

07



Western Australian
Gas Disputes Arbitrator

Annual Report



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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Vision, Mission and Objectives



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.

Objectives

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.



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Letter of Transmission to the Minister for Energy



**Hon. Francis M Logan BA (Hons) MLA
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 2007 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 Treasurer's Instructions.

A handwritten signature in black ink, appearing to read "L James".

Laurie James LLB Hons.
GAS DISPUTES ARBITRATOR
25 September 2007



From the Arbitrator



The Board has responsibility for reviewing specific decisions by the Minister for Energy and the Economic Regulation Authority. In relation to such reviews, I am responsible for ensuring that appropriate services are available to the Board.

It is pleasing to again report that no applications have been received seeking that I arbitrate disputes under either the electricity or gas access regimes that apply in Western Australia. However, the activities of the Energy (Gas) Review Board in relation to two of three reviews that commenced in 2004 and 2005 have continued.

The Board has responsibility for reviewing specific decisions by the Minister for Energy and the Economic Regulation Authority. In relation to such reviews, I am responsible for ensuring that appropriate services are available to the Board.

Since 2004, three applications for the review of decisions by the Economic Regulation Authority were lodged with the Board. Of these, one has been withdrawn (Number 2 of 2005) while the other two remain afoot (Number 1 of 2005 and Number 3 of 2004). No new applications for review of decisions were received during the reporting year.

It is anticipated that the remaining reviews will be completed by the end of 2007 or early 2008. Details of these

reviews are posted on the Economic Regulation Authority web site www.era.wa.gov.au.

It is worth noting that with the approval of the access arrangement for Western Power and with the commencement of the wholesale electricity market in Western Australia, a range of new functions became effective for the Board. These new functions involve reviews of decisions of the Minister for Energy, Independent Market Operator and the Economic Regulation Authority. In addition, a number of other determination and appeals functions relating to the wholesale electricity market also became effective.

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.

In last year's annual report, I foresaw changes to legislation that were expected to impact on my functions as Arbitrator and those of the Gas Review Board.

While these changes, associated with the review of the Gas Access Regime by the national Ministerial Council on Energy, are still being progressed, it is now expected that these changes will not be implemented until early 2008.

While my functions and those of the Energy (Gas) Review Board expanded during the year, it is pleasing to report that my level of activity has actually declined. This may be indicative of regulation becoming more settled and that the requirement for arbitration and the review of decisions is decreasing.

Finally, I would like to express my appreciation to Mr James Saunders who is the Registrar for the review of the decisions currently before the Gas Review Board, the Economic Regulation Authority and the Department of Treasury and Finance for their ongoing support.

A handwritten signature in black ink, appearing to read 'L James'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Laurie James LLB Hons.
GAS DISPUTES ARBITRATOR

Executive Summary

This report describes the functions and operations of the Western Australian Gas Disputes Arbitrator, including the activities of the Energy (Gas) Review Board for the year ended 30 June 2007.

The position of Gas Disputes 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 Gas Disputes Arbitrator has now assumed a number of new functions under the *Electricity Industry Act 2004*.

Mr Laurie James was appointed as Western Australia's Gas Disputes Arbitrator in 1999 and was re-appointed in April 2003 for a further five years.

The Arbitrator has responsibility for the financial management of the Energy (Gas) Review Board and the provision of administrative support to the board. As the Energy (Gas) Review Board does not hear appeals against the Arbitrator, its

administrative accountability to the Arbitrator does not constrain or impair its independence.

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

Although no new applications for review were filed in 2006-07, three review boards were operational during 2006-07 to hear Application Number 3 of 2004, and Applications Numbers 1 and 2 of 2005.



The position of Gas Disputes 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*.

Overview of Arbitrator



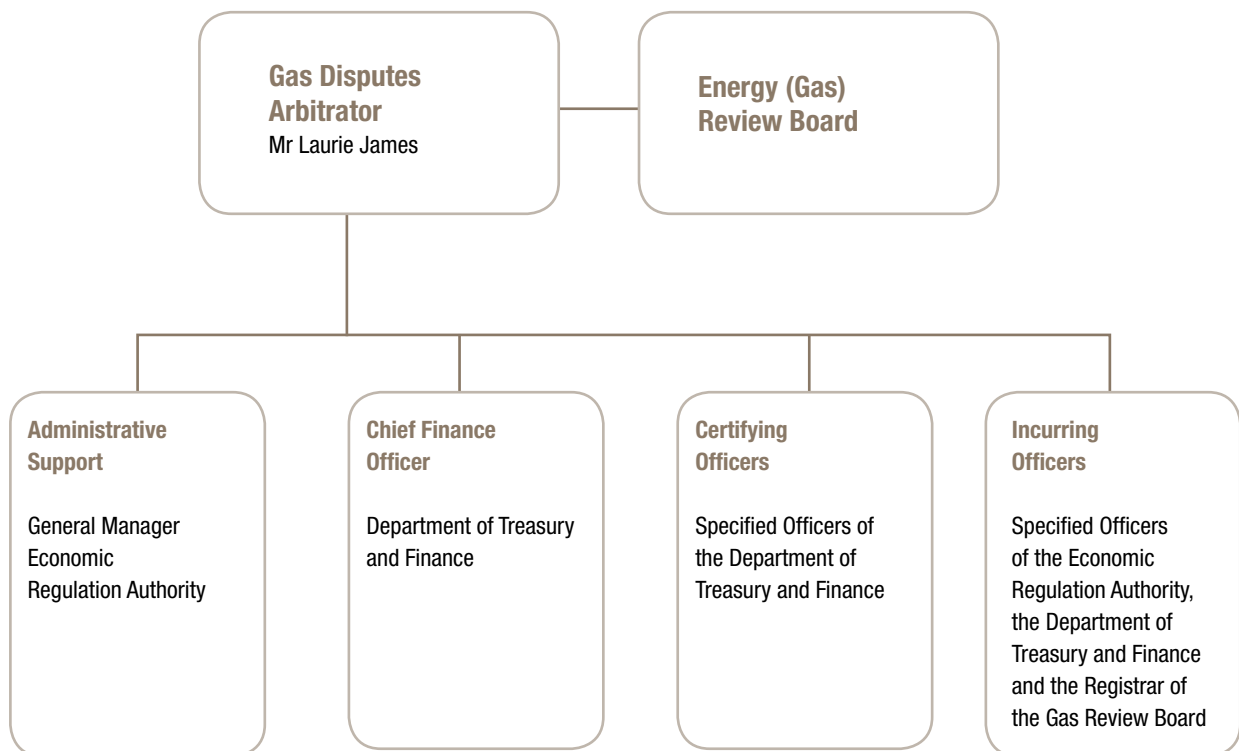
Operational Structure

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.

Organisational Structure

The following chart represents the organisational structure of the Gas Disputes Arbitrator as at 30 June 2007:



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 appeals Number 3 of 2004 and Numbers 1 and 2 of 2005.

The 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 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*.

Information relating to the services of the Arbitrator is maintained on the Economic Regulation Authority web site 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 General Manager of the Economic Regulation Authority and the Department of Treasury and Finance.

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

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.

The 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 *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, as required.

Responsible Minister

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

Overview of Arbitrator

Legislation Affecting Activities

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

Enabling Legislation

The role of Arbitrator is established under section 62 of the *Gas Pipelines Access (Western Australia) Act 1998*.

The Arbitrator is also required to comply with 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*).

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)* and it establishes the regulatory regime. Section 6 of the Gas Code outlines many of the functions of the Arbitrator.

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* establishes the Arbitrator's functions with regards to the electricity industry, and involves providing 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 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.

In addition, the Board may review a direction of the Economic Regulation Authority that:

- an amendment be made to a standard form contract.

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*.

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 Independent Market Operator on matters under the *Wholesale Electricity Market Rules* including:
 - » procedural and reviewable decisions as set out in schedule 2, Part 6 of the *Electricity Industry (Wholesale Electricity Market) Regulations 2004*; and
 - » a decision to impose a civil penalty.

In addition, the Board may 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 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.



Agency Performance

Key outcomes of 2006-07

New Applications for Review

There were no new applications for review filed with the *Energy (Gas) Review Board* during the year ended 30 June 2007.

Application Number 3 of 2004 – Western Power Corporation

This application was the subject of a substantive hearing before the Gas Review Board and was heard during the period between 14 February 2007 and 23 February 2007.

The Board is now considering its decision. The expiry date for the Board for the purpose of this application is 12 December 2007.

This is subject to the provisions of section 38(4) of the *Gas Pipelines Access (Western Australia) Act 1998*, which confers upon the Board the power to extend the period for the review in appropriate circumstances.

Application Number 1 of 2005 – Electricity Generation Corporation

This application for review was also the subject of a substantive hearing before the Board which took place during the period 14 February 2007 and 23 February 2007.

During the course of the hearing an application for leave to be heard on the matter was submitted by Alinta Asset Management and this application has been the subject of directions by the Board.

The hearing of the substantive application by Electricity Generation Corporation is now complete with the Board having reserved its decision and is currently considering its decision and reasons. However, various issues arising out of the Alinta application have been set down for further hearing.

The issue as to whether the Board has the jurisdiction to deal with the matters raised by Alinta Asset Management was set down for a hearing on 27 July 2007. This hearing took place and the Board is considering its decision.

A hearing of the substantive matters raised by Alinta Asset Management will, to some extent, be dependent upon the outcome of the hearing regarding the jurisdictional issues; however, at this stage the hearing of the substantive matters has been set down for 30 and 31 October 2007 with 3 and 4 December 2007 held in reserve.

The expiry date of the Board for the purpose of these matters, subject to section 38(4) of the *Gas Pipelines Access (Western Australia) Act 1998*, is 7 December 2007.

Application Number 2 of 2005 – DBNGP Companies

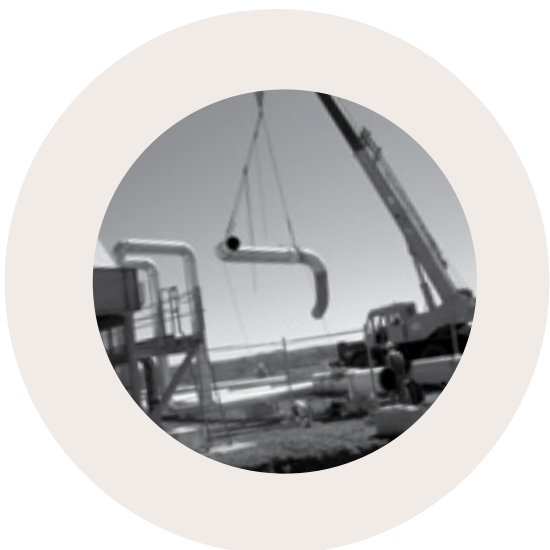
This application was discontinued by consent of all parties and with the approval of the Board on 1 March 2007.

The only matter that remained after 1 March 2007 was for the Board to decide what orders should be made in relation to payment of the Board's own costs.

On 10 August 2007, the Board decided not to make an order that any party should bear some or all of its own costs incurred in connection with this application.

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 2007, there were four regulated pipeline systems in Western Australia:

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

Customer Satisfaction Survey

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

Survey Results

Satisfaction with venues and facilities	
Very satisfied	33%
Satisfied	67%
Neither satisfied or dissatisfied	0%
Dissatisfied	0%
Very dissatisfied	0%
Satisfaction with the timeliness of services provided	
Very satisfied	67%
Satisfied	33%
Neither satisfied or dissatisfied	0%
Dissatisfied	0%
Very dissatisfied	0%
Administrative services overall	
Very satisfied	67%
Satisfied	33%
Neither satisfied or dissatisfied	0%
Dissatisfied	0%
Very dissatisfied	0%

Comparison to Customer Satisfaction Survey 2005-06

The results of the 2006-07 survey indicate no major changes in Board members' satisfaction with the performance of the Arbitrator since the previous year's survey. Overall, Board members were satisfied with the administrative services provided to the Gas Review Board by the Arbitrator.

Performance

Arbitrator's Costs

The cost of the Arbitrator's oversighting role for regulated infrastructure in Western Australia has decreased from \$45,510 in 2005-06 to \$37,687 in 2006-07. This indicates that costs are being maintained well below expected budget forecasts.

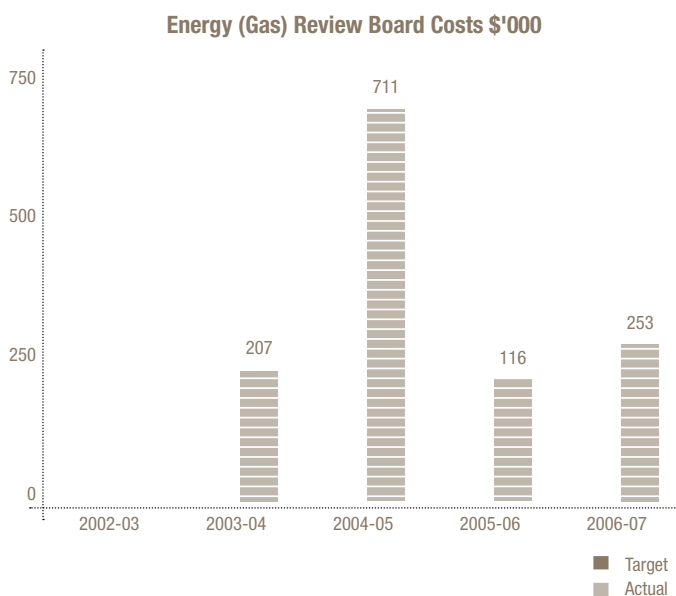
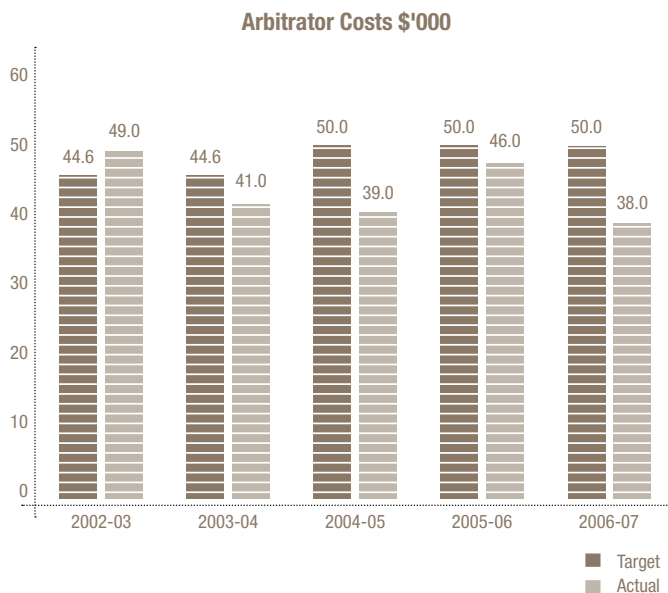
The Arbitrator is able to recover 50 per cent of this cost from operators of regulated pipelines in the State.

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 has dealt with three appeals, two of which are continuing. The total cost of the three appeals during the financial year was \$253,041.

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 financial year.

The costs of the Gas Review Board in the reporting period were significantly more than those in 2005-06, reflecting the costs of the preparation and hearing of three appeals. Owing to the many uncertainties associated with the hearing of reviews, no cost targets are set.



Number of Units of Regulated Infrastructure Oversighted

During 2006-07, the Arbitrator was responsible for 11.4 equivalent standard units (\$500 million) of regulated infrastructure. This was higher than the previous two years because of the increased final value of electricity infrastructure associated with the approval of Western Power's access arrangement, and the revised value of infrastructure for the Mid-West and South-West gas distribution systems and the Dampier to Bunbury Natural Gas Pipeline, which were also reviewed.

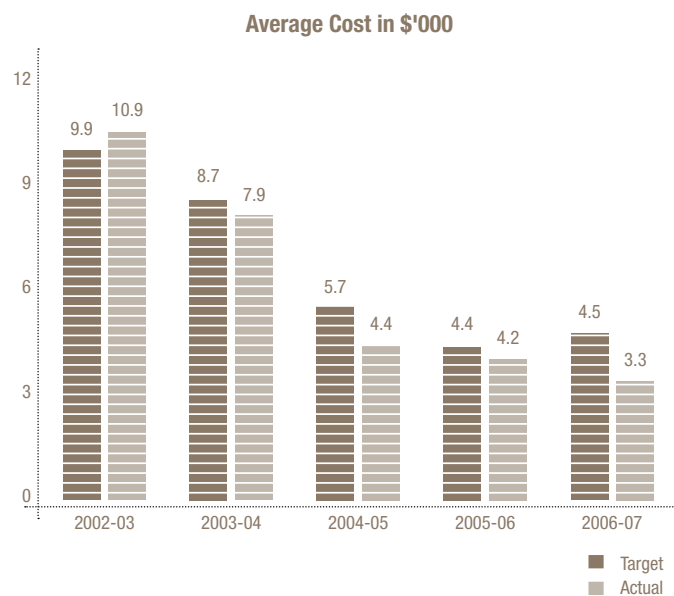
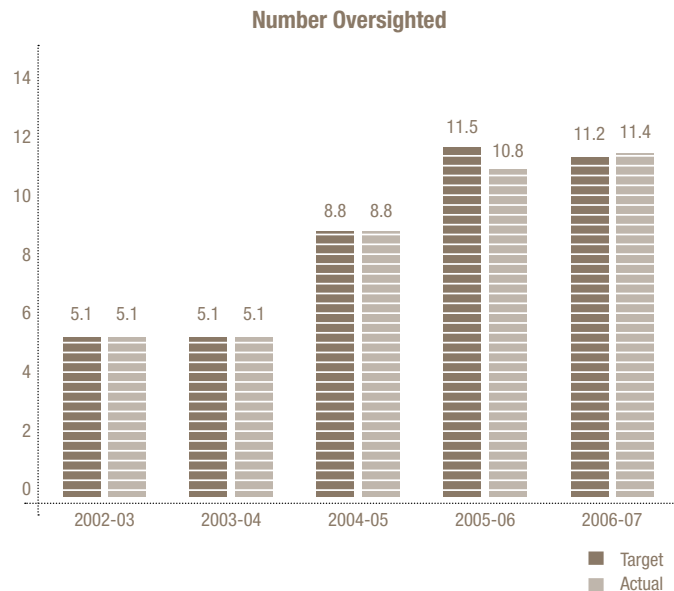
The 11.2 target for 2006-07 was set with the assumption that the value of the electricity infrastructure would remain the same. However, the finalisation of the Western Power access arrangement resulted in a higher value to its capital base thereby increasing the number of equivalent standard units of regulated infrastructure to 11.4 units.

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 has continued to decrease from \$4,204 in 2005-06 to \$3,292 in 2006-07.

This is due to the total number of units increasing from 10.8 to 11.4 units and there being a decrease in total costs for this oversighting role from \$45,510 in 2005-06 to \$37,687 in 2006-07.



Significant Issues and Trends

Looking into the Future

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 (AEMA), 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 this is practical and beneficial.

In relation to gas matters, Western Australia is developing the *National Gas Access (Western Australia) Bill 2007 (the Bill)*. When the new legislation is passed, it will replace the *Gas Pipelines Access (Western Australia) Act 1998*.

South Australia is developing the lead legislation and the Commonwealth, States and Territories are expected to pass their Application Acts. The Bill is the Application Act for Western Australia. The common collective legislative framework is referred to as the National Gas Law.

In 2006, the MCE endorsed a national gas framework which allows for the transfer of gas access appeal functions from the Gas Review 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 envisaged to be undertaken as part of the introduction of the National Gas Law.

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

The Australian Energy Regulator will regulate gas access matters in the rest of Australia, while the Authority

will continue to regulate access to covered Western Australian gas pipelines.

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

When the new gas access related arrangements are fully implemented, only electricity related appeals will be heard by the Energy (Gas) Review Board. The Board has functions in the following areas:

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

In light of the energy market reform processes taking place, it is understood that a review of the Board's functions will be undertaken in 2007-08 by the Office of Energy. The review will encompass necessary legislative amendments to reflect the changing regulatory environment. It is also understood that a report will be provided by late 2007 to the Minister for Energy for his consideration.

The main challenge for the Arbitrator will continue to be maintaining preparedness to deal with disputes lodged for arbitration or applications to the Energy (Gas) Review Board for reviews or decision.

Administrative procedures are reviewed on an ongoing basis and improvements made. This includes updating information on services through the Economic Regulation Authority's web site www.era.wa.gov.au.

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 2007

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 2007, 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.

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 2007 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 2007.



COLIN MURPHY
AUDITOR GENERAL

6 September 2007



4th Floor Dumas House 2 Havelock Street West Perth 6005
Western Australia Tel: 08 9222 7500 Fax: 08 9322 5664

Disclosures and Legal Compliance



Financial Statements

Certification of Financial Statements for the Year Ended 30 June 2007

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 ended 30 June 2007 and the financial position as at 30 June 2007.

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 August 2007

John Hull
CHIEF FINANCIAL OFFICER
31 August 2007

Disclosures and Legal Compliance

Financial Statements for 2006-07

Income Statement

for the year ended 30 June 2007

	Note	2007 \$'000	2006 \$'000
COST OF SERVICES			
Expenses			
Employee benefits expense	4	27	30
Supplies and services	5	264	99
Accommodation expenses	6	-	33
Total cost of services		291	162
Income			
User charges and fees	7	15	31
Interest revenue	8	19	49
Other revenue	9	-	3
Total income other than income from State Government		34	83
		257	79
NET COST OF SERVICES			
INCOME FROM STATE GOVERNMENT			
Service Appropriation	10	-	1,104
Resources received free of charge		-	2
Total income from State Government		-	1,106
SURPLUS/(DEFICIT) FOR THE PERIOD		(257)	1,027

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

Disclosures and Legal Compliance

Financial Statements for 2006-07

Balance Sheet

for the year ended 30 June 2007

	Note	2007 \$'000	2006 \$'000
ASSETS			
Current Assets			
Cash and cash equivalents	11	420	158
Receivables	12	5	12
Total Current Assets		425	170
TOTAL ASSETS		425	170
LIABILITIES			
Current Liabilities			
Payables	13	13	1
Amounts due to the Treasurer	14	500	–
Total Current Liabilities		513	1
TOTAL LIABILITIES		513	1
NET ASSETS/(LIABILITIES)		(88)	169
EQUITY			
Accumulated surplus/(deficit)	15	(88)	169
TOTAL EQUITY		(88)	169

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

Disclosures and Legal Compliance

Financial Statements for 2006-07

Statement of Changes in Equity

for the year ended 30 June 2007

	Note	2007 \$'000	2006 \$'000
Balance of equity at start of period	15	169	(858)
ACCUMULATED SURPLUS/(DEFICIT)			
Balance at start of period		169	(858)
Surplus/(deficit) for the period		(257)	1,027
Balance at end of period		(88)	169
Balance of equity at end of period	15	(88)	169
Total income and expense for the period		(257)	1,027

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

Disclosures and Legal Compliance

Financial Statements for 2006-07

Cash Flow Statement

for the year ended 30 June 2007

	Note	2007 \$'000	2006 \$'000
CASH FLOWS FROM STATE GOVERNMENT			
Appropriation		-	1,104
Net cash provided by State Government		-	1,104
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Employee benefits		(26)	(30)
Supplies and services		(251)	(117)
Accommodation		-	(33)
GST payments on purchases		(25)	70
Receipts			
User charges and fees		15	30
GST receipts from taxation authority		30	(63)
Other receipts		19	52
Net cash used in operating activities	16(a)	(238)	(91)
CASH FLOWS FROM FINANCING ACTIVITIES			
Proceeds from Treasurer's Advance		500	-
Repayment of Treasurer's Advance		-	(1,800)
Net cash provided by financing activities		500	(1,800)
Net increase in cash and cash equivalents		262	(787)
Cash and cash equivalents at the beginning of period		158	945
CASH AND CASH EQUIVALENTS AT THE END OF PERIOD	16(b)	420	158

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

Notes to the Financial Statements

for the year ended 30 June 2007

1. Australian equivalents to International Financial Reporting Standards

a) General

The Arbitrator's financial statements for the year ended 30 June 2007 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 2007.

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.

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.

Notes to the Financial Statements

for the year ended 30 June 2007

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.

Interest

Revenue is recognised as the interest accrues.

Service Appropriations

Service Appropriations are recognised as revenues at nominal value in the period in which the Arbitrator gains control of the appropriated funds. The Arbitrator gains control of appropriated funds at the time those funds are deposited to the bank account or credited to the holding account held at Treasury.

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

The Arbitrator has two categories of financial instrument:

- (i) Receivables (cash and cash equivalents, receivables); and
- (ii) Non-trading financial liabilities (payables).

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

Notes to the Financial Statements

for the year ended 30 June 2007

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.

(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.

Disclosures and Legal Compliance

Financial Statements for 2006-07

Notes to the Financial Statements

for the year ended 30 June 2007

3. Disclosure of changes in accounting policy and estimates

a) 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 2006:

1. AASB 2005-9 'Amendments to Australian Accounting Standards [AASB 4, AASB 1023, AASB 139 and AASB 132]' (Financial guarantee contracts). The amendment deals with the treatment of financial guarantee contracts, credit insurance contracts, letters of credit or credit derivative default contracts as either an "insurance contract" under AASB 4 'Insurance Contracts' or as a "financial guarantee contract" under AASB 139 'Financial Instruments: Recognition and Measurement'. The Arbitrator does not currently undertake these types of transactions, resulting in no financial impact in applying the Standard.
2. UIG Interpretation 4 'Determining whether an Arrangement Contains a Lease' as issued in June 2005. This Interpretation deals with arrangements that comprise a transaction or a series of linked transactions that may not involve a legal form of a lease but by their nature are deemed to be leases for the purposes of applying AASB 117 'Leases'. At balance sheet date, the Arbitrator has not entered into any arrangements as specified in the Interpretation, resulting in no impact in applying the Interpretation.
3. UIG Interpretation 9 'Reassessment of Embedded Derivatives'. This Interpretation requires an embedded derivative that has been combined with a non-derivative to be separated from the host contract and accounted for as a derivative in certain circumstances. At balance sheet date, the Arbitrator has not entered into any contracts as specified in the Interpretation, resulting in no impact in applying the Interpretation.

The following Australian Accounting Standards and Interpretations are not applicable to the Arbitrator as they have no impact or do not apply to not-for-profit entities:

AASB Standards and Interpretations

2005-1	'Amendments to Australian Accounting Standard' (AASB 139 - Cash flow hedge accounting of forecast intragroup transactions)
2005-5	'Amendments to Australian Accounting Standards [AASB 1 and AASB 139]'
2006-1	'Amendments to Australian Accounting Standards' [AASB 121]'
2006-3	'Amendments to Australian Accounting Standards' [AASB 1045]'
2006-4	'Amendments to Australian Accounting Standards' [AASB 134]'
2007-2	"Amendments to Australian Accounting Standards arising from AASB Interpretation 12 [AASB 1, AASB 117, AASB 118, AASB 120, AASB 121, AASB 127, AASB 131 & AASB 139]' – paragraph 9
UIG 5	'Rights to Interests arising from Decommissioning, Restoration and Environmental Rehabilitation Funds'
UIG 6	'Liabilities arising from Participating in a Specific Market – Waste Electrical and Electronic Equipment'
UIG 7	'Applying the Restatement Approach under AASB 129 Financial Reporting in Hyperinflationary Economies'
UIG 8	'Scope of AASB 2'

Notes to the Financial Statements

for the year ended 30 June 2007

b) 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 but are not yet effective. These will be applied from their application date:

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, AASB1, AASB 4, AASB 1023 & AASB 1038]'). This Standard requires new disclosures in relation to financial instruments. The Standard is considered to result in increased disclosures, both quantitative and qualitative of the Arbitrator's exposure to risks, enhance disclosure regarding components of the Arbitrator's financial position and performance, and possible changes to the way of presenting certain items in the financial statements. The Arbitrator does not expect any financial impact when the Standard is first applied. The Standard is required to be applied to annual reporting periods beginning on or after 1 January 2007.
2. 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)'. The amendments are as a result of the issue of AASB 7 'Financial Instruments: Disclosures', which amends the financial instrument disclosure requirements in these standards. The Arbitrator does not expect any financial impact when the Standard is first applied. The Standard is required to be applied to annual reporting periods beginning on or after 1 January 2007.
3. AASB 101 'Presentation of Financial Statements'. This Standard was revised and issued in October 2006 so that AASB 101 has the same requirements as IAS 1 'Presentation of Financial Statements' (as issued by the IASB) in respect of for-profit entities. The Arbitrator is a not-for-profit entity and consequently does not expect any financial impact when the Standard is first applied. The Standard is required to be applied to annual reporting periods beginning on or after 1 January 2007.
4. AASB 2007-4 'Amendments to Australian Accounting Standards arising from ED 151 and Other Announcements (AASB 1, 2, 3, 4, 5, 6, 7, 102, 107, 108, 110, 112, 114, 116, 117, 118, 119, 120, 121, 127, 128, 129, 130, 131, 132, 133, 134 136, 137, 138, 139, 141, 1023 & 1038)'. This Standard introduces policy options and modifies disclosures. These amendments arise as a result of the AASB decision that, in principle, all options that currently exist under IFRSs should be included in the Australian equivalents to IFRSs and additional Australian disclosures should be eliminated, other than those now considered particularly relevant in the Australian reporting environment. The Department of Treasury and Finance has indicated that it will mandate to remove the policy options added by this amending Standard. The Standard is required to be applied to annual reporting periods beginning on or after 1 July 2007.
5. AASB 2007-5 'Amendment to Australian Accounting Standard – Inventories Held for Distribution by Not-for-Profit Entities (AASB 102)'. This amendment changes AASB 102 'Inventories' so that inventories held for distribution by not-for-profit entities are measured at cost, adjusted when applicable for any loss of service potential. The Arbitrator does not have any inventories held for distribution so does not expect any financial impact when the Standard is first applied. The Standard is required to be applied to annual reporting periods beginning on or after 1 July 2007.
6. AASB Interpretation 4 'Determining whether an Arrangement Contains a Lease [revised]'. This Interpretation was revised and issued in February 2007 to specify that if a public-to-private service concession arrangement meets the scope requirements of AASB Interpretation 12 'Service Concession Arrangements' as issued in February 2007, it would not be within the scope of Interpretation 4. At balance sheet date, the Arbitrator has not entered into any arrangements as specified in the Interpretation or within the scope of Interpretation 12, resulting in no impact when the Interpretation is first applied. The Interpretation is required to be applied to annual reporting periods beginning on or after 1 January 2008.

Disclosures and Legal Compliance

Financial Statements for 2006-07

Notes to the Financial Statements

for the year ended 30 June 2007

7. AASB Interpretation 12 'Service Concession Arrangements'. This Interpretation was issued in February 2007 and gives guidance on the accounting by operators (usually a private sector entity) for public-to-private service concession arrangements. It does not address the accounting by grantors (usually a public sector entity). It is currently unclear as to the application of the Interpretation to the Arbitrator if and when public-to-private service concession arrangements are entered into in the future. At balance sheet date, the Arbitrator has not entered into any public-to-private service concession arrangements resulting in no impact when the Interpretation is first applied. The Interpretation is required to be applied to annual reporting periods beginning on or after 1 January 2008.
8. AASB Interpretation 129 'Service Concession Arrangements: Disclosures [revised]'. This Interpretation was revised and issued in February 2007 to be consistent with the requirements in AASB Interpretation 12 'Service Concession Arrangements' as issued in February 2007. Specific disclosures about service concession arrangements entered into are required in the notes accompanying the financial statements, whether as a grantor or an operator. At balance sheet date, the Arbitrator has not entered into any public-to-private service concession arrangements resulting in no impact when the Interpretation is first applied. The Interpretation is required to be applied to annual reporting periods beginning on or after 1 January 2008.
9. AASB 2007-6 'Amendments to Australian Accounting Standards arising from AASB 123. The amendments principally remove references to expensing borrowing costs on qualifying assets, as AASB 123 was revised to require such borrowing costs to be capitalised. The Arbitrator does not have any qualifying assets or associated borrowing costs.

The following Australian Accounting Standards and Interpretations are not applicable to the Arbitrator as they will have no impact or do not apply to not-for-profit entities:

AASB Standards and Interpretations

AASB 8	'Operating Segments'
AASB 1049	'Financial Reporting of General Government Sectors by Governments'
AASB 2007-1	'Amendments to Australian Accounting Standards arising from AASB Interpretation 11 [AASB 2]'
AASB 2007-2	'Amendments to Australian Accounting Standards arising from AASB Interpretation 12 [AASB 1, AASB 117, AASB 118, AASB 120, AASB121, AASB 127, AASB 131 & AASB 139]' – paragraphs 1 to 8
AASB 2007-3	'Amendments to Australian Accounting Standards arising from AASB 8 [AASB 5, AASB 6, AASB 102, AASB 107, AASB 119, AASB 127, AASB 134, AASB 136, AASB 1023 & AASB 1038]'
AASB 2007-7	Amendments to Australian Accounting Standards [AASB 1, AASB 2, AASB 4, AASB 5, AASB 107 & AASB 128]
Interpretation 10	'Interim Financial Reporting and Impairment'
Interpretation 11	'AASB 2 – Group and Treasury Share Transactions'

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 for 2006-07

Notes to the Financial Statements

for the year ended 30 June 2007

	Note	2007 \$'000	2006 \$'000
4. Employee benefits expense			
Salaries		26	27
Other related expenses		1	3
		27	30
5. Supplies and services			
Communications		1	–
Consultants and contractors		19	11
Consumables		–	–
Legal costs		74	11
Travel		10	–
Gas Review Board fees		154	68
Other		6	9
		264	99
6. Accommodation expenses			
Office accommodation rental		–	33
Other accommodation expenses		–	–
		–	33
7. User charges and fees			
Standing charges		15	31
		15	31
8. Interest revenue			
Interest		19	49
		19	49
9. Other revenue			
Other		–	3
		–	3
10. Income from State Government			
Appropriation received during the year		–	1,104
Resources received free of charge			
Determined on the basis of the following estimates provided by agencies:			
State Solicitor's Office – legal service charges		–	2
		–	1,106
11. Cash and cash equivalents			
Cash at bank		420	158
		420	158

Disclosures and Legal Compliance

Financial Statements for 2006-07

Notes to the Financial Statements

for the year ended 30 June 2007

	Note	2007 \$'000	2006 \$'000
12. Receivables			
Current			
Accounts receivable		3	1
Accrued revenue		-	6
GST receivable		2	5
		5	12
13. Payables			
Current			
Accrued expenses		-	1
Trade payables		13	-
		13	1
14. Amounts due to the Treasurer			
Current			
Treasurer's Advance		500	-
		500	-
15. Equity			
Liabilities exceed assets for the Authority and therefore there is no residual interest in the assets of the Arbitrator. This deficiency arose through the Authority now recognising a liability as a result of a Treasurers advance for \$500,000.			
Balance at start of year		169	(858)
Result for the period		(257)	1,027
Balance at end of year		(88)	169
16. Notes to the Cash Flow Statement			
(a) Reconciliation of net cost of services to net cash flows provided by/used in operating activities			
Net cost of services		(257)	(79)
Non-cash items			
Resources received free of charge		-	2
(Increase)/decrease in assets			
Current receivables		(2)	(3)
Increase/(decrease) in liabilities			
Payables		13	(18)
Net GST receipts/(payments)		5	(63)
Change in GST in receivables/payables		3	70
Net cash provided by/(used in) operating activities		(238)	(91)

Disclosures and Legal Compliance

Financial Statements for 2006-07

Notes to the Financial Statements

for the year ended 30 June 2007

	Note	2007 \$'000	2006 \$'000
(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		420	158
		420	158

17. Contingent liabilities and contingent assets

The Arbitrator has no contingent liabilities as at 30 June 2007.

18. 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.

19. 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 \$100,000.

	2007 Actual \$'000	2007 Estimate \$'000	Variance \$'000
(a) Significant variances between estimated and actual result for 2007			
Expenses			
Supplies and Services	264	23	241
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, \$11,000 directly related to expenditure of the Arbitrator.			
	2007 \$'000	2006 \$'000	Variance \$'000
(b) Significant variances between actual results for 2006 and 2007			
Expenses			
Supplies and Services	264	99	165
The main reason for the higher costs in comparison to the previous year was a change in activity of the Energy (Gas) Review Board.			

20. Financial instruments

(a) Financial Risk Management Objectives and Policies

Financial instruments held by the Arbitrator are cash and cash equivalents, 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 for 2006-07

Notes to the Financial Statements

for the year ended 30 June 2007

Credit risk

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 has appropriate procedures to manage cash flows by monitoring forecast cash flows to ensure that sufficient funds are available to meet commitments.

Cash flow interest rate risk

The Arbitrator has no significant exposure to movements in interest rates. The Arbitrator has no borrowings.

(b) Financial Instrument disclosures

Interest Rate Risk Exposure

The following table details the Arbitrator's exposure to interest rate risk as at the reporting date:

	Fixed Interest Rate Maturity			
	Weighted Average Effective Interest Rate %	Variable Interest Rate \$'000	Non-Interest Bearing \$'000	Total \$'000
2007				
Financial Assets				
Cash and cash equivalents	6.09	420	–	420
Receivables	n.a.	–	5	5
		420	5	425
Financial Liabilities				
Payables	n.a.	–	13	13
Amounts due to the Treasurer	n.a.	–	500	500
		–	513	513

	Fixed Interest Rate Maturity			
	Weighted Average Effective Interest Rate %	Variable Interest Rate \$'000	Non-Interest Bearing \$'000	Total \$'000
2006				
Financial Assets				
Cash and cash equivalents	5.5	158	–	158
Receivables	n.a.	–	12	12
		158	12	170
Financial Liabilities				
Payables	n.a.	–	1	1
		–	1	1

Notes to the Financial Statements

for the year ended 30 June 2007

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.

21. 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:

	2007	2006
\$		
20,001 – 30,000	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.

2007	2006
\$'000	\$'000

22. Remuneration of Auditor

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

Auditing the accounts, financial statements and performance indicators

5	5
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23. Related bodies

The Arbitrator had no related bodies during the financial year.

24. Affiliated bodies

The Arbitrator had no affiliated bodies during the financial year.

Key Performance Indicators – Statement of Certification

Certification of Performance Indicators for the year ended 30 June 2007

I hereby certify that the accompanying performance indicators are based on proper records and 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 2007.



Laurie James LLB Hons.

Gas Disputes Arbitrator

31 August 2007

Detailed Key Performance Indicators for Gas Disputes Arbitrator 2006-07

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).

Effectiveness

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.

2006-07 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.

Disclosures and Legal Compliance

Key Performance Indicators for 2006-07

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 who 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.

The survey of Board members revealed that there was a continued high level of satisfaction with the support provided by the Arbitrator during the 2006-07 year. This offers evidence that the Arbitrator has been effective in providing the required administrative services. There were no new appeals received in during the year and there were three outstanding appeals that were heard by the Board.

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.

The survey results show that all Board members surveyed were either satisfied or very satisfied which is consistent with the performance in 2005-06. This was a good result, given the extremely demanding workload of the Board.

Effectiveness

Desired outcome	Measure	Target	2006-07	2005-06
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%

Efficiency

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.

Disclosures and Legal Compliance

Key Performance Indicators for 2006-07

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

2006-07 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 now reported as disputes/reviews that are active during the year, regardless of whether they have been completed. This approach better reflects the costs incurred, particularly where a dispute/review spans more than one year.

1. Average cost per dispute

As there were no disputes initiated during the 2006-07 financial year, the average cost per dispute is zero. The average cost was also zero in 2005-06. 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 2006-07 after one was withdrawn in March 2007. 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. The average cost of the three reviews was \$84,347 in 2006-07 compared with \$29,086 in 2005-06 and \$142,252 in 2004-05.

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 2005-06 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 \$3,292 in 2006-07 compared with \$4,204 in 2005-06 compared with \$4,421 in 2004-05 and \$7,919 in the previous financial year. This improvement to this efficiency indicator is explained by the higher than anticipated value of electricity assets to the Arbitrator's oversight role, increasing the number of standard units of regulated infrastructure. The target of \$4,469 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 (11.2 units).

Disclosures and Legal Compliance

Key Performance Indicators for 2006-07

Efficiency

Service	Performance Indicator	Target	2006-07	2005-06
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	\$84,347	\$29,086
Maintaining a state of readiness	Average cost per standard unit of regulated infrastructure	\$4,469	\$3,292	\$4,204

Equivalent Standard Units of Infrastructure

During 2006-07, the Arbitrator oversighted 11.4 equivalent standard units (\$500 million) of regulated infrastructure. This was higher than the previous two years because of the increased final value of electricity infrastructure associated with the approval of Western Power's access arrangement, and the revised value of infrastructure for the Mid-West and South-West gas distribution systems and the Dampier to Bunbury Natural Gas Pipeline, which were also reviewed. The 11.2 target for 2006-07 was set based on the assumption that the value of the electricity infrastructure would remain the same as the value reported in the Authority's draft decision on Western Power's Access Arrangement.

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 now 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 2006-07 would far exceed 11.4 units. As the generation facilities now oversighted 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.

Other Financial Disclosures

Funding

Expenditure, other than that directly associated with the hearing of arbitrations 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 whilst the other 50 per cent has been met through an appropriation from Government.

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 who are liable for quarterly standing charges and the percentage allocations of costs between them are set out in schedule 1 of the Funding Regulations.

The total amount of standing charges paid by pipeline operators in respect of the costs of the Arbitrator in the year ended 30 June 2007 are presented in the following table.

Charges paid by pipeline operator for the year ended 30 June 2007

Service Provider	Standing Charges	Charges levied, but not yet received
AlintaGas Networks Pty Limited	\$5,377	\$0
DBNGP (WA) Transmission Pty Limited	\$10,293	\$0
Goldfields Gas Transmission	\$4,195	\$0
BHP Petroleum (Ashmore Operations) Pty Limited	\$56	\$0
Southern Cross Pipelines Pty Limited	\$562	\$0
TOTAL	\$20,483	\$0

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 none in 2006-07, 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 appeals 3 and 5 of 2004 and appeals 1 and 2 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-needs basis. The Arbitrator had a \$500,000 Treasurer's Advance during 2006-07 to fund the activities of the Energy (Gas) Review Board.

Disclosures and Legal Compliance

Governance Disclosures

The Arbitrator has no supporting organisation as such. Details of compliance relate solely to the office of the Arbitrator.

Shares in Subsidiary Bodies

Treasurer's Instruction 903 requires details of shares in any subsidiary body of the statutory authority held as a nominee or held beneficially by a Senior Officer of the statutory authority. There are no such shares.

Interest in Existing or Proposed Contracts

Treasurer's Instruction 903 requires the disclosure of any interest in any existing or proposed contract which a Senior Officer, or a firm of which a Senior Officer is a member, or an entity in which a Senior Officer has a substantial financial interest, has made with the statutory authority or any related or affiliated body. There are no such interests.

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.

Directions Given

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.

Publications

During the reporting year, the Arbitrator published an annual report for 2005-06. This report was published on the Economic Regulation Authority's web site at www.era.wa.gov.au.

Boards and Committees

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

Human Resource Policies

The Arbitrator does not employ staff. Officers of other public service agencies providing services to the Arbitrator are employed in accordance with the human resource policies of the employing agencies.

Consultants

Section 81 of the *Gas Pipelines Access (Western Australia) Act 1998* provides for the Arbitrator to engage consultants to help perform functions.

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 2006-07 was nil.

Glossary

Below is a glossary of terminology 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 <i>Gas Pipelines Access (Western Australia) Act 1998</i> and the <i>Electricity Networks Access Code 2004</i> . The Energy 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 <i>National Third Party Access Code for Natural Gas Pipeline Systems</i> and <i>Electricity Industry Act 2004</i> .
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 <i>Gas Pipeline Access (Western Australia) Act 1998</i> .
Ring Fencing	Ring fencing means separating an infrastructure owner/operator's function and business of providing access to the infrastructure from its other functions and business. The Energy (Gas) Review Board may review a decision of the Economic Regulation Authority as to the ring fencing obligations of a network service provider.
Wholesale Electricity Market	As part of the Western Australian Government's electricity market reform program, a new 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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