



# information

## Information paper

### National Gas Rules – civil penalty and conduct provisions

The Minister for Energy has approved the classification of certain Part 23 (Access to non-scheme pipelines) National Gas Rules as civil penalty and conduct provisions. This is so the Economic Regulation Authority (ERA) may use appropriate enforcement measures for the non-scheme gas pipeline access regime.

#### Background

In August 2017, information disclosure, access requests, and arbitration arrangements for non-scheme gas pipelines (Part 23 regime) were introduced into the National Gas Law (NGL) and the National Gas Rules (NGR). The purpose of the Part 23 regime is to facilitate access to non-scheme pipelines on reasonable terms in order to reflect the outcomes of a competitive market.

When the Part 23 regime was introduced in August 2017, it applied in all jurisdictions other than Western Australia, where it came into effect in December 2017.

Also in December 2017, some Rules in Part 23 of the NGR became civil penalty and conduct provisions in all jurisdictions other than Western Australia. Therefore, although the Part 23 regime applies in Western Australia, there are no accompanying legislative enforcement measures.

#### Civil penalty and conduct provisions

Without the civil penalty and conduct provisions in place, the ERA's ability to undertake its enforcement role is compromised as there are currently no consequences in the Western Australian gas laws for non-compliance. The Minister for Energy has therefore approved the amendment of regulations to bring Western Australia's enforcement measures in line with all other jurisdictions.

Once the civil penalty and conduct provisions are in place, if there is a breach the ERA could:

- in the case of a natural person, take action resulting in a court applying a civil penalty of up to \$20,000 and \$2,000 for every day the breach continues; or
- in the case of a body corporate, take action resulting in a court applying a civil penalty of up to \$100,000, with a daily rate of \$10,000; or
- issue an infringement notice where there is a maximum penalty of \$4,000 for a natural person or \$20,000 for a corporation.

#### Regulatory amendments

Regulations have been drafted as set out in Attachment A that amend Schedules 3 and 4 of the *National Gas Access (WA) (Part 3) Regulations 2009*, by classifying certain Rules in Part 23 as civil penalty and conduct provisions (as per the marked up text).

The draft amending regulations will be provided to the Minister for final approval in the coming weeks.

Any comments on the regulations should be emailed to [submissions@energy.wa.gov.au](mailto:submissions@energy.wa.gov.au) by 13 July 2020.

Civil penalty and conduct provisions

Non-scheme gas pipeline access regime

Comments due by 13 July 2020