

# Western Australian Energy Disputes Arbitrator

Annual Report 2009/10

## About this Report

This report describes the functions and operations of the Western Australian Energy Disputes Arbitrator (**Arbitrator**). The report provides information on:

**Overview** - an overview of the Arbitrator's role, responsibilities and organisational structure and the Arbitrator's vision, mission and values.

**Performance** - a report on the Arbitrator's operational performance from 1 July 2009 to 30 June 2010 and the progress towards achieving desired outcomes.

**Significant issues** - a discussion on significant current and emerging issues that may impact upon the workload of the Arbitrator.

**Disclosures and legal compliance** - the Arbitrator's compliance with various legislative and Government policy requirements, including the audited financial statements and key performance indicators for 2009/10.

To make this report as accessible as possible, it is provided in the following three formats:

- interactive PDF version;
- online version; and
- text version.

This report and previous years' annual reports can be found on the Economic Regulation Authority's website and may be made available in alternative formats on request.

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# Statement of Compliance



Office of the Energy Disputes Arbitrator

14 September 2010

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

Dear Minister

## **ENERGY DISPUTES ARBITRATOR 2009/10 ANNUAL REPORT**

In accordance with section 63 of the *Financial Management Act 2006*, I submit for your information and presentation to Parliament, the Annual Report of the Energy Disputes Arbitrator for the financial year ended 30 June 2010.

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

A handwritten signature in black ink, appearing to be 'LJ' with a flourish.

MR LAURIE JAMES LLB HONS.  
**ENERGY DISPUTES ARBITRATOR**

# Overview

## From the Arbitrator

During the year ending 30 June 2010 there were no new applications filed in the Gas Review Board, Energy Review Board or Electricity Review Board.



Two Energy Review Board Applications remained on foot however namely, Application number 1 of 2008 between the Independent Market Operator and Alinta Sales Pty Ltd and Application number 3 of 2008 also between the Independent Market Operator and Alinta Sales Pty Ltd.

Both of the above applications were applications by the Independent Market Operator for orders that the market rules had been breached and for the imposition of an appropriate penalty.

Both applications were heard during the course of the year by two separate Review Boards. Both applications were heard on the 11th of August 2009.

In application number 3 of 2008 reasons for decision were handed down by the Review Board on 18th of December 2009 and semi final orders were made on the 10th of February 2010. Both the reasons for decision and the orders are available on the Economic Regulation Authority website at [www.erawa.com.au](http://www.erawa.com.au).

To date, the issue of costs between the applicant and the respondent in the above application has not yet been determined.

In application number 1 of 2008 the Review Board made orders on the 12th of March 2010 and handed down reasons for decision, which are also available on the Economic Regulation Authority website. Also in this matter the issue of costs between the applicant and the respondent is yet to be determined.

In both the above applications the Review Board will only become involved in the event that the parties are unable to agree on the issue of costs.

In connection with a series of reviews undertaken by the Energy 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 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 Energy Review Board, and Ms Pam Herbener, Chief Finance Officer.

Mr Laurie James LLB Hons  
**ENERGY DISPUTES ARBITRATOR**

## About the Arbitrator

The Office of the Western Australian Energy Disputes Arbitrator (**Arbitrator**) is established under the *Energy Review and Arbitration Act 2009*.

The position of the Arbitrator was set up to arbitrate certain disputes between users, or prospective users, and a service provider about access to regulated gas pipelines. The Arbitrator may also resolve disputes in relation to the negotiation of contracts and contractual disputes in relation to access to regulated electricity networks.

The Arbitrator is also required to provide administrative support to the Western Australian Electricity Review Board which is also established under the *Energy Review and Arbitration Act 2009*.

## Vision

To achieve vigorously competitive energy markets in Western Australia with minimal regulatory oversight.

## Mission

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

- To promote a competitive market for energy in which customers may choose suppliers, including producers, retailers and traders
- To prevent abuse of monopoly power
- To provide for resolution of disputes
- To 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
- To facilitate the development and operation of a market for energy in Western Australia

## Executive Summary

The Office of the Arbitrator was set up to resolve disputes between providers of gas pipeline services and other parties seeking access to a regulated gas pipeline. The Arbitrator also has functions under the *Electricity Industry Act 2004* to resolve disputes in relation to the negotiation of contracts and contractual disputes in relation to access to regulated electricity networks.

The Arbitrator also has responsibility for the financial management and provision of administrative support to the Western Australian Electricity Review Board (**Review Board**) which is also established under the *Energy Arbitration and Review Act 1998*.

There were no disputes lodged during this reporting year and no new applications for review were lodged. Two applications for review (application 1 and 3 of 2008) were continuing.

For the period 1 July 2009 to 31 December 2009 the Office of the Arbitrator was established by the *Gas Pipelines Access (Western Australia) Act 1998 (GPAA)* and the office was titled the Gas Disputes Arbitrator.

On 1 January 2010, a revised national gas access regime came into effect in Western Australia under the *National Gas Access (WA) Act 2009 (NGA)*. This new regime replaced the National Gas Pipeline Access Law implemented in Western Australia by the GPAA.

From 1 January 2010 the GPAA was amended and retitled to be the *Energy Arbitration and Review Act 1998*. This caused a change in title for the Office of the Arbitrator from the Gas Disputes Arbitrator to the Energy Disputes Arbitrator.

The implementation of the revised national gas access regime transferred the functions of appeal in relation to the gas access regime to the Australian Competition Tribunal.

On 1 January 2010, the *Electricity Industry (Arbitrator and Board Funding) Regulations 2009* came into effect. These regulations introduced industry funding for the Arbitrator's functions under the *Electricity Industry Act 2004*. The Arbitrator is now funded through provisions in the *National Gas Access (WA) (Local Provisions) Regulations 2009* and the *Electricity Industry (Arbitrator and Board) Funding Regulations 2009*.

## Operational Structure

The office of the Arbitrator was set up in February 1999. The Arbitrator must be available to conduct an arbitration hearing when an application is lodged. In addition to being available for arbitration, the Arbitrator is required to provide administrative support to the Review Board. In carrying out his functions the Arbitrator liaises with Western Australian energy industry participants and keeps up to date with developments in the Western Australian energy industry.

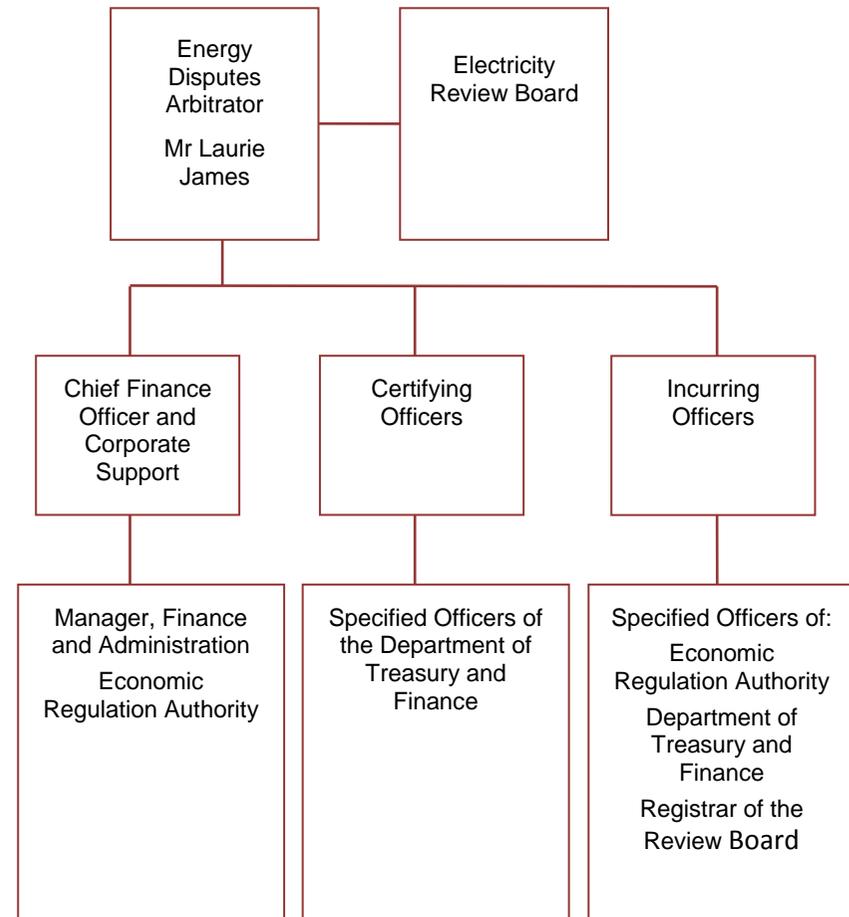
The Arbitrator does not require a supporting organisation but may, by arrangement, make use of facilities and staff of other government departments and agencies (other than employees of the Electricity Generation Corporation, the Electricity Networks Corporation, the Electricity Retail Corporation or the Regional Power Corporation).

The Arbitrator has an administrative 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 2010. The Authority continues to provide corporate services support to the Arbitrator. When an occasion arises where there is a conflict of interest for the Authority to provide this service, support has been contracted to independent service providers. There has been no conflict of interest during this reporting period.

Figure 1 Organisational structure at 30 June 2010



## The Energy Disputes Arbitrator

Mr Laurie James was appointed as Western Australia's Gas Disputes Arbitrator in 1999. Mr James was re-appointed to the position in April 2003 and April 2008. His current term extends to April 2011. On 1 January 2010, the title of the position changed to the Western Australian Energy Disputes Arbitrator.

Mr James is a Supreme Court barrister and solicitor and is Chairman of the Western Australian law firm Kott Gunning. Mr James has extensive background experience in arbitration, having held the position of Chairman of the Western Australian Chapter of the Institute of Arbitrators and Mediators Australia between 1990 and 1997 and National President of that institute from 1995 to 1996 and again from 2006 to 2008.

Mr James was the Senior Vice President of the Law Society of WA from 1995 to 1996 and is currently the Convenor of its Alternative Dispute Resolution Committee. He is a Member of the Construction and Infrastructure Law Committee in the Business Law section of the Law Council of Australia.

## Role of the Arbitrator

Under the regulatory framework for gas access in Western Australia, the functions of the Arbitrator include:

- those conferred under the *National Gas Access (WA) Act 2009* including the arbitration functions under the National Gas Law;
- any regulations under the *National Gas Access (WA) Act 2009*;
- regulations referred to in section 74 of the *Energy Arbitration and Review Act 1998* relating to the functions of hearing and determining disputes; and
- administrative support to the Review Board under section 56 of the *Energy Arbitration and Review Act 1998*.

The functions of the Arbitrator relating to electricity include:

- negotiation of contracts for access to regulated electricity networks (chapter 10 of the *Electricity Networks Access Code 2004*); and
- where agreed by the parties to an access contract, the Arbitrator has jurisdiction to hear contractual disputes (chapter 10 of the *Electricity Networks Access Code 2004*).

## 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 regulated natural gas pipelines in the State.

From 1 July 2009 to 30 December 2009, natural gas pipelines were regulated (covered) under the *Gas Pipelines Access (Western Australia) Act 1998* which implemented the National Gas Pipeline Access Law including the *National Third Party Access Code for Natural Gas Pipeline Systems*. From 1 January 2010 to 30 June 2010, natural gas pipelines were covered under the *National Gas Access (Western Australia) Act 2009* which implements the National Gas Law.

At 30 June 2010, there were four regulated pipeline systems in Western Australia:

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

Electricity networks are regulated under the *Electricity Networks Access Code 2004*.

## Enabling legislation

From 1 July 2009 to 30 December 2009, the role of the Arbitrator was set up under section 62 of the *Gas Pipelines Access (Western Australia) Act 1998*. From 1 January 2010 to 30 June 2010 the title of the enabling legislation changed to the *Energy Arbitration and Review Act 1998*.

## Responsible Minister

The minister responsible for administering the *Energy Arbitration and Review Act 1998* for the reporting year was the Hon. Peter Collier BA DipEd MLC, Minister for Energy and Training in Western Australia.

## Independence of direction

Section 75 of the *Energy Arbitration and Review 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 regard to administration and financial administration.

The *Energy Arbitration and Review Act 1998* also provides the Arbitrator with financing and immunity provisions.

## Support

The Arbitrator does not appoint permanent staff, but public service employees can be assigned to assist the Arbitrator perform his functions. The Arbitrator has an administrative arrangement with the Economic Regulation Authority (**Authority**) for the provision of corporate services.

As the Authority's financial management system is sourced through the Office of Shared Services, employees of the Department of Treasury and Finance provide a certification service for the payment of invoices on behalf of the Arbitrator.

## 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 Review Board.

## Legislation affecting activities

### *Gas industry*

The national regulatory framework, under which the gas activities of the Arbitrator fall, was developed under the Australian Energy Market Agreement by the Council of Australian Governments' Ministerial Council on Energy. In Western Australia the National Gas Access Law (**NGL**) has been adopted as uniform legislation with some specific amendments to accommodate local circumstances. The NGL is applied in Western Australia under the *National Gas Access (WA) Act 2009*. The Arbitrator is responsible for hearing access disputes as provided for in Chapter 6 of the *National Gas Access (WA) Act 2009*. An access dispute is defined in section 178 as a dispute between a user, or prospective user, and a service provider about one or more aspects of access to a pipeline service provided by means of a scheme pipeline. Section 179 of the *National Gas Access (WA) Act 2009* provides that Chapter 6 does not limit how disputes about access may be raised or dealt with.

### *Electricity Industry*

The Arbitrator's functions relating to access to electricity infrastructure is established under the *Electricity Networks Access Code 2004*.

The Arbitrator may resolve disputes in relation to electricity concerning the negotiation of contracts for access to regulated electricity networks and contractual disputes in relation to access contracts, where agreed by the parties to the contract (Chapter 10, *Electricity Networks Access Code 2004*).

## Other legislation impacting the Arbitrator

- *Commercial Arbitration Act 1985*
- *Copyright Act 1968 (Commonwealth)*
- *Corruption and Crime Commission Act 2003*
- *Criminal Code Act Compilation*
- *Disability Services Act 1993*
- *Electoral Act 1907*
- *Electronic Transactions Act 2003*
- *Equal Opportunity Act 1984*
- *Evidence Act 1906*
- *Financial Management Act 2006*
- *Freedom of Information Act 1992*
- *Industrial Relations Act 1979*
- *Interpretation Act 1984*
- *Limitation Act 1935*
- *Limitation Act 2005*
- *Minimum Conditions of Employment Act 1993*
- *Occupational Safety and Health Act 1984*
- *Public Interest Disclosure Act 2003*
- *Public Sector Management Act 1994*
- *Salaries and Allowances Act 1975*
- *State Records Acts 2000*
- *State Records (Consequential Provisions) Act 2000*
- *State Supply Commission Act 1991*
- *Statutory Corporations (Liability of Directors) Act 1996*
- *Workers' Compensation and Injury Management Act 1981*

## Electricity Review Board

The Western Australian Electricity Review Board (**Review Board**) is established under section 50 of the *Energy Review and Arbitration Act 1998*. The Arbitrator has responsibility for the financial management of the Review Board and the provision of administrative support to the Review Board. As the Review Board does not hear appeals against the Arbitrator, its administrative accountability to the Arbitrator does not constrain or impair its independence.

The Review Board is an appeals body that is formed from time to time to make determinations and review decisions. When required to be constituted, the Review 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 Review Board may be separately constituted to hear and determine different appeals.

Members of the legal panel and expert panel are required to be nominated by the Minister for Energy and appointed by the Governor. The panel of legal practitioners in place during the reporting year, all of whom are appointed until 22 April 2011 are:

- Ms Brydget BARKER-HUDSON
- Ms Sandra Lynette BROWN
- Mr Scott ELLIS
- Ms Anna Maria LISCIA
- Mr Charles Kennedy Scott MERRIAM
- Ms Mirina MUIR
- Mr Michael SWEENEY

The panel of experts in place during the reporting year, all of whom are appointed until 22 April 2011 are:

- Mr Michael David AGOSTINI
- Mr John Douglas COLLINS
- Ms Sandra GAMBLE
- Mr Graham MATHIESON
- Mr Ian Lindsay MACGILLIVRAY
- Mr Simon ORME
- Mr Roland Kingsbury SLEEMAN

For the period 1 July 2009 to 31 December 2009, the Review Board had functions under the *Gas Pipelines Access (Western Australia) Act 1998*, the *Electricity Industry Act 2004* and the Wholesale Electricity Market Rules. With the implementation of the National Gas Access Law on 1 January 2010, the functions of appeal in relation to the gas access regime were transferred to the Australian Competition Tribunal.

The NGA allows for matters relating to the transition from the application of provisions of the Gas Pipelines Access Law to the application of provisions of the NGL. The relevance of this to the Review Board is that where a proposed access arrangement was lodged prior to the commencement date of the new regime and a decision was not made, the access arrangement is to be dealt with as if the old regime continued to apply.

The proposed revised access arrangement for the Goldfields Gas Pipeline was lodged with the Economic Regulation Authority on 23 March 2009. The Authority had not reached a decision by 31 December 2009. The implications for this lodgement are that the *Gas Pipelines Access (Western Australia) Act 1998* and the *National Third Party Access Code for Natural Gas Pipeline Systems (Gas Code)* continues to be applicable for the finalisation of these revision processes. The Review Board will therefore continue to have the function of appeal for this pipeline.

The Review Board can be constituted to review decisions of:

- the Economic Regulation Authority regarding access to electricity networks under the Electricity Networks Access Code 2004;
- the Economic Regulation Authority concerning electricity licences and standard form contracts under the *Electricity Industry Act 2004*;
- the Independent Market Operator under the Wholesale Electricity Market Rules; and
- the Minister for Energy on the coverage of network infrastructure under the *Electricity Industry Act 2004*.

## Performance Management Framework

### Outcome Based Management Framework

The strategic high-level government goal relevant to the Arbitrator is “Greater focus on achieving results in key service delivery areas for the benefit of all Western Australians”. The desired outcome of the activities of the Authority in support of this high-level strategic goal is “The efficient, safe and equitable provision of utility services in Western Australia”.

Although the Arbitrator’s role does not directly contribute to this desired outcome, the services he provides to bodies such as the Board are consistent with this outcome.

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 Electricity 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 Review Board.

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

### Changes to Outcome Based Management Framework

The Arbitrator’s Outcome Based Management Framework did not change during 2009/10.

### Shared Responsibilities with Other Agencies

The Arbitrator did not share any responsibilities with other agencies during this reporting period.

## The Arbitrator's performance

### Report on operations

#### *Western Australian Energy Disputes Arbitrator*

There were no applications to conduct an Arbitration hearing lodged in 2009/10.

This is consistent with an objective of having no disputes.

#### *Electricity Review Board*

There were no new applications and two ongoing applications under review with the Electricity Review Board during the year ended 30 June 2010.

The applications are listed in the following table.

Figure 2 - Applications under review with the Gas Review Board in 2009/10

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)	Final orders issued 12 March 2010 Consent orders issued 14 October 2009	Application for orders for contravention of the Market Rules.
3 of 2008	22 December 2008	Independent Market Operator	Alinta Sales Pty Ltd (ACN 089 531 984)	Orders issued 10 February 2010 Decision made 18th December 2009 Consent orders issued 23 October 2009 Orders issued 11 August 2009	Application for orders for contravention of the Market Rules.

## Actual results versus approved estimates

### Financial targets

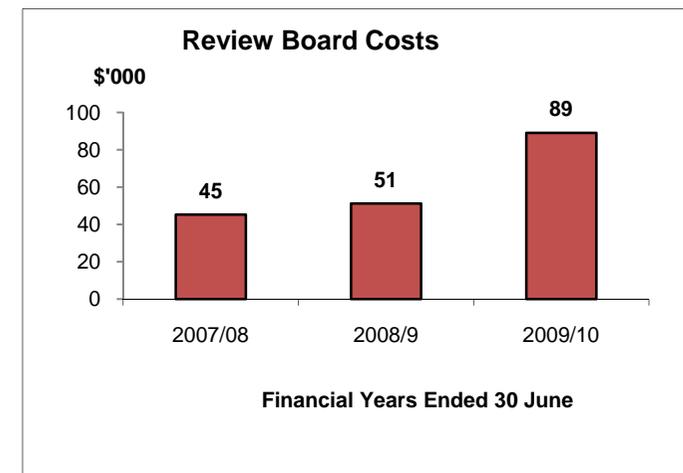
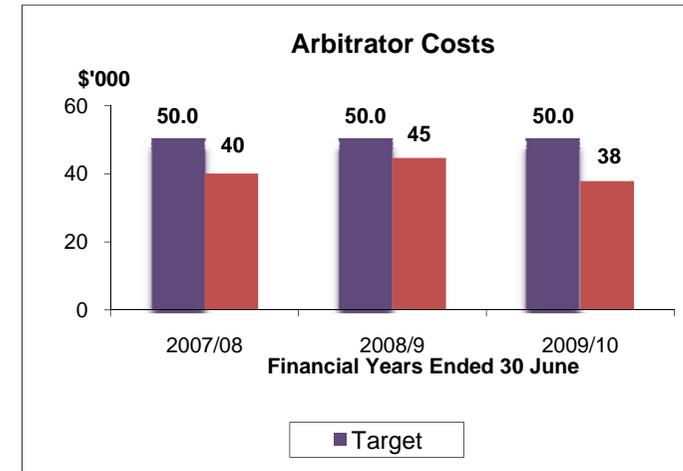
In accordance with Section 40 of the *Financial Management Act 2006*, the Arbitrator prepares and submits an annual estimate to the Minister for approval. Treasurer's Instructions require that information about the approved annual estimate be included in the annual report. The approved annual estimate is not to form part of the financial statements subject to audit by the Office of the Auditor General.

The following estimate was approved by the Minister for 2009/10.

Ongoing costs		2009/10
<b>Staff Costs</b>		
Total Remuneration Including On-costs		\$31,000
<b>Administration Costs</b>		
Total Administration		\$19,000
<b>Total Annual Estimates</b>		<b>\$50,000</b>

The Arbitrator does not allow for costs associated with arbitration, review or appeal in his annual estimates. For 2009/10 the Arbitrator's ongoing costs amounted to \$37,877. The total expenditure for 2009/10 of \$126,996 included costs associated with reviews. Review costs of \$89,119 were funded from a Treasurer's Advance provided to fund the activities of the Review Board.

The following charts provide a comparison of costs over the last three years for the Arbitrator and the Review Board.



*Summary of Key Performance Indicators*

	2009/10 Target	2009/10 Actual	Variation
<p><i>Outcome 1 To provide for resolution of disputes</i></p> <p>Key Effectiveness Indicator</p> <p><b>The number % of disputes resolved as a proportion of total disputes registered.</b></p> <p><i>Service 1: Arbitration of disputes</i></p> <p>Key Efficiency Indicator:</p> <p><b>Average cost per dispute</b></p>	<p>100%</p> <p>\$0 (no disputes)</p>	<p>Not applicable – no disputes lodged</p> <p>\$0 (no disputes)</p>	<p>Not applicable – no disputes lodged</p> <p>0</p>
<p><i>Outcome 2 To provide administrative services to the Gas Review Board for the review of decisions</i></p> <p>Key Effectiveness Indicator</p> <p><b>Percentage of Review Board members satisfied or very satisfied with the services provided by the Arbitrator in support of review processes</b></p> <p><i>Service 1: Arbitration of disputes</i></p> <p>Key Efficiency Indicator:</p> <p><b>Average cost per review application</b></p>	<p>75%</p> <p>\$4,368</p>	<p>100%</p> <p>\$2,469</p>	<p>25%</p> <p>\$1,899</p>

### **Number of units of regulated infrastructure oversighted**

During 2009/10 the Economic Regulation Authority issued its further final decision on Western Power's proposed access arrangement revisions for the South West Interconnected Network. As a result of that decision, the number of units of regulated infrastructure oversighted by the Arbitrator has been revised to reflect the change in asset value approved by the Authority for that network. The actual number of units of regulated infrastructure oversighted in 2009/10 was 15.34 against a target of 11.4.

The calculation of units of regulated infrastructure 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.

### **Arbitrator's costs**

The cost of the Arbitrator's oversighting role for regulated infrastructure in Western Australia for 2009/10 was \$37,882 compared to \$44,646 in 2008/09. The Arbitrator is able to recover this cost from operators of regulated gas pipelines and regulated electricity networks in the State.

### **Electricity Review Board costs**

There were two ongoing applications under review with the Review Board during the year. The total cost of these ongoing applications in 2009/10 was \$89,115.

### **Average cost of oversighting**

As a result of the increase in number of units of regulated infrastructure oversighted in 2009/10, the average cost of oversighting an equivalent standard unit of regulated infrastructure decreased from \$3,917 in 2008/09 to \$2,469 in 2009/10.

### **Annual survey of Gas Review Board members**

To assess satisfaction with the administrative services provided by the Arbitrator to the Review Board, the members of the two 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.

Figure 3 - Gas Review Board's satisfaction with venues and facilities

Satisfaction with venues and facilities	Response rate
Very satisfied	50%
Satisfied	25%
Neither satisfied or dissatisfied	0%
Dissatisfied	25%
Very dissatisfied	0%

Two members commented that the hearings took place in the Kott Gunning law firm, where one of them commented that the venue and facilities at the law firm were fine, and the other commented that the venue provided was not adequate for conducting a hearing and a proper hearing room should be provided. Another member commented that the room provided was a little small. Overall, the members were generally satisfied with the organisation of the venues and facilities provided despite the rating by one member falling to 'dissatisfied'.

Figure 4 - Gas Review Board's satisfaction with timeliness of services provided

Satisfaction with timeliness of services provided	Response rate
Very satisfied	100%
Satisfied	0%
Neither satisfied or dissatisfied	0%
Dissatisfied	0%
Very dissatisfied	0%

Out of the four members, two commented on the timeliness, where one stated that there was no problem with the timeliness and the other commented that the arbitrator was 'conscientious to a fault'. Receiving the rating of 'very satisfied' from all members is an improvement from the previous year's response.

Figure 5 - Gas Review Board's satisfaction with general administrative services provided by the Office of the Arbitrator

General administrative services	Response rate
Very satisfied	75%
Satisfied	25%
Neither satisfied or dissatisfied	0%
Dissatisfied	0%
Very dissatisfied	0%

For the question regarding overall service provided by the Arbitrator, three members responded that they were 'very satisfied' and one responded that they were 'satisfied'. The comments stated that 'everything was fine' with the administrative services and the Arbitrator had done a 'Good job'.

### **Comparison to previous surveys**

In comparison to previous years, this year's results indicate no major changes in the members' satisfaction with the performance of the Arbitrator. The only negative feedback from the survey was in the area of satisfaction towards venues and facilities provided by the Arbitrator. Notable improvement was observed in the responses to the question regarding timeliness of administrative services which was the area identified as having a room for improvement last year.

### **Conclusion**

Overall, Review Board members were satisfied with the administrative services provided by the Arbitrator. Satisfaction ratings indicate that the services provided by the Arbitrator were adequate and satisfactory. There were comments that suggested that the hearing rooms provided may not have been adequate, with one member indicating that the room was a little small and the other indicated that a proper hearing room should have been provided.

The issue with the Registrar of the Gas Review Board not being associated with the Arbitrator was not as evident this year compared to the 2008/09 survey.

## Significant issues impacting the Arbitrator

The following issues have impacted upon the speed, efficiency and economy with which the Arbitrator and Review Board have been able to conduct their functions in 2009/10.

### Gas Access regime changes

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, was replaced by the new uniform framework established by the *National Gas Access (WA) Act 2009*. As part of these legislative changes, the Review Board's functions for access arrangements or revisions to access arrangements lodged under the new legislation was taken over by the Australian Competition Tribunal.

The Review Board's functions 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 Review Board to the Australian Competition Tribunal.

The Review Board's functions under the *Electricity Industry Act 2004* and the Market Rules will continue and the Review Board has been renamed as the Electricity Review Board.

## Constituting a Review Board

When an application for review by the Review 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 Review Board, and to identify any actual conflicts or potential conflicts of interest.

During 2009/10, there was no reason to need to constitute a Review Board. The 2009/10 list of panel members consists of seven legal practitioner panel members and seven expert panel members. It is therefore conceivable that if an application were lodged there could be some difficulty in constituting a Review 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 Review 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 Review Board continues to liaise with the Attorney General and State Solicitor's Office on this matter.

## Appointing a presiding member

Section 51 of the *Energy Arbitration and Review Act 1998* requires that the Attorney General chooses the presiding

member of the Review 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 Review Board before appointing the presiding member.

The process for appointing the presiding member of the Review 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 Review Board continues to liaise with the State Solicitor's Office on this matter.

## Available hearing rooms

On a number of occasions in 2009/10 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 and 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 review Board whenever needed.

## Disclosures and legal compliance

### Audit opinion

  
Auditor General

**INDEPENDENT AUDIT OPINION**

**To the Parliament of Western Australia**

**WESTERN AUSTRALIAN ENERGY DISPUTES ARBITRATOR  
FINANCIAL STATEMENTS AND KEY PERFORMANCE INDICATORS  
FOR THE YEAR ENDED 30 JUNE 2010**

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

The financial statements comprise the Statement of Financial Position as at 30 June 2010, and the Statement of Comprehensive Income, Statement of Changes in Equity and Statement of Cash Flows 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 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. This document is available on the OAG website under "How We Audit".

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.

Page 1 of 2

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

**Western Australian Energy Disputes Arbitrator  
Financial Statements and Key Performance Indicators for the year ended 30 June 2010**

**Audit Opinion**  
In my opinion,

- (i) the financial statements are based on proper accounts and present fairly the financial position of the Western Australian Energy Disputes Arbitrator at 30 June 2010 and its financial performance and cash flows for the year ended on that date. They are in accordance with Australian Accounting Standards 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 2010.

  
COLIN MURPHY  
AUDITOR GENERAL  
16 August 2010

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## Financial Statements

### Certification of financial statements

For the year ended 30 June 2010

The accompanying financial statements of the Western Australian Energy 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 2010 and the financial position as at 30 June 2010.

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



Pam Herbener  
**CHIEF FINANCE OFFICER**  
9 August 2010



Laurie James LLB Hons.  
**ENERGY DISPUTES ARBITRATOR**  
10 August 2010

## Statement of Comprehensive Income

For the year ended 30 June 2010

	Note	2010 \$000	2009 \$000
<b>COST OF SERVICES</b>			
<b>Expenses</b>			
Employee benefits expense	6	31	31
Supplies and services	7	90	76
Other expenses	8	6	5
<b>Total cost of services</b>		<b>127</b>	<b>112</b>
<b>Income</b>			
<i>Revenue</i>			
User charges and fees	9	27	22
Interest revenue	10	8	15
<b>Total Revenue</b>		<b>35</b>	<b>37</b>
<b>Total income other than income from State Government</b>		<b>35</b>	<b>37</b>
<b>NET COST OF SERVICES</b>		<b>92</b>	<b>75</b>
<b>Income from State Government</b>			
<b>Total income from State Government</b>		-	-
<b>SURPLUS /(DEFICIT) FOR THE PERIOD</b>		<b>(92)</b>	<b>(75)</b>
<b>OTHER COMPREHENSIVE INCOME</b>			
		-	-
<b>TOTAL COMPREHENSIVE INCOME FOR THE PERIOD</b>		<b>(92)</b>	<b>(75)</b>

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

## Statement of Financial Position

As at 30 June 2010

	Note	2010 \$000	2009 \$000
<b>ASSETS</b>			
<b>Current Assets</b>			
Cash and cash equivalents	11,16	203	301
Receivables	12	7	6
<b>Total Current Assets</b>		<u>210</u>	<u>307</u>
<b>TOTAL ASSETS</b>		<u>210</u>	<u>307</u>
<b>LIABILITIES</b>			
<b>Current Liabilities</b>			
Payables	13	2	7
Amounts due to the Treasurer	14	500	500
<b>Total Current Liabilities</b>		<u>502</u>	<u>507</u>
<b>TOTAL LIABILITIES</b>		<u>502</u>	<u>507</u>
<b>NET ASSETS</b>		<u>(292)</u>	<u>(200)</u>
<b>EQUITY</b>			
Accumulated surplus/(deficit)	15	<u>(292)</u>	<u>(200)</u>
<b>TOTAL EQUITY</b>		<u>(292)</u>	<u>(200)</u>

The Statement of Financial Position should be read in conjunction with the accompanying notes.

## Statement of Changes in Equity

For the year ended 30 June 2010

	Note	Contributed Equity \$000	Reserves \$000	Accumulated surplus/(deficit) \$000	Total Equity \$000
<b>Balance at 1 July 2008</b>	15	-	-	(125)	(125)
Total comprehensive income for the year		-	-	(75)	(75)
<b>Balance at 30 June 2009</b>		-	-	(200)	(200)
<b>Balance at 1 July 2009</b>		-	-	(200)	(200)
Total comprehensive income for the year		-	-	(92)	(92)
<b>Balance at 30 June 2010</b>				(292)	(292)

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

## Statement of Cash Flows

For the year ended 30 June 2010

	Note	2010 \$000	2009 \$000
<b>CASH FLOWS FROM STATE GOVERNMENT</b>			
<b>Net cash provided by State Government</b>		-	-
Utilised as follows:			
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Payments</b>			
Employee benefits		(30)	(31)
Supplies and services		(94)	(76)
GST payments on purchases		(10)	(7)
Other payments		(8)	-
<b>Receipts</b>			
User Charges and Fees		26	22
Interest received		8	-
GST receipts from taxation authority		10	7
Other receipts		-	17
<b>Net cash provided by/(used in) operating activities</b>	16	<b>(98)</b>	<b>(68)</b>
Net increase/(decrease) in cash and cash equivalents		(98)	(68)
Cash and cash equivalents at the beginning of period		301	369
<b>CASH AND CASH EQUIVALENTS AT THE END OF PERIOD</b>	16	<b>203</b>	<b>301</b>

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

## Notes to the Financial Statements

For the year ending 30 June 2010

### **Note 1. Australian Accounting Standards**

#### **General**

The Arbitrator's financial statements for the year ended 30 June 2010 have been prepared in accordance with Australian Accounting Standards. The term 'Australian Accounting Standards' refers to Standards and Interpretations issued by the Australian Accounting Standard Board (AASB).

The Arbitrator has adopted any applicable, new and revised Australian Accounting Standards from their operative dates.

#### **Early adoption of standards**

The Arbitrator cannot early adopt an Australian Accounting Standard unless specifically permitted by TI 1101 *Application of Australian Accounting Standards and Other Pronouncements*. No Australian Accounting Standards that have been issued or amended but not operative have been early adopted by the Arbitrator for the annual reporting period ended 30 June 2010.

### **Note 2. Summary of significant accounting policies**

#### **(a) General statement**

The financial statements constitute general purpose financial statements that have been prepared in accordance with Australian Accounting Standards, the Framework for the preparation and presentation of financial statements issued by the AASB, Statements of Accounting Concepts and other authoritative pronouncements of the AASB 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 2006* and the Treasurer's instructions are legislative provisions governing the preparation of financial statements and take precedence over Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the AASB.

Where modification is required and has had 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).

The judgements that have been made in the process of applying the Arbitrator's accounting policies that have the most significant effect on the amounts recognised in the financial statements are disclosed at note 3 'Judgements made by management in applying accounting policies'.

The key assumptions made concerning the future and other key sources of estimation uncertainty at the end of the reporting period, that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year, are disclosed at note 4 'Key sources of estimation uncertainty'.

**(c) Reporting entity**

The reporting entity comprises the Western Australian Energy Disputes Arbitrator. Prior to 1 January 2010, the Arbitrator was called the Western Australian Gas Disputes Arbitrator. The change of name is due to a change in the *Energy Arbitration and Review Act 1998*.

**(d) Contributed equity**

AASB Interpretation 1038 Contributions by Owners Made to Wholly-Owned Public Sector Entities requires transfers in the nature of equity contributions, other than as a result of a restructure of administrative arrangements, 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.

**(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:

#### *Provision of services*

Revenue is recognised on 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.

#### *User Charges and Fees*

Revenue for Standing Charges is recognised at the time the charge is raised on a client as per the *National Gas Access (WA) (Local Provisions) Regulations 2009* and the *Electricity Industry (Arbitrator and Board Funding) Regulations 2009*. These regulations came into effect on 1 January 2010. Prior to this date, revenue was raised as per the *Gas Pipeline Access (Western Australia) (Funding) Regulations 1999*.

#### **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) 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.

Financial instruments 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.

**(h) Cash and cash equivalents**

For the purpose of the Statement of Cash Flows, 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.

**(i) Receivables**

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

**(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) 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.

**(l) 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 the end of each reporting period.

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.

Provisions – other

*Employment On-Costs*

The Arbitrator has no employment on-costs.

**(m) 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.

**(n) Comparative figures**

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

**Note 3. Judgements made by management in applying accounting policies**

The judgements that have been used in the process of applying accounting policies have had no material effect on amounts recognised in the financial statements.

#### **Note 4. Key sources of estimation uncertainty**

There were no estimates or assumptions made concerning the future, or other key sources of estimation uncertainty at the end of the reporting period that is likely to have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year.

#### **Note 5. Disclosure of changes in accounting policy and estimates**

##### **Initial application of an Australian Accounting Standard**

The Arbitrator has applied the following Australian Accounting Standards effective for annual reporting periods beginning on or after 1 July 2009 that impacted on the Arbitrator.

- |              |  |
|--------------|--|
| AASB 101     | <i>Presentation of Financial Statements</i> (September 2007). This Standard has been revised and introduces a number of terminology changes as well as changes to the structure of the Statement of Changes in Equity and the Statement of Comprehensive Income. It is now a requirement that owner changes in equity be presented separately from non-owner changes in equity. There is no financial impact resulting from the application of this revised Standard.  |
| AASB 2007-10 | <i>Further Amendments to Australian Accounting Standards arising from AASB 101</i> . This Standard changes the term 'general purpose financial report' to 'general purpose financial statements', where appropriate in Australian Accounting Standards and the Framework to better align with IFRS terminology. There is no financial impact resulting from the application of this Standard.  |
| AASB 2008-13 | <i>Amendments to Australian Accounting Standards arising from AASB Interpretation 17 – Distributions of Non-cash Assets to Owners [AASB 5 &amp; AASB 110]</i> . This Standard amends AASB 5 Non-current Assets Held for Sale and Discontinued Operations in respect of the classification, presentation and measurement of non-current assets held for distribution to owners in their capacity as owners. This may impact on the presentation and classification of Crown land held by the Arbitrator where the Crown land is to be sold by the Department of Regional Development and Lands (formerly Department for Planning and Infrastructure). The Arbitrator does not expect any financial impact when the Standard is first applied prospectively. |
| AASB 2009-2  | <i>Amendments to Australian Accounting Standards – Improving Disclosures about Financial Instruments AASB 4, AASB 7, AASB 1023 &amp; AASB 1038</i> . This Standard amends AASB 7 and will require enhanced disclosures about fair value measurements and liquidity risk with respect to financial instruments. There is no financial impact resulting from the application of this Standard.   |

## Future impact of Australian Accounting Standards not yet operative

The Arbitrator cannot early adopt an Australian Accounting Standard unless specifically permitted by TI 1101 *Application of Australian Accounting Standards and Other Pronouncements*. Consequently, the Arbitrator has not applied early any following Australian Accounting Standards that have been issued that may impact the Arbitrator. Where applicable, the Arbitrator plans to apply these Australian Accounting Standards from their application date:

		<b>Operative for reporting periods beginning on/after</b>
<i>AASB 2009-11</i>	<i>Amendments to Australian Accounting Standards arising from AASB 9 [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 121, 127, 128, 131, 132, 136, 139, 1023 &amp; 1038 and Interpretations 10 &amp; 12].</i>  The amendment to AASB 7 requires modification to the disclosure of categories of financial assets. The Arbitrator does not expect any financial impact when the Standard is first applied. The disclosure of categories of financial assets in the notes will change.	1 Jan 2013
<i>AASB 1053</i>	<i>Application of Tiers of Australian Accounting Standards</i>  This Standard establishes a differential financial reporting framework consisting of two tiers of reporting requirements for preparing general purpose financial statements.  The Standard does not have any financial impact on the Arbitrator. However it may affect disclosures in the financial statements of the Arbitrator if the reduced disclosure requirements apply. DTF has not yet determined the application or the potential impact of the new Standard for agencies.	1 July 2013
<i>AASB 2010-2</i>	<i>Amendments to Australian Accounting Standards arising from Reduced Disclosure Requirements</i>  This Standard makes amendments to many Australian Accounting Standards, including Interpretation, to introduce reduced disclosure requirements into these pronouncements for application by certain types of entities.  The Standard is not expected to have any financial impact on the Arbitrator. However this Standard may reduce some note disclosures in the financial statements of the Arbitrator. DTF has not yet determined the application or the potential impact of the amendments to these Standards for agencies.	1 July 2013

## Changes in accounting estimates

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

	<b>2010</b>	<b>2009</b>
	<b>\$000</b>	<b>\$000</b>
<b>Note 6. Employee benefits expense</b>		
Wages and salaries <sup>(a)</sup>	28	28
Superannuation - defined contribution plans <sup>(b)</sup>	<u>3</u>	<u>3</u>
	<b><u>31</u></b>	<b><u>31</u></b>

(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).

**Note 7. Supplies and Services**

Consultants and contractors <sup>(a)</sup>	2	3
Legal costs	30	48
Gas Review Board Fees	57	18
Other	<u>1</u>	<u>7</u>
	<b><u>90</u></b>	<b><u>76</u></b>

(a) Audit Fees (\$5,300) for 2008-09 have been reclassified to 'Other expenses'. Refer to Note 8 'Other expenses'.

**Note 8. Other expenses**

Audit Fee <sup>(a)</sup>	<u>6</u>	<u>5</u>
	<b><u>6</u></b>	<b><u>5</u></b>

(a) See also note 23 'Remuneration of auditor'.

**Note 9. User charges and fees**

User charges	<u>27</u>	<u>22</u>
	<b><u>27</u></b>	<b><u>22</u></b>
	<b><u>8</u></b>	<b><u>15</u></b>

	2010	2009
	\$000	\$000
<b>Note 10. Interest revenue</b>		
Interest revenue	<u>8</u>	<u>15</u>

**Note 11. Cash and cash equivalents**

Current

Cash at Bank	<u>203</u>	<u>301</u>
	<b><u>203</u></b>	<b><u>301</u></b>

**Note 12. Receivables**

Current

Accrued revenue	6	5
GST receivable	<u>1</u>	<u>1</u>
<b>Total current</b>	<b><u>7</u></b>	<b><u>6</u></b>

There were no allowances made in the current year for the impairment of receivables (2008-09: nil).

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

**Note 13. Payables**

Current

Trade payables	-	4
Accrued salaries	1	-
Other payables	<u>1</u>	<u>3</u>
<b>Total current</b>	<b><u>2</u></b>	<b><u>7</u></b>

2010	2009
\$000	\$000

**Note 14. Amounts due to the Treasurer**

Current

Amount due to the Treasurer

500	500
<b><u>500</u></b>	<b><u>500</u></b>

**Note 15. 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 Treasurer's Advance for \$500,000.

**Accumulated surplus/(deficit)**

Balance at start of year

(200)	(125)
-------	-------

Result for the period

<u>(92)</u>	<u>(75)</u>
-------------	-------------

**Balance at end of year**

<b><u>(292)</u></b>	<b><u>(200)</u></b>
---------------------	---------------------

<b>2010</b>	<b>2009</b>
<b>\$000</b>	<b>\$000</b>

**Note 16. Notes to the Statement of Cash Flows**

**Reconciliation of cash**

Cash at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the related items in the Statement of Financial Position as follows:

Cash and cash equivalents	<u>203</u>	<u>301</u>
	<b><u>203</u></b>	<b><u>301</u></b>

**Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities**

Net cost of services	(92)	(75)
<u>(Increase)/decrease in assets:</u>		
Current receivables <sup>(b)</sup>	(1)	-
<u>Increase/(decrease) in liabilities:</u>		
Current payables <sup>(b)</sup>	(5)	7
Net GST receipts/(payments) <sup>(a)</sup>	<u>-</u>	<u>-</u>
<b>Net cash provided by/(used in) operating activities</b>	<b><u>(98)</u></b>	<b><u>(68)</u></b>

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

(b) 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.

At the end of the reporting period, the Arbitrator had fully drawn on all financing facilities, details of which are disclosed in the financial statements.

**Note 17. Resources provided free of charge**

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

**Note 18. Contingent liabilities and contingent assets**

Contingent liabilities

The Arbitrator has no contingent liabilities as at 30 June 2010.

Contingent assets

The Arbitrator has no contingent assets as at 30 June 2010.

**Note 19. Events occurring after the end of the reporting period**

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

**Note 20. 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% and \$10,000.

**Significant variances between estimated and actual result for the financial year**

	<b>2010</b>	<b>2010</b>	
	<b>Estimate</b>	<b>Actual</b>	<b>Variation</b>
	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
Supplies and services - Energy Disputes Arbitrator	13	1	(12)
Supplies and services - Review Board	-	89	89

The annual report for the Arbitrator was done in-house resulting in lower expenditure on supplies and services. The Arbitrator provides administrative support to the Review Board. As the Appeals Body under the relevant Acts, the activities of the Review Board cannot be predicted or budgeted for.

**Significant variances between actual and prior year actual**

	<b>2010</b>	<b>2009</b>	<b>Variance</b>
	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
<u>Expenses</u>			
Supplies and services - Energy Disputes Arbitrator	1	9	8
Supplies and services - Review Board	89	67	(22)

The annual report for the Arbitrator was done in-house in 2010 resulting in lower expenditure on supplies and services.

The Arbitrator provides administrative support to the Review Board. As the Appeals Body under the relevant Acts, the activities of the Review Board cannot be predicted or budgeted for.

## **Note 21. Financial instruments**

### **(a) Financial risk management objectives and policies**

Financial instruments held by the Arbitrator are cash and cash equivalents, Treasurer's advances, 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 maximum exposure to credit risk at end of the reporting period 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 21(c) 'Financial instruments disclosure' and note 12 'Receivables'.

Credit risk associated with the Arbitrator's financial assets is minimal because the main receivable is the amount receivable for services (holding account). For receivables other than government, the Arbitrator trades only with recognised, creditworthy third parties. The Arbitrator has policies in place to ensure that sales of products and services are made to customers with an appropriate credit history. In addition, receivable balances are monitored on an ongoing basis with the result that the Arbitrator's exposure to bad debts is minimal. At the end of the reporting period there were 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 drawdowns of appropriations by monitoring forecast cash flows to ensure that sufficient funds are available to meet its commitments.

#### Market risk

Market risk is the risk that changes in market prices such as foreign exchange rates and interest rates will affect the Arbitrator's income or the value of its holdings of financial instruments. 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 21(c).

**(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 end of the reporting period are as follows:

	<b>2010</b>	<b>2009</b>
	<b>\$000</b>	<b>\$000</b>
<u>Financial Assets</u>		
Cash and cash equivalents	203	301
Receivables <sup>(a)</sup>	6	5
<u>Financial Liabilities</u>		
Financial liabilities measured at amortised cost	502	507

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

**(c) Financial instrument disclosures**

Credit risk and interest rate exposures

The following table discloses the Arbitrator's maximum exposure to credit risk, interest rate exposure and ageing analysis of financial assets. The Arbitrator's maximum exposure to credit risk at the end of the reporting period is the carrying amount of financial assets as shown below. The table discloses the ageing of financial assets that are past due but not impaired and impaired financial assets. The table is based on information provided to the Arbitrator.

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

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

**Interest rate exposures and ageing analysis of financial assets<sup>(a)</sup>**

	Weighted Average Effective Interest Rate	Carrying Amount	<u>Interest rate exposure</u>			<u>Past due but not impaired</u>					Impaired financial assets
			Fixed Interest Rate	Variable Interest Rate	Non- Interest bearing	Up to 3 months	3-12 month s	1-2 year s	2-5 year s	More than 5 years	
			\$000	\$000	\$000	\$000	\$000	\$000	\$000	\$000	
<u>Financial Assets</u>											
2010 Cash and cash equivalents	4.13%	203	-	203	-	-	-	-	-	-	-
Receivables <sup>(a)</sup>		6	-	-	6	-	-	-	-	-	-
		<b>209</b>	-	<b>203</b>	<b>6</b>	-	-	-	-	-	-
2009 Cash and cash equivalents	5.57%	301	-	301	-	-	-	-	-	-	-
Receivables <sup>(a)</sup>		5	-	-	5	-	-	-	-	-	-
		<b>306</b>	-	<b>301</b>	<b>5</b>	-	-	-	-	-	-

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

## Liquidity Risk

The following table details the contractual maturity analysis for financial liabilities. The contractual maturity amounts are representative of the undiscounted amounts at the end of the reporting period. The table includes interest and principal cash flows. An adjustment has been made where material.

### Interest rate exposure and maturity analysis of financial liabilities

	Weighted Average Effective Interest Rate	Carrying Amount	Interest rate exposure				Total Nominal Amount	Maturity date				
			Fixed interest rate	Variable interest rate	Non - Interest Bearing	Adjustment for discounting		Up to 3 months	3 - 12 months	1 - 2 years	2 - 5 years	More than 5 years
	%	\$000	\$000	\$000	\$000	\$000	\$000	\$000	\$000	\$000	\$000	\$000
<u>Financial Liabilities</u>												
2010 Payables Amounts due to the Treasurer		2	-	-	2	-	-	2	-	-	-	-
		500	-	-	500	-	-	-	500	-	-	-
		<b>502</b>	-	-	<b>502</b>	-	-	<b>2</b>	<b>500</b>	-	-	-
2009 Payables Amounts due to the Treasurer		7	-	-	7	-	-	7	-	-	-	-
		500	-	-	500	-	-	-	-	500	-	-
		<b>507</b>	-	-	<b>507</b>	-	-	<b>7</b>	-	<b>500</b>	-	-

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

### 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 end of the reporting period on the surplus for the period and equity for a 1% change in interest rates. It is assumed that the change in interest rates is held constant throughout the reporting period.

	Carrying Amount \$000	-100 basis points Surplus \$000	Equity \$000	+100 basis points Surplus \$000	Equity \$000
2010					
<u>Financial Assets</u>					
Cash and cash equivalent	203	(2)	(2)	2	2
Total Increase/(Decrease)		(2)	(2)	2	2
	Carrying Amount \$000	-100 basis points Surplus \$000	Equity \$000	+100 basis points Surplus \$000	Equity \$000
2009					
<u>Financial Assets</u>					
Cash and cash equivalent	301	(3)	(3)	3	3
Total Increase/(Decrease)		(3)	(3)	3	3

### Fair Values

All financial assets and liabilities recognised in the statement of financial position, 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.

2010	2009
\$000	\$000

**Note 22. Remuneration of members of the accountable authority and senior officers**

**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:

\$  
30,001 - 40,000

1	1
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The total remuneration of members of the accountable authority

<b>31</b>	<b>31</b>
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The total remuneration includes the superannuation expense incurred by the Arbitrator in respect of members of the accountable authority.

**Note 23. Remuneration of auditor**

Remuneration payable to the Auditor General in respect of the audit for the current financial year is as follows:

Auditing the accounts, financial statements and performance indicators

6	6
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**Note 24. Related bodies**

The Arbitrator had no related bodies during the financial year.

**Note 25. Affiliated bodies**

The Arbitrator had no affiliated bodies during the financial year.

**Note 26. Supplementary financial information**

**(a) Write-offs**

There were no write-offs during the financial year.

**(b) Losses through theft, defaults and other causes**

There were no losses of public money and public and other property through theft or default during the financial year.

**(c) Gifts of public property**

There were no gifts of public property provided by the Arbitrator during the financial year.

**Note 27. Schedule of income and expenses by service**

The Arbitrator has only one (1) service, which is 'To provide administrative support to the Energy Review Board'. Therefore there is no need to prepare the Schedule of income and expenses by service. Please refer to the Statement of Comprehensive Income.

### 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 Energy Disputes Arbitrator's performance, and fairly represent the performance of the Western Australian Energy Disputes Arbitrator for the financial year ended 30 June 2010.



Pam Herbener  
**CHIEF FINANCE OFFICER**  
9 August 2010



Laurie James LLB Hons.  
**ENERGY DISPUTES ARBITRATOR**  
10 August 2010

## Key Performance Indicators

### Formulating the Arbitrator's performance indicators

For the period 1 July 2009 to 31 December 2009, the Office of the Arbitrator was established by the *Gas Pipelines Access (Western Australia) Act 1998* and the office was titled the Gas Disputes Arbitrator. During this period the functions of the Arbitrator were funded through provisions in the *Gas Pipelines Access (Western Australia) (Funding) Regulations 1999*.

From 1 January 2010, the *Gas Pipelines Access (Western Australia) Act 1998* was amended and retitled to be the *Energy Arbitration and Review Act 1998*. This caused a change in title for the Office of the Arbitrator from the Gas Disputes Arbitrator to the Energy Disputes Arbitrator. The Arbitrator is now funded by the *National Gas Access (WA) (Local Provisions) Regulations 2009* and the *Electricity Industry (Arbitrator and Board Funding) Regulations 2009*.

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 *Energy Arbitration and Review 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 enabling legislation, including the *Electricity Industry Act 2004* (section 122) and the *National Gas Access (WA) Act 2009*.

The strategic high-level government goal relevant to the Arbitrator is *“Greater focus on achieving results in key service delivery areas for the benefit of all Western Australians”*.

The desired outcome of the activities of the Authority in support of this high-level strategic goal is *“The efficient, safe and equitable provision of utility services in Western Australia”*.

Although the Arbitrator's role does not directly contribute to this desired outcome, the services he provides to bodies such as the Board are consistent with this outcome.

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 Electricity Review Board (**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 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.

## 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 Electricity Review Board*

The Arbitrator plays an important role in providing administrative support to the 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.

### *2009/10 Performance – Effectiveness*

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

#### 1. Resolution of disputes

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

#### 2. Provision of administrative services to the Electricity Review Board

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

There were no new applications lodged during the year. There are two continuing applications.

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 of the four members involved in the two applications continuing during the year indicate that they were either satisfied or very satisfied.

*Effectiveness indicators*

Service	Performance indicator	Target	2009/10	2008/09
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 Review Board members satisfied or very satisfied with the services provided by the Arbitrator in support of review processes	75%	100%	100%

(a) 2008/09 actual includes “neither satisfied or dissatisfied” category which accounted for 25%.

*Key efficiency indicators*

*Resolution of Disputes*

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

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

The efficiency indicator for the Arbitrator's program of maintaining a state of readiness is the average cost per standard unit of regulated infrastructure. This facilitates the measurement of the cost efficiency associated with the Arbitrator's availability to address matters arising from the regulation of infrastructure.

### *2009/10 Performance – efficiency*

The three efficiency indicators for the Arbitrator are:

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

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

#### **1. Average cost per dispute**

The average cost was zero in 2009/10 as there were no disputes. 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.

There were no new applications considered by the Board in 2009/10. There are two continuing applications (1 and 3 of 2008) which were lodged during the 2008/09 year, under the *Electricity Industry (Wholesale Electricity Market) Regulations 2004*, by the Independent Market Operator for orders for contravention of the Market Rules.

The average cost of reviews was \$44,560 in 2009/10 compared with \$17,054 in 2008/09, \$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 disputes and applications dealt with by the Board in each year have varied over the period since 2003/04. In total, there have been no disputes and two continuing applications during 2009/10.

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 oversighted in the 2009/10 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 \$2,469 in 2009/10 compared with \$3,917 in 2008/09, \$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 decrease in the average cost per standard unit of regulated infrastructure reflects that during 2009-10 the asset value of electricity infrastructure oversighted by the Arbitrator was reset following the review of the access arrangement for Western Power's South-West Interconnected Network. This resulted in the actual number of standard units of regulated infrastructure oversighted for 2009/10 being 15.34 against a target of 11.45. The target cost of \$4,366 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 (11.45 units).

### Efficiency

Service	Performance indicator	Target	2009/10	2008/09
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	\$44,560	\$17,054
Maintaining a state of readiness	Average cost per standard unit of regulated infrastructure	\$4,368	\$2,469	\$3,917

### Equivalent standard units of infrastructure

During 2009/10, the Arbitrator had oversight of 15.34 equivalent standard units (\$500 million) of regulated infrastructure, against a target of 11.45. During 2009-10 the asset value of electricity infrastructure oversights by the Arbitrator was reset following the review of the access arrangement for Western Power's South-West Interconnected Network.

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

For example, the demands placed on the Arbitrator by several smaller regulated assets in one year may be equivalent to

those of a single larger piece of regulated infrastructure in another year. To ensure that the units of measurement are reasonably consistent from one year to the next, a standard unit of regulated infrastructure has been defined as one having a capital base value of \$500 million.

It should be noted, however, that the Arbitrator oversights generation facilities covered by the Wholesale Electricity Market. If the value of these generation facilities were taken into account then the number of units in 2009/10 would far exceed 15.34 units. As the generation facilities oversights by the Arbitrator are owned by both private and public electricity market participants, no readily available value exists that may be ascribed to this infrastructure. Indeed, to ascribe a value to such infrastructure would not be justified, as this would involve significant cost and serve no other purpose. Accordingly, no value has been ascribed to generation facilities, which are

therefore not reflected in the 15.34 equivalent standard units of regulated infrastructure.

## Ministerial directives

Section 75(2) of the *Energy Arbitration and Review 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 *Energy Arbitration and Review 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 Review Board, has traditionally been funded by charges payable by the operators of regulated gas pipelines. These funding arrangements are set out in the *National Gas Access (WA) (Local Provisions) Regulations 2009 (gas funding regulations)*. From 1 January 2005, when the Arbitrator acquired the functions of providing services and support to the Review Board to hear and determine matters related to the electricity industry (as outlined in the *Electricity Industry Act 2004*), the Arbitrator was only able to recover 50% of core function costs through the gas funding regulations.

On 1 January 2010, the *Electricity Industry (Arbitrator and Board) Funding Regulations 2009 (electricity funding regulations)* were introduced which now allows for funding 50% of the Arbitrator's core functions costs from regulated electricity networks through the electricity 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 gas funding regulations. Standing charges are levied on operators of pipelines for costs incurred by the Arbitrator, including any costs relating to the Review 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 gas funding regulations.

Funding of the Arbitrator's electricity industry functions has also been arranged through 'standing charges' levied by the Arbitrator on operators of regulated networks. These charges are determined in line with regulation 4 of the electricity funding regulations. Standing charges are levied on operators of networks for costs incurred by the Arbitrator, including any costs relating to the Review Board that are not due to a particular review. The network 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 electricity 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 and network

operators in a financial year. This information for the year ended 30 June 2010 is listed in the table below.

Service provider	Standing charges (\$)
WA Gas Networks Pty Limited (Alinta)	\$5,567
Goldfields Gas Transmission	\$4,178
Southern Cross Pipelines Pty Limited	\$561
DBNGP (WA) Transmission Pty Limited	\$10,306
Western Power	\$5,000
<b>Total</b>	<b>\$25,612</b>

The *Gas Pipelines Access (Western Australia) Act 2009* and the *Electricity Industry Act 2004* allows the Arbitrator to recover costs incurred in arbitrating disputes. As there were no disputes in 2009/10, no costs were recovered.

The Arbitrator is also able to recover certain costs and expenses of a Review Board for hearings and determinations of the Board. The Review Board is able to fix an amount that represents the costs and expenses incurred by it for the hearing and determination of particular proceedings before it, and to assign costs to the parties of the relevant proceedings.

### Capital works

There were no major capital works undertaken during 2009/10.

### Treasurer's advances

Section 83 of the *Energy Arbitration and Review 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 2009/10 to fund the activities of the Review Board.

### 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 2009/10.

#### 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 2009/10 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 *Energy Arbitration and Review 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 *Energy Arbitration and Review 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 2009/10.

### 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.

The only costs the Arbitrator incurs relates to an annual survey of stakeholders. While a survey was undertaken for 2009/10 the work was not completed by the end of the financial year. Therefore, expenditure for the year to 30 June 2010 was nil.

### 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 2009/10, which is available on the Authority's website at [www.erawa.com.au](http://www.erawa.com.au).

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. During the year, development of a functional retention and disposal schedule commenced.

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

Complaints relating to the provision of administrative services provided to the Arbitrator by the Authority are dealt with under the Authority's Code of Conduct. 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 or lodge a complaint via the Authority's website.

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.

## 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 2009/10. This report was published on the Authority's website at [www.erawa.com.au](http://www.erawa.com.au).