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19 May 2022

Sugi Sivarajan
Acting Senior Regulatory Manager of Regulatory Operations
Essential Services Commission
Level 8, 570 Bourke Street
Melbourne, Victoria 3000

By email: licences@esc.vic.gov.au

Variation of Blue NRG Pty Ltd's Electricity Retail Licence

Dear Sugi Sivarajan,

We refer to the letter dated 27 April 2022 from Sarah Sheppard, Executive Director of the Essential Services Commission (**Commission**) regarding the variation of Blue NRG Pty Ltd's electricity retail licence.

Blue NRG Pty Ltd (**we** or **us**) are generally amenable with the revised new changes to the Template Electricity Retail Licence (**Template Licence**). However, on further review of the revised template for Standard Electricity Licence conditions for Electricity Retail (**Licence Conditions**), we humbly request the removal of the following:

- Clause 9.4; and
- Clause 9.5.

Clause 9.4 and 9.5 of the Licence Conditions

These clauses provide that in future it will constitute a breach of the licence conditions if a licensee does not notify a Customer, that is not a Small Customer (**Large Customer**) that their contract is due to expire within the required timeframe.



We submit that these conditions are unnecessary because Large Customers do not require the same protections as small customers when a contract is nearing its end, and there is no benefit to Large Customers or the market generally were a licence to be revoked under this clause.

Large customers have significant contract management resources and commercial managers at their disposal. We agree that small customers are generally unsophisticated consumers, who rightly require a set notification procedure at the end of their contract. This helps alert them to their eligibility to seek better rates in the market. However large customers do not require the same level of oversight and enforcement at the end of their contract.

Large Customer market contract negotiations usually result in a bespoke restricted plan specific to that customer, or a small class of Large Customer. This contrasts with the VDO and generally available plans offered to small customers, as a standing offer is not required for large customers. It would be unusual for the licensee to advise the Large Customer of the tariff and terms and conditions that will automatically apply once the contract has ended. This is because:

1. There is no equivalent requirement to offer the VDO or a standing offer to a Large Customer; and
2. The out-of-term contract is implied to continue where both parties behave as though the contract is still within term.

It is already in the licensee's own best interests to notify the Large Customer that the contract is nearing the end of its term, and to begin negotiation of a new contract. It does not therefore follow that a licensee should be at risk of losing its licence if it fails to follow the procedure set out in clauses 9.4 and 9.5. The financial incentive for the licensee to enter a new contract with the Large Customer should be enough to encourage them to notify the Large Customer of the impending end date and begin negotiations of a new contract.

Contract negotiations take much longer with Large Customers than small customers given the level of bureaucracy involved, and the various levels of approval required before a contract is executed. In the event a Large Customer wishes to change retailer, the contract negotiation process would follow a similar pattern with an alternative licensee as it would with the current licensee.

We do not submit that the licensee should not issue a notice and propose the terms of a new contract near the end of the current term. We do however submit that given the more equal bargaining power between a licensee and a Large Customer, the Large Customer should



also bear some responsibility for ensuring it is not paying more than it needs to, including paying attention to when its contract is nearing the end of term.

Given the more even bargaining power in these situations, we submit that there is no benefit to Large Customers if a licensee is disciplined or loses their licence for not following the procedure in clauses 9.4 and 9.5 of the Licence Conditions.

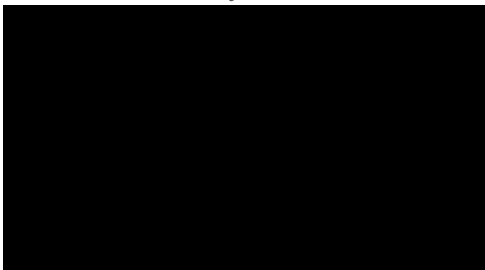
Contact Details Update

In response to your request for an email address for service pursuant to clause 2.1 of the Electricity Retail Licence, our preferred email address for service is:

 [@bluenrg.com.au](mailto: [redacted]@bluenrg.com.au).

We hope you accept our above submissions and look forward to hearing from you. Please contact me direct if you have any questions.

Yours Sincerely



Group General Counsel