

Gas licence review 2020

Final decision

19 November 2021

Economic Regulation Authority

WESTERN AUSTRALIA

D240212

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1. Decision

1. The Economic Regulation Authority:

- Approves the licence amendments in the gas distribution licence template (Appendix 1) and gas trading licence template (Appendix 2) attached to this final decision.
- Approves the administrative amendments to the gas distribution licence template (Appendix 3) and gas trading licence template (Appendix 4).
- Approves amending IPower2 Pty Ltd and IPower Pty Ltd's (trading as Simply Energy) gas trading licence GTL16 by inserting the correct licensee name (Appendix 5).
- In accordance with section 11W of the *Energy Coordination* 1994 (the Gas Act), will issue new licences by substitution to all existing gas licensees, which will incorporate the amendments in the licence template relevant to the licensee and the administrative amendments in Appendix 5 to Simply Energy's gas trading licence GTL16.
- The new licences will commence on 25 November 2021.

2. Summary of approved amendments

2. This section sets out the approved amendments to the ERA gas licence templates and individual licences.

2.1 Licence amendments – issues paper

3. The ERA has approved the substantive amendments to the gas licence templates proposed within the ERA's issues paper and carried them forward into the final gas licence templates.

2.1.1 Licence Restructure

4. The ERA approves amendments to the structure of the gas licence templates as follows:
- Insert a contents page in the gas licence templates to improve navigation.
 - Delete the licence specific information from Schedule 1. Schedule 1 includes important information, such as the licence commencement date and expiry date. The commencement date, expiry date and licence area will be included in clause 2.
 - Delete Schedule 3 and move the additional licence clauses to Schedule 1.
 - Delete Schedule 4 and move the licence area to Schedule 2.
 - Restructure 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 statutory 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 obligations.
 - Customers: where applicable, includes conditions covering customer protection.

2.1.2 Compendium of Gas Customer Licence Obligations

5. The ERA approves amendments to the gas licence template clauses relating to the *Compendium of Gas Customer Licence Obligations* as follows:
- Delete the Compendium from Schedule 2.
 - Insert the following definition into clause 1.1:
 - **compendium of gas customer licence obligations** means the *Compendium of Gas Customer Licence Obligations* which provides additional licence terms and conditions about the conduct of retailers and distributors who supply gas to customers (as amended from time to time).
 - Amend clause 2.1 (now 2.1.1) of the gas trading licence template:

- 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 and conditions of this licence including the additional terms and conditions contained in the compendium of gas customer licence obligations and those terms and conditions contained in the Schedules.
- Amend clause 2.1 (now 2.1.1) of the gas distribution licence template:

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,
 - ~~(c) operate and maintain 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 and conditions of this licence including the additional terms and conditions contained in the compendium of gas customer licence obligations and those terms and conditions contained in the Schedules.
 - 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 and conditions 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.¹

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.
 - 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 and conditions 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.²

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.

¹ The compendium of gas customer licence obligations is also available on the ERA website.

² The compendium of gas customer licence obligations is also available on the ERA website.

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.

2.1.3 Amend the definition of “regulations”

6. The ERA approves amendments to 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*; and
 - (d) the *Energy Coordination (Ombudsman Scheme) Regulations 2004*; and
 - (e) the *Energy Coordination (Gas Tariffs) Regulations 2000*.

2.1.4 Amend clause 18.2 of the gas distribution licence and clause 20.2 of the gas trading licence

7. The ERA approves amendments to clause 3.7.2 of the gas licence templates as follows:

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~~

2.1.5 Surrender of licence

8. The ERA approves the amendments to clause 3.6 in the gas licence templates as follows:

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 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.

2.2 Individual licence amendment

9. The ERA has approved inserting the correct name into IPower2 Pty Ltd and IPower Pty Ltd's (trading as Simply Energy) gas trading licence GTL16 (Appendix 5).

2.3 Administrative licence amendments

10. The ERA approves the administrative amendments to the gas distribution licence template (Appendix 3) and gas trading licence template (Appendix 4).

3. Reasons

3.1 Issues paper

11. The ERA released an [issues paper](#) on 29 April 2021 seeking public comment on the proposed amendments to the gas licence templates.
12. The issues paper proposed many minor administrative amendments and five material amendments. The material amendments were to:
 - Increase the consistency with water and electricity licences.
 - Remove the *Compendium of Gas Customer Licence Obligations* from Schedule 2 and insert a clause into the licence templates requiring compliance with the Compendium.
 - Amend the definition of “regulations” by replacing the reference to the repealed *Energy Coordination (Licensing Fees) Regulations 1999* with the *Economic Regulation Authority (Licensing Funding) Regulations 2014*.
 - Amend the notice provisions to remove the obligation on gas licensees to retain facsimile capabilities.
 - Amend the surrender of licence provisions 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.
13. The ERA received three [submissions](#) in response to the issues paper from AGL, Alinta and Perth Energy.
14. AGL, Alinta and Perth Energy supported the amendments.

Alinta Energy submission

15. Alinta also proposed two additional administrative amendments. The ERA has accepted Alinta’s proposed amendments and included them in the final gas licence templates:
 - Removal of capitalised letters from the defined term **gas marketing code of conduct** and subsequent references to the term in the gas trading licence template.
 - Removal of capitalised letters from references to the defined term **compendium of gas customer licence obligations** in the gas licence templates.

3.2 Draft decision

16. Due to the lack of significant issues raised in response to the issues paper, the ERA has decided not to publish a draft decision and instead to proceed to this final decision.

3.3 Consultation with licensees on final amended licence

17. Under the terms and conditions of the licence, the ERA is required to give licensees 15 business days to comment on licence amendments initiated by the ERA before they are made.

18. On 18 August 2021, licensees were provided with their amended licence for comment. The amended licences included the following additional administrative amendments that were proposed by the ERA, but not included in the issues paper:
- Amend the licence history to include the version number and move it to the front of the licence.
 - Remove the signature block and version date from the cover sheet.
 - Amend the definition of **commencement date** to mean the date the *licence* was first granted ~~or renewed by the Authority~~ ERA, whichever is the latest ~~being the date specified in clause 2.2 Schedule 1.~~
19. The ERA received five submissions, from Alinta, Esperance Power Station, Esperance Gas Distribution Company, Simply Energy and AGL.³
20. All parties supported the amendments.

Alinta Energy submission

21. Alinta Energy also proposed two additional administrative amendments. The ERA accepted the proposed amendments and included them in the final gas licence templates:
- Clause 5: “AUDIT~~S~~ OBLIGATIONS”
 - Clause 6.3.3: “The ERA reviews the compendium of gas ~~Customer~~ customer *licence obligations* approximately every two years.”

3.4 Public interest

Energy Coordination Act 1994 (Gas Act)

22. Under section 11K of the Gas Act the ERA must not renew a licence unless it is satisfied that it would not be contrary to the public interest to do so. In determining whether the renewal would be contrary to the public interest, the ERA may take into account the matters referred to in section 11H(3) of the Gas Act:
- a. Environmental considerations.
 - b. Social welfare and equity considerations, including community service obligations.
 - c. Economic and regional development, including employment and investment growth.
 - d. The interests of gas customers generally or of a class of gas customers.
 - e. The interests of any licensee, or applicant for a licence, in respect of the supply area or part of a supply area to which the order, if made, would apply.
 - f. The importance of competition in gas industry markets.
 - fa. The policy objectives of government in relation to the supply of gas.
 - g. Any other matter that he or she considers relevant.

³ Esperance Power Station and Esperance Gas Distribution Company provided a joint submission.

Economic Regulation Authority Act 2003

23. The ERA must also have regard to the matters set out in section 26(1) of the *Economic Regulation Authority Act 2003*:⁴
- a. The need to promote regulatory outcomes that are in the public interest.
 - b. The long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets.
 - c. The need to encourage investment in relevant markets.
 - d. The legitimate business interests of investors and service providers in relevant markets.
 - e. The need to promote competitive and fair market conduct.
 - f. The need to prevent abuse of monopoly or market power.
 - g. The need to promote transparent decision-making processes that involve public consultation.

3.4.1 Assessment of public interest

24. The ERA has considered section 11(K) of the Gas Act, the matters set out in section 11H(3) of the Gas Act, section 26(1) of the ERA Act and the public submissions received and is satisfied that the amendment of the gas licences would not be contrary to the public interest.
25. The gas licences set performance and service standards for the delivery of gas services customers. The ERA is satisfied that the amendment of the licences will promote regulatory outcomes in the long-term interests of consumers, consistent with section 11K of the Gas Act and sections 26(1)(a), (b) and (e) of the ERA Act.
26. The ERA conducted public consultation on the licence amendments and has stated in this decision the reasons for the amendments, which is consistent with section 26(1)(g) of the ERA Act.

⁴ The ERA has a discretion as to the weight it gives to each of the matters listed in section 26(2) of the ERA Act in making its decision on the amendment of the gas licences.

Appendix 1 – Amended Gas Distribution Licence Template



Economic Regulation Authority

Gas Distribution Licence

Licensee Name

GDLXX, Version ###, Version date

DMS#####

Licence history

Version no.	Version date	Details

ENERGY COORDINATION ACT 1994 (WA)

Licensee Name: Licensee Name
ABN

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

Licence Number: GDLXX

Commencement Date: [Click here to enter a date.](#)

Version Number: ###

Expiry Date [Click or tap to enter a date.](#)

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1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

1.1.1 In this licence, the following definitions apply unless the context otherwise requires:

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

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 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 the *licence* was first granted or renewed by the *ERA*, whichever is the later being the date specified in clause 2.2.

compendium of gas customer licence obligations means the *Compendium of Gas Customer Licence Obligations* which provides additional *licence terms and conditions* about the conduct of retailers and distributors who supply *gas* to *customers* (as amended from time to time).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),

¹ The compendium of gas customer licence obligations is available on the [ERA website](#).

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 means the Economic Regulation Authority.

expiry date means the date specified in clause 2.3.

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.

individual performance standards mean any standards prescribed by the *ERA* for an individual *licensee* pursuant to clause 4.6 of the *licence*.

licence means:

- (a) this document (excluding the title page and the third page of this document);
- (b) the *Schedules* of this document; and
- (c) any *individual performance standards* approved by the *ERA* pursuant to clause 4.6.

licence area is the area stated in clause 2.5.

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 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 ERA to be published on the 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 *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 in section 50 of the *Corporations Act 2001 (Cwlth)*.

reviewable decision means a decision by the ERA pursuant to:

- (a) clause 4.6.2; and
- (b) clause 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*.

1.2 Interpretation

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

2. 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 and conditions* of this *licence* including the additional *terms and conditions* contained in the *compendium of gas customer licence obligations* and those *terms and conditions* contained in the *Schedules*.

2.2 Commencement date

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

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 of this *licence*;
- (b) the surrender of the *licence* pursuant to clause 3.6 of this *licence*; or
- (c) the *expiry date*.

2.5 Licence area

2.5.1 The *licence area* is:

<gas supply area> gas supply area as shown 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 licence on application of the licensee [Section 11VA of the Act]

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

3.2 Amendment of licence by the ERA [Section 11W of the Act]

3.2.1 The *ERA* may amend the *licence* on its own initiative in accordance with the *Act* and the procedure specified in clause 3.2.2.

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

- (a) provide the *licensee* with *notice* of the proposed amendments under consideration by the *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*.

3.3 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* by *notice* to the *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 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 *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 *electronic means* when, according to the sender's electronic record, the *notice* has been successfully sent to the addressee.

3.8 Publishing information

3.8.1 The *ERA* may direct the *licensee* to *publish*, 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 3.8.3, the *licensee* must *publish* the information referred to in clause 3.8.1.

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

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

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

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 *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 records**

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 or equivalent International Accounting Standards.

4.4 Reporting a change in circumstances

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

- (a) if the *licensee* is under external administration as defined by the *Corporations Act 2001 (Cwlth)* within two *business days* of such external administration occurring; or
- (b) if:
 - (i) the *licensee* experiences a change in its corporate, financial or technical circumstances upon which this *licence* was granted; and
 - (ii) the change may materially affect the *licensee's* ability to 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 *ERA* any information that the *ERA* may require in connection with its functions under the *Act* in the time, manner and form specified by the *ERA*.

4.6 Individual performance standards

4.6.1 Performance standards are contained in *applicable legislation*.

4.6.2 The *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 *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 *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 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 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 3.6, the *licensee* must give the *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 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. **AUDIT AND ASSET MANAGEMENT OBLIGATIONS**

5.1 **Asset management system** **[Section 11Y of the Act]**

5.1.1 The *licensee* must provide for 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 *ERA* of any 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 *ERA*, provide the *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 *ERA's* *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 review of the *asset management system* must be conducted by an independent expert approved by the *ERA*. 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*.

5.2 Performance audit [Section 11ZA of the Act]

- 5.2.1 The *licensee* must, unless otherwise notified in writing by the *ERA*, provide the *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 *ERA's 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 *performance audit* must be conducted by an independent auditor approved by the *ERA*. If the *licensee* fails to nominate an auditor within 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 *ERA* may choose an independent auditor to conduct the *performance audit*.

6. CUSTOMERS

6.1 Approved scheme [Section 11ZQH of the Act]

- 6.1.1 The *licensee*:
- (a) must be a member of an *approved scheme*; and
 - (b) is bound by, and must be compliant with, any decision or direction of the gas industry 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 and conditions* 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*.²
- 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*.

² [The compendium of gas customer licence obligations is also available on the ERA website.](#)

Schedule 1 – Additional Licence Clauses

1. Definitions

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

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

standard residential delivery facility means:

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

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

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

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

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

3. Offer to connect

- 3.1 This clause applied in respect of *residential premises* located within the *licence area* if the *licensee* is requested by a *trader* to connect the premises to the *distribution system*.
- 3.2 Subject to clause 3.3, the *licensee* must offer to connect the premises to the *distribution system*.
- 3.3 The *licensee's* offer to connect the premises under clause 3.2 is subject to the following:

- (a) The offer to connect applies:
- (i) only in respect of connections which require 20 metres or less of service pipe; and
 - (ii) only where the *gas* main is so located that it is practicable in accordance with good industry practice to connect the relevant premises to the main, and accordingly, the *licensee* may decline to undertake a connection that requires:
 - (iii) more than 20 metres of service pipe; or
 - (iv) any extension to a main,
unless the *customer* bears the cost.
- (b) The connection is, unless otherwise agreed between the *licensee* and the *trader*, to comprise a *standard residential delivery facility*.
- (c) The offer to connect is limited to connections to the medium pressure/low pressure part of the *distribution system*.
- (d) If, in the course of establishing a connection under this clause 3, the *licensee* opens or breaks up any sealed or paved surface, or damages or disturbs any lawn, landscaping or other improvement at the premises, then the *licensee* must if necessary fill in any ground to restore it to approximately its previous level, but (unless the *licensee* agrees otherwise with any person) the *licensee* is not otherwise obliged reinstate or make good, or pay compensation in respect of any damage to any such surface, lawn, landscaping or other improvement.
- (e) The *licensee* is not obliged to offer to connect a premises if that premises is already connected to a *distribution system*.
- (f) Before establishing the connection, the *licensee* may require the *trader* to procure the agreement of the owner of any land through which the service pipe is to pass and on which the delivery facilities will be installed, that the connection may be established.
- (g) Before establishing the connection, the *licensee* may require the *trader* to enter into (or to procure its *gas* supplier to enter into) a *gas* transportation contract with the *licensee*.
- (h) Before establishing the connection, the *licensee* may require the person who is to enter into the *gas* transportation contract referred to in clause 3.3(g) to meet the *licensee's* reasonable minimum prudential requirements and credit standards.

3.4 Nothing in this clause 3 limits the *licensee's* ability to recover any connection cost through tariffs for access to the *distribution system* or requires such recovery.

Schedule 2 – Licence Area

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Appendix 2 – Amended Gas Trading Licence Template



Economic Regulation Authority

Gas Trading Licence

Licensee Name

GTLXX, Version ###, Version date

DMS#####

Licence history

Version no.	Version date	Details

ENERGY COORDINATION ACT 1994 (WA)

Licensee Name: Licensee Name
ABN

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

Licence Number: GTLXX

Commencement Date: [Click here to enter a date.](#)

Version Number: ###

Expiry Date [Click or tap to enter a date.](#)

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1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

1.1.1 In this licence, the following definitions apply unless 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 the *licence* was first granted or renewed by the *ERA*, whichever is the later being the date specified in clause 2.2.

compendium of gas customer licence obligations means the *Compendium of Gas Customer Licence Obligations* which provides additional *licence* terms and conditions about the conduct of retailers and distributors who supply *gas* to *customers* (as amended from time to time).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.

¹ The *compendium of gas customer licence obligations* is also available on the [ERA website](#).

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 means the Economic Regulation Authority.

expiry date means the date specified in clause 2.3.

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 *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*.

individual performance standards mean any standards prescribed by the *ERA* for an individual *licensee* pursuant to clause 4.6 of the *licence*.

licence means:

- (a) this document (excluding the title page and the third page of this document);
- (b) the Schedules of this document; and
- (c) any *individual performance standards* approved by the *ERA* pursuant to clause 4.6.

licence area is the area stated in clause 2.5.

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

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 *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 *ERA* to be published on the *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 *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 ERA pursuant to:

- (a) clauses 6.4.2, 6.4.3;
- (b) clause 6.6.1;
- (c) clause 4.6.2;
- (d) clause 4.5.1; and
- (e) clause 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.

supplier of last resort has the meaning as defined in Part 2A, 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*.

1.2 Interpretation

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

2. LICENCE AUTHORISATION

2.1 Activities authorised under this 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 and conditions* of this *licence* including the additional terms and conditions contained in the *compendium of gas*

customer licence obligations and those terms and conditions contained in the *Schedules*.

2.2 Commencement date

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

2.3 Expiry date

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

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 of this *licence*;
- (b) the surrender of the *licence* pursuant to clause 3.6 of this *licence*; or
- (c) the *expiry date*.

2.5 Licence area

2.5.1 The *licence area* is:

<gas supply area> gas supply area as shown 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 licence on application of the licensee [Section 11VA of the Act]

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

3.2 Amendment of licence by ERA [Section 11W of the Act]

3.2.1 The *ERA* may amend the *licence* on its own initiative in accordance with the *Act* and the procedure specified in clause 3.2.2.

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

- (a) provide the *licensee* with *notice* of the proposed amendments under consideration by the *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*.

3.3 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
[Section 1A of the Act]

3.6.1 The *licensee* may initiate a surrender of the *licence* by *notice* to the *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 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 *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 *electronic means* when, according to the sender's electronic record, the *notice* has been successfully sent to the addressee.

3.8 Publishing information

3.8.1 The *ERA* may direct the *licensee* to *publish*, 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 3.8.3, the *licensee* must *publish* the information referred to in clause 3.8.1.

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

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

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

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 *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 records

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 or equivalent International Accounting Standards.

4.4 Reporting a change in circumstances

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

- (a) if the *licensee* is under external administration as defined by the *Corporations Act 2001 (Cwlth)* within two *business days* of such external administration occurring; or
- (b) if:
 - (i) the *licensee* experiences a change in its corporate, financial or technical circumstances upon which this *licence* was granted; and
 - (ii) the change may materially affect the *licensee's* ability to 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 *ERA* any information that the *ERA* may require in connection with its functions under the *Act* in the time, manner and form specified by the *ERA*.

4.6 Individual performance standards

4.6.1 Performance standards are contained in *applicable legislation*.

4.6.2 The *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 *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 *ERA*, the *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 *ERA*, provide the *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 *ERA's 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 *performance audit* must be conducted by an independent auditor approved by the *ERA*. If the *licensee* fails to nominate an auditor within 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 *ERA* may choose an independent auditor to conduct the *performance audit*.

6. CUSTOMERS

6.1 Approved scheme [Section 11ZQH of the Act]

- 6.1.1 The *licensee*:
- (a) must be a member of an *approved scheme*; and
 - (b) is bound by, and must be compliant with, any decision or direction of the gas industry ombudsman under the *approved scheme*.

6.2 Gas Marketing Code of Conduct [Section 11ZPP of the Act]

- 6.2.1 The *licensee* must 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 and conditions* 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*.²
- 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*.

² The *compendium of gas customer licence obligations* is also available on the *ERA* [website](#).

6.4 Customer 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 *ERA*, review the *standard form contract* and submit to the *ERA* the results of that review within the time specified by the *ERA*.

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

6.5 Amending the standard form 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
- (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 of the Act]

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 last resort
[Section 11ZAJ of the Act]**

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 maintain supply

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 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 6.8.1 ends until such time that the *licensee* resumes supplying *gas* to the *customer* at the premises.

Schedule 1 – 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. ERA may direct licensee to commence supply

2.1 Subject to clauses 2.2 and 2.3, the *ERA* 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* 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* is satisfied that a *customer* has been refused supply by both the *licensee* and one or more *relevant other suppliers*, then the *ERA* 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* 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* under clause 2.4 within 3 *business days* after a request by the *ERA*.
- 2.6 A direction under clause 2.1:
 - (a) must set out the *ERA*'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* 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 licensee and the holder of a trading 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* 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*, 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 – Licence Area

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Appendix 3 - Administrative amendments to the Gas Distribution Licence Template

Clause	Proposed amendment	Reason
Odd page footers	Licensee, GXLX, Version xxx, xx-xxx-2021	The inclusion of the licence history table with the version date at the front of the licence removes the need for the version date to be duplicated in the footer.
Even page footers	Type of licence, Licensee, GXLX, Version xxx	To make consistent with the odd page footers.
First page	Insert: <u>License History</u> Insert a table with three columns the titles: <u>1) Version no. 2) Version date 3) Details</u>	Include the version date and the details of the new licence version in the licence history. Relocate the licence history from the rear of the licence to the first page to assist the reader with understanding the changes made to the current version of the licence.
Information page	Include: <u>License area: The area set out in the plan referred to in clause 2.5.</u>	The proposed amendment is consistent with the proposed template and water licences.
Information page	Version Date: xx-xxx-2021	The inclusion of the licence history table with the version date at the front of the licence removes the need for further duplication.
Information page	Signed by a delegate, member, or The Chair of the Economic Regulation Authority Version date	Remove signature block from the licence.
1.1	In this <i>licence</i> , <u>the following definitions apply</u> unless contrary intention appears <u>the context otherwise requires:</u>	The proposed amendment is consistent with the template electricity and water licences.
1.1	approved scheme means a scheme approved under Part 2B and Part 2D of the Act.	The proposed amendment is consistent with the gas trading licence template.
1.1	<u>audit and review guidelines</u> 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</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.

Clause	Proposed amendment	Reason
	<u>ERA on its website and as amended from time to time.</u>	
1.1	commencement date means the date the <i>licence</i> was first granted <u>or renewed</u> by the <u>Authority ERA, whichever is the later</u> being the date specified in <u>clause 2.2 Schedule 4.</u>	The amendment is in line with Legal Advice received from the ERA's Legal Unit (see D235295).
1.1	<u>electronic means means:</u> <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; 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.
1.1	<u>ERA Authority</u> means the Economic Regulation Authority.	The proposed amendment is consistent with the template electricity and water licences.
1.1	expiry date 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	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.	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	Licence means: This document (excluding the title page and second <u>third</u> page of this document);	Insertion of the Licence History table required the page number to be amended.

Clause	Proposed amendment	Reason
1.1	licence area(s) is the area(s) stated in clause 2.5 . Schedule 1 of this licence.	The proposed amendment is consistent with the template electricity and water licences.
1.1	reviewable decision means a decision by the ERA Authority pursuant to: (a) clause 14.4; (b) clause 15.2; (c) clause 16.2 3.8.1 ; and (d) clause 22.4 4.6.2 ; of this <i>licence</i> .	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	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.	The proposed amendment is consistent with the template water licence. This term is also used throughout the gas licence template.
1.1	version date means the date on which the licence was last amended pursuant to clause 10 or clause 11.	The proposed amendment is consistent with the template electricity and water licences.
1.2	A reference in this licence to any <i>applicable legislation</i> shall be deemed to includes, unless the context otherwise requires, a reference to any statutory modification, amendment, replacement or re-enactment of that <i>applicable legislation</i> .	The proposed amendment is consistent with the template electricity and water licences.
- [now 2.1]	The <i>licensee</i> is granted a <i>licence</i> for the <i>licence area(s)</i> to: (a) construct a <i>distribution system</i> and to transport gas through the <i>distribution system</i> ; or (b) transport gas through an <i>existing distribution system</i> and if required for that purpose to make alterations to the <i>distribution system</i> , (c) operate and maintain the distribution system; and operate and maintain the distribution system. in	The proposed amendment is consistent with the template electricity and water licences. The amendment is consistent with section 11D of the Gas Act.

Clause	Proposed amendment	Reason
	accordance with the <i>terms and conditions</i> of this <i>licence</i> . The <i>licensee</i> must comply with the terms and conditions of this <i>licence</i> including the additional terms and conditions contained in the compendium of gas customer licence obligations and those terms and conditions contained in the <i>Schedules</i> .	
- [now 2.2.1]	The commencement date of this licence is <commencement date>.	The proposed amendment is consistent with the template water licence.
- [now 2.3.1]	The expiry date of this licence is <expiry date>.	The proposed amendment is consistent with the template water licence.
- [now 2.5.1 and 2.5.2]	The licence area is: <gas supply area> gas supply area as shown in plan(s) ERA-GAS-XXX . The licence area plan(s) is provided in Schedule 2.	The proposed amendment is consistent with the template electricity and water licences.
4.1 [now 4.2.1]	The <i>licensee</i> must pay the applicable fees and charges 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]	Compliance with applicable legislation and licence conditions [..] 4.1.3 The licensee must comply with the terms and conditions of this licence.	The proposed amendment is consistent with the template water licence.
8.1 [now 3.6.1 and 3.6.2]	3.6.1 The <i>licensee</i> 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 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	<ul style="list-style-type: none"> • Insertion of “initiate” to clarify that the surrender will only take effect when the ERA publishes a notice of the surrender as per clause 8.2 [now 3.6.2], and not when the licensee provides notice to the ERA. • The removal of “at any time” is consistent with the template electricity and water licences. • ‘Written’ is removed from the clause because clause 18.1 [now 3.7.1] of the gas

Clause	Proposed amendment	Reason
	<u>date the licence has been surrendered.</u>	licence template already provides that all notices, unless otherwise specified, must be in writing.
11.1 [now 3.2.1]	Subject to any applicable legislation, the Authority ERA may amend the <i>licence</i> at any time on its own initiative in accordance with <u>the Act and the procedure specified in this clause 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 <i>licence</i> under clause 11.4 <u>3.2.1</u> , the Authority ERA must: provide the <i>licensee</i> with written notice of the proposed amendments under consideration by the Authority ERA ;	'Written' is removed from the clause because clause 18.1 [now 3.7.1] of the gas licence template already provides that all notices, unless otherwise specified, must be in writing.
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.	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.
14.1 [now 5.1.1]	The <i>licensee</i> must provide for and notify the Authority of, an <i>asset management system</i> 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: (a) the commencement date; or (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 Authority ERA of any material substantial change to the <i>asset management system</i> within 10 <i>business days</i> 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 Authority ERA's standard audit and review <u>guidelines</u> dealing	The proposed amendment reflects the current title of the ERA's guidelines for audits and reviews: <i>Audit and Review</i>

Clause	Proposed amendment	Reason
	with the <i>asset management system review</i> , 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.	<i>Guidelines – Electricity and Gas Licences.</i>
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.	The audit and review guidelines are not subject to review.
14.6 [now 5.1.6]	The <u>review of the asset management system must be conducted by an independent expert</u> 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.	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 Authority ERA's standard <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	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>

Clause	Proposed amendment	Reason
	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 guidelines in accordance with clause 23.1.	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</u> independent auditor may be nominated by the licensee but must be approved by the Authority ERA <u>ERA</u> 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 <u>nominate an auditor</u> within <u>4 one</u> month of the date <u>that</u> the <u>performance audit</u> was due, <u>or the auditor nominated by the licensee is rejected on two successive occasions by the ERA, the Authority ERA</u> may choose an independent auditor who will to <u>conduct the performance audit.</u>	The proposed amendments are consistent with the template electricity licence.
17.1 [now 6.1.1]	The licensee must not supply gas to customers unless the licensee is: (a) <u>must be</u> a member of an <u>approved scheme</u> ; and <u>is</u> bound by, and <u>must be</u> compliant with, and decision or direction of the <u>energy-gas industry</u> ombudsman under the <u>approved scheme</u> .	Amended to be consistent with electricity and water licence templates.
18.2(e) [now 3.7.2(d)]	A notice will be regarded as having been sent and received [...] if sent by <u>electronic means email</u> when, according to the sender's electronic record, the notice has been successfully sent to the <u>addressee</u> . addressee's gas distribution email address.	The proposed amendment is consistent with the template electricity and water licences.
19.1 [now 4.3.1]	The licensee and any <i>related body corporate</i> must maintain accounting records that comply with <u>standards issued by</u> the	The proposed amendment is consistent with the template electricity and water licences.

Clause	Proposed amendment	Reason
	Australian Accounting Standards Board Standards or equivalent International Accounting Standards.	
20 and 20.1(a) [now 4.4 and 4.4.1(a)]	<p>Reporting <u>a change in circumstances</u></p> <p>The <i>licensee</i> must report to the Authority <u>ERA</u>:</p> <p>(a) if the <i>licensee</i> is under external administration as defined by the <i>Corporations Act 2001</i> (Cwth) within 2 <u>two</u> <i>business days</i> <u>of such external administration occurring</u>; or</p>	The proposed amendment is consistent with the template electricity and water licences.
20.1(b) [now 4.4.1(b)]	<p>The <i>licensee</i> must report to the Authority <u>ERA</u>:</p> <p>[...]</p> <p>(b) if the licensee:</p> <p>(i) the licensee experiences a significant change in the licensee's <u>its</u> corporate, financial or technical circumstances upon which this <i>licence</i> was granted; and</p> <p>(ii) which the change may <u>materially</u> affect the <i>licensee's</i> ability to meet <u>perform</u> its obligations under this <i>licence</i>, within 10 <i>business days</i> of the change occurring; or</p>	<ul style="list-style-type: none"> • Deletion of the word 'significant' in paragraph (i) is consistent with the template electricity and water licences. • The words "the licensee" have been moved to paragraph (i), and "which" replaced with "the change", to improve the readability of the clause.
- [now 4.4.1(c)]	<p><u>The licensee must report to the ERA:</u></p> <p><u>(c) if:</u></p> <p><u>(i) the licensee's name;</u></p> <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>	The proposed amendment is consistent with the template electricity and water licences.
22.1 [now 3.8.1]	The Authority <u>ERA</u> may direct the <i>licensee</i> to publish , any information 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 licence.

Clause	Proposed amendment	Reason
- [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	<p>For the 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.</p>	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	Delete	With the insertion of the Licence History table the amendment record sheet is no longer required.

Appendix 4 – Administrative amendments to the Gas Trading Licence template

Clause	Proposed amendment	Reason
Odd page footers	Licensee, GXLX, Version xxx, xx-xxx 2021	The inclusion of the licence history table with the version date at the front of the licence removes the need for the version date to be duplicated in the footer.
Even page footers	Type of licence. Licensee, GXLX, Version xxx	To make consistent with the odd page footers.
Licence History page	Insert: Licence History Insert a table with three columns the titles: <u>1) Version no. 2) Version date 3) Details</u>	Include the version date and the details of the new licence version in the licence history. Relocate the licence history from the rear of the licence to the first page to assist the reader with understanding the changes made to the current version of the licence.
Information page	Include: Licence area: The area set out in the plan referred to in clause 2.5.	The proposed amendment is consistent with the proposed template and water licences.
Information page	Version Date: xx xxx 2021	The inclusion of the licence history table with the version date at the front of the licence removes the need for further duplication.
Information page	Signed by a delegate; member; or The Chair of the Economic Regulation Authority Version date	Remove signature block from the licence.
1.1	In this <i>licence</i> , the following definitions apply unless contrary intention appears the context otherwise requires:	The proposed amendment is consistent with the template electricity and water licences.
1.1	applicable legislation includes: (a) the Act; and (b) the Regulations and the gas marketing code of conduct.	To clarify that applicable legislation also includes the Code of Conduct.
1.1	asset management system review means a review of the effectiveness of the asset management system.	The definition has been added because the term is used in the new definition of ‘audit and review guidelines’.
1.1	audit and review guidelines means the guidelines prepared by the ERA setting out the ERA’s requirements for the	Proposed definition added to replace the term ‘standard audit

Clause	Proposed amendment	Reason
	<u>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>	guidelines' and 'standard guidelines' which are not defined terms in the current gas licence template.
1.1	commencement date means the date the licence was first granted <u>or renewed</u> by the Authority <u>ERA, whichever is the later</u> being the date specified in <u>clause 2.2 Schedule 1.</u>	The proposed amendment is consistent with the template water licence.
1.1	customer service charter means the charter as defined in the Energy Coordination (Customer Contracts) Regulations 2004.	The definition is not used in the licence.
1.1	electronic means 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, but does not include facsimile or telephone.</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 means' in the template electricity and water licences.
1.1	ERA Authority means the Economic Regulation Authority.	The proposed amendment is consistent with the template electricity and water licences.
1.1	expiry date means the date specified in <u>clause 2.3. Schedule 1.</u>	The proposed amendment is consistent with the template electricity and water licences.
1.1	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.	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	Licence means: This document (excluding the title page and second <u>third</u> page of this document);	Insertion of the Licence History table required the page number to be amended.

Clause	Proposed amendment	Reason
1.1	licence area(s) is the area(s) stated in <u>clause 2.5, Schedule 1 of this licence.</u>	The proposed amendment is consistent with the template electricity and water licences.
1.1	reviewable decision means a decision by the ERA pursuant to: (a) clauses 42.2 <u>3.8.1, 42.3</u> ; (b) clause 46.2 <u>4.5.1</u> ; (c) clause 47.2 <u>4.6.2</u> ; (d) clause 23.1 <u>6.4.2</u> ; (e) clause 24.1 <u>6.4.3</u> ; and (f) <u>clause 6.6.1</u> , of this <i>licence</i> .	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	Supplier of last resort has the meaning as defined in <u>Part 2A</u> , Division 6A of the Act.	The proposed amendment is a more specific reference to the definition.
1.1	terms and conditions 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	version date means the date on which the licence was last amended pursuant to clause 10 or clause 11.	The proposed amendment is consistent with the template electricity and water licences.
1.2.1	A reference in this <i>licence</i> to any applicable legislation shall be deemed to include, unless the context otherwise requires, a reference to 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 <original date of grant>.</u>	The proposed amendment is consistent with the template water licence.
- [now 2.3.1]	<u>The expiry date of this licence is <expiry date>.</u>	The proposed amendment is consistent with the template water licence.
- [now 2.5.1 and 2.5.2]	<u>The licence area is:</u> <u><gas supply area></u> gas supply area as shown in plan(s) <u>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 <i>licensee</i> 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.

Clause	Proposed amendment	Reason
5 [now 4.1 and 4.1.3]	<p>Compliance with applicable legislation and licence conditions [...] <u>The licensee must comply with the terms and conditions of this licence.</u></p>	The proposed amendment is consistent with the template water licence.
8.1 [now 3.6.1 and 3.6.2]	<p>3.6.1 The licensee may <u>initiate a surrender of the licence at any time</u> by written notice to the Authority <u>ERA</u> <u>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 notice.</u></p> <p>3.6.2 The <u>ERA will publish</u> 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 <u>as soon as practicable after the date the licence has been surrendered.</u></p>	<ul style="list-style-type: none"> • 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. • The removal of 'at any time' is consistent with the template electricity and water licences. • 'Written' is removed from the clause because clause 20.1 [now 3.7.1] of the gas licence template already provides that all notices, unless otherwise specified, must be in writing.
11.1 [now 3.2.1]	<p>Subject to any applicable legislation, t<u>The Authority ERA</u> may amend the licence at any time <u>on its own initiative</u> in accordance with <u>the Act and the procedure specified in this clause 3.2.2.</u></p>	The proposed amendments are consistent with section 11W of the Act and the template water licences.
11.2(a) [now 3.2.2(a)]	<p>Before amending the licence under clause 11.4 <u>3.2.1</u>, the Authority <u>ERA</u> must:</p> <p>(a) provide the licensee with written notice of the proposed amendments under consideration by the Authority <u>ERA</u>.</p>	'Written' is removed from the clause because clause 20.1 [now 3.7.1] of the gas licence template already provides that all notices, unless otherwise specified, must be in writing.
11.4	<p>For avoidance of doubt, the licensee will not have to pay an associated application fee or licence fee for the purpose of clause 11.4</p>	This clause is not necessary as the Economic Regulation Authority (Licensing Funding) Regulations 2014 (WA) do not require a charge to be paid when the ERA amends a licence on its own initiative.

Clause	Proposed amendment	Reason
- [now 6.5.2 and 6.5.3]	<p><u>6.5.2 The licensee may amend the standard form contract at any time by submitting to the ERA:</u></p> <p><u>(a) a proposed amendment to the standard form contract, or</u></p> <p><u>(b) a proposed substituted standard form contract.</u></p> <p><u>6.5.3 The ERA may:</u></p> <p><u>(a) approve the amendment to the standard form contract or substituted standard form contract;</u></p> <p><u>or</u></p> <p><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></p> <p><u>and notify the licensee of its decision within a reasonable time.</u></p>	The amendment clarifies how a licensee may amend the standard form contract and is consistent with the template electricity licence.
- [now 6.6]	<p><u>Directions by the ERA to amend standard form contract</u></p> <p><u>6.6.1 The licensee must comply with any direction by the ERA pursuant to section 11WI of the Act.</u></p> <p><u>6.6.2 The ERA may at any time, by notice, direct the licensee to amend the standard form contract by specifying:</u></p> <p><u>(a) the amendments to be made to the standard form contract; and</u></p> <p><u>(b) the date at which the amendments need to be submitted to the ERA.</u></p>	The proposed amendment is consistent with the template electricity licence.
16.2 [now 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.	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	The licensee may seek a review of any of the requirements of the Authority's standard guidelines in accordance with clause 23.1.	The audit and review guidelines are not subject to review.
16.4 [now 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	The proposed amendments are consistent with the template electricity licence.

Clause	Proposed amendment	Reason
	<p>auditor twice or, in the event that no nomination has been made by. If the licensee fails to nominate an auditor within 4 <u>one</u> month of the date that the <u>performance</u> 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 <u>performance</u> audit.</p>	
19.2	<p>The licensee must ensure all agents and employees comply with the Gas Marketing Code of Conduct.</p>	<p>The proposed amendment removes the duplication with clause 2.1 of the <i>Gas Marketing Code of Conduct</i>.</p>
21.1 [now 4.3.1]	<p>The licensee and any <i>related body corporate</i> must maintain accounting records that comply with <u>standards issued by</u> the Australian Accounting Standards Board Standards or equivalent International Accounting Standards.</p>	<p>The proposed amendment is consistent with the template electricity and water licences.</p>
22 and 22.1(a) [now 4.4 and 4.4.1(a)]	<p><u>Reporting a change in circumstances</u> The licensee must report to the Authority ERA: (a) if the licensee is under external administration as defined by the <i>Corporations Act 2001</i> (Cwth) within 2 <u>two business days of such external administration occurring</u>; or</p>	<p>The proposed amendment is consistent with the template electricity and water licences.</p>
22.1(b) [now 4.4.1(b)]	<p>The licensee must report to the Authority ERA: (b) if the licensee: (i) <u>the licensee</u> experiences a significant change in the licensee's <u>its</u> corporate, financial or technical circumstances upon which this licence was granted; and (ii) which the change may <u>materially</u> affect the licensee's ability to meet <u>perform</u> its obligations under this licence, within 10 <i>business days</i> of the change occurring; or</p>	<ul style="list-style-type: none"> • Deletion of the word 'significant' in paragraph (i), and insertion of the word 'materially' in paragraph (ii), is consistent with the template water licence. • The words 'the licensee' have been moved to paragraph (i), and 'which' replaced with 'the change', to improve the readability of the clause.
- [now 4.4.1(c)]	<p><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></p>	<p>The proposed amendments are consistent with the template electricity and water licences.</p>

Clause	Proposed amendment	Reason
	<u>(iii) the licensee's address ; changes, within 10 business days of the change occurring</u>	
20.2(e) [now 3.7.2(d)]	A notice will be regarded as having been sent and received [...] if sent by <u>electronic means</u> email when, according to the sender's electronic record, the notice has been successfully sent to the addressee <u>addressee's gas distribution email address</u>	The proposed amendment is consistent with the template electricity and water licences.
24.1 [now 3.8.1]	The Authority <u>ERA</u> may direct the licensee to publish, any information 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]	<u>Once it has reviewed the decision, the ERA will direct the licensee in accordance with the review to:</u> (a) <u>publish the information;</u> (b) <u>publish the information with the confidential information removed or modified; or</u> (c) <u>not publish the information</u>	The proposed amendment is consistent with the template electricity and water licences.
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 licencee's right to have a decision of the Authority reviewed in accordance with the Act.	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.
Amendment record sheet	Delete.	With the insertion of the Licence History table the amendment record sheet is no longer required.
Schedule 1 Clause 1	Eligible premises means premises located within the licence <u>area</u> which meet at least one of the following criteria: (c) so located (and if applicable, of such a nature) that the holder of a distribution <u>licence</u> can be obliged under a provision of the distribution <u>licence</u> to connect the premises to a <i>distribution system</i> if certain conditions are satisfied.	Italicise defined terms.
Schedule 1 Clause 2.1	Subject to clauses 2.2 and 2.3, the ERA <u>ERA</u> may direct the <u>licensee</u> to <u>commence supply</u> to a <u>customer</u> who:	Italicise defined terms.

Clause	Proposed amendment	Reason
	(a) is the owner or occupier of <i>eligible premises</i> ; and	
Schedule 1 Clause 2.3	<p>Without limiting clause 2.2, if the <i>ERA Authority</i> is satisfied that a <i>customer</i> has been refused supply by both the <i>licensee</i> and one or more <i>relevant other suppliers</i>, then the <i>ERA Authority</i> must:</p> <p>(a) Consider which (if any) of the <i>licensee</i> and the <i>relevant other supplier</i> or <i>relevant other suppliers</i> should be directed to <i>commence supply</i>; and</p> <p>(b) For the purposes of clause 2.3(a);</p> <p>(i) Take into account each of the matters referred to in section 11H(3) of the Act; and</p> <p>(ii) Endeavour to fairly apportion directions to <i>commence supply</i> between the <i>relevant other suppliers</i> and the <i>licensee</i>.</p>	Italicise defined terms.

Appendix 5 – Administrative amendments to individual licences

Licence	Clause	Amendment	Reasons
GTL16 - IPower2 Pty Ltd and IPower Pty Ltd (trading as Simply Energy)	Cover page	IPower ² Pty Ltd and IPower ² Pty Ltd (trading as Simply Energy)	The amendment is to correct the licensee's name from IPower Pty Ltd and IPower2 Pty Ltd (trading as Simply Energy) to IPower2 Pty Ltd and IPower Pty Ltd (trading as Simply Energy).
	Information page	IPower ² Pty Ltd and IPower ² Pty Ltd (trading as Simply Energy)	See above.
	1.1	Licensee means IPower ² Pty Ltd and IPower ² Pty Ltd (trading as Simply Energy), ABN 61 269 241 237	See above.