

THE WESTERN AUSTRALIAN ELECTRICITY REVIEW BOARD (IN ITS CAPACITY AS THE LOCAL APPEALS BOARD PURSUANT TO THE NATIONAL GAS ACCESS (WA) ACT 2009, THE NATIONAL GAS ACCESS (WA) (PART 3) REGULATIONS 2009 AND THE ENERGY ARBITRATION AND REVIEW ACT (WA) 1998)

No 1 of 2010

Re Application for review of the decision by the Western Australian Economic Regulation Authority published on 5 August 2010 to approve its own revised Access Arrangement for the Goldfields Gas Pipeline

Application by:

BHP Billiton Nickel West Pty Ltd (ABN 76 004 184 598)

Applicant

ORDER EXTENDING TIME FOR DETERMINATION OF APPEAL

Members: DS Ellis, EA Woodley, B Gaynor

Date: 16 November 2010

Where made: Perth

WHEREAS:

- 1 This application was provided to the Chief financial Officer of the WA Energy Disputes Arbitrator ("Arbitrator") on or about 19 August 2010.
- 2 The Board was constituted under section 51 (1) of the Act on 1 November 2010, on the appointment of Mr Gaynor.
- 3 Schedule 1 section 38(3) of the *Gas Pipelines Access (Western Australia) Act 1998* provides that the relevant appeals body must make its determination in respect of an application "within 90 days after receiving the application for review". Section 38(4) provides that the relevant appeals body may extend the time period by a period of 30 days if it considers that the matter cannot be dealt with properly without the extension either because of its complexity or because of special circumstances.

- 4 On 15 November 2010, a request was received on behalf of the applicant for the Board to make an order extending the time under section 38 until 26 November 2010, the date of the first directions hearing in this matter.
- 5 There is some uncertainty about the operation of section 38 (3). If it operates in respect of this application from the date when the application was received by the Arbitrator, rather than the date on which the Board is constituted, an extension of time is needed. It is undesirable that any such uncertainty should impact upon these proceedings.
- 6 Having regard to the complexity of the matter and the time that elapsed between receipt of the application and constitution of the Board, it is desirable that the time for making a determination be extended.

THE BOARD ORDERS THAT, to the extent necessary, the time limited for making a determination under section 38 (3) in respect of this matter be extended up to and including 26 November 2010.



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DS Ellis
Chairperson
Review Board