



**ESSENTIAL SERVICES** COMMISSION

**ELECTRICITY INDUSTRY ACT 2000  
APPLICATION FOR TRANSFER OF ELECTRICITY GENERATION AND SALE  
LICENCE**

**AGL Loy Yang Partnership**

**RECORD OF DECISION**

**28 April 2020**

## SUMMARY

Pursuant to the provisions of section 31 of the Electricity Industry Act 2000 (Vic) (Industry Act) the Essential Services Commission (the commission) has granted the AGL Loy Yang Partnership's application to transfer the Loy Yang A power station electricity generation and sale licence. In granting the licence transfer application, the commission decided to vary the conditions of the licence under section 31(8) of the Industry Act, to ensure that the transferred licence is consistent with licences that have been recently issued by the commission and to make administrative amendments. Following the transfer of the licence, the Loy Yang A electricity generation facility continues to be ultimately owned and controlled by AGL Energy Limited (AGL).

## BACKGROUND

### *Application to transfer licence*

Section 31 of the Industry Act provides that the holder of a licence may apply to the commission for approval to transfer the licence.

### *The applicant*

On 25 October 2019, AGL, on behalf of its wholly owned subsidiaries comprising the Loy Yang Partnership (AGL LYP 1 Pty Ltd, AGL LYP 2 Pty Ltd, AGL LYP 3 Pty Ltd, and AGL LYP 4 B.V.), submitted an application to the commission to transfer the Loy Yang A power station electricity generation and sale licence to other entities within the AGL corporate structure (AGL Generation Proprietary Limited and AGL Generation Holdco Pty Ltd). AGL submitted the application following its decision to 'simplify' the corporate structure of the group of entities responsible for the ownership and operation of the Loy Yang A power station.

### *The application*

Consistent with the requirements of the commission's 'Guide to Applications for Electricity Industry and Gas Industry Licences', AGL provided the commission with documentation supporting the application.

In particular, AGL presented information to provide assurance that:

- the transferees, in partnership with their co-licensees, have the technical capacity to comply with the conditions of the licence
- the licence transfer will not have any practical effect on, or result in any practical change to, the way in which the licensed activities are performed under the licence, and that AGL will continue to have ultimate control of the Loy Yang A power station, and
- the licensees, with the support of AGL, will continue to have the financial resources necessary to perform the licensed activities.

On 22 November 2019, the commission published a copy of the application, and invited interested parties to make submissions in respect of the application.

The commission did not receive any submissions regarding the application.

AGL provided confirmation that 21 April 2020 is the date at which the transfer of legal ownership interests in assets including Loy Yang A power station to the transferors will take effect.

## DECISION

The commission is satisfied that:

- the transferees (AGL Generation Proprietary Limited and AGL Generation Holdco Pty Ltd), in partnership with the remaining co-licensees (AGL Loy Yang Pty Ltd and AGL Loy Yang Marketing Pty Ltd), have the technical capacity to comply with the conditions of the licence to be transferred; and
- AGL Generation Proprietary Limited and AGL Generation Holdco Pty Ltd are fit and proper to hold a licence in Victoria under the Industry Act.

In accordance with section 31 of the Industry Act, and having regard to its objectives under the Essential Services Commission Act 2001 (Vic) and the Industry Act, the commission has decided to grant the licence transfer application sought by AGL and the AGL Loy Yang Partnership, and to make various administrative and substantive amendments to the licence conditions.

THE COMMON SEAL  
of the ESSENTIAL  
SERVICES COMMISSION  
was affixed pursuant to the  
authority of the Commission  
on 28 April 2020

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Kate Symons  
Chairperson