

# Gas licence review 2020

Issues paper

29 April 2021

Economic Regulation Authority

WESTERN AUSTRALIA

D227514

## Economic Regulation Authority

4th Floor Albert Facey House  
469 Wellington Street, Perth

**Mail to:**

Perth BC, PO Box 8469  
PERTH WA 6849

**T:** 08 6557 7900

**F:** 08 6557 7999

**E:** [info@erawa.com.au](mailto:info@erawa.com.au)

**W:** [www.erawa.com.au](http://www.erawa.com.au)

National Relay Service TTY: 13 36 77  
(to assist people with hearing and voice impairment)

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## Invitation to make submissions

**Submissions are due by 4:00 pm WST, Wednesday, 19 May 2021**

The ERA invites comments on the matters discussed in this paper and any other issues or concerns that are not already raised in this paper but are within the scope of the gas licence review.

We would prefer to receive your comments via our online submission form <https://www.erawa.com.au/consultation>

You can also send comments through:

Email: [publicsubmissions@erawa.com.au](mailto:publicsubmissions@erawa.com.au)  
Post: PO Box 8469, PERTH BC WA 6849  
Fax: 08 6557 7999

Please note that submissions provided electronically do not need to be provided separately in hard copy.

All submissions will be made available on our website unless arrangements are made in advance between the author and the ERA. This is because it is preferable that all submissions be publicly available to facilitate an informed and transparent consultative process. Parties wishing to submit confidential information are requested to contact us at [licensing@erawa.com.au](mailto:licensing@erawa.com.au).

For further information please contact

### **General Enquiries**

Paul Reid  
Ph: 08 6557 7900  
[licensing@erawa.com.au](mailto:licensing@erawa.com.au)

### **Media Enquiries**

Natalie Warnock  
Ph: 08 6557 7933 | Mob: 0428 859 826  
[media@erawa.com.au](mailto:media@erawa.com.au)

# Contents

<b>Executive summary .....</b>	<b>1</b>
<b>1. Introduction .....</b>	<b>3</b>
1.1 Gas licensing scheme .....	3
1.2 Gas licence review .....	4
<b>2. Proposed amendments .....</b>	<b>6</b>
2.1 Licence restructure .....	6
2.2 <i>Compendium of Gas Customer Licence Obligations</i> .....	7
2.3 Definition of “regulations” .....	9
2.4 Notices .....	9
2.5 Surrender of gas trading licences and gas distribution licences .....	10

## List of appendices

<b>Appendix 1 Proposed administrative amendments in the gas distribution licence template .....</b>	<b>12</b>
<b>Appendix 2 Proposed administrative amendments in the gas trading licence .....</b>	<b>19</b>
<b>Appendix 3 Gas distribution licence template – marked up .....</b>	<b>26</b>
<b>Appendix 4 Gas trading licence template – marked up .....</b>	<b>27</b>
<b>Appendix 5 Gas distribution licence template – current .....</b>	<b>28</b>
<b>Appendix 6 Gas trading licence template – current .....</b>	<b>29</b>

## Executive summary

The Economic Regulation Authority is the Western Australian regulator for electricity, gas and water services licences.

The ERA periodically reviews the licences it administers to make sure that it maintains a best practice licensing regime. The last review of gas licences took place in 2014.

The current review is limited to the format and terms and conditions of the gas distribution and trading licence templates. The review will not consider the gas licensing framework, which is the responsibility of the Minister for Energy, the *Compendium of Gas Customer Licence Obligations* or the *Gas Marketing Code of Conduct 2017*.

The current licence templates have required few modifications since they were first developed. Licensees have rarely needed to apply for amendments to the generic licence templates. Based on the ERA's experience administering the gas licensing scheme, and feedback received from licensees, it appears that, in general, the current licence templates are achieving their intended goals.

This issues paper summarises the ERA's proposed changes to the gas distribution and trading licence templates, but stakeholders are invited to comment on any matter that is within the scope of the review.

In its review, the ERA has sought to meet the objectives of the licensing scheme while minimising the regulatory burden on licensees.

### ***Proposed amendments to the gas distribution and trading licence templates***

The ERA proposes five substantive amendments to the gas licence templates. It also proposes administrative amendments which are listed in Appendix 1 (distribution licence) and Appendix 2 (trading licence).

### ***Consistency between licences***

Most of the changes the ERA has proposed are to increase consistency between the different licences the ERA administers. Licence clauses in the template electricity, gas and water licences should, where possible, use consistent language and formatting.

In 2018 and 2019, the ERA reviewed both the electricity and water licence templates and, where possible, it intends to amend the gas licence templates to be consistent with these licences.

### ***Removal of the Compendium of Gas Customer Licensing Obligations from gas licences***

Current gas licences include the *Compendium of Gas Customer Licensing Obligations* in Schedule 2. The inclusion of the Compendium in gas licences means they need to be amended when the Compendium is reviewed every two years. This creates an administrative burden on the ERA, the costs of which are passed onto gas licensees.

The ERA proposes to remove the Compendium from Schedule 2 and insert a new clause into the gas licence templates that requires compliance with the Compendium.

**Amending definitions**

The gas licence templates currently define “regulations” to include the *Energy Coordination (Licensing Fees) Regulations 1999*, which have been repealed and replaced with the *Economic Regulation Authority (Licensing Funding) Regulations 2014*.

The ERA proposes to amend the definition by replacing reference to the *Energy Coordination (Licensing Fees) Regulations 1999* with *Economic Regulation Authority (Licensing Funding) Regulations 2014*.

**Amending notice provisions**

The gas licence templates currently require licensees to be able to receive facsimile communications from customers. Facsimile is no longer a common form of business communication. The ERA proposes to amend the gas licence templates to remove the obligation for gas licensees to retain facsimile capabilities.

The ERA expects that removing the requirement for a licensee to maintain facsimile capabilities will not affect most customers.

**Amending surrender of licence provisions**

The gas licence templates currently include provisions for a licensee to surrender a licence at any time by written notice to the ERA, with the surrender taking effect on the day the ERA publishes a notice of the surrender on the Western Australian Government Gazette.

The ERA proposes to amend the gas licence templates to require a licensee to provide notice to the ERA nominating a date, not less than 10 business days after the notice was provided to the ERA, the surrender is to be effective from.

# 1. Introduction

## 1.1 Gas licensing scheme

### 1.1.1 Legislation

Section 11D of the *Energy Coordination Act 1994* classifies the following gas licences:

- distribution
- trading.

Section 11G of the Act provides that:

- (1) A person must not in a supply area or part of a supply area —
  - a) construct, alter or operate a distribution system; or
  - b) transport gas through a distribution system,
 except under the authority of a distribution licence granted by the Authority that applies to that area or that part of that area.
- (2) A person must not in a supply area or part of a supply area sell to small use customers gas transported through a distribution system except under the authority of a trading licence granted by the Authority that applies to that area or that part of that area.<sup>1</sup>

The Act provides the ERA with the power to grant or refuse a gas licence, impose and amend licence conditions, and renew or transfer licences. The ERA exercises its powers taking into consideration the requirements of the Act including the public interest.

### 1.1.2 Licence exemptions

Under section 11H of the Act, the Governor may exempt any person or class of persons from requiring a licence. Energy Policy WA administers gas licence exemptions.<sup>2, 3</sup>

Licence exemptions are published in the Government Gazette.

### 1.1.3 Licences

The ERA currently administers 12 gas licences: nine trading licences and three distribution licences.<sup>4</sup>

Section 11M of the Act requires that the terms and conditions of licences of the same class and same licence area must be substantially similar, except to the extent that it is not practicable to make them substantially similar or a difference is necessary to reflect particular supply circumstances.

<sup>1</sup> Section 3 of the Act provides that a small use customer is a customer who consumes less than 1 terajoule of gas per year.

<sup>2</sup> Energy Policy WA was previously the Public Utilities Office.

<sup>3</sup> Current gas licence exemptions can be found on the Energy Policy WA [website](#).

<sup>4</sup> A list of current gas licensees can be found on the [ERA website](#).

In previous licence reviews across gas, electricity and water sectors, the ERA has found merit in having licence templates that contain:

- identical licence obligations across licences within a utility sector
- identical licence obligations across licence categories within a utility sector
- scope for imposing individually tailored licence conditions where suitable.

## 1.2 Gas licence review

While there is no statutory requirement for the ERA to review its licences, the ERA aims to review its licence templates regularly to ensure that it maintains a best practice licensing scheme. The last review of gas licences was conducted in 2014.

### 1.2.1 Objectives

The objectives of the 2020 review are to ensure that gas licences:

- are consistent with applicable legislation<sup>5</sup>
- minimise licensees' regulatory burden and compliance costs
- have clear and consistent terms and conditions
- are consistent with electricity and water licences where possible.

### 1.2.2 Scope

As part of the review, the ERA will examine:

- the format of the gas distribution and trading licence templates
- the terms and conditions applicable to the gas distribution and trading licence templates.

The ERA will not examine:

- gas legislation, including subsidiary legislation
- processes and procedures contained in the ERA's guidelines for licensees<sup>6</sup>
- licence amendment proposals that are specific to an individual licensee
- licence exemptions.

### 1.2.3 Gas licence review process

The ERA has published this issues paper to seek public comment on proposed amendments to the gas distribution and trading licence templates. The amendments are proposed by the ERA and licensees.<sup>7</sup>

Depending upon the nature and complexity of the matters raised in submissions, the ERA may decide to undertake a second round of public consultation.

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<sup>5</sup> Applicable legislation includes the Act and its codes and regulations.

<sup>6</sup> These guidelines can be found on the [ERA website](#).

<sup>7</sup> The ERA invited licensees to raise matters for inclusion in this Issues Paper.



The ERA may also decide to convene a reference group to provide it with advice on one or more of the matters raised.

If the matters raised during the initial public consultation do not warrant a second round of public consultation or the establishment of a reference group, the ERA will publish its decision and amend the gas distribution and trading licences in accordance with that decision.

**Table 1: Timetable of 2020 licensing review**

Activity	Time frame
Publish issues paper	April 2021
Closing date for public submissions	May 2021
Draft licences provided to licensees. Licensees have 15 business days to make submissions on their draft licence.	July 2021
Decision	August 2021
New licences issued	September 2021

## 2. Proposed amendments

This section describes the substantive amendments the ERA proposes to make to the gas trading and distribution licence templates.

The ERA also proposes to make some administrative amendments. These amendments are listed in Appendix 1 for the gas distribution licence template and in Appendix 2 for the gas trading licence template.

Marked-up versions of the proposed new gas licence templates are in Appendix 3 and Appendix 4, respectively.

The ERA invites stakeholder feedback on the proposed amendments and the proposed new gas licence templates.

### 2.1 Licence restructure

In 2018, the ERA restructured its electricity licences to make them easier to navigate and more accessible to the reader. Similarly, in 2019 the ERA restructured water licences to be consistent with electricity licences. The ERA proposes to make the structure of gas licences consistent with electricity and water licences, where possible, by making the following changes:

- Inserting a contents page in the licences to improve navigation around the document.
- Deleting the licence specific information from Schedule 1. Schedule 1 includes important information, such as the licence commencement date and expiry date. This information is already included on the information page of the licence. The ERA also proposes to include the commencement date, expiry date and licence area in clause 2.
- Deleting Schedule 3 and moving the additional licence clauses to Schedule 1.
- Deleting Schedule 4 and moving the licence area to Schedule 2.<sup>8</sup>
- Restructuring the licence clauses under the following headings:
  - Definitions and interpretation: identifies the definitions used in the licence and includes the interpretation clause, which explains that a reference in the licence to any “applicable legislation” includes any modification, amendment, replacement or re-enactment of the legislation.
  - Licence authorisation: identifies what service is authorised under the licence.
  - Licence administration: sets out processes for how the licence is administered.
  - General licence obligations: includes licence conditions of a general nature that do not fall into other categories but apply to all licensees.
  - Audit and asset management reviews: covers asset management reviews and performance audits.
  - Customers: covers customer protection conditions (where applicable).

<sup>8</sup> Schedule 2 currently includes the Compendium. Proposal 2.1 is to delete the Compendium from Schedule 2 of the gas licence templates.

### Proposal 1

The ERA proposes restructuring the gas licence templates by:

- inserting a contents page
- moving the licence specific information from Schedule 1 to clause 2
- deleting Schedule 3 and moving the additional licence clauses to Schedule 1
- deleting Schedule 4 and moving the licence area to Schedule 2
- grouping licence clauses under related headings.

## 2.2 *Compendium of Gas Customer Licence Obligations*

[Schedule 2 in the current gas distribution and trading licences]

The current gas licence templates include the *Compendium of Gas Customer Licence Obligations* in Schedule 2.<sup>9</sup>

The Compendium is administered by the ERA and was developed to protect the interests of small use gas customers who generally have little or no bargaining power.<sup>10</sup> The provisions in the Compendium are, to the extent possible, consistent with those included in the *Code of Conduct for the Supply of Electricity to Small Use Customers* to ensure that both gas and electricity customers receive the same level of protection.<sup>11</sup>

The ERA reviews the Compendium approximately every two years. The current version of the Compendium took effect on 1 January 2020.

Gas licences need to be amended each time the Compendium is reviewed to incorporate the amended version of the Compendium. This creates an administrative burden on the ERA, the costs of which are passed onto gas licensees.<sup>12</sup>

Additionally, including the Compendium in the licence adds unnecessary length to the document. The current version of the Compendium is 48 pages, while the gas licence templates are 17 pages.

The ERA proposes deleting the Compendium from Schedule 2 and including a clause in the licence which requires compliance with it.

### Proposal 2

1. The ERA proposes to delete the Compendium from Schedule 2 of the gas licence templates.
2. The ERA proposes to insert a new definition in clause 1.1 of the gas licence templates as follows:

*Compendium of Gas Customer Licence Obligations* means the *Compendium of Gas Customer Licence Obligations* which provides additional

<sup>9</sup> The Compendium is available on the ERA [website](#).

<sup>10</sup> A 'small use customer' consumes less than 1 terajoule of gas per year.

<sup>11</sup> The Code of Conduct is available on the ERA [website](#).

<sup>12</sup> The ERA's licensing functions are industry funded.

licence terms about the conduct of retailers and distributors who supply gas to customers (as amended from time to time).<sup>13</sup>

3. The ERA proposes to amend clause 2.1 [now 2.1.1] of the gas trading licence template as follows:

2.1.1 The *licensee* is granted a *licence* for the *licence area(s)* to sell gas transported through a *distribution system* to *customers* in accordance with the *terms and conditions* of this *licence*. The *licensee* must comply with the terms of this *licence* including the additional terms contained in the *Compendium of Gas Customer Licence Obligations* and those terms contained in the *Schedules*.

4. The ERA proposes to amend clause 2.1 [now 2.1.1] of the gas distribution licence template as follows:

2.1.1 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 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 the additional terms contained in the *Compendium of Gas Customer Licence Obligations* and those terms contained in the *Schedules*.

5. The ERA proposes to insert a new clause 6.3 in the gas trading licence template:

### **6.3 Compendium of Gas Customer Licence Obligations**

6.3.1 The *licensee* must comply with the additional *licence* terms contained in the *Compendium of Gas Customer Licence Obligations*, a copy of which will be provided to the *licensee* by *electronic means* upon the grant of the *licence*.

6.3.2 The *ERA*, in its sole discretion, may amend the *Compendium of Gas Customer Licence Obligations* from time to time.

6.3.3 The *ERA* reviews the *Compendium of Gas Customer Licence Obligations* approximately every two years.

6.3.4 Each time the *Compendium of Gas Customer Licence Obligations* is amended, the *ERA* will send access to the amended version to the *licensee* by *electronic means*.

6. The ERA proposes to insert a new clause 6.2 in the gas distribution licence template:

### **6.2 Compendium of Gas Customer Licence Obligations**

6.2.1 The *licensee* must comply with the additional *licence* terms contained in the *Compendium of Gas Customer Licence Obligations*, a copy of which will be provided to the *licensee* by *electronic means* upon the grant of the *licence*.

6.2.2 The *ERA*, in its sole discretion, may amend the *Compendium of Gas Customer Licence Obligations* from time to time.

<sup>13</sup> The Compendium is also available on the ERA [website](#).

6.2.3 The ERA reviews the *Compendium of Gas Customer Licence Obligations* approximately every two years.

6.2.4 Each time the *Compendium of Gas Customer Licence Obligations* is amended, the ERA will send access to the amended version to the licensee by electronic means.

## 2.3 Definition of “regulations”

[Clause 1.1 of the current gas distribution and trading licences]

The *Energy Coordination (Licensing Fees) Regulations 1999* were repealed in 2015 following the commencement of the *Economic Regulation Authority (Licensing Funding) Regulations 2014*.

The Licensing Funding Regulations allow the ERA to recover licensing costs from licensees, including licence applicants. Under regulation 4 of the regulations, prospective licensees must contribute towards costs incurred by the ERA in dealing with a licence application.

The ERA proposes to amend the definition of “regulations” in clause 1.1 by replacing the reference to the *Energy Coordination (Licensing Fees) Regulations 1999* with the *Economic Regulation Authority (Licensing Funding) Regulations 2014*.

### Proposal 3

The ERA proposes to amend the definition of “regulations” as follows:

**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*~~ *Economic Regulation Authority (Licensing Funding) Regulations 2014*;
- (d) the *Energy Coordination (Ombudsman Scheme) Regulations 2004*; and
- (e) the *Energy Coordination (Gas Tariffs) Regulations 2000*.

## 2.4 Notices

[Clause 18.2(d) of the current gas distribution licence and 20.2(d) of the current gas trading licence]

Clause 18.2(d) of the gas distribution licence and clause 20.2(d) of the gas trading licence allow for notices to be sent by facsimile.

A licensee has informed the ERA that the use of facsimile is no longer a common form of business communication. Additional costs may be incurred by a licensee to maintain facsimile capability, and the infrequent use of facsimile may increase the likelihood of an important notice being inadvertently delayed.

The ERA proposes to remove clause 18.2(d) from the gas distribution licence and clause 20.2(d) from the gas trading licence.

### Proposal 4

The ERA proposes to amend clause 18.2(d) [now 3.7] of the gas distribution licence template and clause 20.2(d) [now 3.7] of the gas trading licence template as follows:

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*.

## 2.5 Surrender of gas trading licences and gas distribution licences

[Clause 8 of the current gas distribution licence and current gas trading licence]

Section 11M(2) of the *Energy Coordination Act 1994* allows the ERA to determine licence terms and conditions for matters listed in Schedule 1A of the Act. Item (g) in Schedule 1A authorises the ERA to determine licence terms and conditions for the surrender of a licence.

Current gas distribution licence template and gas trading licence template conditions permit a licensee to surrender a licence at any time by written notice to the ERA, with the surrender taking effect on the day the ERA publishes a notice of the surrender in the Western Australian Government Gazette.

The ERA proposes to amend the surrender clause in both the gas distribution licence template and gas trading licence template to require a licensee that intends to surrender their licence to provide notice to the ERA nominating a date, not less than 10 business days after the notice was provided to the ERA, the surrender is to be effective from.

The 10-business day notice period will provide the ERA time to arrange for an orderly surrender of the licence, including time to prepare the necessary documentation.<sup>14</sup> This includes the ERA notice and correspondence to the licensee and to other interested stakeholders, such as Energy Policy WA and Building and Energy.<sup>15</sup>

<sup>14</sup> The ERA also proposes several administrative amendments to clause 8 that are not related to the introduction of the period. The reasons for these amendments are set out in Appendices 1 and 2.

<sup>15</sup> Building and Energy (formerly EnergySafety) is a division of the Department of Mines, Industry Regulation and Safety.

## Proposal 5

The ERA proposes to amend clause 8 of both the gas distribution licence template and gas trading licence template as follows:

### 3.6 Surrender of ~~L~~licence [Schedule 1A of the Act]

- 3.6.1 The *licensee* may initiate a surrender of the *licence* ~~at any time~~ by ~~written~~ notice to the ~~Authority~~ ERA nominating a date the surrender will take effect from. The surrender date must not be less than 10 business days from the date the ERA receives the notice.
- 3.6.2 The ERA will publish ~~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 as soon as practicable after the date the licence has been surrendered.
- 3.6.3 The *licensee* will not be entitled to a refund of any fees by the ~~Authority~~ ERA.

## Appendix 1 Proposed administrative amendments in the gas distribution licence template

Table 2: Proposed administrative amendments

Clause	Proposed amendment	Reason
Information page	Include: <del><u>Licence area</u></del> <u>The area set out in the plan referred to in clause 2.5.</u>	The proposed amendment is consistent with the template electricity and water licences.
Information page	Signed by [a delegate; / a member; <del>or / The Chair</del> ] of the Economic Regulation Authority <del>Version date</del> <u>Date of amendment</u>	To clarify who has signed the licence.
1.1	In this <i>licence</i> , <u>the following definitions apply</u> unless <del>contrary intention appears</del> <u>the context otherwise requires:</u>	The proposed amendment is consistent with the template electricity and water licences.
1.1	<b>approved scheme</b> means a scheme approved under <del>Part 2B and</del> Part 2D of the Act.	The proposed amendment is consistent with the gas trading licence template.
1.1	<b>audit and review guidelines</b> means <u>the guidelines prepared by the ERA setting out the ERA's requirements for the conduct of performance audits and asset management system reviews, as published by the ERA on its website and as amended from time to time.</u>	Proposed definition added to replace the term 'standard audit guidelines' and 'standard guidelines' which are not defined terms in the current gas licence template.
1.1	<b>commencement date</b> means the date <u>specified in clause 2.2.</u> <del>the licence was first granted by the Authority being the date specified in Schedule 1.</del>	The proposed amendment is consistent with the template water licence.
1.1	<b>electronic means</b> means: <u>(a) the internet;</u> <u>(b) email, being:</u> <u>(i) in relation to the ERA, the ERA's email address as notified to the licensee; and</u> <u>(ii) in relation to the licensee, the email address specified in the licence application or other such email address as notified in writing to the ERA;</u> <u>or</u> <u>(iii) any other similar means,</u> <u>but does not include facsimile or telephone.</u>	Amended clause 18.2(e) [now 3.7.2(e)] includes the term 'electronic means'.  The proposed definition is consistent with the definition of 'electronic means' in the template electricity and water licences.



Clause	Proposed amendment	Reason
1.1	<del>ERA Authority</del> means the Economic Regulation Authority.	The proposed amendment is consistent with the template electricity and water licences.
1.1	<b>expiry date</b> means the date specified in <a href="#">clause 2.3. Schedule 4</a> .	The proposed amendment is consistent with the template electricity and water licences.
1.1	<del><b>gas distribution email address</b> 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.</del>	Definition replaced with the definition of 'electronic means'. The term has also been removed from clause 18.2(e) [now 3.7.2(e)].
1.1	<b>licence area(s)</b> is the area(s) stated in <a href="#">clause 2.5. Schedule 4</a> of this licence.	The proposed amendment is consistent with the template electricity and water licences.
1.1	<b>reviewable decision</b> means a decision by the <del>ERA Authority</del> pursuant to: (a) <del>clause 14.4</del> ; (b) <del>clause 15.2</del> ; (c) <del>clause 16.2</del> <a href="#">5.2.2</a> ; and (d) <del>clause 22.4</del> <a href="#">3.8.1</a> ; of this licence.	Clauses 14.4 and 15.2 [now 5.1.5 and 5.3.2] did not provide for the ERA making a decision. The reference to clauses 14.4 and 15.2 under the definition of 'reviewable decision' was therefore incorrect and should be removed.
1.1	<b>terms and conditions</b> means the <a href="#">terms and conditions in this licence including any terms and conditions contained in the Schedules and the Compendium of Gas Customer Licence Obligations</a> .	The proposed amendment is consistent with the template water licence. This term is also used throughout the gas licence template.
1.1	<del><b>version date</b> means the date on which the licence was last amended pursuant to clause 10 or clause 11.</del>	The proposed amendment is consistent with the template electricity and water licences.
1.2.1	A reference in this licence to any <del>applicable legislation shall be deemed to</del> includes, <del>unless the context otherwise requires, a reference to</del> any statutory modification, amendment, <a href="#">replacement</a> or re-enactment of that <a href="#">applicable legislation</a> .	The proposed amendment is consistent with the template electricity and water licences.

Clause	Proposed amendment	Reason
- [now 2.2.1]	<u>The commencement date of this licence is &lt;original date of grant&gt;.</u>	The proposed amendment is consistent with the template water licence.
- [now 2.3.1]	<u>The expiry date of this licence is &lt;expiry date&gt;.</u>	The proposed amendment is consistent with the template water licence.
- [now 2.5.1 and 2.5.2]	<u>The licence area is set out in plan(s): ERA-GAS-XXX</u> <u>The licence area plan(s) is provided in Schedule 2.</u>	The proposed amendment is consistent with the template electricity and water licences.
4.1 [now 4.2.1]	The licensee must pay the applicable fees <u>and charges</u> in accordance with the <i>Regulations</i> .	The proposed amendment is consistent with the template electricity and water licences.
5 [now 4.1 and 4.1.3]	<b><u>Compliance with applicable legislation and licence conditions</u></b> [..] <u>4.1.3 The licensee must comply with the terms and conditions of this licence.</u>	The proposed amendment is consistent with the template water licence.
8.1 [now 3.6.1]	The licensee may <u>initiate a</u> surrender <u>of</u> the licence <del>at any time</del> by <del>written</del> notice to the <del>Authority</del> <u>ERA</u> .	<ul style="list-style-type: none"> <li>• Insertion of 'initiate' to clarify that the surrender will only take effect on the date nominated by the licensee, so long as that date is at least 10 business days after the day the ERA receives the notice from the licensee, and not when the licensee provides notice to the ERA.</li> <li>• The removal of 'at any time' is consistent with the template electricity and water licences.</li> <li>• 'Written' is removed from the clause because clause 18.1 [now 3.7.1] of the template gas licence already provides that all notices, unless otherwise specified, must be in writing.</li> </ul>
11.1 [now 3.2.1]	<del>Subject to any applicable legislation,</del> <del>†</del> The <del>Authority</del> <u>ERA</u> may amend the licence <del>at any time</del> <u>on its own initiative</u> in accordance with <u>the Act and the procedure specified in this</u> clause <u>3.2.2</u> .	The proposed amendment is consistent with section 11W of the Act.
11.2(a) [now 3.2.2(a)]	Before amending the licence under clause <del>11.1</del> <u>3.2.1</u> , the <del>Authority</del> <u>ERA</u> must:	'Written' is removed from the clause because clause 18.1 [now 3.7.1] of the template gas licence already provides that all notices, unless

Clause	Proposed amendment	Reason
	(a) provide the <i>licensee</i> with <del>written</del> notice of the proposed amendments under consideration by the <del>Authority</del> <i>ERA</i> ;	otherwise specified, must be in writing.
11.4	<del>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.</del>	This clause is not necessary as the <i>Economic Regulation Authority (Licensing Funding) Regulations 2014 (WA)</i> do not require a charge to be paid when the ERA amends a licence on its own initiative.
14.1 [now 5.1.1]	The <i>licensee</i> must provide for, <del>and notify the Authority of,</del> an asset management system in <u>respect of the licensee's distribution system.</u>	The proposed amendment is consistent with the template electricity licence.
- [now 5.1.2]	<u>The licensee must notify the ERA of the details of the asset management system within five business days from the later of:</u> <u>(a) the commencement date; or</u> <u>(b) the completion of construction of the distribution system.</u>	The proposed amendment is consistent with the template electricity and water licences.
14.2 [now 5.1.3]	The <i>licensee</i> must notify the <del>Authority</del> <i>ERA</i> of any <del>material</del> <u>substantial</u> change to the asset management system within 10 business days of such change.	The proposed amendment is consistent with the template electricity licence.
14.4 [now 5.1.5]	The <i>licensee</i> must comply, and must require the <i>licensee's</i> expert to comply, with the <del>Authority</del> <i>ERA's</i> <del>standard</del> <u>audit and review</u> 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.	The proposed amendment reflects the current title of the ERA's guidelines for audits and reviews: <i>Audit and Review Guidelines – Electricity and Gas Licences</i> .
14.5	<del>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.</del>	The audit and review guidelines are not subject to review.

Clause	Proposed amendment	Reason
14.6 [now 5.1.6]	The <u>review of the asset management system must be conducted by an independent expert</u> <del>may be nominated by the licensee but must be approved by the Authority ERA prior to the review pursuant to clause 14.3.</del> If the licensee fails to nominate an independent expert within one month of the date that the review of the asset management system was due, or the independent expert nominated by the licensee is rejected on two successive occasions by the ERA, the ERA may choose an independent expert to conduct the review of the asset management system. <del>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.</del>	The proposed amendment is consistent with the template electricity licence.
15.2 [now 5.2.2]	The licensee must comply, and must require the licensee's auditor to comply, with the <del>Authority</del> <u>ERA's standard audit and review</u> 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.	The proposed amendment reflects the current title of the ERA's guidelines for audits and reviews: <i>Audit and Review Guidelines – Electricity and Gas Licences</i> .
15.3	<del>The licensee may seek a review of any of the requirements of the Authority's standard guidelines in accordance with clause 23.1.</del>	The audit and review guidelines are not subject to review.
15.4 [now 5.2.3]	The <u>performance audit must be conducted by an independent auditor</u> <del>may be nominated by the licensee but must be approved by the Authority ERA prior to the audit pursuant to clause 15.1.</del> Should the Authority reject the licensee's nomination of an independent auditor twice or, in the event that no nomination has been made by. If the licensee fails to nominate an auditor within <del>4</del> <u>one</u> month of the date <del>that</del> the <u>performance audit</u> was due, <del>or the auditor nominated by the licensee is rejected on two</del>	The proposed amendments are consistent with the template electricity licence.

Clause	Proposed amendment	Reason
	<u>successive occasions by the ERA</u> , the <del>Authority</del> <u>ERA</u> may choose an independent auditor <del>who will to</del> conduct the <u>performance</u> audit.	
18.2(e) [now 3.7.2(e)]	A <i>notice</i> will be regarded as having been sent and received [...] if sent by <u>electronic means</u> <del>email</del> when, according to the sender's electronic record, the <i>notice</i> has been successfully sent to the <u>addressee</u> . <del>addressee's gas distribution email address.</del>	The proposed amendment is consistent with the template electricity and water licences.
19.1 [now 4.3.1]	The <i>licensee</i> and any <i>related body corporate</i> must maintain accounting records that comply with <u>standards issued by the</u> Australian Accounting Standards Board <del>Standards</del> or equivalent International Accounting Standards.	The proposed amendment is consistent with the template electricity and water licences.
20 and 20.1(a) [now 4.4 and 4.4.1(a)]	<b><u>Reporting a change in circumstances</u></b> The <i>licensee</i> must report to the <del>Authority</del> <u>ERA</u> : (a) if the <i>licensee</i> is under external administration as defined by the <i>Corporations Act 2001</i> (Cwth) within <del>2</del> <u>two</u> <i>business days</i> of <u>such external administration occurring</u> ; or	The proposed amendment is consistent with the template electricity and water licences.
20.1(b) [now 4.4.1(b)]	The <i>licensee</i> must report to the <del>Authority</del> <u>ERA</u> : [...] (b) if <del>the licensee</del> : (i) <u>the licensee</u> experiences a <del>significant</del> change in <del>the licensee's</del> <u>its</u> corporate, financial or technical circumstances upon which this <i>licence</i> was granted; <u>and</u> (ii) <del>which</del> <u>the change</u> may <u>materially</u> affect the <i>licensee's</i> ability to <del>meet</del> <u>perform</u> its obligations under this <i>licence</i> , within 10 <i>business days</i> of the change occurring; <u>or</u>	<ul style="list-style-type: none"> <li>Deletion of the word 'significant' in paragraph (i), and insertion of the word 'materially' in paragraph (ii), is consistent with the template water licence.</li> <li>The words 'the licensee' have been moved to paragraph (i), and 'which' replaced with 'the change', to improve the readability of the clause.</li> </ul>
- [now 4.4.1(c)]	<u>The licensee must report to the ERA:</u> <u>(c) if:</u> <u>(i) the licensee's name;</u>	The proposed amendment is consistent with the template electricity and water licences.

Clause	Proposed amendment	Reason
	<p><u>(ii) the licensee's ABN; or</u></p> <p><u>(iii) the licensee's address;</u></p> <p><u>changes, within 10 business days of the change occurring.</u></p>	
22.1 [now 3.8.1]	The <del>Authority</del> ERA may direct the licensee to <del>publish any information</del> within a specified timeframe, <u>any information</u> it considers relevant in connection with the licensee or the performance by the licensee of its obligations under this licence.	The proposed amendment is consistent with the template electricity and water licences.
- [now 3.8.4]	<p><u>Once it has reviewed the decision, the ERA will direct the licensee in accordance with the review to:</u></p> <p><u>(a) publish the information;</u></p> <p><u>(b) publish the information with the confidential information removed or modified; or</u></p> <p><u>(c) not publish the information.</u></p>	The proposed amendment is consistent with the template electricity and water licences.
23.2	<del>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.</del>	This clause is not necessary because it is clear from clause 23.1 [now 3.9.1] and the definition of 'reviewable decision', that a review only applies to decisions made by the ERA under the licence.
Amendment record sheet	Include a column for version number.	The proposed amendment is consistent with the template electricity and water licences.

## Appendix 2 Proposed administrative amendments in the gas trading licence

Table 3: Proposed administrative amendments

Clause	Proposed amendment	Reason
Information page	Include: <u><i>Licence area</i></u> <del><i>The area set out in the plan referred to in clause 2.5.</i></del>	The proposed amendment is consistent with the template electricity and water licences.
Information page	Signed by <del>[a delegate; / a member; or /</del> <del>T</del> the Chair] of the Economic Regulation Authority <del>Version date</del> <u>Date of amendment</u>	To clarify who has signed the licence.
1.1	In this <i>licence</i> , <u>the following definitions apply</u> unless <del>contrary intention appears</del> <u>the context otherwise requires:</u>	The proposed amendment is consistent with the template electricity and water licences.
1.1	<b><i>applicable legislation</i></b> includes: (a) the Act; and (b) <del>the Regulations</del> <u>and the Gas Marketing Code of Conduct.</u>	To clarify that applicable legislation also includes the Code of Conduct.
1.1	<u><b><i>asset management system review</i></b> means a review of the effectiveness of the asset management system.</u>	The definition has been added because the term is used in the new definition of 'audit and review guidelines'.
1.1	<u><b><i>audit and review guidelines</i></b> means the guidelines prepared by the ERA setting out the ERA's requirements for the conduct of <i>performance audits</i> and <i>asset management system reviews</i>, as published by the ERA on its website and as amended from time to time.</u>	Proposed definition added to replace the term 'standard audit guidelines' and 'standard guidelines' which are not defined terms in the current gas licence template.
1.1	<b><i>commencement date</i></b> means the date <u>specified in clause 2.2.</u> <del>the licence was first granted by the Authority being the date specified in Schedule 1.</del>	The proposed amendment is consistent with the template water licence.
1.1	<del><b><i>customer service charter</i></b> means the charter as defined in the <i>Energy Coordination (Customer Contracts) Regulations 2004.</i></del>	The definition is not used in the licence.
1.1	<u><b><i>electronic means</i></b> means:</u> (a) the internet; (b) email, being: (i) <u>in relation to the ERA, the ERA's email address as notified to the licensee; and</u>	Amended clause 20.2(e) [now 3.7.2(e)] includes the term 'electronic means'. The proposed definition is consistent with the definition of 'electronic

Clause	Proposed amendment	Reason
	<u>(ii) in relation to the licensee, the email address specified in the licence application or other such email address as notified in writing to the ERA;</u> or <u>(iii) any other similar means, but does not include facsimile or telephone.</u>	means' in the template electricity and water licences.
1.1	<b>ERA Authority</b> means the Economic Regulation Authority.	The proposed amendment is consistent with the template electricity and water licences.
1.1	<b>expiry date</b> means the date specified in <u>clause 2.3. Schedule 4.</u>	The proposed amendment is consistent with the template electricity and water licences.
1.1	<del><b>gas trading email address</b> means:</del> <del>(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</del> <del>(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.</del>	Definition replaced with the definition of 'electronic means'. The definition has also been removed from clause 20.2(e) [now 3.7.2(d)].
1.1	<b>licence area(s)</b> is the area <del>(s)</del> stated in <u>clause 2.5. Schedule 4 of this licence.</u>	The proposed amendment is consistent with the template electricity and water licences.
1.1	<b>reviewable decision</b> means a decision by the ERA pursuant to: (a) clause <del>12.2</del> <u>6.4.2</u> , <del>12.3</del> <u>6.4.3</u> ; (b) clause <del>16.2</del> <u>6.6.1</u> ; (c) clause <del>17.2</del> <u>4.6.2</u> ; (d) clause <del>23.1</del> <u>4.5.1</u> ; and (e) clause <del>24.1</del> <u>3.8.1</u> ; of this licence.	Clause 16.2 [now 5.1.2] did not provide for the ERA making a decision. The reference to clause 16.2 under the definition of 'reviewable decision' was therefore incorrect and should be removed.
1.1	<b>terms and conditions</b> means the <u>terms and conditions in this licence including any terms and conditions contained in the Schedules and the Compendium of Gas Customer Licence Obligations.</u>	The proposed amendment is consistent with the template water licence.
1.1	<del><b>version date</b> means the date on which the licence was last amended pursuant to clause 10 or clause 11.</del>	The proposed amendment is consistent with the template electricity and water licences.



Clause	Proposed amendment	Reason
1.2.1	A reference in this <i>licence</i> to any <i>applicable legislation</i> <del>shall be deemed to</del> includes <u>s, unless the context otherwise requires, a reference to</u> any statutory modification, amendment, <u>replacement</u> or re-enactment of that <i>applicable legislation</i> .	The proposed amendment is consistent with the template electricity and water licences.
- [now 2.2.1]	<u>The commencement date of this licence is &lt;original date of grant&gt;.</u>	The proposed amendment is consistent with the template water licence.
- [now 2.3.1]	<u>The expiry date of this licence is &lt;expiry date&gt;.</u>	The proposed amendment is consistent with the template water licence.
- [now 2.5.1 and 2.5.2]	<u>The licence area is set out in plan(s): XXX</u> <u>The licence area plan(s) is provided in Schedule 2.</u>	The proposed amendment is consistent with the template electricity and water licences.
4.1 [now 4.2.1]	The licensee must pay the applicable fees <u>and charges</u> in accordance with the <i>Regulations</i> .	The proposed amendment is consistent with the template electricity and water licences.
5 [now 4.1 and 4.1.3]	<b>Compliance <u>with applicable legislation and licence conditions</u></b> [...] <u>The licensee must comply with the terms and conditions of this licence.</u>	The proposed amendment is consistent with the template water licence.
8.1 [now 3.6.1]	The licensee may <u>initiate a</u> surrender <u>of</u> the <i>licence</i> <del>at any time</del> by <del>written</del> notice to the <del>Authority</del> <u>ERA</u> .	<ul style="list-style-type: none"> <li>• Insertion of 'initiate' to clarify that the surrender will only take effect on the date nominated by the licensee, so long as that date is at least 10 business days after the day the ERA receives the notice from the licensee, and not when the licensee provides notice to the ERA.</li> <li>• The removal of 'at any time' is consistent with the template electricity and water licences.</li> <li>• 'Written' is removed from the clause because clause 20.1 [now 3.7.1] of the template gas licence already provides that all notices, unless otherwise specified, must be in writing.</li> </ul>
11.1 [now 3.2.1]	<del>Subject to any applicable legislation,</del> <del>†</del> The <del>Authority</del> <u>ERA</u> may amend the <i>licence</i> <del>at any time</del> <u>on its own</u>	The proposed amendments are consistent with section 11W of the Act and the template water licences.

Clause	Proposed amendment	Reason
	<u>initiative</u> in accordance with <u>the Act</u> and the procedure specified in <del>this</del> clause <u>3.2.2</u> .	
11.2(a) [now 3.2.2(a)]	Before amending the <i>licence</i> under clause <del>11.1</del> <u>3.2.1</u> , the <del>Authority</del> <u>ERA</u> must: (a) provide the <i>licensee</i> with <del>written</del> notice of the proposed amendments under consideration by the <del>Authority</del> <u>ERA</u> ;	'Written' is removed from the clause because clause 20.1 [now 3.7.1] of the template gas licence already provides that all notices, unless otherwise specified, must be in writing.
11.4	<del>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.</del>	This clause is not necessary as the <i>Economic Regulation Authority (Licensing Funding) Regulations 2014</i> (WA) do not require a charge to be paid when the ERA amends a licence on its own initiative.
- [now 6.5.2 and 6.5.3]	<u>6.5.2 The licensee may amend the standard form contract at any time by submitting to the ERA:</u> <u>(a) a proposed amendment to the standard form contract; or</u> <u>(b) a proposed substituted standard form contract.</u> <u>6.5.3 The ERA may:</u> <u>(a) approve the amendment to the standard form contract or substituted standard form contract; or</u> <u>(b) specify the amendments the licensee must make to the amended or substituted standard form contract before the ERA will approve the standard form contract,</u> <u>and notify the licensee of its decision within a reasonable time.</u>	The amendment clarifies how a licensee may amend the standard form contract and is consistent with the template electricity licence.
- [now 6.6]	<b><u>Directions by the ERA to amend standard form contract</u></b> <u>6.6.1 The licensee must comply with any direction by the ERA pursuant to section 11WI of the Act.</u> <u>6.6.2 The ERA may at any time, by notice, direct the licensee to amend the standard form contract by specifying:</u> <u>(a) the amendments to be made to the standard form contract; and</u>	The proposed amendment is consistent with the template electricity licence.

Clause	Proposed amendment	Reason
	<u>(b) the date at which the amendments need to be submitted to the ERA.</u>	
16.2 [now 5.1.2]	The <i>licensee</i> must comply, and must require the <i>licensee's</i> auditor to comply, with the <del>Authority ERA's</del> <del>standard</del> <u>audit and review</u> guidelines dealing with the <i>performance audit</i> , 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.	The proposed amendment reflects the current title of the ERA's guidelines for audits and reviews: <i>Audit and Review Guidelines – Electricity and Gas Licences</i> .
16.3	<del>The licensee may seek a review of any of the requirements of the Authority's standard guidelines in accordance with clause 23.1.</del>	The audit and review guidelines are not subject to review.
16.4 [now 5.1.3]	The <u>performance audit must be conducted by an</u> independent auditor <del>may be nominated by the licensee but must be</del> approved by the <del>Authority ERA</del> prior to the audit pursuant to clause 15.1. <del>Should the Authority reject the licensee's nomination of an independent auditor twice or, in the event that no nomination has been made by. If the licensee fails to nominate an auditor within 4 one</del> month of the date <del>that</del> the <u>performance audit</u> was due, <del>or the auditor nominated by the licensee is rejected on two successive occasions by the ERA,</del> the <del>Authority ERA</del> may choose an independent auditor <del>who will to</del> conduct the <u>performance audit</u> .	The proposed amendments are consistent with the template electricity licence.
19.2	<del>The licensee must ensure all agents and employees comply with the Gas Marketing Code of Conduct.</del>	The proposed amendment removes the duplication with clause 2.1 of the <i>Gas Marketing Code of Conduct</i> .
21.1 [now 4.3.1]	The <i>licensee</i> and any <i>related body corporate</i> must maintain accounting records that comply with <u>standards issued by</u> the Australian Accounting Standards Board <del>Standards</del> or equivalent International Accounting Standards.	The proposed amendment is consistent with the template electricity and water licences.
22 and 22.1(a) [now 4.4 and 4.4.1(a)]	<b><u>Reporting a change in circumstances</u></b> The <i>licensee</i> must report to the <del>Authority ERA</del> :	The proposed amendment is consistent with the template electricity and water licences.

Clause	Proposed amendment	Reason
	(a) if the <i>licensee</i> is under external administration as defined by the <i>Corporations Act 2001</i> (Cwth) within <del>2</del> <u>two business days of such external administration occurring</u> ; or	
22.1(b) [now 4.4.1(b)]	The <i>licensee</i> must report to the <del>Authority</del> <u>ERA</u> : (b) if <del>the licensee</del> : (i) <u>the licensee</u> experiences a <del>significant</del> change in <del>the licensee's</del> <u>its</u> corporate, financial or technical circumstances upon which this <i>licence</i> was granted; <u>and</u> (ii) <del>which the change</del> may <u>materially</u> affect the <i>licensee's</i> ability to <del>meet</del> <u>perform</u> its obligations under this <i>licence</i> , within 10 <i>business days</i> of the change occurring; <u>or</u>	<ul style="list-style-type: none"> <li>Deletion of the word 'significant' in paragraph (i), and insertion of the word 'materially' in paragraph (ii), is consistent with the template water licence.</li> <li>The words 'the licensee' have been moved to paragraph (i), and 'which' replaced with 'the change', to improve the readability of the clause.</li> </ul>
- [now 4.4.1(c)]	<u>The licensee must report to the ERA:</u> <u>(c) if:</u> <u>(i) the licensee's name;</u> <u>(ii) the licensee's ABN; or</u> <u>(iii) the licensee's address;</u> <u>changes, within 10 business days of the change occurring.</u>	The proposed amendments are consistent with the template electricity and water licences.
20.2(e) [now 3.7.2(e)]	A <i>notice</i> will be regarded as having been sent and received [...] if sent by <u>electronic means</u> <del>email</del> when, according to the sender's electronic record, the <i>notice</i> has been successfully sent to the <u>addressee</u> . <del>addressee's gas distribution email address.</del>	The proposed amendment is consistent with the template electricity and water licences.
24.1 [now 3.8.1]	The <del>Authority</del> <u>ERA</u> may direct the <i>licensee</i> to <i>publish</i> , <del>any information</del> within a specified timeframe, <u>any information</u> it considers relevant in connection with the <i>licensee</i> or the performance by the <i>licensee</i> of its obligations under this <i>licence</i> .	The proposed amendment is consistent with the template electricity and water licences.
- [now 3.8.4]	<u>Once it has reviewed the decision, the ERA will direct the licensee in accordance with the review to:</u> <u>(a) publish the information;</u>	The proposed amendment is consistent with the template electricity and water licences.

Clause	Proposed amendment	Reason
	<p><u>(b) publish the information with the confidential information removed or modified; or</u></p> <p><u>(c) not publish the information.</u></p>	
25.2	<p><del>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.</del></p>	<p>This clause is not necessary because it is clear from clause 25.1 [now 3.9.1] and the definition of 'reviewable decision' that a review only applies to decisions made by the ERA under the licence.</p>
Amendment record sheet	<p>Include a column for version number.</p>	<p>The proposed amendment is consistent with the template electricity and water licences.</p>

## **Appendix 3 Gas distribution licence template – marked up**



# Gas Distribution Licence

Licensee name

GDLXX, Version ###, ###

Economic Regulation Authority

WESTERN AUSTRALIA

**ENERGY COORDINATION ACT 1994 (WA)**

Licensee ~~N~~ame: Licensee name

ABN Number

Licence area: The area set out in the plan referred to in clause 2.5.

Licence ~~N~~anumber: GDLXX

Commencement ~~D~~ate: ###

Version ~~N~~anumber: ###

Version ~~D~~ate: ###

Expiry ~~D~~ate: ###

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Signed by [~~a delegate~~;~~/ a member~~; / ~~or the Chairman~~]  
of the Economic Regulation Authority

~~Version Date~~ Date of amendment



## Contents

<b>1. DEFINITIONS AND INTERPRETATION</b>	<b>1</b>
1.1 Definitions	1
1.2 Interpretation	4
<b>2. GRANT OF LICENCE LICENCE AUTHORISATION</b>	<b>4</b>
2.1 Activities authorised under this licence	4
2.2 Commencement date	4
2.3 Expiry date	4
2.4 Term	4
2.5 Licence area	4
<b>3. LICENCE ADMINISTRATION</b>	<b>5</b>
3.1 Amendment of Licence on Application of the Licensee	5
3.2 Amendment of the Licence by the <i>Authority ERA</i>	5
3.3 Transfer of Licence	5
3.4 Renewal of Licence	5
3.5 Cancellation of Licence	5
3.6 Surrender of Licence	5
3.7 Notices	6
3.8 Publishing information	6
3.9 Review of the <i>Authority ERA</i> 's decisions	7
<b>4. GENERAL LICENCE OBLIGATIONS</b>	<b>7</b>
4.1 Compliance with applicable legislation and licence conditions	7
4.2 Fees	7
4.3 Accounting Records	7
4.4 Reporting a change in circumstances	7
4.5 Provision of information	8
4.6 Individual Performance Standards	8
4.7 Continuous operation	8
4.8 Proposed cessation or decrease in activities	8
<b>5. AUDITS AND ASSET MANAGEMENT OBLIGATIONS</b>	<b>9</b>
5.1 Asset Management System	9
5.3 Performance Audit	10
<b>6. CUSTOMERS</b>	<b>10</b>
6.1 Approved schemes	10
6.2 Compendium of Gas Customer Licence Obligations	10
<b>4. LICENSEE DETAILS</b>	<b>11</b>
4.1 Licensee Name	11
1.2 <b>ABN/ACN</b>	11

<b>2. LICENCE AREA</b>	11
2.1 <del>[Insert Supply Areas]</del> gas supply areas as shown in plan <del>[ERA-GAS-XXX]</del>	11
<b>3. COMMENCEMENT DATE</b>	11
3.1 Commencement Date	11
<b>4. EXPIRY DATE</b>	11
4.1 <del>Expiry Date</del>	11
<b>5. DEFINITIONS</b>	14
<b>6. EXCHANGE OF INFORMATION BETWEEN THE LICENSEE AND THE HOLDER OF A TRADING LICENCE</b>	12
<b>7. OFFER TO CONNECT</b>	12
<b>SCHEDULE 1 – ADDITIONAL LICENCE CLAUSES</b>	11
1. DEFINITIONS	1ERROR! BOOKMARK NOT DEFINED.
2. EXCHANGE OF INFORMATION BETWEEN THE LICENSEE AND THE HOLDER OF A TRADING LICENCE	ERROR! BOOKMARK NOT DEFINED.2
3. OFFER TO CONNECT	ERROR! BOOKMARK NOT DEFINED.2
<b>SCHEDULE 2 – LICENCE AREA PLANS</b>	15

**DISTRIBUTION LICENCE****1. ~~Definitions and Interpretation~~ DEFINITIONS AND INTERPRETATION****1.1 Definitions**

- 1.1.1 In this *licence*, the following definitions apply unless ~~contrary intention appears~~ the context otherwise requires:

**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 2B and~~ 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*.

**audit and review guidelines** means the guidelines prepared by the ERA setting out the ERA's requirements for the conduct of performance audits and asset management system reviews, as published by the ERA on its website and as amended from time to time.

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

**commencement date** means the date specified in clause 2.2 ~~the licence was first granted by the Authority being the date specified in Schedule 1.~~

**Compendium of Gas Customer Licence Obligations** means the Compendium of Gas Customer Licence Obligations which provides additional licence terms about the conduct of retailers and distributors who supply gas to customers (as amended from time to time).<sup>1</sup>

**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

<sup>1</sup> The Compendium is available on the ERA website.

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.

**electronic means** means:

- (a) the internet;
- (b) email, being:
  - (i) in relation to the ERA, the ERA's email address as notified to the licensee; and
  - (ii) in relation to the licensee, the email address specified in the licence application or other such email address as notified in writing to the ERA; or
  - (iii) any other similar means,

but does not include facsimile or telephone.

**ERA Authority** means the Economic Regulation Authority.

**expiry date** means the date specified in clause 2.3. 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~~ ERA for an individual licensee pursuant to clause 4.6 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~~ ERA pursuant to clause 4.6.

**licence area(s)** is the area(s) stated in clause 2.5. Schedule 1 of this licence.

**licensee means** <Licensee's name>, <ABN/CAN>.

**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~~ [ERA](#) 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~~ [ERA](#) to be published on the ~~Authority~~ [ERA'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~~ [Economic Regulation Authority \(Licensing Funding\) Regulations 2014](#);
- (d) the *Energy Coordination (Ombudsman Scheme) Regulations 2004*;
- (e) the *Energy Coordination (Gas Tariffs) Regulations 2000*; and

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

**reviewable decision** means a decision by the ~~Authority~~ [ERA](#) pursuant to:

- (a) ~~clause 14.4~~;
- (b) ~~clause 15.2~~;
- (c) clause ~~16.2~~ [4.6.2](#); ~~or~~ [and](#)
- (d) clause ~~22.1~~ [3.8.1](#).

of this *licence*.

**Schedule** means a schedule to this *licence*.

**terms and conditions** means the terms and conditions in this *licence* including any terms and conditions contained in the *Schedules* and the *Compendium of Gas Customer Licence Obligations*.

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

## 1.2 **Interpretation**

- 1.2.1 A reference in this licence to any *applicable legislation* ~~shall be deemed to~~ includes, ~~unless the context otherwise requires, a reference to~~ any statutory modification, amendment, replacement or re-enactment of that *applicable legislation*.

## 2. **Grant of Licence** **LICENCE AUTHORISATION**

### 2.1 **Activities authorised under this licence**

- 2.1.1 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 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 the additional terms contained in the *Compendium of Gas Customer Licence Obligations* and those terms contained in the *Schedules*.

### 2.2 **Commencement date**

- 2.2.1 The *commencement date* of this *licence* is <original date of grant>.

### 2.3 **Expiry date**

- 2.3.1 The *expiry date* of this *licence* is <expiry date>.

### 2.4 **Term** **[Section 11O of the Act]**

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

- (a) the cancellation of the *licence* pursuant to clause 3.5 ~~7~~ of this *licence*;
- (b) the surrender of the *licence* pursuant to clause 3.6 ~~8~~ of this *licence*; or
- (c) the *expiry date*.

### 2.5 **Licence area**

- 2.5.1 The *licence area* is set out in plan(s):

ERA-GAS-XXX

- 2.5.2 The *licence area* plan(s) is provided in *Schedule 2*.

### 3. LICENCE ADMINISTRATION

#### 3.1 Amendment of ~~L~~licence on ~~A~~application of the ~~L~~licensee [Section 11VA of the Act]

3.1.1 The *licensee* may apply to the ~~Authority~~ ERA to amend the *licence* in accordance with the *Act*.

#### 3.2 Amendment of ~~L~~licence by the ~~Authority~~ ERA [Section 11W of the Act]

3.2.1 ~~Subject to any applicable legislation, t~~The ~~Authority~~ ERA may amend the *licence* ~~at any time on its own initiative~~ in accordance with the Act and the procedure specified in this clause 3.2.2.

3.2.2 Before amending the *licence* under clause ~~11.1~~ 3.2.1, the ~~Authority~~ ERA must:

- (a) provide the *licensee* with ~~written~~ notice of the proposed amendments under consideration by the ~~Authority~~ ERA;
- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
- (c) take into consideration those submissions.

3.2.3 This clause also applies to the substitution of the existing *licence*.

~~3.2.4 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.~~

#### 3.3 Transfer of ~~L~~licence [Section 11R of the Act]

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

#### 3.4 Renewal of ~~L~~licence [Section 11P of the Act]

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

#### 3.5 Cancellation of ~~L~~licence [Section 11ZE of the Act]

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

#### 3.6 Surrender of ~~L~~licence [Schedule 1A of the Act]

3.6.1 The *licensee* may initiate a surrender of the licence at any time by written notice to the Authority ERA nominating a date the surrender will take effect from. The surrender date cannot be less than 10 business days from the date the ERA receives the notice.

3.6.2 The ~~ERA will publish~~ ~~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 as soon as practicable after the date the licence has been surrendered.

3.6.3 The licensee will not be entitled to a refund of any fees by the ~~Authority~~ ERA.

### 3.7 Notices

3.7.1 Unless otherwise specified, all *notices* must be in writing.

3.7.2 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 email when, according to the sender's electronic record, the notice has been successfully sent to the addressee's gas distribution email address; or~~
- (e) if sent by electronic means ~~email~~ when, according to the sender's electronic record, the *notice* has been successfully sent to the addressee's ~~gas distribution email address.~~

### 3.8 Publishing information

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

3.8.2 Subject to clause ~~22.3~~ 3.8.3, the licensee must *publish* the information referred to in clause ~~22.4~~ 3.8.1.

3.8.3 If the licensee considers that the information is confidential it must:

- (a) immediately notify the ~~Authority~~ ERA; and
- (b) seek a review of the ~~Authority~~ ERA's decision in accordance with clause ~~23.4~~ 3.9.

3.8.4 Once it has reviewed the decision, the ERA will direct the licensee in accordance with the review to:

- (a) publish the information;
- (b) publish the information with the confidential information removed or modified;  
or
- (c) not publish the information.



### 3.9 Review of the ~~Authority~~ ERA's decisions

3.9.1 The *licensee* may seek a review of a *reviewable decision* by the ~~Authority~~ ERA 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~~ ERA) of the decision; and
- (b) the ~~Authority~~ ERA will consider the submission and provide the *licensee* with a written response within 20 *business days*.

~~3.9.2 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.~~

## 4. GENERAL LICENCE OBLIGATIONS

### 4.1 Compliance with applicable legislation and licence conditions

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

4.1.2 Subject to the provisions of any *applicable legislation*, the ~~Authority~~ ERA 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.

4.1.3 The licensee must comply with the terms and conditions of this licence.

### 4.2 Fees

4.2.1 The *licensee* must pay the applicable fees and charges in accordance with the *Regulations*.

### 4.3 Accounting ~~R~~ecords

4.3.1 The *licensee* and any *related body corporate* must maintain accounting records that comply with standards issued by the Australian Accounting Standards Board ~~Standards~~ or equivalent International Accounting Standards.

### 4.4 Reporting a change in circumstances

4.4.1 The *licensee* must report to the ~~Authority~~ ERA:

- (a) if the *licensee* is under external administration as defined by the *Corporations Act 2001 (Cwlth)* within ~~2~~ two *business days* of such external administration occurring; or
- (b) if ~~the licensee~~:

- (i) the *licensee* experiences a ~~significant~~ change in ~~the licensee's~~ its corporate, financial or technical circumstances upon which this licence was granted; and
- (ii) ~~which~~ the change may materially affect the *licensee's* ability to ~~meet~~ perform its obligations under this *licence*.

within 10 *business days* of the change occurring; or

(c) if:

- (i) the licensee's name;
- (ii) the licensee's ABN; or
- (iii) the licensee's address;

changes, within 10 business days of the change occurring.

#### 4.5 Provision of information

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

#### 4.6 Individual ~~P~~performance ~~S~~standards

- 4.6.1 Performance standards are contained in *applicable legislation*.
- 4.6.2 The ~~Authority~~ ERA may prescribe *individual performance standards* in relation to the *licensee* of its obligations under this *licence* or the *applicable legislation*.
- 4.6.3 Before approving any *individual performance standards* under this clause, the ~~Authority~~ ERA 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.
- 4.6.4 Once approved by the ~~Authority~~ ERA, the *performance standards* are included as additional *terms and conditions* to this *licence*.

#### 4.7 Continuous operation

- 4.7.1 Subject to section 11M of the *Act* and clause ~~12.2~~ 4.7.2, 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*.
- 4.7.2 Clause ~~12.4~~ 4.7.1 only applies to those parts of the *distribution system* required for the *licensee* to meet its obligations from time to time to supply *gas*.

#### 4.8 Proposed cessation or decrease in activities

- 4.8.1 Notwithstanding clause ~~8~~ 3.6, the *licensee* must give the ~~Authority~~ ERA 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*.
- 4.8.2 A *notice* under clause ~~13.4~~ 4.8.1 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.

## 5. AUDITS AND ASSET MANAGEMENT OBLIGATIONS

### 5.1 Asset Management System [Section 11Y of the Act]

- 5.1.1 The *licensee* must provide for, ~~and notify the Authority of,~~ an *asset management system* in respect of the licensee's distribution system.
- 5.1.2 The licensee must notify the ERA of the details of the asset management system within five business days from the later of:
- (a) the commencement date; or
  - (b) the completion of construction of the distribution system.
- 5.1.3 The *licensee* must notify the ~~Authority~~ ERA of any ~~material~~ substantial change to the *asset management system* within 10 *business days* of such change.
- 5.1.4 The *licensee* must, unless otherwise notified in writing by the ~~Authority~~ ERA, provide the ~~Authority~~ ERA with a report as to the effectiveness of the *asset management system* within 24 months after the *commencement date* and every 24 months thereafter.
- 5.1.5 The *licensee* must comply, and must require the *licensee's* expert to comply, with the ~~Authority~~ ERA's ~~standard~~ audit and review *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.
- ~~5.1.6 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.~~
- 5.1.6 The review of the asset management system must be conducted by an independent expert ~~may be nominated by the licensee but must be~~ approved by the ~~Authority~~ ERA. ~~prior to the review pursuant to clause 14.3. If the licensee fails to nominate an independent expert within one month of the date that the review of the asset management system was due, or the independent expert nominated by the licensee is rejected on two successive occasions by the ERA, the ERA may choose an independent expert to conduct the review of the asset management system. 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.~~

## 5.2 Performance ~~A~~udit [Section 11ZA of the Act]

5.2.1 The licensee must, unless otherwise notified in writing by the ~~Authority~~ ERA, provide the ~~Authority~~ ERA with a *performance audit* within 24 months after the *commencement date*, and every 24 months thereafter.

5.2.2 The licensee must comply, and must require the licensee's auditor to comply, with the ~~Authority~~ ERA's ~~standard~~ audit and review 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.

~~5.2.3 The licensee may seek a review of any of the requirements of the Authority's standard audit guidelines in accordance with clause 23.1.~~

5.2.3 The performance audit must be conducted by an independent auditor ~~may be nominated by the licensee but must be~~ approved by the ~~Authority~~ ERA 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:~~ If the licensee fails to nominate an auditor within 4 one month of the date that the performance audit was due, or the auditor nominated by the licensee is rejected on two successive occasions by the ERA, the ~~Authority~~ ERA may choose an independent auditor ~~who will~~ to conduct the performance audit.

## 6. CUSTOMERS

### 6.1 Approved scheme [Sections 11ZQH of the Act]

6.1.1 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*.

### 6.2 Compendium of Gas Customer Licence Obligations

6.2.1 The licensee must comply with the additional licence terms contained in the Compendium of Gas Customer Licence Obligations, a copy of which will be provided to the licensee by electronic means upon the grant of the licence.<sup>2</sup>

6.2.2 The ERA, in its sole discretion, may amend the Compendium of Gas Customer Licence Obligations from time to time.

6.2.3 The ERA reviews the Compendium of Gas Customer Licence Obligations approximately every two years.

6.2.4 Each time the Compendium of Gas Customer Licence Obligations is amended, the ERA will send access to the amended version to the licensee by electronic means.

<sup>2</sup> The Compendium of Gas Customer Licence Obligations is also available on the ERA website.

# Schedule 1 – ~~Licensee Details~~ Additional licence clauses

## 1. ~~Licensee Details~~

### 1.1 ~~Licensee Name~~

### 1.2 ~~ABN/ACN~~

## 2. ~~Licence Area~~

### 2.1 ~~[Insert Supply Areas] gas supply areas as shown in plan [ERA-GAS-XXX]~~

## 3. ~~Commencement Date~~

### 3.1 ~~Commencement Date~~

## 4. ~~Expiry Date~~

### 4.1 ~~Expiry Date~~

## 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*.

***National Gas Rules*** means the National Gas Rules that have effect under the *National Gas Access (WA) Act 2009*.

***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 To the extent it does not already apply to the licensee, the *licensee* must comply with the obligations set out in rules 111(3) to (8) of the *National Gas Rules* as if those rules applied to the *licensee*.
- 2.2 For the purposes of clause 2.1, a reference in rule 111 of the *National Gas Rules* to:
- (a) “covered pipeline” is a reference to a *distribution system*;
  - (b) “service provider” is a reference to the *licensee*;
  - (c) “prospective user” is a reference to the holder of a trading *licence* that relates to the whole or a part of the *licence area*; and
  - (d) “user” is a reference to a person that has a contract for the haulage of *gas* through the *distribution system* with the *licensee*.
- 2.3 To avoid doubt, nothing in this clause affects the *licensee*’s obligations in relation to that pipeline under the *National Gas Access (WA) Act 2009* and the relevant *National Gas Rules*.
- 2.4 If the *National Gas Access (WA) Act 2009* or the relevant *National Gas Rules* are amended or replaced, a reference in this clause to the *National Gas Access (WA) Act 2009* or a rule of the *National Gas Rules* means that amended or replacement legislation and a reference to rule 111 of the *National Gas Rules* refers to the equivalent provision in that amended or replacement legislation as notified in writing to the *licensee* by the [ERA Authority](#).

## 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,
    - (iii) and accordingly, the *licensee* may decline to undertake a connection that requires:
    - (iv) more than 20 metres of service pipe; or
    - (v) 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 2 – ~~Compendium of Gas Customer~~ ~~Licensing Obligations~~ Licence area**



## Schedule 3—Additional Licence Clauses

### 4. 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.~~

~~**National Gas Rules** means the National Gas Rules that have effect under the *National Gas Access (WA) Act 2009*.~~

~~**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.~~

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

~~5.1 To the extent it does not already apply to the licensee, the licensee must comply with the obligations set out in rules 111(3) to (8) of the *National Gas Rules* as if those rules applied to the licensee.~~

~~5.2 For the purposes of clause 2.1, a reference in rule 111 of the *National Gas Rules* to:~~

- ~~(a) "covered pipeline" is a reference to a distribution system;~~
- ~~(b) "service provider" is a reference to the licensee;~~
- ~~(c) "prospective user" is a reference to the holder of a trading licence that relates to the whole or a part of the licence area; and~~
- ~~(d) "user" is a reference to a person that has a contract for the haulage of gas through the distribution system with the licensee.~~

~~To avoid doubt, nothing in this clause affects the licensee's obligations in relation to that pipeline under the *National Gas Access (WA) Act 2009* and the relevant *National Gas Rules*.~~

~~5.3 If the *National Gas Access (WA) Act 2009* or the relevant National Gas Rules are amended or replaced, a reference in this clause to the National Gas Access (WA) Act 2009 or a rule of the National Gas Rules means that amended or replacement legislation and a reference to rule 111 of the National Gas Rules refers to the equivalent provision in that amended or replacement legislation as notified in writing to the licensee by the Authority ERA.~~

~~6. Offer to connect~~

~~6.1 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.~~

~~6.2 Subject to clause 3.3, the licensee must offer to connect the premises to the distribution system.~~

~~6.3 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;~~
  - ~~(iii) and accordingly, the licensee may decline to undertake a connection that requires:~~
  - ~~(iv) more than 20 metres of service pipe; or~~
  - ~~(v) 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 to 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.~~

**6.4** ~~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 No.	Version date	Description of amendment
1	<Date of grant or amendment>	<Description of amendment>

## **Appendix 4 Gas trading licence template – marked up**



# Gas Trading Licence

Licensee name

GTLX, Version ###, [Click here to enter a date.](#)

**Economic Regulation Authority**

WESTERN AUSTRALIA

**ENERGY COORDINATION ACT 1994 (WA)**

Licensee ~~N~~name: Licensee name

ABN Number

Licence area: The area set out in the plan referred to in clause 2.5.

Licence ~~N~~number: GTLX

Commencement ~~D~~date: ###

Version ~~N~~number: ###

Version ~~D~~date: ###

Expiry ~~D~~date: ###

---

Signed by [~~a delegate~~; a member; ~~the Chairman~~]  
of the Economic Regulation Authority

~~Version date~~ Date of amendment



## Contents

<b>1. <del>DEFINITION AND INTERPRETATION</del> DEFINITIONS AND INTERPRETATION.....</b>	<b>1</b>
1.1 Definitions .....	1
1.2 Interpretation.....	4
<b>2. <del>GRANT OF LICENCE</del> LICENCE AUTHORISATION .....</b>	<b>5</b>
2.1 Activities authorised under the licence.....	5
2.2 Commencement date.....	5
2.3 Expiry date .....	5
2.4 Term .....	5
2.5 Licence area .....	5
<b>3. LICENCE ADMINISTRATION .....</b>	<b>5</b>
3.1 Amendment of Licence on Application of the Licensee.....	5
3.2 Amendment of Licence by the <del>Authority</del> ERA .....	5
3.3 Transfer of Licence .....	6
3.4 Renewal of Licence .....	6
3.5 Cancellation of Licence .....	6
3.6 Surrender of Licence .....	6
3.7 Notices.....	6
3.8 Publishing information .....	7
3.9 Review of the <del>Authority</del> ERA's decisions .....	7
<b>4. GENERAL LICENCE OBLIGATIONS .....</b>	<b>7</b>
4.1 Compliance with applicable legislation and licence conditions.....	7
4.2 Fees .....	8
4.3 Accounting Records.....	8
4.4 Reporting a change in circumstances.....	8
4.5 Provision of information.....	8
4.6 Individual performance standards.....	9
<b>5. AUDIT OBLIGATIONS.....</b>	<b>9</b>
5.1 Performance audit .....	9
<b>6. CUSTOMERS.....</b>	<b>9</b>
6.1 Approved scheme.....	9
6.2 Gas Marketing Code of Conduct.....	10
6.3 Compendium of Gas Customer Licence Obligations .....	10
6.4 Customer Contracts.....	10
6.5 Amending the Standard Form Contract .....	10
6.6 Directions by the ERA to amend <i>standard form contract</i> .....	11
6.7 Supplier of Last Resort .....	11
6.8 Obligation to maintain supply.....	11
<b>SCHEDULE 1 – <del>LICENSEE DETAILS</del> ADDITIONAL LICENCE CLAUSES .....</b>	<b>12</b>

<b>1. LICENSEE DETAILS .....</b>	<b>12</b>
<b>1.1 Licensee Name .....</b>	<b>12</b>
<b>1.2 ABN/ACN .....</b>	<b>12</b>
<b>1. DEFINITIONS .....</b>	<b>12</b>
<b>2. ERA AUTHORITY MAY DIRECT LICENSEE TO COMMENCE SUPPLY .....</b>	<b>12</b>
<b>3. EXCHANGE OF INFORMATION BETWEEN THE LICENSEE AND THE HOLDER OF A DISTRIBUTION LICENCE .....</b>	<b>14</b>
<b>4. NOTIFICATION OF CHANGES TO FEES AND CHARGES .....</b>	<b>14</b>
<b>SCHEDULE 2 – COMPENDIUM OF GAS CUSTOMER LICENSING OBLIGATIONS LICENCE AREA .....</b>	<b>15</b>
<b>SCHEDULE 3 – ADDITIONAL LICENCE CLAUSES .....</b>	<b>16</b>
<b>1. DEFINITIONS .....</b>	<b>16</b>
<b>2. AUTHORITY MAY DIRECT LICENSEE TO COMMENCE SUPPLY .....</b>	<b>16</b>
<b>3. EXCHANGE OF INFORMATION BETWEEN THE LICENSEE AND THE HOLDER OF A DISTRIBUTION LICENCE .....</b>	<b>17</b>
<b>4. NOTIFICATION OF CHANGES TO FEES AND CHARGES .....</b>	<b>18</b>
<b>SCHEDULE 4 – OPERATING AREA MAP .....</b>	<b>19</b>

**TRADING LICENCE****1. ~~Definition and interpretation~~ DEFINITIONS AND INTERPRETATION****1.1 Definitions**

1.1.1 In this *licence*, the following definitions apply unless ~~contrary intention appears~~ the context otherwise requires:

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

**another supplier** means a person other than the *licensee* who holds a trading licence.

**applicable legislation** includes:

- (a) the *Act*, and
- (b) the *Regulations* and the Gas Marketing Code of Conduct.

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

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

**audit and review guidelines** means the guidelines prepared by the *ERA* setting out the *ERA's* requirements for the conduct of *performance audits and asset management system reviews*, as published by the *ERA* on its website and as amended from time to time.

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

**commencement date** means the date specified in clause 2.2. ~~the licence was first granted by the Authority being the date specified in Schedule 1.~~

**Compendium of Gas Customer Licence Obligations** means the Compendium of Gas Customer Licence Obligations which provides additional *licence* terms about the conduct of retailers and distributors who supply *gas* to *customers* (as amended from time to time).<sup>1</sup>

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

~~**customer service charter** means the charter as defined in the *Energy Coordination (Customer Contracts) Regulations 2004*.~~

**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

<sup>1</sup> The Compendium is also available on the *ERA* [website](#).

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.

**electronic means** means:

- (a) the internet;
- (b) email, being:
  - (i) in relation to the ERA, the ERA's email address as notified to the licensee; and
  - (ii) in relation to the licensee, the email address specified in the licence application or other such email address as notified in writing to the ERA; or
  - (iii) any other similar means.

but does not include facsimile or telephone.

**ERA Authority** means the Economic Regulation Authority.

**expiry date** means the date specified in clause 2.3. ~~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 marketing code of conduct** means the *Gas Marketing Code of Conduct* approved by the ~~Authority~~ ERA pursuant to section 11ZPM of the *Act* (as amended from time to time).

**gas supply contract** includes a *standard form contract* and a contract other than a *standard form contract*.

~~**gas trading 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~~ ERA for an individual licensee pursuant to clause 4.6 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~~ [ERA](#) pursuant to clause 4.6.

**licence area(s)** is the area(s) stated in [clause 2.5](#). ~~Schedule 1 of this licence.~~

**licensee** means <Licensee's Name>, <ABN/CAN>.

**maintain supply** in clause 6.8 means, unless the *licensee* and the customer agree otherwise:

- (a) subject to:
- (i) the terms of the *gas supply contract* between the *licensee* and the *customer*; and
  - (ii) paragraph (b),  
the *licensee* must supply *gas* to the *customer* at the premises, in sufficient quantity to meet the *customer's gas* requirements, for the duration of the *gas supply contract*;
- (b) the maximum quantity of *gas* that the *licensee* is required to supply to a *customer* under paragraph (a) is the quantity of *gas* that can be physically delivered to the *licensee* by the relevant distribution *licensee* using standard residential delivery facilities;
- (c) the *licensee* must not terminate, or purport to terminate, the *gas supply contract* other than in accordance with its terms; and
- (d) if the *gas supply contract* expires or is terminated in accordance with its terms, then:
- (i) subject to subparagraph (ii), the *licensee* must offer to enter into a *standard form contract* with the *customer* in place of the expired or terminated contract; and
  - (ii) before entering into a contract in place of the expired or terminated contract, the *licensee* may require the *customer* to meet the *licensee's* reasonable minimum prudential requirements and credit standards.

**non-standard contract** has the meaning in section 11WB of the *Act*.

**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~~ [ERA](#) 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~~ [ERA](#) to be published on the ~~Authority~~ [ERA's](#) website.

**Regulations** mean 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~~ [Economic Regulation Authority \(Licensing Funding\) Regulations 2014](#);
- (d) the *Energy Coordination (Ombudsman Scheme) Regulations 2004*; and
- (e) the *Energy Coordination (Gas Tariffs) Regulations 2000*.

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

**reviewable decision** means a decision by the ~~Authority~~ [ERA](#) pursuant to:

- (a) clause ~~42.2~~ [6.4.2](#), ~~42.3~~ [6.4.3](#);
- (b) clause ~~46.2~~ [6.6.1](#);
- (c) clause ~~47.2~~ [4.6.2](#);
- (d) clause ~~23.1~~ [4.5.1](#); ~~or~~ [and](#)
- (e) clause ~~24.1~~ [3.8.1](#),

of this *licence*.

**Schedule** means a schedule to this *licence*.

**standard form contract** [has the meaning given to that term in section 11WB of the Act](#), ~~42(1)~~

**supplier of last resort** has the meaning as defined in Division 6A of the Act.

**terms and conditions** [means the terms and conditions in this licence including any terms and conditions contained in the Schedules and the Compendium of Gas Customer Licence Obligations.](#)

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

## 1.2 [Interpretation](#)

- 1.2.1 A reference in this *licence* to any applicable legislation ~~shall be deemed to include~~, [unless the context otherwise requires](#), ~~a reference to~~ any statutory modification, amendment, [replacement](#) or re-enactment of that applicable legislation.

## 2. ~~Grant of Licence~~ LICENCE AUTHORISATION

### 2.1 Activities authorised under the licence

- 2.1.1 The *licensee* is granted a *licence* for the *licence area(s)* to sell gas transported through a *distribution system* to *customers* in accordance with the *terms and conditions* of this *licence*. The *licensee* must comply with the terms of this *licence* including the additional terms contained in the *Compendium of Gas Customer Licence Obligations* and those terms contained in the *Schedules*.

### 2.2 Commencement date

- 2.2.1 The *commencement date* of this *licence* is <original date of grant>.

### 2.3 Expiry date

- 2.3.1 The *expiry date* of this *licence* is <expiry date>.

### 2.4 **Term** [Section 11O of the Act]

- 2.4.1 This *licence* commences on the *commencement date* and continues until the earlier of:
- (a) the cancellation of the *licence* pursuant to clause 3.5 ~~7~~ of this *licence*;
  - (b) the surrender of the *licence* pursuant to clause 3.6 ~~8~~ of this *licence*; or
  - (c) the *expiry date*.

### 2.5 Licence area

- 2.5.1 The *licence area* is set out in plan(s):

ERA-GAS-XXX

- 2.5.2 The *licence area* plan(s) is provided in *Schedule 2*.

## 3. LICENCE ADMINISTRATION

### 3.1 **Amendment of ~~L~~licence on ~~A~~application of the ~~L~~licensee** [Section 11VA of the Act]

- 3.1.1 The *licensee* may apply to the ~~Authority~~ ERA to amend the *licence* in accordance with the *Act*.

### 3.2 **Amendment of ~~L~~licence by the ~~Authority~~ ERA** [Section 11W of the Act]

- 3.2.1 ~~Subject to any applicable legislation, t~~The ~~Authority~~ ERA may amend the *licence* ~~at any time on its own initiative~~ in accordance with ~~this~~ the *Act* and the procedure specified in clause 3.2.2.

- 3.2.2 Before amending the *licence* under clause ~~11.1~~ 3.2.1, the ~~Authority~~ ERA must:

- (a) provide the *licensee* with ~~written~~ notice of the proposed amendments under consideration by the ~~Authority~~ ERA;

- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
- (c) take into consideration those submissions.

3.2.3 This clause also applies to the substitution of the existing *licence*.

~~3.2.4 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.~~

### 3.3 **Transfer of Licence** [Section 11R of the Act]

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

### 3.4 **Renewal of Licence** [Section 11P of the Act]

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

### 3.5 **Cancellation of Licence** [Section 11ZE of the Act]

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

### 3.6 **Surrender of Licence** [Schedule 1A of the Act]

3.6.1 The *licensee* may initiate a surrender of the *licence* ~~at any time~~ by ~~written~~ notice to the ~~Authority~~ ERA nominating a date the surrender will take effect from. The surrender date must not be less than 10 business days from the date the ERA receives the notice.

3.6.2 The ERA will publish ~~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 as soon as practicable after the date the licence has been surrendered.

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

### 3.7 **Notices**

3.7.1 Unless otherwise specified, all *notices* must be in writing.

3.7.2 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 email when, according to the sender's electronic record, the notice has been successfully sent to the addressee's gas distribution email address;~~  
~~or~~



- (e) if sent by electronic means ~~email~~ when, according to the sender's electronic record, the *notice* has been successfully sent to the addressee. ~~'s gas distribution email address.~~

### 3.8 Publishing information

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

3.8.2 Subject to clause ~~24.3~~ 3.8.3, the *licensee* must *publish* the information referred to in clause ~~24.1~~ 3.8.1.

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

- (a) immediately notify the ~~Authority~~ ERA; and
- (b) seek a review of the ~~Authority~~ ERA's decision in accordance with clause ~~25~~ 3.9.

3.8.4 Once it has reviewed the decision, the ERA will direct the licensee in accordance with the review to:

- (a) publish the information;
- (b) publish the information with the confidential information removed or modified; or
- (c) not publish the information.

### 3.9 Review of the ~~Authority~~ ERA's decisions

3.9.1 The *licensee* may seek a review of a *reviewable decision* by the ~~Authority~~ ERA 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~~ ERA) of the decision; and
- (b) the ~~Authority~~ ERA will consider the submission and provide the *licensee* with a written response within 20 *business days*.

~~3.9.2 For avoidance of doubt, this clause does not apply to a decision of the ERA pursuant to the Act, nor does it restrict the licensee's right to have a decision of the ERA reviewed in accordance with the Act.~~

## 4. GENERAL LICENCE OBLIGATIONS

### 4.1 Compliance with applicable legislation and licence conditions

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

4.1.2 Subject to the provisions of any *applicable legislation*, the ~~Authority~~ ERA 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.

#### 4.1.3 The licensee must comply with the terms and conditions of this licence.

### 4.2 Fees

- 4.2.1 The licensee must pay the applicable fees and charges in accordance with the *Regulations*.

### 4.3 Accounting ~~R~~ecords

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

### 4.4 Reporting a change in circumstances

- 4.4.1 The licensee must report to the ~~Authority~~ ERA:

- (a) if the licensee is under external administration as defined by the *Corporations Act 2001* (Cwlth) within ~~2~~ two business days of such external administration occurring; or
- (b) if ~~the licensee~~:
  - (i) the licensee experiences a ~~significant~~ change in ~~the licensee's~~ its corporate, financial or technical circumstances upon which this *licence* was granted; and
  - (ii) ~~which~~ the change may materially affect the licensee's ability to ~~meet~~ perform its obligations under this *licence*.

within 10 *business days* of the change occurring; or

- (c) if:
  - (i) the licensee's name;
  - (ii) the licensee's ABN; or
  - (iii) the licensee's address;

changes, within 10 business days of the change occurring.

### 4.5 Provision of information

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

## 4.6 Individual performance standards

- 4.6.1 Performance standards are contained in *applicable legislation*.
- 4.6.2 The ~~Authority~~ ERA may prescribe *individual performance standards* in relation to the *licensee* of its obligations under this *licence* or the *applicable legislation*.
- 4.6.3 Before approving any *individual performance standards* under this clause, the ~~Authority~~ ERA 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.
- 4.6.4 Once approved by the ~~Authority~~ ERA, the *individual performance standards* are included as additional *terms and conditions* to this *licence*.

## 5. AUDIT OBLIGATIONS

### 5.1 Performance audit [Section 11ZA of the Act]

- 5.1.1 The *licensee* must, unless otherwise notified in writing by the ~~Authority~~ ERA, provide the ~~Authority~~ ERA with a *performance audit* within 24 months after the *commencement date*, and every 24 months thereafter.
- 5.1.2 The *licensee* must comply, and must require the *licensee's* auditor to comply, with the ~~Authority~~ ERA's ~~standard~~ *audit and review* 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.
- ~~5.1.3 The licensee may seek a review of any of the requirements of the Authority's standard audit guidelines in accordance with clause 25.~~
- 5.1.3 The performance audit must be conducted by an independent auditor ~~may be nominated by the licensee but must be~~ approved by the ~~Authority~~ ERA ~~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. If the licensee fails to nominate an auditor within 4 one month of the date that the performance audit was due, or the auditor nominated by the licensee is rejected on two successive occasions by the ERA,~~ the ~~Authority~~ ERA may choose an independent auditor ~~who will~~ to conduct the *performance audit*.

## 6. CUSTOMERS

### 6.1 Approved scheme [Sections 11ZQH of the Act]

- 6.1.1 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*.

## 6.2 Gas Marketing Code of Conduct

6.2.1 The *licensee* must comply with the *Gas Marketing Code of Conduct*.

~~6.2.2 The *licensee* must ensure all agents and employees comply with the *Gas Marketing Code of Conduct*.~~

## 6.3 Compendium of Gas Customer Licence Obligations

6.3.1 The *licensee* must comply with the additional *licence* terms contained in the *Compendium of Gas Customer Licence Obligations*, a copy of which will be provided to the *licensee* by *electronic means* upon the grant of the *licence*.<sup>2</sup>

6.3.2 The *ERA*, in its sole discretion, may amend the *Compendium of Gas Customer Licence Obligations* from time to time.

6.3.3 The *ERA* reviews the *Compendium of Gas Customer Licence Obligations* approximately every two years.

6.3.4 Each time the *Compendium of Gas Customer Licence Obligations* is amended, the *ERA* will send access to the amended version to the *licensee* by *electronic means*.

## 6.4 Customer ~~C~~contracts [Section 11WG of the Act]

6.4.1 Subject to the *Regulations*, the *licensee* must not supply *gas* to a *customer* otherwise than under:

- (a) a *standard form contract*; or
- (b) a *non-standard contract*.

6.4.2 The *licensee* must, if directed by the ~~Authority~~ *ERA*, review the *standard form contract* and submit to the *ERA* the results of that review within the time specified by the ~~Authority~~ *ERA*.

6.4.3 The *licensee* must comply with any direction given by the ~~Authority~~ *ERA* in relation to the scope, process or methodology of the review referred to in clause ~~12.2~~ *6.4.2*.

## 6.5 Amending the ~~S~~standard ~~F~~form ~~C~~contract [Section 11WH of the Act]

6.5.1 The *standard form contract* may only be amended in accordance with the *Act* and the *Regulations*.

6.5.2 The *licensee* may amend the *standard form contract* at any time by submitting to the *ERA*:

- (a) a proposed amendment to the *standard form contract*; or

<sup>2</sup> The *Compendium of Gas Customer Licence Obligations* is also available on the *ERA* website.

- (b) [a proposed substituted \*standard form contract\*.](#)

#### 6.5.3 [The \*ERA\* may:](#)

- (a) [approve the amendment to the \*standard form contract\* or substituted \*standard form contract\*; or](#)
- (b) [specify the amendments the \*licensee\* must make to the amended or substituted \*standard form contract\* before the \*ERA\* will approve the \*standard form contract\*,](#)  
[and notify the \*licensee\* of its decision within a reasonable time.](#)

### 6.6 **Directions by the *ERA* to amend *standard form contract*** **[\[Section 11WI\]](#)**

6.6.1 [The \*licensee\* must comply with any direction by the \*ERA\* pursuant to section 11WI of the \*Act\*.](#)

6.6.2 [The \*ERA\* may, at any time, by notice, direct the \*licensee\* to amend the \*standard form contract\* by specifying:](#)

- (a) [the amendments to be made to the \*standard form contract\*; and](#)
- (b) [the date the amendments need to be submitted to the \*ERA\*.](#)

### 6.7 **Supplier of ~~L~~ast ~~R~~esort** **[\[Section 11ZAJ\]](#)**

6.7.1 If the *licensee* is designated a *supplier* of *last resort* under the *Act*, the *licensee* must perform the functions of the *supplier* of *last resort*.

### 6.8 **Obligation to ~~M~~aintain ~~S~~upply**

6.8.1 If the *licensee* supplies, or within the last 12 months has previously supplied but is not currently supplying, *gas to a customer* at the premises, then subject to clause ~~45.2~~ [6.8.2](#), the *licensee* must *maintain supply* to that *customer* at the premises.

6.8.2 If at any time *another supplier* starts to supply *gas* to the *customer* at the premises, then, from the time that supply starts, the obligation under clause ~~45.4~~ [6.8.1](#) ends until such time that the *licensee* resumes supplying *gas* to the *customer* at the premises.

# Schedule 1 – ~~Licensee Details~~ Additional licence clauses

## ~~1. Licensee Details~~

### ~~1.1 Licensee Name~~

### ~~1.2 ABN/ACN~~

#### ~~Licence Area~~

~~[Supply Areas] gas supply areas as shown in plan [ERA-GAS-XXX]~~

#### ~~Commencement Date~~

~~Commencement Date~~

~~Expiry Date~~

~~Expiry Date~~

## 1. Definitions

***commence supply*** means to offer, subject to clause 2.10, to enter a *standard form contract* with a *customer* who is the owner or occupier of *eligible premises* for the sale of gas to those premises.

***eligible premises*** means premises located within the *licence area* which meet at least one of the following criteria:

- (a) connected to a *distribution system*;
- (b) to be connected to a *distribution system* prior to the requested date of commencing sale; or
- (c) so located (and, if applicable, of such a nature) that the holder of a distribution licence can be obliged under a provision of the distribution licence to connect the premises to a *distribution system* if certain conditions are satisfied.

***Minister*** means the Minister for Energy or any other Responsible Minister for the Energy Portfolio in the State of Western Australia.

***relevant other supplier*** means *another supplier* who is able to sell *gas* to a *customer* who is the owner or occupier of *eligible premises*.

***relevant distribution system*** in clause 3 means the *distribution system* through which *gas* is transported for sale by the *licensee* under this *licence*.

## 2. ERA Authority may direct licensee to commence supply

2.1 Subject to clauses 2.2 and 2.3, the ERA Authority may direct the licensee to commence supply to a customer who:

- (a) is the owner or occupier of *eligible premises*; and

- (b) is specified in the direction.
- 2.2** The [ERA Authority](#) must not make a direction under clause 2.1 in respect of a customer unless it is satisfied that:
- (a) the *licensee* has failed or refused to *commence supply* to the *customer*; and
  - (b) the *customer's* efforts to obtain a supply of *gas* from the *licensee* were reasonably adequate.
- 2.3** Without limiting clause 2.2, if the [ERA Authority](#) is satisfied that a customer has been refused supply by both the *licensee* and one or more relevant other suppliers, then the [ERA Authority](#) must:
- (a) consider which (if any) of the *licensee* and the *relevant other supplier* or *relevant other suppliers* should be directed to *commence supply*; and
  - (b) for the purposes of clause 2.3(a):
    - (i) take into account each of the matters referred to in section 11H(3) of the *Act*; and
    - (ii) endeavour to fairly apportion directions to commence supply between the relevant other suppliers and the *licensee*.
- 2.4** The [ERA Authority](#) may, to assist it to determine whether to make a direction under clause 2.1, request the *licensee*, by *notice* in writing, to provide its reasons for refusing to *commence supply* to a *customer*.
- 2.5** The *licensee* must comply with a request of the [ERA Authority](#) under clause 2.4 within 3 *business days* after a request by the [ERA Authority](#).
- 2.6** A direction under clause 2.1:
- (a) must set out the [ERA's Authority's](#) reasons for giving the direction; and
  - (b) may be given on reasonable terms and conditions, and if so, must set out those terms and conditions.
- 2.7** Subject to clauses 2.8 and 2.10, the *licensee* must comply with a direction by the [ERA Authority](#) under clause 2.1.
- 2.8** If the *licensee* is directed under clause 2.1 to *commence supply* to any *customer* at premises referred to in paragraph (c) of the definition of “*eligible premises*”, then subject to clause 2.9, the *licensee* must apply to have the *eligible premises* connected to the *distribution system* and must make reasonable endeavours to meet the requirements referred to in that paragraph (c).
- 2.9** Clause 2.8 does not require the *licensee* to pay the costs of connecting premises in excess of the amount the holder of the distribution licence is required by the distribution licence to bear.
- 2.10** The *licensee* may make an offer referred to in the definition of “*commence supply*” conditional upon the *customer* meeting the *licensee's* reasonable minimum prudential requirements and credit standards.

**3. Exchange of information between the licensee and the holder of a distribution licence**

- 3.1** Subject to clause 3.2, the *licensee* must provide reasonable information relating to its activities the subject of this *licence* as requested by the holder of a distribution *licence* in respect of the *relevant distribution system* to enable the holder of the distribution *licence* to provide for the safe and efficient operation of the *relevant distribution system*.
- 3.2** The *licensee* may refuse to provide information under clause 3.1, if its disclosure prejudices the commercial interests of the *licensee*.
- 3.3** Where the *licensee* refuses under subclause 3.2 to provide information, the [ERA 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 [ERA Authority](#), not unduly harmful to the commercial interests of the *licensee*.

**4. Notification of changes to fees and charges**

- 4.1** The *licensee* must notify the *Minister* at least one month before a change to any price, price structure, fee or interest rate under the *standard form contract* is to come into effect.



## **Schedule 2 – ~~Compendium of Gas Customer~~ ~~Licensing Obligations~~ Licence area**

## Schedule 3—Additional Licence Clauses

### 1. Definitions

**1.1** ~~commence supply means to offer, subject to clause 2.10, to enter a standard form contract with a customer who is the owner or occupier of eligible premises for the sale of gas to those premises.~~

**1.2** ~~eligible premises means premises located within the licence area which meet at least one of the following criteria:~~

- (a) ~~connected to a distribution system;~~
- (b) ~~to be connected to a distribution system prior to the requested date of commencing sale; or~~
- (c) ~~so located (and, if applicable, of such a nature) that the holder of a distribution licence can be obliged under a provision of the distribution licence to connect the premises to a distribution system if certain conditions are satisfied.~~

~~**Minister** means the Minister for Energy or any other Responsible Minister for the Energy Portfolio in the State of Western Australia.~~

~~**relevant other supplier** means another supplier who is able to sell gas to a customer who is the owner or occupier of eligible premises.~~

~~**relevant distribution system** in clause 3 means the distribution system through which gas is transported for sale by the licensee under this licence.~~

### 2. Authority may direct licensee to commence supply

**2.1** ~~Subject to clauses 2.2 and 2.3, the Authority may direct the licensee to commence supply to a customer who:~~

- (a) ~~is the owner or occupier of eligible premises; and~~
- (b) ~~is specified in the direction.~~

**2.2** ~~The Authority must not make a direction under clause 2.1 in respect of a customer unless it is satisfied that:~~

- (a) ~~the licensee has failed or refused to commence supply to the customer; and~~
- (b) ~~the customer's efforts to obtain a supply of gas from the licensee were reasonably adequate.~~

**2.3** ~~Without limiting clause 2.2, if the Authority is satisfied that a customer has been refused supply by both the licensee and one or more relevant other suppliers, then the Authority must:~~

- (a) ~~consider which (if any) of the licensee and the relevant other supplier or relevant other suppliers should be directed to commence supply; and~~

- (b) for the purposes of clause 2.3(a):
  - (i) ~~take into account each of the matters referred to in section 11H(3) of the Act; and~~
  - (ii) ~~endeavour to fairly apportion directions to commence supply between the relevant other suppliers and the licensee.~~
- ~~2.4 The Authority may, to assist it to determine whether to make a direction under clause 2.1, request the licensee, by notice in writing, to provide its reasons for refusing to commence supply to a customer.~~
- ~~2.5 The licensee must comply with a request of the Authority under clause 2.4 within 3 business days after a request by the Authority.~~
- ~~2.6 A direction under clause 2.1:~~
  - (a) must set out the Authority's reasons for giving the direction; and
  - (b) may be given on reasonable terms and conditions, and if so, must set out those terms and conditions.
- ~~2.7 Subject to clauses 2.8 and 2.10, the licensee must comply with a direction by the Authority under clause 2.1.~~
- ~~2.8 If the licensee is directed under clause 2.1 to commence supply to any customer at premises referred to in paragraph (c) of the definition of "eligible premises", then subject to clause 2.9, the licensee must apply to have the eligible premises connected to the distribution system and must make reasonable endeavours to meet the requirements referred to in that paragraph (c).~~
- ~~2.9 Clause 2.8 does not require the licensee to pay the costs of connecting premises in excess of the amount the holder of the distribution licence is required by the distribution licence to bear.~~
- ~~2.10 The licensee may make an offer referred to in the definition of "commence supply" conditional upon the customer meeting the licensee's reasonable minimum prudential requirements and credit standards.~~
- 3. Exchange of information between the licensee and the holder of a distribution licence**
  - ~~3.1 Subject to clause 3.2, the licensee must provide reasonable information relating to its activities the subject of this licence as requested by the holder of a distribution licence in respect of the relevant distribution system to enable the holder of the distribution licence to provide for the safe and efficient operation of the relevant distribution system.~~
  - ~~3.2 The licensee may refuse to provide information under clause 3.1, if its disclosure prejudices the commercial interests of the licensee.~~
  - ~~3.3 Where the licensee refuses under subclause 3.2 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.~~

**4. ~~Notification of changes to fees and charges~~**

~~The licensee must notify the Minister at least one month before a change to any price, price structure, fee or interest rate under the standard form contract is to come into effect.~~

## **Schedule 4 – Operating Area Map**

**Amendment Record Sheet**

Version No.	Version date	Description of Amendment
1	<Date of grant or amendment>	<Description of amendment>

## **Appendix 5 Gas distribution licence template – current**



# Gas Distribution Licence

<Licensee's Name>

<GDLX>, <Version X>, <Version Date>

**Economic Regulation Authority**

WESTERN AUSTRALIA



[Only insert text where highlighted. Press F9 to update bookmarks and cross-references]

**ENERGY COORDINATION ACT 1994 (WA)**

Licensee Name:	<Licensee's Name> [bookmark] <ABN/ACN>[bookmark]
Licence Number:	<GDLX>[bookmark]
Commencement Date:	<Commencement Date>[bookmark]
Version Number:	<Version X>[bookmark]
Version Date:	<Version Date>[bookmark]
Expiry Date:	<Expiry Date>[bookmark]

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

<Version Date>

## 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 <Licensee's Name>, <ABN/ACN>.

**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* (Cwlth).

**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 <Licensee's Name>

1.2 <ABN/ACN>

### 2. Licence Area

2.1 [Insert Supply Areas] gas supply areas as shown in plan [ERA-GAS-XXX]

### 3. Commencement Date

3.1 <Commencement Date>

### 4. Expiry Date

4.1 <Expiry Date>

## **Schedule 2 – Compendium of Gas Customer Licensing Obligations**

[Insert current Compendium of Gas Customer Licensing Obligations from LMCP/0831]

## 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*.

**National Gas Rules** means the National Gas Rules that have effect under the *National Gas Access (WA) Act 2009*.

***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 To the extent it does not already apply to the licensee, the *licensee* must comply with the obligations set out in rules 111(3) to (8) of the *National Gas Rules* as if those rules applied to the *licensee*.

2.2 For the purposes of clause 2.1, a reference in rule 111 of the *National Gas Rules* to:

- (a) “covered pipeline” is a reference to a *distribution system*;
- (b) “service provider” is a reference to the *licensee*;
- (c) “prospective user” is a reference to the holder of a trading licence that relates to the whole or a part of the *licence area*; and
- (d) “user” is a reference to a person that has a contract for the haulage of *gas* through the *distribution system* with the *licensee*.

To avoid doubt, nothing in this clause affects the *licensee's* obligations in relation to that pipeline under the *National Gas Access (WA) Act 2009* and the relevant *National Gas Rules*.

- 2.3 If the *National Gas Access (WA) Act 2009* or the relevant *National Gas Rules* are amended or replaced, a reference in this clause to the *National Gas Access (WA) Act 2009* or a rule of the *National Gas Rules* means that amended or replacement legislation and a reference to rule 111 of the *National Gas Rules* refers to the equivalent provision in that amended or replacement legislation as notified in writing to the *licensee* by the *Authority*.

### 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 to 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.

[Insert licence clauses specific to the individual licensee]

## **Schedule 4 – Operating Area Map**

**Amendment Record Sheet**

Version Date	Description of Amendment
<Date of grant or amendment>	[Description of amendment]



## **Appendix 6 Gas trading licence template – current**



# Gas Trading Licence

<Licensee's Name>

<GTLX>, <Version X>, <Version Date>

**Economic Regulation Authority**

WESTERN AUSTRALIA

[Only insert text where highlighted. Press F9 to update bookmarks and cross-references]

***ENERGY COORDINATION ACT 1994 (WA)***

Licensee Name:	<Licensee's Name> [bookmark] <ABN/ACN>[bookmark]
Licence Number:	<GTLX>[bookmark]
Commencement Date:	<Commencement Date>[bookmark]
Version Number:	<Version X>[bookmark]
Version Date:	<Version Date>[bookmark]
Expiry Date:	<Expiry Date>[bookmark]

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Signed by a delegate; member; or  
the Chairman of the Economic Regulation Authority  
<Version Date>

## TRADING LICENCE

### 1. Definitions and interpretation

1.1 In this *licence* unless contrary intention appears:

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

**another supplier** means a person other than the *licensee* who holds a trading licence.

**applicable legislation** includes:

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

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

**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.

**customer service charter** means the charter as defined in the *Energy Coordination (Customer Contracts) Regulations 2004*.

**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 marketing code of conduct** means the *Gas Marketing Code of Conduct* approved by the *Authority* pursuant to section 11ZPM of the *Act* (as amended from time to time).

**gas supply contract** includes a *standard form contract* and a contract other than a standard form contract.

**gas trading 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 17 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 17.

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

**licensee** means <Licensee's Name>, <ABN/ACN>.

**maintain supply** in clause 15 means, unless the *licensee* and the *customer* agree otherwise:

- (a) subject to:
  - (i) the terms of the *gas supply contract* between the *licensee* and the *customer*; and
  - (ii) paragraph (b),the *licensee* must supply *gas* to the *customer* at the premises, in sufficient quantity to meet the *customer's* *gas* requirements, for the duration of the *gas* supply contract;
- (b) the maximum quantity of *gas* that the *licensee* is required to supply to a *customer* under paragraph (a) is the quantity of *gas* that can be physically delivered to the *licensee* by the relevant distribution *licensee* using standard residential delivery facilities;
- (c) the *licensee* must not terminate, or purport to terminate, the *gas supply contract* other than in accordance with its terms; and

- (d) if the *gas supply contract* expires or is terminated in accordance with its terms, then:
  - (i) subject to subparagraph (ii), the *licensee* must offer to enter into a *standard form contract* with the *customer* in place of the expired or terminated contract; and
  - (ii) before entering into a contract in place of the expired or terminated contract, the *licensee* may require the *customer* to meet the *licensee's* reasonable minimum prudential requirements and credit standards.

**non-standard contract** has the meaning in section 11WB of the *Act*.

**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** mean 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 as defined in section 50 of the *Corporations Act 2001 (Cwlth)*.

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

- (a) clause 12.2, 12.3;
- (b) clause 16.2;

- (c) clause 17.2;
- (d) clause 23.1; or
- (e) clause 24.1,

of this *licence*.

**Schedule** means a schedule to this *licence*.

**standard form contract** means the contract referred to in clause 12(1).

**supplier of last resort** has the meaning as defined in Division 6A of the *Act*.

**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 sell *gas* transported through a *distribution system* to *customers* 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. Customer Contracts**

- (a) Subject to the *Regulations*, the *licensee* must not supply *gas* to a *customer* otherwise than under:
- (b) a *standard form contract*, or
- (c) a *non-standard contract*.



12.2 The *licensee* must, if directed by the *Authority*, review the *standard form contract* and submit to the *Authority* the results of that review within the time specified by the *Authority*.

12.3 The *licensee* must comply with any direction given by the *Authority* in relation to the scope, process or methodology of the review referred to in clause 12.2.

### **13. Amending the Standard Form Contract**

13.1 The *standard form contract* may only be amended in accordance with the *Act* and the *Regulations*.

### **14. Supplier of Last Resort**

14.1 If the *licensee* is designated a *supplier of last resort* under the *Act*, the *licensee* must perform the functions of the *supplier of last resort*.

### **15. Obligation to Maintain Supply**

15.1 If the *licensee* supplies, or within the last 12 months has previously supplied but is not currently supplying, *gas to a customer* at the premises, then subject to clause 15.2, the *licensee* must *maintain supply* to that *customer* at the premises.

15.2 If at any time *another supplier* starts to supply *gas* to the *customer* at the premises, then, from the time that supply starts, the obligation under clause 15.1 ends until such time that the *licensee* resumes supplying *gas* to the *customer* at the premises.

### **16. Performance Audit**

16.1 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.

16.2 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.

16.3 The *licensee* may seek a review of any of the requirements of the *Authority's* standard audit guidelines in accordance with clause 25.

16.4 The independent auditor may be nominated by the *licensee* but must be approved by the *Authority* prior to the audit pursuant to clause 16.1. 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.

### **17. Individual Performance Standards**

17.1 Performance standards are contained in *applicable legislation*.

17.2 The *Authority* may prescribe *individual performance standards* in relation to the *licensee* of its obligations under this *licence* or the *applicable legislation*.

- 17.3 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.
- 17.4 Once approved by the *Authority*, the *individual performance standards* are included as additional terms and conditions to this *licence*.

## **18. Approved Scheme**

- 18.1 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*.

## **19. Gas Marketing Code of Conduct**

- 19.1 The *licensee* must comply with the *Gas Marketing Code of Conduct*.
- 19.2 The *licensee* must ensure all agents and employees comply with the *Gas Marketing Code of Conduct*.

## **20. Notices**

- 20.1 Unless otherwise specified, all *notices* must be in writing.
- 20.2 A *notice* will be regarded as having been sent and received:
- (a) when delivered in person to the addressee; or
  - (b) 3 *business days* after the date of posting if the *notice* is posted in Western Australia; or
  - (c) 5 *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 trading email address*.

## **21. Accounting Records**

- 21.1 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.

## **22. Reporting**

- 22.1 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.

## **23. Provision of Information**

- 23.1 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*.

## **24. Publishing Information**

- 24.1 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*.
- 24.2 Subject to clause 24.3, the *licensee* must *publish* the information referred to in clause 24.1.
- 24.3 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 25.

## **25. Review of the Authority's Decisions**

- 25.1 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*.
- 25.2 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 <Licensee's Name>

1.2 <ABN/ACN>

### 2. Licence Area

2.1 [Supply Areas] *gas supply areas* as shown in plan [ERA-GAS-XXX]

### 3. Commencement Date

3.1 <Commencement Date>

### 4. Expiry Date

4.1 <Expiry Date>

## **Schedule 2 – Compendium of Gas Customer Licensing Obligations**

[Insert the current version of the Compendium of Gas Customer Licensing Obligations from LMCP/0831]

## Schedule 3 – Additional Licence Clauses

### 1. Definitions

**commence supply** means to offer, subject to clause 2.10, to enter a *standard form contract* with a *customer* who is the owner or occupier of *eligible premises* for the sale of gas to those premises.

**eligible premises** means premises located within the *licence* area which meet at least one of the following criteria:

- (a) connected to a *distribution system*;
- (b) to be connected to a *distribution system* prior to the requested date of commencing sale; or
- (c) so located (and, if applicable, of such a nature) that the holder of a distribution licence can be obliged under a provision of the distribution licence to connect the premises to a *distribution system* if certain conditions are satisfied.

**Minister** means the Minister for Energy or any other Responsible Minister for the Energy Portfolio in the State of Western Australia.

**relevant other supplier** means *another supplier* who is able to sell *gas* to a *customer* who is the owner or occupier of *eligible premises*.

**relevant distribution system** in clause 3 means the *distribution system* through which *gas* is transported for sale by the *licensee* under this *licence*.

### 2. Authority may direct licensee to commence supply

2.1 Subject to clauses 2.2 and 2.3, the *Authority* may direct the *licensee* to *commence supply* to a *customer* who:

- (a) is the owner or occupier of *eligible premises*; and
- (b) is specified in the direction.

2.2 The *Authority* must not make a direction under clause 2.1 in respect of a *customer* unless it is satisfied that:

- (a) the *licensee* has failed or refused to *commence supply* to the *customer*; and
- (b) the *customer's* efforts to obtain a supply of *gas* from the *licensee* were reasonably adequate.

2.3 Without limiting clause 2.2, if the *Authority* is satisfied that a *customer* has been refused supply by both the *licensee* and one or more *relevant other suppliers*, then the *Authority* must:

- (a) consider which (if any) of the *licensee* and the *relevant other supplier* or *relevant other suppliers* should be directed to *commence supply*; and

- (b) for the purposes of clause 2.3(a):
  - (i) take into account each of the matters referred to in section 11H(3) of the *Act*; and
  - (ii) endeavour to fairly apportion directions to *commence supply* between the *relevant other suppliers* and the *licensee*.
- 2.4 The *Authority* may, to assist it to determine whether to make a direction under clause 2.1, request the *licensee*, by *notice* in writing, to provide its reasons for refusing to *commence supply* to a *customer*.
- 2.5 The *licensee* must comply with a request of the *Authority* under clause 2.4 within 3 *business days* after a request by the *Authority*.
- 2.6 A direction under clause 2.1:
  - (a) must set out the *Authority's* reasons for giving the direction; and
  - (b) may be given on reasonable terms and conditions, and if so, must set out those terms and conditions.
- 2.7 Subject to clauses 2.8 and 2.10, the *licensee* must comply with a direction by the *Authority* under clause 2.1.
- 2.8 If the *licensee* is directed under clause 2.1 to *commence supply* to any *customer* at premises referred to in paragraph (c) of the definition of "*eligible premises*", then subject to clause 2.9, the *licensee* must apply to have the *eligible premises* connected to the *distribution system* and must make reasonable endeavours to meet the requirements referred to in that paragraph (c).
- 2.9 Clause 2.8 does not require the *licensee* to pay the costs of connecting premises in excess of the amount the holder of the distribution licence is required by the distribution licence to bear.
- 2.10 The *licensee* may make an offer referred to in the definition of "*commence supply*" conditional upon the *customer* meeting the *licensee's* reasonable minimum prudential requirements and credit standards.
- 3. Exchange of information between the licensee and the holder of a distribution licence**
  - 3.1 Subject to clause 3.2, the *licensee* must provide reasonable information relating to its activities the subject of this *licence* as requested by the holder of a distribution *licence* in respect of the *relevant distribution system* to enable the holder of the distribution *licence* to provide for the safe and efficient operation of the *relevant distribution system*.
  - 3.2 The *licensee* may refuse to provide information under clause 3.1, if its disclosure prejudices the commercial interests of the *licensee*.
  - 3.3 Where the *licensee* refuses under subclause 3.2 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*.

**4. Notification of changes to fees and charges**

- 4.1 The *licensee* must notify the *Minister* at least one month before a change to any price, price structure, fee or interest rate under the *standard form contract* is to come into effect.

[Insert licence clauses specific to the individual licensee]



## **Schedule 4 – Operating Area Map**

**Amendment Record Sheet**

Version Date	Description of Amendment
<Date of grant or amendment>	[Insert description the new amendment]