



ELECTRICITY TRANSMISSION LICENCE

**NSW Electricity Networks Operations Pty
Limited (ACN 609 169 959) as trustee for NSW
Electricity Networks Operations Trust (ABN 70
250 995 390)**

**Issued on
31 July 2017**

ELECTRICITY TRANSMISSION LICENCE

This Licence is issued pursuant to section 19 of the *Electricity Industry Act 2000* (Vic) and is subject to the terms set out in this Licence.

Date

This Licence is issued on 31 July 2017.

Licensee

This Licence is issued to:

NSW Electricity Networks Operations Pty Limited (ACN 609 169 959)
as trustee for NSW Electricity Networks Operations Trust (ABN 70 250 995 390)
(the Licensee)
Level 1
180 Thomas Street
Sydney NSW 2000

THE COMMON SEAL of the)
ESSENTIAL SERVICES COMMISSION)
was affixed pursuant to the authority)
of the Commission)



.....
Dr Ron Ben-David

CHAIRPERSON

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Part A - Interpretation

1. Definitions

1.1. Unless the contrary intention appears, a term has the meaning shown opposite it :

Act	the <i>Electricity Industry Act 2000</i> (Vic)
administrator	an administrator appointed by the Commission under section 34 of the Act in respect of the Licensee's transmission business
AEMO	the Australian Energy Market Operator Limited
AER	the Australian Energy Regulator
approved statement	a statement of the kind referred to in clause 10 that is submitted to and approved, by notice in writing to the Licensee, by the Commission
augmentation	in relation to an electricity transmission system, the process of maintaining or upgrading the operating capability of the electricity transmission system by replacing or enhancing existing plant and equipment or by adding plant and equipment

Business Day	a day other than a Saturday, Sunday or a public holiday in Melbourne, Victoria
change of control	<p>a change of control occurs if a shareholder of an entity, at the time it becomes a shareholder:</p> <ul style="list-style-type: none">(a) does not have the capacity to control the composition of the board of directors of the entity or a holding company of that entity;(b) is not in a position to cast or control the casting of more than 50% of the maximum number of votes that might be cast at a general meeting of that entity or a holding company of that entity; or(c) does not beneficially hold more than 50% of the issued share capital of the entity or a holding company of that entity, subsequently has the ability to do so, or does so, provided that no change of control will be deemed to have occurred where:<ul style="list-style-type: none">(d) the ultimate holding company of that entity remains the same as its ultimate holding company (if any) on the date upon which the shareholder first became a shareholder; or(e) the change of control results from the acquisition or cancellation of, or dealing in, securities which are traded on a recognised financial market
Commencement Date	31 July 2017
Commission	the Essential Services Commission established under the ESC Act
connection	the contact between the electrical systems of two persons such as will allow the supply of electricity between those systems
connection agreement	an agreement relating to the provision of connection services
connection services	the services of establishing and maintaining connection between an electricity transmission system and another electrical system or electrical installation
control	in respect of an entity has the same meaning given in section 50AA of the Corporations Act
Corporations Act	means the <i>Corporations Act 2001</i> (Cth)

customer	a person who buys or wishes to buy electricity directly through the NEM or from a retailer
declared transmission system	has the same meaning as in the National Electricity (Victoria) Act 2005
distribute	In relation to electricity, means to distribute electricity using a distribution system
distribution licence	a licence to distribute or supply electricity granted under the Act
distribution services	the transportation and delivery of electricity through a distribution system and any other services which a distributor includes in its network tariff
distribution system	in relation to a distributor, a system of electric lines (generally at nominal voltage levels of 66kV or below) which the distributor uses to distribute or supply electricity
distributor	a person who holds, or is exempt from holding, a distribution licence
Electricity Transmission System	a transmission system in Victoria (generally at nominal voltage levels of 66kV or above) which the holder of a transmission licence may use to transmit electricity
Electricity System Code	the code of that name certified by the Commission
Enforcement Order	a provisional enforcement order or a final enforcement order made and served by the Commission under section 53 of the ESC Act
ESC Act	the <i>Essential Services Commission Act 2001</i> (Vic)
final enforcement order	a final order made and served by the Commission under section 53 of the ESC Act
generation licence	A licence to generate electricity for supply or sale under the Act
generator	a person who holds, or is exempt from holding, a generation licence
guideline	a guideline published by the Commission
Licensee	NSW Electricity Networks Operations Pty Limited (ACN 609 169 959) as trustee for NSW Electricity Networks Operations Trust (ABN 70 250 995 390)
Market network services	has the same meaning as in the National Electricity Rules
Minister	the person who is, from time to time, the Minister for the purposes of the relevant section of the Act

National Electricity Law	the National Electricity (Victoria) Law which applies in Victoria as a result of the operation of section 6 of the National Electricity (Victoria) Act 2005
National Electricity Rules	the rules of that name made under the National Electricity Law
NEM	The National Electricity Market operated by AEMO for wholesale trading in electricity
network agreement	has the same meaning as in the National Electricity Rules
network services	<p>services relating to the use of an electricity transmission system, including, without limitation, any of:</p> <p>(a) network transmission services including:</p> <ol style="list-style-type: none"> (1) power transfer capability between nodes; (2) configuration switching capability at nodes; (3) system security and stabilisation capability services; and (4) voltage and reactive control capability at nodes; <p>(b) network operation systems including:</p> <ol style="list-style-type: none"> (1) remote operation services (including provision of appropriate personnel of the Licensee to perform operational tasks at the direction of Victorian Power Exchange); (2) voice and data communications services; (2A) system performance monitoring services; (3) real time operational information and control capability; and (4) operational information (including plant characteristics); and <p>(c) technical support including:</p> <ol style="list-style-type: none"> (1) special incident investigations (including, where relevant, a 24 hour service); and (2) design investigations and cost estimates.
objectives	the objectives of the Commission under the Act and the ESC Act
order	an Order in Council made or in force under the Act
provisional enforcement order	a provisional order made and served by the Commission under section 53 of the ESC Act
regulated transmission service	a service that is subject to regulation under Chapter 6A of the National Electricity Rules

retail licence	a licence granted under the Act to sell electricity otherwise than through the NEM
retailer	a person who holds, or is exempt from holding, a retail licence
supply	in relation to electricity means the delivery of electricity
trader licence	a licence to sell electricity designated as a trader licence by the Commission
transmission asset	the connection and extension assets associated with the Deer Park terminal station
transmission licence	a licence to transmit electricity granted under section 19 of the Act
transmission service	has the same meaning as in the National Electricity Rules
transmit	in relation to electricity means to transfer electricity in bulk
Ultimate Holding Company	means, in relation to an entity, an entity that: <ul style="list-style-type: none"> (a) is a holding company of the first-mentioned entity; and (b) is itself a subsidiary of no entity
undertaking	an undertaking given by the Licensee under section 53(5)(a) of the ESC Act
use of system agreement	an agreement between a retailer (or other person who has made an application for a retail licence) and a distributor which is necessary to ensure that, subject to the Act, electricity is distributed or supplied by means of the distributor's distribution system to the extent necessary to enable the retailer (or other person) to sell electricity to its customers
writing	any mode of representing or reproducing words, figures, drawings or symbols in a visible form

1.2. In this Licence, unless the context otherwise requires:

- (a) headings and footnotes 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, or part is to a condition, clause, or part of this Licence;
- (f) a reference to any statute including the Act and regulation, proclamation, Order in Council, ordinance, code, guideline, procedure or by-law includes all statutes, regulations, proclamations, Orders in Council, ordinances, codes, guidelines, procedures 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;
- (g) 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;
- (h) a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;
- (i) other parts of speech and grammatical forms of a word or phrase defined in this licence have a corresponding meaning;
- (j) 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;
- (k) 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.

2. Notices

- 2.1. A notice under this Licence is only effective if it is in writing, and dealt with as follows:
- (a) if given by the Licensee to the Commission – addressed to the Chairperson at the address specified below or as otherwise notified by the Commission:

Essential Services Commission,
Level 37, 2 Lonsdale Street,
Melbourne, VIC 3000; or
 - (b) if given by the Commission to the Licensee – given by Chairperson and addressed (and marked for attention of) the Chief Executive

Officer at the address specified below or as otherwise notified by the Licensee:

NSW Electricity Networks Operations Pty Limited (ACN 609 169 959)
as trustee for NSW Electricity Networks Operations Trust (ABN 70
250 995 390)
Level 1
180 Thomas Street
Sydney NSW 2000

A notice is to be:

- (c) signed by or on behalf of the person giving the notice and delivered by hand; or
- (d) signed by or on behalf of the person giving the notice and sent by pre-paid post; or
- (e) transmitted electronically by or on behalf of the person giving the notice by electronic mail or facsimile transmission.

2.2. A notice is deemed to be effected:

- (a) if delivered by hand – upon delivery to the relevant address;
- (b) if sent by post – upon delivery to the relevant address;
- (c) if transmitted electronically – in accordance with the method set out in the *Electronic Transactions (Victoria) Act 2000 (Vic)* for determining the time of receipt.

2.3. A notice received after 5.00 pm, or on a day that is not a business day, is deemed to be effected on the next business day.

Part B - Licence

3. Grant of the Licence

3.1. In exercise of its powers under section 19 of the Act, the Commission grants the Licensee, as owner of the transmission asset, a licence to transmit electricity via the transmission asset, and on the terms and conditions set out in this Licence.

Part C - Conditions of the Licence

4. Status of the requirements in this Part

4.1. A breach of any of the requirements set out in this Part C:

- (a) is a breach of a condition for the purposes of Part 7 of the ESC Act; and
- (b) is a breach of a condition for the purposes of clause 18 of this Licence.

- 4.2. The Licensee acknowledges that any condition deemed by the Act to be included in a licence to transmit electricity forms part of this Licence and that a breach of any such condition constitutes a breach of a condition for the purposes of clause 18 of this Licence.

5. Payment of fees

- 5.1. The Licensee must pay a licence fee as determined by the Minister in accordance with the provisions of section 22 of the Act.

6. On-going technical capacity

- 6.1. The Licensee must at all times maintain:
- (a) such technical capacity as is:
 - (1) required to meet its obligations under this licence; and
 - (2) reasonably required to undertake the activities authorised by this licence.
- 6.2. In this clause 6 activities undertaken pursuant to this Licence includes any activities of that type undertaken by a contractor, subcontractor, agent or other third party (a third party) engaged by the Licensee for the purpose of enabling the Licensee to undertake the activities authorised by this Licence.
- 6.3. The Licensee must ensure that any contract, entered into with any third parties for the performance of licensable functions, contains such provisions as are necessary to ensure the third party provides its services in a way that enables the Licensee to comply with the requirements of its licence and this clause 6.

7. Compliance with regulatory instruments

- 7.1. Subject to clause 7.2, the Licensee must comply with:
- (a) the Electricity System Code;
 - (b) relevant industry standards; and
 - (c) any other code, procedure or guideline issued by the Commission from time to time that is expressed as being one with which the Licensee must comply,
- to the extent they are applicable to activities undertaken by the Licensee pursuant to this Licence.
- 7.2. The Commission may, from time to time, by written notice grant an exemption in relation to or otherwise modify the application of some of the requirements of the instruments referred to in clause 7.1.
- 7.3. The Licensee must have in place a system for monitoring its compliance with this Licence and the instruments referred to in clause 7.1.

- 7.4. The Licensee must comply with the requirements of the *Electricity Safety Act 1998* and any regulations made under that Act.
- 7.5. The Licensee must comply with the applicable provisions of the National Electricity Rules and the National Electricity Law.
- 7.6. The Licensee must notify the Commission of any breach by it of the conditions of this Licence, including breach of any of the instruments referred to in clause 7.1, as soon as reasonably practicable after it becomes aware of the breach.

8. Obligation to connect to electricity transmission system

- 8.1 The following persons may make a request under clause 8.2:
 - (a) a person which holds or has made application for or intends to make application for one or more of the following kinds of licence:
 - (1) a generation licence;
 - (2) a distribution licence;
 - (3) a trader licence; or
 - (4) a transmission licence; or
 - (b) a person registered with AEMO under the National Electricity Rules;
 - (c) a person which is exempted from the requirement to obtain a licence; or
 - (d) a person which:
 - (1) is or intends to become a customer taking supply directly from the Licensee's electricity transmission system; or
 - (2) holds or has made application to or intends to make application for a retail licence and wishes to sell electricity to a person which is or intends to become a customer taking supply directly from the Licensee's electricity transmission system.
- 8.2 If a person referred to in clause 8.1 requests the Licensee to offer to provide connection to the Licensee's electricity transmission system or to increase the performance of an existing connection to the Licensee's electricity transmission system, and includes in the request all information the Licensee reasonably requires in order to make such an offer, then the Licensee must offer to provide connection or connection at the requested higher performance level within the time specified in clause 8.3.
- 8.3 The Licensee must make an offer under clause 8.2 within:
 - (a) 65 business days; or
 - (b) such other period as the Commission decides to be reasonable, after receiving the request or all information which the Licensee reasonably

requires in order to make such an offer (whichever is the later) and must otherwise deal with a request under clause 8.2 in accordance with any applicable guidelines published by the Commission.

8.4 An offer made by the Licensee under this clause 8 must not be inconsistent in the opinion of the Commission with:

- (a) any guidelines published by the Commission which, in the opinion of the Commission, are applicable to the offer except to the extent the offer is consistent in the opinion of the Commission with an approved statement; and
- (b) any approved statement which, in the opinion of the Commission, is applicable to the offer.

8.5 An offer under clause 8.2 must be fair and reasonable. Any question as to the fairness and reasonableness of a term of an offer shall be decided by the Commission on the basis of the Commission's opinion of the fairness and reasonableness of the term.

8.6 The Licensee must not refuse to make an offer to provide connection, or to provide connection at a higher performance level as contemplated by this clause 8, unless:

- (a) the Licensee has made an offer to provide those services in accordance with this clause 8 but the offer has not been accepted; or
- (b) the Licensee is permitted or required to do so by any of the codes with which the Licensee must comply pursuant to clause 7.1.

8.7 A question as to the reasonableness of a requirement by the Licensee for information as contemplated by clause 8.2, or as to the reasonableness of a period under clause 8.3(b), shall be decided by the Commission on the basis of the Commission's opinion of the reasonableness of the requirement or the period.

8.8 A question as to the applicability of guidelines for the purpose of clause 8.3 or 8.4 shall be decided by the Commission on the basis of the Commission's opinion of their applicability.

9. Provision of other services

9.1 In undertaking the activities authorised by this licence, the terms on which the Licensee provides services which are regulated transmission services, but not connection or network services, must be fair and reasonable.

9.2 Any question as to the fairness and reasonableness of such terms shall be decided by the Commission on the basis of the Commission's opinion of the fairness and reasonableness of the terms.

10. Approved Statements

10.1 The Licensee may submit to the Commission for its approval, and must do

so within 20 business days of being required by the Commission by notice in writing to do so, a statement setting out any or all of:

- (a) the charges it proposes to make for providing any services of the kind referred to in clauses 8, 9 and 11;
- (b) the maximum charges for such services;
- (c) the principles for setting such charges; and
- (c) a methodology for setting such charges.

10.2 The Licensee may submit to the Commission for approval amendments to an approved statement and must do so within 20 business days of being required by the Commission by notice in writing to do so.

11. Obligation to enter into a network agreement

11.1 Within 20 business days after a request by AEMO, the Licensee must offer to enter into a network agreement on terms which are not inconsistent in the opinion of the Commission with:

- (a) any guidelines published by the Commission which, in the opinion of the Commission, are applicable to the offer except to the extent the offer is consistent in the opinion of the Commission with an approved statement; and
- (b) any approved statement which, in the opinion of the Commission, is applicable to the offer.

11.2 An offer under clause 11.1 must be fair and reasonable. Any question as to the fairness and reasonableness of a term of an offer shall be decided by the Commission on the basis of the Commission's opinion of the fairness and reasonableness of the term.

12. Augmentation

The Licensee must not augment an electricity transmission system except pursuant to a network agreement with AEMO or a connection agreement with a distributor, generator or customer.

13. Separate accounts

13.1. If the Licensee holds more than one category of licence under Part 2 of the Act, the Licensee must prepare separate accounts for each part of its business in respect of which it has been granted a separate licence.

14. Standards and Procedures

14.1 At the written request of the Commission, the Licensee must participate to the extent specified by the Commission in the development, issue and review of any standards and procedures specified by the Commission.

14.2 The Licensee must in accordance with guidelines published for this purpose, or as directed by the Commission, report to the Commission on its performance against applicable standards and procedures.

14.3 If the Commission considers that:

- (a) the Licensee has failed to comply with clause 14.1; or
- (b) standards and procedures applicable to the Licensee have been shown to be insufficient to prevent abuses by the Licensee of any market power it enjoys,

the Commission may issue standards and procedures applicable to the Licensee and with which the Licensee must comply.

15. Provision of information to AEMO and Commission

15.1. The Licensee must maintain comprehensive records regarding any activities undertaken pursuant to this Licence for a period of at least 7 years.

15.2. The Licensee must as soon as reasonably practicable provide AEMO with such information relating to any activities undertaken pursuant to this Licence as AEMO may properly request in connection with the performance of its functions or the exercise of its powers under the Act in the manner and form specified by AEMO.

15.3. The Licensee must, as soon as reasonably practicable, provide the Commission with such information relating to any activities undertaken pursuant to this Licence as the Commission may properly request in connection with the performance of its functions or the exercise of its powers under the Act and in a manner and form specified by the Commission.

15.4. The Licensee must, as soon as reasonably practicable, provide the Commission with information on its ongoing technical capacity or financial viability to undertake the activities authorised by this Licence as the Commission may properly request in connection with the performance of its functions or the exercise of its powers under the Act and in a manner and form specified by the Commission.

15.5. In this clause 15:

- (a) activities undertaken pursuant to this Licence includes any activities of that type undertaken by a contractor, subcontractor, agent or other third party (a third party) engaged by the Licensee for the purpose of enabling the Licensee to undertake the activities authorised by this Licence; and
- (b) information includes information in the possession, custody or control of any third party.

The Licensee must ensure that any contract entered into with any such third parties contains such provisions as are necessary to enable the Licensee to comply with the requirements of this clause 15.

15.6. **Change of control**

- (a) The Licensee must give the Commission a notice if any event occurs, any decision by the Licensee is made, or any other circumstances exist that will effect a change of control of the Licensee.
- (b) The notice required under condition 15.6(a) must set out particulars of the relevant event, decision or circumstance as soon as practicable, and in any case not later than 3 Business Days after the Licensee becomes aware of the event or circumstance or makes the decision.

16. Audit

16.1. Upon request by the Commission, the Licensee must appoint an auditor to be approved by the Commission to conduct audits of:

- (a) the Licensee's compliance with its obligations under the Act or this Licence, including but not limited to the codes and guidelines referred to in clause 7.1; and
- (b) the reliability and quality of information reported by the Licensee to the Commission and the consistency of that information with the Commission's specifications; and
- (c) any other matter as directed by the Commission.

16.2. The Licensee must ensure that the Commission is promptly provided with a copy of any reports produced by the auditor pursuant to this clause. The Licensee must comply, and must require the auditor to comply, with any guidelines issued by the Commission dealing with audits under this clause. The Licensee must also provide draft reports if requested by the Commission.

17. Compliance with laws

17.1. The Licensee must comply with all applicable laws.

18. Revocation

18.1. The Commission may revoke this Licence:

- (a) at any time at the request of or with the consent of the Licensee; or
- (b) in accordance with the Act.

18.2. Consistent with its objectives under the Act and the ESC Act, the Commission may revoke this Licence if:

- (a) the Licensee fails to comply with an undertaking or a final enforcement order;
- (b) the Licensee breaches any condition of this Licence, including any condition deemed to apply by the Act or any other legislation;
- (c) any information provided by the Licensee pursuant to this Licence or in its application for the Licence is found to be false or misleading;
- (d) the Licensee's technical capacity or financial viability is such that the Commission considers that the Licensee would be unable to satisfactorily meet its obligations under this Licence;
- (e) the Licensee fails to comply with a decision, direction, determination or arrangement (including any arrangement concerning load shedding) (as the case may be) made by or agreed with the Commission, AEMO or the Minister;
- (f) following any one of the following events:
 - (1) a petition or other application being presented or resolution being passed for the winding up, liquidation or dissolution of the Licensee or notice of intention to propose such a resolution being given or the entry of the Licensee into a scheme of arrangement or compromise or deed of company arrangement with any of its creditors;
 - (2) the appointment of an administrator, a receiver or receiver and manager or official manager or agent of a secured creditor to any of the Licensee's property;
 - (3) the Licensee ceasing to carry on business or stopping or wrongfully suspending payment to any of its creditors or stating its intention to do so;

the Commission determines that the event, or actions arising from an event, would, or would be likely to, result in the inability of the licensee to meet its obligations under this licence

or

- (g) it is in the long term interests of Victorian consumers to do so.

18.3. Where the Commission decides to revoke this Licence, the Commission will issue a notice to the Licensee, specifying:

- (a) the basis upon which the Commission is revoking this Licence; and
- (b) the date upon which the revocation will take effect, such date to be:
 - (1) where clause 18.2(a) applies or where in the Commission's opinion it is appropriate that the Licence be revoked in a shorter time frame having regard to its objectives and the events or circumstances that gave rise to the notice being

issued, no less than 5 business days after the date upon which the notice is issued; and

- (2) in all other cases, no less than 20 business days after the date upon which the notice is issued;

and, subject to clause 18.4, this Licence will be revoked on the date specified in the notice.

- 18.4. The Commission may, at its discretion and by written notice to the Licensee, withdraw a notice issued under clause 18.3 at any time prior to the revocation date specified in the notice if the Commission is satisfied that the Licensee has complied with the relevant enforcement order or undertaking, rectified the breach or complied with the relevant decision, direction, determination or arrangement (as the case may be) or if the Commission considers that it is otherwise appropriate to withdraw the notice.

19. Variation

- 19.1. For the purposes of section 29(1)(a) of the Act, the Commission may vary this Licence in accordance with the procedures set out in this clause 19.

- 19.2. Where the Commission:

- (a) wishes to amend the list of instruments referred to in clause 7.1; or
- (b) is of the opinion that a proposed variation to the Licence is consistent with its objectives and is:
 - (1) of an administrative or trivial nature; or
 - (2) required urgently, such that it would not be appropriate to issue a notice under section 29(1)(c) of the Act,

the Commission may issue a notice to the Licensee varying this licence accordingly.

- 19.3. A notice issued under clause 19.2 will include:

- (a) the terms of the variation;
- (b) the purpose of the variation;
- (c) where clause 19.2(b) applies, confirmation that the Commission is of that opinion; and
- (d) the date upon which the variation will take effect.

20. Transfer

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

21. Administrator

- 21.1. Subject to clause 18, 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.

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

22. Insurance

22.1. The Licensee must maintain at all times adequate general public liability insurance covering liability arising out of the activities authorised by this Licence.

22.2. The Commission will assess the adequacy of the Licensee's general public liability insurance having regard to the nature and level of risk and the cost of the insurance.

22.3. The Licensee must at all times comply with the terms and conditions of its general public liability insurance policy, and maintain the financial capacity to meet any uninsured amount forming part of the maximum cover provided under the policy.

22.4. For the avoidance of doubt, the uninsured amount is the deductible and/or excess as per the policy taken out under clause 22.1.