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ECONOMIC REGULATION AUTHORITY ACT 2003

ECONOMIC REGULATION AUTHORITY (LICENSING FUNDING) REGULATIONS 2014

Western Australia

Economic Regulation Authority (Licensing Funding) Regulations 2014

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Defined terms

Economic Regulation Authority Act 2003

Economic Regulation Authority (Licensing Funding) Regulations 2014

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Economic Regulation Authority (Licensing Funding) Regulations 2014*.

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 1 January 2015.

3. Terms used

(1) In these regulations —

allowed period, in relation to the payment of a charge under these regulations, means the period referred to in regulation 4(4), 6(3) or 8(2) (whichever is relevant) or that period as extended by the Authority under regulation 11;

annual licence charge means a charge payable under regulation 6(1);

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

(a) are incurred by the Authority in the quarter in connection with the performance of its licensing functions; and

(b) cannot be recovered through the imposition of specific charges or annual licence charges;

electricity distribution licence means a distribution licence as defined in the *Electricity Industry Act 2004* section 3;

electricity generation licence means a generation licence as defined in the *Electricity Industry Act 2004* section 3;

electricity retail licence means a retail licence as defined in the *Electricity Industry Act 2004* section 3;

electricity transmission licence means a transmission licence as defined in the *Electricity Industry Act 2004* section 3;

gas distribution licence means a distribution licence as defined in the *Energy Coordination Act 1994* section 3(1);

gas trading licence means a trading licence as defined in the *Energy Coordination Act 1994* section 3(1);

integrated regional licence has the meaning given in the *Electricity Industry Act 2004* section 3;

licence means one of the following —

(a) an electricity distribution licence;

(b) an electricity generation licence;

(c) an electricity retail licence;

(d) an electricity transmission licence;

(e) an integrated regional licence;

(f) a gas distribution licence;

(g) a gas trading licence;

(h) a water services licence;

licensee means the person who holds a licence;

licensing functions means functions of the Authority under the *Electricity Industry Act 2004* Part 2, the *Energy Coordination Act 1994* Part 2A or the *Water Services Act 2012* Part 2;

prescribed rate, in relation to interest on amounts not paid within an allowed period, means the 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 Authority having regard to comparable indices then available;

quarter means the period of 3 months ending on 30 September, 31 December, 31 March or 30 June;

specific charge means a charge payable under regulation 4(2);

standing charge means a charge payable under regulation 7(2);

water services licence means a licence as defined in the *Water Services Act 2012* section 3(1).

(2) For the purposes of regulations 6 and 7, an integrated regional licence is to be treated as if it were separate licences, one for each activity (described in the *Electricity Industry Act 2004* section 4(1)(a), (b), (c) or (d)) authorised under the licence.

4. Specific charges: liability and amount

(1) The following functions of the Authority are listed for the purposes of this regulation —

(a) dealing with an application under the *Electricity Industry Act 2004* for the grant, renewal or amendment of a licence or approval to transfer a licence;

(b) dealing with an application under the *Energy Coordination Act 1994* for the grant, renewal or amendment of a licence or approval to transfer a licence;

(c) dealing with an application under the *Water Services Act 2012* for the grant, renewal, amendment or cancellation of a licence or the approval of the transfer of a licence.

(2) If the Authority performs a function listed in subregulation (1), the applicant is liable to pay a charge for the performance of the function.

(3) The Authority must give the applicant a notice that specifies —

(a) the amount of the charge; and

(b) the day on which the notice was issued.

(4) The amount specified in the notice is payable to the Authority within 30 days after the day on which the notice was issued.

(5) The amount of the charge is an amount equivalent to the costs described in subregulation (6) that —

(a) have been incurred by the Authority; and

(b) are directly attributable to the performance of the function or to the doing of anything that was necessary or convenient to be done for or in connection with the performance of the function.

(6) For the purposes of subregulation (5), the costs are —

(a) costs of consultants or contractors engaged by the Authority including accommodation costs, travel costs and equipment costs; and

(b) photocopying, mailing, publishing and advertising costs; and

(c) costs associated with public consultation conducted under the Act under which the application was made; and

(d) costs associated with producing or amending maps of areas to which the licence, or proposed licence, relates.

(7) The Authority must, at the request of the applicant, give the applicant an itemised account of the costs covered by the charge.

(8) If the applicant does not pay the amount of the charge in full within the allowed period, interest on any outstanding amount is payable to the Authority at the prescribed rate calculated daily.

5. Specific charges: estimates

(1) A person may, before making an application referred to in regulation 4(1) (the ***proposed application***), request from the Authority an estimate of the amount of the charge for dealing with the proposed application.

(2) The Authority must, if there is sufficient information about the proposed application to make an estimate, give the person an estimate of the charge within 7 days after the day on which the request was made.

(3) The Authority is not bound by an estimate.

6. Annual licence charges: liability and amount

(1) A licensee is liable to pay an annual licence charge, for each licence held by the licensee, in connection with the performance of the Authority's licensing functions under the Act under which the licence is held.

(2) The annual licence charge for a licence is —

(a) for an electricity distribution licence — $2 732;

(b) for an electricity generation licence — $2 406;

(c) for an electricity retail licence — $3 416;

(d) for an electricity transmission licence — $2 406;

(e) for a gas distribution licence — $2 778;

(f) for a gas trading licence — $3 105;

(g) for a water services licence — $2 885.

(3) The annual licence charge is payable to the Authority —

(a) within one month after the day on which the licence was granted; and

(b) within one month after each anniversary of that day.

(4) If a licensee does not pay an annual licence charge in full within the allowed period, interest on any outstanding amount is payable to the Authority at the prescribed rate calculated daily.

7. Standing charges: liability and amount

(1) In this regulation —

class, of licence, means a class specified in the Table;

Table means the Table to subregulation (4);

units, in relation to a licence, means the type of units specified in the Table for licences of the class to which the licensee belongs.

(2) For each quarter and for each licence in effect during any period in the quarter, a charge is payable in connection with the core function costs for the quarter.

(3) The charge is payable by the licensee.

(4) The amount of the charge is determined in accordance with the following formula —

$$C \times P \times \frac{U_L}{U_T}$$

where —

C is the amount of the core function costs for the quarter attributable to the performance by the Authority of its licensing functions under the Act under which the licence is held;

P is the percentage specified in the Table for licences of the class to which the licence belongs;

U_L is the number of units reported to the Authority under the licence in respect of the financial year immediately preceding the quarter;

U_T is the total number of units reported to the Authority, under all licences of the class to which the licence belongs, in respect of the financial year immediately preceding the quarter.

Table

Class of licence	Percentage	Units
electricity distribution licence	25%	kilometres of distribution line
electricity generation licence	25%	megawatts of generation capacity
electricity retail licence	25%	customers
electricity transmission licence	25%	kilometres of transmission line
gas distribution licence	50%	kilometres of gas distribution pipeline
gas trading licence	50%	customers
water services licence	100%	customers

(5) If the licensee did not hold the licence for the whole of the quarter, the charge is reduced by the proportion of the quarter during which the licensee did not hold the licence.

(6) If —

(a) the licence was granted, or ceased to have effect, during the quarter; and

(b) the charge payable for the licence is reduced under subregulation (5),

the amount of the charge payable for the quarter by each licensee, for a relevant licence held for the whole of the quarter, is increased by the amount worked out by applying subregulation (4) as if the reference to core function costs were a reference to the amount by which the charge referred to in paragraph (b) is reduced.

(7) In subregulation (6) —

relevant licence means a licence held under the Act under which the licence referred to in subregulation (6)(a) is held.

(8) If the licence was granted after the end of the financial year immediately preceding the quarter, the number of units to be used for the purposes of the variables U_L and U_T in subregulation (4) is the number specified in the licence.

8. Standing charges: assessment and payment

(1) As soon as is practicable after the end of each quarter the Authority must —

(a) assess the standing charge payable by a licensee for the quarter in respect of a licence; and

(b) give a notice of assessment to the licensee specifying —

(i) the amount of the charge payable; and

(ii) the amount of the core function costs used in calculating the charge; and

(iii) the day on which the notice of assessment was issued.

(2) The amount specified in the notice is payable to the Authority within 30 days after the day on which the notice was issued.

(3) If the licensee does not pay the amount specified in the notice in full within the allowed period, interest on the outstanding amount is payable to the Authority at the prescribed rate calculated daily.

(4) The Authority must, at the request of the licensee, give the licensee a written explanation of how the core function costs specified in the notice were calculated, including reasonable details of what the core function costs relate to.

9. Recovery of unpaid amounts

(1) The Authority may recover a charge that is unpaid in whole or in part, together with any interest payable, in a court of competent jurisdiction as a debt due to the Authority.

(2) In proceedings under subregulation (1) a certificate —

(a) purporting to be signed by the chairman; and

(b) specifying an amount as being all or part of a specific charge, annual licence charge or standing charge; and

(c) specifying an amount as being interest payable under regulation 4(8), 6(4) or 8(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 chairman or of the authenticity of the signature, sufficient evidence of the matters specified or stated.

10. Exemptions

The Minister may, with the concurrence of the Treasurer, exempt a person from liability to pay a charge for a period specified in the exemption or for an indefinite period.

11. Extension of time within which to pay

The Authority may, in a particular case, extend the period referred to in regulation 4(4), 6(3) or 8(2) (whichever is relevant) if satisfied that it is appropriate to do so.

12. Authority's annual report

The annual report submitted by the Authority 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 specific charges paid or payable by each licensee;

(b) the total amount of standing charges paid or payable by each licensee.

13. Review

(1) The Authority must carry out reviews of the Authority's costs of administering the licensing schemes under the *Electricity Industry Act 2004*, the *Energy Coordination Act 1994* and the *Water Services Act 2012* and of the extent to which the charges paid to the Authority under these regulations are sufficient to meet those costs.

(2) The Authority must —

(a) carry out the first review, and give the Minister a written report based on it, before 1 January 2020; and

(b) carry out subsequent reviews, and give the Minister written reports based on them, as soon as practicable after each 3rd anniversary of the first report.

R. KENNEDY, Clerk of the Executive Council.

Economic Regulation Authority (Licensing Funding) Regulations 2014

Defined Terms

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)
annual licence charge	3(1)
class	7(1)
core function costs	3(1)
electricity distribution licence	3(1)
electricity generation licence	3(1)
electricity retail licence	3(1)
electricity transmission licence	3(1)
gas distribution licence	3(1)
gas trading licence	3(1)
integrated regional licence	3(1)
licence	3(1)
licensee	3(1)
licensing functions	3(1)
prescribed rate	3(1)
proposed application	5(1)
quarter	3(1)
relevant licence	7(7)
specific charge	3(1)
standing charge	3(1)
Table	7(1)
units	7(1)
water services licence	3(1)