ESSENTIAL SERVICES COMMISSION

ELECTRICITY INDUSTRY ACT 2000
APPLICATION FOR RETAIL LICENCE

Blue NRG Pty Ltd
(ABN 30 151 014 658)

NOTICE OF DECISION

14 March 2012

C/12/10303

SUMMARY

Pursuant to the provisions of section 19 of the *Electricity Industry Act* 2000 (EI Act) the Essential Services Commission (the Commission) has granted Blue NRG Pty Ltd (ABN 30 151 014 658) (Blue NRG / the applicant) a licence to sell electricity in Victoria.

BACKGROUND

a. Requirement to obtain a licence

Section 16(1) of the EI Act provides that a person must not engage in the sale of electricity unless the person is:

(a) the holder of a licence authorising the relevant activity; or

(b) exempted from the requirement to obtain a licence in respect of the relevant activity.

b. Entitlement to apply for a licence

Section 18 of the EI Act provides that a person may apply to the Commission for a licence to sell electricity.

c. The applicant

Blue NRG is a privately owned Australian company incorporated 19 May 2011 with the sole aim of obtaining a licence to retail electricity in Victoria. Blue NRG is a wholly owned subsidiary of Green Generation Pty Ltd, a company registered in Victoria.

Blue NRG does not currently carry on any business within or outside of the electricity industry, and consequently has no experience in Victorian electricity retail. Senior staff at Blue NRG have worked for many other retailers, distributors and regulators in Victoria. If the company makes a successful soft start in Victoria, its aim is then to expand operations to New South Wales and then to Queensland.

d. The application

Blue NRG submitted an application for an Electricity Retail Licence in December 2011 and provided the Commission with detailed and comprehensive documents supporting the application. The application contained both a public component and '*commercial in confidence*' information.

The attachments to the application included commentary relevant to the objectives of the *Essential Services Commission Act* 2001 (ESC Act) and the EI Act, details of the applicant's background, corporate and operational structure, experience and expertise, operating capability and skills, profiles of key personnel and an appraisal of its financial viability and assets.

In particular the applicant has presented information to demonstrate its financial viability and technical capacity.

e. Advertising the application

Section 19(6) of the EI Act provides that the Commission must publish a notice in a daily newspaper generally circulating in Victoria that an application has been received and that invites interested parties to make submissions.

Accordingly, a notice in relation to the application was placed in *The Age* newspaper on Saturday 4 February 2012. The notice invited submissions by the close of business on 2 March 2012. The Commission did not receive any submissions in response to the notice.

f. Express invitations to submit

By an email dated 29 February 2012, the Commission contacted each current licensee inviting them to make a submission in respect of the application. Invitations were also sent to other interested parties. The Commission did not receive any submissions from licensees or interested parties in respect of the application.

g. Provisions relating to the Commission's decision

Section 19(1) of the EI Act provides that the Commission may grant or refuse the application for any reason it considers appropriate, having regard to the objectives of the Commission under the provisions of the EI Act and the ESC Act.

Section 19(2) of the EI Act provides that the Commission must not grant an application for a licence unless the Commission is satisfied that -

(a) subject to sub-section (3), in the case of an application for a licence to sell electricity, the applicant is financially viable and

(b) subject to sub-section (4), the applicant has the technical capacity to comply with the conditions of the licence.

CONSIDERATION OF THE APPLICATION

A decision to grant a retail licence to a new market entrant has the potential to promote competition in the generation, supply and, in particular, the sale of energy and therefore to also promote the long term interests of Victorian consumers. Accordingly, consistent with its objectives under the provisions of the EI Act and the ESC Act, the Commission has granted a licence to Blue NRG.

ISSUES

a. Technical capacity

Section 19(2)(b) of the EI Act states the Commission must be satisfied with the applicant's technical capacity to comply with the conditions of the licence.

Blue NRG has provided particulars in its application of its technical capacity to comply with the conditions of the licence. The team members of Blue NRG possess energy industry knowledge and experience derived from several years of active participation in the Australian energy markets. The applicant also provided details on its processes and procedures.

The Commission has applied its standard assessment of technical capacity to the applicant and is satisfied that it has the technical capacity to comply with the proposed licence conditions.

b. Financial viability

Section 19(2)(a) of the EI Act requires the Commission to be satisfied with financial viability of the applicant subject to section 19(3) of that Act. Section 19(3) states that the Commission does not have to be satisfied as to financial viability if an applicant is applying for a licence which includes a condition requiring compliance with the National Electricity Rules and the Rules include prudential requirements. In compliance with section 19, the Rules include the necessary prudential requirements and the licence issued to Blue NRG requires compliance with the Rules.

The applicant has confirmed that it has sufficient financial resources to sustain a retail electricity business in Victoria and has secured appropriate credit support for its proposed operations.

c. Compliance with Codes and Rules

The provisions of Victorian Electricity Retail Licences require the licensee to comply with all applicable provisions of, amongst other things, the Electricity Distribution Code, the Electricity System Code, the Electricity Customer Metering Code, the Electricity Customer Transfer Code, the Energy Retail Code, The National Electricity Rules and any other relevant code or rule dealing with retailers' market conduct.

DECISION

The Commission is satisfied that Blue NRG Pty Ltd (ABN 30 151 014 658);

- has the technical capacity to comply with the conditions of the licence to be granted;
- has satisfied the financial viability requirements of applicants;

and that the granting of a licence is not inconsistent with the EI Act.

Having regard to the provisions of the *Electricity Industry Act 2000* and the *Essential Services Commission Act 2001*, the Commission has granted a licence to retail electricity to Blue NRG Pty Ltd (ABN 30 151 014 658).

THE COMMON SEAL
of THE ESSENTIAL)
SERVICES COMMISSION)
was affixed pursuant to the)
authority of the Commission)
on 19 March 2012)

Common Seal
ESSENTIAL SERVICES COMMISSION
A.B.N. 71 165 496 066

Ron Ben-David
Chairperson

C/12/10303