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Cost recovery for the non-scheme gas pipeline regime

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Executive summary

In Western Australia, the Economic Regulation Authority (ERA) is responsible for administering, monitoring and enforcing compliance of the economic regulatory framework applying to gas pipelines covered under the National Gas Access (Western Australia) Law, established under the *National Gas Access (Western Australia) Act 2009*.

A pipeline may be a scheme pipeline or a non-scheme gas pipeline depending on the form of economic regulation that applies to the pipeline.

Part 23 regime for non-scheme gas pipelines

The regulatory framework for non-scheme gas pipelines¹ is comprised of an information disclosure, access request and arbitration framework. This framework is commonly referred to as the Part 23 regime, as Part 23 of the National Gas Rules contains detailed provisions about the framework.

The objective of the Part 23 regime is to facilitate third party access to services on non-scheme gas pipelines on reasonable terms by:

- requiring non-scheme gas pipeline service providers (that is, persons who own, control or operate a non-scheme gas pipeline) to disclose certain information to parties seeking access, enabling timely and effective commercial negotiations;
- facilitating access requests and negotiations between parties; and
- establishing a binding commercial arbitration process that applies where negotiations are unsuccessful.

In Western Australia, the ERA is responsible for administering, monitoring and enforcing compliance of the Part 23 regime. Some of the ERA's functions under the Part 23 regime relate to information disclosure (producing a financial reporting guideline and monitoring compliance with the disclosure requirements); exemptions (dealing with applications relating to exemption from the Part 23 regime and maintaining a public register of all exemptions); and arbitration (establishing a pool of arbitrators, producing an arbitration guideline).

Currently, the ERA is unable to recover the costs that it incurs in performing these functions.

Cost recovery mechanism

Energy Policy WA (EPWA) proposing that a cost recovery mechanism be introduced to enable the ERA to recover its costs of regulating non-scheme gas pipelines from industry. Cost recovery is specifically allowed for by the *Economic Regulation Authority Act 2003* (ERA Act) which provides for regulations to be made for the imposition and payment of fees in connection with the ERA's functions.

Having a cost recovery mechanism in relation to non-scheme gas pipelines is also consistent with the approach adopted for scheme pipelines.²

¹ A non-scheme gas pipeline is a pipeline that is not subject to full or light regulation under the National Gas Access (Western Australia) Law.

² A scheme pipeline is a pipeline that is subject to full or light regulation under the National Gas Access (Western Australia) Law.

In consultation with the ERA, EPWA has developed a range of options for a cost recovery model. EPWA's recommended model is based on the types of charges that the ERA applies in the gas (for scheme pipelines), electricity, water and rail industries. The proposed charges comprise of:

- a standing charge allocated on the basis of pipeline length, payable by service providers for the costs the ERA incurs in the performance of its functions under the Part 23 regime and which are not covered by specific charges; and
- a specific charge (which will be identified in the regulations) payable by certain persons for the external and disbursement costs relating to a particular activity attributable to an individual non-scheme gas pipeline, rather than general activities applicable to all non-scheme gas pipelines.

The recommended model would apply to all non-scheme gas pipelines, whereby all service providers would be contributing to the recovery of the ERA's costs relating to the non-scheme gas pipeline regulatory framework. It would also be efficient to administer as the ERA's financial management system already caters for these two types of charges and it is less complex than the other two models considered.

It is proposed that the ERA would recover its costs relating to the Part 23 regime from the date the regulations commence.

Feedback

Feedback is requested from industry stakeholders on the proposed cost recovery models. Submissions are requested by 5.00pm (WST) on 10 November 2020 and can be provided by email to submissions@energy.wa.gov.au. Please contact Amy Tait, Assistant Director, EPWA if you have any queries via amy.tait@energy.wa.gov.au.

EPWA will consider submissions received in response to this paper in preparing a final recommendations report for the Minister for Energy and the Treasurer. All submissions received will be published on the EPWA website, unless a specific request for confidentiality is made.

Recommendations approved by the Treasurer, as responsible Minister for the ERA Act, will then be implemented through regulations made under that Act.

1. Introduction

In Western Australia, the ERA is responsible for administering, monitoring and enforcing compliance of the economic regulatory framework applying to gas pipelines covered under the National Gas Access (Western Australia) Law (WA NGL), which is established under the *National Gas Access (Western Australia) Act 2009* (WA Act).

A pipeline may be a scheme pipeline or a non-scheme gas pipeline depending on the form of economic regulation that applies to the pipeline. There are three forms of economic regulation that can apply to gas pipelines:

- full regulation;³
- light regulation;⁴ and
- information disclosure, access request and arbitration framework.

Full regulation and light regulation apply to scheme gas pipelines, while the information disclosure, access request and arbitration framework applies to non-scheme gas pipelines. The framework for non-scheme gas pipelines is set out in Part 6A of the WA NGL and Part 23 of the National Gas Rules (NGR) and is therefore often referred to as the 'Part 23 regime'.

There are currently 86 non-scheme pipelines in Western Australia to which the Part 23 regime applies, as listed at **Appendix A**.

Currently, the ERA recovers its costs for the performance of its functions relating to scheme pipelines from industry.⁵ However, to date, the costs of performing its functions relating to the Part 23 regime have been borne by the ERA as there is no mechanism allowing it to recover the costs of regulating non-scheme gas pipelines from industry. To address this deficiency, EPWA, in consultation with the ERA, has developed options and models for a cost recovery mechanism.

This paper provides background on the non-scheme gas pipeline regulatory framework, the ERA's functions relating to non-scheme gas pipelines and some proposed cost recovery models.

EPWA encourages industry feedback to inform the recommended approach.

³ There are three fully regulated pipelines in Western Australia: the Dampier to Bunbury Natural Gas Pipeline, Goldfields Gas Pipeline and Mid-West and South-West Gas Distribution Systems. The Goldfields Gas Pipeline is a unique case as part of its capacity is subject to full regulation while the remaining part is non-scheme.

⁴ There is one light regulated pipeline in Western Australia: the Kalgoorlie to Kambalda Pipeline.

⁵ This is required under the Economic Regulation (National Gas Access Funding) Regulations 2009.

2. Non-scheme gas pipeline access regime

2.1 Background

In 2017, the former Council of Australian Governments' (COAG) Energy Council agreed to amend the regulatory framework applying to gas pipelines to implement a new information disclosure, access negotiation and arbitration framework for non-scheme gas pipelines (the non-scheme gas pipeline access framework).

The non-scheme gas pipeline access framework was given effect in all Australian jurisdictions, except Western Australia, through the inclusion of Chapter 6A in the *National Gas Law* (NGL)⁶ and Part 23 of NGR. As Western Australia has adopted parts of the NGL that are relevant to the State as a 'mirror law' under the WA Act, changes that amend the NGL need to be adopted separately in Western Australia for them to apply in the State.

On 23 December 2017, Western Australia adopted the non-scheme gas pipeline access framework through the enactment of the National Gas Access (WA) Adoption of Amendments Order 2017 and the National Gas Access (WA) (Act Amendment) Regulations 2017. These instruments amended the WA NGL and enabled Part 23 of the NGR to apply in Western Australia.

The objective of the Part 23 regime is to facilitate third party access to pipeline services on non-scheme gas pipelines on reasonable terms by:

- requiring non-scheme gas pipeline service providers (that is, persons who own, control or operate a non-scheme gas pipeline) to disclose certain information to parties seeking access, enabling timely and effective commercial negotiations;
- facilitating access requests and negotiations between parties; and
- establishing a binding commercial arbitration process that applies where negotiations are unsuccessful.

The introduction of the Part 23 regime has, in effect, resulted in all gas pipelines being subject to some form of regulation. However, non-scheme gas pipeline service providers are able to seek exemptions from certain aspects of the Part 23 regime, where relevant criteria are satisfied.

This regulatory framework is currently under review, with the former COAG Energy Council having requested an examination of options to deliver a more effective and well-integrated regulatory framework for gas pipelines. A consultation Regulation Impact Statement (RIS) on options to improve gas pipeline regulation was released on 1 November 2019 and a decision RIS is expected to be released later this year. Irrespective of what outcomes may occur as a result of this work, it is proposed that the ERA would have in place a cost recovery mechanism to recover the costs for performing its functions in relation to the WA NGL, including the Part 23 regime.

2.2 Functions of the Economic Regulation Authority

The ERA is Western Australia's economic regulator. Its aim is to ensure that the delivery of water, electricity, gas and rail services is in the long-term interests of Western Australian consumers, through independent regulation, analysis and advice.

⁶ This occurred through the enactment of the National Gas (South Australia) (Pipelines Access-Arbitration) Act 2017 in the South Australian Parliament.

In relation to gas, the ERA is responsible for regulating third party access to gas pipelines in Western Australia. There are currently three fully regulated pipelines, one lightly regulated pipeline, and 86 non-scheme gas pipelines in Western Australia, as detailed in **Appendix A**. For non-scheme gas pipelines, the ERA is responsible for administering, monitoring and enforcing compliance with the Part 23 regime. The ERA's functions under the Part 23 regime are summarised in Table 1 below.

Table 1: Summary of ERA functions under the Part 23 regime

Category	Function
Exemptions	<ul style="list-style-type: none"> • Dealing with an application for an exemption from the Part 23 regime, or a variation to any condition of an exemption, arising from the application of a service provider or on the ERA's own initiative. • Dealing with a revocation of an exemption from the Part 23 regime, arising from the application of any person or on the ERA's own initiative. • Maintaining a public register of all exemptions and revocations of exemption that have been made. • Establishing a process for renewal once an exemption has expired.
Information disclosure	<ul style="list-style-type: none"> • Producing a financial reporting guideline, including updating and amending the guideline as required. • Monitoring compliance with financial and non-financial information disclosure requirements.
Arbitration	<ul style="list-style-type: none"> • Establishing a pool of arbitrators and updating as required. • Producing an arbitration guideline, including updating and amending the guideline as required. • Referring disputes to arbitration and appointing the arbitrator if the parties in dispute are unable to agree on an arbitrator. • Publishing information on its website regarding disputes, including access determinations following arbitration.

A more detailed list of functions that the ERA is required to undertake under the Part 23 regime is set out in **Appendix B** of this paper.

2.2.1 Estimated ERA costs relating to the Part 23 regime

The ERA has advised EPWA that its estimated annual costs to undertake its Part 23 functions are approximately \$550,000. This excludes any costs for activities where the ERA might require external assistance, such as technical, legal or accounting advice. The ERA's costs will vary year-to-year depending on the workload required for administering the Part 23 regime, the overhead costs for the year, and the number of other functions the ERA is undertaking. A higher workload will result in more hours and, as a consequence, a higher allocation of overheads and vice versa. However, the purpose of this paper is not to determine or seek feedback on costs, but rather to present possible cost recovery models with the underlying assumption that the costs are efficient.⁷

⁷ The ERA's costs to administer particular functions (such as the Part 23 regime) are accounted for and subject to scrutiny via internal and external audits. The ERA's expenditure limits are also subject to scrutiny through the State Budget process.

3. Cost recovery principles and mechanisms

3.1 How ERA functions are currently funded

Cost recovery is specifically allowed for by the ERA Act which provides for regulations to be made for the imposition and payment of fees and charges in connection with the performance of the ERA's functions.⁸ The intention of the Western Australian Government when the ERA was established was that its regulatory functions would be industry funded.⁹

Currently, approximately 85% of the ERA's functions are funded by industry in the gas (full and light regulation only), electricity, water and rail industries.

The following table provides an overview of the functions of the ERA and how they are funded.

Table 2: ERA Functions and Funding Source

Function	Funding Source	Funding Mechanism
Undertaking inquiries referred by the Western Australian Government	Government appropriation	Government appropriation
Biennial review of the effectiveness of the merger arrangements between Verve Energy and Synergy that occurred on 1 January 2014	Government appropriation	Government appropriation
Reviewing and approving Metrology Procedure and Mandatory Link Criteria documents for Western Power, Horizon Power and Rottnest Island relating to metering installations	Currently borne by the ERA	Not applicable
Regulating access to Western Australia's rail network	Industry – railway owner – standing and specific charge	Economic Regulation Authority (Railways Access Funding) Regulations 2019
Regulating access to Western Power's electricity network	Industry – network service provider – standing and specific charge	Economic Regulation Authority (Electricity Networks Access Funding) Regulations 2012
Regulating access to full and light regulated gas pipelines	Industry – network service provider – standing and specific charge	Economic Regulation Authority (National Gas Access Funding) Regulations 2009
Scheme administrator responsible for enforcing and monitoring compliance with the Part 23 regime covering non-scheme gas pipelines	Currently borne by the ERA	No funding mechanism established as yet

⁸ s 61 of the *Economic Regulation Authority Act 2003* (WA).

⁹ The Introduction and First Reading of the Economic Regulation Authority Bill 2002 provided that "The Bill enables regulations to be made for the recovery of costs associated with the authority's provision of regulatory services to industry. Cost-recovery arrangements currently apply only for gas access regulation and these are to be continued. Any future extension of cost-recovery arrangements will be implemented through relevant policy agencies agreeing to appropriate frameworks and drafting regulations ...".

Function	Funding Source	Funding Mechanism
Licensing electricity, gas and water service providers	Industry – licensees – annual fee, standing and specific charge	Economic Regulation Authority (Licensing Funding) Regulations 2014
Monitoring, reporting, compliance and enforcement activities in the Wholesale Electricity Market	Industry – market participants – Regulator's fee	Wholesale Electricity Market Rules
Providing Secretariat and financial support to the Wholesale Electricity Market Rule Change Panel	Industry – market participants – Regulator's fee	Wholesale Electricity Market Rules
Approving amendments to and investigating any non-compliance with the Gas Retail Market Scheme	Industry – market participants – Regulator's fee	Gas Retail Market Procedures
Approving amendments to and monitoring compliance with the Gas Services Information Rules	Industry – market participants – fees and charges	Gas Services Information Regulations 2012

3.2 Fees and charges

The existing cost recovery mechanisms utilised by the ERA consist of various fees and charges which are set out in regulations made under the ERA Act (as referred to in Table 2) and which are described further below.

Standing charge

- A standing charge recovers from service providers the costs incurred by the ERA in connection with the performance of its functions, excluding any costs the ERA recovers by charging industry certain fees and specific charges.

Specific charge

- A specific charge recovers external and disbursement type costs incurred by the ERA that relate to an identified function that is performed for a particular party, where the costs may only comprise of:
 - costs of consultants or contractors engaged by the ERA, including accommodation, travel and equipment costs;
 - photocopying, mailing, publishing and advertising costs; and
 - costs associated with public consultation.
- A specific charge is payable by the party for whom the ERA has performed the functions, as identified in the relevant cost recovery regulations.
- The rationale for distinguishing between standing and specific charges is so that more of the costs attributable to specific activities taken for a particular party are borne by that party, rather than by others who are not involved in the specific activity.

Licence fee

- A licence fee is payable to cover electricity retail, electricity generation, electricity distribution and transmission, water services, gas distribution and gas trading licensing related functions.

Document fee

- A document fee is a fee the ERA charges a person who requests a document prepared by or on behalf of the ERA in the performance of its functions, provided the fee is not more than \$100 and reflects the costs incurred in producing the document.

Meeting admission fee

- The ERA may charge a person to pay a fee for admission to a meeting held for public consultation. This fee is to reflect the costs incurred in holding the meeting.

4. Charging options for non-scheme gas pipelines

4.1 Overview of charging types

An overview of the types of charges that are being considered to form the basis of the cost-recovery mechanism relating to non-scheme gas pipelines is set out below and comprise:

- a standing charge;
- a specific charge; and
- an application fee relating to exemptions from the regime.

While the ERA does not currently use an application fee as a charging mechanism, the scope of the ERA Act¹⁰ is broad enough to encompass a cost recovery mechanism which includes an application fee.

The following types of charges are not being considered for the Part 23 regime:

- licence fee: as there are no licensing functions in the Part 23 regime, a licence fee is not appropriate; and
- document fee/meeting admission fee: these fees are not considered necessary as costs related to documents and meetings may be captured as standing or specific charges.

4.2 Standing charge

When the ERA undertakes its functions relating to the Part 23 regime, it incurs core function costs which include:

- remuneration of staff involved in the administration, monitoring and enforcement of the Part 23 regime;
- overhead costs; and
- any other costs the ERA incurs in the performance of its functions under the Part 23 regime.

Core function costs do not include costs that are recovered through the imposition of fees or specific charges.

The standing charge for the Part 23 regime is proposed to be based on the following:

- recovering the ERA's core function costs relating to the Part 23 regime; and
- allocating core function costs across all non-scheme gas pipeline service providers (hereafter referred to as a 'service provider') who are liable to pay a standing charge during the quarter.

A standing charge would be administratively efficient to establish as the ERA's financial management system already caters for this type of charging.

¹⁰ Section 61 of the ERA Act provides for regulations to be made for the imposition and payment of fees and charges in connection with the performance of the ERA's functions.

4.2.1 Allocating standing charges

The various methods identified by EPWA as to how a standing charge could be applied to allocate the core ERA function costs across service providers are as follows:

- the length of a non-scheme gas pipeline (as a proportion of the total length of all non-scheme gas pipelines);
- the number of non-scheme gas pipelines (total cost divided by number of pipelines);
- the asset value of a non-scheme gas pipeline (as a proportion of the total asset value of all non-scheme gas pipelines);
- the maximum capacity of a non-scheme gas pipeline (as a proportion of the maximum capacity of all non-scheme gas pipelines); and
- revenue generated by a non-scheme gas pipeline (as a proportion of total revenue generated by all non-scheme gas pipelines).

The potential advantages and disadvantages of each method are set out in Table 3 below. It is worth noting that the methods based on pipeline length, asset value, maximum capacity and revenue are closely related and represent a variation of the same theme. As a result, the advantages and disadvantages are similar, particularly for asset value, maximum capacity and revenue.

Table 3: Different methods to allocate standing charges

Method	Advantages	Disadvantages
Length of pipeline	<ul style="list-style-type: none"> • Service providers who own or operate more kilometres of pipeline may be in a better economic position to bear these costs, relative to service providers with shorter pipeline lengths. • Service providers are already familiar with the pipeline length charging mechanism as it used for annual pipeline licence fees under the Economic Regulation Authority (Licensing Funding) Regulations 2014. • As information on pipeline length is available from publicly available sources, this charging method is easier to implement and more transparent than the use of asset value, maximum capacity or revenue generated. This would lead to lower administration costs for this option. 	<ul style="list-style-type: none"> • Service providers receiving the same regulatory services from the ERA may pay different amounts due to different pipeline lengths. • Requires some degree of administrative effort as the ERA would need to obtain pipeline length data (although this is publicly available). • This method is different to that used to allocate standing charges for scheme pipelines. The Economic Regulation Authority (National Gas Access Funding) Regulations 2009 require scheme pipelines to contribute to core function costs based on percentages set out in those regulations.
Number of pipelines (equal allocation per pipeline)	<ul style="list-style-type: none"> • Administratively simple. • Transparent and may provide more certainty for pipeline service providers. 	<ul style="list-style-type: none"> • Service providers with a less valuable or smaller asset would be paying the same as owners with a more valuable or larger asset. • Where the demands of the ERA's regulatory services are different across service providers, a uniform charge may not be equitable, particularly for smaller pipelines whose demands of the ERA's services may be less.

Method	Advantages	Disadvantages
Asset value	<ul style="list-style-type: none"> • Non-scheme gas pipeline owners whose assets are more valuable, and who may therefore potentially be in a better economic position, would pay more. 	<ul style="list-style-type: none"> • Sourcing asset value data for each non-scheme gas pipeline would be administratively more burdensome and resource intensive than for methods based on pipeline length or number of pipelines. This in turn would increase administrative costs. • As there are different ways to determine asset value, there may be challenges in determining the methodology that should be applied consistently across all the pipelines and increased costs associated with monitoring how the method is being applied. • Service providers for whom the same regulatory services are provided by the ERA may pay different amounts due to different asset values.
Maximum capacity	<ul style="list-style-type: none"> • Service providers with pipelines with a larger maximum capacity and more valuable asset, and who may therefore potentially be in a better economic position, would pay more. 	<ul style="list-style-type: none"> • Sourcing the maximum capacity for each non-scheme gas pipeline would be administratively more burdensome and resource intensive than for methods based on pipeline length or number of pipelines. • Service providers for whom the same regulatory services are provided by the ERA may pay different amounts due to different maximum capacities.
Revenue generated	<ul style="list-style-type: none"> • Service providers generating greater revenue, and who may therefore potentially be in a better economic position to be able to bear the costs, would pay more. 	<ul style="list-style-type: none"> • Sourcing revenue data for each non-scheme gas pipeline would be administratively more burdensome and resource intensive than for methods based on pipeline length or number of pipelines, particularly if the information was to be sought using regulatory processes. This in turn would increase administrative costs. • Service providers for whom the same regulatory services are provided by the ERA may pay different amounts due to different revenues.

4.2.2 Proposed allocation method

EPWA proposes that the method to allocate standing charges be based on pipeline length as it preserves some degree of equity in the allocation of costs, without the increased administrative effort associated with the remaining options (maximum capacity, asset value, and revenue) that would also be resource intensive in some cases.

It is proposed that the ERA would base these calculations on information sourced directly from service providers and from the Department of Mines, Industry Regulation and Safety, as the agency responsible for issuing gas transmission pipeline licences.

Extracting pipeline length data on an annual basis is consistent with how pipeline length data is collected by the ERA for the purposes of calculating standing charges relating to gas distribution licences and gas trading licences under the Economic Regulation Authority (Licensing Funding) Regulations 2014.

4.3 Specific charges

A specific charge would reflect external and disbursement costs relating to a particular activity attributable to an individual non-scheme gas pipeline, rather than general activities which apply to all non-scheme gas pipelines. These functions are identified in **Appendix B**, with a specific charge being limited to recovery of:

- costs of consultants or contractors engaged by the ERA, including accommodation, travel and equipment costs;
- photocopying, mailing, publishing and advertising costs; and
- costs associated with public consultation.

A specific charge would be administratively efficient to establish as the ERA's financial management system already caters for this type of charge.

4.4 Application fee for exemptions

4.4.1 Categories of exemption

Service providers are able to seek exemptions from certain aspects of the Part 23 regime where relevant criteria are satisfied or apply for a variation to any condition of an exemption. There are three different types of exemptions that the ERA may grant, and the ERA may grant any combination of the exemption categories noted below.

Table 4: Exemption categories and criteria for non-scheme gas pipelines¹¹

Exemption Category	Exemption Criteria
Category 1: Exemption from access requests and negotiations, and arbitration of access disputes requirements	The non-scheme gas pipeline is not a third party access pipeline.
Category 2: Exemption from information disclosure requirements	Either of the following: a) The non-scheme gas pipeline is not a third party access pipeline. b) The non-scheme gas pipeline is a single user pipeline
Category 3: Exemption from information disclosure requirements (except for pipeline information and pipeline service information)	At any time, the average daily injection of natural gas into the non-scheme gas pipeline calculated over the immediately preceding 24 months is less than 10TJ/day.

¹¹<https://www.erawa.com.au/gas/gas-access/non-scheme-pipelines/applications-for-exemptions-to-information-disclosure-and-arbitration-framework>

4.4.2 Recovering costs through application fees

While the ERA's costs related to the Part 23 regime could be fully recovered through a combination of a standing charge and a specific charge, another option would be to recover costs relating to exemption requests through an application fee.

The ERA does not currently use an application fee for any of its services, however, EPWA is of the view it is an appropriate approach to consider for cost recovery of the Part 23 regime given that just over half of the non-scheme gas pipelines have an exemption of some kind (52%).

Under this approach, the service provider would pay an application fee:

- for an exemption or a variation to any condition of an exemption – estimated to be approximately \$4,000¹² every five years, which is the duration of an exemption; and
- for a revocation of an exemption – estimated to be in the tens of thousands of dollars.

Under this option, it is proposed that the service provider pay this fee, given that a key purpose of regulation is to minimise any barriers to parties seeking access to pipelines. The exception to a service provider paying the application fee for a revocation would be if the ERA was of the opinion that the application was frivolous or vexatious, in which case the applicant would pay.

From time to time, the ERA may initiate its own review of a service provider's exemption. This would not incur an application fee.

The advantage of having an application fee is that it aligns with the rationale that charges paid by an individual regulated party should reflect the costs directly attributable to activities relating to that individual party (user pays principle). However, there is a risk that an application fee may not in all circumstances fairly and accurately reflect the actual costs incurred by the ERA. Each pipeline is different and requires an individual pipeline's circumstances to be assessed against the exemption criteria which may result in some applications taking more or less time to review than others.

4.4.3 Charges for exempt pipelines

If there is an application fee relating to exemptions, the question arises as to whether a non-scheme gas pipeline that is either partially or fully exempt¹³ from the Part 23 regime should still be required to pay standing charges. The options considered include:

- **No exclusion from paying standing charges:** a standing charge would still be payable for a service provider even if the service provider is granted a partial or full exemption in respect of its non-scheme gas pipeline.
- **Exclusion for fully exempt pipelines only:** a service provider who is granted a full exemption in respect of its non-scheme gas pipeline would be excluded from the requirement to pay a standing charge; or

¹² The estimated fee of \$4,000 is a fee for each application for an exemption, variation or revocation of an exemption, irrespective of how many exemption categories are relevant to a pipeline. The ERA has derived this estimated fee by taking into account the estimated number of hours required to review and approve applications, and the salary and other employee related costs attributable to the relevant ERA personnel undertaking this application assessment activity.

¹³ A reference in this paper to fully exempt or full exemption means a service provider who has been granted both a Category 1 and 2 exemption in respect of its non-scheme gas pipeline.

- **Full exclusion for fully exempt pipelines and partial exclusion for partially exempt pipelines:** a service provider who is granted a full exemption in respect of its pipeline would be excluded from the requirement to pay a standing charge and a service provider who is granted a partially exemption would pay a portion of the standing charges (this would reflect the fact that the service provider is only required to comply with some aspects of the Part 23 regime).

The advantages and disadvantages of these options are summarised in Table 5 below.

Table 5: Exclusion from paying standing charges

Option	Advantages	Disadvantages
No exclusion	<ul style="list-style-type: none"> • Simple to administer as all service providers would be liable to pay a standing charge. • Recognises there are costs incurred by the ERA for activity which benefits all service providers, including those with exemptions, that would not always be covered by an application fee (such as work relating to the regulatory framework, and maintaining information on its website relevant to the Part 23 regime) and ensures that all service providers contribute to these costs. 	<ul style="list-style-type: none"> • Results in service providers being required to contribute to costs to administer a regime from which its pipeline is fully or partially exempt, including for resources or services for which it may not receive any benefit, such as those relating to financial reporting or arbitration.
Full exclusion for fully exempt pipelines only	<ul style="list-style-type: none"> • Ensures that a service provider who is granted a full exemption is not required to contribute to the costs of the aspects of the Part 23 regime for which it may not receive any benefit, over and above the application fee for exemption. 	<ul style="list-style-type: none"> • Adds administrative burden and complexity to the calculation of standing charges as there would be a subset of exempt pipelines requiring re-calculation of the core function costs across the remaining service providers who are liable to pay the standing charges. • Results in service providers who have not been granted a full exemption paying the costs for ERA activity that would not be completely covered by an application fee, but which benefits all service providers (such as work relating to the regulatory framework, and maintaining information on its website relevant to the Part 23 regime).

Option	Advantages	Disadvantages
Full exclusion for fully exempt pipelines and partial exclusion for partially exempt pipelines	<ul style="list-style-type: none"> As above for fully exempt pipelines. Provides that a service provider who is granted a partial exemption would only be required to pay for the charges that reflect the part of the regime to which it is required to comply. 	<ul style="list-style-type: none"> Adds an administrative burden and higher level of complexity to the calculation of standing charges due to the different types of exemptions and resultant permutations of obligations that a service provider with a partial exemption may be subject to. It would be challenging to determine what the appropriate reduction should be for all the different permutations and any amount is at risk of being an arbitrary figure. Results in service providers who have not been granted a full exemption paying the costs for ERA activity that would not be completely covered by an application fee, but which benefits all service providers (such as work relating to the regulatory framework, and maintaining relevant information on its website).

EPWA proposes that the partial exclusion option should not be adopted, given the high degree of complexity this option introduces.

5. Cost recovery models

5.1 Overview of models

Based on the options for cost recovery discussed in section 4, EPWA has identified three possible models for implementation. All models include a standing charge allocated on the basis of pipeline length (refer section 4.2.2), as follows:

- **Model A:** comprised of standing charges and specific charges;
- **Model B:** comprised of standing charges, specific charges and an application fee; and
- **Model C:** the same as Model B but a pipeline that is fully exempt from the Part 23 regime would be excluded from paying any standing charges.

The table below provides an overview of the composition of the annual charge under each model.

Table 6: Composition of annual charges

Annual Charge Composition			
	Model A	Model B	Model C
Standing charge	Yes	Yes	Yes – unless the pipeline is fully exempt
Application fee	Not applicable	Yes – in relation to exemptions	Yes – in relation to exemptions
Specific charge (as required)	Yes	Yes	Yes

5.2 Potential annual charges

EPWA has modelled the allocation of the ERA's costs under the Part 23 regime based on pipeline length and using a range of assumptions.¹⁴

EPWA's analysis shows the annual charge payable by a non-scheme gas pipeline operator under each of the three models outlined above. The methodology used is described below.

- For Model A, the ERA's annual cost estimation of \$550,000 was divided by the total kilometres (km) of pipelines that qualify as non-scheme to give a \$/km figure of \$96.65.
 - This \$/km figure was then multiplied by the length of each pipeline to give an annual standing charge for the pipeline.

¹⁴ This analysis assumes that the ERA's total costs per annum (excluding specific charges) is approximately \$550,000 (based on detailed forecast figures provided by the ERA); that there are 86 non-scheme gas pipelines; the total length of all non-scheme gas pipelines is approximately 5,690km; and that there are 45 exemptions, of which 19 are fully exempt. The data is also based on pipeline length collected in March 2020, assuming that the longest pipeline is the Goldfields Gas Pipeline, with a length of 1,378km (as reported by APA in its GGP 2019 Part 23 Financial Reporting). For the purposes of calculations, an application fee of \$4,000 has been annualised and spread across a five-year period, which is the period applying to exemptions, so that it amounts to \$800 per year. The analysis assumes that all 45 exempt pipelines would incur an application fee.

- For Model B, the total amount of application fees for 45 exemptions was calculated and then annualised by dividing the total amount of application fees by five, as exemptions are valid for a five year term. (Note that, in practice, the application fee would be a fixed cost charged once every five years and has only been annualised in this paper for modelling purposes). The total annualised amount derived from application fees was then deducted from the ERA’s annual cost estimation of \$550,000 to give a revised \$/km figure of \$90.33.
 - This \$/km figure was then multiplied by the length of each pipeline to determine the standing charge, with the further addition of the application fee charged to partially and fully exempt pipelines.
- Model C followed the same methodology as Model B but excluded all fully exempt pipelines in the total length in km by which the ERA’s estimated annual cost was originally divided. However, application fees were applied to fully exempt pipelines. Once these application fees were taken into account, the \$/km standing charge figure for this Option is \$104.45.

Specific charges have not been modelled and have not been included in the annual charges analysis, as, by their individual nature, they are difficult to estimate as they only arise if there is a specific activity to be undertaken that attracts a specific charge for a particular pipeline.

To summarise the results across all 86 non-scheme gas pipelines, EPWA has grouped them into the following pipeline length cohorts:¹⁵

- Longer Pipelines: longer than 150km in length, of which there are 11;
- Mid-Length Pipelines: from 50km to 150km in length, of which there are 10; and
- Shorter Pipelines: less than 50km in length, of which there are 65.

The results are shown in the tables below. All figures in this section are indicative and intended for illustrative purposes only.

The “maximum annual charge” in each of the cohorts represents the annual charge for the longest pipeline in that cohort and the “minimum annual charge” represents the annual charge for the shortest pipeline in that cohort. (Note that for Model C, where the minimum annual charge appears as \$800, this is the nominal annualised application fee for fully exempt pipelines).

Table 7: Longer Pipelines (longer than 150km) – annual charges

	Model A	Model B	Model C
Maximum annual charge	\$133,189	\$124,471	\$143,933
Minimum annual charge	\$15,755	\$15,523	\$800
Average annual charge	\$36,664	\$34,700	\$36,821
Cohort contribution to total costs	\$403,300	\$381,702	\$405,036
Cohort share of total costs	73.3%	69.4%	73.6%

¹⁵ EPWA has allocated pipelines into groupings based on pipeline lengths in order to provide a more accurate indicative range of the annual charges that may be payable, based on the assumptions in footnote 13.

Table 8: Mid-Length Pipelines (from 50km to 150km) – annual charges

	Model A	Model B	Model C
Maximum annual charge	\$10,513	\$9,825	\$11,361
Minimum annual charge	\$5,519	\$5,958	\$800
Average annual charge	\$7,853	\$7,739	\$5,747
Cohort contribution to total costs	\$78,525	\$77,386	\$57,468
Cohort share of total costs	14.3%	14.1%	10.4%

Table 9: Shorter Pipelines (less than 50km in length) – annual charges

	Model A	Model B	Model C
Maximum annual charge	\$4,349	\$4,065	\$5,500
Minimum annual charge	\$6	\$5	\$6
Average annual charge	\$1,049	\$1,399	\$1,346
Cohort contribution to total costs	\$68,175	\$90,913	\$87,496
Cohort share of total costs	12.4%	16.5%	15.9%

In summary, EPWA's modelling shows the following:

- There are significant differences in the annual charges payable between the longest and shortest pipeline, with the annual charge ranging from a maximum of \$143,933 to a minimum of \$5.
- Longer Pipelines represent approximately 13% of the total number of all non-scheme gas pipelines but contribute between 69% to 74% of the total annual charge for all non-scheme gas pipelines depending on the cost recovery model.
- Shorter Pipelines represent approximately 76% of the total number of all non-scheme gas pipelines but contribute approximately 12% to 17% of the total annual charge for all non-scheme gas pipelines depending on the cost recovery model.
- Under Model C, some pipelines in the Longer and Mid-Length cohorts have a significantly reduced annual charge. This is because those pipelines are fully exempt and therefore only pay an application fee (no standing charge).
- Just over half of the pipelines (55%) pay less under Model B when compared with Model A, primarily because the introduction of an application fee reduces the total standing charge cost spread across all 86 pipelines.
- Under Models B and C, where an application fee is introduced, partially exempt pipelines pay both the standing charge and the application fee. This contrasts with Model A where only a standing charge is payable and allocated based on pipeline length.
- Approximately 88% of all pipelines pay more under Model C compared to Model A. This is because fully exempt pipelines (of which there are 19) are excluded from paying standing charges, meaning the total core function costs (which are recovered through standing charges) are then spread across the remaining 67 pipelines (rather than the full 86 as is the case with Models A and B). Additionally, for the majority of Shorter Pipelines with full exemptions, the application fee itself is higher than the standing charge would be under Model A (where the charge is solely based on length).

5.3 Proposed Model

Based on a consideration of the various advantages and disadvantages set out in Section 4 and further informed by the data analysis outlined in this section, EPWA's proposed model is Model A.

In summary, this model is proposed for the following reasons:

- As the Part 23 regime is applicable to all non-scheme gas pipelines, it is reasonable that all service providers contribute to the recovery of the ERA's costs relating to the non-scheme gas pipeline regulatory framework, even if a pipeline is granted an exemption.
- Model A is less complex than Models B and C, as there would only be two charging types (standing charges and specific charges), without an added application fee or exclusion of standing charges for fully exempt pipelines to establish and administer.
- Shorter Pipelines that are up to 10 km that make applications relating to exemptions would pay considerably more under Models B and C, because the application fee that would be payable under those models would be significantly higher relative to the quantum of standing charge that would be payable under Model A.

6. Implementation

6.1 Next steps

Following the consideration of stakeholder feedback EPWA will propose a final recommended cost recovery model for approval by the Minister for Energy and Treasurer. Stakeholders will be notified of the final decision.

A cost recovery mechanism will require regulations to be made under Section 61(1) of the ERA Act, for which the Treasurer is the responsible Minister.

Subject to and following approval of the regulations by the Treasurer, they will be published in the Government Gazette and stakeholders will be notified. It is proposed that the ERA would recover its costs relating to the Part 23 regime from the date the regulations are published.

6.2 Notice of charges

Irrespective of which model is adopted, it is proposed that the existing process of issuing notice of charges for the cost recovery of costs related to fully and lightly regulated pipelines should also apply to non-scheme gas pipelines.

The ERA would issue the person liable to pay the charge (being the service provider in the case of a standing charge and the party identified in the regulations in the case of a specific charge) with a written notice setting out the charge payable. The charge would have to be paid within 30 days of the day on which the notice is issued. Late payment would attract interest on the outstanding amount payable to the ERA at the rate prescribed in the regulations.¹⁶

6.3 Charges invoiced after the commencement of the regulations

For the first invoice issued by the ERA after the commencement of the regulations, the ERA would be:

- charging entities who are service providers of non-scheme gas pipelines as at the date of the commencement of the regulations; and
- calculating standing charges for the period of time starting on the date of the commencement of the regulations and ending on the end date of the relevant quarter.

After this first invoice, standing charges would be calculated on the basis of full three-month quarters.

¹⁶ The prescribed rate would be five percentage points higher than the rate quoted on Reuters Screen BBSW as the Bank Bill reference Rate (Mid Rate) for a one month bill at or about 10.00am Sydney time on the first day after the allowed period, which is consistent with existing ERA regulations: Economic Regulation Authority (Railways Access Funding) Regulations 2019, the Economic Regulation Authority (Electricity Networks Access Funding) Regulations 2012, the Economic Regulation Authority (National Gas Access Funding) Regulations 2009 and the Economic Regulation Authority (Licensing Funding) Regulations 2014.

7. Submissions

The purpose of this paper is to identify and evaluate options to recover the ERA's costs relating to non-scheme gas pipelines. Stakeholders are invited to make written submissions on the models identified in this paper by 5.00pm (WST) on 10 November 2020 to submissions@energy.wa.gov.au.

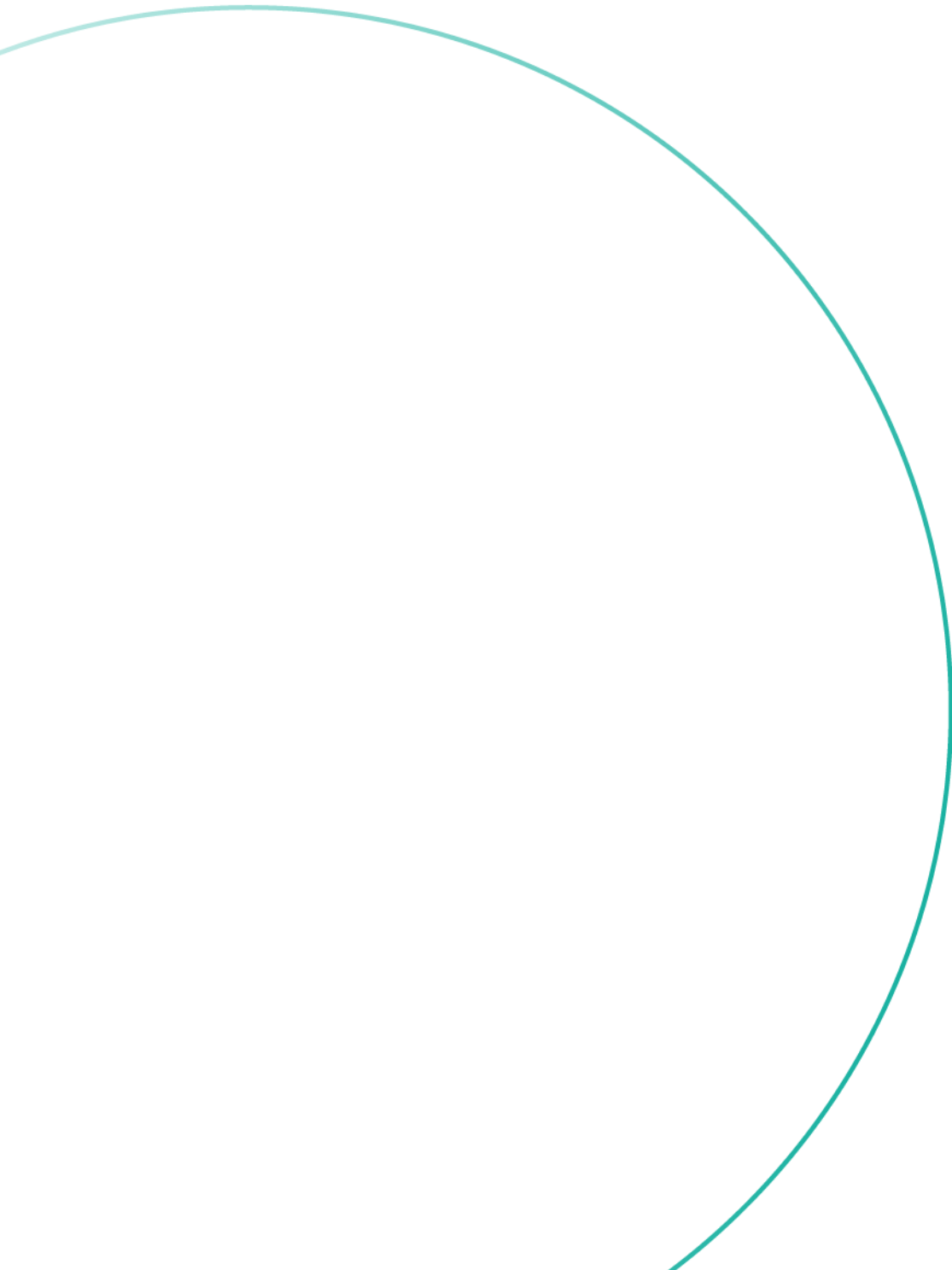
All submissions received will be published on the EPWA website, unless a specific request for confidentiality is made. If this is the case, please indicate which parts of your submission you wish to keep confidential and if you want to remain anonymous. To protect the privacy of individuals, personal contact details will not be published.

Please contact the persons named in the contact details below if you wish to discuss your feedback in person.

Amy Tait, Assistant Director, EPWA, amy.tait@energy.wa.gov.au

Yoong Low, Senior Policy Analyst, EWPA, yoong.low@energy.wa.gov.au

Appendices



Appendix A: List of non-scheme gas pipelines

7 Mile Power Station Gas Pipeline	Midwest Pipeline Project
Agnew Pipeline	Mt Keith Lateral
AGR (Australian Gold Reagents)	MT Magnet Lateral
Airlie Island Licence area	Mt Morgan Gas Pipeline (MMGP)
Albany network (Great Southern gas supply area)	Murrin Murrin Compressor Station
Ashburton West Lateral	Murrin Murrin Lateral
Beharra Springs Lateral	Neerabup Gas Lateral
Boodarie Gas Lateral	Nifty Gas Lateral
Broome Natural Gas Pipeline	Onslow Lateral
Burru Fertilisers Lateral	Parmelia Mainline
Canningvale Lateral	Parmelia Mainline (Wang)
Cape Lambert Gas Pipeline	Pilbara Energy Pipeline (PEPL)
Chandala Lateral	Pilbara Energy Pipeline (PEPL) Karratha Ext
Cockburn Cement Lateral	Pilbara Energy Project Pipeline (PEPL)
DCDP Sales Gas Pipeline	Plutonic Lateral
Devil Creek (DCDP Onshore Gas Supply Pipeline)	Red Gully Gas Pipeline
East Spar and John Brookes Production Pipelines	Robe River Pipeline
Eastern Goldfields Pipeline	Rockingham Lateral (Parmelia)
Esperance Gas Distribution System	Rocla Quarry Lateral
Fortescue River Crossing Pipeline	Roller A Pipeline Onshore
Fortescue River Gas Pipeline	Sino Iron Gas Pipeline
Goldfields Gas Transmission Pipeline	Solomon CNG Mother Station
Gorgon DomGas Onshore Pipeline	Telfer Deviation Pipeline
Gorgon to Barrow Island (Onshore) Pipeline	Telfer Pipeline
Griffin Onshore Gas Pipeline	Thunderbox Goldmine (LionOre) Gas Lat
Gwalia Gas Lateral	TSEP NWS (onshore)
Hamersley Iron Paraburdoo Lateral	Tubridgi Lateral (previously known as Tubridgi 1)
HiSmelt Lateral	Varanus Is to DBNGP Onshore section
Horizon Power Station Karratha Pipeline	Varanus Island to DBNGP Onshore section
Jansz-Lo to Barrow Island (Onshore) Pipeline	West Angelas Petroleum (Gas) Pipeline and Stations
Jundee Lateral	Westlime Lateral
Kalgoorlie Lateral	Wheatstone Ashburton West Pipeline
Kalgoorlie network (Goldfields gas supply area)	Wheatstone Ashburton West Pipeline Deviated Section
Kambalda to Esperance Gas Pipeline	Wheatstone Pipeline (Onshore)
Kambalda to Esperance Gas Pipeline Re-Alignment	Wiluna Lateral
KSS Lateral	Wodgina 2 Gas Pipeline
Kwinana Lateral (Parmelia)	Wodgina Lateral
Leinster Lateral	Wodgina Lateral (Sons of Gwalia)
Leonora Lateral	Woodada Lateral
Macedon Gas Plant	Xyris Pipeline
Macedon Sales Gas Pipeline	Yamarna Gas Pipeline
Macedon Wet Gas Pipeline	
Magellan Lateral	
Maitland Natural Gas Lateral	
Margaret River LPG Reticulation	

Appendix B: List of ERA Functions

Function	National Gas Access (Western Australian) Law (WA NGL) and National Gas Rules (BGR)	Standing charges and specific charges
Overall		
Administering, monitoring and enforcing compliance with the Part 23 regime covering non-scheme gas pipelines	Part 6A WA NGL Part 23 NGR	Standing charge Specific charge (as detailed below)
Exemptions		
Dealing with an application for an exemption or an application for a variation to any condition of any exemption	Part 23, Division 6 NGR	Specific charge, with the service provider being liable to pay the specific charge Standing charge
Dealing with an application for a revocation of an exemption	Part 23, Division 6 NGR	Specific charge, with the service provider being liable to pay the specific charge unless in the ERA's opinion, the application is frivolous or vexatious, in which case the applicant pays. Standing charge
Dealing with a variation or revocation of an exemption initiated by the ERA	r 590 NGR	Specific charge, with the service provider being liable to pay the specific charge Standing charge
Setting up a process for renewal once an exemption has expired	Part 23, Division 6 NGR	Standing charge
Publishing and maintaining a register of exemptions and exemption revocations	r 585 (7) NGR	Standing charge
Information disclosure		
Monitoring compliance of server providers' obligations to prepare, publish and maintain service and access information; standing terms, financial information and weighted average price information	Part 23, Division 2 NGR	Standing charge
Publishing and maintaining a financial reporting guideline	r 575 NGR	Standing charge
Access requests and negotiations		

Function	National Gas Access (Western Australian) Law (WA NGL) and National Gas Rules (BGR)	Standing charges and specific charges
Monitoring compliance of service providers' obligations to develop, maintain and publish a user access guide	r 558 NGR	Standing charge
Arbitration		
Establishing and maintaining a pool of arbitrators and publication of arbitrator details on the ERA's website	r 583 NGR	Standing charge
Publishing and maintaining a non-scheme gas pipeline arbitration guide	r 584 NGR	Standing charge
Reviewing, managing and disseminating access dispute notices	r 564 NGR	Specific charge, with the parties to the dispute being liable to pay the specific charge in equal shares Standing charge
Referring disputes arbitration	s 216J WA NGL r 565 NGR	Specific charge, with the parties to the dispute being liable to pay the specific charge in equal shares Standing charge
Appointing an arbitrator if the parties to the access dispute do not agree to the appointment of an arbitrator	s 216K WA NGL r 565 NGR	Specific charge, with the parties to the dispute being liable to pay the specific charge in equal shares Standing charge
Access Determinations		
Correction of errors in a final access determination	s 216T WA NGL r 579 NGR	Specific charge, with the parties to the dispute being liable to pay the specific charge in equal shares Standing charge
Information on the ERA's website about access determinations	r 581 NGR	Standing charge