

Western Australia

Energy Coordination Act 1994

Energy Coordination Regulations 2004

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Energy Coordination Regulations 2004

CONTENTS

Part 1 — Preliminary matters		
1.	Citation	1
2.	Commencement	1
3.	Definitions	1
Part 2 — Consultation on applications for grant or amendment of licence		
4.	Public consultation requirements (s. 11VA and 11WA)	3
5.	Invitation to make submissions on the application	3
6.	Making submissions	4
7.	Applications of significant public interest	5
8.	Draft decisions	5
9.	Inviting submissions on draft decisions	6
10.	Submissions on draft decisions	6
11.	Final decisions on substantial amendments	7
12.	Publication of final decisions	7
Part 3 — Other matters		
13.	Prescribed information (s. 21)	8
Schedule 1 — Prescribed information		
Notes		
	Compilation table	12

Energy Coordination Regulations 2004

Part 1 — Preliminary matters

1. Citation

These regulations may be cited as the *Energy Coordination Regulations 2004*¹.

2. Commencement

These regulations come into operation on 19 March 2004¹.

3. Definitions

In these regulations, unless the contrary intention appears —
application means an application referred to in regulation 4;
decision means —

- (a) in relation to an application under section 11L of the Act for the grant of a licence — a decision under section 11S of the Act whether or not to grant the licence or approve the transfer;
- (b) in relation to an application under section 11R of the Act for approval to transfer a licence — a decision under section 11S of the Act whether or not to approve the transfer; or
- (c) in relation to an application under section 11VA(1) for amendment of a licence — a decision under

r. 3

section 11VA(4) of the Act whether or not to grant the application;

draft decision means a draft decision prepared under regulation 8;

web site, in relation to the Authority, means a web site established by the Authority and maintained for the purposes of these regulations and any other purposes of the Authority.

Part 2 — Consultation on applications for grant or amendment of licence

4. Public consultation requirements (s. 11VA and 11WA)

The Authority must undertake public consultation in accordance with the procedure set out in this Part before it makes a decision on —

- (a) an application under section 11L for the grant of a licence;
- (b) an application under section 11R for approval to transfer a licence; or
- (c) an application under section 11VA for the amendment of a licence.

5. Invitation to make submissions on the application

- (1) When the Authority receives an application, it must invite submissions on the application from —
 - (a) the Coordinator;
 - (b) the Director; and
 - (c) members of the public.
- (2) The invitation to members of the public may be published by any one or more of the following means, as the Authority thinks appropriate in the circumstances of the case —
 - (a) by publishing an invitation on the Authority's web site;
 - (b) by sending an email to each person who has notified the Authority that the person is interested in receiving information about the Authority's activities relating to gas, and who has given the Authority an email address for that purpose;
 - (c) by advertising in a newspaper.
 - [(d) deleted]*
- (3) An invitation to make submissions —

r. 6

- (a) must specify a period of at least 14 days within which a submission may be made;
 - (b) must include a statement to the effect that, if the Minister advises the Authority that the matter is of significant public interest, the Authority will publish a draft decision for comment before making a final decision;
 - (c) must include a statement to the effect that submissions received by the Authority in response to the invitation are required to be published on the Authority's web site except in the circumstances referred to in regulation 6(2); and
 - (d) may specify the form or manner, or both, in which a submission may be made.
- (4) However, if the invitation relates to an application made on or before 31 March 2006 for the grant of a licence, then instead of including a statement under subregulation (3)(b), the invitation must include a statement to the effect that the Authority will publish a draft decision for comment before making a final decision.

[Regulation 5 amended in Gazette 15 Jun 2004 p. 2027.]

6. Making submissions

- (1) Any person may make a submission on the application —
 - (a) in the form and manner specified (if any) in the invitation under regulation 5; and
 - (b) within the period specified in the invitation.
- (2) The Authority must publish on its web site each submission that it receives within the specified period, unless —
 - (a) the person who makes the submission requests the Authority not to publish the submission, or part of it, on the grounds that it contains information identified by the person as “commercial-in-confidence”; or

- (b) the Authority is of the opinion that publication of all or part of the submission would not be in the public interest.

7. Applications of significant public interest

- (1) If the Coordinator is of the opinion that the matter to which an application relates is or would be of significant public interest, the Coordinator must advise the Minister to that effect.
- (2) The Minister may advise the Authority, at any time before the Authority publishes a final decision on the application, that in the Minister's opinion the matter to which the application relates is or would be of significant public interest.
- (3) Subregulations (1) and (2) do not apply in relation to an application for the grant of a licence made on or before 31 March 2006.

8. Draft decisions

- (1) Where —
 - (a) an application is made for the grant of a licence on or before 31 March 2006; or
 - (b) for any other application — the Minister advises the Authority, before the Authority publishes a final decision on the application, that, in the Minister's opinion, the matter to which the application relates is of significant public interest,

the Authority must prepare a draft of the decision it proposes to make on the application, and a statement of reasons for the proposed decision.

- (2) When preparing the draft decision, the Authority must have regard to each submission that it received within the period specified in the invitation made under regulation 5(1).

r. 9

9. Inviting submissions on draft decisions

- (1) When the Authority prepares a draft decision on an application, the Authority must —
 - (a) give a copy of the draft decision and of the statement of reasons to the Coordinator, the Director and each person who made a submission under regulation 6(1); and
 - (b) publish the draft decision and the statement of reasons on the Authority's web site and in any other way the Authority considers appropriate, with an invitation to the public to make submissions on the draft decision.
- (2) An invitation to make submissions on the draft decision —
 - (a) must specify a period of at least 14 days within which a submission may be made;
 - (b) must include a statement to the effect that submissions received by the Authority in response to the invitation are required to be published on the Authority's web site except in the circumstances referred to in regulation 10(2); and
 - (c) may specify the form or manner, or both, in which a submission may be made.

10. Submissions on draft decisions

- (1) Any person may make a submission on the draft decision —
 - (a) in the form and manner specified (if any) in the invitation under regulation 9; and
 - (b) within the period specified in the invitation.
- (2) The Authority must publish on its web site each submission that it receives within the specified period, unless —
 - (a) the person who makes the submission requests the Authority not to publish the submission, or part of it, on the grounds that it contains information identified by the person as "commercial-in-confidence"; or

- (b) the Authority is of the opinion that publication of all or part of the submission would not be in the public interest.

11. Final decisions on substantial amendments

- (1) If the Authority is not required under regulation 8(1) to prepare a draft decision on an application, the Authority may make a final decision on the application after the end of the period specified in the invitation made under regulation 5(1).
- (2) If the Authority invites submissions to be made on a draft decision on an application, the Authority may make a final decision on the application after the end of the period specified in the invitation made under regulation 9(1)(b).
- (3) When making a final decision, the Authority must have regard to each submission that it received within the period referred to in subregulation (1) or (2) respectively.

12. Publication of final decisions

When the Authority makes a final decision on an application, it must —

- (a) prepare a statement of reasons for the decision;
- (b) give a copy of the decision and the statement of reasons to the Coordinator, the Director and each person who made a submission on the application under regulation 6(1) or 10(1); and
- (c) publish the decision and the statement of reasons on the Authority's web site.

Part 3 — Other matters

13. Prescribed information (s. 21)

- (1) For the purposes of section 21 of the Act, a person or an occupier of premises may be requested to provide any or all of the kinds of information described in Schedule 1.
- (2) The reference in Schedule 1 item 5 to energy infrastructure includes a reference to apparatus, facilities, structures, plant and equipment associated with the operation of such infrastructure.

[Regulation 13 inserted in Gazette 25 May 2010 p. 2271.]

Schedule 1 — Prescribed information

[r. 13]

[Heading inserted in Gazette 25 May 2010 p. 2272.]

1. Information relating to previous consumption, production, processing, storage, transportation, sale, supply, delivery or receipt of energy by the person or occupier.
2. Information relating to forecast consumption, production, processing, storage, transportation, sale, supply, delivery or receipt of energy by the person or occupier.
3. Information relating to wholesale or retail arrangements for the importation, production, processing, storage, transportation, sale, supply, delivery or receipt of energy by the person or occupier including information in respect of the following —
 - (a) the parties to those arrangements;
 - (b) principles and processes relating to those arrangements and changes to those arrangements;
 - (c) actual and contracted quantities of energy imported, produced, processed, stored, transported, sold, supplied, delivered or received under those arrangements;
 - (d) pricing and the calculations or processes underlying price movements, but only if the person or occupier is —
 - (i) a licensee under the Act; or
 - (ii) a licensee under the *Electricity Industry Act 2004*; or
 - (iii) a licensee under the *Petroleum Pipelines Act 1969*; or
 - (iv) a body established by the *Electricity Corporations Act 2005* section 4(1) or a subsidiary of such a body under that Act; or
 - (v) a person who is exempt under section 11H(1) of the Act from section 11G(2) of the Act; or
 - (vi) a person who is exempt under the *Electricity Industry Act 2004* section 8(1) from section 7(4) of that Act and who sells electricity to at least one customer who consumes not more than 160 MWh of electricity per annum;

- (e) the content of contracts forming part of, or relating to, those arrangements;
 - (f) operating costs associated with, and assets utilised under, those arrangements.
4. Information relating to disruptions to the production, processing, storage, transportation, sale, supply, delivery or receipt of energy by the person or occupier including information in respect of the following —
- (a) the nature, cause and sequence of events giving rise to a disruption;
 - (b) the nature and timing of communications relating to a disruption;
 - (c) the trading arrangements that apply during a disruption and the subsequent recovery period including —
 - (i) arrangements as to the allocation of energy, transportation capacity and storage capacity; and
 - (ii) pricing and the calculations or processes underlying price movements;
 - (d) the actual or estimated financial impact of a disruption.
5. Information relating to energy infrastructure owned or operated, or proposed to be owned or operated, by the person or occupier including information in respect of the following —
- (a) the performance or anticipated performance of that infrastructure;
 - (b) the content of contracts relating to the performance of that infrastructure;
 - (c) the age, size and capacity of that infrastructure;
 - (d) operational arrangements including —
 - (i) arrangements as to redundancy or partial production capability of that infrastructure; and
 - (ii) arrangements designed to maintain and enhance the reliability of that infrastructure;
 - (e) costs associated with the acquisition, planning, construction, operation and maintenance of that infrastructure;
 - (f) asset management arrangements;

- (g) the reliability of that infrastructure including —
 - (i) details and history of service interruptions or reductions; and
 - (ii) anticipated future capacity and reliability.
- 6. Information relating to an energy resource or reserve under the control of the person or occupier including information in respect of the following —
 - (a) the quality of that resource or reserve;
 - (b) the anticipated amount of energy recoverable from that resource or reserve.
- 7. Information relating to the emission of greenhouse gases from premises owned or occupied by the person or occupier.

[Schedule 1 inserted in Gazette 25 May 2010 p. 2272-4.]

Notes

¹ This is a compilation of the *Energy Coordination Regulations 2004* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Citation	Gazettal	Commencement
<i>Energy Coordination Regulations 2004</i>	19 Mar 2004 p. 849-60	19 Mar 2004 (see r. 2)
<i>Energy Coordination Amendment Regulations 2004</i>	15 Jun 2004 p. 2026-7	15 Jun 2004
<i>Energy Coordination Amendment Regulations 2010</i>	25 May 2010 p. 2271-4	r. 1 and 2: 25 May 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 26 May 2010 (see r. 2(b))