



**ELECTRICITY GENERATION LICENCE**

**ENERGY BRIX AUSTRALIA  
CORPORATION PTY LTD**

**ABN 79 074 736 833**

**As varied on  
14 January 2005**

ESC File Ref: EG\_03/1995(EBX)

ESC Licence Code: EG\_03/1995

G/Licence/Electricity/Generation/Energy Brix Australia Corporation - 14 January 2005

# ELECTRICITY GENERATION LICENCE

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REVOKED  
(21 December 2016)

# ELECTRICITY GENERATION LICENCE

## 1. DEFINITIONS AND INTERPRETATION

- 1.1 In this licence, words and phrases appearing *like this* have the meaning given 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.

## 2. GRANT OF LICENCE

- 2.1 Subject to the conditions set out in this licence, the *Licensee* is authorised to generate electricity for supply or sale, to supply electricity and to sell electricity.
- 2.2 Under this licence, the *Licensee* may only generate electricity for supply or sale at, and may only supply electricity and may only sell electricity generated at, the *licensed power station*.

## 3. TERM

- 3.1 This licence first had effect on 23 June 1995 and has been varied on the dates set out in schedule 2.
- 3.2 The *Commission* may revoke this licence in accordance with clauses 3.3 or 3.4.
- 3.3 The *Commission* may at any time agree with the *Licensee* that this licence should be revoked, in which case the term of this licence ends on the day agreed.
- 3.4 The *Commission* may at any time give notice of revocation in accordance with clause 3.5 to the *Licensee* if:
- (a) the *Licensee* does not comply with an *enforcement order* or an *undertaking*; and
  - (b) the *Commission* is satisfied that revocation of this licence is necessary having regard to the *objectives*,
- in which case, subject to clause 3.6, the term of this licence ends on the expiration of the period of the notice.
- 3.5 The *Commission* must give at least 20 *business days* notice of revocation to the *Licensee* under clause 3.4.
- 3.6 The term of this licence does not end at the expiration of the period of a notice of revocation given under clause 3.4 if, before the expiration, the *Licensee* complies with the *enforcement order* or the *undertaking* (as the case may be).

#### 4. COMPLIANCE WITH ORDERS, CODES AND GUIDELINES

- 4.1 As well as complying with this licence, the *Licensee* must comply with all applicable provisions of:
- (a) any *order*;
  - (b) the following codes:
    - (1) the *Electricity Distribution Code*; and
    - (2) the *Electricity System Code*;
  - (c) any *guideline*, if the *guideline* itself requires the *Licensee* to comply or the *Commission* has informed the *Licensee* that compliance is required by way of a *communication* given to the *Licensee* by the *Commission*.
- 4.2 The *Licensee* must monitor its compliance with this licence and any *order*, code or *guideline* it is required to comply with under clause 4.1.
- 4.3 If the *Licensee* becomes aware of a material breach of this licence or any *order*, code or *guideline* by the *Licensee*, the *Licensee* must notify the *Commission* of the material breach as soon as practicable.

#### 5. CO-OPERATION WITH VENCORP

- 5.1 As soon as practicable after any request made by *VENCORP*, the *Licensee* must supply such information to *VENCORP* as *VENCORP* may reasonably require to perform its functions and exercise its powers under the *Act*.
- 5.2 Any question as to the reasonableness of a requirement by *VENCORP* for information as contemplated by clause 5.1 is to be decided by the *Commission* on the basis of the *Commission's* opinion of the reasonableness of the requirement.

#### 6. PROVISION OF INFORMATION TO THE COMMISSION

The *Licensee* must provide to the *Commission*, in the manner and form decided by the *Commission*, such information as the *Commission* may from time to time require.

#### 7. PAYMENT OF LICENCE FEES

- 7.1 The *Licensee* must pay as directed by the *Commission* a licence fee determined in accordance with section 22 of the *Act*.
- 7.2 Insofar as a fee or charge determined by the *Minister* under section 22 of the *Act* in respect of this licence is an annual fee or charge, it must be paid in either four equal instalments on the last days of September, December, March and June in each year or paid in one payment on or before the last day of September in each year and in the manner notified to the *Licensee* by the *Commission*.

7.3 The *Licensee* must pay as directed by the *Commission* such other fees and charges in respect of this licence as are determined by the *Minister* in accordance with section 22 of the *Act*.

## 8. ADMINISTRATOR

8.1 If an *administrator* is appointed to the *Licensee's* business under section 34 of the *Act*, the *administrator* must exercise its functions and powers in such a manner as may be specified by the *Commission* in the instrument of appointment.

8.2 The *Licensee* is responsible for the acts and defaults of the *administrator*.

## 9. COMPLIANCE WITH LAWS

The *Licensee* must comply with all applicable laws.

## 10. VARIATION

This licence may be varied in accordance with section 29 of the *Act*.

## 11. TRANSFER OF LICENCE

This licence may be transferred in accordance with section 31 of the *Act*.

## 12. COMMUNICATIONS

12.1 A *communication* must be in *writing*.

12.2 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) 3 *business days* after the date of posting, if the *communication* is posted within Australia;
- (c) 7 *business days* 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) when it is an electronic *communication*, in accordance with the *Electronic Transactions (Victoria) Act 2000*.

**THE COMMON SEAL of  
THE ESSENTIAL SERVICES  
COMMISSION**

was affixed pursuant to the  
authority of the Commission  
on 14 January 2005.

**JOHN C. TAMBLYN  
Chairperson**

REVOKED  
(21 December 2016)

## SCHEDULE 1 DEFINITIONS AND INTERPRETATION

### 1. DEFINITIONS

In this licence:

*Act* means the *Electricity Industry Act 2000*.

*administrator* means an administrator appointed by the *Commission* under section 34 of the *Act* in respect of the business carried on by the *Licensee* under this licence.

*business day* means a day other than a Saturday or Sunday or a public holiday appointed under the *Public Holidays Act 1993*.

*Commission* means the Essential Services Commission under the *Essential Services Commission Act 2001*.

*communication* means a notice, agreement, consent, direction, representation, advice, statement or other communication required or given pursuant to or in connection with this licence.

*Electricity Distribution Code* means the code of that name certified by the *Commission*.

*Electricity System Code* means the code of that name certified by the *Commission*.

*enforcement order* means a provisional or final order made and served by the *Commission* under section 53 of the *Essential Services Commission Act 2001*.

*guideline* means a guideline published by the *Commission*.

*licensed power station* means the Morwell Briquette and Power Complex and the HRL Tramway Road Site.

*Licensee* means Energy Brix Australia Corporation Pty Ltd ABN 79 074 736 833.

*Minister* means the person who is the Minister for the purposes of the relevant section of the *Act*.

*order* means an Order in Council made or in force under the *Act*.

*objectives* means the objectives specified in section 10 of the *Act* and section 8 of the *Essential Services Commission Act 2001*.

*undertaking* means an undertaking given by the *Licensee* under section 53(5)(a) of the *Essential Services Commission Act 2001*.

*VENCorp* means Victorian Energy Networks Corporation continued under Part 8 of the *Gas Industry Act 2001*.

*writing* includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.

## **2. INTERPRETATION**

In this licence, unless the context otherwise requires:

- (a) headings, footnotes and schedule 2 are each 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 including the *Act* and 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) 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
- (1) 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*.

REVOKED  
(21 December 2016)

**SCHEDULE 2  
VARIATIONS TO THE LICENCE**

| <b>Date</b>     | <b>Reason for variation</b>   |
|-----------------|---|
| 30 April 1999   | To make administrative amendments   |
| 17 January 2002 | To include the HRL Tramway Road Site as a licensed power station of the Licensee and to make other minor administrative amendments.                         |
| 14 January 2005 | To make various administrative and substantive amendments following a review by the Commission of electricity generation, distribution and retail licences. |

REVOKED  
(21 December 2016)