



Gas Distribution Licence

Esperance Power Station Pty Ltd

GDL10, Version 8, 7 January 2015

Economic Regulation Authority

WESTERN AUSTRALIA

ENERGY COORDINATION ACT 1994 (WA)

Licensee Name:	Esperance Power Station Pty Ltd ABN 24 086 409 949
Licence Number:	GDL10
Commencement Date:	15 March 2004
Version Number:	Version 8
Version Date:	7 January 2015
Expiry Date:	14 March 2025

Signed by a delegate; member; or
the Chairman of the Economic Regulation Authority

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Distribution Licence

1. Definitions and interpretation

1.1 In this *licence* unless contrary intention appears:

Act means the *Energy Coordination Act 1994 (WA)*.

applicable legislation includes:

- (a) the *Act*; and
- (b) the *Regulations*.

approved scheme means a scheme approved under Part 2D of the *Act*.

asset management system means the measures that are to be taken by the *licensee* for the proper maintenance, operation and expansion or reduction of the *distribution system*.

asset management system review means a review of the effectiveness of the *asset management system*.

Authority means the Economic Regulation Authority.

business day means a day which is not a Saturday, Sunday or a Public Holiday in Western Australia.

commencement date means the date the *licence* was first granted by the *Authority* being the date specified in *Schedule 1*.

customer means a person whose consumption of *gas* is less than 1 terajoule per year.

distribution system means:

- (a) a system of pipelines, mains, and gas service pipes, designed to operate at a pressure of less than 1.9 megapascals, for the transportation of *gas* to *customers*; or
- (b) any other part of the gas distribution system (as defined in section 90 of the *Gas Corporation Act 1994* repealed by section 93 of the *Gas Corporation (Business Disposal) Act 1999*) at the time when a distribution licence is first issued for all or any part of that system (regardless of the pressure at which it is designed to operate),

and any associated apparatus, facilities, structures, plant, or equipment.

expiry date means the date specified in *Schedule 1*.

gas means any gas or mixture of gases, whether naturally occurring or manufactured, intended for use:

- (a) as a fuel; or
- (b) in any chemical process;

gas distribution email address means:

- (a) in relation to the *Authority*, the addressee's authorised *Authority* email address or other such email address as notified in writing to the *licensee*; and
- (b) in relation to the *licensee*, the email address specified in the licence application or other such email address as notified in writing to the *Authority*.

individual performance standards mean any standards prescribed by the *Authority* for an individual *licensee* pursuant to clause 16 of the *licence*.

licence means:

- (a) this document (excluding the title page and the second page of this document);
- (b) the *Schedules* of this document; and
- (c) any *individual performance standards* approved by the *Authority* pursuant to clause 16.

licence area(s) is the area(s) stated in *Schedule 1* of this *licence*.

licensee means Esperance Power Station Pty Ltd, ABN 24 086 409 949.

notice means a written notice, agreement, consent, direction, representation, advice, statement or other communication required or given pursuant to, or in connection with, this *licence*.

performance audit means an audit of the effectiveness of measures taken by the *licensee* to meet the *performance criteria* in this *licence*.

performance criteria means:

- (a) the terms and conditions of the *licence*; and
- (b) any other relevant matter in connection with the *applicable legislation* that the *Authority* determines should form part of the *performance audit*.

publish in relation to a report or information means either:

- (a) posting the report or information on the *licensee's* website; or
- (b) sending the report or information to the *Authority* to be published on the *Authority's* website.

Regulations means any regulations in force from time to time made pursuant to the *Act* and includes:

- (a) the *Energy Coordination (Customer Contracts) Regulations 2004*;
- (b) the *Energy Coordination (Last Resort Supply) Regulations 2005*;
- (c) the *Energy Coordination (Licensing Fees) Regulations 1999*;
- (d) the *Energy Coordination (Ombudsman Scheme) Regulations 2004*; and
- (e) the *Energy Coordination (Gas Tariffs) Regulations 2000*.

related body corporate has the meaning in section 50 of the *Corporations Act 2001 (Cwth)*.

reviewable decision means a decision by the *Authority* pursuant to:

- (a) clause 14.4;
- (b) clause 15.2;
- (c) clause 16.2; or
- (d) clause 22.1,

of this *licence*.

Schedule means a schedule to this *licence*.

version date means the date on which the *licence* was last amended pursuant to clause 10 or clause 11.

- 1.2 A reference in this *licence* to any *applicable* legislation shall be deemed to include a reference to any statutory modification, amendment or re-enactment of that *applicable legislation*.

2. Grant of Licence

- 2.1 The *licensee* is granted a *licence* for the *licence area(s)* to:

- (a) construct a *distribution system* and to transport *gas* through the *distribution system*; or
- (b) transport *gas* through an *existing distribution system* and if required for that purpose to make alterations to the *distribution system*, and
- (c) operate and maintain the *distribution system*,

in accordance with the terms and conditions of this *licence*. The *licensee* must comply with the terms of this *licence* including those terms contained in the *Schedules*.

3. Term

3.1 This *licence* commences on the *commencement date* and continues until the earlier of:

- (a) the cancellation of the *licence* pursuant to clause 7 of this *licence*;
- (b) the surrender of the *licence* pursuant to clause 8 of this *licence*; or
- (c) the *expiry date*.

4. Fees

4.1 The *licensee* must pay the applicable fees in accordance with the *Regulations*.

5. Compliance

5.1 Subject to any modifications or exemptions granted pursuant to the *Act*, the *licensee* must comply with any *applicable legislation*.

5.2 Subject to the provisions of any *applicable legislation*, the *Authority* may direct the *licensee* in writing to do any measure necessary to:

- (a) correct the breach of any *applicable legislation*; or
- (b) prevent the breach of any *applicable legislation* occurring again,

and specify a time limit by which such action must be taken.

6. Transfer of Licence

6.1 This *licence* may be transferred only in accordance with the *Act*.

7. Cancellation of Licence

7.1 This *licence* may be cancelled only in accordance with the *Act*.

8. Surrender of Licence

8.1 The *licensee* may surrender the *licence* at any time by written *notice* to the *Authority*.

8.2 The surrender of the *licence* will take effect on the day that the *Authority* publishes a *notice* of the surrender in the Western Australian Government Gazette.

8.3 The *licensee* will not be entitled to a refund of any fees by the *Authority*.

9. Renewal of Licence

9.1 This *licence* may be renewed only in accordance with the *Act*.

10. Amendment of Licence on Application of the Licensee

10.1 The *licensee* may apply to the *Authority* to amend the *licence* in accordance with the *Act*.

11. Amendment of the Licence by the Authority

- 11.1 Subject to any *applicable legislation*, the *Authority* may amend the *licence* at any time in accordance with this clause.
- 11.2 Before amending the *licence* under clause 11.1, the *Authority* must:
- (a) provide the *licensee* with written notice of the proposed amendments under consideration by the *Authority*;
 - (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
 - (c) take into consideration those submissions.
- 11.3 This clause also applies to the substitution of the existing *licence*.
- 11.4 For avoidance of doubt, the *licensee* will not have to pay an associated application fee or *licence* fee for the purpose of clause 11.1.

12. Continuous operation

Subject to section 11M of the *Act* and clause 12.2, the *licensee* must continuously operate the *distribution system* except to the extent necessary for compliance with the *Gas Standards (Gas Supply and System Safety) Regulations 2000*.

Clause 12.1 only applies to those parts of the *distribution system* required for the *licensee* to meet its obligations from time to time to supply *gas*.

13. Proposed cessation or decrease in activities

- 13.1 Notwithstanding clause 8, the *licensee* must give the *Authority* notice in writing where it proposes a permanent cessation to, or substantial decrease in the extent of, the *licensee's* activities the subject of this *licence*.
- 13.2 A notice under clause 13.1 must be given:
- (a) six months prior to the proposed cessation or decrease; or
 - (b) if the time limit stipulated in paragraph (a) is not practicable, as soon as practicable.

14. Asset Management System

- 14.1 The *licensee* must provide for, and notify the *Authority* of, an *asset management system* in relation to the *distribution system* within two *business days* from the *commencement date* or from the completion of construction of the *distribution system*, whichever is later.
- 14.2 The *licensee* must notify the *Authority* of any material change to the *asset management system* within 10 *business days* of such change.

- 14.3 The *licensee* must, unless otherwise notified in writing by the *Authority*, provide the *Authority* with a report as to the effectiveness of the *asset management system* within 24 months after the *commencement date* and every 24 months thereafter.
- 14.4 The *licensee* must comply, and must require the *licensee's* expert to comply, with the *Authority's* standard guidelines dealing with the *asset management system review*, including any minimum requirements relating to the appointment of the expert, the scope of the review, the conduct of the review and the reporting of the results of the review.
- 14.5 The *licensee* may seek a review of any of the requirements of the *Authority's* standard guidelines dealing with the *asset management system review* in accordance with clause 23.1.
- 14.6 The independent expert may be nominated by the *licensee* but must be approved by the *Authority* prior to the review pursuant to clause 14.3. Should the *Authority* reject the *licensee's* nomination of an independent expert twice or, in the event that no independent expert has been nominated by the *licensee* within 1 month of the date the review was due, the *Authority* may choose an independent expert who will conduct the review.

15. Performance Audit

- 15.1 The *licensee* must, unless otherwise notified in writing by the *Authority*, provide the *Authority* with a *performance audit* within 24 months after the *commencement date*, and every 24 months thereafter.
- 15.2 The *licensee* must comply, and must require the *licensee's* auditor to comply, with the *Authority's* standard audit guidelines dealing with the *performance audit*, including any minimum requirements relating to the appointment of the auditor, the scope of the audit, the conduct of the audit and the reporting of the results of the audit.
- 15.3 The *licensee* may seek a review of any of the requirements of the *Authority's* standard audit guidelines in accordance with clause 23.1.
- 15.4 The independent auditor may be nominated by the *licensee* but must be approved by the *Authority* prior to the audit pursuant to clause 15.1. Should the *Authority* reject the *licensee's* nomination of an independent auditor twice or, in the event that no nomination has been made by the *licensee* within 1 month of the date the audit was due, the *Authority* may choose an independent auditor who will conduct the audit.

16. Individual Performance Standards

- 16.1 Performance standards are contained in *applicable legislation*.
- 16.2 The *Authority* may prescribe *individual performance standards* in relation to the *licensee* of its obligations under this *licence* or the *applicable legislation*.
- 16.3 Before approving any *individual performance standards* under this clause, the *Authority* will:
- (a) provide the *licensee* with a copy of the *proposed individual performance standards*;

- (b) allow 15 *business days* for the licensee to make submissions on the proposed *individual performance standards*; and
 - (c) take into consideration those submissions.
- 16.4 Once approved by the *Authority*, the *performance standards* are included as additional terms and conditions to this *licence*.

17. Approved Scheme

- 17.1 The *licensee* must not supply *gas* to *customers* unless the *licensee* is:
- (a) a member of an *approved scheme*; and
 - (b) bound by, and compliant with, any decision or direction of the energy ombudsman under the *approved scheme*.

18. Notices

- 18.1 Unless otherwise specified, all *notices* must be in writing.
- 18.2 A *notice* will be regarded as having been sent and received:
- (a) when delivered in person to the addressee; or
 - (b) three *business days* after the date of posting if the *notice* is posted in Western Australia; or
 - (c) five *business days* after the date of posting if the *notice* is posted outside Western Australia; or
 - (d) if sent by facsimile when, according to the sender's transmission report, the *notice* has been successfully received by the addressee; or
 - (e) if sent by email when, according to the sender's electronic record, the *notice* has been successfully sent to the addressee's *gas distribution email address*.

19. Accounting Records

- 19.1 The *licensee* and any *related body corporate* must maintain accounting records that comply with the Australian Accounting Standards Board Standards or equivalent International Accounting Standards.

20. Reporting

- 20.1 The *licensee* must report to the *Authority*:
- (a) if the *licensee* is under external administration as defined by the *Corporations Act 2001 (Cwlth)* within 2 *business days*; or
 - (b) if the *licensee* experiences a significant change in the *licensee's* corporate, financial or technical circumstances upon which this *licence* was granted which may affect the *licensee's* ability to meet its obligations under this *licence* within 10 *business days* of the change occurring.

21. Provision of Information

21.1 The *licensee* must provide to the *Authority* any information that the *Authority* may require in connection with its functions under the *Act* in the time, manner and form specified by the *Authority*.

22. Publishing Information

22.1 The *Authority* may direct the *licensee* to *publish* any information within a specified timeframe it considers relevant in connection with the *licensee* or the performance by the *licensee* of its obligations under this *licence*.

22.2 Subject to clause 22.3, the *licensee* must *publish* the information referred to in clause 22.1.

22.3 If the *licensee* considers that the information is confidential it must:

- (a) immediately notify the *Authority*; and
- (b) seek a review of the *Authority's* decision in accordance with clause 23.1.

23. Review of the Authority's Decisions

23.1 The *licensee* may seek a review of a *reviewable decision* by the *Authority* pursuant to this *licence* in accordance with the following procedure:

- (a) the *licensee* shall make a submission on the subject of the *reviewable decision* within 10 *business days* (or other period as approved by the *Authority*) of the decision; and
- (b) the *Authority* will consider the submission and provide the *licensee* with a written response within 20 *business days*.

23.2 For avoidance of doubt, this clause does not apply to a decision of the *Authority* pursuant to the *Act*, nor does it restrict the *licensee's* right to have a decision of the *Authority* reviewed in accordance with the *Act*.

Schedule 1 – Licensee Details

1. Licensee Details

1.1 Esperance Power Station Pty Ltd

1.2 ABN 24 086 409 949

2. Licence Area

2.1 Goldfields-Esperance gas supply area as shown in plan ERA-GAS-010

3. Commencement Date

3.1 15 March 2004

4. Expiry Date

4.1 14 March 2025

Schedule 2 – Compendium of Gas Customer Licensing Obligations

Schedule 3 – Additional Licence Clauses

1. Definitions

distribution outlet point means the flange or joint on the *customer's* gas installation immediately downstream of the master meter at which the *customer* is entitled to take delivery of *gas* from the *distribution system*.

residential premises means premises at which the supply of *gas* satisfies the requirements for “residential purposes” under regulation 4(2) of the *Energy Coordination (Gas Tariffs) Regulations 2000*.

standard residential delivery facility means:

- (a) up to 20 metres of service pipe between the *distribution outlet point* and the *gas* main;
- (b) a *gas* meter; and
- (c) one or more pressure regulators,

each of adequate capacity to supply *residential premises* and each of a standard which would be applied by a prudent operator complying with accepted good industry practice.

trader means the holder of a trading licence seeking to sell *gas* to a *customer*.

2. Exchange of information between the licensee and the holder of a trading licence

- 2.1 Subject to clause 2.2, the *licensee* must provide reasonable information relating to the capacity of its *distribution system* at a specified location as requested by the holder of a trading licence in respect of the *distribution system* to enable the holder of the trading licence to perform the activities authorised under its licence.
- 2.2 The *licensee* may refuse to provide information under clause 2.1, if its disclosure prejudices the commercial interests of the *licensee*.
- 2.3 Where the *licensee* refuses under subclause 2.2 to provide information, the *Authority* may direct the *licensee* to provide the information in a categorised or aggregated form to the extent necessary to ensure the disclosure of the information is, in the opinion of the *Authority*, not unduly harmful to the commercial interests of the *licensee*.

3. Offer to connect

- 3.1 This clause applies in respect of *residential premises* located within the *licence area* if the *licensee* is requested by a *trader* to connect the premises to the *distribution system*.
- 3.2 Subject to clause 3.3, the *licensee* must offer to connect the premises to the *distribution system*.

- 3.3 The *licensee's* offer to connect the premises under clause 3.2 is subject to the following:
- (a) The offer to connect applies:
 - (i) only in respect of connections which require 20 metres or less of service pipe; and
 - (ii) only where the *gas* main is so located that it is practicable in accordance with good industry practice to connect the relevant premises to the main, and accordingly, the *licensee* may decline to undertake a connection that requires:
 - (iii) more than 20 metres of service pipe; or
 - (iv) any extension to a main,
unless the *customer* bears the cost.
 - (b) The connection is, unless otherwise agreed between the *licensee* and the *trader*, to comprise a *standard residential delivery facility*.
 - (c) The offer to connect is limited to connections to the medium pressure/low pressure part of the *distribution system*.
 - (d) If, in the course of establishing a connection under this clause 3, the *licensee* opens or breaks up any sealed or paved surface, or damages or disturbs any lawn, landscaping or other improvement at the premises, then the *licensee* must if necessary fill in any ground to restore it to approximately its previous level, but (unless the *licensee* agrees otherwise with any person) the *licensee* is not otherwise obliged reinstate or make good, or pay compensation in respect of any damage to any such surface, lawn, landscaping or other improvement.
 - (e) The *licensee* is not obliged to offer to connect a premises, if that premises is already connected to a *distribution system*.
 - (f) Before establishing the connection, the *licensee* may require the *trader* to procure the agreement of the owner of any land through which the service pipe is to pass and on which the delivery facilities will be installed, that the connection may be established.
 - (g) Before establishing the connection, the *licensee* may require the *trader* to enter into (or to procure its *gas* supplier to enter into) a *gas* transportation contract with the *licensee*.
 - (h) Before establishing the connection, the *licensee* may require the person who is to enter into the *gas* transportation contract referred to in clause 3.3(g) to meet the *licensee's* reasonable minimum prudential requirements and credit standards.
- 3.4 Nothing in this clause 3 limits the *licensee's* ability to recover any connection cost through tariffs for access to the *distribution system*, or requires such recovery.

Schedule 4 – Operating Area Map

Amendment Record Sheet

Version Date	Description of Amendment
17 August 2007	New licence substituted.
1 July 2009	Compendium of gas customer licence obligations.
6 August 2010	Insertion of amended compendium of gas customer licence obligations.
18 November 2010	Insertion of corrected compendium of gas customer licence obligations.
1 January 2013	Insertion of new compendium of gas customer licence obligations (Schedule 2)
1 August 2014	Amendment by substitution – Gas Licence Review 2014
1 January 2015	Insertion of amended compendium of gas customer licence obligations (Schedule 2).
6 January 2015	Correction to gas supply area plan number ERA-GAS-010 which was incorrectly recorded in Schedule 1