



Application by

**Green Pacific Energy Bell Bay Pty Ltd
(ACN 106 553 682)**

for renewal of an

**Electricity Supply Industry
Generation Licence**

REPORT OF THE REGULATOR

May 2004

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1 INTRODUCTION

1.1 Background

The Regulator is empowered by the *Electricity Supply Industry Act 1995* (the Act) to consider and determine licence applications and issue licences. Under the *Electricity Supply Industry Regulations 1996*, a licence for generation operations is not required where the generator is not connected to the power system and does not supply electricity for sale.

Green Pacific Energy Bell Bay Pty Ltd (GPEBB) is the holder of an electricity generation licence, which expires on 30 June 2004. On 29 March 2004, the Regulator received an application for renewal of the licence for the term of two years.

Section 21(4) of the Act provides that the Regulator must not unreasonably refuse an application for renewal of a licence.

The Regulator has determined to proceed on the basis that it would only be reasonable to refuse an application for renewal of a licence if the applicant fails to meet the criteria for the grant of a licence. Accordingly, applications for renewal will be treated as if they are applications for new licences, subject to the Regulator reserving the right to reduce the scope of consultation in respect of the renewal application, if appropriate.

This report is issued in accordance with the Regulator's *Information for Licence Applicants: Electricity Industry Guideline No. 1* (the Guideline). The Guideline provides that once the Regulator has made a decision on a licence application, the Regulator will issue a report summarising the substance of public submissions received and stating the decision and the reasons for it.

1.2 Electricity Supply Industry Act 1995

The two key issues upon which the Regulator must be satisfied before a generation licence may be issued under the Act are:

- (a) the applicant is a suitable person to hold the licence; and
- (b) the proposed generating plant will generate electricity of the appropriate quality for the relevant transmission or distribution network.

The responsibility of the Regulator is bounded by the powers and functions conferred by the Act. The Regulator may only have regard to matters which relate to areas of the Regulator's interest as provided for in the Act.

1.3 Consultation

Public consultation was undertaken in January 2004 in relation to the transfer of the licence from Energy Equipment Pty Ltd to Green Pacific Energy Bell Bay Pty Ltd. Only one submission was received as a result of that consultation and the issues raised in that submission were not relevant to the exercise of the Regulator's discretion. In light of this, it was decided not to seek public comment in relation to the application for renewal.

2 REGULATOR'S DECISION AND REASONS

2.1 Regulator's decision on the application

The Regulator has decided to issue to the applicant, Green Pacific Energy Pty Ltd, a licence authorising operations for the generation of electricity for a period of two years starting from 1 July 2004.

2.2 Reasons for Regulator's decision

The Regulator's Office has undertaken a due diligence analysis of the licence renewal application. That involved assessing whether or not the applicant had complied with the procedural requirements for the making of an application. Furthermore, the due diligence process involved the Regulator determining whether he was satisfied as to the more substantial issues of suitability to hold a licence and generation of electricity of the appropriate quality.

Section 21(3) of the Act provides that:

“An application for renewal of a licence must be made, in writing, to the Regulator at least 3 months, but not more than 6 months, before the end of the licence term (but the Regulator may grant an exemption from this requirement in an appropriate case).”

The application was made in writing and was received by the Regulator on 29 March 2004. The licence term expires on 30 June 2004 and the application for renewal was, therefore, received within the time period specified in section 21(3). Accordingly, the application met the requirements specified in section 21(3) and was a valid application.

2.2.1 Suitability of applicant to hold the licence

Section 19(3) of the Act provides that, in deciding the issue of suitability to hold a licence, the Regulator may consider the following factors:

- (a) the applicant's previous commercial and other dealings and the standard of honesty and integrity shown in those dealings (section 19(3)(a));
- (b) consider the financial, technical and human resources available to the applicant (section 19(3)(b)); and
- (c) the applicant's officers and major shareholders and their previous commercial and other dealings and the standard of honesty and integrity shown in those dealings (including breaches of statutory and other legal obligations) (section 19(3)(c)).

2.2.2 Previous dealings and the standard of honesty and integrity shown in those dealings

The Regulator has made relevant enquiries and is satisfied that the applicant is a suitable person to hold the licence.

2.2.3 Applicant's technical and human resources

The applicant and its personnel have relevant experience and the Regulator is satisfied that the applicant has the technical and human resources appropriate for such a licence.

2.2.4 Generation of electricity of the appropriate quality for the relevant transmission network

The due diligence analysis identified the following risks relating to generation of electricity of the appropriate quality:

- (a) impact on the quality of supply to local customers;
- (b) network integrity; and
- (c) system security.

The probability of these risks arising in the operation of the licensed facility has been assessed as being low and the consequences of such risks as low.

The Regulator is of the view that these risks are appropriately managed by the applicant entering a connection agreement with the relevant Network Service Provider¹ (ie. Transend Networks Pty Ltd) and the licensee being obliged to comply with the Tasmanian Electricity Code (the Code) and the System Controller's directions. The effect of the licence is that the licensee is required to enter a connection agreement and comply with the Code and the System Controller's directions.

The Regulator is therefore satisfied that the generating plant will generate electricity of the appropriate quality for Transend Networks' transmission network.

¹ A Network Service Provider is defined in the Code as a person who engages in the activity of owning, controlling, or operating a transmission or distribution system and who holds or is deemed to hold a licence or has been exempted from the requirement to obtain a licence by a regulation under the ESI Act.