

Economic Regulation Authority's revised access arrangement for the WA Gas Networks Pty Ltd Mid-West and South- West Gas Distribution Systems

28 April 2011

Economic Regulation Authority

 WESTERN AUSTRALIA

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INTRODUCTION

1. On 29 January 2010 WA Gas Networks Pty Ltd (**WAGN**) submitted to the Economic Regulation Authority (**Authority**) its proposed revisions to the access arrangement for the Mid-West and South-West Gas Distribution Systems (**GDS**) for approval under the *National Gas Access (Western Australia) Act 2009* (**NGA**), together with the required access arrangement information.
2. The Authority issued its draft decision regarding WAGN's proposed access arrangement revisions on 17 August 2010. The draft decision listed 74 Required Amendments which the Authority required WAGN to make to its proposed access arrangement revisions in order for those proposed access arrangement revisions to be approved by the Authority.
3. On 8 October 2010 WAGN submitted to the Authority an amended version of its proposed access arrangement revisions for the GDS, as allowed by rule 60(1) of the National Gas Rules (**NGR**), together with amended access arrangement information.
4. On 28 February 2011 the Authority issued its final decision regarding WAGN's amended proposed access arrangement revisions dated 8 October 2010. The final decision of the Authority was to refuse to approve WAGN's amended proposed access arrangement revisions.
5. As a consequence, the Authority was required to propose revisions to the access arrangement for the GDS, which the Authority did by its final decision.
6. The Authority is also required to make a decision giving effect to its proposed access arrangement revisions within two (2) months of the issue of the final decision. This document constitutes that decision.
7. Further, by this decision the Authority requires WAGN to amend its proposed amended access arrangement information so as to reflect the access arrangement revisions given effect by this decision.

AUTHORITY'S ACCESS ARRANGEMENT REVISIONS

Legislative requirements

8. Rule 64 of the NGR states:
 - '(1) If, in an access arrangement final decision, the [*Authority*] refuses to approve an access arrangement proposal (other than a variation proposal), the [*Authority*] must itself propose an access arrangement or revisions to the access arrangement (as the case requires) for the relevant pipeline.
 - (2) The [*Authority's*] proposal for an access arrangement or revisions is to be formulated with regard to:

- (a) the matters that the Law requires an access arrangement to include;
 - (b) the service provider's access arrangement proposal; and
 - (c) the [Authority's] reasons for refusing to approve that proposal.
- (3) The [Authority] may (but is not obliged to) consult on its proposal.
- (4) The [Authority] must, within 2 months after the access arrangement final decision, make a decision giving effect to its proposal.
- (5) Where the [Authority] makes a decision under this rule, it must:
 - (a) give a copy of the decision to the service provider; and
 - (b) publish the decision on the [Authority's] website and make it available for inspection, during business hours, at the [Authority's] public offices.
- (6) The access arrangement or the revisions to which the decision relates takes effect on a date fixed in the determination or, if no date is so fixed, 10 business days after the date of the decision.'

Decision

9. Pursuant to rule 62(2) the final decision was to refuse to approve WAGN's amended proposed access arrangement revisions.
10. As a consequence, by the final decision the Authority proposed revisions to the access arrangement for the GDS as required by rule 64(1) of the NGR. That is, the Authority identified in the final decision those parts of WAGN's amended proposed access arrangement revisions dated 8 October 2010 which the Authority would adopt and, otherwise, the amendments to those proposed revisions that would be included within the Authority's access arrangement revisions for the GDS.
11. The Authority's access arrangement revisions for the GDS are set out in Appendix 1 to this decision.
12. Pursuant to rule 64(2) of the NGR the Authority's access arrangement revisions for the GDS have been formulated having regard to the requirements of the NGL and NGR, WAGN's amended proposed access arrangement revisions dated 8 October 2010 and the Authority's reasons for refusing to approve WAGN's amended proposed access arrangement revisions as set out in the final decision.
13. The Authority hereby gives effect to the access arrangement revisions for the GDS which are set out in Appendix 1 to this decision.
14. Pursuant to 64(6) of the NGR, those access arrangement revisions will take effect on and from 12 May 2011.

ACCESS ARRANGEMENT INFORMATION

Legislative requirements

15. Rule 42 of the NGR provides that:
- '(1) Access arrangement information for an access arrangement or an access arrangement proposal is information that is reasonably necessary for users and prospective users:
 - (a) to understand the background to the access arrangement or the access arrangement proposal; and
 - (b) to understand the basis and derivation of the various elements of the access arrangement or the access arrangement proposal.
 - (2) Access arrangement information must include the information specifically required by the Law.'
16. Rule 43(3) of the NGR provides that:
- '(3) If information submitted as access arrangement information is, in the [Authority's] opinion, deficient in its comprehensiveness or in any other respect, the [Authority] may require the proponent:
 - (a) to make the revisions necessary to correct the deficiency and to re-submit the access arrangement information; or
 - (b) to submit further access arrangement information as an addendum to the information already submitted.'

Decision

17. As explained earlier in this decision, the NGR confers on the Authority an obligation to propose, and the power to give effect to, its own access arrangement revisions where, as in this instance, the Authority does not approve the service provider's revisions proposal in a final decision.
18. The NGR does not confer on the Authority the power to prepare its own access arrangement information relating to the Authority's access arrangement revisions.
19. The power conferred on the Authority by rule 43(3) is, so far as is relevant, the power to require the service provider to revise its access arrangement information and resubmit it if the Authority is of the view that the access arrangement information is deficient.
20. The Authority is of the view that the amended access arrangement information lodged by WAGN on 8 October 2010 is deficient. The amended access arrangement information submitted by WAGN will not fulfil the requirements of rule 42 of the NGR as regards the Authority's access arrangement revisions for the GDS. That is because the amended access arrangement information submitted by WAGN relates to and explains WAGN's amended proposed access arrangement revisions and not the Authority's access arrangement revisions.

21. Pursuant to rule 43(3)(a) of the NGR, the Authority hereby requires WAGN to revise its amended access arrangement information. The revisions that are required to the amended access arrangement information are set out in Appendix 2 to this decision.
22. The Authority requires WAGN to re-submit the access arrangement information revised in accordance with this decision by 12 May 2011.

APPENDICES

Appendix 1 - Authority's access arrangement revisions

Appendix 2 – Required revisions to the access arrangement information

Appendix 3 - Glossary

Term	Definition
Authority	The Economic Regulatory Authority of Western Australia established pursuant to the <i>Economic Regulation Authority Act 2003</i> .
Draft decision	The draft decision dated 17 August 2010 in relation to WAGN's proposed access arrangement.
Final decision	The final decision dated 28 February 2011 in relation to WAGN's amended proposed access arrangement.
National Gas Rules	The National Gas Rules made under the <i>National Gas Access (Western Australia) Act 2009</i> .

Appendix 4 - Abbreviations

Abbreviation	For
GDS	Mid-West and South-West Gas Distribution Systems
NGA	<i>National Gas Access (Western Australia) Act 2009 (WA)</i>
NGR	National Gas Rules
WA	Western Australia
WAGN	Western Australian Gas Networks Pty Ltd