



ELECTRICITY SUPPLY INDUSTRY ACT 1995

NOTICE OF AMENDMENT No. 2

of the

ELECTRICITY GENERATION LICENCE

issued to

BELL BAY POWER PTY LTD

(ACN 097 079 331)

on

7 January 2002

BACKGROUND

Pursuant to the *Electricity Supply Industry Act 1995* (the Act), the Regulator is responsible for administering the licensing system for electricity entities. The Regulator has the authority to consider and determine licence applications, and can refuse or issue licences for the generation, transmission and retailing of electricity.

Pursuant to section 28(1) of the Act, the Regulator may amend the terms or conditions of an electricity entity's licence with the agreement of the entity or after giving notice and allowing a reasonable opportunity for the entity to make representations regarding the proposed amendment.

Bell Bay Power Pty Ltd (Bell Bay Power) is the holder of an electricity generation licence for the Bell Bay Power Station in Tasmania. On 31 October 2005 the Regulator received an application from Bell Bay Power to amend its licence to include three additional gas turbine generator units. These turbines will be fuelled by natural gas. Each turbine has the capacity to contribute up to 36 MW to the Tasmanian power system.

The additional generation assets will be owned by a new wholly owned subsidiary company of Hydro Tasmania, Bell Bay Three Pty Ltd (Bell Bay Three). Bell Bay Power will be responsible for development of the generation installation and for its ongoing operation, together with the necessary contracts associated with the operation of the gas turbine facility, procurement of gas and sales of the electrical output.

The connection to the transmission system is via a new connection point to the existing 110 kV lines that run from Bell Bay Power Station to George Town substation.

CONSULTATION

The Regulator invited public comment in respect of the application by way of notice in the *Mercury*, *Advocate* and *Examiner* newspapers and on the Regulator's website at www.energyregulator.tas.gov.au. Consultation commenced 9 November 2005 and concluded 30 November 2005. No submissions were received.

REGULATOR'S DECISION

In exercise of the power conferred by section 28(1) of the Act, the decision of the Regulator is to amend Bell Bay Power Pty Ltd's generation licence by:

1. amending Schedule 3 in the terms of the application dated 26 October 2005, save that Unit 101, 102 and 103 each has a capacity of 38.75 MW¹; and
2. inserting the following after Clause 5.2:
 - 5.3 This licence, to the extent that it relates to Unit 101, Unit 102 and Unit 103 of the **generating plant** referred to in Schedule 3, subsists so long as there is an effective services agreement between the **Licensee** and the owner of Unit 101, Unit 102 and Unit 103 of the **generating plant** referred to in Schedule 3; and

¹ Bell Bay Power advised a change in capacity from 36 MW to 38.75 MW subsequent to the application for amendment.

3. amending Clause 6.1 of Schedule 2 to read as follows:

6.1 This Licence is granted on the condition that:

(a) Unit 1 and Unit 2 described in Schedule 3 each will have the capacity to contribute up to approximately 114 MWe to the Tasmanian power system; and

(b) Unit 101, Unit 102 and Unit 103 described in Schedule 3 each will have the capacity to contribute approximately 36 MW to the Tasmanian power system

or such other capacity notified to the *System Controller*, the *Network Service Provider* with whom the *Licensee* has a *connection agreement* and the *Regulator*.

A copy of the amended licence will be placed in the Public Register and is available on the Regulator's website at www.energyregulator.tas.gov.au.

REASONS FOR DECISION

Statutory obligations

The relevant provisions of the Act provide that the Regulator may only issue a licence (including an amended licence) to an applicant if satisfied that:

1. the applicant is a suitable person to hold the licence. In deciding this the Regulator may consider:
 - the applicant's previous commercial and other dealings and the standard of honesty and integrity shown in those dealings;
 - the financial, technical and human resources available to the applicant; and
 - the officers and, if applicable, major shareholders of the applicant 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); and
2. the generating plant (or proposed generating plant) will generate electricity of the appropriate quality for the relevant transmission or distribution network.

In exercising powers under the Act, the Regulator's objectives are to:

- promote efficiency and competition in the electricity supply industry;
- establish and maintain a safe and efficient system of electricity generation, transmission, distribution and supply;
- establish and enforce proper standards of safety, security, reliability and quality in the electricity supply industry; and
- protect the interests of consumers of electricity.

The Regulator's assessment

The Regulator undertook a 'due diligence' assessment of the application to amend Bell Bay Power's generation licence, having regard to Bell Bay Power's compliance with statutory licence application requirements and the *Information for Licence Applicants: Electricity Industry Guideline No.1 (Version 4)*.

The Regulator noted the following representations by Bell Bay Power in support of its application for an amendment to its licence:

- Bell Bay Three will own the three generation units the subject of the amendment.
- Bell Bay Power will enter into a services agreement with Bell Bay Three to operate and maintain the generating plant the subject of the amendment.
- Transend Networks Pty Ltd (Transend Networks) has agreed to incorporate the new connection to its transmission system into the existing Connection Agreement between Bell Bay Power and Transend Networks.

The Regulator is satisfied as to the technical, human and financial resources available to Bell Bay Power and as to its previous commercial and other dealings and the standard of honesty and integrity shown in those dealings.

The Regulator is of the view that the risks associated with generating electricity of the appropriate quality (being the impact on the quality of supply to local customers, network integrity and system security) are appropriately managed by:

- Bell Bay Power entering into a connection agreement with the relevant Network Service Provider, Transend Networks; and
- Bell Bay Power being obliged to comply with the Tasmanian Electricity Code and National Electricity Rules.

The Regulator determined that the amendment of Bell Bay Power's licence is not inconsistent with the objectives of the Act or the objectives of the Regulator in exercising his powers and functions under the Act.

The Regulator is of the view that the licence, insofar as it relates to the three additional generating units, should reflect and be conditional upon the continuation of the services agreement between Bell Bay Power and Bell Bay Three. The intent behind this is to avoid circumstances where Bell Bay Power holds a licence to operate specific generating assets, where the contractual arrangement between Bell Bay Power and the owner of those generating assets no longer subsists. To give effect to this, the licence has been amended to include Clause 5.3.

As a consequence of amending Bell Bay Power's licence to include the three additional generating units, Clause 6.1 of Schedule 2 has been amended.

Bell Bay Power has agreed to these changes.

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Andrew John Reeves

REGULATOR

13 December 2005