



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

**SNOWY HYDRO LIMITED**

**ABN 17 090 574 431**

**DECISION**

**22 September 2004**

## SUMMARY

Pursuant to the provisions of section 19 of the *Electricity Industry Act 2000* (the EI Act) the Essential Services Commission (the Commission) has decided to grant a licence to generate electricity for supply or sale in Victoria to be held by Snowy Hydro Limited ABN 17 090 574 431 (the applicant).

## BACKGROUND

### Requirement to obtain a licence

1. Section 16 of the EI Act provides that a person must not engage in the generation 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.
2. The applicant has not been exempted from the requirement to obtain a licence.

### 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 as specified in the licence -
  - (a) to generate electricity for supply or sale;
  - (b) to transmit electricity;
  - (c) to distribute or supply electricity; or
  - (d) to sell electricity.

### The applicant

4. The applicant is Snowy Hydro Limited ABN 17 090 574 431 (**Snowy Hydro**).
5. Snowy Hydro is a company incorporated under the *Corporations Act 2001* (Cwlth).
6. Snowy Hydro is beneficially owned and controlled by the Commonwealth (13 percent), New South Wales (58 percent) and Victorian (29 percent) governments. Snowy Hydro has assets that exceed \$1.7 billion and annual revenues of some \$400 million. It has been operation for some 50 years and is responsible for the generation of approximately 3,764 MW of electricity from 7 power stations.
7. The Laverton North generator is currently under construction and is scheduled to be completed and operational by December 2005. This generator will have a total net capacity of approximately 342 MW and is designed to accommodate peak demand periods. Snowy Hydro estimates therefore that the gas fired peaking generator will be operational for up to 10 percent of a calendar year.

8. Snowy Hydro has obtained appropriate planning approvals and certification to proceed from the Victorian Environment Protection Authority. Snowy Hydro, subject to the issue of the licence is also in the process of settling a connection agreement with the transmission owner, SPI PowerNet and is involved in consultations with VENCorp to reach a transmission use of system agreement.

### **The application**

9. On 17 August 2004 the applicant formally applied for a licence to generate electricity for supply and sale in Victoria. The applicant provided the Commission with details of its background, structure, and experience in the energy industry, operating, technical and financial capabilities.
10. The application also included a statement of the applicant's ability to comply with all applicable codes and regulations upon granting of the generation licence.

### **Advertising the application**

11. 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.
12. The Commission complied with the requirements of section 19(6) of the EI Act by publishing a notice in *The Age* newspaper on 26 August 2004. The advertisement invited interested persons to make submissions to the Commission in respect of the application by the close of business on 10 September 2004.
13. By letter dated 25 August 2004, the Commission wrote to each licensed entity inviting them to make a submission in respect of the application. Invitations to comment were also sent to the members of the Commission's Customer Consultative Committee and other interested parties.
14. The Commission did not receive any submissions in respect of the application.

### **Provisions relating to the Commission's decision**

15. Section 19(1) of the EI Act provides that, subject to sub-section (2) the Commission may grant or refuse the application for a generation licence for any reason it considers appropriate, having regard to the objectives of the Commission under the EI Act and under the *Essential Services Commission Act 2001* (the ESC Act).
16. The objectives specified under section 10 of the EI Act are -
  - (a) to the extent that it is efficient and practicable to do so, to promote a consistent regulatory approach, between the electricity industry and the gas industry; and
  - (b) to promote the development of full retail competition.

17. Section 8 of the ESC Act provides that –

- (a) In performing its functions and exercising its powers, the primary objective of the Commission is to protect the long term interests of Victorian consumers with regard to the price, quality and reliability of essential services.
- (b) In seeking to achieve its primary objective, the Commission must have regard to the following facilitating objectives:
  - (i) To facilitate efficiency in regulated industries and the incentive for efficient long-term investment;
  - (ii) To facilitate the financial viability of regulated industries;
  - (iii) To ensure that the misuse of monopoly or non-transitory market power is prevented;
  - (iv) To facilitate effective competition and promote competitive market conduct;
  - (v) To ensure that regulatory decision making has regard to the relevant health, safety, environmental and social legislation applying to the regulated industry;
  - (vi) To ensure that users and consumers (including low-income or vulnerable customers) benefit from the gains from competition and efficiency; and
  - (vii) To promote consistency in regulation between States and on a national basis.

18. Section 19(2) of the EI Act provides that the Commission must not grant an application for a generation licence unless the Commission is satisfied that subject to sub-section (4) the applicant has the technical capacity to comply with the conditions of the licence.

Section 19(4) provides that –

*The Commission does not have to be satisfied as to the applicant's technical capacity to comply with the conditions of the licence at the time it is issued if –*

- (a) *the activities specified in the licence are not likely to be commenced to be carried out within the next following 12 months; and*
- (b) *the application is granted subject to such conditions as are determined by the Commission relating to further approval of the applicant's technical capacity or approval of future facilities necessary for the carrying out of the activities.*

The applicant proposes to commence its generation activities within the next 12 months.

It should be noted, however, that section 19(5) of the EI Act provides the following –

*The Commission does not have to be satisfied as to the applicant's technical capacity to comply with the conditions of the licence, if the applicant is the Snowy Hydro Company within the meaning of the **Snowy Hydro Corporatisation Act 1997**.*

This section of the Act has not yet been proclaimed and on this basis the Commission assessed the applicant's technical capacity.

## **CONSIDERATION OF THE APPLICATION**

### **General approach**

19. A decision to grant a generation licence to a new market entrant has the potential to promote competition in the generation, supply and sale of electricity and, accordingly, to promote efficiency and economy in those activities.
20. Accordingly, consistent with its objectives under the ESC Act and the requirements of the EI Act for a granting a licence, the Commission is of the view that unless there are good reasons to the contrary, its approach should be to grant a licence to an applicant. The principal grounds on which the Commission might refuse an application would be to protect the interests of customers, or if it believed that the licensee did not have the technical capacity to comply with the conditions of the licence or the licensee did not satisfy the cross-ownership provisions in the EI Act.
21. The granting of a licence to Snowy Hydro to own and operate the Laverton North electricity Generator will satisfy the Commission's overall objective of protecting the long term the long term interests of Victorian consumers with regard to the price of electricity through facilitating effective competition and promoting competitive market conduct in the National Electricity Market.

## **ISSUES**

### **Technical capacity**

22. As cited above, the applicant has provided particulars in the application of their technical capacity to comply with the conditions of the licence. The applicant has significant experience in the development and operation of energy projects relating to generation, in particular hydro electric) and transmission in New South Wales. On its completion, the Laverton North electricity Generator is expected to generate 342 (net) MW of electricity and assist the State of Victoria in meeting the increased demand for electricity, and ensure the reliability and security of supply during peak periods.
23. The Laverton North project will comprise 2 open cycle gas fuelled turbines with a combined rated generating capacity of 312 MW and a net station capacity of 342 MW. It will be fuelled by natural gas from a newly constructed pipeline connecting the Laverton North station to the Brooklyn – Lara gas pipeline. In the event of a shortage of gas, distillate will be used as substitute fuel.

24. Each generator will be connected to the Altona Terminal Station. The station will be operated remotely from the Snowy Hydro control room located at Cooma. The information provided in the application indicates that the company including its employees and directors have significant energy industry experience. Snowy Hydro is familiar with the operation of the National Electricity Code through the operations located in New South Wales.

### **Compliance with Codes and Rules**

25. Victorian electricity generation licences require licensees to comply with all applicable provisions of the Distribution Code and the System Code.
26. The Commission notes that generation licences also include a requirement to comply with all relevant laws, and that issuing this licence would not relieve the applicant of the obligation to meet the Environmental Protection Authority's emissions and other requirements.
27. Snowy Hydro has met all of these prerequisites.

### **DECISION**

28. The Commission is satisfied that -
- the applicant has the technical capacity to comply with the conditions of the licence to be granted; and
  - the granting of a licence would not be inconsistent with the EI Act.
29. Having regard to the objectives specified in section 10 of the *Electricity Industry Act 2000* and section 8 of the *Essential Services Commission Act 2001*, the Commission has decided to grant the application for the issue of a generation licence to Snowy Hydro Limited ABN 17 090 574 431. 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 )  
 22 September 2004. )

JOHN C TAMBLYN  
**Chairperson**