



**ELECTRICITY INDUSTRY ACT 2000
VARIATION OF ELECTRICITY RETAIL LICENCE**

**Balance Commodities and Energy Pty Ltd
(ACN 623 247 003)**

RECORD OF DECISION

19 August 2020

SUMMARY

Pursuant to the provisions of section 29(1)(b) of the Electricity Industry Act 2000 (Vic) (Industry Act) the Essential Services Commission (the commission) has varied the Balance Commodities and Energy Pty Ltd (ACN 623 247 003) (BCE) licence to enable the sale of electricity to large customers (where aggregate consumption of electricity taken from a supply point has been, or in the case of a new supply point, is likely to be, more than 160 megawatt hours in any year (MWh)).

BACKGROUND

On 19 August 2019 BCE was granted a licence to sell electricity to large customers. The customers to whom BCE is licensed to sell electricity are customers whose aggregate annual consumption is 500MWh or more. The licence was granted subject to a condition that "in the event that the licensed activity is not commenced by the Licensee within 12 months of the date of the grant of this Licence, the Licence is revoked" (clause 3.5).

REQUEST FOR VARIATION

On 25 March 2020, BCE submitted a notice under clause 2.1 of its existing licence to:

- vary the licence to lower the size of the threshold to whom BCE may retail electricity from customers whose aggregate consumption of electricity taken from a supply point has been or, in the case of a new supply point, is likely to be, more than 500 megawatt hours in any one year to more than 160 megawatt hours in any one year; and
- waive the condition at clause 3.5 of its licence which states that in the event that the licensed activity is not commenced by the licensee within 12 months of the date of the grant of the licence, the licence is revoked.

The commission does not have a power to 'waive' a condition. The commission considered whether, based on the information provided by BCE, it was satisfied it had commenced its licensed activity such that the licence should be varied to remove this clause.

CONSIDERATION OF THE REQUEST FOR VARIATION

Section 29(1)(b) of the Industry Act provides that, a licence or licence conditions may be varied by agreement between the commission and the licensee.

The commission considered the actions taken by BCE since the grant of its licence on 19 August 2019 and was satisfied that it had commenced the licensed activity such that the licence is not revoked.

The commission considered that lowering the consumption threshold of customers to whom BCE can sell electricity from 500 MWh to 160MWh annually was consistent with the commission's objectives of increasing competition. The commission also considered this threshold was consistent with the approach taken to distinguish large customers in the Energy Retail Code where that consumption threshold is used to distinguish between customers requiring enhanced consumer protections.

DECISION

Pursuant to the provisions of section 29(1)(b) of the Electricity Industry Act 2000 (Vic) (Industry Act) the Essential Services Commission (the commission) has varied the Balance Commodities and Energy Pty Ltd (ACN 623 247 003) (BCE) licence to remove clause 3.5 and to enable the sale of electricity to a person whose aggregate consumption of electricity taken from a supply point has been, or in the case of a new supply point, is likely to be, more than 160MWh. The commission also made some minor administrative changes to BCE's licence to better reflect the nature of its licensed activities being to sell to large customers.

THE COMMON SEAL
of the **ESSENTIAL**
SERVICES COMMISSION
was affixed pursuant to the
authority of the Commission
on 19 August 2020

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Kate Symons
Chairperson

