

Decision to renew gas distribution licence GDL9

Wesfarmers Kleenheat Gas Pty Ltd

9 July 2021

Economic Regulation Authority

WESTERN AUSTRALIA

D235132

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1. Decision

1. Pursuant to sections 11K and 11S of the *Energy Coordination Act 1994* (Gas Act), the Economic Regulation Authority has renewed Wesfarmers Kleenheat Gas Pty Ltd's [gas distribution licence GDL9](#).
2. Subject to its terms and conditions, the licence authorises Kleenheat to operate four gas distribution systems that supply liquified petroleum gas to business and residential customers in:
 - Albany (Oyster Harbour)
 - Leinster
 - Margaret River (Riverslea and Rapids Landing),as set out in operating area [ERA-GAS-009\(A\)](#) in the licence.
3. The term of the renewed licence is 21 years (the maximum period allowed by section 11O of the Gas Act).
4. As required by section 11T of the Gas Act, the ERA will publish a notice of the renewal of the licence in the Government Gazette as soon as practicable.

2. Reasons

2.1 Licence

5. Section 11G of the Gas Act requires a person to hold a gas distribution licence to construct, alter or operate a gas distribution system or transport gas through a distribution system.
6. On 30 September 2000, Kleenheat was granted two licences (GDL4 and GDL5), one for the Goldfields-Esperance supply area and one for the Coastal supply area.¹ On 17 August 2007, GDL4 and GDL5 were replaced by substitution with a single licence, GDL9.
7. GDL9 was amended on 20 February 2008 to include the Great Southern and Wheatbelt gas supply areas, including the Oyster Harbour Development in Albany.
8. GDL9 is due to expire on 29 September 2021.
9. On 1 June 2021, Kleenheat applied to the ERA to renew GDL9.

2.2 Gas ombudsman scheme

10. Section 11ZQG of the Gas Act provides that the ERA must not renew a licence unless it is satisfied that the licensee is a member of an approved scheme.
11. Kleenheat is a member of the Gas Industry Ombudsman (WA) Scheme.

2.3 Public consultation

12. On 3 June 2021, the ERA sought [public comment](#) on the licence renewal application. The period for submissions closed on 24 June 2021.
13. The ERA did not receive any submissions.

2.4 Financial and technical assessment

14. Under section 11S of the Gas Act, the ERA must renew a licence if it is satisfied that the licensee has and is likely to retain, or will acquire within a reasonable timeframe after the renewal, and is then likely to retain, the financial and technical resources to undertake the activities authorised by the licence.
15. As part of its renewal application, Kleenheat provided audited financial statements for the past three financial years for its parent company Wesfarmers Limited and a written declaration from Kleenheat's Chief Financial Officer that it has, and will retain, the financial resources to continue to undertake the activities authorised by the licence.

¹ In 2000, the then Office of Energy (now Energy Policy WA) issued gas distribution licences for a single supply area. At that time, Kleenheat supplied gas in two supply areas of Western Australia: Goldfields-Esperance and Coastal.

16. Based on the information provided, the ERA is satisfied that Kleenheat has, and is likely to retain, the financial resources to undertake the activities authorised by the licence.
17. The ERA used Kleenheat's licence compliance and asset management history to determine whether it has, and will retain, the technical resources to continue to provide the licensed service.
18. Based on its licence compliance and asset management history, the ERA considers that Kleenheat has, and is likely to retain, the technical resources to undertake the activities authorised by the licence.

2.5 Assessment of public interest

2.5.1 Energy Coordination Act 1994

19. 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. To determine whether the renewal would not 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.
 - g. The policy objectives of government in relation to the supply of gas.
 - h. Any other matter that he or she considers relevant.

2.5.2 Economic Regulation Authority Act 2003

20. The ERA must have regard to the matters set out in section 26(1) of the *Economic Regulation Authority Act 2003*:²
 - 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 or monopoly or market power.

² The ERA has discretion to decide the weight it gives to each of the matters listed in section 26(1) of the ERA Act in making its decision.

- g. The need to promote transparent decision-making processes that involve public consultation.

2.5.3 ERA assessment of public interest

21. The ERA has considered:
- the matters set out in section 11H(3) of the Gas Act
 - the matters set out in section 26(1) of the ERA Act
 - the financial statements for Wesfarmers for the past three financial years
 - the written declaration from Kleenheat's Chief Financial Officer
 - Kleenheat's licence compliance and asset management history
 - the outcome of the public consultation (no submissions received).
22. Kleenheat's gas distribution systems support the development of the regional areas they supply (section 11H(3)(c) of the Gas Act).
23. The interests of Kleenheat's existing customers are best served by Kleenheat continuing to be licensed (section 11H(3)(d) of the Gas Act and section 26(1)(a) and (b) of the ERA Act).
24. The ERA conducted public consultation on the licence renewal application and has stated in this decision the reasons for renewing the licence, which is consistent with section 26(1)(g) of the ERA Act.
25. In all circumstances, after taking into account the matters in section 11H(3) of the Gas Act and section 26(1) of the ERA Act, the ERA is satisfied that renewing GDL9 would not be contrary to the public interest.