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GAS PIPELINES ACCESS (WESTERN AUSTRALIA)
ACT 1998

**GAS PIPELINES ACCESS
(WESTERN AUSTRALIA)
(FUNDING)
REGULATIONS 1999**

Western Australia

Gas Pipelines Access (Western Australia) (Funding) Regulations 1999

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Gas Pipelines Access (Western Australia) Act 1998

Gas Pipelines Access (Western Australia) (Funding) Regulations 1999

Made by the deputy of the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Gas Pipelines Access (Western Australia) (Funding) Regulations 1999*.

2. Definitions

(1) In these regulations, unless the contrary intention appears —

“**allowed period**” means the period referred to in regulation 4(2) or 5(6), as the case requires, or such further period as the Regulator may allow;

“**arbitrator**” has the same meaning as in Part 6 Division 3 of the Act;

“**assessment amount**” means the total amount payable as specified in a notice of assessment under regulation 4(1)(b)(i);

“**Board**” has the same meaning as in Part 6 Division 2 of the Act;

“**Code**” has the meaning given by section 11 of the Act;

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

“**core function costs**” means costs incurred in the quarter to which a standing charge relates in connection with the performance of —

- (a) the functions of the Regulator under Part 6 of the Act, if the standing charge is under regulation 3(1); or
- (b) the functions of the arbitrator and the Board under Part 6 of the Act, if the standing charge is under regulation 3(2),

being costs that cannot be recovered —

- (c) through the imposition of fees or service charges under these regulations; or
- (d) under regulation 9;

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

“**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 Regulator 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;

“**Regulator**” has the same meaning as in Part 6 Division 1 of the Act;

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

“**standing charge**” means a charge referred to in regulation 3(1) or (2).

- (2) An expression used in these regulations that is also used in the Code has, unless the contrary intention appears, the same meaning as it has in the Code.

Part 2 — Charges

3. Standing charges

- (1) A pipeline operator is to pay in respect of each quarter a charge, in connection with the performance of the functions of the Regulator under Part 6 of the Act.
- (2) A pipeline operator is to pay in respect of each quarter a charge, in connection with the performance of the functions of the arbitrator and the Board under Part 6 of the Act.
- (3) The charges under subregulations (1) and (2) are each to be calculated using the formula —

$C \cdot P$

where —

C is the amount of core function costs;

P is the percentage specified in Schedule 1 in respect of the pipeline operator.

4. Assessment and payment of standing charges

- (1) As soon as is practicable after the end of each quarter, the Regulator is to —
 - (a) assess the standing charges payable by a pipeline operator under each of regulation 3(1) and (2); and
 - (b) give a notice of assessment to the pipeline operator specifying —
 - (i) the amount of each of those charges and the total amount payable;
 - (ii) the amount of core function costs used in calculating each of those charges; and
 - (iii) the day on which the notice of assessment was issued.
- (2) The assessment amount is payable to the Regulator within 30 days after the day specified under subregulation 4(1)(b)(iii).
- (3) If the pipeline operator does not pay the assessment amount in full within the allowed period, interest on the outstanding amount is payable to the Regulator at the prescribed rate calculated daily.
- (4) The amount of the standing charge payable under regulation 3(2) and the amount of interest, if any, payable on it under subregulation (3) are to be received by the Regulator on behalf of the arbitrator and are to be credited to the account referred to in section 82 of the Act.

5. Service charges

- (1) The Regulator 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 Regulator; 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.

- (4) For the purposes of subregulation (3), the costs are —
 - (a) costs of consultants or contractors engaged by the Regulator 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 Regulator is to provide the person liable to pay a service charge with an itemized account of the costs covered by the charge if the person so requests.
- (6) The amount of a service charge is payable to the Regulator 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 Regulator at the prescribed rate calculated daily.

Part 3 — Fees

6. Document fee

- (1) The Regulator may require a person who requests a document prepared by or on behalf of the Regulator to pay a fee for the document.
- (2) The amount of the fee is to be an amount calculated by the Regulator according to the costs incurred in producing the document but is not in any case to exceed \$100.
- (3) The Regulator cannot require the Coordinator or the Director to pay a fee under subregulation (1).

7. Admission fee

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

8. Lodgment fee

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

Part 4 — Miscellaneous

9. Board's power in relation to cost and expenses of proceedings

- (1) In this regulation —
“**proceedings**” includes proceedings that are commenced but discontinued or otherwise not brought to finality.
- (2) The Board may fix an amount that represents the cost and expenses incurred by the Board in connection with the hearing and determination of particular proceedings before it.
- (3) The Board may determine —
 - (a) which of the parties to the proceedings is liable for payment of the whole or any part of an amount fixed under subregulation (2); and
 - (b) the manner in which, and time within which, payment is to be made.

10. Recovery of unpaid amounts

- (1) The Regulator 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 Regulator.
- (2) The arbitrator may recover any unpaid amount fixed under regulation 9(2) in a court of competent jurisdiction as if it were a debt due to the arbitrator.
- (3) Any amount recovered under —
 - (a) subregulation (1) in respect of a standing charge under regulation 3(2); or
 - (b) subregulation (2),

is to be credited to the account referred to in section 82 of the Act.

- (4) In proceedings under this regulation a certificate —
 - (a) purporting to be signed by —
 - (i) the Regulator and specifying an amount as being an assessment amount or a service charge; or
 - (ii) the arbitrator and specifying an amount as being an amount fixed under regulation 9(2);
 - (b) specifying a person as being liable to pay the amount; and
 - (c) stating that the amount is unpaid,

is, without proof of the appointment of the Regulator or the arbitrator or of the authenticity of the signature, sufficient evidence of the matters specified or stated.

11. Matters to be included in Regulator's annual report

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

- (a) the total amount of standing charges paid by each service provider;
 - (b) the total amount of service charges paid by each service provider;
 - (c) the total amount of fees paid under these regulations,
- in the financial year to which the annual report relates.

Schedule 1 — Percentages applying to pipeline operators

[r. 3(3)]

Pipeline operator	Percentage
1. AlintaGas	20.31%
2. CMS Gas Transmission of Australia	5.35%
3. Epic Energy (WA) Nominees Pty. Ltd.	49%
4. Sagasco SE Inc.	3.91%
5. Southern Cross Pipelines Pty. Ltd.	21.43%

Schedule 2 — Functions in connection with which service charges payable

[r. 5(1)]

Description of function	Person liable to pay service charge
1. Application under section 1.3 of the Code at the request of another person	Person requesting the application
2. Notification of requirement to submit separate access arrangements under section 2.4 of the Code	Service provider given notification
3. Assessment of access arrangement information for the purposes of sections 2.6 and 2.8 of the Code	Service provider submitting access arrangement information
4. Assessment and approval of a proposed access arrangement under sections 2.9 to 2.27 of the Code	Service provider submitting proposed access arrangement
5. Review of an access arrangement under sections 2.28 to 2.48 of the Code	Service provider submitting proposed revisions to access arrangement
6. Drafting and approval of Regulator's own access arrangement under section 2.20 or 2.23 of the Code	Service provider of covered pipeline to which access arrangement relates

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| 7. Assessment of a tender approval request made under section 3.21 of the Code or a final approval request made under section 3.29 of the Code | Person making tender approval request or final approval request |
| 8. Provision and publication of information in relation to a tender approval request under section 3.23 of the Code | Person making tender approval request |
| 9. Assessment of changes to reference tariffs under section 3.30 of the Code | Successful tenderer |
| 10. Approval of guidelines prepared by a service provider under section 4.2(b) of the Code | Service provider responsible for preparing guidelines |
| 11. Application of accounting guidelines to a particular service provider under section 4.2(b) of the Code | Service provider to which guidelines apply |
| 12. Imposition of additional ring fencing obligations under section 4.3 of the Code | Service provider on which additional ring fencing obligations are imposed |
| 13. Monitoring compliance with ring fencing obligations under sections 4.12 to 4.14 of the Code | 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 section 4.16 of the Code | Service provider making application for issue of notice waiving ring fencing obligations |
| 15. Assessment of information package for the purposes of section 5.2 of the Code | Service provider responsible for maintenance of information package |
| 16. Assessment of an application for approval to enter into an associate contract under section 7.1 of the Code | Service provider making application for approval |
| 17. Provision of copy of document to Code Registrar under section 7.9(a), (c), (d) or (e) of the Code | Service provider to which the document relates |
| 18. Provision of copy of document to Code Registrar under section 7.9(b) | Person making tender approval request or final approval request |
| 19. Provision of further information under section 7.14 of the Code | Person requesting further information |
| 20. Assessment of application for extension of time under section 7.19 of the Code | Person making application |
| 21. Assessment of written application under section 8.21 of the Code | Service provider making application |

By Command of the deputy of the Governor,

ROD SPENCER, Clerk of the Executive Council.