

ELECTRICITY SUPPLY INDUSTRY ACT 1995

**ELECTRICITY SUPPLY INDUSTRY
GENERATION LICENCE**

issued to

BELL BAY POWER PTY LTD

ACN 097 079 331

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.
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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;
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- (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 3^d *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* under the *Electricity*)
Supply Industry Act 1995,)
on January, 2002)

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
- (l) 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 oil-fired 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.