

ELECTRICITY SUPPLY INDUSTRY ACT 1995

**ELECTRICITY SUPPLY INDUSTRY
GENERATION LICENCE**

issued to

BELL BAY POWER PTY LTD
ACN 097 079 331

Amended: 21 April 2004

Tasmanian Electricity Generation Licence

1 Definitions and Interpretation

- 1.1 In this licence, words and phrases appearing in italics have the meaning ascribed to them in Part 1 of Schedule 1.
- 1.2 This licence must be interpreted in accordance with the rules set out in Part 2 of Schedule 1.
-

2 Grant of Licence

The *Regulator*, in exercise of the powers conferred by section 19 of the *Act*, authorises the *Licensee* to undertake *generation* of electricity at the *generating plant*, subject to the conditions of this licence.

3 Licensee's Undertakings

- 3.1 In support of its application for this licence, the *Licensee* made the following representations and the *Regulator* accepts these as undertakings that *Hydro Tasmania* will fulfil its obligations as represented and that the *Licensee* will provide such documentation and supporting information as is required by this licence:
- (a) That the *Licensee* will be the beneficiary of a parent loan arrangement from *Hydro Tasmania* which will ensure that the *Licensee* will have sufficient financial resources to meet its reasonably foreseeable expenses;
 - (b) That technical expertise will be provided to the *Licensee* through an operations and maintenance contract with a subsidiary or related entity of Duke Energy International;
 - (c) That, if the *Licensee* requires the services of staff of *Hydro Tasmania*, such services will be provided pursuant to formal contractual arrangements;
 - (d) That the functions and accounting of the *Licensee* will be ring-fenced from those of *Hydro Tasmania*;
 - (e) That the *Licensee* will have a *connection agreement* with *Transend* in accordance with the *Code* and that, pending finalisation of the *connection agreement*, *Transend* has undertaken to enter an interim agreement with the *Licensee* based upon the existing *connection agreement* with *Hydro Tasmania* as it applies to the *Bell Bay Power Station*.
- 3.2 This licence is conditional upon the following matters:
- (a) That on or before 30 June 2002, the *Licensee* provide evidence, satisfactory to the *Regulator*, of the terms of the contract referred to in clause 3.1(b) above. Such evidence need not include disclosure of financial terms;
-

- (b) That on or before 30 June 2002, the *Licensee* provide evidence, satisfactory to the *Regulator*, that the functions and accounting of the *Licensee* are appropriately ring-fenced from those of *Hydro Tasmania*;
- (c) That on or before 30 June 2002, the *Licensee* provide to the *Regulator* a copy of the *connection agreement* referred to in clause 3.1(e) above.

4 Compliance with Laws and Other Requirements

- 4.1 The *Licensee* must comply with the *Act*, the *Regulations* and the *Code*.
- 4.2 For the avoidance of doubt, the *statutory licence conditions* are deemed to form part of this licence and the *Licensee* must comply with the *statutory licence conditions*.

5 Other Licence Conditions

- 5.1 This licence is subject to the conditions set out in Schedule 2.
- 5.2 This licence is subject to the condition that the *generating plant* conforms with the description provided in Schedule 3.

6 Term of Licence

Subject to this licence and the *Act*, this licence takes effect on and from 7 January 2002 for a period of ten (10) years.

7 Renewal of Licence

- 7.1 This licence is renewable subject to the *Licensee* meeting the following conditions at the time of renewal:
 - (a) the *Licensee* is not under external administration as defined in the *Corporations Law*;
 - (b) the *Licensee* has not surrendered the licence in accordance with the *Act*;
 - (c) the licence has not been cancelled by the *Regulator* in accordance with the *Act*; and
 - (d) the *Regulator* has not taken over the operations of the *Licensee* in accordance with the *Act*.
- 7.2 In considering any application for renewal, the *Regulator* will have regard to:
 - (a) the *Licensee's* previous commercial and other dealings and the standard of honesty and integrity shown in those dealings; and
 - (b) the financial, technical and human resources available to the *Licensee*; and
 - (c) the officers and, if applicable, major shareholders of the *Licensee* 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

- (d) other matters prescribed by regulation for the purposes of section 19(3) of the *Act*.

7.3 An application for renewal must be made in accordance with section 21 of the *Act*.

8 Payment of Fees and Charges

8.1 The *Licensee* must pay to the *Regulator* an initial licence fee for the period from the date of issue of the licence to 30 June 2002.

8.2 That fee referred to in clause 8.1 is payable 14 days after the date of issue of the licence or by such other date as advised by the *Regulator*.

8.3 The *Licensee* must pay to the *Regulator* an annual licence fee determined by the *Regulator* and notified to the *Licensee* in *writing* by 31 May of each year.

8.4 The annual licence fee is payable in advance on the first day of July in each year or as otherwise advised by the *Regulator*

9 Communications

9.1 A *communication* must be in *writing*.

9.2 A *communication* is to be regarded as having been given by the sender and received by the addressee :

- (a) when delivered in person to the addressee;
- (b) where sent by post, on the 3rd *business day* after the date of posting, if the *communication* is posted within Australia;
- (c) where sent by post, on the 7th *business day* after the date of posting, if the *communication* is posted outside Australia;
- (d) when, according to the sender's transmission report, received by facsimile transmission by the addressee; or
- (e) where sent by electronic mail, when the *communication* is recorded as having been first received at the electronic mail destination.

SIGNED by Craig Henderson, the)
delegate for the ~~Regulator~~ **REGULATOR** under the *Electricity*)
Supply Industry Act 1995,)

Schedule 1 - Definitions and Interpretation

1 Definitions

In this licence:

(a) words which are defined in the *Act* have the same meaning where used in this licence; and

(b) the following words or phrases have the following meanings:

“*Act*” means the *Electricity Supply Industry Act 1995* (Tas);

“*asset management plan*” means a written plan developed by the *Licensee* outlining the procedures, practices and strategies for managing, auditing and reporting on the asset management of the *Bell Bay Power Station*;

“*Bell Bay Power Station*” means the electricity generating power station located at Bell Bay in Tasmania and includes the *generating plant* and all ancillary machinery and equipment connected with it;

“*business day*” means a day on which banks are open for general banking business in Hobart, excluding a Saturday or Sunday;

“*Code*” means the Tasmanian Electricity Code issued in accordance with section 49A of the *Act*;

“*communication*” means a notice, agreement, consent, direction, representation, advice, statement or other communication required or given pursuant to or in connection with this licence;

“*compliance plan*” means a written plan developed by the *Licensee* outlining the procedures, practices and strategies for managing, auditing and reporting on the *Licensee’s* compliance with the *Act*, the *Regulations*, the *Code* and this licence, which must include (amongst other things) details of standards, indicators and targets for measuring the *Licensee’s* compliance performance and which must be in accordance with the Australian Standard 3806 Compliance Program;

“*connection agreement*” has the same meaning as in the *Code*;

“*generating plant*” means the generating plant located at the *Bell Bay Power Station* and described in Schedule 3;

“*guidelines*” means a written statement of regulatory intent or policy issued by the *Regulator* for the information and guidance of electricity supply industry participants;

“*Hydro Tasmania*” means the Hydro-Electric Corporation;

“*Licensee*” means Bell Bay Power Pty Ltd (ACN 097 079 331);

“*management plan*” means a *compliance plan* or *asset management plan*;

“*Network Service Provider*” has the same meaning as in the *Code*;

“*Regulations*” means any regulations made pursuant to the *Act*;

“*reporter*” means an appropriately qualified person engaged by the *Licensee* with the approval of the *Regulator* to report to the *Regulator* on compliance with and

adequacy of the *management plans* in accordance with terms of reference approved by the *Regulator*;

“*standards and procedures*” means performance standards or codes of conduct which are issued by the *Licensee* under clause 4.1 of Schedule 2 or by the *Regulator* under clause 4.3 of Schedule 2;

“*statutory licence conditions*” means the licence conditions referred to in the *Act* and applicable to this licence;

“*Tasmanian network*” has the same meaning as in the *Code*;

“*Transend*” means Transend Networks Pty Ltd;

“*writing*” includes any mode of representing or reproducing words, figures, drawings and symbols in a visible form.

2 Interpretation

In this licence, unless the context otherwise requires:

- (a) headings are for convenience only and do not affect the interpretation of this licence;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency;
- (e) a reference to a condition, clause, schedule or part is to a condition, clause, schedule or part of this licence;
- (f) a reference to terms of an offer or agreement is to all terms, conditions and provisions of the offer or agreement;
- (g) a reference to any statute, regulation, proclamation, order in council, ordinance or by-law includes all statutes, regulations, proclamations, orders in council, ordinances or by-laws varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, orders in council, ordinances, by-laws and determinations issued under that statute;
- (h) a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;
- (i) a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;
- (j) when italicised, other parts of speech and grammatical forms of a word or phrase defined in this licence have a corresponding meaning;
- (k) a period of time:

- (1) which dates from a given day or the day of an act or event is to be calculated exclusive of that day; or
 - (2) which commences on a given day or the day of an act or event is to be calculated inclusive of that day; and
- (1) an event which is required under this licence to occur on or by a stipulated day which is not a ***business day*** may occur on or by the next ***business day***.

Schedule 2 - Other Licence Conditions

1 Provision of Information

- 1.1 The *Licensee* must provide to the *Regulator*, in the manner and form decided by the *Regulator*, such information as the *Regulator* may from time to time require and which is, in the opinion of the *Regulator*, relevant to the *Regulator's* functions under the *Act*.
- 1.2 If the *Licensee* becomes aware of any breach, by the *Licensee*, of the *Act*, the *Regulations*, the *Code* or this licence, the *Licensee* must notify the *Regulator* of the breach as soon as practicable and provide such information as the *Regulator* requires in relation to the breach.

2 Prudential Reporting

- 2.1 The *Licensee* must report the occurrence of any of the following circumstances to the *Regulator* as soon as possible:
- (a) the *Licensee* is put under external administration as defined in the *Corporations Law*; or
 - (b) the *Licensee* experiences a significant change in its circumstances which may affect the *Licensee's* ability to meet its obligations under the *Act*, the *Regulations*, the *Code* or this licence; or
 - (c) the *Licensee* experiences a significant change in its circumstances which affects the manner in which it undertakes and/or fulfils its responsibilities under this licence.

3 Management Plans and Reports

- 3.1 The *Licensee* must develop and submit to the *Regulator*:
- (a) a *compliance plan*; and
 - (b) an *asset management plan*
- initially on or before 30 June 2002 or such other date as notified by the *Regulator*, subsequently by the first anniversary of that date, and thereafter, as required and advised by the *Regulator*.
- 3.2 The *management plans* are to be made in accordance with and take account of any *guidelines*.
- 3.3 The *Licensee* must undertake community consultation on aspects of the *management plans* which may affect the public.
- 3.4 The *Licensee* must consider any comments made by the *Regulator* on the *management plans* and, if required by the *Regulator*, amend provisions of the *management plans* related to reporting to the *Regulator*, including processes for capturing and analysing data that is to be reported.

- 3.5 Each year, by no later than 30 September or such other date nominated by the **Regulator**, the **Licensee** must provide a report to the **Regulator** which includes:
- (a) details of the **Licensee's** actual performance against the standards, indicators and targets included in the **management plans**;
 - (b) if the **Licensee's** actual performance is below the targets included in the **management plans**, the reasons for the failure to meet the targets and strategies for achieving the targets in the future;
 - (c) projections of the **Licensee's** future performance against the standards, indicators and targets included in the **management plans**;
 - (d) a description of the strategies adopted or to be adopted by the **Licensee** to achieve or exceed the performance targets included in the **management plans**; and
 - (e) details of the **Licensee's** adherence to relevant Australian Standards and other standards.
- 3.6 For the avoidance of doubt, the requirement under clause 3.5 of this Schedule 2 to prepare a report containing the information listed in paragraphs (a) to (e) of that clause does not limit the **Regulator's** powers, under clause 1.1 of this Schedule 2, the **Act** or the **Regulations**, to require the **Licensee** to produce information.
- 3.7 The **Regulator** may require and advise the **Licensee** that reports prepared in accordance with clause 3.5 of this Schedule 2 are to be accompanied by a report prepared by a **reporter**.
- 3.8 The **Regulator** may require and advise the **Licensee** to arrange the provision of a report by a **reporter** at such times and on such conditions as are specified in terms of reference provided by the **Regulator**.

4 Standards and Procedures

- 4.1 At the written request of the **Regulator**, the **Licensee** must participate to the extent specified by the **Regulator** in the development, issue and review of any **standards and procedures** specified by the **Regulator** which are, in the opinion of the **Regulator**, relevant to the functions of the **Regulator** under the **Act**, or to the achievement of the objects of the **Act**.
- 4.2 The **Licensee** must in accordance with directions of the **Regulator**, report to the **Regulator** on its performance against applicable **standards and procedures**.
- 4.3 The **Regulator** may issue **standards and procedures** applicable to the **Licensee** and with which the **Licensee** must comply, notwithstanding that the **Licensee** has failed to comply with clause 4.1 of this Schedule 2.

5 Management and Operating Contracts

- 5.1 The **Licensee** must advise the **Regulator** as soon as possible if the **Licensee** enters any contract for the management or operation of the **Licensee's generating plant** by a third party, other than the person referred to in clause 3.1(b).

- 5.2 Not less than 14 days prior to the commencement of the contract, the *Licensee* must submit to the *Regulator*, the following information in relation to a third party referred to in clause 5.1:
- (a) identity;
 - (b) details of qualifications and experience; and
 - (c) contact details.

6 Capacity of Licensee's Generating Plant

- 6.1 This Licence is granted on the condition that each of the units described in Schedule 3 will have the capacity to contribute up to approximately 114 MWe 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*.
- 6.2 The *Licensee* must provide the notification referred to in clause 6.1 no later than 60 days prior to a change to the *generating plant's* capacity to contribute to the Tasmanian power system being implemented.

7 Connection Agreement

- 7.1 The *Licensee* must not allow its *generating plant* to be, or to remain, connected to the *Tasmanian network* at a time when no *connection agreement* subsists.
- 7.2 The *Licensee* must lodge with the *Regulator* a copy of any *connection agreement* made by the *Licensee* in respect of the *Bell Bay Power Station*.
- 7.3 The *Licensee* must lodge with the *Regulator* a copy of any amendment made to a *connection agreement* to which the *Licensee* is a party.
- 7.4 The *Licensee* must advise the *Regulator* as soon as practicable of any breach of, or failure to comply, with the terms and conditions of a *connection agreement* with an electricity entity licensed by the *Regulator*.

Schedule 3 - Description of the Generating Plant

One 120 MW gas-fired single reheat steam turbine generator (known as Unit 1).

Capacity: 120 MWe

Voltage: 13 800 volts

Frequency: 50 hertz

Amount of electricity to be contributed to the system: up to approximately 114 MWe

Connection: via existing connection to the *Transend* system at the network side of the line isolator.

AND

One 120 MW gas-fired¹ single reheat steam turbine generator (known as Unit 2).

Capacity: 120 MWe

Voltage: 13 800 volts

Frequency: 50 hertz

Amount of electricity to be contributed to the system: up to approximately 114 MWe

Connection: via existing connection to the *Transend* system at the network side of the line isolator.

¹ Amended on 21 April 2004