

**WESTERN
AUSTRALIAN
GOVERNMENT**
Gazette
ISSN 1448-949X

2059



PERTH, FRIDAY, 13 MAY 2005 No. 92

SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.00 PM

© STATE OF WESTERN AUSTRALIA

ENERGY COORDINATION ACT 1994

**ENERGY COORDINATION
(LAST RESORT SUPPLY)
REGULATIONS 2005**

Western Australia

Energy Coordination (Last Resort Supply) Regulations 2005

CONTENTS

Part 1 — Preliminary

1. Citation
2. Commencement
3. Terms used in these regulations

Part 2 — Last resort supply plan

4. Objectives of last resort supply plan
5. General content of last resort supply plan
6. Grace periods
7. Last resort supply fee
8. Notification procedures for the supplier of last resort

Part 3 — Miscellaneous

9. Supplier of last resort to consult
10. Notification procedures for the Authority
11. Supply to transferred customers governed by standard form contract

Energy Coordination Act 1994

Energy Coordination (Last Resort Supply) Regulations 2005

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Energy Coordination (Last Resort Supply) Regulations 2005*.

2. Commencement

These regulations come into operation on the day on which Part 3 Division 8 of the *Energy Legislation Amendment Act 2003* comes into operation.

3. Terms used in these regulations

In these regulations, unless the contrary intention appears —
“affected participant”, in relation to a last resort supply plan,
means —

- (a) a person who operates a pipeline that is used to transport gas into a distribution system in the relevant supply area;

Energy Coordination (Last Resort Supply) Regulations 2005**Part 1** Preliminary**r. 3**

- (b) a person who holds a distribution licence for a distribution system in the relevant supply area;
- (c) a person who holds a trading licence for the sale of gas in the relevant supply area;
- (d) a person who sells gas to the supplier of last resort for supply by the supplier of last resort to customers in the relevant supply area;
- (e) a person who is prescribed for the purposes of section 11ZOD(1)(b) in relation to the retail market rules for a distribution system in the relevant supply area; and
- (f) the formal entity referred to in section 11ZOF(1)(b) for an approved retail market scheme for a distribution system in the relevant supply area,

but does not include the supplier of last resort;

“another supplier” means a person who holds a trading licence, including the supplier of last resort;

“customers”, in relation to a last resort supply plan, means the small use customers to whom the plan applies;

“grace period” has the meaning given to that term in regulation 6(1);

“last resort supply fee” means the fee referred to in regulation 7(1);

“relevant supply area” means the supply area to which a last resort supply plan applies;

“section” means a section of the Act;

“transfer” means the transfer of customers to a supplier of last resort under a last resort supply plan;

“transferred customer” means a customer who is transferred to a supplier of last resort under a last resort supply plan.

Energy Coordination (Last Resort Supply) Regulations 2005

Last resort supply plan

Part 2**r. 4****Part 2 — Last resort supply plan****4. Objectives of last resort supply plan**

- (1) A last resort supply plan must meet the objectives set out in subregulation (2).
- (2) The objectives are that the plan will, if it comes into operation —
 - (a) adequately safeguard the interests of customers and ensure continuity in the supply of gas to customers;
 - (b) ensure that adequate information is given to customers about the arrangements for the supply of gas;
 - (c) ensure that the terms and conditions under which gas is supplied to customers by the supplier of last resort, and the prices associated with that supply, are equitable; and
 - (d) set out arrangements that are inexpensive to implement and enable the supplier of last resort to recover its costs.

5. General content of last resort supply plan

A last resort supply plan must set out —

- (a) the rights, powers and duties of the supplier of last resort and affected participants if the plan comes into operation;
- (b) a general description of any contractual arrangements entered into by the supplier of last resort that are necessary to ensure the supply of gas if the plan comes into operation;
- (c) provisions that ensure that adequate information is given to customers about the arrangements under the plan; and
- (d) the process for the transfer of customers to the supplier of last resort including provisions about —
 - (i) when the transfer will occur; and

Energy Coordination (Last Resort Supply) Regulations 2005**Part 2** Last resort supply plan**r. 6**

- (ii) the terms and conditions under which it will occur.

6. Grace periods

- (1) A last resort supply plan may make provision for customers to be given a period of time (a “**grace period**”) in which they can transfer to another supplier instead of being transferred to the supplier of last resort under the plan.
- (2) If a last resort supply plan makes provision for a grace period, the plan must —
 - (a) specify when the grace period begins and when it ends; and
 - (b) provide that, if a customer does not transfer to another supplier during the grace period, the customer will be transferred to the supplier of last resort as soon as is practicable after the end of the grace period.

7. Last resort supply fee

- (1) A last resort supply plan may make provision for a fee payable by transferred customers to the supplier of last resort.
- (2) If a last resort supply plan makes provision for a last resort supply fee, the plan must specify —
 - (a) the amount of the fee;
 - (b) the method used to calculate it; and
 - (c) when it is payable.
- (3) The method used to calculate the last resort supply fee must take into account —
 - (a) the benefits that the supplier of last resort forecasts it will receive; and
 - (b) the costs that the supplier of last resort forecasts it will incur,

Energy Coordination (Last Resort Supply) Regulations 2005

Last resort supply plan

Part 2**r. 8**

if the last resort supply plan comes into operation under section 11ZAD.

- (4) Before approving or determining under section 11ZAG a last resort supply plan that makes provision for a last resort supply fee, the Authority must be satisfied that the last resort supply fee reflects the reasonable costs of the supplier of last resort in carrying out the arrangements and provisions in the plan.

8. Notification procedures for the supplier of last resort

- (1) A last resort supply plan must make provision for the supplier of last resort to give each transferred customer notice of the transfer as soon as is practicable after the transfer occurs.
- (2) The plan must require the notice to be in writing and to contain the following information —
- (a) the reasons for the order under section 11ZAD(1);
 - (b) the day on which the last resort supply plan came into operation (being the day referred to in section 11ZAD(1));
 - (c) an outline of the effect of the arrangements under the last resort supply plan including —
 - (i) when the transfer occurred;
 - (ii) the terms and conditions under which the transfer occurred;
 - (iii) that consent was not required for the transfer;
 - (iv) the terms and conditions under which gas is supplied to the customer by the supplier of last resort, including any requirement to pay a last resort supply fee; and
 - (v) the duration of the arrangements;
- and

Energy Coordination (Last Resort Supply) Regulations 2005**Part 2** Last resort supply plan**r. 8**

- (d) contact details for the supplier of last resort including the supplier's —
 - (i) business name;
 - (ii) business address;
 - (iii) postal address;
 - (iv) email address;
 - (v) internet website address; and
 - (vi) telephone number.

Energy Coordination (Last Resort Supply) Regulations 2005

Miscellaneous

Part 3**r. 9****Part 3 — Miscellaneous****9. Supplier of last resort to consult**

A supplier of last resort must consult with the Authority and affected participants when preparing a draft last resort supply plan under section 11ZAF(a).

10. Notification procedures for the Authority

- (1) As soon as is practicable after the publication of an order under section 11ZAD(1), the Authority must —
 - (a) give the supplier of last resort and each affected participant notice in writing of the order; and
 - (b) publish a notice in a newspaper circulating in the relevant supply area.
- (2) A notice under subregulation (1)(b) must —
 - (a) state that the Authority has made an order under section 11ZAD(1);
 - (b) specify the reasons for the order;
 - (c) specify the day on which the last resort supply plan comes into operation (being the day referred to in section 11ZAD(1)); and
 - (d) give contact details for the supplier of last resort including the supplier's —
 - (i) business name;
 - (ii) business address;
 - (iii) postal address;
 - (iv) email address;
 - (v) internet website address; and
 - (vi) telephone number.

Energy Coordination (Last Resort Supply) Regulations 2005**Part 3** Miscellaneous**r. 11**

- (3) A notice under subregulation (1)(b) must also give an outline of the effect of the arrangements under the last resort supply plan including —
- (a) the process for the transfer of customers to the supplier of last resort, including information about —
 - (i) when the transfer will occur; and
 - (ii) the terms and conditions under which it will occur;
 - (b) that consent is not required for the transfer;
 - (c) the terms and conditions under which gas will be supplied to transferred customers by the supplier of last resort, including any requirement to pay a last resort supply fee and, if there is such a requirement, the amount of the fee; and
 - (d) if the last resort supply plan makes provision for a grace period —
 - (i) when the grace period begins and when it ends; and
 - (ii) the right of customers, during the grace period, to transfer to another supplier.

11. Supply to transferred customers governed by standard form contract

- (1) On and from the day on which a transfer occurs each transferred customer is to be taken to have entered into the supplier of last resort's standard form contract for the supply of gas.
- (2) In subregulation (1) —
“**standard form contract**” has the meaning given to that term in section 11WB.

By Command of the Governor,

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

