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ENERGY COORDINATION ACT 1994

**ENERGY COORDINATION
REGULATIONS 2004**

Western Australia

Energy Coordination Regulations 2004

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Energy Coordination Act 1994

Energy Coordination Regulations 2004

Made by the Governor in Executive Council.

Part 1 — Preliminary matters

1. Citation

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

2. Commencement

These regulations come into operation on 19 March 2004.

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

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- (c) in relation to an application under section 11VA(1) for amendment of a licence — a decision under 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.

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Consultation on applications for grant or amendment of licence

Part 2**r. 4****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) by any other means that it considers appropriate.

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- (3) An invitation to make submissions —
- (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.

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

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Consultation on applications for grant or amendment of licence

Part 2**r. 7**

- (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).

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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

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Part 2**r. 11**

- (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.

Energy Coordination Regulations 2004**Part 3** Other mattersr. 13

Part 3 — Other matters**13. Information requested by Coordinator (s. 21)**

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 following kinds of information —

- (a) details of previous production, consumption or transportation of energy by the person or occupier during the previous 5 years;
- (b) estimates of possible future production, consumption or transportation of energy by the person or occupier;
- (c) details of the age, size and capacity of energy infrastructure owned or operated by the person or occupier during the previous 5 years;
- (d) information in relation to the emission of greenhouse gases from premises owned or occupied by the person or occupier during the previous 5 years.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

