



Western Australia

Electricity Industry Act 2004

**Electricity Industry (Arbitrator and Board
Funding) Regulations 2009**

Electricity Industry (Arbitrator and Board Funding) Regulations 2009

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Defined terms

Electricity Industry (Arbitrator and Board Funding) Regulations 2009

1. Citation

These regulations are the *Electricity Industry (Arbitrator and Board Funding) Regulations 2009*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Terms used

- (1) In these regulations —

allowed period means the period referred to in regulation 5(2) or such further period as the arbitrator may allow;

assessment amount means the total amount payable as specified in a notice of assessment under regulation 5(1)(b)(i);

Code has the meaning given in section 103 of the Act;

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

- (a) are incurred in the quarter in connection with the performance by the arbitrator and the Board of their functions under the Act and the *Energy Arbitration and Review Act 1998* Part 6; and
- (b) cannot be recovered under regulation 6; and
- (c) are not incurred in relation to hearing and determining a Pilbara matter;

determined costs means an amount determined by the Board under regulation 6 to be payable by a party to proceedings;

Pilbara matter means a matter arising under the Act in relation to a Pilbara network;

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 arbitrator having regard to comparable indices then available;

proceedings includes proceedings that are commenced but discontinued or otherwise not brought to finality;

quarter means —

- (a) the period beginning on the day on which regulation 4 comes into operation and ending on 31 December 2009; or
- (b) any subsequent period of 3 months beginning on 1 July, 1 October, 1 January or 1 April;

standing charge means a charge under regulation 4(1).

- (2) A term has the same meaning in these regulations as it has in the Code unless the contrary intention appears in these regulations.

[Regulation 3 amended: SL 2021/95 r. 36.]

4. Standing charges

- (1) For each quarter, for each network that during any of the quarter is specified in Schedule 1 and is a covered network, a charge is payable in connection with the performance by the arbitrator and the Board of their functions under the Act and the *Energy Arbitration and Review Act 1998* Part 6.

- (2) A charge under subregulation (1) for a network for a quarter is payable by any person who is the service provider for the network during the quarter.
- (3) The amount of the charge under subregulation (1) payable by a person for a network 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 network;
- D_Q is the number of days in the quarter;
- D_P is the number of days in the quarter during which —
- (a) the network is specified in Schedule 1 and is a covered network; and
 - (b) the person is the service provider for the network.

5. Assessment and payment of standing charges

- (1) As soon as is practicable after the end of each quarter the arbitrator must —
- (a) assess the standing charges payable by a person for the 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 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 arbitrator at the prescribed rate calculated daily.

6. Board's power in relation to costs and expenses of proceedings

- (1A) This regulation does not apply in relation to a part of a proceeding that relates to hearing and determining a Pilbara matter.
 - (1) The Board may fix an amount that represents the cost and expenses of the hearing and determination of particular proceedings before it.
 - (2) Without limiting subregulation (1), the cost and expenses of the hearing and determination of particular proceedings include —
 - (a) the costs of constituting the Board for the purposes of those proceedings, including the payment of any remuneration and allowances payable under the *Energy Arbitration and Review Act 1998* section 55 to the members of the Board; and
 - (b) any cost and expenses attributable to the provision of services, facilities and support under the *Energy Arbitration and Review Act 1998* section 56(1) for the purposes of those proceedings.
 - (3) The Board may determine —
 - (a) which of the parties to the proceedings is liable for payment of the whole or any part of an amount fixed under subregulation (1); and
 - (b) the manner in which, and time within which, payment is to be made.

- (4) A party to proceedings must pay any amount determined by the Board to be payable by the person in the manner and within the time determined by the Board.

[Regulation 6 amended: SL 2021/95 r. 37.]

7. Recovery of unpaid amounts

- (1) The arbitrator may recover —
- (a) any unpaid assessment amount, together with any interest payable under regulation 5(3); or
 - (b) any unpaid determined costs,
- in a court of competent jurisdiction as a debt due to the arbitrator.
- (2) In proceedings under subregulation (1) a certificate —
- (a) purporting to be signed by the arbitrator; and
 - (b) specifying an amount as being an assessment amount or determined costs; and
 - (c) specifying an amount as being interest payable under regulation 5(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 arbitrator or of the authenticity of the signature, sufficient evidence of the matters specified or stated.

7A. Costs and expenses arising from proceedings relating to Pilbara matters

- (1) The Board may fix an amount that represents the cost and expenses of hearing and determining a Pilbara matter in a proceeding before it.

r. 7A

- (2) Without limiting subregulation (1), the cost and expenses referred to in that subregulation include —
 - (a) the costs of constituting the Board for the purposes of hearing and determining the Pilbara matter in the course of the proceedings, including the payment of any remuneration and allowances payable under the *Energy Arbitration and Review Act 1998* section 55 to the members of the Board; and
 - (b) any cost and expenses attributable to the provision of services, facilities and support under the *Energy Arbitration and Review Act 1998* section 56(1) for the purposes of hearing and determining the Pilbara matter in the course of the proceedings.
- (3) If the Board fixes an amount under subregulation (1), the Board may —
 - (a) determine which of the parties to the proceedings relating to the Pilbara matter is liable for payment of the whole or any part of the amount; and
 - (b) fix the manner in which, and time within which, payment must be made.
- (4) A party that is determined to be liable for a payment under subregulation (3) must make the payment to the arbitrator in the manner and within the time fixed by the Board.
- (5) If the party does not make the payment in full within the time within which the payment must be made, interest on the outstanding amount is payable to the arbitrator at the prescribed rate calculated daily.
- (6) The arbitrator may recover any unpaid amount or interest owed under this regulation in a court of competent jurisdiction as a debt due to the arbitrator.

[Regulation 7A inserted: SL 2021/95 r. 38.]

7B. Charges for hearing and determining proceedings relating to Pilbara matters generally

- (1) In this regulation —
Regional Power Corporation means the corporation established by the *Electricity Corporations Act 2005* section 4(1)(d).
- (2) The arbitrator may fix an amount that represents the Board's cost and expenses in relation to the hearing and determination of Pilbara matters in all proceedings before it during a quarter, other than any cost and expenses fixed and to be paid by a party under regulation 7A.
- (3) If the arbitrator fixes an amount under subregulation (2), the arbitrator may issue the Regional Power Corporation a notice specifying —
 - (a) the amount; and
 - (b) the day on which the notice is issued; and
 - (c) that the Corporation must pay to the arbitrator the amount specified in the notice within 30 days after the day specified under paragraph (b).
- (4) If the Regional Power Corporation is issued a notice under subregulation (3), the Corporation must pay the amount specified in the notice to the arbitrator within 30 days after the day specified under subregulation (3)(b).
- (5) If the Regional Power Corporation does not pay the amount in full within the period specified under subregulation (4), interest on the outstanding amount is payable to the arbitrator at the prescribed rate calculated daily.
- (6) The arbitrator may recover any unpaid amount or interest owed under this regulation in a court of competent jurisdiction as a debt due to the arbitrator.

[Regulation 7B inserted: SL 2021/95 r. 38.]

8. Matters to be included in arbitrator's annual report

The annual report submitted by the arbitrator under the *Financial Management Act 2006* section 61 must include details of the following matters in respect of the financial year to which the annual report relates —

- (a) the total amount of standing charges for each person;
and
- (b) the total determined costs under regulation 6; and
- (c) the total amounts fixed under regulation 7A(1); and
- (d) the total amounts fixed under regulation 7B(2).

[Regulation 8 amended: SL 2021/95 r. 39.]

Schedule 1 — Percentages for calculating standing charges

[r. 4]

	Network	Percentage
1.	The network that is a covered network under s. 3.1 of the Code (Western Power Network)	100%

Notes

This is a compilation of the *Electricity Industry (Arbitrator and Board Funding) Regulations 2009* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table.

Compilation table

Citation	Published	Commencement
<i>Electricity Industry (Arbitrator and Board Funding) Regulations 2009</i>	31 Dec 2009 p. 5365-73	r. 1 and 2: 31 Dec 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jan 2010 (see r. 2(b))
<i>Electricity Industry (Pilbara Networks) Regulations 2021 Pt. 9</i>	SL 2021/95 18 Jun 2021	19 Jun 2021 (see r. 2(b))

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.....	3(1)
assessment amount.....	3(1)
Code.....	3(1)
core function costs	3(1)
determined costs	3(1)
Pilbara matter.....	3(1)
prescribed rate	3(1)
proceedings	3(1)
quarter.....	3(1)
Regional Power Corporation.....	7B(1)
standing charge	3(1)