



Western Australia

National Gas Access (WA) Act 2009

**National Gas Access (WA) (Local Provisions)
Regulations 2009**

National Gas Access (WA) (Local Provisions) Regulations 2009

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National Gas Access (WA) (Local Provisions) Regulations 2009

Part 1 — Preliminary matters

1. Citation

These regulations are the *National Gas Access (WA) (Local Provisions) Regulations 2009*.

2. Commencement

These regulations come into operation when the *National Gas Access (WA) Act 2009* section 21 comes into operation.

3. Terms used

(1) In these regulations —

National Gas Law means the National Gas Access (Western Australia) Law as defined in the *National Gas Access (WA) Act 2009* section 3(1).

(2) A term has the same meaning in these regulations as it has in the National Gas Law unless the contrary intention appears in these regulations.

Part 2 — Reference tariffs for supply to small use customers

4. Terms used

In this Part —

delivery point means a point on a distribution pipeline at which gas is withdrawn from the pipeline and delivered to an end user;

reference tariff variation mechanism has the meaning given in rule 92 of the Rules;

small delivery point means a delivery point at which gas is delivered to a user for delivery by the user to a small use customer;

small delivery service means a reference service to the extent that it is or may be used for the delivery of gas to a small delivery point;

small use customer means an end user —

- (a) to whom gas is delivered at a delivery point; and
- (b) to whom less than 1 terajoule of gas is delivered at that delivery point in any year; and
- (c) who is not a user;

tariff area means one of the following areas as defined in the *Energy Coordination (Gas Tariffs) Regulations 2000* regulation 4(1) —

- (a) the Albany area; or
- (b) the Kalgoorlie-Boulder area; or
- (c) the Mid-West/South-West area.

5. Part 2 applies only to distribution pipelines

This Part applies only in relation to a distribution pipeline.

6. Uniform tariff for small use customers

- (1) The ERA must not approve or make an access arrangement for a distribution pipeline if the reference tariff for any small delivery service provided for in the access arrangement varies according to the geographical location of the small delivery point to which the gas is delivered.
- (2) The ERA must not approve or make an access arrangement (*arrangement A*) for a distribution pipeline unless the reference tariff for any small delivery service provided for in arrangement A is the same as the reference tariff for the equivalent reference service in any neighbouring access arrangement.
- (3) In subregulation (2) a *neighbouring access arrangement* is an applicable access arrangement for a distribution pipeline —
 - (a) that is operated by the same pipeline operator as the pipeline to which arrangement A relates; and
 - (b) by means of which gas is or may be delivered to small delivery points anywhere in the tariff area in which gas is or may be delivered by means of a small delivery service provided for in arrangement A,

other than an access arrangement that is to be revised or varied by arrangement A.
- (4) This regulation applies despite anything in the National Gas Law or Rules to the contrary.

7. Impact on small use customers and retailers to be taken into account

- (1) When exercising a discretion in approving or making an access arrangement for a distribution pipeline the ERA must take into account the possible impact of the proposed reference tariffs, the method of determining the tariffs and the reference tariff variation mechanisms on —

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- (a) users to whom gas is or might be delivered by means of a small delivery service provided for in the access arrangement; and
 - (b) small use customers to whom gas is or might be delivered by those users.
- (2) In subregulation (1) a reference to the impact of something is not limited to the economic impact of that thing.
- (3) A requirement under this regulation to take a matter into account applies —
 - (a) despite anything in the National Gas Law or Rules that would otherwise prevent the matter being taken into account; and
 - (b) in addition to any requirement under the National Gas Law or Rules —
 - (i) for any other matter to be taken into account; or
 - (ii) as to the content of the access arrangement.
- (4) For the avoidance of doubt, this regulation does not permit the ERA to approve or make an access arrangement that does not include a reference tariff variation mechanism that complies with rule 92 of the Rules.

Part 3 — Arbitrator funding

8. Terms used

In this Part —

allowed period means the period referred to in regulation 10(2) or such further period as the WA arbitrator may allow;

assessment amount means the total amount payable as specified in a notice of assessment under regulation 10(1)(b)(i);

core function costs, for a quarter, means costs that —

- (a) are incurred in the quarter in connection with the performance by the WA arbitrator of its functions under the national gas scheme laws; and
- (b) cannot be recovered under the *National Gas Access (WA) (Part 3) Regulations 2009* regulation 9;

national gas scheme laws means —

- (a) the National Gas Law; and
- (b) the National Gas Rules; and
- (c) the National Gas Access (Western Australia) Regulations as defined in the *National Gas Access (WA) Act 2009* section 3(1); and
- (d) the *National Gas Access (WA) Act 2009* and any regulations made under Part 6 of that Act;

prescribed rate means an interest rate that is 5 percentage points higher than —

- (a) the rate quoted on Reuters Screen BBSW as the Bank Bill Reference Rate (Mid-Rate) for a one month bill at or about 10 a.m. (Sydney time) on the first day after the allowed period; or
- (b) if a rate is not quoted as described in paragraph (a) — the rate determined by the WA arbitrator having regard to comparable indices then available;

quarter means a period of 3 months beginning on 1 July, 1 October, 1 January or 1 April;

standing charge means a charge under regulation 9(1).

9. Standing charges

- (1) For each quarter, for each pipeline that during any of the quarter is specified in Schedule 1 and is a covered pipeline, a charge is payable in connection with the performance by the WA arbitrator of its functions under the national gas scheme laws.
- (2) A charge under subregulation (1) for a pipeline for a quarter is payable by any person who is the service provider during the quarter.
- (3) The amount of the charge under subregulation (1) payable by a person for a pipeline for a quarter is determined in accordance with the following formula —

$$S = C \times P \times \frac{D_P}{D_Q}$$

where —

- S is the amount of the standing charge;
- C is the amount of the core function costs for the quarter;
- P is the percentage specified in Schedule 1 for the pipeline;
- D_Q is the number of days in the quarter;
- D_P is the number of days in the quarter during which —
 - (a) the pipeline is specified in Schedule 1 and is a covered pipeline; and
 - (b) the person is the service provider of the pipeline.

10. Assessment and payment of standing charges

- (1) As soon as is practicable after the end of each quarter the WA arbitrator must —
 - (a) assess the standing charges payable by a person for a quarter; and

- (b) give a notice of assessment to the person specifying —
 - (i) the amount of each of those charges and the total amount payable; and
 - (ii) the amount of the core function costs used in calculating those charges; and
 - (iii) the day on which the notice of assessment was issued.
- (2) A person given a notice of assessment must pay the assessment amount to the WA arbitrator within 30 days after the day specified under subregulation (1)(b)(iii).
- (3) If the person does not pay the assessment amount in full within the allowed period, interest on the outstanding amount is payable to the WA arbitrator at the prescribed rate calculated daily.

11. Recovery of unpaid amounts

- (1) The WA arbitrator may recover any unpaid assessment amount, together with any interest payable under regulation 10(3), in a court of competent jurisdiction as a debt due to the WA arbitrator.
- (2) In proceedings under subregulation (1) a certificate —
 - (a) purporting to be signed by the WA arbitrator; and
 - (b) specifying an amount as being an assessment amount; and
 - (c) specifying an amount as being interest payable under regulation 10(3); and
 - (d) specifying a person as being liable to pay the specified amounts; and
 - (e) stating that the specified amounts are unpaid,

is, without proof of the appointment of the WA arbitrator or of the authenticity of the signature, sufficient evidence of the matters specified or stated.

12. Matters to be included in WA arbitrator's annual report

The annual report submitted by the WA arbitrator under the *Financial Management Act 2006* section 61 must include details of the total amount of standing charges for each person in respect of the financial year to which the annual report relates.

13. Transitional provisions — standing charge for first period

Despite the definition in regulation 8, in this Part —
quarter includes the period —

- (a) beginning on the day on which the *National Gas Access (WA) Act 2009* section 30 comes into operation; and
- (b) ending on 31 December 2009.

Schedule 1 — Percentages for calculating standing charges

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	Pipeline	Percentage
1.	Mid West and South West Gas Distribution System (WA:GDL8)	27.01%
2.	Dampier to Bunbury Natural Gas Pipeline (WA:PL40)	50.00%
3.	Goldfields Gas Pipeline (WA:PL24)	20.27%
4.	Kalgoorlie to Kambalda Pipeline (WA:PL27)	2.72%

Note: WA:GDL refers to a distribution licence under the *Energy Coordination Act 1994*.

WA:PL refers to a pipeline licence under the *Petroleum Pipelines Act 1969*.

Notes

- ¹ This is a compilation of the *National Gas Access (WA) (Local Provisions) Regulations 2009*. The following table contains information about those regulations.

Compilation table

Citation	Gazettal	Commencement
<i>National Gas Access (WA) (Local Provisions) Regulations 2009</i>	31 Dec 2009 p. 5331-41	1 Jan 2010 (see r. 2 and <i>Gazette</i> 31 Dec 2009 p. 5327)

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
allowed period.....	8
arrangement A.....	6(2)
assessment amount.....	8
core function costs	8
delivery point	4
National Gas Law	3(1)
national gas scheme laws	8
neighbouring access arrangement	6(3)
prescribed rate	8
quarter	8, 13
reference tariff variation mechanism	4
small delivery point	4
small delivery service	4
small use customer	4
standing charge	8
tariff area.....	4