



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

**Transmission Operations (Australia) 2 Pty Ltd  
(ABN 34 605 734 129)**

**DECISION AND REASONS**

**4 May 2016**

## SUMMARY

Pursuant to the provisions of section 19 of the *Electricity Industry Act 2000* (EIA) the Essential Services Commission (the Commission) has granted Transmission Operations (Australia) 2 Pty Ltd (ABN 34 605 734 129) (TOA2 / the applicant) a Licence to transmit electricity at specific transmission assets in Victoria.

## BACKGROUND

### ***a. The applicant***

TOA2 is owned 50% by Cheung Kong Infrastructure Holdings Ltd (CKI) and 50% by Power Asset Holdings Ltd (PAH) (the parent companies). Both companies are incorporated in China.

### ***b. The application***

In December 2015, TOA2 submitted an application for the grant of an electricity transmission licence to authorise the transmission of electricity through the assets connecting the Ararat Wind Farm and the Wholesale Electricity Market.

The attachments to the application included commentary relevant to the objectives of the *Essential Services Commission Act 2001* (ESCA). In its application TOA2 presented information to demonstrate its financial viability and technical capacity.

### ***c. Advertising the application***

Section 19(6) of the EIA provides that the Commission must publish a notice in a daily newspaper generally circulating in Victoria that an application for a licence has been received. That notice must invite interested parties to make submissions. Accordingly, a notice in relation to the application was published in *The Age* on Monday 10 March 2016. The notice invited submissions by 5pm, Thursday 7 April 2016. The Commission did not receive any submissions.

## FACTORS IN CONSIDERING THE APPLICATION

Section 19(1) of the EIA 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 EIA and the ESCA.

Conditions that accompany the Commission's power to grant a licence to transmit electricity include that:

- the licensee must be financially viable
- the licensee must have the technical capacity to carry out the licensed activity
- in making its decision on whether to grant a licence, the Commission must have regard to its objectives under the *Essential Services Commission Act 2000* (ESCA) and EIA, and the particular matters set out in the ESCA. This includes an obligation to consider whether the grant of a licence is in the long term interests of Victorian consumers with regard to the price, quality and reliability of essential services.

TOA2's application has been assessed against these requirements. This assessment is outlined below.

### ***a. Financial viability***

The Commission must not grant an application for an electricity transmission licence unless it is satisfied that the applicant is financially viable.

The Commission assesses financial viability as the financial capacity of a licensee to engage in the proposed licensed activity, including compliance with licence conditions.

The applicant has shown that it has the financial capacity to perform the licence obligations under the issued licence.

### ***b. Technical capacity***

The Commission must not grant an application for an electricity transmission licence unless it is satisfied that the applicant has the technical capacity to carry out the licensed activity.

For the purposes of granting a licence under the EIA, the Commission assesses technical capacity as the extent to which the licensee has access to the technological, human and other non-financial resources necessary to carry out the licensed activity including compliance with licence conditions.

TOA2 has provided particulars in its application of its technical capacity to comply with the conditions of the licence.

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

### ***c. Fit and proper person***

The EIA states that the Commission may grant or refuse an application for a licence for any reason it considers appropriate. Section 13 of the ESCA states that the Commission may publish guidelines relating to the performance of its functions and the exercise of its powers.

Accordingly, the Commission in 2006 included a fit and proper person test in its '*Guidance Notes for Applications for Electricity Licences and the Transfer of Existing Electricity Licences*' (Guidance Notes), and in the equivalent gas Guidance Notes.

The Commission is satisfied that TOA2 is a fit and proper person to perform the proposed licensed activity.

### ***d. Commission Objectives***

The grant of a licence must be consistent with the primary objective of the Commission as set out in s.8 of the ESCA. In seeking to achieve this objective, the Commission must have regard to the matters outlined in s.8A, to the extent that they are relevant to the particular case. The s.8A matters considered relevant to TOA2's application are:

- ESCA 8A(1)(a), efficiency in the industry and incentives for long term investment –  
the provision of cost efficient and reliable alternative transmission services will both improve the efficiency of the industry and provide opportunities for long term investment.
- ESCA 8A(1)(b), the financial viability of the industry –  
greater competition from TOA2's participation arguably incentivises greater discipline on businesses to ensure an appropriate allocation of risk and return, thereby improving the financial viability of the industry.
- ESCA 8A(1)(c), the degree of, and scope for competition within the industry, including countervailing market power and information asymmetries –

the granting of a transmission licence to TOA2 will increase competition in one segment of the Victorian electricity transmission industry, thereby reducing the effect of monopoly market power in that segment.

- ESCA 8A(1)(e), the benefits and costs of regulation (including externalities and the gains from competition and efficiency) for (i) consumers and users of products or services (including low income and vulnerable consumers) and (ii) regulated entities –

the increase in competition in transmission services has the potential to increase the gains from that competition for other regulated entities utilising transmission services.

### **e. Customer protection**

Section 8 of the ESCA requires the Commission to promote the long term interests of Victorian consumers in performing its functions and exercising its powers, and in doing so have regard to the reliability of essential services. Section 10(c) of the EIA also sets out an objective of the commission to promote protections for customers, including in relation to assisting customers who are facing payment difficulties.

The Commission has evaluated the risk to Victorian consumers if TOA2 were to fail for any reason, including the applicant's financial viability, and is satisfied that the regulatory regime under which the applicant will operate is sufficient to ensure the promotion of the long term interests of Victorian consumers.

## **DECISION**

The Commission is satisfied that Transmission Operations (Australia) 2 Pty Ltd (ABN 34 605 734 129);

- has the financial capacity to engage in the licensed activity
- has the technical capacity to comply with the conditions of the Licence to be granted;

Having regard to the provisions of the *Electricity Industry Act 2000* and the *Essential Services Commission Act 2001*, the Commission has decided that the grant of a Licence to transmit electricity to Transmission Operations (Australia) 2 Pty Ltd (ABN 34 605 734 129) is in the long term interests of Victorian consumers.

**THE COMMON SEAL  
of THE ESSENTIAL  
SERVICES COMMISSION**  
was affixed pursuant to the  
authority of the Commission  
on 4 May 2016

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Dr Ron Ben-David  
Chairperson