



**ELECTRICITY INDUSTRY ACT 2000
APPLICATION FOR A RETAIL LICENCE**

**JACKGREEN (INTERNATIONAL) PTY LTD
ABN 14 097 708 104**

NOTICE OF DECISION

24 August 2005

SUMMARY

1. Pursuant to provisions of section 19 of the *Electricity Industry Act 2000* (**EI Act**) the Essential Services Commission (**the Commission**) has granted Jackgreen (International) Pty Ltd (ABN 14 097 708 104) (**the applicant**) a licence to sell electricity in Victoria.

BACKGROUND

Requirement to obtain a licence

2. Section 16 of the EI Act provides that a person must not engage in the sale of electricity unless the person is -
 - the holder of a licence authorising that activity; or
 - exempted from the requirement to obtain a licence in respect of that activity.

Entitlement to apply for a licence

3. Section 18 of the EI Act provides that a person may apply to the Commission for a licence authorising one or more of the following activities:
 - (a) to generate electricity for supply or sale;
 - (b) to transmit electricity;
 - (c) to distribute or supply electricity;
 - (d) to sell electricity.

The applicant

4. On 21 June 2005, Jackgreen (International) Pty Ltd submitted an application for a licence to retail electricity in Victoria. The applicant is a 100 percent owned subsidiary of Jackgreen Limited, a public and listed corporation on the Australian Stock Exchange, and the holder of a retail electricity licence in New South Wales since March 2002.
4. Jackgreen (International) Pty Ltd was established for the sole purpose of retailing electricity and in addition to holding a licence in the State of New South Wales, the applicant has also submitted an application in South Australia.
5. Information provided by the applicant demonstrates that its directors and key personnel have considerable experience in the conduct of operating and managing a business and demonstrated knowledge of the energy sector in New South Wales and elsewhere. In correspondence to the Commission as part of the application process, the applicant states that its target market is the residential and small medium enterprises that purchase less than 160 MWh per annum. The applicant has undertaken market research in Victoria through a third party and its core offer to customers includes, amongst other things, (1) the supply of green energy, (2) the opportunity to develop community partnerships through the applicant making donations on behalf of community organisations, for example, the Planet Ark foundation, (3) competitive pricing so that renewable energy is not more costly compared with regular energy and (4) to be competitive by ensuring it has low operating overheads.
6. The Commission has also assessed this component of knowledge and expertise as part of the application processes for a retail electricity licence under the provisions of

section 19 of the EI Act. The applicant is able to leverage its operations based in part on the retail business located in New South Wales.

The application

6. By letter dated 21 June 2005, the applicant submitted an application to the Commission for a licence to sell electricity in Victoria and also provided the Commission with attachments, some of which were marked '*commercial and in confidence*'. The attachments to the application contained amongst other things, commentary relevant to the objectives of the *Essential Services Commission Act 2001 (ESC Act)* and EI Act, details of the applicant's background, structure, experience and expertise, various commercial agreements with third parties, operating capability and skills (including energy trading arrangements), profiles of key personnel and a detailed appraisal of its financial viability. In particular, as prescribed at section 19(2) of the EI Act, the applicant has also set out in details its financial viability and technical capacity.

Advertising the application

7. Section 19(6) of the EI Act provides that the Commission must publish a notice in a daily newspaper generally circulating in Victoria specifying that the application has been lodged and inviting interested persons to make submissions to the Commission in respect of the application within a period and in a manner specified in the notice.
8. A notice was placed in *The Age* newspaper on Thursday 7 July 2005. The advertisement invited interested persons to make submissions to the Commission in respect of the application received from the applicant by the close of business on 5 August 2005. The Commission received no inquiries or submissions.

Express invitations to submit

9. By letter dated 6 July 2005, the Commission wrote to each current licensee inviting them to make a submission in respect of the application. Invitations were also sent to various interested parties and stakeholders including the members of the Commission's Customer Consultative Committee.
12. The Commission did not receive any submissions from licensees or interested parties in respect of the application.

Provisions relating to the Commission's decision

13. Section 19(1) of the EI Act provides that, subject to sub-sections (2) and (3), the Commission may grant or refuse the application for any reason it considers appropriate, having regard to the objectives of the Commission under the EI Act and under the ESC Act.
14. As previously noted, Section 19(2) of the EI Act provides that the Commission must not grant an application for a retail 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

General approach

15. 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 electricity and, therefore, to also promote efficiency and economy in those activities. Accordingly, consistent with its objectives under the provisions of both the EI Act and the ESC Act, the Commission has granted a licence to Jackgreen (International) Pty Ltd (ABN 14 097 708 104).

ISSUES

Technical capacity

16. The degree of technical capacity required to satisfy the Commission in terms of section 19(2) (b) of the EI Act varies according to the nature of the licence to be issued. It is the applicant's intention to commence its licensed activities within 12 months from the granting of a retail licence, and therefore under the provisions of section 19(2) (b) of the EI Act the Commission must be satisfied with the applicant's technical capacity to comply with the conditions of licence.
17. The applicant provided particulars in its application of its technical capacity to comply with the conditions of the licence. The applicant's key personnel have been involved in the Australian energy market, most notably in Victoria and New South Wales for a number of years in various capacities.

The Commission has applied its standard assessment of technical capacity to the applicant. The Commission is satisfied that Jackgreen (International) Pty Ltd (ABN 14 097 708 104), has the technical capacity to comply with the proposed licence conditions. Interviews, documentation and meetings with key personnel have confirmed that Jackgreen (International) Pty Ltd (ABN 14 097 708 104) has acquired a comprehensive knowledge of the Commission's Codes and Guidelines.

Financial viability

18. The applicant must demonstrate its financial viability under the provisions of section 19(2) (a) of the EI Act. Section 19(3) of the EI Act provides that the Commission does not have to be satisfied as to the financial viability if an applicant is applying for a licence which includes a condition requiring compliance with the National Electricity Code and the Code includes prudential requirements. Accordingly, the applicant has advised the Commission of its inquiries and intention to apply for registration as a customer with the National Marketing Management Company (NEMMCO) and that it will comply with the prudential requirements imposed by NEMMCO. Furthermore, the applicant has confirmed that –
 - the applicant has sufficient financial resources following the float of the parent company, Jackgreen Limited (formally Lion Equities Limited) in December 2004 in which it raised \$7 million and arising from the support of the parent company and the qualified support of a substantial shareholder.
 - it is already registered with NEMMCO for the purposes of trading in New South Wales, and for Victoria as an 'Intending Participant' and this latter registration as a full participant will be completed upon the Commission granting a retail licence in

Victoria. The applicant has indicated that it has satisfied the prudential requirements of NEMMCO and this will be finalised upon the granting of the licence.

- the prudential requirements have been satisfactorily negotiated for “Use of System Agreement” involving two licensed electricity distributors, and these arrangements will be finalised upon the Commission granting a retail licence.

Considering the information provided and notwithstanding the provisions of section 19(3) of the EI Act, the Commission has applied its standard assessment of financial viability to the applicant. The Commission required the applicant to provide evidence of its financial viability. The process requires, amongst other things, for the applicant to outline its financial position, and provide data concerning its business plans, management knowledge and experience, and the level of understanding and the application of risk management, including but not limited to corporate governance principles, financial controls and reporting and compliance practices.

The Commission has concluded for the purpose of this application for the granting of a licence to retail electricity, and for no other purpose, that the applicant, at the time of the consideration of the application, has satisfied the financial test and Jackgreen (International) Pty Ltd (ABN 14 097 708 104) can be considered to be financially viable.

Compliance with Codes and Rules

19. 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 and any other relevant code dealing with retailers’ market conduct.
20. The licence being granted to the applicant contains the licence conditions obliging it to comply with, amongst other things, the full retail competition regulatory framework.

DECISION

22. The Commission is satisfied that Jackgreen (International) Pty Ltd (ABN 14 097 708 104)-
 - has the technical capacity to comply with the conditions of the licence to be granted;
 - has satisfied the financial viability requirements of the EI Act; and that

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

23. Having regard to the objectives specified in section 8 of the *Electricity Industry Act 2000* and section 10 of the *Essential Services Commission Act 2001*, the Commission has granted an electricity retail licence to Jackgreen (International) Pty Ltd (ABN 14 097 708 104). A copy of the licence forms an attachment to this decision.

THE COMMON SEAL of)
THE ESSENTIAL SERVICES)
COMMISSION)
was affixed pursuant)
to the authority of the Commission on)
24 August 2005.)

A C LARKIN
Acting Chairperson