestable customer is one who consumes more than 50MWh of electricity per annum. Contestable small use customers' annual electricity bill range from around \$12,460 to \$39,515 (A1 tariff). Please refer to our [website](#) for further information about small use electricity customers.

11. Section 9(1) of the Act states that the Authority must not exercise a power conferred by Part 2, 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.
12. Section 9(2) of the Act provides that, when determining whether the exercise of the power would not be contrary to the public interest, the Authority must, without limiting the other matters that may be taken into account, take into account the matters referred to in section 8(5) of the Act.
13. The Authority undertook public consultation on the proposed application to amend ERL18 from 21 July 2015 to 11 August 2015. No submissions were received.
14. The Authority considered it necessary to have an assessment undertaken of the applicant's technical resources to comply with the more stringent regulatory requirements imposed on licensees supplying electricity to small use customers. Following the assessment, the consultant concluded that the Applicant has and is likely to retain the technical resources to undertake the activities authorised by the licence.
15. Section 101 of the Act provides that it is a condition of every retail licence that the licensee cannot supply electricity to small customers unless the licensee is a member of the Energy & Water Ombudsman Scheme.
16. The Applicant has provided a written commitment to apply to the Energy and Water Ombudsman for membership. The Authority is satisfied that the Applicant will, upon grant of the amendment of the licence, become a member of the ombudsman scheme.
17. In its consideration of the Application, the Authority considered the public interest, including all of the matters set out in section 8(5) of the Act as required by section 9(2) and the Applicant's capacity to undertake the activities authorised by the licence. The Authority is satisfied that approval of the amendment of ERL18 to authorise the sale of electricity to small use business customers would not be contrary to the public interest.