

Distribution Licence

Energy Coordination Act 1994 (WA)

Distribution Licence

The Economic Regulation Authority (Authority), established under the *Economic Regulation Authority Act 2003* hereby grants a distribution licence to <<Name>> (Licensee) subject to, and in accordance with, the terms set out in this licence.

Dated this <<Date>> day <<Month>> 20xx.

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

Distribution Licence

Energy Coordination Act 1994 (WA)

LICENCE GDL <<Number>>

Applicant's Full Name
(Licensee)

<<ABN_ACN>>

<<ADDRESS>>

Distribution Licence

1 Definitions

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

applicable legislation includes:

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

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

asset management system means the measures that are to be taken by the *licensee* for the proper maintenance, operation and expansion or reduction of the *distribution system*.

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

Authority means the Economic Regulation Authority.

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

commencement date means the date specified in Schedule 1.

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

distribution system means:

- (a) a system of pipelines, mains, and gas service pipes, designed to operate at a pressure of less than 1.9 megapascals, for the transportation of gas to customers; or
- (b) any other part of the gas distribution system (as defined in section 90 of the *Gas Corporation Act 1994* repealed by section 93 of the *Gas Corporation (Business Disposal) Act 1999*) at the time when a distribution licence is first issued for all or any part of that system (regardless of the pressure at which it is designed to operate),

and any associated apparatus, facilities, structures, plant, or equipment.

expiry date means the date specified in Schedule 1.

gas means any gas or mixture of gases, whether naturally occurring or manufactured, intended for use:

- (a) as a fuel; or
- (b) in any chemical process;

gas distribution email address means:

Licensee	<<Name>>	Version
Licence	GDL <<Number>>	Version Date

- (a) in relation to the *Authority*, the addressee's authorised *Authority* email address or other such email address as notified in writing to the *licensee*; and
- (b) in relation to the *licensee*, the email address specified in the licence application or other such email address as notified in writing to the *Authority*.

individual performance standards mean any standards prescribed by the *Authority* for an individual *licensee* pursuant to clause 16 of the *licence*.

licence means:

- (a) this licence;
- (b) the Schedules of this licence; and
- (c) any *individual performance standards* approved by the *Authority* pursuant to clause 16.

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

licensee means <<Name of licensee>>.

notice means a written notice, agreement, consent, direction, representation, advice, statement or other communication required or given pursuant to, or in connection with, this *licence*.

performance audit means an audit of the effectiveness of measures taken by the *licensee* to meet the *performance criteria* in this *licence*.

performance criteria means:

- (a) the terms and conditions of the *licence*; and
- (b) any other relevant matter in connection with the *applicable legislation* that the *Authority* determines should form part of the *performance audit*.

publish in relation to a report or information means either:

- (a) posting the report or information on the *licensee's* website; or
- (b) sending the report or information to the *Authority* to be published on the *Authority's* website.

Regulations means any regulations in force from time to time made pursuant to the *Act* and includes:

- (a) *Energy Coordination (Customer Contracts) Regulations 2004*;
- (b) *Energy Coordination (Last Resort Supply) Regulations 2005*;
- (c) *Energy Coordination (Licensing Fees) Regulations 1999*;
- (d) *Energy Coordination (Ombudsman Scheme) Regulations 2004*; and
- (e) *Energy Coordination (Gas Tariffs) Regulations 2000*.

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

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

- (a) clause 14.4;
- (b) clause 15.2;

Licensee	<<Name>>	Version
Licence	GDL <<Number>>	Version Date

- (c) clause 16.2; or
 - (d) clause 22.1,
- of this *licence*.

2 Grant of Licence

2.1 The *licensee* is granted a *licence* for the *licence area(s)* to:

- (a) to construct a *distribution system* and to transport gas through the *distribution system*; or
 - (b) to transport gas through an existing *distribution system* and if required for that purpose to make alterations to the *distribution system*, and
 - (c) to operate and maintain the *distribution system*,
- in accordance with the terms and conditions of this *licence*.

3 Term

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

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

4 Fees

4.1 The *licensee* must pay the applicable fees in accordance with the *Regulations*.

5 Compliance

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

5.2 Subject to the provisions of any *applicable legislation*, the *Authority* may direct the *licensee* in writing to do any measure necessary to:

- (a) correct the breach of any *applicable legislation*; or
- (b) prevent the breach of any *applicable legislation* occurring again, and specify a time limit by which such action must be taken.

6 Transfer of Licence

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

7 Cancellation of Licence

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

8 Surrender of Licence

Licensee	<<Name>>	Version
Licence	GDL <<Number>>	Version Date

- 8.1 The *licensee* may surrender the *licence* at any time by written *notice* to the *Authority*.
- 8.2 The surrender of the *licence* will take effect on the day that the *Authority* publishes a *notice* of the surrender in the *Gazette*.
- 8.3 The *licensee* will not be entitled to a refund of any fees by the *Authority*.

9 Renewal of Licence

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

10 Amendment of Licence on Application of the Licensee

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

11 Amendment of the Licence by the Authority

- 11.1 Subject to any *applicable legislation*, the *Authority* may amend the *licence* at any time in accordance with this clause.
- 11.2 Before amending the *licence* under clause 11.1, the *Authority* must:
- (a) provide the *licensee* with written notice of the proposed amendments under consideration by the *Authority*;
 - (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
 - (c) take into consideration those submissions.
- 11.3 This clause also applies to the substitution of the existing *licence*.
- 11.4 For avoidance of doubt, the *licensee* will not have to pay an associated application fee or licence fee for the purpose of clause 11.1.

12 Continuous operation

- 12.1 Subject to section 11M of the *Act* and clause 12.2, the *licensee* must continuously operate the *distribution system* except to the extent necessary for compliance with the *Gas Standards (Gas Supply and System Safety) Regulations 2000*.
- 12.2 Clause 12.1 only applies to those parts of the *distribution system* required for the *licensee* to meet its obligations from time to time to supply gas.

13 Proposed cessation or decrease in activities

- 13.1 Notwithstanding clause 8, the *licensee* must give the *Authority* *notice* in writing where it proposes a permanent cessation to, or substantial decrease in the extent of, the *licensee's* activities the subject of this *licence*.
- 13.2 A *notice* under clause 13.1 must be given:
- (a) 6 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.

Licensee	<<Name>>	Version
Licence	GDL <<Number>>	Version Date

14 Asset Management System

- 14.1 The *licensee* must provide for, and notify the *Authority* of, an *asset management system* in relation to the *distribution system* within 2 *business days* from the *commencement date* or from the completion of construction of the *distribution system*, whichever is later.
- 14.2 The *licensee* must notify the *Authority* of any material change to the asset management system within 10 *business days* of such change.
- 14.3 The *licensee* must, unless otherwise notified in writing by the *Authority*, provide the *Authority* with a report as to the effectiveness of the *asset management system* within 24 months after the *commencement date* and every 24 months thereafter.
- 14.4 The *licensee* must comply, and must require the *licensee's* expert to comply, with the *Authority's* standard guidelines dealing with the *asset management system review*, including any minimum requirements relating to the appointment of the expert, the scope of the review, the conduct of the review and the reporting of the results of the review.
- 14.5 The *licensee* may seek a review of any of the requirements of the *Authority's* standard guidelines dealing with the *asset management system review* in accordance with clause 23.1.
- 14.6 The independent expert may be nominated by the *licensee* but must be approved by the *Authority* prior to the review pursuant to clause 14.3. Should the *Authority* reject the *licensee's* nomination of an independent expert twice or, in the event that no independent expert has been nominated by the *licensee* within 1 month of the date the review was due, the *Authority* may choose an independent expert who will conduct the review.

15 Performance Audit

- 15.1 The *licensee* must, unless otherwise notified in writing by the *Authority*, provide the *Authority* with a *performance audit* within 24 months after the *commencement date*, and every 24 months thereafter.
- 15.2 The *licensee* must comply, and must require the *licensee's* auditor to comply, with the *Authority's* standard audit guidelines dealing with the *performance audit*, including any minimum requirements relating to the appointment of the auditor, the scope of the audit, the conduct of the audit and the reporting of the results of the audit.
- 15.3 The *licensee* may seek a review of any of the requirements of the *Authority's* standard audit guidelines in accordance with clause 23.1.
- 15.4 The independent auditor may be nominated by the *licensee* but must be approved by the *Authority* prior to the audit pursuant to clause 15.1. Should the *Authority* reject the *licensee's* nomination of an independent auditor twice or, in the event that no nomination has been made by the *licensee* within 1 month of the date the audit was due, the *Authority* may choose an independent auditor who will conduct the audit.

16 Individual Performance Standards

- 16.1 Performance standards are contained in *applicable legislation*.

Licensee	<<Name>>	Version
Licence	GDL <<Number>>	Version Date

- 16.2 The *Authority* may prescribe *individual performance standards* in relation to the *licensee* of its obligations under this *licence* or the *applicable legislation*.
- 16.3 Before approving any *individual performance standards* under this clause, the *Authority* will:
- (a) provide the *licensee* with a copy of the proposed *individual performance standards*;
 - (b) allow 15 *business days* for the *licensee* to make submissions on the proposed *individual performance standards*; and
 - (c) take into consideration those submissions.
- 16.4 Once approved by the *Authority*, the *performance standards* are included as additional terms and conditions to this *licence*.

17 Approved Scheme

- 17.1 The *licensee* must not supply gas to *customers* unless the *licensee* is:
- (a) a member of an *approved scheme*; and
 - (b) bound by, and compliant with, any decision or direction of the energy ombudsman under the *approved scheme*.

18 Notices

- 18.1 Unless otherwise specified, all *notices* must be in writing.
- 18.2 A *notice* will be regarded as having been sent and received:
- (a) when delivered in person to the addressee; or
 - (b) 3 *business days* after the date of posting if the *notice* is posted in Western Australia; or
 - (c) 5 *business days* after the date of posting if the *notice* is posted outside Western Australia; or
 - (d) if sent by facsimile when, according to the sender's transmission report, the *notice* has been successfully received by the addressee; or
 - (e) if sent by email when, according to the sender's electronic record, the *notice* has been successfully sent to the addressee's *gas distribution email address*.

19 Accounting Records

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

20 Reporting

- 20.1 The *licensee* must report to the *Authority*:
- (a) if the *licensee* is under external administration as defined by the *Corporations Act 2001 (Cwlth)* within 2 *business days*; or

Licensee	<<Name>>	Version
Licence	GDL <<Number>>	Version Date

- (b) if the *licensee* experiences a significant change in the *licensee's* corporate, financial or technical circumstances upon which this *licence* was granted which may affect the *licensee's* ability to meet its obligations under this *licence* within 10 *business days* of the change occurring.

21 Provision of Information

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

22 Publishing Information

- 22.1 The *Authority* may direct the *licensee* to *publish* any information within a specified timeframe it considers relevant in connection with the *licensee* or the performance by the *licensee* of its obligations under this *licence*.
- 22.2 Subject to clause 22.3, the *licensee* must *publish* the information referred to in clause 22.1.
- 22.3 If the *licensee* considers that the information is confidential it must:
- (a) immediately notify the *Authority*; and
 - (b) seek a review of the *Authority's* decision in accordance with clause 23.1.

23 Review of the Authority's Decisions

- 23.1 The *licensee* may seek a review of a *reviewable decision* by the *Authority* pursuant to this *licence* in accordance with the following procedure:
- (a) the *licensee* shall make a submission on the subject of the *reviewable decision* within 10 *business days* (or other period as approved by the *Authority*) of the decision; and
 - (b) the *Authority* will consider the submission and provide the *licensee* with a written response within 20 *business days*.
- 23.2 For 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*.

Licensee	<<Name>>	Version
Licence	GDL <<Number>>	Version Date

Schedule 1 – Licensee Details

- 1 **Name and Address of Licensee**
- 2 **Operating (Licence) Area(s)**
- 3 **Distribution System**
- 4 **Commencement Date**
- 5 **Expiry Date**

Licensee	<<Name>>	Version
Licence	GDL <<Number>>	Version Date

Schedule 2 – Additional licence clauses

affected person means a person owning or occupying premises directly affected by the *licensee's* activities the subject of this *licence*.

AGA code means the Australian Gas Association's Natural Gas Customer Service Code AG 755-1998.

complaints handling process is the process described in clause 2.

connection cost means the *licensee's* costs directly attributable to connecting the premises to the *distribution system*.

covered pipeline has the meaning given to "Covered Pipeline" by the *National Access Code*.

customer service code means:

- (a) until the *Authority* approves an alternative code under clause 1.2 – the *AGA code*; and
- (b) if the *Authority* approves an alternative code under clause 1.2 – the approved alternative code, in which case references to that code are to be read in accordance with clause 1.3.

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

National Access Code means the *National Third Party Access Code for Natural Gas Pipeline Systems*, having effect under the *Gas Pipelines Access (Western Australia) Act 1998*.

Office of Energy Guidelines means the Office of Energy Guidelines for the Design and Planning of Interconnected Gas Distribution Networks dated February 2000.

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*.

1 Service Standards

Licensee	<<Name>>	Version
Licence	GDL <<Number>>	Version Date

- 1.1 The *licensee* must use its best endeavours to maintain a level of customer service at least consistent with the *customer service code*, except where the *Authority* permits otherwise.
- 1.2 The *licensee* may request the *Authority* to approve a code in substitution for the *AGA code* (or for a code previously approved under this clause), and the *Authority* may approve the alternative code.
- 1.3 If the *customer service code* is not the *AGA code*, a reference in this *licence* to a numbered clause of the *customer service code* is to be read as a reference to the provision (if any) in the *customer service code* that corresponds to the clause in the *AGA code* with the same number.

2 Complaints handling process

- 2.1 The licensee must:
- (a) develop and within 3 months after the date of grant lodge with the *Authority* a copy of; and
 - (b) thereafter be in a position to implement when needed,
- a complaints handling process that deals with a complaint against the *licensee* by an *affected person*.
- 2.2 Without limiting clause 1, the *complaints handling process* must comply with clause 2.5 of the *customer service code*.
- 2.3 While the *customer service code* is the *AGA code*, clause 2.5 of that code is to be read as though the term “customer” in that clause included an affected person.

3 Exchange of information between the licensee and the holder of a trading licence

- 3.1 For any part of the *distribution system* that is not a *covered pipeline*, the licensee must comply with section 5.9 of the *National Access Code* as if that part were a *covered pipeline*.
- 3.2 For the purposes of clause 3.1, a reference in section 5.9 of the *National Access Code* to:
- (a) “Service Provider” is a reference to the *licensee*; and
 - (b) “Prospective User” is a reference to the holder of a trading licence that relates to the whole or a part of the *licence area*.
- 3.3 This clause 3 does not impose any obligation on the *licensee* in relation to any part of the *distribution system* that is, or becomes, a *covered pipeline*, but nothing in this clause affects the *licensee*’s obligations in relation to that pipeline under the *National Access Code*.

4 Offer to connect

- 5.1 This clause applies in respect of *residential premises* located within the *licence area* if the *licensee* is requested by a *trader* to connect the premises to the *distribution system*.
- 4.2 Subject to clause 4.3, the licensee must offer to connect the premises to the *distribution system*.

Licensee	<<Name>>	Version
Licence	GDL <<Number>>	Version Date

- 4.3 The *licensee's* offer to connect the premises under clause 4.2 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 4, the *licensee* opens or breaks up any sealed or paved surface, or damages or disturbs any lawn, landscaping or other improvement at the premises, then the *licensee* must if necessary fill in any ground to restore it to approximately its previous level, but (unless the *licensee* agrees otherwise with any person) the *licensee* is not otherwise obliged to reinstate or make good, or pay compensation in respect of any damage to, any such surface, lawn, landscaping or other improvement.
 - (e) The *licensee* is not obliged to offer to connect a premises, if that premises is already connected to a *distribution system*.
 - (f) Before establishing the connection, the *licensee* may require the *trader* to procure the agreement of the owner of any land through which the service pipe is to pass and on which the delivery facilities will be installed, that the connection may be established.
 - (g) Before establishing the connection, the *licensee* may require the *trader* to enter into (or to procure its gas supplier to enter into) a gas transportation contract with the *licensee*.
 - (h) Before establishing the connection, the *licensee* may require the person who is to enter into the gas transportation contract referred to in clause 4.3(g) to meet the *licensee's* reasonable minimum prudential requirements and credit standards.
- 4.4 Nothing in this clause 4 limits the *licensee's* ability to recover any *connection cost* through tariffs for access to the *distribution system*, or requires such recovery.

Licensee	<<Name>>	Version
Licence	GDL <<Number>>	Version Date

Amendment Record Sheet:

Amendment Date	Description of Amendment

Licensee	<<Name>>	Version
Licence	GDL <<Number>>	Version Date