



Western Australian Gas Disputes Arbitrator

Annual Report 2008/09



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Previous years' annual reports can also be found on the Authority's web site.

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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.

Letter of transmission



Office of the Gas Disputes Arbitrator

21 September 2009

Hon Peter Collier BA DipEd MLC
Minister for Energy, Training
Level 11 West
Dumas House
2 Havelock Street
WEST PERTH WA 6005

Dear Minister

GAS DISPUTES ARBITRATOR 2008/09 ANNUAL REPORT

In accordance with section 61 of the *Financial Management Act 2006*, we submit for your information and presentation to Parliament, the Annual Report of the Gas Disputes Arbitrator for the financial year ended 30 June 2009.

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.

Yours sincerely

MR LAURIE JAMES LLB HONS.
GAS DISPUTES ARBITRATOR
21/09/09

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Overview

From the Arbitrator



**Figure 1 - Mr Laurie James
LLB Hons, WA Gas Disputes
Arbitrator**

During the year there were a number of applications filed for consideration by the Energy Review Board. Two of these applications were brought by the Independent Market Operator, seeking to enforce the new market rules, both of which applications being made against Alinta Sales Pty Ltd.

A further application was brought during the course of the year by Griffin Power Pty Ltd against the Independent Market Operator which sought a review of the Independent Market Operator's decision not to apply the fast track rule change process to a rule change proposal submitted by Griffin Energy. This

application (Review No. 2 of 2008) was subsequently discontinued by orders of the Energy Review Board on 18 May 2009.

Details of the above three applications can be found on the Energy Review Board page of 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.

In connection with a series of reviews undertaken by the Gas Review Board, I would like 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 express my appreciation to Mr James Saunders, the Registrar for the reviews that were before the Gas Review Board, and Ms Pam Herbener, my Chief Finance Officer.

Mr Laurie James LLB Hons
GAS DISPUTES 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 financial year ended 30 June 2009.

The position of the Arbitrator was set up 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 Pipelines Systems (Gas Code)*. The Arbitrator also has functions under the *Electricity Industry Act 2004* and the Wholesale Electricity Market Rules.

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 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*, the *Electricity Industry Act 2004* or the Wholesale Electricity Market Rules.

Three review boards were operational during the reporting year to hear applications from the Independent Market Operator (1 of 2008 and 3 of 2008) and Griffin Power Pty Limited (2 of 2008).

Further information on these applications for review can be found in the Arbitrator's [Performance](#) section of this annual report.

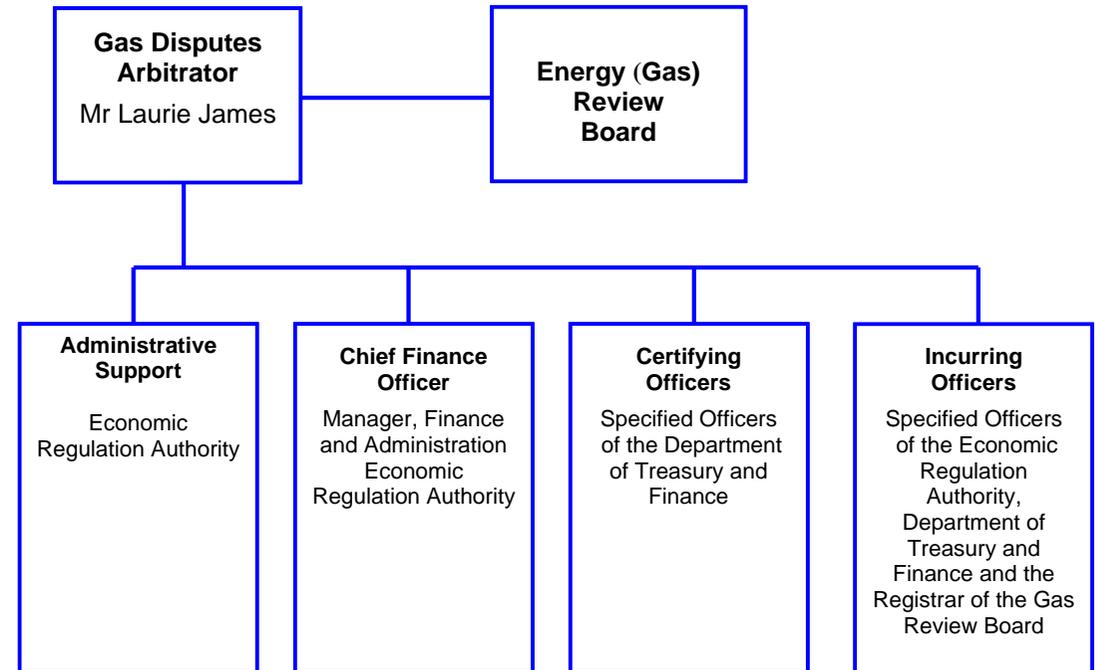
Operational structure

The office of the Arbitrator was set up 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 (**Authority**) for corporate services.

Organisational structure

The following chart represents the organisational structure of the Arbitrator as at 30 June 2009. The 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.

Figure 2 - Organisational chart at 30 June 2009



Operational structure (continued)

Role of the Arbitrator

The position of Arbitrator was set up to resolve disputes between providers of gas pipeline services and other parties seeking access to gas pipelines covered by the *National Gas Access Code*.

The functions of the Arbitrator relating to gas include those conferred by:

- the [Gas Pipelines Access \(WA\) law](#);
- the regulations referred to in section 74 of the [Gas Pipelines Access \(Western Australia\) Act 1998](#)—relating to the functions of hearing and determining disputes; and
- section 56 of the [Gas Pipelines Access \(Western Australia\) Act 1998](#)—relating to administrative support for the Board.

The functions of the Arbitrator relating to electricity include those conferred by:

- chapter 10 of the [Electricity Networks Access Code](#)—negotiation of contracts for access to regulated electricity networks;

- chapter 10 of the [Electricity Networks Access Code](#)—where agreed by the parties to an access contract, the Arbitrator has jurisdiction to hear contractual disputes; and
- the *Electricity Industry Act 2004*—relating to administrative support for the Board.

The Arbitrator has also assumed certain electricity related functions conferred under the *Electricity Industry Act 2004* relating to the Wholesale Electricity Market Rules.

Operational structure (continued)

Regulated infrastructure

The infrastructure to which the Arbitrator's functions relate is 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 2009, 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.

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, administrative services are provided by the Authority.

In March 2008, the Arbitrator sought an exemption from Treasurer's Instruction 824, which requires that the substantive occupant of the position of Chief Financial Officer be "suitably qualified". This exemption was approved on 4 April 2008 for the current incumbent of the 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 Chief Financial Officer by Mr Bruce Donald FCPA from 2020 Global.

Operational structure (continued)

Premises

For the purposes of current hearings, the Board has been using the Boardroom of Kott Gunning Solicitors, 140 St Georges Terrace, Perth. Rooms at the Industrial Relations Commission and State Administrative Tribunal have not been available.

Boards and committees

The Arbitrator did not participate on any boards or committees during the year.

Publications

During the reporting year, the Arbitrator published his annual report for 2007/08. This report was published on the Authority's web site at www.era.wa.gov.au.

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.

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. Peter Collier BA DipEd MLC, Minister for Energy and Training 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 set up 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 set up 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*).

Operational structure (continued)

Schedule 2 of the *Gas Pipelines Access (Western Australia) Act 1998* is known as The National Thirds 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 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 Authority to not approve an access arrangement submitted under the Gas Code by a service provider and to draft its own access arrangements; 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* (**Electricity Code**) sets up 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 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 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 license 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;

Operational structure (continued)

- to add to the obligations of a network service provider under the Electricity Code in respect of the segregation of the functions and business or 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.

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

The process for the Board hearing applications for review of decisions by the Authority and the Minister for Energy 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 (**IMO**) on matters under the *Wholesale Electricity Market Rules (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 (**WEM**) including:

- an order to enforce the payment of a penalty imposed by the IMO;
- an order that a participant in the WEM has contravened certain provisions of the Market Rules and, depending on the provision and circumstance:
 - an order that the person pays a civil penalty provision;
 - an order that the person ceases the act that caused the contravention;
 - an order that the person remedy the contravention;

Operational structure (continued)

- an order that the person implement a compliance program;
- an order suspending a person registered under the Market Rules;
- an order that certain facilities of a registered person be disconnected from the network; and
- an order that the registration of a person registered under the Market Rules be cancelled.

Energy (Gas) Review Board

Section 50(1) of the *Gas Pipelines Access (Western Australia) Act 1998* set up the Gas Review Board as an appeals body. Following the Gas Review Board's assumption of functions under the *Electricity Industry Act 2004* and the Market Rules, it is now referred to as the Energy (Gas) Review Board.

The Board comprises a presiding member chosen by the Attorney General from a panel of legal practitioners, and two experts who are chosen by the presiding member from a panel of experts. The panel of legal practitioners and the panel of experts for 2008/09 can be found on the Authority's web site www.era.wa.gov.au.

The Board may be separately constituted to hear and determine different appeals. Under section 56 of the *Gas Pipelines Access (Western Australia) Act 1998*, the Arbitrator is to provide the Board with the staff and services it needs.

The new uniform national framework established by the *National Gas Access (WA) Act 2009* will affect the Board's functions for access arrangements or revisions to access arrangements lodged under the new legislation from 2009/2010. These functions will be taken over by the Australian Competition Tribunal. For the purposes of the Board's functions under the *Electricity Industry Act 2004* and the Market Rules, which will also continue, it will be renamed the Electricity Review Board.

For further information on these legislative changes, please refer to the '[Significant issues impacting the Arbitrator](#)' section of this report.

The Arbitrator's performance

Key outcomes of 2008/09

Ongoing applications and new applications for review

There were no ongoing applications and three new applications lodged for review with the Energy (Gas) Review Board during the year ended 30 June 2009. The new applications are listed in the following table.

Figure 3 - New applications for review lodged with the Energy (Gas) Review Board in 2008/09

Application number	Date of application	Applicant	Respondent	Status	Nature of application
1 of 2008	29 October 2008	Independent Market Operator	Alinta Sales Pty Ltd (ACN 089 531 984)	Directions issued 10 June 2009. It is aimed for the matter to be heard in July/August 2009.	Application for orders for contravention of the Market Rules.
2 of 2008	17 December 2008	Griffin Power Pty Ltd	Independent Market Operator (IMO)	Discontinued by orders dated 18 May 2009.	Application to review a decision by the IMO not to process a rule change proposal submitted by Griffin Power Pty Ltd via the fast track rule change process.
3 of 2008	22 December 2008	Independent Market Operator	Alinta Sales Pty Ltd (ACN 089 531 984)	Directions issued 10 June 2009. It is aimed for the matter to be heard in July/August 2009.	Application for orders for contravention of the Market Rules.

Key outcomes of 2008/09 (continued)

Methods used in achieving outcomes

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

Arbitrator's costs

The cost of the Arbitrator's oversighting role for regulated infrastructure in Western Australia increased from \$40,089 in 2007/08 to \$44,656 in 2008/09. The Arbitrator is able to recover 50% of this cost from operators of regulated gas pipelines in the State.

Energy (Gas) Review Board costs

For the first time this year, the Board was constituted under the Wholesale Electricity Market Rules. In this capacity, the Board dealt with three applications during the financial year, the total costs of which amounted to \$51,163. There was additional expenditure of \$15,268 in relation to appeals that were finalised in previous years,

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 \$3,502 in 2007/08 to \$3,917 in 2008/09.

This is due to the total number of equivalent standard units of regulated infrastructure remaining constant, while costs increased for this oversighting role from \$40,089 in 2007/08 to \$44,656 in 2008/09.

Key outcomes of 2008/09 (continued)

Survey of Energy (Gas) Review Board members

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

Four members were contacted and each responded to the questionnaire, giving a response rate of 100%.

Members were asked to rate their satisfaction in relation to the:

- venues and facilities provided to them by the Office of the Arbitrator;
- timeliness of services provided by the Office of the Arbitrator; and
- general administrative services they received from the Office of the Arbitrator.

Survey results

Figure 4 - Energy (Gas) Review Board's satisfaction with venues and facilities

Satisfaction with venues and facilities	Response rate
Very satisfied	50%
Satisfied	50%

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

All respondents made comments relating to the use of the boardroom of Kott Gunning Solicitors to convene hearings. One member stated that the venue was 'a good boardroom' and another said that 'there was not ready access to a hearing room which was awkward. The boardroom offered was more informal than a courtroom but this was not necessarily a bad thing...'

Figure 5 - Energy (Gas) Review Board's satisfaction with timeliness of services provided

Satisfaction with timeliness of services provided	Response rate
Very satisfied	50%
Satisfied	25%
Neither satisfied or dissatisfied	25%
Dissatisfied	0%
Very dissatisfied	0%

Of those members that were very satisfied or satisfied, one commented that the timeliness was "excellent" and the other stated 'There was a delay in the board being constituted which seems like a defect in the process and not associated with [the] registrar.'

Key outcomes of 2008/09 (continued)

The member that was neither satisfied nor dissatisfied made a comment that *“market players would be less satisfied as it took a long time to convene boards, although there were valid reasons”*.

Overall, board members reported satisfaction with the timeliness of administrative services provided to the board, however, this was an area that sparked constructive comment; suggesting there is room for improvement.

Figure 6 - Energy (Gas) Review Board's satisfaction with general administrative services provided by the Office of the Arbitrator

General administrative services	Response rate
Very satisfied	66.6%
Satisfied	33.3%
Neither satisfied or dissatisfied	0%
Dissatisfied	0%
Very dissatisfied	0%

Of the members that responded to this question, two stated that they were very satisfied and the other respondent stated that he was satisfied. The remaining member said he did not know as he did not deal directly with the Office of the Arbitrator.

Comparison to previous surveys

This was the first survey to which the four members had responded, as they had not previously been involved in any active Boards. As such, they provided more subjective comments than respondents had in previous years.

However, the results of the 2008/09 survey indicate that there are no major changes in board members' satisfaction with the performance of the Arbitrator, with satisfaction remaining high. Satisfaction ratings strongly support that the service provided by the Arbitrator is adequate and satisfactory. However, the comments provided suggest that there may be some room for improvement in the timeliness of administrative services and the availability of hearing rooms.

Significant issues impacting the Arbitrator

The following issues have impacted upon the speed, efficiency and economy with which the Arbitrator and Energy (Gas) Review Board (**Board**) have been able to conduct their functions in 2008/09. Changes to the legislation for access to natural gas pipelines in Western Australia, enacted in September 2009, will also affect the functions of the Arbitrator and Board in 2009/2010.

National Gas Access (WA) Act 2009

In the 2009/2010 year, the legislative framework for access to natural gas pipelines in Western Australia, as set out in the *National Third Party Access Code for Natural Gas Pipelines Systems*, will be replaced by the new uniform framework established by the *National Gas Access (WA) Act 2009*. As part of these legislative changes, the Board's functions for access arrangements or revisions to access arrangements lodged under the new legislation will be taken over by the Australian Competition Tribunal.

The Gas Review Board's functions will, however, continue to apply to the Goldfields Gas Pipeline and its proposed revisions lodged in March 2009. Any future revisions to the Goldfields Gas Pipelines access arrangement, currently anticipated on 1 January 2015, will fall under the *National Gas Access (WA) Act 2009* including the transfer of jurisdiction from the Gas Review Board to the Australian Competition Tribunal.

For the purposes of the Board's functions under the *Electricity Industry Act 2004* and the Market Rules, which will also continue, it will be renamed as the Electricity Review Board.

Constituting a Board

When an application for review by the Board is lodged it is necessary to make arrangements to constitute a Board as soon as possible. This involves going through a list of eligible panel members and determining who is willing and able to serve on the Board, and to identify any actual conflicts or potential conflicts of interest.

During 2008/09, there were a number of occasions when there were insufficient eligible members available. Of the current list of ten legal practitioner panel members, three members' terms have expired. Of the 17 expert panel members, ten of the members' terms have expired. It is therefore conceivable that if an application were lodged there could be some difficulty in constituting a Board, especially as the nature of the industry results in the common occurrence of conflicts of interest or unavailability owing to conflicting workloads.

Therefore, the regular review of the panels of legal practitioners and experts is necessary to ensure that there are sufficient members available so as to minimise the risk of it not being possible to constitute a Board. Also, as a stop-gap measure, members whose terms have expired could be approached to invite them to agree to an extension of their term.

The registrar of the Board continues to liaise with the Attorney General and State Solicitor's Office on this matter.

Available hearing rooms

On a number of occasions in 2008/09 there has been a lack of available hearing rooms. In 2007/08, an arrangement had been made with the Industrial Relations Commission, which agreed to make its hearing rooms available as and when needed.

Unfortunately, this arrangement has not been possible in this financial year because the Industrial Relations Commission's hearing rooms are currently being used to accommodate Magistrates from the Magistrates Court (whose own hearing rooms are currently under renovation). Therefore, arrangements were made with Kott Gunning Lawyers to adapt its boardroom for hearings whenever they have arisen. This has only been possible when the need for a hearing room does not conflict with Kott Gunning's need for the room for other purposes.

A possible solution to this problem would be for one of the Tribunals to be designated to make a hearing room or rooms available to the Board whenever needed.

Section 51 of the Gas Pipelines Access (Western Australia) Act 1998

Section 51 of the *Gas Pipelines Access (Western Australia) Act 1998* requires that the Attorney General chooses the presiding member of the Board from a panel of legal practitioners. Although the Attorney General's Office is always cooperative in this role, the appointment can be delayed owing to the very busy workload of the Attorney General. Also, the Attorney General

needs to be advised of the background of the matter before the Board before appointing the presiding member.

The process for appointing the presiding member of the Board could be made more efficient if the Attorney General's function could be delegated to an appropriate officer, who should, ideally, be aware of the general process and is available to make a rapid choice of presiding member. The registrar of the Board continues to liaise with the State Solicitor's Office on this matter.

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 2009

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 2009, 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 www.audit.wa.gov.au/pubs/AuditPracStatement_Feb09.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.

Western Australian Gas Disputes Arbitrator Financial Statements and Key Performance Indicators for the year ended 30 June 2009

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 2009 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 2009.

COLIN MURPHY
AUDITOR GENERAL
26 August 2009

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 ended 30 June 2009 and the financial position as at 30 June 2009.

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
21/09/2009



Pam Herbener
CHIEF FINANCE OFFICER
21/09/2009

Financial statements

**Western Australian Gas Disputes Arbitrator
Income Statement
For the year ended 30 June 2009**

	Note	2009 \$'000	2008 \$'000
COST OF SERVICES			
Expenses			
Employee benefits expense	5	31	27
Supplies and services	6	81	58
Total cost of services		<u>112</u>	<u>85</u>
Income			
User charges and fees	7	22	20
Interest Revenue	8	15	26
Total income other than income from State Government		<u>37</u>	<u>46</u>
NET COST OF SERVICES		75	39
Income from State Government		<u>-</u>	<u>-</u>
SURPLUS /(DEFICIT) FOR THE PERIOD		<u>(75)</u>	<u>(39)</u>

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

**Western Australian Gas Disputes Arbitrator
Balance Sheet
As at 30 June 2009**

	Note	2009 \$'000	2008 \$'000
ASSETS			
Current Assets			
Cash and cash equivalents	9	301	369
Receivables	10	<u>6</u>	<u>6</u>
Total Current Assets		<u>307</u>	<u>375</u>
TOTAL ASSETS		<u>307</u>	<u>375</u>
LIABILITIES			
Current Liabilities			
Payables	11	7	-
Amounts due to the Treasurer	12	<u>500</u>	<u>500</u>
Total Current Liabilities		<u>507</u>	<u>500</u>
TOTAL LIABILITIES		<u>507</u>	<u>500</u>
NET ASSETS		<u>(200)</u>	<u>(125)</u>
EQUITY			
Accumulated surplus/(deficiency) ^(a)	13	<u>(200)</u>	<u>(125)</u>
TOTAL EQUITY		<u>(200)</u>	<u>(125)</u>

(a) Net of amounts recognised directly at equity relating to non-current assets classified as held for sale. These must be separately disclosed where applicable under AASB 5.38

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

**Western Australian Gas Disputes Arbitrator
Statement Of Changes In Equity
For the year ended 30 June 2009**

	Note	2009 \$'000	2008 \$'000
Balance of equity at start of period		(125)	(90)
ACCUMULATED SURPLUS/(DEFICIT)			
Balance at start of period	13	(125)	(90)
Correction of Prior Period Error ^(a)	4	-	4
Surplus/(deficit) for the period		<u>(75)</u>	<u>(39)</u>
Balance at end of period		(200)	(125)
Balance of equity at end of period		(200)	(125)
Total Income and expense for the period		<u>(75)</u>	<u>(39)</u>

(a) Adjustment to Revenue Recognition

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

**Western Australian Gas Disputes Arbitrator
Cash Flow Statement
For the year ended 30 June 2009**

	Note	2009 \$'000	2008 \$'000
Utilised as follows:			
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Employee benefits		(31)	(27)
Supplies and services		(76)	(70)
GST payments on purchases		(7)	(7)
Receipts			
User Charges and Fees		22	22
GST receipts from taxation authority		7	7
Other receipts		17	24
Net cash used in operating activities	14	<u>(68)</u>	<u>(51)</u>
CASH FLOW FROM FINANCING ACTIVITIES			
Other proceeds		-	-
Net cash provided by/(used in) financing activities		<u>-</u>	<u>-</u>
Net (decrease)/increase in cash and cash equivalents		(68)	(51)
Cash and cash equivalents at the beginning of period		369	420
CASH AND CASH EQUIVALENTS AT THE END OF PERIOD	14	<u>301</u>	<u>369</u>

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

**Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009**

1. Australian Equivalents to International Financial Reporting Standards

General

The Arbitrator's financial statements for the year ended 30 June 2009 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).

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 2009.

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 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 Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board.

Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009

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 are rounded to the nearest thousand dollars (\$'000).

(c) Reporting Entity

The reporting entity comprises the Western Australian Gas Disputes Arbitrator.

(d) Contributed Equity

AASB Interpretations 1038 'Contributions by Owners Made to Wholly-Owned Public Sector Entities' requires transfers, other than as a result of restructure of administrative arrangements, 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, other than as a result of a restructure of administrative arrangements, are designated as contributions by owners where the transfers are non-discretionary and non-reciprocal.

**Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009**

(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.

Rendering of Services

Revenue is recognised upon the delivery of the service to the client or by reference to the stage of completion of the transaction.

Interest

Revenue is recognised as the interest accrues.

Grants, donations, gifts and other non-reciprocal contributions

Revenue is recognised at fair value when the Arbitrator obtains control over the assets comprising the contributions which is usually when cash is received.

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.

Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009

(f) Leases

The Arbitrator does not have Finance or Operating lease agreements.

(g) Financial Instruments

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

- Receivables; and
- 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 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.

Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009

(h) Cash and Cash Equivalents

For the purpose of the Cash Flow Statement, cash and cash equivalents includes restricted cash (and cash equivalents) 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, and bank overdrafts.

(i) Receivables

Receivables are recognised and carried at original invoice amount less an allowance for 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.

(j) 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.

(k) Provisions

Provisions are liabilities of uncertain timing and amount and are recognised where there is a present legal, equitable 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.

Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009

(l) 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 to the Arbitrator.

(m) Provisions – Other

Employment On-Costs

The Arbitrator has no employment on-costs.

(l) Amounts Due to the Treasurer

The amounts 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 less than 12 months with the effect of discounting not being material.

(m) Resources Received Free of Charge or for Nominal Consideration

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.

**Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009**

(n) 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 2008 that impacted on the Arbitrator:

Review of AAS27 'Financial Reporting by Local Governments', AAS29 'Financial Reporting by Government Departments' and AAS31 'Financial Reporting by Governments'. The AASB has made the following pronouncements from its short term review of AAS27, AAS29 and AAS31:

AASB1004 'Contributions';

AASB1050 'Administered Items';

AASB1051 'Land Under Roads';

AASB1052 'Disaggregated Disclosures';

Interpretation 1038 'Contributions by Owners Made to Wholly-Owned Public Sector Entities'.

The existing requirements in AAS27, AAS29 and AAS31 have been transferred to the above new and revised topic-based Standards and Interpretation. These requirements remain substantively unchanged. AASB1050, AASB1051 and AASB1052 do not apply to Statutory Authorities. The other Standards and Interpretation make some modifications to disclosures and provide additional guidance.

**Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009**

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 early the following Australian Accounting Standards and Australian Accounting Interpretations that have been issued and which may 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 non-owner changes in equity. The Arbitrator does not expect any financial impact when the Standard is first applied.	1 January 2009
AASB 2008-13 'Amendments to Australian Accounting Standards arising from AASB Interpretation 17 - Distributions on Non-Cash Assets to Owners (AASB 5 & AASB 110)'. This Standard amends AASB 5 'Non-current Assets Held for Sale and Discontinued Operations' in respect of the classification, presentation and measurement on non-current assets held for distribution to owners in their capacity as owners. The Arbitrator does not expect any financial impact when the Standard is first applied prospectively.	1 July 2009

Changes in Accounting Estimates

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

**Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009**

4. Corrections of Prior Period Error

The standing user charges and fees for June 2007 were not accrued in the 2006/07 period and instead fully recognised in the 2007/08 period.

This error effectively materially overstated user charges and fees by \$4,000 in the 2007/08 period and materially understated user charges and fees in the 2006/07 period.

To correct this error the 2007/08 user charges and fees comparative has been reduced by \$4,000 and adjusted against 2008 Opening Retained Earnings in the Statement of Changes in Equity.

**Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the Year Ended 30 June 2009**

	2009	2008
	\$'000	\$'000
5 Employee benefits expense		
Wages and salaries ^(a)	28	25
Superannuation - defined contribution plans ^(b)	3	2
Other employee benefit expense	-	-
	<u>31</u>	<u>27</u>
(a) Includes the value of the Fringe benefit to the employee plus the fringe benefits tax component.		
(b) Defined contribution plans include West State, Gold State and GESB Super Scheme (contributions paid).		
6 Supplies and Services		
Consultants and contractors	9	7
Consumables	-	1
Legal costs	47	15
Travel	-	1
Gas Review Board Fees	18	28
Other	7	6
	<u>81</u>	<u>58</u>
7 User charges and fees		
User charges	<u>22</u>	<u>20</u>
	<u>22</u>	<u>20</u>
8 Interest revenue		
Interest revenue	<u>15</u>	<u>26</u>
	<u>15</u>	<u>26</u>

Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009

	2009	2008
	<u>\$'000</u>	<u>\$'000</u>
9 Cash and cash equivalents		
Cash at bank	301	369
	<u>301</u>	<u>369</u>
10 Receivables		
Current		
Receivables	-	-
Accrued revenue	6	6
GST receivable	-	-
	<u>6</u>	<u>6</u>

The Authority does not hold any collateral as security or other credit enhancements relating to receivables.

11 Payables		
Current		
Trade payables	7	-
	<u>7</u>	<u>-</u>
12 Amounts due to the Treasurer		
Current		
Amount due to the Treasurer	500	500
	<u>500</u>	<u>500</u>

- 13 Equity**
 Liabilities exceed assets for the Arbitrator and 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.

Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009

	2009	2008
	\$'000	\$'000
Accumulated surplus/(deficit)		
Balance at the start of the year	(125)	(90)
Correction of Prior Period Error	-	4
Transfer to Accumulated surplus/(deficit)	(75)	(39)
Restated balance at the end of the year	<u>(200)</u>	<u>(125)</u>
14 Notes to the Cash Flow Statement		
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	<u>301</u>	<u>369</u>
	301	369
Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities		
Net cost of services	(75)	(39)
Non-cash items:		
Resources received free of charge	-	-
(Increase)/decrease in assets:		
Current receivables ^(c)	-	(1)

Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009

	2009	2008
	\$'000	\$'000
Increase/(decrease) in liabilities:		
Current payables	7	(13)
Net GST receipts/(payments) ^(a)	-	-
Change in GST in receivables/payables ^(b)	-	-
Net cash provided by/(used in) operating activities	<u>(68)</u>	<u>(53)</u>

(a) This is the net GST paid/received, i.e. cash transaction.

(b) This reverses out the GST in receivables and payables.

(c) Note that the Australian Taxation Office (ATO) receivable/payable in respect of GST and the receivable/payable in respect of the sale/purchase of non-current assets are not included in these items as they do not form part of the reconciling items.

15 Resources provided free of charge

The Arbitrator did not provide any resources to other agencies free of charge.

16 Contingent liabilities and contingent assets

Contingent liabilities

The Arbitrator has no contingent liabilities as at 30 June 2009.

Contingent assets

The Arbitrator has no contingent assets as at 30 June 2009.

Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009

17 Event occurring after the balance sheet date.

There were no events occurring after the reporting date that impact on the financial statements.

18 Explanatory statement

Significant variations between estimates and actual results for income and expense as presented in the financial statement titled 'Summary of Consolidated Fund Appropriations and Income Estimates' are shown below. Significant variations are considered to be those greater than 10% and \$ 20,000.

The following explanations are provided in accordance with Treasurer's Instruction 945:

(i) Significant variances between estimate and actual result for 2009

	2009 Estimate \$'000	2009 Actual \$'000	Variation \$'000
Supplies and services	19	81	(62)

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, \$14,000 directly related to expenditure of the Arbitrator.

**Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009**

(ii) Significant variances between actual for 2008 and 2009

	2009 Actual \$'000	2008 Actual \$'000	Variation \$'000
Expenses			
Supplies and services	81	58	23

The main reason for the higher costs in comparison to the previous year was a change in activity of the Energy (Gas) Review Board.

19 Financial Instruments

(a) Financial risk management objectives and policies

Financial Instruments held by the Arbitrator are cash and cash equivalents, restricted cash and cash equivalents and 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.

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 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 19 (c).

Credit risk associated with the Arbitrator's financial assets is minimal because the main receivable is the amounts receivable for services (holding account). For receivables other than government, the Arbitrator trades only with recognised, creditworthy third parties. 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

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

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.

Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009

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 19 (c), 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:

	2009	2008
	\$'000	\$'000
Financial Assets		
Cash and cash equivalents	301	369
Receivables ^(a)	6	6
Financial Liabilities		
Financial liabilities measured at amortised cost	507	500

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

(c) Financial instrument disclosures

Credit Risk, Liquidity Risk and interest Rate Risk Exposure.

The following tables disclose 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.

Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009

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.

Interest rate exposures and ageing analysis of financial assets

	Weighted average effective interest rate %	Interest rate exposure			Past due but not impaired			
		Carrying Amount	Variable interest rate	Non- Interest Bearing	Up to 3 months	3 to 12 months	1 to 2 years	2 to 3 years
		\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Financial assets								
2009								
Cash and cash equivalents	5.57%	301	301	-	-	-	-	-
Receivables ^(a)		6	-	6	-	-	-	-
		<u>307</u>	<u>301</u>	<u>6</u>				
2008								
Financial assets								
Cash and cash equivalents	6.25%	369	369	-	-	-	-	-
Receivables ^(a)		6	-	6	-	-	-	-
		<u>375</u>	<u>369</u>	<u>6</u>				

**Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009**

Interest rate exposures and ageing analysis of financial liabilities

	Weighted average effective interest rate %	Interest rate exposure			Maturity dates			
		Carrying Amount \$'000	Variable interest rate \$'000	Non- Interest Bearing \$'000	Up to 3 months \$'000	3 to 12 months \$'000	1 to 2 years \$'000	2 to 3 years \$'000
Financial Liabilities								
2009								
Payables		7	-	7	-	-	-	-
Amounts due to Treasurer		500	-	500	-	-	-	-
		<u>507</u>	<u>-</u>	<u>507</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
2008								
Payables		-	-	-	-	-	-	-
Amounts due to Treasurer		500	-	500	-	-	-	-
		<u>500</u>	<u>-</u>	<u>500</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>

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

Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the year ended 30 June 2009

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	-1% change		+1% change	
		Profit \$'000	Equity \$'000	Profit \$'000	Equity \$'000
2009					
<u>Financial Assets</u>					
Cash and cash equivalents	301	(3)	(3)	3	3
Total Increase/(Decrease)		<u>(3)</u>	<u>(3)</u>	<u>3</u>	<u>3</u>

	Carrying Amount	-1% change		+1% change	
		Profit \$'000	Equity \$'000	Profit \$'000	Equity \$'000
2008					
Cash and cash equivalents	369	(4)	(4)	4	4
Total Increase/(Decrease)		<u>(4)</u>	<u>(4)</u>	<u>4</u>	<u>4</u>

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.

**Western Australian Gas Disputes Arbitrator
Notes to the Financial Statements
For the Year Ended 30 June 2009**

	2009	2008
	\$'000	\$'000
20 Remuneration of members of the accountable authority and senior officers		
The number of senior officers whose total of fees, salaries and other benefits received, or due and receivable, for the financial year, who fall within the following bands is:		
\$		
20,001 - 30,000	-	1
30,001 - 40,000	1	-
	\$'000	\$'000
The total remuneration of members of the accountable authority is:	31	27
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.		
21 Remuneration of Auditor		
Remuneration to the Auditor General for the financial year is estimated as follows:	2009	2008
	\$'000	\$'000
Auditing the accounts, financial statements and performance indicators	6	5
22 Related bodies		
The Arbitrator had no related bodies during the financial year.		
23 Affiliated bodies		
The Arbitrator had no affiliated bodies during the financial year.		

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 2009.



Laurie James LLB Hons.

GAS DISPUTES ARBITRATOR

21/09/09



Pam Herbener

CHIEF FINANCE OFFICER

21/09/09

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 by the Energy (Gas) Disputes Arbitrator 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 performance indicators (continued)

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.

2008/09 performance—effectiveness

The two effectiveness indicators for the Arbitrator's outcomes are as follows.

Resolution of disputes

The target for this measure of effectiveness is 100%. 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.

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 three applications lodged during the year and the Attorney General appointed two presiding members to form three Energy (Gas) Review Boards. The presiding members appointed the panel members. Of these applications, one has been discontinued and two are progressing.

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%.

The survey results of the four members involved with the three applications lodged during the year indicate that they were either

Key performance indicators (continued)

satisfied or very satisfied, which is consistent with the performance in previous years

Effectiveness indicators

Service	Performance indicator	Target	2008/09	2007/08
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 Energy (Gas) Review Board for the review of decisions	Percentage of 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.

Key performance indicators (continued)

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

2008/09 performance—efficiency

The three efficiency indicators for the Arbitrator are detailed below.

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.

Average cost per dispute

As there were no disputes active or initiated during the 2008/09 financial year, the average cost per dispute is zero. The average cost was also zero in 2007/08. The target for this indicator is zero, consistent with an objective of having no disputes.

Average cost per review application

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

Key performance indicators (continued)

Three new applications were considered by the Board in 2008/09. These applications were lodged under the Electricity Industry (Wholesale Electricity Market) Regulations 2004. Two of the applications (1 and 3 of 2008) were lodged by the Independent Market Operator for orders for contravention of Market Rules. The third application (2 of 2008) was lodged by Griffin Power Pty Ltd applying for a review of a decision made by the Independent Market Operator not to process a rule change proposal via the fast track rule change process. Application 2 of 2008 was discontinued by orders dated 18 May 2009. The Board is aiming for matters relating to Application 1 and 3 of 2008 to be heard in July/August 2009.

The average cost of reviews was \$17,054 in 2008/09 compared with \$22,639 in 2007/08, \$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 Board in each year. It is also noted that the applications dealt with by the Board in each year have varied over the period since 2003/04. In total, there have been seven disputes and three applications over this period.

In 2008/09, there was additional expenditure of \$15,268 in relation to applications for review that were lodged in 2004 and 2005. This expenditure has been excluded from the calculation for the average cost of reviews lodged in 2008/09.

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.

Average cost per standard unit of infrastructure

The average cost per standard unit of regulated infrastructure oversighted in the 2008/09 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 \$3,917 in 2008/09 compared with \$3,502 in 2007/08, \$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).

Key performance indicators (continued)

Efficiency

Service	Performance indicator	Target	2008/09	2007/08
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	\$17,054	\$22,639
Maintaining a state of readiness	Average cost per standard unit of regulated infrastructure	\$4,368	\$3,917	\$3,502

Equivalent standard units of infrastructure

During 2008/09, the Arbitrator oversighted 11.4 equivalent standard units (\$500 million) of regulated infrastructure. The 11.4 target for 2008/09 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.

Key performance indicators (continued)

It should be noted, however, that the Arbitrator overlooks 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 2008/09 would far exceed 11.4 units. As the generation facilities overlooked 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.

Ministerial directives

Section 75(2) of the *Gas Pipelines Access (Western Australia) Act 1998* provides for the Minister for Energy 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 ministerial directives 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 Board, has traditionally been funded by charges payable by the operators of the regulated pipelines. These funding arrangements are set out in the *Gas Pipeline Access (Western Australia) (Funding) Regulations 1999 (Funding Regulations)*. Since 1 January 2005, when the Arbitrator acquired the functions of providing services and support to the Board to hear and determine matters related to the electricity industry (as outlined in the *Electricity Industry Act 2004*), 50% 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 the regulated pipelines. These charges are determined in line with regulation 3 of the Funding Regulations. Standing charges are levied on operators of pipelines for costs incurred by the Arbitrator, including any costs relating to the Board that are not due to a particular review. The pipeline operators that are liable for quarterly standing charges, and the percentage of allocation of costs between them, are set out in schedule 1 of the Funding Regulations.

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 2009 is listed in the table below.

Service provider	Standing charges (\$)
WA Gas Networks Pty Limited (Alinta)	\$6,029
Goldfields Gas Transmission	\$4,525
Southern Cross Pipelines Pty Limited	\$703
DBNGP (WA) Transmission Pty Limited	\$11,162
Total	\$22,419

Other financial disclosures (continued)

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 2008/09, no costs were owed.

The Funding Regulations allow the Arbitrator to recover certain costs and expenses of the Board for 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 for the hearing and determination of particular proceedings before it, and to assign costs to the parties of the relevant 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 2008/09 to fund the activities of the Board.

Capital works

There were no major capital works undertaken during 2008/09.

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.

Interests in contracts by senior officers

There were no interests in contracts by senior officers in 2008/09.

Benefits to senior officers through contracts with the office of the Arbitrator

This is not applicable, as no senior officers have received any benefits in the 2008/09 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 1994 Section 31(1)

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

The *Gas Pipelines Access (Western Australia) Act 1998* allows the Arbitrator to make arrangements to use the services, either full-time or part-time, of any public sector officer or employee 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 in 2008/09.

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 year to 30 June 2009 was \$860.

Agency/organisation	Expenditure (\$)
Advertising Agencies	\$0
Market Research Organisations	\$860
Polling Organisations	\$0
Direct Mail Organisations	\$0
Media Advertising Organisations	\$0
Total	\$860

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 Authority as part of an agreement for the provision of corporate services from the Authority.

Compliance with the *State Records Act 2000* is carried out by the Authority as part of that agreement. Further information on this compliance is reported in the Authority's annual report 2008/09, which is available on the Authority's web site at www.era.wa.gov.au.

Other legal requirements (continued)

The Authority is committed to developing good record keeping practices and meeting the legislative requirements of the *State Records Act 2000*. In early 2009 an independent Record Keeping Plan for the Arbitrator was submitted to the State Records Commission for approval. The Arbitrator's Record Keeping Plan is yet to be approved, but this is expected in late 2009.

In 2008, the Authority implemented an electronic document records management system, TRIM. The Arbitrator's records are managed and maintained within the Authority's TRIM, but separately secured with their own business classification scheme.

Other disclosures

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 Board; and
- matters relating to the arbitration of disputes.

Complaints relating to administration are dealt with under the Authority's Code of Conduct, which is available from the Authority's web site or in hard copy 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 Chief Executive Officer of the 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 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 during the reporting period.