



Western Australian
Gas Disputes Arbitrator

Annual Report **2008**





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Vision, Mission and Values

Vision

The Arbitrator's vision is to achieve vigorously competitive energy markets in Western Australia with minimal regulatory oversight.

Mission

The mission of the Arbitrator is to promote competition in energy markets by seeking the effective and efficient resolution of disputes and facilitating reviews of regulatory decisions relating to energy infrastructure in Western Australia at the lowest practical regulatory cost.

Values

The Arbitrator's principal objectives are to:

- promote a competitive market for energy in which customers may choose suppliers, including producers, retailers and traders;
- prevent abuse of monopoly power;
- provide for resolution of disputes;
- provide rights of access to regulated energy infrastructure on conditions that are fair and reasonable for the owners and operators of those assets and persons wishing to use the services provided by the assets; and
- facilitate the development and operation of a market for energy in Western Australia.



Contents

Letter of Transmission to the Minister for Energy	3	Other Disclosures	51
From the Arbitrator	4	Boards and Committees	51
Overview of the Arbitrator	5	Complaints Handling	51
Executive Summary	5	Publications	51
Operational Structure	6	Glossary of Terms	52
The Arbitrator's Performance	11		
Key Outcomes of 2007/08	11		
Regulated Infrastructure	14		
Survey of the Energy (Gas) Review Board Members	15		
Performance	16		
Significant Issues and Trends	18		
Energy Market Reform	18		
Disclosures and Legal Compliance	20		
Auditor General's Independent Audit Opinion	20		
Financial Statements	22		
Key Performance Indicators	41		
Ministerial Directives	47		
Other Financial Disclosures	47		
Governance Disclosures	49		
Other Legal Requirements	49		

Letter of Transmission to the Minister for Energy

**Hon Peter Collier BA DipEd MLC
Minister for Energy**

In accordance with section 61 of the *Financial Management Act 2006*, I hereby submit the Western Australian Gas Disputes Arbitrator Annual Report for the year ended 30 June 2008 for your information and presentation to Parliament.

The Annual Report has been prepared in accordance with the provisions of the *Financial Management Act 2006*, the *Public Sector Management Act 1994* and the Treasurer's Instructions.



Laurie James LLB Hons.
GAS DISPUTES ARBITRATOR

25 September 2008



From the Arbitrator



An important development during the year was the finalisation of the two outstanding reviews by the Gas Review Board. These reviews were initiated by the Electricity Generation Corporation and related to a review of the regulator's decision to approve an access arrangement for the Dampier to Bunbury Natural Gas Pipeline. While substantive hearings were scheduled during the year, agreement

was reached between the parties and the applications for review were withdrawn. Details of these reviews are posted on the Economic Regulation Authority web site at www.era.wa.gov.au.

The Board has responsibility for reviewing specific decisions by the Minister for Energy, the Independent Market Operator (in the case of the electricity market) and the Economic Regulation Authority (in respect of the regulation of the electricity and gas industries). In relation to such reviews, I am responsible for ensuring that appropriate services are available to the Board.

In my principal role as Arbitrator, I may be called upon to adjudicate the terms, conditions and prices that should apply where there is a dispute between parties seeking access to electricity or gas infrastructure and the owners of such infrastructure.

It is pleasing to report that there have not been any new applications for review of decisions by the Energy (Gas) Review Board and neither have any disputes been raised with me in my role as Arbitrator. This is, of course, a desired outcome and is a possible reflection of the regulatory regimes in electricity and gas having become more settled.

As predicted in my last annual report, changes are being made to legislation impacting mainly on the functions of the Energy (Gas) Review Board. At the national level, a new regime (the National Gas Law and Rules) has been introduced for the regulation of access to gas pipelines. While this new regime has been adopted in other Australian jurisdictions, the legislation to introduce the new regime in Western Australia is currently before Parliament.

In coming to the end of a series of reviews undertaken by the Gas Review Board, I would like to take this opportunity to thank the various agencies and staff that have assisted me in carrying out my functions to provide support to the Board. In particular, I would like to thank the Department of Treasury and Finance, the Western Australian Office of Energy and the Economic Regulation Authority. I would also like to thank the Western Australian Industrial Relations Commission for making available court room facilities to facilitate hearings by the Board and express my appreciation to Mr James Saunders who was the Registrar for the reviews that were before the Gas Review Board.

Laurie James LLB Hons.
GAS DISPUTES ARBITRATOR

Overview of the Arbitrator

Executive Summary

This report describes the functions and operations of the Western Australian Gas Disputes Arbitrator (**Arbitrator**), including the activities of the Energy (Gas) Review Board (**Board**) for the year ended 30 June 2008.

The position of the Arbitrator was established to resolve disputes between providers of gas pipeline services and other parties seeking access to gas pipelines covered by the *National Third Party Access Code for Natural Gas Pipeline Systems*. The Arbitrator also has functions under the *Electricity Industry Act 2004*.

Mr Laurie James was appointed as the Arbitrator in 1999 and was reappointed in April 2003 for five years and again in April 2008 for a further three years.

The Arbitrator has responsibility for the financial management of, and provision of administrative support to the Board. As the Board does not hear appeals against the Arbitrator, its administrative accountability to the Arbitrator does not constrain or impair its independence.

The Board is an appeals body that is formed from time-to-time to make determinations and review decisions under either the *Gas Pipelines Access (Western Australia) Act 1998* or the *Electricity Industry Act 2004*.

Although no new applications for review were filed in 2007/08, two review boards were operational during the reporting year to hear applications from the Electricity Generation Corporation for reviews of the regulator's decision to approve an access arrangement for the Dampier to Bunbury Natural Gas Pipeline. However, both reviews were withdrawn in early October 2007 after the parties reached agreement. Further information on these applications for review can be found in the [Arbitrator's Performance](#) section of this annual report.



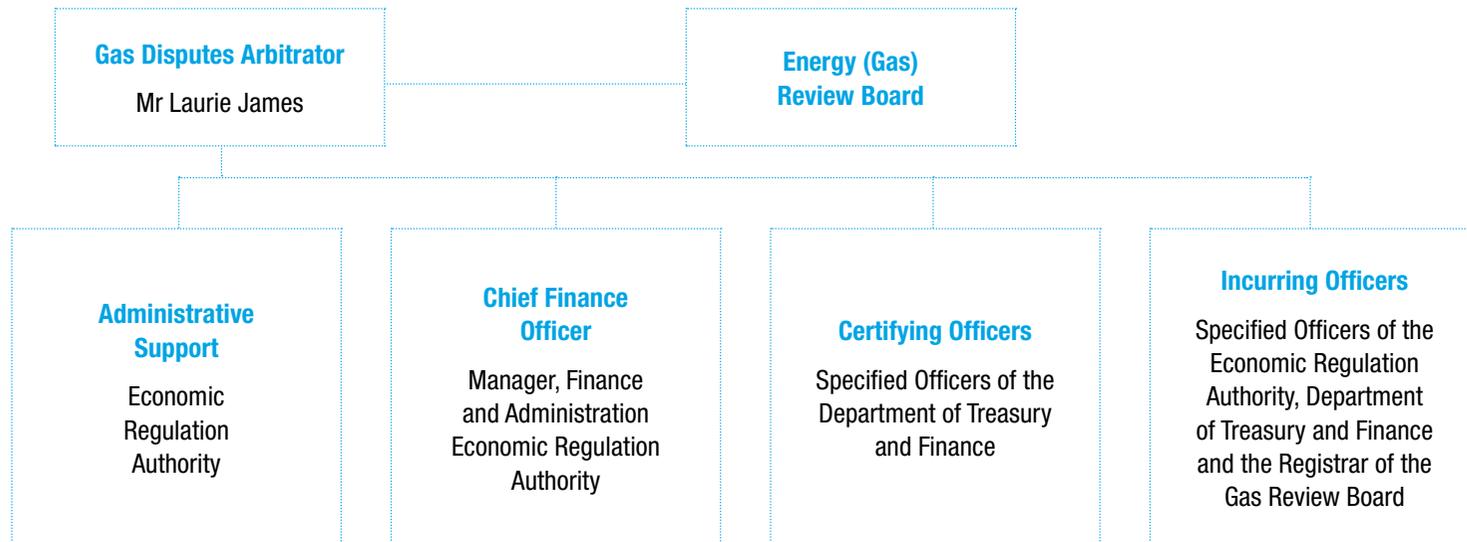
Overview of the Arbitrator

Operational Structure

The office of the Arbitrator was established in February 1999. The Arbitrator has no supporting organisation, but may, by arrangement, make use of facilities and staff of other Government departments and agencies other than employees of the Electricity Generation Corporation, the Electricity Networks Corporation, the Electricity Retail Corporation or the Regional Power Corporation. The Arbitrator has an arrangement with the Economic Regulation Authority for corporate services.

Organisational Structure

The following chart represents the organisational structure of the Arbitrator as at 30 June 2008:



The Economic Regulation Authority continues to provide support to the Arbitrator where there is no conflict of interest. Where conflicts have arisen, support has either been contracted to independent service providers or has been provided by the Department of Treasury and Finance.

To avoid conflicts of interest, Mr James Saunders of Kott Gunning Lawyers was appointed as Registrar of the Gas Review Board in respect of Application Numbers 3 of 2004 and 1 of 2005.

Overview of the Arbitrator

Operational Structure

Role of the Arbitrator

The office of the Arbitrator is established under the *Gas Pipelines Access (Western Australia) Act 1998* to resolve disputes that may arise between providers of gas pipeline services and prospective users of gas pipelines. The Act is part of a national scheme that provides for the regulation of 'covered' gas pipeline systems, including arbitration of disputes in relation to the terms and conditions for gas transportation services.

The Arbitrator has functions under the:

- *Gas Pipelines Access (Western Australia) Act 1998*;
- *Electricity Industry Act 2004*; and
- *Wholesale Electricity Market Rules*.

Further information about the Arbitrator's functions under these Acts and Rules is provided in the [Legislation Affecting Activities](#) section of this annual report.

The Arbitrator also provides administrative support to the Energy (Gas) Review Board, which functions as an appeals body under the *National Third Party Access Code for Natural Gas Pipeline Systems* and the *Electricity Industry Act 2004*. The appeals body under the *National Third Party Access Code for Natural Gas Pipeline Systems* is known as the Gas Review Board. The *Electricity Industry Act 2004*, in making provision for the review of decisions, makes reference to a Board being that referred to in section 49 of the *Gas Pipelines Access (Western Australia) Act 1998*. In addition, the *Wholesale Electricity Market Rules* make reference to the Energy (Gas) Review Board, which is the Board within the meaning of the *Electricity Industry Act 2004*.

The Arbitrator provides support to the Energy (Gas) Review Board when constituted.

Information relating to the services of the Arbitrator is maintained on the Economic Regulation Authority web site at www.era.wa.gov.au.

Clients

The Arbitrator's clients are:

- gas transmission and distribution pipeline owners and users;
- electricity transmission and distribution network owners and users; and
- the Energy (Gas) Review Board.

Support

The Arbitrator does not employ staff but may, by agreement, make use of government staff. At present these administrative services are provided by the Economic Regulation Authority.

At the beginning of the reporting period the Department of Treasury and Finance Shared Services Centre provided the services of a Chief Finance Officer (**CFO**) to the Arbitrator. In June 2007, advice was received from the Department of Treasury and Finance that continuing to use the services of the Shared Services Centre to discharge the responsibilities of the CFO was not considered appropriate, in view of the potential conflict of interest that may arise between the role of Shared Services and the responsibilities of the CFO.

In March 2008, the Arbitrator sought an exemption from Treasurer's Instruction 824, which requires that the substantive occupant of the position of CFO be 'suitably qualified'. This exemption was approved on 4 April 2008 for the current incumbent of the Economic Regulation Authority's position of Manager, Finance and Administration, Ms Pam Herbener. Ms Herbener has occupied this position since March 2007 and is supported in the role of CFO by Mr Bruce Donald FCPA from 2020 Global.



Overview of the Arbitrator

Operational Structure

Role of the Arbitrator (continued)

Premises

For the purpose of current hearings, the Energy (Gas) Review Board has been sharing the hearing rooms and facilities at the Western Australian Industrial Relations Commission, which are situated at 111 St Georges Terrace, Perth, Western Australia.

Energy (Gas) Review Board

Section 50(1) of the *Gas Pipelines Access (Western Australia) Act 1998* established the Gas Review Board as an appeals body. The Board comprises a presiding member, chosen by the Attorney General from a panel of legal practitioners, and two experts, chosen by the presiding member from a panel of experts.

The Board may be separately constituted to hear and determine different appeals. Under section 56 of the Act, the Arbitrator is to provide the Board with the staff and services it needs.

As the Board now assumes a number of functions relating to the electricity market, under the *Electricity Industry Act 2004* and the *Wholesale Electricity Market Rules*, it is now referred to as the Energy (Gas) Review Board.

The process for the Board hearing disputes under the *Electricity Industry Act 2004* largely reflects the procedures set out in the *Gas Pipelines Access (Western Australia) Act 1998*.

Since the start of the wholesale electricity market in September 2006, the Board may also be called on to perform some determination and appeals functions relating to the conduct of market participants.

Responsible Minister

The Minister responsible for administering the *Gas Pipelines Access (Western Australia) Act 1998* and the *Electricity Industry Act 2004* for the reporting year was the Hon Francis M Logan BA (Hons) MLA, Minister for Energy; Resources; Industry and Enterprise in Western Australia.

Legislation Affecting Activities

The Office of the Arbitrator is governed by several different sources of legislation as discussed below.

Enabling Legislation

The role of the Arbitrator was established under section 62 of the *Gas Pipelines Access (Western Australia) Act 1998*. The Arbitrator is also required to comply with the relevant provisions of the *Electricity Industry Act 2004*.

Legislation Administered

Gas Industry

The national regulatory framework, under which the gas activities of the Arbitrator fall, is established by uniform legislation enacted by Australian governments and is referred to as the Gas Pipelines Access Law (included as schedules 1 and 2 of the *Gas Pipelines Access (Western Australia) Act 1998*).

Overview of the Arbitrator

Operational Structure

Legislation Affecting Activities (continued)

Schedule 2 of the *Gas Pipelines Access (Western Australia) Act 1998* is known as *The National Third Party Access Code for Natural Gas Pipeline Systems (Gas Code)* which establishes the regulatory regime. Section 6 of the Gas Code outlines many of the functions of the Arbitrator, primarily, the arbitration of disputes regarding access to services provided by covered pipelines. The Arbitrator is also required to assist the Gas Review Board (**Board**) by providing the Board with facilities, services and other support that the Board may reasonably require.

The Board may review a decision of:

- the Economic Regulation Authority to not approve an access arrangement submitted under the Gas Code by a service provider and to draft its own access arrangement; and
- the Minister for Energy on coverage for a gas pipeline under the Gas Code.

Electricity Industry

The *Electricity Industry Act 2004* and the *Electricity Networks Access Code 2004 (Electricity Code)* establish the Arbitrator's functions with regards to the electricity industry. Under the Electricity Code, the Arbitrator is responsible for arbitrating access disputes that are referred by the Economic Regulation Authority. Under the *Electricity Industry Act 2004*, the Arbitrator is required to provide services and support to the Board to hear and determine matters related to the electricity industry.

The Board may review a decision of the Economic Regulation Authority:

- to refuse to grant or renew a licence;
- to refuse to approve the transfer of a licence;
- to refuse to amend a licence where the licensee has requested the amendment;
- to amend a licence on the Authority's own initiative;
- as to the length of the period for which a licence is granted or renewed;
- as to any term or condition of a licence;
- to refuse to approve:
 - a standard form contract; or
 - an amendment to, or replacement for, a standard form contract;
- to direct an amendment be made to a standard form contract;
- to add to the obligations of a network service provider under the *Electricity Networks Access Code 2004* in respect of the segregation of the functions and business of providing services from the network service provider's other functions and business, or to waive any of those obligations;
- to approve or not to approve an access arrangement for a covered network; or
- to release confidential data given to the Authority as part of its assessment of a proposed access arrangement.

Overview of the Arbitrator

Operational Structure

Legislation Affecting Activities (continued)

The Board may also review a decision of the Minister for Energy on whether an electricity network is to be 'covered' under the *Electricity Networks Access Code 2004*.

The process for the Energy (Gas) Review Board hearing applications for review of decisions by the Economic Regulation Authority and the Minister under the *Electricity Industry Act 2004* reflects the process set out in the *Gas Pipelines Access (Western Australia) Act 1998*.

Wholesale Electricity Market

Under the *Electricity Industry (Wholesale Electricity Market) Regulations 2004*, the Board may review a decision of the Independent Market Operator on matters under the *Wholesale Electricity Market Rules* including:

- procedural and reviewable decisions as set out in Schedule 2 of the *Electricity Industry (Wholesale Electricity Market) Regulations 2004*; and
- a decision to impose a civil penalty.

The Board may also make orders against participants in the Wholesale Electricity Market including:

- an order to enforce the payment of a penalty imposed by the Independent Market Operator;
- an order that a participant in the Wholesale Electricity Market has contravened certain provisions of the *Wholesale Electricity Market Rules* and, depending on the provision and circumstance:
 - an order that the person pay a civil penalty provision;
 - an order that the person cease the act that caused the contravention;

- an order that the person remedy the contravention;
- an order that the person implement a compliance programme;
- an order suspending a person registered under the *Wholesale Electricity Market Rules*;
- an order that certain facilities of a registered person be disconnected from the network;
- an order that the registration of a person registered under the *Wholesale Electricity Market Rules* be cancelled.

Independence of Direction

Section 75 of the *Gas Pipelines Access (Western Australia) Act 1998* specifies that the Arbitrator is independent of direction or control by the Crown or any Minister or officer of the Crown in the performance of his functions. The Minister for Energy can only direct the Arbitrator in respect of general policies to be followed by the Arbitrator with regards to administration and financial administration.

The Arbitrator's Performance

Key Outcomes of 2007/08

New Applications for Review

There were no new applications for review lodged with the Energy (Gas) Review Board during the year ended 30 June 2008.

Ongoing Applications for Review

The following table lists all of the applications for review by the Energy (Gas) Review Board since 1 January 2004. As shown in the table, currently all reviews were withdrawn or discontinued following agreement by the parties to the review.

Application Number	Date of application	Applicant	Respondent	Status	Nature of review
1 of 2004	14 January 2004	Epic Energy (WA) Nominees Pty Ltd (ACN 081 609 289) (Receivers and Managers appointed) (Administrators appointed) and Epic Energy (WA) Transmission Pty Ltd (ACN 081 609 190) (Receivers and Managers appointed) (Administrators appointed)	Western Australian Independent Gas Pipeline Access Regulator	Discontinued 8 November 2004	Re Application for review of the decision by the Western Australian Independent Gas Pipeline Access Regulator published on 30 December 2003 to approve its own Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline owned and operated by the Applicants for review.
2 of 2004	14 January 2004	North West Shelf Gas Pty Ltd (ACN 063 763 342)	Western Australian Independent Gas Pipeline Access Regulator	Discontinued 29 April 2005	Application for Merits Review of the Independent Gas Pipeline Access Regulator's Further Final Decision of 30 December 2003 to approve his own Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline.

The Arbitrator's Performance

Key Outcomes of 2007/08

Ongoing Applications for Review (continued)

Applications for review by the Energy (Gas) Review Board since 1 January 2004 (continued)

Application Number	Date of application	Applicant	Respondent	Status	Nature of review
3 of 2004	14 January 2004	Western Power Corporation (WA 0124360E). Note: Orders and Directions made on 24 April 2006 changed the name of the Application to Electricity Generation Corporation	Western Australian Independent Gas Pipeline Access Regulator	Withdrawn 6 February 2008	Re Application for review of the decision by the Western Australian Independent Gas Pipeline Access Regulator dated 30 December 2003 to approve the regulator's own revised Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline.
4 of 2004	28 January 2004	North West Shelf Gas Pty Ltd (ACN 063 763 342	Western Australian Independent Gas Pipeline Access Regulator	Discontinued 29 April 2005	Application for Merits Review of the Independent Gas Pipeline Access Regulator's Decision of 30 December 2003 to approve his own Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline.
5 of 2004	21 July 2004	Southern Cross Pipelines Australia Pty Ltd (ACN 084 521 997) and Southern Cross Pipelines (NPL) Australia Pty Ltd (ACN 085 991 948) and Alinta Dewap Pty Ltd (ACN 058 070 689)	Honourable Eric Stephen Ripper MLA, Minister for Energy	Discontinued by consent of all parties 8 July 2005	In the matter of the decision of the Honourable Eric Stephen Ripper MLA, Minister for Energy, made on 2 July 2004 that Coverage of the Goldfields Gas Pipeline System under the Gas Pipelines Access Law is not revoked and in the matter of an application under section 28(1) of Schedule 1 of the Gas Pipelines Access (Western Australia) Act 1998 for review of that decision.

The Arbitrator's Performance

Key Outcomes of 2007/08

Ongoing Applications for Review (continued)

Applications for review by the Energy (Gas) Review Board since 1 January 2004 (continued)

Application Number	Date of application	Applicant	Respondent	Status	Nature of review
1 of 2005	28 December 2005	Western Power Corporation (WA 0124360E). Note: Orders and Directions made on 24 April 2006 changed the name of the Application to Electricity Generation Corporation	Western Australian Economic Regulation Authority	Withdrawn 6 February 2008	Re Application for review of the Decision by the Western Australian Economic Regulation Authority dated 15 December 2005 to approve the Economic Regulation Authority's own Revised Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline.
2 of 2005	29 December 2005	DBNGP (WA) Transmission Pty Ltd (ACN 081 609 109) and DBNGP (WA) Nominees Pty Ltd (ACN 081 609 289)	Western Australian Economic Regulation Authority	Discontinued by consent of all parties 1 March 2007	An Application for a review of the Decision by the Western Australian Economic Regulation Authority made on 15 December 2005 to approve its own Revised Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline.

During the 2007/08 financial year, Application Numbers 3 of 2004 and 1 of 2005 were current.

A substantive hearing in relation to Application Number 1 of 2005 by Alinta Asset Management Pty Ltd took place in the Gas Review Board on 27 July 2007.

Substantive hearings in relation to both applications were listed for hearing on 30 and 31 October 2007, and 3 and 4 December 2007. However the Gas Review Board was advised in early October 2007 that the parties had reached agreement and that both applications would be withdrawn.

Final orders were made by the Gas Review Board in February 2008, allowing the applications to be withdrawn and making orders that there be no requirement for any party to contribute to the Board's own costs.

Therefore, as at 30 June 2008, there were no applications for review before the Energy (Gas) Review Board. The term of the Board for each of the reviews have now expired. Consequently, no constituted Energy (Gas) Review Board existed at the end of the reporting year.



The Arbitrator's Performance

Key Outcomes of 2007/08

Methods Used in Achieving Outcomes

The legislation that specifies the functions of the Arbitrator also governs the methods to be used, which are to be carried out in accordance with industry best practice. Likewise, the review function of the Board is to be carried out in accordance with normal court procedures.



Regulated Infrastructure

The infrastructure to which the Arbitrator's functions relate are wholly located in Western Australia. This includes Western Power's electricity networks in the South West Interconnected System and the regulated natural gas pipelines in the State.

Natural gas pipelines are regulated (covered) under the *National Third Party Access Code for Natural Gas Pipeline Systems* and electricity networks are regulated under the *Electricity Networks Access Code 2004*.

At 30 June 2008, there were four regulated pipeline systems in Western Australia:

- Dampier to Bunbury Natural Gas Pipeline;
- Goldfields Gas Pipeline;
- Kalgoorlie to Kambalda Pipeline; and
- Mid-West and South-West Gas Distribution Systems.

The Arbitrator's Performance

Survey of the Energy (Gas) Review Board Members

To assess satisfaction with the administrative services provided by the Arbitrator to the Energy (Gas) Review Board, members of the two Boards active during the year were invited to respond to a questionnaire.

As the only substantive contact between the Board and the office of the Arbitrator was through the presiding member, only the presiding member responded to the survey. The survey results are shown below.

Survey Results

Satisfaction with venues and facilities

Very satisfied	0%
Satisfied	100%
Neither satisfied or dissatisfied	0%
Dissatisfied	0%
Very dissatisfied	0%

Satisfaction with timeliness of services provided

Very satisfied	100%
Satisfied	0%
Neither satisfied or dissatisfied	0%
Dissatisfied	0%
Very dissatisfied	0%

Administrative Services Overall

Very satisfied	100%
Satisfied	0%
Neither satisfied or dissatisfied	0%
Dissatisfied	0%
Very dissatisfied	0%

Comparison to 2006/07 Survey

The results of the 2007/08 survey indicate no major changes in the presiding member's satisfaction with the performance of the Arbitrator since the previous year's survey, with satisfaction remaining high. Overall, the presiding member was satisfied with the administrative services provided to the Energy (Gas) Review Board by the Arbitrator.

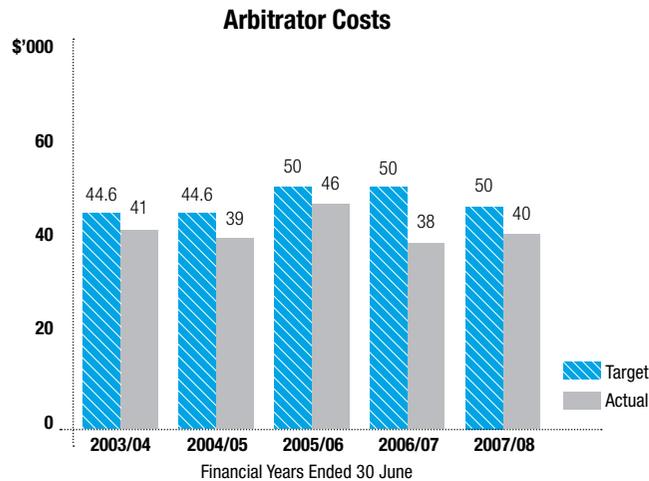
The Arbitrator's Performance

Performance

Arbitrator's Costs

The cost of the Arbitrator's oversighting role for regulated infrastructure in Western Australia increased from \$37,687 in 2006/07 to \$40,089 in 2007/08. The following chart also indicates that costs continue to be maintained well below expected budget forecasts.

The Arbitrator is able to recover 50 per cent of this cost from operators of regulated gas pipelines in the State.

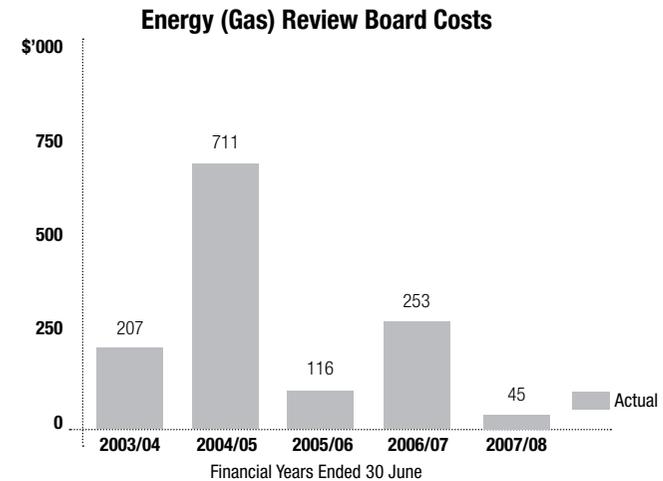


Energy (Gas) Review Board Costs

To date, the Board has only been constituted under the *Gas Pipelines Access (Western Australia) Act 1998* as the Gas Review Board. In this capacity, the Board dealt with two appeals during the financial year, the total costs of which amounted to \$45,277.

As the Board has not been constituted under either the *Electricity Industry Act 2004* or the *Wholesale Electricity Market Rules*, no costs have been incurred in the name of the Energy (Gas) Review Board during the reporting year.

The costs of the Gas Review Board in the reporting period were significantly less than those in 2006/07. These lower costs reflect the reduced workload of the Board in this period. Owing to the many uncertainties associated with the hearing of reviews, no cost targets are set.



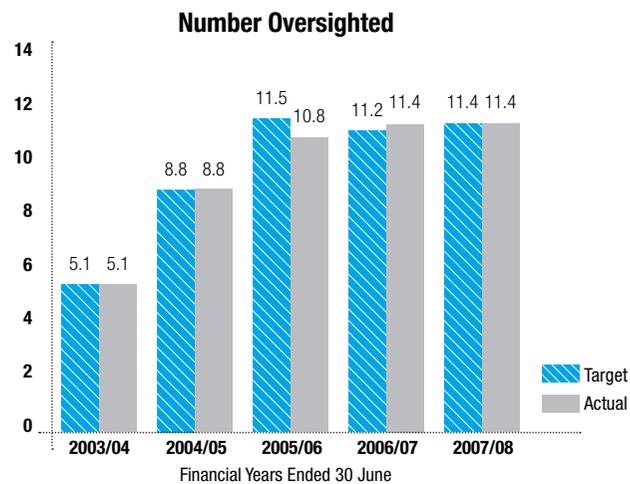
The Arbitrator's Performance

Performance

Number of Units of Regulated Infrastructure Oversighted

During 2007/08, the Arbitrator oversighted 11.4 equivalent standard units (\$500 million) of regulated infrastructure. The 11.4 target for 2007/08 and the actual figure were the same as there were no revisions to asset values of infrastructure covered by relevant access arrangements during the financial year.

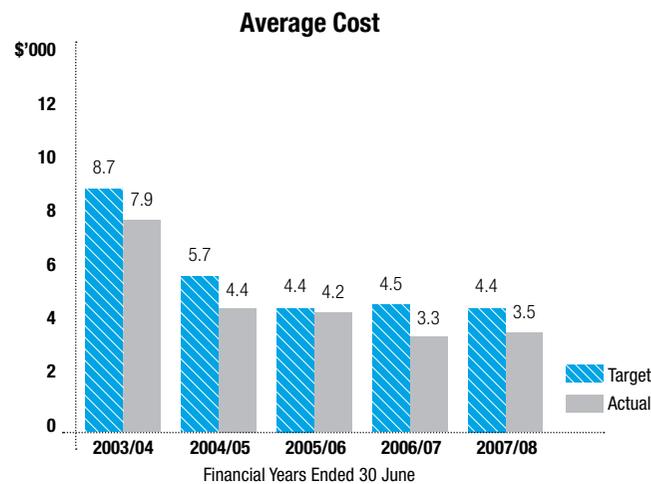
It should be noted, however, that the 11.4 units does not include the value of generation facilities covered by the wholesale electricity market oversighted by the Arbitrator. No value has been attributed to generation facilities in calculating the number of units of regulated infrastructure as no such value is available and it is not cost effective to calculate such a value.



Average Cost of Oversighting

The average cost of oversighting an equivalent standard unit of regulated infrastructure increased from \$3,292 in 2006/07 to \$3,502 in 2007/08.

This is due to the total number of equivalent standard units of regulated infrastructure remaining constant, while costs increased for this oversighting role from \$37,687 in 2006/07 to \$40,089 in 2007/08.



Significant Issues and Trends

Energy Market Reform

As part of the Ministerial Council on Energy's (**MCE**) work on the reform of the energy market, the legal framework for economic regulation in both electricity and gas is being modified.

National gas and electricity regulatory arrangements are being developed and established under the Australian Energy Market Agreement, via the MCE.

At this stage, Western Australia has only undertaken to join the national regulatory arrangements regarding access to natural gas pipelines.

Due to its isolated electricity networks and its quite different electricity wholesale market design, Western Australia has not signed on to the national electricity arrangements. However, it has committed to 'harmonise' its regime with the national arrangements, where practical and beneficial.

In relation to gas matters, the common, national collective legislative framework is referred to as the National Gas Law. South Australia developed the lead legislation; and the Commonwealth, other States and the Territories have passed their individual application acts to apply this legislation, with minor amendments to cater for transitional and particular jurisdictions characteristics.

In Western Australia, the *National Gas Access (Western Australia) Bill 2006 (Bill)* has been developed to apply the National Gas Law in this State. The Bill will replace the bulk of the *Gas Pipelines Access (Western Australia) Act 1998* and those parts not relating to gas access will continue as the renamed *Energy Arbitration and Review Act 1998*.

The National Gas Law commenced in other States and Territories on 1 July 2008. Due to the need to cater for particular circumstances in Western Australia, the Bill was not able to be submitted to the Western Australian Parliament until early June 2008 and has yet to be passed. Until Parliament passes the Bill, the existing legislation will continue to apply in Western Australia.

In 2006, the MCE endorsed a national gas framework which allows for the transfer of gas access appeal functions from the Energy (Gas) Review Board (**Board**) to the Australian Competition Tribunal.

In May 2006, the Western Australian Minister for Energy approved the transfer of gas access appeal functions, with the transfer to be undertaken as part of the introduction of the National Gas Law.

The Arbitrator's role remains unchanged in relation to both gas and electricity, with the Arbitrator's functions for gas access continuing under the National Gas Law.

Under the National Gas Law, the Australian Energy Regulator will regulate gas access matters in the rest of Australia, but the Economic Regulation Authority will continue to regulate access to covered Western Australian gas pipelines.

The Economic Regulation Authority will also continue to regulate covered electricity networks in Western Australia under the *Electricity Networks Access Code 2004*.

Significant Issues and Trends

Energy Market Reform

When the gas access related matters are fully transferred, only electricity related appeals will be heard by the Board (which is renamed as the Electricity Review Board in the Bill); in the following areas:

- electricity access;
- electricity licensing; and
- determinations on breaches of *Wholesale Electricity Market Rules*.

In light of the energy market reform processes taking place, a review of the Board's functions will be undertaken in 2008/09. The review will also encompass necessary legislative amendments to reflect the changing regulatory environment. It is expected that a report will be provided to the Minister for Energy for consideration in the 2008/09 financial year.



Disclosures and Legal Compliance

Auditor General's Independent Audit Opinion



Auditor General

INDEPENDENT AUDIT OPINION

To the Parliament of Western Australia

WESTERN AUSTRALIAN GAS DISPUTES ARBITRATOR FINANCIAL STATEMENTS AND KEY PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2008

I have audited the accounts, financial statements, controls and key performance indicators of the Western Australian Gas Disputes Arbitrator.

The financial statements comprise the Balance Sheet as at 30 June 2008, and the Income Statement, Statement of Changes in Equity and Cash Flow Statement for the year then ended, a summary of significant accounting policies and other explanatory Notes.

The key performance indicators consist of key indicators of effectiveness and efficiency.

Arbitrator's Responsibility for the Financial Statements and Key Performance Indicators

The Arbitrator is responsible for keeping proper accounts, and the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the Treasurer's Instructions, and the key performance indicators. This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements and key performance indicators that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; making accounting estimates that are reasonable in the circumstances; and complying with the Financial Management Act 2006 and other relevant written law.

Summary of my Role

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the financial statements, controls and key performance indicators based on my audit. This was done by testing selected samples of the audit evidence. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion. Further information on my audit approach is provided in my audit practice statement. Refer "<http://www.audit.wa.gov.au/pubs/Audit-Practice-Statement.pdf>".

An audit does not guarantee that every amount and disclosure in the financial statements and key performance indicators is error free. The term "reasonable assurance" recognises that an audit does not examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the financial statements and key performance indicators.

Disclosures and Legal Compliance

**Western Australian Gas Disputes Arbitrator
Financial Statements and Key Performance Indicators for the year ended 30 June 2008**

Audit Opinion

In my opinion,

- (i) the financial statements are based on proper accounts and present fairly the financial position of the Western Australian Gas Disputes Arbitrator at 30 June 2008 and its financial performance and cash flows for the year ended on that date. They are in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the Treasurer's Instructions;
- (ii) the controls exercised by the Arbitrator provide reasonable assurance that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions; and
- (iii) the key performance indicators of the Arbitrator are relevant and appropriate to help users assess the Arbitrator's performance and fairly represent the indicated performance for the year ended 30 June 2008.



COLIN MURPHY
AUDITOR GENERAL
22 August 2008

Disclosures and Legal Compliance

Financial Statements

Certification of Financial Statements

The accompanying financial statements of the Western Australian Gas Disputes Arbitrator have been prepared in compliance with the provisions of the *Financial Management Act 2006* from proper accounts and records to present fairly the financial transactions for the financial year ending 30 June 2008 and the financial position as at 30 June 2008.

At the date of signing we are not aware of any circumstances which would render any particulars included in the financial statements misleading or inaccurate.



Laurie James LLB Hons.
GAS DISPUTES ARBITRATOR
31 July 2008



Pam Herbener
CHIEF FINANCE OFFICER
31 July 2008

Disclosures and Legal Compliance

Financial Statements Income Statement

for the year ended 30 June 2008

	Note	2008 \$'000	2007 \$'000
COST OF SERVICES			
Expenses			
Employee benefits expense	4	27	27
Supplies and services	5	59	264
Total cost of services		86	291
Income			
User charges and fees	6	23	15
Interest revenue	7	26	19
Total income other than income from State Government		49	34
NET COST OF SERVICES		37	257
Income from State Government		-	-
SURPLUS/(DEFICIT) FOR THE PERIOD		(37)	(257)

The Income Statement should be read in conjunction with the accompanying notes.

Disclosures and Legal Compliance

Financial Statements

Balance Sheet

as at 30 June 2008

	Note	2008 \$'000	2007 \$'000
ASSETS			
Current Assets			
Cash and cash equivalents	8	369	420
Receivables	9	6	5
Total Current Assets		375	425
TOTAL ASSETS		375	425
LIABILITIES			
Current Liabilities			
Payables	10	-	13
Amounts due to the Treasurer	11	500	500
Total Current Liabilities		500	513
TOTAL LIABILITIES		500	513
NET ASSETS/(LIABILITIES)		(125)	(88)
EQUITY			
Accumulated surplus/(deficit)	12	(125)	(88)
TOTAL EQUITY		(125)	(88)

The Balance Sheet should be read in conjunction with the accompanying notes.

Disclosures and Legal Compliance

Financial Statements

Statement of Changes in Equity

for the year ended 30 June 2008

	Note	2008 \$'000	2007 \$'000
Balance of equity at start of period	12	(88)	169
ACCUMULATED SURPLUS/(DEFICIT)			
Balance at start of period		(88)	169
Surplus/(deficit) for the period		(37)	(257)
Balance at end of period		(125)	(88)
Balance of equity at end of period	12	(125)	(88)
Total income and expense for the period		(37)	(257)

The Statement of Changes in Equity should be read in conjunction with the accompanying notes

Disclosures and Legal Compliance

Financial Statements

Cash Flow Statement

for the year ended 30 June 2008

	Note	2008 \$'000	2007 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Employee benefits		(27)	(26)
Supplies and services		(70)	(251)
GST payments on purchases		(7)	(25)
Receipts			
User charges and fees		22	15
GST receipts from taxation authority		7	30
Other receipts		24	19
Net cash used in operating activities	13(a)	(51)	(238)
CASH FLOWS FROM FINANCING ACTIVITIES			
Proceeds from Treasurer's Advance		-	500
Net cash provided by financing activities		-	500
Net increase in cash and cash equivalents		(51)	262
Cash and cash equivalents at the beginning of period		420	158
CASH AND CASH EQUIVALENTS AT THE END OF PERIOD	13(b)	369	420

The Cash Flow Statement should be read in conjunction with the accompanying notes.

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements

for the year ended 30 June 2008

1. Australian equivalents to International Financial Reporting Standards

a) General

The Arbitrator's financial statements for the year ended 30 June 2008 have been prepared in accordance with Australian equivalents to International Financial Reporting Standards (AIFRS), which comprise a Framework for the Preparation and Presentation of Financial Statements (the Framework) and Australian Accounting Standards (including the Australian Accounting Interpretations).

In preparing these financial statements the Arbitrator has adopted, where relevant to its operations, new and revised Standards and Interpretations from their operative dates as issued by the AASB and formerly the Urgent Issues Group (UIG).

b) Early adoption of standards

The Arbitrator cannot early adopt an Australian Accounting Standard or Australian Accounting Interpretation unless specifically permitted by TI 1101 'Application of Australian Accounting Standards and Other Pronouncements'. No Standards and Interpretations that have been issued or amended but are not yet effective have been early adopted by the Arbitrator for the annual reporting period ended 30 June 2008.

2. Summary of Significant Accounting Policies

a) General Statement

The financial statements constitute a general purpose financial report which has been prepared in accordance with the Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board as applied by the Treasurer's Instructions. Several of these are modified by the Treasurer's Instructions to vary application, disclosure, format and wording.

The *Financial Management Act* and the Treasurer's Instructions are legislative provisions governing the preparation of financial statements and take precedence over the Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board.

Where modification is required and has a material or significant financial effect upon the reported results, details of that modification and the resulting financial effect are disclosed in the notes to the financial statements.

b) Basis of Preparation

The financial statements have been prepared on the accrual basis of accounting using the historical cost convention.

The accounting policies adopted in the preparation of the financial statements have been consistently applied throughout all periods presented unless otherwise stated.

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements (continued)

for the year ended 30 June 2008

The financial statements are presented in Australian dollars and all values rounded to the nearest thousand dollars (\$'000).

c) Reporting Entity

The reporting entity comprises the Western Australian Gas Disputes Arbitrator.

d) Contributed Equity

UIG Interpretation 1038 'Contributions by Owners Made to Wholly-Owned Public Sector Entities' requires transfers in the nature of equity contributions to be designated by the Government (the owner) as contributions by owners (at the time of, or prior to transfer) before such transfers can be recognised as equity contributions. Capital contributions (appropriations) have been designated as contributions by owners by Treasurer's Instruction TI 955 'Contributions by Owners made to Wholly Owned Public Sector Entities' and have been credited directly to Contributed Equity.

Transfer of net assets to/from other agencies are designated as contributions by owners where the transfers are non-discretionary and non-reciprocal.

e) Income

Revenue Recognition

Revenue is measured at the fair value of consideration received or receivable. Revenue is recognised for the major business activities as follows.

User Charges and Fees

Revenue for Standing Charges is recognised at the time the charge is raised on a client as per the Gas Pipelines Access (Western Australia) (Funding) Regulations 1999.

Interest

Revenue is recognised as the interest accrues.

Gains

Gains may be realised or unrealised and are usually recognised on a net basis. These include gains arising on the disposal of non-current assets and some revaluations of non-current assets.

f) Financial Instruments

In addition to cash, the Arbitrator has two categories of financial instrument:

- (i) Loans and receivables; and
- (ii) Financial liabilities measured at amortised cost.

These have been disaggregated into the following classes:

Financial Assets

- Cash and cash equivalents
- Receivables

Financial Liabilities

- Payables
- Amounts due to the Treasurer

Initial recognition and measurement of financial instruments is at fair value which normally equates to

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements (continued)

for the year ended 30 June 2008

the transaction cost or the face value. Subsequent measurement is at amortised cost using the effective interest method.

The fair value of short-term receivables and payables is the transaction cost or the face value because there is no interest rate applicable and subsequent measurement is not required as the effect of discounting is not material.

g) Cash and Cash Equivalents

For the purpose of the Cash Flow Statement, cash and cash equivalent (and restricted cash and cash equivalent) assets comprise cash on hand and short-term deposits with original maturities of three months or less that are readily convertible to a known amount of cash and which are subject to insignificant risk of changes in value.

h) Receivables

Receivables are recognised and carried at original invoice amount less an allowance for any uncollectible amounts (i.e. impairment). The collectability of receivables is reviewed on an ongoing basis and any receivables identified as uncollectible are written off against the allowance account. The allowance for uncollectible amounts (doubtful debts) is raised when there is objective evidence that the Arbitrator will not be able to collect the debts. The carrying amount is equivalent to fair value as it is due for settlement within 30 days.

i) Payables

Payables are recognised at the amounts payable when the Arbitrator becomes obliged to make future payments as a result of a purchase of assets or services.

The carrying amount is equivalent to fair value, as they are generally settled within 30 days.

j) Amounts Due to the Treasurer

The amount due to the Treasurer is in respect of a Treasurer's Advance. Initial recognition and measurement, and subsequent measurement, is at the amount repayable. Although there is no interest charged, the amount repayable is equivalent to fair value as the period of the borrowing is for less than 12 months with the effect of discounting not being material.

k) Provisions

Provisions are liabilities of uncertain timing or amount and are recognised where there is a present legal or constructive obligation as a result of a past event and when the outflow of resources embodying economic benefits is probable and a reliable estimate can be made of the amount of the obligation. Provisions are reviewed at each balance sheet date.

(i) Provisions – Employee Benefits

Annual Leave and Long Service Leave

The Arbitrator has no entitlement to annual or long service leave.

Superannuation

The Arbitrator has an amount included as part of his remuneration, which is deducted from each payment and remitted to a complying superannuation fund. The Government has no unfunded superannuation liability in respect of the Arbitrator.

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements (continued)

for the year ended 30 June 2008

(ii) Provisions – Other

Employment On-Costs

The Arbitrator has no employment on-costs.

l) Resources Received Free of Charge or for Nominal Cost

Resources received free of charge or for nominal cost that can be reliably measured are recognised as income and as assets or expenses as appropriate, at fair value.

m) Comparative Figures

Comparative figures are, where appropriate, reclassified to be comparable with the figures presented in the current financial year.

3. Disclosure of changes in accounting policy and estimates

Initial application of an Australian Accounting Standard

The Arbitrator has applied the following Australian Accounting Standards and Australian Accounting Interpretations effective for annual reporting periods beginning on or after 1 July 2007 that impacted on the Arbitrator:

1. AASB 7 'Financial Instruments: Disclosures' (including consequential amendments in AASB 2005-10 'Amendments to Australian Accounting Standards [AASB 132, AASB 101, AASB 114, AASB 117, AASB 133, AASB 139, AASB 1, AASB 4, AASB 1023 & AASB 1038]'). This Standard requires new disclosure in relation to financial instruments and while there is no financial impact, the changes have resulted in increased disclosures, both quantitative

and qualitative, of the Arbitrator's exposure to risks, including enhanced disclosure regarding components of the Arbitrator's financial position and performance, and changes to the way of presenting certain items in the notes to the financial statements.

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements (continued)

for the year ended 30 June 2008

Future impact of Australian Accounting Standards not yet operative

The Arbitrator cannot early adopt an Australian Accounting Standard or Australian Accounting Interpretation unless specifically permitted by TI 1101 'Application of Australian Accounting Standards and Other Pronouncements'. Consequently, the Arbitrator has not applied the following Australian Accounting Standards and Australian Accounting Interpretations that have been issued and which impact the Arbitrator but are not yet effective. Where applicable the Arbitrator plans to apply these Standards and Interpretations from their application date:

Title	Operative for reporting periods beginning on/after
AASB 101 'Presentation of Financial Statements' (September 2007). This Standard has been revised and will change the structure of the financial statements. These changes will require that owner changes in equity are presented separately from nonowner changes in equity. The Arbitrator does not expect any financial impact when the Standard is first applied.	1 January 2009

Changes in Accounting Estimates

There were no changes in accounting estimates that will have an effect on the current reporting period.

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements (continued)

for the year ended 30 June 2008

	Note	2008 \$'000	2007 \$'000
4. Employee benefits expense			
Salaries		25	26
Superannuation – defined contribution plans		2	-
Other related expenses		-	1
		27	27
5. Supplies and services			
Communications		-	1
Consultants and contractors		7	19
Consumables		1	-
Legal costs		15	74
Travel		1	10
Gas Review Board fees		29	154
Other		6	6
		59	264
6. User charges and fees			
Standing charges		23	15
		23	15
7. Interest revenue			
Interest		26	19
		26	19
8. Cash and cash equivalents			
Cash at bank		369	420
		369	420
9. Receivables			
Current			
Accounts receivable		-	3
Accrued revenue		6	-
GST receivable		-	2
		6	5

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements (continued)

for the year ended 30 June 2008

	Note	2008 \$'000	2007 \$'000
10. Payables			
Current			
Trade payables		0	13
		0	13
11. Amounts due to the Treasurer			
Current			
Treasurer's Advance		500	500
		500	500
12. Equity			
Liabilities exceed assets for the Arbitrator and therefore there is no residual interest in the assets of the Arbitrator. This deficiency arose through the Arbitrator recognising a liability as a result of a Treasurers Advance for \$500,000.			
Balance at start of year		(88)	169
Result for the period		(37)	(257)
Balance at end of year		(125)	(88)
13. Notes to the Cash Flow Statement			
(a) Reconciliation of net costs of services to net cash flows provided by/used in operating activities			
Net cost of services		(37)	(257)
Non-cash items			
Resources received free of charge		-	-
(Increase)/decrease in assets			
Current receivables		(1)	(2)

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements (continued)

for the year ended 30 June 2008

	Note	2008 \$'000	2007 \$'000
Increase/(decrease) in liabilities			
Payables		(13)	13
Net GST receipts/(payments)		-	5
Change in GST in receivables/payables		-	3
Net cash provided by/(used in) operating activities		(51)	(238)
 (b) Reconciliation of cash			
Cash at the end of the financial year as shown in the Cash Flow Statement is reconciled to the related items in the Balance Sheet as follows:			
Cash and cash equivalents		369	420
		369	420
 14. Contingent liabilities and contingent assets			
The Arbitrator has no contingent liabilities as at 30 June 2008.			
 15. Events occurring after the balance sheet date			
The Arbitrator is unaware of any event occurring after reporting date that would materially affect the financial statements.			

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements (continued)

for the year ended 30 June 2008

16. Explanatory statement

Significant variations between estimates and actual results for income and expense are shown below. Significant variations are considered to be those greater than 10 percent and \$30,000.

	2008 Actual \$'000	2008 Estimate \$'000	Variance \$'000
(a) Significant variances between estimated and actual result for 2008			
Expenses			
Supplies and Services	59	23	36
<p>The Arbitrator provides administrative support to the Energy (Gas) Review Board. As the Appeals Body under the relevant Acts, the activities of the Energy (Gas) Review Board cannot be predicted or budgeted for. Of the Actual amount shown above, \$12,600 directly related to expenditure of the Arbitrator.</p>			
	2008 \$'000	2007 \$'000	Variance \$'000
(b) Significant variances between actual results for 2007 and 2008			
Expenses			
Supplies and Services	59	264	205
<p>The main reason for the lower costs in comparison to the previous year was a change in activity of the Energy (Gas) Review Board.</p>			

17. Financial instruments

(a) Financial Risk Management Objectives and Policies

Financial instruments held by the Arbitrator are cash and cash equivalents, Treasurer's advance, receivables and payables. The Arbitrator has limited exposure to financial risks. The Arbitrator's overall risk management program focuses on managing the risks identified below.

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements (continued)

Credit risk

Credit risk arises when there is the possibility of the Arbitrator's receivables defaulting on their contractual obligations resulting in financial loss to the Arbitrator. The Arbitrator measures credit risk on a fair value basis and monitors risk on a regular basis. The maximum exposure to credit risk at balance sheet date in relation to each class of recognised financial assets is the gross carrying amount of those assets inclusive of any provisions for impairment as shown in the table at Note 17(c).

Credit risk associated with the Arbitrator's financial assets is minimal because the main receivable is accrued revenue. For receivables other than government, the Arbitrator trades only with recognised, creditworthy third parties. The Arbitrator has policies in place to ensure that sales of products and services are made to customers with an appropriate credit history. In addition, receivable balances are monitored on an ongoing basis with the result that the Arbitrator's exposure to bad debts is minimal. There are no significant concentrations of credit risk.

Liquidity risk

The Arbitrator is exposed to liquidity risk through its trading in the normal course of business. Liquidity risk arises when the Arbitrator is unable to meet its financial obligations as they fall due.

The Arbitrator has appropriate procedures to manage cash flows including moneys appropriated by Parliament by monitoring forecast cash flows to ensure that sufficient funds are available to meet its commitments.

Market risk

The Arbitrator does not trade in foreign currency and is not materially exposed to other price risks. Other than as detailed in the Interest rate sensitivity analysis table at Note 17(d), the Arbitrator is not exposed to interest rate risk.

b) Categories of Financial Instruments

In addition to cash, the carrying amounts of each of the following categories of financial assets and financial liabilities at the balance sheet date are as follows:

	2008 \$'000	2007 \$'000
Financial Assets		
Cash and cash equivalents	369	490
Receivables (a)	6	5
Financial Liabilities		
Financial liabilities measured at amortised cost	500	500

(a) The amount of receivables excludes GST recoverable from the ATO (statutory receivable).

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements (continued)

for the year ended 30 June 2008

(c) Financial Instrument Disclosures

Credit Risk, Liquidity Risk and Interest Rate Risk Exposure

The following table details the Arbitrator's exposure to liquidity risk and interest rate risk as at the balance sheet date. The Arbitrator's maximum exposure to credit risk at the balance sheet date is the carrying amount of the financial assets as shown on the following table. The table is based on information provided to the Arbitrator.

The Arbitrator does not hold any collateral as security or other credit enhancements relating to the financial assets it holds.

The Arbitrator does not hold any financial assets that had to have their terms renegotiated that would have otherwise resulted in them being past due or impaired.

2008	Weighted average effective interest rate %	Variable interest rate \$'000	Non-Interest Bearing \$'000	Total \$'000
Financial assets				
Cash and cash equivalents	6.25%	369	-	369
Amounts receivable for services		-	6	6
		<u>369</u>	<u>6</u>	<u>375</u>
Financial Liabilities				
Payables		-	-	-
Amounts due to Treasurer		-	500	500
		<u>-</u>	<u>500</u>	<u>500</u>

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements (continued)

for the year ended 30 June 2008

2007	Weighted average effective interest rate %	Variable interest rate \$'000	Non-Interest Bearing \$'000	Total \$'000
Financial assets				
Cash and cash equivalents	6.09%	420	-	420
Amounts receivable for services		-	5	5
		420	5	425
Financial Liabilities				
Payables		-	13	13
Amounts due to Treasurer		-	500	500
		-	513	513

The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities.

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements (continued)

for the year ended 30 June 2008

(d) **Interest rate sensitivity analysis**

The following table represents a summary of the interest rate sensitivity of the Arbitrator's financial assets and liabilities at the balance sheet date on the surplus for the period and equity for a 1% change in interest rates. It is assumed that the change in interest rates is held constant throughout the reporting period.

	Carrying amount \$'000	-1% Change Surplus \$'000	Equity \$'000	+1% Change Surplus \$'000	Equity \$'000
2008					
Financial assets					
Cash and cash equivalents	369	(4)	(4)	4	4
Total Increase/(Decrease)		(4)	(4)	4	4
	Carrying amount \$'000	-1% Change Surplus \$'000	Equity \$'000	+1% Change Surplus \$'000	Equity \$'000
2007					
Financial assets					
Cash and cash equivalents	420	(4)	(4)	4	4
Total Increase/(Decrease)		(4)	(4)	4	4

Fair Values

All financial assets and liabilities recognised in the balance sheet, whether they are carried at cost or fair value, are recognised at amounts that represent a reasonable approximation of fair value unless otherwise stated in the applicable notes.

Disclosures and Legal Compliance

Financial Statements

Notes to the Financial Statements (continued)

for the year ended 30 June 2008

18. Remuneration of members of the Accountable Authority

The number of members of the Accountable Authority, whose total of fees, salaries, superannuation, non monetary benefits and other benefits for the financial year, fall within the following bands are:

\$
20,001–30,000

2008

2007

1

1

\$'000

\$'000

27

27

The total remuneration of members of the Accountable Authority is:

The total remuneration includes the superannuation expense incurred by the Arbitrator in respect of members of the Accountable Authority.

No members of the Accountable Authority are members of the Pension Scheme.

2008
\$'000

2007
\$'000

19. Remuneration of Auditor

Remuneration payable to the Auditor General for the financial year is as follows:

5

5

Auditing the accounts, financial statements and performance indicators

20. Related bodies

The Arbitrator had no related bodies during the financial year.

21. Affiliated bodies

The Arbitrator had no affiliated bodies during the financial year.

Disclosures and Legal Compliance

Key Performance Indicators

Certification of Key Performance Indicators

We hereby certify that the performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the Western Australian Gas Disputes Arbitrator's performance, and fairly represent the performance of the Western Australian Gas Disputes Arbitrator for the financial year ended 30 June 2008.



Laurie James LLB Hons.
GAS DISPUTES ARBITRATOR
31 July 2008



Pam Herbener
CHIEF FINANCE OFFICER
31 July 2008

Disclosures and Legal Compliance

Key Performance Indicators

Formulating the Arbitrator's Performance Indicators

The office of the Gas Disputes Arbitrator was established by the *Gas Pipelines Access (Western Australia) Act 1998* and funded through provisions in the *Gas Pipelines Access (Western Australia) (Funding) Regulations 1999*.

The *Gas Pipelines Access (Western Australia) Act 1998* also provides for appropriations by Parliament. The office has been supported jointly through the Department of Treasury and Finance and the Economic Regulation Authority.

The desired outcome for the Arbitrator is the effective and efficient delivery of the following programs:

- arbitration of disputes; and
- provision of administrative services to the Energy (Gas) Review Board for the review of decisions.

These programs are facilitated by maintaining a state of readiness for the arbitration of disputes and the review of decisions by the Energy (Gas) Review Board.

The Arbitrator's outcome is achieved by assisting parties to resolve disputes and providing timely and efficient support to the Board when it is constituted.

The Arbitrator is only required to report in relation to his administrative and management functions. Therefore, the performance indicators required to be prepared by the Arbitrator have been prepared to comply with section 84(2) of the *Gas Pipelines Access (Western Australia) Act 1998* which states that:

"any requirement under the Treasurer's Instructions (issued under section 78 of the Financial Management Act 2006) that the Arbitrator prepare performance indicators is to be limited to the Arbitrator's management functions (including financial management), and is not to apply to the performance of any function referred to in section 73."

The Arbitrator's key performance indicators derive from the processes and support that he provides in meeting the objectives set by the enabling legislation, including the *Electricity Industry Act 2004* (section 122) and the *Gas Pipelines Access (Western Australia) Act 1998* (the Preamble).

Key Effectiveness Indicators

Resolution of Disputes

The most meaningful measure of the effectiveness of this first program is the number of disputes resolved as a proportion of total disputes registered. The number of resolved disputes includes disputes withdrawn or extended until the next year or sine die.

Provision of Administrative Services to the Energy (Gas) Review Board

The Arbitrator plays an important role in providing administrative support to the Energy (Gas) Review Board. The effectiveness of this program can be established through a survey of the respective Board members who have first-hand experience of the support provided and are best placed to respond as to their level of satisfaction with the services provided by the Arbitrator.

Disclosures and Legal Compliance

Key Performance Indicators

Key Effectiveness Indicators (continued)

2007/08 Performance – Effectiveness

The two effectiveness indicators for the Arbitrator's outcome are shown below.

1. Resolution of disputes

The target for this measure of effectiveness is 100 per cent. Such an outcome reflects a situation where all disputes that were registered were also resolved during the year. There were no active disputes during the year.

2. Provision of administrative services to the Energy (Gas) Review Board

The Arbitrator's effectiveness in supporting the Board in its review of decisions is measured by determining the percentage of Board members involved in reviews of decisions that are satisfied or very satisfied with the way the Arbitrator has provided general administrative support. This includes sourcing accommodation and associated services for hearings and facilitating liaison with the various parties outside the formal hearings process.

There were no new appeals lodged during the year and although there were two outstanding appeals to be finalised by the Board, these appeals had in fact been withdrawn in early October 2007 and it remained for the Board to formalise the finalisation of these appeals. As this was substantially a legal matter, this finalisation of the appeals was completed by the presiding member and Chair of the Board. While the Board sat once on 27 July 2007, this only involved the presiding member and there was little or no contact between the other members and the office of the Arbitrator.

Although the Arbitrator's role does not directly contribute to the desired outcome of the provision of efficient, safe and equitable utility services in Western Australia, the services he provides to bodies such as the Energy (Gas) Review Board are consistent with this outcome.

In establishing a reasonable target for the purpose of assessing performance, it was determined that the satisfaction level should be consistent with satisfaction-level targets that were agreed and used in the previous annual reports, which is a value of 75 per cent.

As the only substantive contact between the Board and the office of the Arbitrator was through the presiding member, only the presiding member responded to the survey. The survey results show that the presiding member was either satisfied or very satisfied, which is consistent with the performance of 2006/07.

Disclosures and Legal Compliance

Key Performance Indicators

Key Effectiveness Indicators (continued)

Effectiveness

Desired outcome	Measure	Target	2007/08	2006/07
To provide for the resolution of disputes	The number of disputes resolved as a proportion of total disputes registered	100%	n/a (no disputes)	n/a (no disputes)
To provide administrative services to the Gas Review Board for the review of decisions	Percentage of Gas Review Board members satisfied or very satisfied with the services provided by the Arbitrator in support of review processes	75%	100%	100%

Key Efficiency Indicators

Resolution of Disputes

The efficiency indicator for the Arbitrator's program of arbitrating disputes is the average cost per dispute during the year. There may be costs incurred in dealing with a particular arbitration matter during any given year, even though the arbitration is not resolved during that year. This measure ensures that, to the extent that there are arbitration matters active during the year, there will be a measure of the cost associated with the determination process. This is a measure of the cost efficiency of providing the arbitration of disputes program.

Provision of Administrative Services to the Energy (Gas) Review Board

The efficiency indicator for the Arbitrator's program of providing administrative services to the Board is the average cost per review application before the Board during the year. There may be costs incurred in dealing with a particular review application during the year, even though the review is not completed by year's end. The measure ensures that, to the extent that there are review matters active during the

year, there will be a measure of the cost associated with the support provided by the Arbitrator to the review process. This is a measure of the cost efficiency of providing administrative services to the Energy (Gas) Review Board program.

Maintaining a State of Readiness

This involves maintaining a state of readiness for the resolution of disputes and the review of decisions by the Energy (Gas) Review Board. As with the resolution of disputes, the availability of the Arbitrator and procedures to establish and support a review body when required is an important feature of an efficient regulatory regime. This is implemented by providing parties with assistance in settling disputes and providing owners of regulated infrastructure with an opportunity and means of having regulatory decisions reviewed to ensure that they are fair and reasonable. The Arbitrator's effectiveness in overseeing the regulated infrastructure is related to his availability to respond to matters brought before him, such as disputes and reviews.

The efficiency indicator for the Arbitrator's program of maintaining a state of readiness is the average cost per standard unit of regulated infrastructure.

Disclosures and Legal Compliance

Key Performance Indicators

Key Efficiency Indicators (continued)

This facilitates the measurement of the cost efficiency associated with the Arbitrator's availability to address matters arising from the regulation of infrastructure.

2007/08 Performance – Efficiency

The three efficiency indicators for the Arbitrator are:

1. average cost per dispute;
2. average cost per review application; and
3. average cost per standard unit of infrastructure.

The efficiency indicators 1 and 2 are reported as disputes/reviews that are active during the year, regardless of whether they have been completed. This approach reflects the costs incurred, particularly where a dispute/review spans more than one year.

1. Average cost per dispute

As there were no disputes active or initiated during the 2007/08 financial year, the average cost per dispute is zero. The average cost was also zero in 2006/07. The target for this indicator is zero, consistent with an objective of having no disputes.

2. Average cost per review application

The indicator represents the average cost per review in the reporting year.

Two review applications remained before the Gas Review Board during 2007/08. The two reviews that remained related to the Economic Regulation Authority's final decisions on the original application and the revisions to the Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline. It is noted that the two remaining applications

before the Board were withdrawn in early October 2007 and the costs incurred during the financial year only related to formally finalising the applications.

The average cost of reviews was \$22,639 in 2007/08, compared with \$84,347 in 2006/07, \$29,086 in 2005/06, \$142,252 in 2004/05 and \$68,924 in 2003/04. The variation in costs between years is related to the amount of work undertaken by the Registrar and Members of the Gas Review Board in each year. It is also noted that the disputes dealt with by the Gas Review Board in each year have varied over the period since 2003/04. In total, there have been seven disputes over this period.

As the costs for review applications are highly dependent on the nature of the review and the actions of the parties to it, a target of zero has been used. A zero target in this case is consistent with a desirable outcome of no applications for review having been lodged.

3. Average cost per standard unit of infrastructure

The average cost per standard unit of regulated infrastructure oversights in the 2007/08 financial year is the cost necessary to ensure that procedures are in place to address matters that fall within the jurisdiction of the Arbitrator. This cost was \$3,502 in 2007/08 compared with \$3,292 in 2006/07, \$4,204 in 2005/06, \$4,421 in 2004/05 and \$7,919 in 2003/04. The increase in the average cost per standard unit of regulated infrastructure reflects normal cost increases during the year and remains below the target of \$4,368. The target of \$4,368 was established on the basis of the Arbitrator's approved budget (\$50,000) divided by the anticipated number of standard units of regulated infrastructure at the beginning of the financial year (11.4 units).

Disclosures and Legal Compliance

Key Performance Indicators

Key Efficiency Indicators (continued)

Efficiency

Service	Performance Indicator	Target	2007/08	2006/07
Arbitration of disputes	Average cost per dispute	\$0 (no disputes)	\$0 (no disputes)	\$0 (no disputes)
Review of regulatory decisions	Average cost per review application	\$0	\$22,639	\$84,347
Maintaining a state of readiness	Average cost per standard unit of regulated infrastructure	\$4,368	\$3,502	\$3,292

Equivalent Standard Units of Infrastructure

During 2007/08, the Arbitrator oversighted 11.4 equivalent standard units (\$500 million) of regulated infrastructure. The 11.4 target for 2007/08 was the same as the actual figure due to there being no revisions to asset values of infrastructure covered by relevant Access Arrangements during the financial year.

The concept of a standard unit of regulated infrastructure is used to recognise and allow for the fact that the size, value and complexity of regulated infrastructure, including pipelines and electricity networks, varies from one asset to another. It also recognises that the size, cost and complexity of regulation and arbitration work will vary accordingly.

For example, the demands placed on the Arbitrator by several smaller regulated assets in one year may be equivalent to those of a single larger piece of regulated infrastructure in another year. To ensure that the units of measurement are reasonably consistent from one year to the next, a standard unit of regulated infrastructure has been defined as one having a capital base value of \$500 million.

It should be noted, however, that the Arbitrator oversights generation facilities covered by the Wholesale Electricity Market. If the value of these generation facilities were taken into account then the number of units in 2007/08 would far exceed 11.4 units. As the generation facilities oversights by the Arbitrator are owned by both private and public electricity market participants, no readily available value exists that may be ascribed to this infrastructure. Indeed, to ascribe a value to such infrastructure would not be justified, as this would involve significant cost and serve no other purpose. Accordingly, no value has been ascribed to generation facilities, which are therefore not reflected in the 11.4 equivalent standard units of regulated infrastructure.

Disclosures and Legal Compliance

Ministerial Directives

Section 75(2) of the *Gas Pipelines Access (Western Australia) Act 1998* provides for the Minister to give directions in writing to the Arbitrator in relation to general policies to be followed by the Arbitrator in matters of administration, including financial administration. The text of any such direction is required to be included in the Arbitrator's Annual Report.

No directions under section 75(2) of the *Gas Pipelines Access (Western Australia) Act 1998* were given to the Arbitrator during the year.

Other Financial Disclosures

Pricing Policies of Services Provided

Expenditure, other than that directly associated with the hearing of disputes by the Arbitrator and reviews by the Energy (Gas) Review Board, has traditionally been funded by charges payable by the operators of regulated pipelines. These funding arrangements are set out in the *Gas Pipelines Access (Western Australia) (Funding) Regulations 1999 (Funding Regulations)*.

As from 1 January 2005, the Arbitrator acquired significant additional functions under the *Electricity Industry Act 2004*. These functions included providing services and support to the Energy (Gas) Review Board to hear and determine matters related to the electricity industry. Accordingly, since January 2005, 50 per cent of the Arbitrator's core function costs have been funded under the Funding Regulations. Funding of the Arbitrator's gas industry functions has been arranged through 'standing' charges levied by the Arbitrator on operators of regulated pipelines. These charges are determined in accordance with regulation 3 of the Funding Regulations. Standing charges are levied on operators of pipelines in respect of costs incurred by the Arbitrator, including any costs that relate to the Energy (Gas) Review Board, that are not directly attributable to a particular review. The pipeline operators that are liable for quarterly standing charges, and the percentage allocations of costs between them, are set out in schedule 1 of the Funding Regulations.

Disclosures and Legal Compliance

Other Financial Disclosures

Pricing Policies of Services Provided (continued)

Included in the Funding Regulations is a requirement that the Arbitrator's annual reports provide details of the total amount of Standing Charges paid by pipeline operators in a financial year. This information for the year ended 30 June 2008 is listed in the table below.

Standing charges paid by pipeline operators for the year ended 30 June 2008

Service Provider	Standing Charges (\$)
AlintaGas Networks Pty Limited	5,311
Goldfields Gas Transmission	4,683
Southern Cross Pipelines Pty Limited	532
DBNGP (WA) Transmission Pty Limited	11,553
Total	22,079

Section 30 of schedule 1 of the *Gas Pipelines Access (Western Australia) Act 1998*, allows the Arbitrator to recover costs incurred in arbitrating an access dispute. As there were no disputes in 2007/08, no costs were incurred.

The Funding Regulations enable the Arbitrator to recover certain costs and expenses of the Energy (Gas) Review Board in connection with hearings and determinations of the Board. Regulation 9 provides for the Board to fix an amount that represents the costs and expenses incurred by the Board in connection with the hearing and determination of particular proceedings before it, and to assign costs to the parties of the relevant proceedings. As the Board made no orders as to its

own costs in respect of Application Numbers 3 of 2004 and 1 of 2005, none of the Board's costs were recovered from the parties to those proceedings.

Treasurer's Advances

Section 83 of the *Gas Pipelines Access (Western Australia) Act 1998* allows for the Arbitrator to borrow from the Treasurer. As the Arbitrator does not allow for costs associated with arbitration, review or appeal in his annual estimates, application is made for a Treasurer's Advance to fund these functions on an as-needed basis. The Arbitrator had a \$500,000 Treasurer's Advance during 2007/08 to fund the activities of the Energy (Gas) Review Board.

Capital Works

There were no major capital works undertaken during 2007/08.

Disclosures and Legal Compliance

Governance Disclosures

Shares in Statutory Authority

While the Office of the Arbitrator is a statutory body, there are no shares for senior officers to hold.

Shares in Subsidiary Bodies

The Arbitrator does not have any subsidiary bodies.

Interests in Contracts by Senior Officers

There were no interests in contracts by senior officers in 2007/08.

Benefits to Senior Officers through Contracts with the Office

This is not applicable, as no senior officers have received any benefits in the 2007/08 financial year.

Insurance Premiums

This is not applicable, as the Office of the Arbitrator does not have any directors as defined in Part 3 of the *Statutory Corporations (Liability of Directors) Act 1996*.

Other Legal Requirements

Compliance with Public Sector Management Act Section 31(1)

Under Section 64(1) of the *Gas Pipelines Access (Western Australia) Act 1998*, the office of Arbitrator is to be taken to be a tribunal that comes within item 4 of Schedule 1 to the *Public Sector Management Act 1994*.

The *Gas Pipelines Access (Western Australia) Act 1998* allows for the Arbitrator to make arrangements to use, either full-time or part-time, the services of any officer or employee in the Public Service and for the Arbitrator to have administrative authority over the officer. If this arrangement is put in place, Section 31(1) of the *Public Sector Management Act 1994* applies to the Arbitrator.

No such arrangements were put in place during 2007/08.

Disclosures and Legal Compliance

Other Legal Requirements

Advertising

Section 175ZE of the *Electoral Act 1907* requires public agencies to include a statement in their annual reports detailing all the expenditure incurred by or on behalf of the public agencies during the reporting period in relation to advertising agencies, market research organisations, polling organisations, direct mail organisations and media advertising agencies.

Total expenditure for the period 1 July 2007 to 30 June 2008 was \$946.

Advertising Agencies	Nil
Market Research Organisations	\$946
Polling Organisations	Nil
Direct Mail Organisations	Nil
Media Advertising Organisations	Nil
Total	\$946

Note: Amounts shown are exclusive of GST.

Record Keeping Plans

Compliance with the *State Records Act 2000*

The records of the Arbitrator are maintained by the Economic Regulation Authority as part of an agreement for the provision of corporate services from the Economic Regulation Authority. Compliance with the *State Records Act 2000* is carried out by the Economic Regulation Authority as part of that agreement. Further information on this compliance is reported in the Economic Regulation Authority's 2007/08 annual report, which is available on the Authority's web site at www.era.wa.gov.au.

Other Disclosures

Boards and Committees

The Arbitrator did not participate on any Boards or Committees during the year.

Complaints Handling

There are three main areas that can be the source of complaints in the case of the Arbitrator. These relate to administration, matters relating to reviews carried out by the Energy (Gas) Review Board, and matters relating to the arbitration of disputes.

Complaints relating to administration are dealt with under the Economic Regulation Authority's Code of Conduct (which is available from the Economic Regulation Authority's web site or in hardcopy form at the Authority's reception). This advises that anyone having a serious concern about any member of the Authority in their observance of the Code of Conduct while providing services to the Arbitrator should contact the General Manager of the Economic Regulation Authority.

There were no complaints lodged on administrative matters during the reporting period.

Complaints relating to the review of decisions and the arbitration of disputes are matters dealt with through the formal review and arbitration processes.

There were no complaints lodged relating to the review of decisions and the arbitration of disputes.

Publications

During the reporting year, the Arbitrator published its annual report for 2006/07. This report was published on the Economic Regulation Authority's web site at www.era.wa.gov.au.

Glossary of Terms

Below is a glossary of terms used in this report:

- **Access arrangement** – An access arrangement sets out terms and conditions (including prices) for access by third parties to regulated infrastructure. The Economic Regulation Authority is responsible for the assessment and approval of access arrangements under the *Gas Pipelines Access (Western Australia) Act 1998* and the *Electricity Networks Access Code 2004*. The Energy (Gas) Review Board may review a decision of the Economic Regulation Authority to approve or not approve an access arrangement submission.
- **Energy (Gas) Review Board** – The Board functions as an appeals body under the *National Third Party Access Code for Natural Gas Pipeline Systems* and *Electricity Industry Act 2004*.
- **Gas Disputes Arbitrator** – The office of the Arbitrator was established to provide for the resolution of any disputes that may arise between providers of gas pipeline services and prospective users of gas pipelines. The role was created under the *Gas Pipeline Access (Western Australia) Act 1998*.
- **Ministerial Council on Energy (MCE)** – The MCE was established by the Council of Australian Governments (**COAG**) in 2001 to deliver the economic and environmental benefits for Australia from implementation of the COAG national energy policy framework.

The MCE is the national policy and governance body for the Australian energy market, including for electricity and gas, as outlined in the COAG Australian Energy Market Agreement of 30 June 2004.
- **Wholesale Electricity Market** – As part of the Western Australian Government's electricity market reform program, a wholesale electricity market was implemented in the South West Interconnected System and commenced on 21 September 2006.



A full copy of this document is available from the Economic Regulation Authority web site at www.era.wa.gov.au.

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