

Energy Coordination Act 1994

Draft Gas Last Resort Supply Arrangements: Guidelines and Template Plan

May 2008

Economic Regulation Authority



WESTERN AUSTRALIA

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1 Introduction

Under Part 2A, Division 6A of the *Energy Coordination Act 1994* (Act), the Authority must ensure that for each gas supply area in which there are small use customers, there is at all times a last resort supply plan that has been approved or determined by the Authority.

The purpose of this document is provide guidance to gas licensees who have been designated as a supplier of last resort (SoLR) as to the matters that they should, as a minimum, address in their last resort supply plan (refer to Attachment A & B).

In addition, this document provides a general overview of how the Authority envisages last resort supply arrangements will occur, including:

- the legislative framework for last resort supply arrangements;
- how a last resort plan will come into operation; and
- proposed communication strategies between the Authority, the SoLR, and affected participants and customers.

2 Background

2.1 Legislative framework

Part 2A, Division 6A of the Act provides the legislative framework for the implementation of last resort supply arrangements.

Under section 11ZAB of the Act, the Authority must ensure that, for each supply area in which there are small use customers, there is an approved last resort supply plan. The last resort supply plan must be prepared by the SoLR designated by the Authority for that supply area (section 11ZAE of the Act).

The Authority may designate any holder of a gas trading licence in the supply area as a SoLR. Designation will occur by notice in writing to the licensee and cannot have effect for more than 2 years. The Authority must consult the licensee before it will issue a notice of designation (section 11ZAE (2) of the Act).

Upon notification by the Authority that the licensee has been designated as the SoLR for the supply area, the SoLR must:

- (a) prepare a draft last resort supply plan for the supply area;
- (b) submit the draft last resort supply plan to the Authority within 3 months of designation (or such longer period as allowed by the Authority);
- (c) consult with the Authority with a view to obtaining approval of the draft plan; and
- (d) carry out the arrangements and other provisions in the last resort supply plan, if the plan comes into operation.

(section 11ZAF of the Act).

If a plan has not been approved by the Authority within a period that it considers reasonable and the supplier concerned has been notified, the Authority may determine the contents of the last resort supply plan (section 11ZAG of the Act).

A last resort supply plan only comes into operation if the Authority publishes an order in the Gazette to this effect. The order must specify that a last resort supply

plan will come into operation, the supply area involved, the licensee involved, and the day on which the plan will take effect.

The Authority may only publish such an order if the trading licence of a supplier to whose small use customers the plan applies:

- (a) has been cancelled under section 11ZE of the Act;
- (b) has expired and has not been renewed; or
- (c) has been surrendered. (section 11ZAD of the Act)

2.2 Objectives

The objectives of the SoLR scheme for the WA gas market are that a last resort supply plan will, if it comes into operation:

- (a) adequately safeguard the interests of customers and ensure continuity in the supply of gas to customers;
- (b) ensure that adequate information is given to customers about the arrangements for the supply of gas;
- (c) ensure that the terms and conditions under which gas is supplied to customers by the supplier of last resort, and the prices associated with that supply, are equitable; and
- (d) set out arrangements that are inexpensive to implement and enable the supplier of last resort to recover its costs.

2.3 Practical Implementation of a Last Resort Supply Plan

This section provides a general overview of how an approved last resort supply plan will be implemented in practical terms.

The *Energy Coordination (Last Resort Supply) Regulations 2005* (Regulations) specify the broad procedural requirements for SOLR implementation.

2.3.1 Minister sets date for provisions take effect

The obligation on the Authority to determine the initial Last Resort Supply Plan (LRSP) only comes into operation once the Office of Energy has advised the Minister of the date that LRSP will be implemented and a date is fixed and Gazetted by the Minister. Section 60(4) Part 3 Division 11 of the *Energy Legislation Amendment Act 2003* applies:

To allow time for the completion of the initial last resort supply plan under Division 6A, the obligation imposed on the Authority by section 11ZAB inserted in the principal Act by section 37 —

- (a) does not arise on the commencement of section 37; but
- (b) arises instead on a later day fixed by the Minister by order published in the Gazette, and has effect on and after that day.

Before the Gazetted date is fixed by the Minister, the Authority needs to determine who will be the SoLR in which gas supply areas.

2.3.2 Authority becomes aware of last resort supply event

A last resort supply event occurs when the licence of a prescribed supplier is:

- (a) cancelled;
- (b) expired and not renewed; or
- (c) surrendered.

Where a trading licence has expired or has been surrendered, the Authority will be aware of this event.

In the event that consideration is being given to a trading licence cancellation, both the Office of Energy and the Authority will work together to collate, verify and present all the pertinent information that will inform the Governor's decision.

In the event a trading licence is cancelled by the Governor, the Office of Energy will ensure that the Authority receives timely notice of the decision.

2.3.3 Authority notifies affected participants

Upon becoming aware that a last resort supply event has occurred, the Authority may publish an order in the Gazette. The order will specify:

- (a) the name of the supplier, whose licence has been cancelled, expired or surrendered;
- (b) that a last resort supply plan will come into operation;
- (c) the supply area involved; and
- (d) the day the plan will come into operation.

In addition to publishing the order, the Authority will also give the supplier of last resort and each affected participant notice in writing of the order and publish a notice in a newspaper circulating in the relevant supply area.

In the Regulations, “**affected participant**”, in relation to a last resort supply plan, includes: relevant gas pipeline operators; relevant gas distributors; other relevant Gas traders, gas suppliers to the designated SOLR; and the formal entity for the relevant Retail Market Scheme (REMCO), and all of whom must operate within the affected supply areas.

Clause 10(2) of the Regulations specifies the matters that must be addressed in the notice to be published in the newspaper.

The SoLR's obligations do not take effect on the occurrence of a last resort supply event, but rather on the publication of the order by the Authority. This is intended to allow the Authority appropriate flexibility in invoking SoLR measures and to give the SoLR certainty in initiating the transfer of customers.

2.3.4 Authority consults with SoLR

As soon as the Authority becomes aware that a last resort supply event is about to occur or has occurred, the Authority will consult the SoLR for the affected supply area to ensure smooth flow of communication and appropriate sharing of information.

The Authority may require the SoLR to commit to a special reporting process on the progress of the SoLR plan implementation.

2.3.5 SoLR will notify affected customers of transfer arrangements

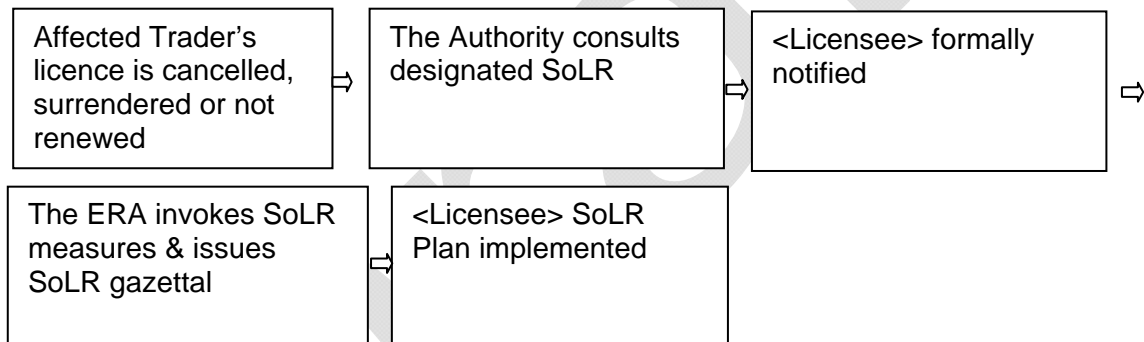
As soon as practicable after a customer has been transferred, the SoLR must notify the customer of the transfer.

Regulation 8 of the *Energy Coordination (Last Resort Supply) Regulations 2005* requires the notice to be in writing and specifies the matters that must be addressed in the notice.

Communications to customers and employees will be of the highest priority immediately to guide all parties through the process in order to minimise:

- confusion and costs for affected customers being transferred from the affected retailer;
- ensure that the last resort supply plan is speedily and correctly implemented in order to reduce the magnitude and period of disruption to the SoLR's employees and normal processes; and
- the potential financial consequences to the SoLR.

A flow chart overview of the expected overall last resort supply plan initiation sequence is detailed below:



2.4 Financial implications of last resort supply events

Following the SoLR event, it is anticipated that there may be a time delay in completing the actual transfer of customers from an affected supplier to the designated SOLR. The circumstances of the SoLR event will determine the critical timelines. For example, a licensee whose circumstances force an immediate cessation of gas supply will generate a very different critical timeline path to a licensee who is planning to surrender its licence at some future given date. Nevertheless, the official transfer date as determined by the Authority will determine the point at which fees and charges will cease to be paid to the affected licensee and begin to be paid to the designated SOLR of the affected supply area. Section 3.4 rule 104 of the REMCO rules then applies.

The SOLR Plan should set out the process and timelines for the transfer process, regardless of the circumstances of the SOLR event. It is likely in most SOLR events, that the actual transfer will extend past the official transfer date and a

reconciliation of any continuous gas supply charges will be necessary in most instances.

3 Guidelines for development of Last Resort Supply Plan

As stated previously, any supplier who has been designated by the Authority as a SoLR for a supply area must develop a last resort supply plan for that area.

The following guidelines aim to assist these suppliers in developing their last resort supply plan.

SoLRs are also referred to Part 2 of the *Energy Coordination (Last Resort Supply) Regulations 2005* which provides further detail on the matters to be addressed in a last resort supply plan.

To avoid doubt, a last resort supply plan only applies to the small use customers of the affected supplier.

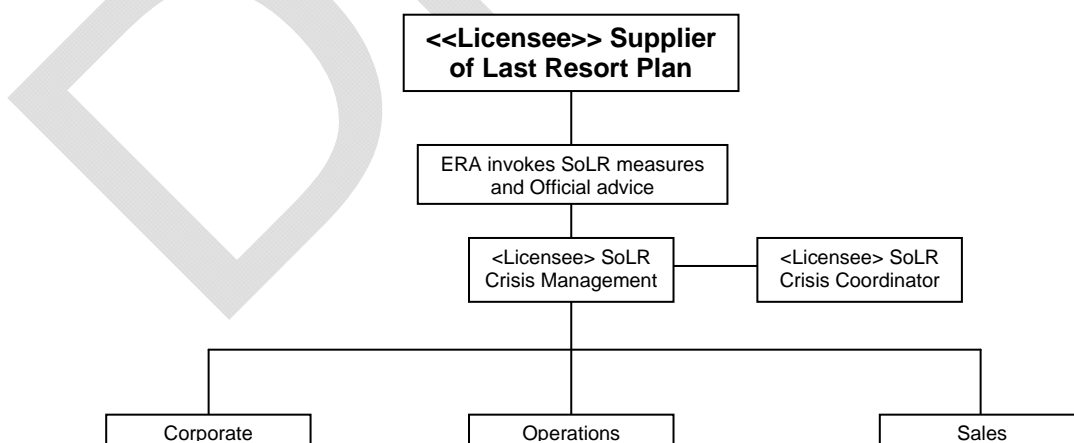
3.1 General

Scope: A last resort supply plan must specify the supply area(s) it applies to. For example, Supply Area 7 – Great Southern.

Term: A last resort supply plan must specify the period for which it has effect.

Contact details: A last resort supply plan must specify the relevant contact persons for dealings with the Authority.

The following flow chart provides an example of the relevant sections within the SoLR that are expected to be primarily affected by a last resort supply event. Other sections may be affected in a minor way but this effect is not expected to be immediate or significant and can be handled as required.



3.2 Rights, powers and duties of the SoLR and affected participants if the plan comes into operation

A last resort supply plan must set out the rights, powers and duties of the SoLR and affected participants if the plan comes into operation.

As a minimum the following matters should be addressed:

- how and when the SoLR will implement its last resort supply plan;
- how and when the SoLR will communicate with third parties;
- the right of transferred customers to be supplied under the SoLR's standard form contract;
- a statement that any transferred customer is entitled to the same protections as any other small use customers, in particular continuation of energy concession arrangements and access to energy concessions;
- an assurance by the SoLR that transferred customers will receive a gas supply for at least 3 months from the transfer date unless the customer terminates the contract;
- an obligation on the SoLR to periodically re-evaluate its supply arrangements to ensure that it will be able to purchase sufficient gas to supply any transferred customers; and
- a statement that the SoLR will not terminate the contract because of anything done or omitted to be done by a transferred customer before transfer to the retail supplier.

3.3 *A general description of any contractual arrangements entered into by the SoLR that are necessary to ensure the supply of gas if the plan comes into operation*

A last resort supply plan must contain a general description of any contractual arrangements entered into by the SoLR that are necessary to ensure the supply of gas if the plan comes into operation.

As a minimum the plan should address:

- **Supply of Gas:** How does the SoLR anticipate ensuring that sufficient gas will be available?
For example, if the SoLR has entered into any contracts with gas providers and/or gas storage facility providers to secure additional gas supplies, a brief description of those contracts should be provided.
- **Distribution of Gas:** How does the SoLR anticipate ensuring that minimal or no disruption will occur to the distribution of gas?
For example, if the SoLR has entered into any contracts with gas transporters and distributors to ensure any gas purchased can be transferred to affected customers, a brief description of those contracts should be provided.
- **Metering of gas:** How does the SoLR anticipate ensuring that gas meters will continue to be read?
For example, if the SoLR has entered into any contracts with gas distributors in relation to the reading of gas meters, a brief description of those contracts should be provided.
- **Billing and payment:** How does the SoLR anticipate to ensure that billing and payment arrangements will experience minimal or no disruption?
For example, if the SoLR has entered into any contracts with contractors (as applicable) for billing and payment services, a brief description of those contracts should be provided.

- **Customer service:** How does the SoLR anticipate ensuring that basic customer service obligations, such as complaints handling and call centre functions, will continue to be provided at minimum disruption to the customer?

For example, if the SoLR has entered into any contracts for the provision of customer services, a brief description of those contracts should be provided.

3.4 *Provisions that ensure that adequate information is given to customers about the arrangements under the plan*

The last resort supply plan should set out how the SoLR will notify any affected customers of the transfer.

As a minimum, the plan should make provision for the SoLR to give each transferred customer notice of the transfer as soon as practicable after the transfer date has been announced.

The plan must require that the notice be in writing and contain at least the following information:

- (a) the reasons for the order under section 11ZAD (1);
- (b) the day on which the last resort supply plan came into operation (being the day referred to in section 11ZAD (1));
- (c) an outline of the effect of the arrangements under the last resort supply plan including —
 - (i) when the transfer occurred;
 - (ii) the terms and conditions under which the transfer occurred;
 - (iii) that consent was not required for the transfer;
 - (iv) the terms and conditions under which gas is supplied to the customer by the supplier of last resort, including any requirement to pay a last resort supply fee; and
 - (v) the duration of the arrangements;

and

- (d) contact details for the supplier of last resort including the supplier's —
 - (i) business name;
 - (ii) business address;
 - (iii) postal address;
 - (iv) email address;
 - (v) internet web site address; and
 - (vi) telephone number.

(Refer regulation 8(2) of the *Energy Coordination (Last Resort Supply) Regulations 2005*).

It would be preferable if the SoLR attached a draft notification letter addressing the above requirements to its last resort supply plan.

3.5 The process for the transfer of customers to the SoLR

The last resort supply plan must set out the process for the transfer of affected customers to the SoLR.

As a minimum, the plan should specify:

- when the transfer will occur. For example, within 3 business days from the date the SoLR receives the necessary connection details of the affected customers;
- the terms and conditions under which the transfer will occur (i.e. grace period, last resort supply fee, etc);
- the terms and conditions under which gas is supplied to the customer (i.e. standard form contract, applicable tariffs and charges);
- that the SoLR will provide each affected customer with the information specified in clause of 2.1.2.1 of the AGA Code and Schedule 2, clause 5.2 of the Gas Trading Licence; and
- which third parties will be contacted to effectuate the transfer and how and when they will be contacted (e.g. distributor(s), gas supplier(s), contractor(s)).

3.6 Grace periods

Under regulation 6 of the *Energy Coordination (Last Resort Supply) Regulations 2005*, a last resort supply plan may make provision for customers to be given a period of time (“grace period”) in which they can transfer to another supplier instead of being supplied to the SoLR under the plan.

If a last resort supply plan makes provision for a grace period, the plan must:

- specify when the grace period begins and ends (for example, from the moment the order is published to 5 business days after);
- provide that, if a customer does not transfer to another supplier during the grace period, the customer will be transferred to the SoLR as soon as practicable after the end of the grace period; and
- require a customer who takes a supply of gas during the grace period to pay for that gas.

Affected customers will be notified of any applicable grace period through a written notice provided by the SoLR to those customers and in a notice, published by the Licensee, in newspaper(s) circulating in the relevant supply area.

3.7 Last resort supply fee

Under regulation 7 of the *Energy Coordination (Last Resort Supply) Regulations 2005*, a last resort supply plan may make provision for a fee payable by transferred customers to the SoLR.

If a last resort supply plan makes provision for a last resort supply fee, the plan must specify:

- the amount of the fee;
- the method used to calculate it; and
- when it is payable.

The amount used to calculate the last resort supply fee must take into account:

- the benefits that the SoLR forecasts it will receive; and
- the costs that the SoLR will incur,

if the last resort supply plan comes into operation. Before approving a last resort supply plan that provides for a fee, the Authority must be satisfied that the fee reflects the reasonable costs of the SoLR in carrying out the arrangements and provisions in the plan.

Draft

Appendix A - Template Last Resort Supply Plan

1 Last Resort Supply Plan

<<Date>>

<<Supplier>>

1.1 Scope

This last resort supply plan applies to the following supply area(s):

- Supply Area ... - ...
- Supply Area ... - ...
- Supply Area ... - ...

1.2 Term

As determined by the Economic Regulation Authority on <<date>>, this last resort supply plan has effect until <<date>>.

1.3 Contact details

If a last resort supply event occurs, all communication between the Authority and <<supplier>> will occur through the following person(s):

- <<name>>
<<title>>
<<role under SoLR plan>>
<<phone number>>
<<mobile phone number>>
<<fax number>>
<<e-mail address>>
- <<name>>
<<title>>
<<role under SoLR plan>>
<<phone number>>
<<mobile phone number>>
<<fax number>>
<<e-mail address>>

1.4 *Preliminary arrangements to facilitate the operation of the plan*

To ensure the continued supply of gas in the event of a last resort supply event, <<supplier>> will or has:

– **Supply of Gas:**

- entered into contracts for the supply of (emergency) gas with:
 - <<name contract party>>, <<date contract entered into>>
<<brief description of contents of contract>>
 - <<name contract party>>, <<date contract entered into>>
<<brief description of contents of contract>>

AND/OR

- <<please describe any alternative strategies to ensure that sufficient gas will be available. For example, use of the supplier's emergency supplies, anticipated securing of the affected licensee's gas supply, etc.>>

– **Distribution of Gas**

- entered into contracts for the distribution of gas with:
 - <<name contract party>>, <<date contract entered into>>
<<brief description of contents of contract>>
 - <<name contract party>>, <<date contract entered into>>
<<brief description of contents of contract>>

AND/OR

- <<please describe any alternative strategies to ensure that gas will be able to be distributed to the affected customers. >>

– **Metering of gas**

- entered into contracts for the metering of gas with:
 - <<name contract party>>, <<date contract entered into>>
<<brief description of contents of contract>>
 - <<name contract party>>, <<date contract entered into>>
<<brief description of contents of contract>>

AND/OR

- <<please describe any alternative strategies to ensure that gas will be metered. >>

– **Billing and payment**

- entered into contracts to facilitate the billing and payment for gas consumed with:
 - <<name contract party>>, <<date contract entered into>>
<<brief description of contents of contract>>
 - <<name contract party>>, <<date contract entered into>>
<<brief description of contents of contract>>

AND/OR

- <<please describe any alternative strategies to ensure that appropriate procedures will be in place to address billing and payment issues>>.

– **Customer service**

- entered into contracts to fulfil customer service obligations:
 - <<name contract party>>, <<date contract entered into>>
<<brief description of contents of contract>>
 - <<name contract party>>, <<date contract entered into>>
<<brief description of contents of contract>>

AND/OR

- <<please describe any alternative strategies to ensure that customer service obligations will be fulfilled>>.

1.5 Implementation of last resort supply plan

Upon notification by the Authority that the Authority will publish or has published a notice declaring a last resort supply event, <<supplier>> will:

- **Crisis Management Team:** immediately convene its SoLR Crisis Management Team (if applicable);
- **Notification:** immediately notify the following internal and external stakeholders:
 - internal:
 - <<Division>>
 - <<Division>>
 - <<Division>>

(for example, the following divisions: finance, retailer & customer services, marketing, regulatory compliance and management, corporate operations, etc).
 - external:
 - ...
 - ...
 - ...

(for example, the following external parties: potential gas providers, gas storage providers, gas distributors, etc.)
- **Liaison with REMCo:** Actively liaise with REMCo to facilitate the efficient transfer of all affected customers to the SoLR.

Upon notification of each affected Division, those Divisions will:

- <<Division>>
<<please describe any measures to be taken by the Division to ensure the efficient implementation of the last resort supply plan>>.

- <<Division>>
<<please describe any measures to be taken by the Division to ensure the efficient implementation of the last resort supply plan>>.
- <<Division>>
<<please describe any measures to be taken by the Division to ensure the efficient implementation of the last resort supply plan>>.

1.6 Provision of services

Upon provision by the Authority of the necessary information, <<supplier>> will commence supply to each affected customer.

Supply will occur under the following conditions:

- all affected customers will be supplied under <<supplier>> standard form contract against the tariffs and charges specified in the contract;
- any transferred customer is entitled to the same protections as any other small use customers, in particular the continuation of energy concession arrangements and access to energy concessions;
- any transferred customer will receive a gas supply for at least 3 months from the transfer date unless the customer terminates the contract; and
- a contract will not be terminated because of anything done or omitted to be done by a transferred customer before transfer to the retail supplier.

1.7 Notification

Upon the transfer of an affected customer to <<supplier>>, <<supplier>> will notify the customer of the transfer in writing. The notice will include:

- (a) the reasons for the order under section 11ZAD(1);
 - (b) the day on which the last resort supply plan came into operation (being the day referred to in section 11ZAD(1));
 - (c) an outline of the effect of the arrangements under the last resort supply plan including —
 - (i) when the transfer occurred;
 - (ii) the terms and conditions under which the transfer occurred;
 - (iii) that consent was not required for the transfer;
 - (iv) the terms and conditions under which gas is supplied to the customer by the supplier of last resort, including any requirement to pay a last resort supply fee; and
 - (v) the duration of the arrangements;
- and
- (d) contact details, including the supplier's —
 - (i) business name;
 - (ii) business address;

- (iii) postal address;
- (iv) email address;
- (v) internet web site address; and
- (vi) telephone number.

A draft notice is attached in Appendix <<...>>. Include a draft letter with your plan.

1.8 Transfer process

Date of Transfer: <<date>>

Meter reading: <<please specify whether the SoLR intends to read the meter upon the occurrence of a last resort supply event, or whether the SoLR intends to estimate the volume of gas provided by the previous supplier and the SoLR.>>

1.9 Financial liabilities

Outstanding debt: <<Please specify how the SoLR intends to address issues of outstanding debt.>>

Outstanding credit: <<Please specify how the SoLR intends to address issues of outstanding credit.>>

Supply by affected licensee: <<Please specify how the SoLR intends to reimburse the affected licensee for any gas supplied by that licensee prior to the last resort supply event occurring.>>

1.10 Grace periods

Only fill in if you intend to provide for a grace period

Start date: <<date>>

End date: <<date>>

Conditions: If a customer does not transfer to another provider during the grace period, the customer will be transferred to the <<supplier>> as soon as is practicable after the end of the grace period.

1.11 Last resort supply fee

Only fill in if you intend to provide for a last resort supply fee

Amount of fee: <<\$>>

Method used to calculate the fee: <<please provide supporting data to substantiate the fee>>

When the fee is payable: <<...>>

Appendix B - Retailer of Last Resort Sample Customer Letter

<Small use customer (<1, gigajoules pa)>
<Date>
<Customer Name>
<Customer Address Details>

Dear Sir/Madam,

CHANGES TO YOUR CURRENT NATURAL GAS SUPPLIER

I am writing to advise you of changes in the gas market which will affect our current supplier of natural gas.

At <time>, <date>, <Affected Licensee> trading licence was cancelled/expired/surrendered and can no longer supply gas in gas supply area(s) <location>.

Following this date, and as a customer of << Affected Licensee >> located within a particular supply area, you have been automatically transferred to <<SoLR>> by the Economic Regulation Authority. This compulsory transfer is legislated under the *Energy Coordination Act 1994* and the *Energy Coordination (Last Resort Supply) Regulations 2005*.

This transfer will allow you to continue to be supplied with natural gas and ensures that your rights are protected while the market changes are managed. As a result of this transfer, you will also be protected from disconnection for a period of three (3) months from the date shown above.

As a transferred customer you will be charged a one off transfer fee of <<\$ X>> to cover our connection and administration expenses.

As a <<SoLR>> customer you will enjoy the full benefits and conditions provided to all of our customers. You will also automatically default to our Standard Form Contract and gas tariffs after the three month period. Details of both are enclosed for your information.

If you would like to negotiate a new Natural Gas Supply contract with <<SoLR>> simply contact our customer service advisers on <<number>>.

Alternatively, you can negotiate a contract with other licensed natural gas suppliers in WA by contacting them accordingly.

If you would like any assistance or additional information please contact us on <<Number>>.

Yours sincerely
<<Name >>
<<Title>>

REVISION HISTORY

Revision No.	Description	Date
2	Mick Geaney – Draft	May 08

Draft