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ECONOMIC REGULATION AUTHORITY ACT 2003

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**ECONOMIC REGULATION  
AUTHORITY (GAS  
PIPELINES ACCESS  
FUNDING) REGULATIONS  
2003**



Western Australia

## **Economic Regulation Authority (Gas Pipelines Access Funding) Regulations 2003**

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Economic Regulation Authority Act 2003

## **Economic Regulation Authority (Gas Pipelines Access Funding) Regulations 2003**

Made by the Governor in Executive Council.

### **Part 1 — Preliminary**

**1. Citation**

These regulations may be cited as the *Economic Regulation Authority (Gas Pipelines Access Funding) Regulations 2003*.

**2. Commencement**

These regulations come into operation on 1 January 2004.

**3. Terms used in these regulations**

- (1) In these regulations, unless the contrary intention appears —
- “**allowed period**” means the period referred to in regulation 5(2) or 6(6), as the case requires, or such further period as the Authority 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 to that term in the *Gas Pipelines Access (Western Australia) Act 1998* section 11;

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“**Coordinator**” means the Coordinator of Energy referred to in the *Energy Coordination Act 1994* section 4;

“**core function costs**” means costs incurred in the quarter to which a standing charge relates in connection with the performance of the functions of the Authority under the *Gas Pipelines Access (Western Australia) Act 1998* Part 6, being costs that cannot be recovered through the imposition of fees or service charges under these regulations;

“**Director**” means the Director of Energy Safety referred to in the *Energy Coordination Act 1994* section 5;

“**document**” includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

“**pipeline operator**” means the owner or operator of a covered pipeline;

“**prescribed rate**” means an interest rate that is 5 percentage points higher than the bank bill rate, where the bank bill rate is —

- (a) the rate quoted on Telerate page 39373 as the Bank Bill Reference Rate (Mid-Rate) for a one month bill at or about 10:00 hours (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 a period of 3 months beginning on 1 July, 1 October, 1 January or 1 April;

“**service charge**” means a charge referred to in regulation 5(1);

“**standing charge**” means a charge referred to in regulation 4(1).

- (2) If these regulations use a term that is used in the Code, the term has the same meaning in these regulations as it has in the Code, unless the contrary intention appears in these regulations.

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Charges **Part 2**

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**Part 2 — Charges**

**4. Standing charges**

- (1) For each quarter during any of which a pipeline specified in Schedule 1 is a covered pipeline, a charge is payable for each specified pipeline in connection with the performance of the functions of the Authority under the *Gas Pipelines Access (Western Australia) Act 1998* Part 6.
- (2) The charge under subregulation (1) for a pipeline is to be calculated using the formula —

$$C \times P$$

where —

C is the amount of the core function costs for the quarter;

P is the percentage specified in Schedule 1 for the pipeline.

- (3) If the pipeline is not specified in Schedule 1 during the whole of the quarter or is not a covered pipeline during the whole of the quarter, the charge for that quarter is reduced according to the number of days during which the pipeline is specified in Schedule 1 and is a covered pipeline.
- (4) The pipeline operator is liable to pay the charge under subregulation (1) and, if there is a change of pipeline operator during the quarter for which the charge is payable, the liability for the charge is to be apportioned between the pipeline operators according to the number of days in the quarter for which each of them is the pipeline operator while the pipeline is specified in Schedule 1 and is a covered pipeline.

**5. Assessment and payment of standing charges**

- (1) As soon as is practicable after the end of each quarter, the Authority is to —
  - (a) assess the standing charges payable by a person; and

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**Part 2** Charges

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- (b) give a notice of assessment to the person specifying —
  - (i) the amount of each of those charges and the total amount payable;
  - (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) The assessment amount is payable to the Authority within 30 days after the day specified under subregulation (1)(b)(iii).
- (3) If the assessment amount is not paid in full within the allowed period, interest on the outstanding amount is payable to the Authority at the prescribed rate calculated daily.

**6. Service charges**

- (1) The Authority may give written notice to a person described in Schedule 2 requiring the person to pay a charge in connection with the performance of the corresponding function described in that Schedule or the doing of anything that was necessary or convenient to be done for or in connection with the performance of that function.
- (2) The notice referred to in subregulation (1) is to specify —
  - (a) the amount of the service charge; and
  - (b) the day on which the notice was issued.
- (3) The amount of a service charge is to be an amount equivalent to costs described in subregulation (4) that —
  - (a) have been incurred by the Authority; and
  - (b) are directly attributable to the performance of the relevant function or to the doing of anything that was necessary or convenient to be done for or in connection with the performance of the relevant function.



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- (4) For the purposes of subregulation (3), the costs are —
- (a) costs of consultants or contractors engaged by the Authority including accommodation costs, travel costs, and equipment costs;
  - (b) photocopying, mailing, publishing and advertising costs; and
  - (c) costs associated with public consultation required under the Code.
- (5) The Authority is to provide the person liable to pay a service charge with an itemised account of the costs covered by the charge if the person so requests.
- (6) The amount of a service charge is payable to the Authority within 30 days after the day specified under subregulation (2)(b).
- (7) If the amount of a service charge is not paid in full within the allowed period, interest on the outstanding amount is payable to the Authority at the prescribed rate calculated daily.

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**Part 3 Fees**

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### **Part 3 — Fees**

**7. Document fee**

- (1) The Authority may require a person who requests a document prepared by or on behalf of the Authority in the performance of a function under the *Gas Pipelines Access (Western Australia) Act 1998* Part 6 to pay a fee for the document.
- (2) The amount of the fee is to be an amount calculated by the Authority according to the costs incurred in producing the document but is not in any case to exceed \$100.
- (3) The Authority cannot require the Coordinator or the Director to pay a fee under subregulation (1).

**8. Admission fee**

- (1) The Authority may require a person to pay a fee for admission to a meeting held for the purposes of public consultation under the Code section 2.1.
- (2) The amount of the fee is to be an amount calculated by the Authority according to the costs incurred in holding the meeting.
- (3) The Authority cannot require the Coordinator, the Director, or any representative of the Coordinator or the Director, to pay a fee under subregulation (1).

**9. Lodgment fee**

The Authority may require a person to pay a fee of \$50 for lodgment of a notification of dispute under the Code section 6.1.

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Miscellaneous

**Part 4**

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**Part 4 — Miscellaneous**

**10. Recovery of unpaid amounts**

- (1) The Authority may recover any unpaid assessment amount or service charge, together with any interest payable under these regulations, in a court of competent jurisdiction as if it were a debt due to the Authority.
- (2) In proceedings under subregulation (1) a certificate —
  - (a) purporting to be signed by the chairman;
  - (b) specifying an amount as being an assessment amount or a service charge;
  - (c) specifying a person as being liable to pay the amount; and
  - (d) stating that the amount is 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.

**11. Matters to be included in Authority's annual report**

The annual report submitted by the Authority under the *Financial Administration and Audit Act 1985* section 66 is to include details of —

- (a) the total amount of standing charges paid by each person;
- (b) the total amount of service charges paid by each service provider; and
- (c) the total amount of fees paid under these regulations,

in respect of the financial year to which the annual report relates.

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**Schedule 1** Percentages for certain pipelines

**Schedule 1 — Percentages for certain pipelines**

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	<b>Pipeline</b>	<b>Percentage</b>
1.	Mid West and South West Gas Distribution System being the system to which WA:GDL2 relates	23.39
2.	Dampier to Bunbury Natural Gas Pipeline (WA:PL40)	49.90
3.	Goldfields Gas Pipeline (WA:PL24)	20.66
4.	Tubridgi Pipeline System (WA:PL16 and WA:PL19)	3.30
5.	Kalgoorlie to Kambalda Pipeline (WA:PL27)	2.75

Note: WA:PL refers to a pipeline licence under the *Petroleum Pipelines Act 1969*.  
WA:GDL refers to a distribution licence under the *Energy Coordination Act 1994*.

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Functions in connection with which service charges payable **Schedule 2**

**Schedule 2 — Functions in connection with which service charges payable**

[r. 6(1)]

<b>Description of function</b>	<b>Person liable to pay service charge</b>
1. Application under the Code section 1.3 at the request of another person	Person requesting the application
2. Notification of requirement to submit separate access arrangements under the Code section 2.4	Service provider given notification
3. Assessment of access arrangement information for the purposes of the Code sections 2.6 and 2.8	Service provider submitting access arrangement information
4. Assessment and approval of a proposed access arrangement under the Code sections 2.9 to 2.27	Service provider submitting proposed access arrangement
5. Review of an access arrangement under the Code sections 2.28 to 2.48	Service provider submitting proposed revisions to access arrangement
6. Drafting and approval of Authority's own access arrangement under the Code section 2.20 or 2.23	Service provider of covered pipeline to which access arrangement relates
7. Assessment of a tender approval request made under the Code section 3.21 or a final approval request made under the Code section 3.29	Person making tender approval request or final approval request
8. Provision and publication of information in relation to a tender approval request under the Code section 3.23	Person making tender approval request

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**Schedule 2** Functions in connection with which service charges payable

Description of function	Person liable to pay service charge
9. Assessment of changes to reference tariffs under the Code section 3.30	Successful tenderer
10. Approval of guidelines prepared by a service provider under the Code section 4.2(b)	Service provider responsible for preparing guidelines
11. Application of accounting guidelines to a particular service provider under the Code section 4.2(b)	Service provider to which guidelines apply
12. Imposition of additional ring fencing obligations under the Code section 4.3	Service provider on which additional ring fencing obligations are imposed
13. Monitoring compliance with ring fencing obligations under the Code sections 4.12 to 4.14	Service provider on which ring fencing obligations are imposed
14. Assessment of an application for the issue of a notice waiving ring fencing obligations under the Code section 4.16	Service provider making application for issue of notice waiving ring fencing obligations
15. Assessment of information package for the purposes of the Code section 5.2	Service provider responsible for maintenance of information package
16. Assessment of an application for approval to enter into an associate contract under the Code section 7.1	Service provider making application for approval
17. Provision of copy of document to Code Registrar under the Code section 7.9(a), (c), (d) or (e)	Service provider to which the document relates
18. Provision of copy of document to Code Registrar under the Code section 7.9(b)	Person making tender approval request or final approval request



