



Western Australian Energy Disputes Arbitrator



Annual Report 2010/11

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- an online PDF version;
- an online browser version, which allows for quick and easy viewing of annual report sections. This version also features easy to use download and print functions;
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Statement of compliance



WESTERN
AUSTRALIAN

ENERGY DISPUTES ARBITRATOR

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14 September 2011

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 2010/11 Annual Report

In accordance with section 63 of the *Financial Management Act 2006*, I hereby submit for your information and presentation to Parliament, the Annual Report of the Western Australian Energy Disputes Arbitrator for the financial year ended 30 June 2011.

This 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 read 'LJ'.

MR LAURIE JAMES LLB HONS.
ENERGY DISPUTES ARBITRATOR

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Overview

From the Arbitrator



While I have not been asked to arbitrate on any matters over the past year, there has been activity associated with the work of the Electricity Review Board (**Review Board**).

The Review Board is responsible for reviewing specific decisions of the Economic Regulation Authority. In relation to such reviews, I am responsible for ensuring that appropriate services are available to the Review Board.

Two applications for a review of the Economic Regulation Authority's final decision on the revised access arrangement for the Goldfields Gas Pipeline were lodged during the year under provisions in the *Gas Pipelines Access (Western Australia) Act 1998 (Gas Act)*. While the Gas Act has been superseded by the *National Gas Access (WA) Act 2009*, Goldfields Gas Transmission, the operator of the Goldfields Gas Pipeline, lodged its proposed revised access arrangement under the Gas Act. The Gas Act will therefore apply to the Goldfields Gas Pipeline access arrangement until a revised access arrangement is lodged in 2014.

The Review Board has progressed the reviews and expects to complete them in the first half of the 2011/12 financial year. Details of these reviews are posted on the Economic Regulation Authority website www.erawa.com.au.

In my principal role as Arbitrator, I may be called upon to adjudicate the terms, conditions and prices that should apply where there is a dispute between parties seeking access to electricity or gas infrastructure and the owners of such infrastructure. Having no disputes lodged is a desirable outcome indicating that the regulatory regime is working.

In presenting this report, I would like to thank the Registrar of the Electricity Review Board, the Office of Energy and the Economic Regulation Authority for their ongoing support.

Executive Summary

The Office of the Western Australian Energy Disputes Arbitrator (**Arbitrator**) is established under the *Energy Review and Arbitration Act 2009*. The Office 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 applications lodged with the Arbitrator to resolve disputes during this reporting year.

Two applications were lodged for review of the Economic Regulation Authority's final decision on the revised access arrangement for the Goldfields Gas Pipeline (application 1 and 2 of 2010).

To facilitate the review of application 1 and 2 of 2010 an Electricity Review Board was formed. The Electricity Review Board held its first Directions Hearing on 26 November 2010 and the review was ongoing at the end of the reporting period.

Operational Structure

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

When required, a consultant is appointed to perform the services of Registrar to facilitate hearings of the Review Board.

Enabling legislation

The office of the Arbitrator is established under section 62 of 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.

Organisational Structure

Vision

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

Mission

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

Values

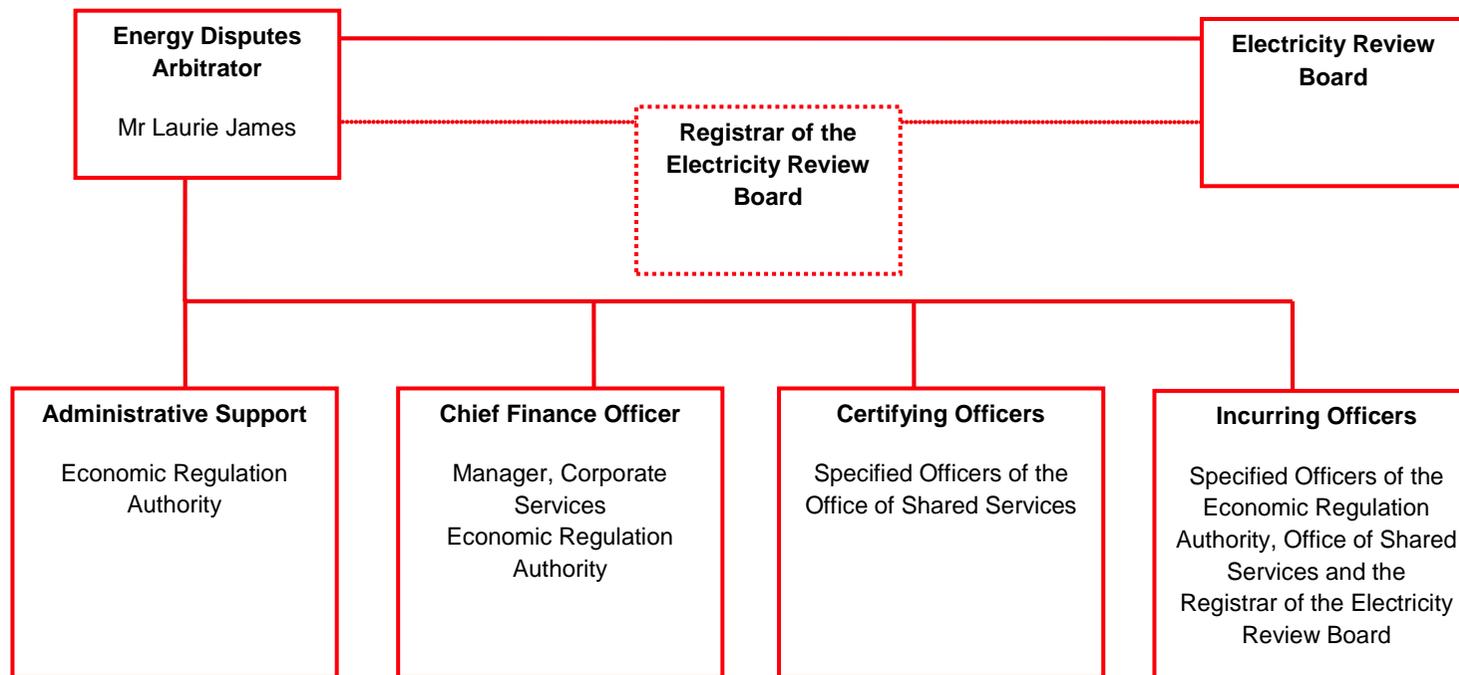
The Arbitrator aims to:

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

Organisational Chart

The following chart represents the organisational structure of the Arbitrator as at 30 June 2011. The Economic Regulation Authority (ERA) continues to provide corporate services support to the Arbitrator. This support is provided by staff who are not involved in regulatory decision making and processes are in place to ensure that information about the activities of the Arbitrator and Review Board are not made available to ERA staff outside of the corporate services division.

Figure 1 Organisational Chart



Administered Legislation

Gas industry

The Arbitrator's functions relating to access to gas infrastructure is established under the *National Gas Access (WA) Act 2009*.

The Arbitrator may resolve 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 gas pipeline.

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 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*).

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

Regulated infrastructure

The regulated gas and electricity infrastructure to which the Arbitrator's functions relate is wholly located in Western Australia.

At 30 June 2011, there were four regulated gas pipeline systems:

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

There is currently only one regulated electricity network which is Western Power's electricity network in the South West Interconnected System.

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

Gas

- 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*; and
- regulations referred to in section 74 of the *Energy Arbitration and Review Act 1998* relating to the functions of hearing and determining disputes.

Electricity

- 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*).

The Arbitrator is funded through provisions in the *National Gas Access (WA) (Local Provisions) Regulations 2009* and the *Electricity Industry (Arbitrator and Board) Funding Regulations 2009*. These regulations allow for the costs of the Arbitrator's oversighting role for regulated infrastructure in Western Australia to be recovered from operators of regulated gas pipelines and regulated electricity networks in the State.

Other legislation impacting the Arbitrator

The Arbitrator performs his functions in compliance with other legislation. These are listed in [Appendix 1](#).

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 for the provision of corporate services.

As the ERA's financial management system is sourced through the Office of Shared Services, employees of that office 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 Electricity Review Board.

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 financial management and 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 panel members are required to be nominated by the Minister for Energy and appointed by the Governor. Two

panels are established, one for legal practitioners and one for experts.

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 the panel of legal practitioners, and two experts who are chosen by the presiding member from the panel of experts. The Review Board may be separately constituted to hear and determine different appeals.

Table 1 Panel members during the 2010/11 reporting year

Panel Members whose appointment ended 22 April 2011:		Panel Members whose appointment ends 20 September 2015:	
<i>Legal practitioners</i>	<i>Experts</i>	<i>Legal practitioner</i>	<i>Experts</i>
Ms Brydget Barker-Hudson	Mr Michael David Agostini	Mr Graham Castledine	Mr Michael Carr
Ms Sandra Lynette Brown	Mr John Douglas Collins		Dr Leslie Farrant
Ms Anna Maria Liscia	Ms Sandra Gamble		Mr Brendan Gaynor
Mr Charles Kennedy Scott Merriam	Mr Ian Lindsay MacGillivray		Dr Frank Harman
Ms Mirina Muir	Mr Simon Orme		Mr Albert Koenig
Mr Michael Sweeney	Mr Roland Kingsbury Sleeman		Mr David Lyne
Mr Scott Ellis *	Mr Graham Mathieson *		Mr Kevan McGill
			Mr Nenad Ninkov
			Dr John Williams
			Mr Ted Woodley

*(Term continued to complete part-heard proceedings relating to Appeal 1 and 2 of 2010)

On 26 July 2011, the Governor appointed five legal practitioners and five expert members to the Electricity Review Board panels.

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 Arbitrator 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 Review 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 2010/11.

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 2010/11. This is consistent with an objective of having no disputes.

Electricity Review Board

There were two new applications lodged for review by the Electricity Review Board during the year ended 30 June 2011. The applications are summarised in the following table:

Figure 2 - Applications under review with the Electricity Review Board in 2010/11

Application number	Application date	Applicant	Respondent	Status	Nature of application
1 of 2010	19 August 2010	BHP Billiton Nickel West Pty Ltd	First Respondent - Southern Cross Pipelines Australia Pty Ltd, Southern Cross Pipelines (NPL) Australia Pty Ltd, Alinta DEWAP Pty Ltd and Goldfields Gas Transmission Pty Ltd. Second Respondent - Economic Regulation Authority	Final hearing of substantive applications held between 18-20 April 2011 Order extending time for making a determination to 19 August 2011 issued 15 July 2011.	Application for review of the decision by the Western Australian Economic Regulation Authority published on 5 August 2010 to approve its own revised access arrangement for the Goldfields Gas Pipeline.
2 of 2010	19 August 2010	Southern Cross Pipelines Australia Pty Limited, Southern Cross Pipelines (NPL) Australia Pty Ltd, Alinta DEWAP Pty Ltd and Goldfields Gas Transmission Pty Ltd	First Respondent - BHP Billiton Nickel West Pty Ltd (ABN 76 004 184 598) Second Respondent - Economic Regulation Authority.	Final hearing of substantive applications held between 18-20 April 2011 Order extending time for making a determination to 19 August 2011 issued 15 July 2011.	Application for review of the decision by the Western Australian Economic Regulation Authority published on 5 August 2010 to approve its own revised access arrangement for the Goldfields Gas Pipeline.

Application 1/2010 and 2/2010

As outlined in Figure 2 above, both Applications were lodged on 19 August 2010 and sought a review of the ERA's decision dated 5 August 2010 regarding the access arrangement for the Goldfields Gas Pipeline.

On 19 October 2010, the Attorney General appointed Perth Barrister, Mr Scott Ellis, of Sir Francis Burt Law Chambers to Chair the Review Board to hear and determine Application 1/2010 and Application 2/2010. On 2 November 2010 Mr Ellis appointed New South Wales engineer Edward Woodley and Perth engineer Brendon Gaynor as expert members of the Review Board. On 16 December 2010, Mr Gaynor withdrew from the Review Board on the basis of a possibility of perceived bias arising out of his previous involvement with an associated business of one of the parties. On 23 December 2010, Perth energy expert Mr Graham Mathieson was appointed as a replacement expert to the Review Board. In the interests of expediency and efficiency, both Applications were effectively joined and run together.

A number of Directions Hearings were held during the course of proceedings, all of which were presided over by Mr Ellis sitting alone. The hearing of the substantive applications took place before the full Review Board during the period 18 – 20 April 2011.

At the conclusion of the hearing of the substantive applications, the Review Board reserved its decision and a program was instituted for the delivery of further submissions and materials required by the Review Board to enable it to reach a decision.

On 19 July 2011, the Review Board issued an order extending the time for making a decision until 19 August 2011.

On 18 August 2011, the Review Board issued an order extending the time for making a decision until 18 September 2011.

Actual financial 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 2010/11.

Table 2 Estimate approved by the Minister for 2010/11

Ongoing costs	2010/11
Staff Costs	
Total Remuneration Including On-costs	\$31,000
Administration Costs	
Total Administration	\$19,000
Total Annual Estimates	\$50,000

The Arbitrator does not allow for costs associated with arbitration, review or appeal in his annual estimates. For 2010/11 the Arbitrator's ongoing costs amounted to \$48,300. The total expenditure for 2010/11 of \$310,998 included costs associated with reviews. Review Board costs of \$262,698 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.

Figure 3 Arbitrator Costs for 2010/11 reporting year

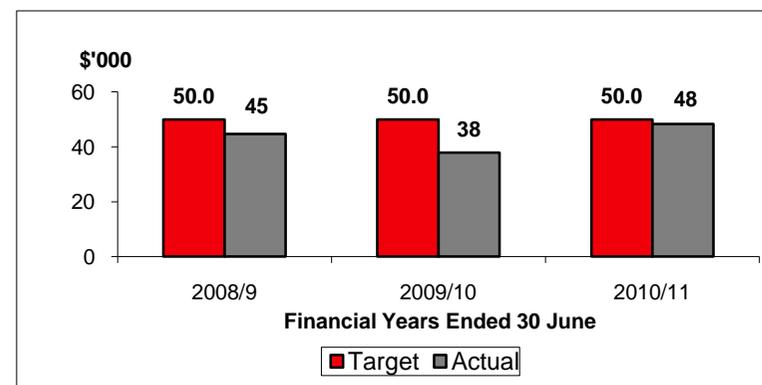
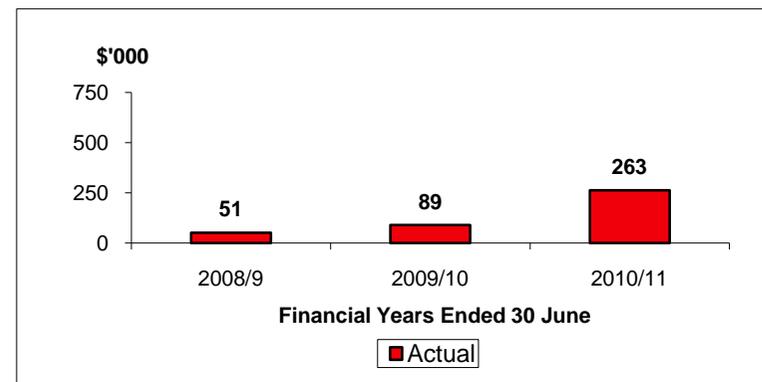


Figure 4 Review Board costs for 2010/11 reporting year



Summary of Key Performance Indicators

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

- resolution of disputes; and
- provision of administrative services to the Electricity Review Board (**Review Board**) for the review of decisions.

The Arbitrator's outcome is achieved by maintaining a state of readiness for the resolution of disputes and providing timely and efficient support to the Review Board when it is constituted.

Table 3 Summary of Key Performance Indicators

	2010/11 Target	2010/11 Actual	Variation
<i>Outcome 1 To provide for resolution of disputes</i>			
Key Effectiveness Indicator			
The number of disputes resolved as a proportion of total disputes registered			
<i>Service 1: Arbitration of disputes</i>	100%	0% no disputes	N/A no disputes
Key Efficiency Indicator:			
Average cost per dispute	\$0 (no disputes)	\$0 (no disputes)	\$0
<i>Outcome 2 To provide administrative services to the Electricity Review Board for the review of decisions</i>			
Key Effectiveness Indicator			
Percentage of Electricity Review Board members satisfied or very satisfied with the services provided by the Arbitrator in support of review processes			
<i>Service 1: Arbitration of disputes</i>	75%	100%	25%
Key Efficiency Indicator:			
Average cost per review application	\$0	\$262,698	\$262,698

Maintaining a state of readiness

To facilitate the measurement of the cost efficiency associated with the Arbitrator's availability to address matters arising from the regulation of infrastructure, the concept of a standard unit of regulated infrastructure was established. This is used to recognise and allow for the fact that the size, value and complexity of regulated infrastructure, including pipelines and electricity networks, varies from one asset to another. It also recognises that the size, cost and complexity of regulation and arbitration work will vary accordingly.

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

Number of units of regulated infrastructure oversighted

During 2010/11 the Economic Regulation Authority (**ERA**) issued its further final decision on Goldfield Gas Transmission's proposed access arrangement for the Goldfields Gas Pipeline and a final decision on WA Gas Networks proposed access arrangement for the Mid-West and South-West Gas Distribution Systems. As a result of those decisions, the number of units of regulated infrastructure oversighted by the Arbitrator has been revised to reflect the change in asset value approved by the ERA for those pipelines. The actual number of units of regulated

infrastructure oversighted in 2010/11 was 15.55 against a target of 15.34.

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 being available to address matters arising from the regulation of infrastructure for 2010/11 was \$48,300 compared to \$37,877 in 2009/10. The Arbitrator is able to recover this cost from operators of regulated gas pipelines and regulated electricity networks.

Electricity Review Board costs

There were two new applications for review lodged with the Electricity Review Board during the year. The cost of these applications in 2010/11 was \$262,698.

Average cost of oversighting

As a result of the increase in number of units of regulated infrastructure oversighted in 2010/11, the average cost of oversighting an equivalent standard unit of regulated infrastructure increased from \$2,469 in 2009/10 to \$3,105 in 2010/11.

Annual survey of Electricity Review Board members

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

Three 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 Arbitrator;
- timeliness of services provided by the Arbitrator; and
- general administrative services they received from the Arbitrator.

Table 4 Electricity Review Board's satisfaction with venues and facilities

Satisfaction with venues and facilities	Response rate
Very satisfied	100%
Satisfied	0%
Neither satisfied or dissatisfied	0%
Dissatisfied	0%
Very dissatisfied	0%

All members commented that the venue and facilities provided for conducting hearings was very good. It was mentioned in the comments that there had been an issue with obtaining access to the venue initially, however members were satisfied with the organisation of the venues and facilities provided.

There were comments from some members in last year's survey that the venue provided was not adequate for the hearing, therefore this area of service was considered to have room for improvement. The comments from members in this year's survey suggest that this area of service has improved and an adequate venue was provided by the Arbitrator for the 2010/11 financial year.

Table 5 Electricity 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%

The only comment given under this category of service stated that: 'James Saunders is outstanding in this area. No negative issues to give any less than an excellent rating'. James Saunders is appointed by the Arbitrator to provide the services of Registrar to the Review Board. The result of the survey indicates that the Arbitrator maintained very high standards for the timeliness of services provided. Receiving the rating of 'very satisfied' from all members is consistent with the previous year's response.

Table 6 Electricity Review Board's satisfaction with general administrative services provided by the Arbitrator

General administrative services	Response rate
Very satisfied	100%
Satisfied	0%
Neither satisfied or dissatisfied	0%
Dissatisfied	0%
Very dissatisfied	0%

For the question regarding overall service provided by the Arbitrator, all three members responded that they were 'very satisfied'. The only comment given was that there had been 'no problem' indicating the administrative services provided by the Arbitrator continued to be maintained at a high standard.

Comparison to previous surveys

In comparison to previous years, this year's results indicate an improvement in the members' satisfaction with the performance of the Arbitrator. Members' responses indicate that there has been an improvement in the provision of venues and facilities and administrative services with both these services reaching 100% very satisfied this year compared to 75% in 2009/10.

Conclusion

Overall, Review Board members were very satisfied with the administrative services provided by the Arbitrator.

There continues to be an issue with the Registrar of the Review Board not being associated with the Arbitrator but this is not as evident this year compared to previous surveys.

Significant issues impacting the Arbitrator

The following issues have impacted upon the speed, efficiency and economy with which the Arbitrator and the Review Board have been able to conduct their functions in 2010/11.

Constituting an Electricity Review Board

When an application for review by the Review Board is lodged it is necessary to make arrangements to constitute a Review 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.

When the 2010/11 applications for review were lodged, the list of panel members consisted of seven legal practitioner panel members and seven expert panel members. These panel members' appointments expired in April 2011. While the Office of Energy had sought expressions of interest for new members to be appointed as Panel Members at the end of the financial year, the list of panel members consisted of one legal practitioner and ten 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 to be considered by 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 the presiding member. The Registrar of the Review Board continues to liaise with the State Solicitor's Office on this matter.

Disclosures and legal compliance

Audit opinion



Auditor General

INDEPENDENT AUDITOR'S REPORT

To the Parliament of Western Australia

WESTERN AUSTRALIAN ENERGY DISPUTES ARBITRATOR

Report on the Financial Statements

I have audited the accounts and financial statements of the Western Australian Energy Disputes Arbitrator.

The financial statements comprise the Statement of Financial Position as at 30 June 2011, the Statement of Comprehensive Income, Statement of Changes in Equity and Statement of Cash Flows for the year then ended, and Notes comprising a summary of significant accounting policies and other explanatory information.

Arbitrator's Responsibility for the Financial Statements

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 for such internal control as the Arbitrator determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the financial statements based on my audit. The audit was conducted in accordance with Australian Auditing Standards. Those Standards require compliance with relevant ethical requirements relating to audit engagements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Arbitrator's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Arbitrator, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the financial statements are based on proper accounts and present fairly, in all material respects, the financial position of the Western Australian Energy Disputes Arbitrator at 30 June 2011 and its financial performance and cash flows for the year then ended. They are in accordance with Australian Accounting Standards and the Treasurer's Instructions.

Western Australian Energy Disputes Arbitrator

Report on Controls

I have audited the controls exercised by the Western Australian Energy Disputes Arbitrator. The Arbitrator is responsible for ensuring that adequate control is maintained over the receipt, expenditure and investment of money, the acquisition and disposal of public and other property, and the incurring of liabilities in accordance with the Financial Management Act 2006 and the Treasurer's Instructions, and other relevant written law.

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the controls exercised by the Arbitrator based on my audit conducted in accordance with Australian Auditing Standards.

Opinion

In my opinion, the controls exercised by the Western Australian Energy Disputes Arbitrator are sufficiently adequate to 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.

Report on the Key Performance Indicators

I have audited the key performance indicators of the Western Australian Energy Disputes Arbitrator. The Arbitrator is responsible for the preparation and fair presentation of the key performance indicators in accordance with the Financial Management Act 2006 and the Treasurer's Instructions.

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the key performance indicators based on my audit conducted in accordance with Australian Auditing Standards.

Opinion

In my opinion, the key performance indicators of the Western Australian Energy Disputes Arbitrator are relevant and appropriate to assist users to assess the Arbitrator's performance and fairly represent indicated performance for the year ended 30 June 2011.

Independence

In conducting this audit, I have complied with the independence requirements of the Auditor General Act 2006 and the Australian Auditing Standards, and other relevant ethical requirements.

COLIN MURPHY
AUDITOR GENERAL
4 August 2011

Financial Statements

Certification of financial statements

For the year ended 30 June 2011

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 2011 and the financial position as at 30 June 2011.

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 2011



Laurie James LLB Hons.
ENERGY DISPUTES ARBITRATOR
10 August 2011

Statement of Comprehensive Income

For the year ended 30 June 2011

	Note	2011 \$	2010 \$
COST OF SERVICES			
Expenses			
Employee benefits expense	6.	30,605	30,634
Supplies and services	7.	274,693	90,762
Other expenses	8.	5,700	5,600
Total cost of services		310,998	126,996
Income			
<i>Revenue</i>			
User charges and fees	9.	41,541	27,091
Interest revenue	10.	7,077	7,785
Total Revenue		48,618	34,876
Total income other than income from State Government		48,618	34,876
NET COST OF SERVICES		262,380	92,120
Income from State Government			
Resources received free of charge	11.	6,759	-
Total income from State Government		6,759	-
SURPLUS/(DEFICIT) FOR THE PERIOD		(255,621)	(92,120)
OTHER COMPREHENSIVE INCOME			
TOTAL COMPREHENSIVE INCOME FOR THE PERIOD		(255,621)	(92,120)

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

Statement of Financial Position

As at 30 June 2011

	Note	2011 \$	2010 \$
ASSETS			
Current Assets			
Cash and cash equivalents	12.,18.	207,592	203,137
Receivables	13.	26,048	7,095
Other current assets	14.	45	-
Total Current Assets		233,685	210,232
TOTAL ASSETS		233,685	210,232
LIABILITIES			
Current Liabilities			
Payables	15.	80,903	1,829
Amounts due to the Treasurer	16.	700,000	500,000
Total Current Liabilities		780,903	501,829
TOTAL LIABILITIES		780,903	501,829
NET ASSETS		(547,218)	(291,597)
EQUITY			
Accumulated surplus/(deficit)	17.	(547,218)	(291,597)
TOTAL EQUITY		(547,218)	(291,597)

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 2011

	Note	Contributed Equity	Reserves	Accumulated surplus/(deficit)	Total Equity
		\$	\$	\$	\$
Balance at 1 July 2009	17.	-	-	(199,477)	(199,477)
Total comprehensive income for the year		-	-	(92,120)	(92,120)
Balance at 30 June 2010		-	-	(291,597)	(291,597)
Balance at 1 July 2010		-	-	(291,597)	(291,597)
Total comprehensive income for the year		-	-	(255,621)	(255,621)
Balance at 30 June 2011		-	-	(547,218)	(547,218)

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 2011

	Note	2011 \$	2010 \$
CASH FLOWS FROM STATE GOVERNMENT			
Net cash provided by State Government		-	-
Utilised as follows:			
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Employee benefits		(30,489)	(30,164)
Supplies and services		(189,021)	(95,444)
GST payments on purchases		(8,290)	(9,784)
Other payments		(5,700)	(7,227)
Receipts			
User charges and fees		22,588	25,805
Interest received		7,077	7,786
GST receipts from taxation authority		8,290	10,745
Net cash provided by/(used in) operating activities	18.	(195,545)	(98,283)
CASH FLOWS FROM FINANCING ACTIVITIES			
Proceeds from Treasurer's Advance		200,000	
Net cash provided by/(used in) financing activities		200,000	-
Net increase/(decrease) in cash and cash equivalents		4,455	(98,283)
Cash and cash equivalents at the beginning of period		203,137	301,420
CASH AND CASH EQUIVALENTS AT THE END OF PERIOD	18.	207,592	203,137

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

Notes to the Financial Statements

For the year ended 30 June 2011

Note 1. Australian Accounting Standards

General

The Arbitrator's financial statements for the year ended 30 June 2011 have been prepared in accordance with Australian Accounting Standards. The term 'Australian Accounting Standards' includes Standards and Interpretations issued by the Australian Accounting Standards 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 2011.

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, 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 dollar.

Note 3 'Judgements made by management in applying accounting policies' discloses judgements that have been made in the process of applying the Arbitrator's accounting policies resulting in the most significant effect on amounts recognised in the financial statements.

Note 4 'Key sources of estimation uncertainty' discloses 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.

(c) Reporting entity

The reporting entity comprises the Western Australian Energy Disputes Arbitrator.

(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 recognised and measured at the fair value of consideration received or receivable. The following specific recognition criteria must also be met before 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.

Grants, donations, gifts and other non-reciprocal contributions

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

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*.

(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) Accrued salaries

Accrued salaries represent the amount due to staff but unpaid at the end of the financial year. Accrued salaries are generally settled within a fortnight of the financial year end. The Arbitrator considers the carrying amount of accrued salaries to be equivalent to its net fair value.

(j) Receivables

Receivables are recognised 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.

(k) Payables

Payables are recognised 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 settlement is generally within 30 days.

(l) 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.

(m) 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

All annual leave and long service leave provisions are in respect of employees' services up to the end of the reporting period.

Annual leave

The Arbitrator has no entitlement to annual leave.

Long service leave

The Arbitrator has no entitlement to 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.

(n) 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 at fair value. Where the resource received represents a service that the Arbitrator would otherwise pay for, a corresponding expense is recognised. Receipts of assets are recognised in the Statement of Financial Position.

Asset or services received from other State Government agencies are separately disclosed under Income from State Government in the Statement of Comprehensive Income.

(o) 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 2010 that impacted on the Arbitrator.

2009-5 *Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project.* [AASB 5, 8, 101, 107, 118, 136, & 139]

Under amendments to AASB 107, only expenditures that result in a recognised asset are eligible for classification as investing activities in the Statement of Cash Flows. All investing cashflows recognised in the Arbitrator's Statement of Cash Flows relate to increases in recognised assets.

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 of the 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.

Operative for reporting periods beginning on/after

AASB 2009-11	<p><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 & 1038 and Interpretations 10 & 12].</i></p> <p>The amendment to AASB 7 <i>Financial Instruments: Disclosures</i> 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.</p>	1 Jan 2013
AASB 2009-12	<p><i>Amendments to Australian Accounting Standards [AASBs 5, 8, 108, 110, 112, 119, 133, 137, 139, 1023 & 1031 and Interpretations 2, 4, 16, 1039 & 1052]</i></p> <p>This Standard introduces a number of terminology changes. There is no financial impact resulting from the application of this revised Standard.</p>	1 Jan 2011

AASB 1053	<p><i>Application of Tiers of Australian Accounting Standards</i></p> <p>This Standard establishes a differential financial reporting framework consisting of two tiers of reporting requirements for preparing general purpose financial statements.</p> <p>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.</p>	1 July 2013
AASB 2010-2	<p><i>Amendments to Australian Accounting Standards arising from Reduced Disclosure Requirements</i></p> <p>This Standard makes amendments to many Australian Accounting Standards, including Interpretations, to introduce reduced disclosure requirements into these pronouncements for application by certain types of entities.</p> <p>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.</p>	1 July 2013
AASB 2011-2	<p><i>Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project – Reduced Disclosure Requirements [AASB 101 & AASB 1054]</i></p> <p>This Amending Standard removes disclosure requirements from other Standards and incorporates them in a single Standard to achieve convergence between Australian and New Zealand Accounting Standards for reduced disclosure reporting. DTF has not yet determined the application or the potential impact of the amendments to these Standards for agencies.</p>	1 July 2011

AASB 2010-5	<p><i>Amendments to Australian Accounting Standards [AASB 1, 3, 4, 5, 101, 107, 112, 118, 119, 121, 132, 133, 134, 137, 139, 140, 1023 & 1038 and Interpretations 112, 115, 127, 132 & 1042] (October 2010)</i></p> <p>This Standard introduces a number of terminology changes as well as minor presentation changes to the Notes to the Financial Statements. There is no financial impact resulting from the application of this revised Standard.</p>	1 Jan 2011
AASB 2010-6	<p><i>Amendments to Australian Accounting Standards - Disclosures on Transfers of Financial Assets [AASB 1 & AASB 7]</i></p> <p>This Standard makes amendments to Australian Accounting Standards, introducing additional presentation and disclosure requirements for Financial Assets.</p> <p>The Standard is not expected to have any financial impact on the Arbitrator. DTF has not yet determined the application or the potential impact of the amendments to these Standards for agencies.</p>	1 July 2011
AASB 9	<p><i>Financial Instruments</i></p> <p>This Standard supersedes <i>AASB 139 Financial Instruments: Recognition and Measurement</i>, introducing a number of changes to accounting treatments.</p> <p>The Standard was reissued on 6 Dec 2010 and the Arbitrator is currently determining the impact of the Standard. DTF has not yet determined the application or the potential impact of the Standard for agencies.</p>	1 Jan 2013
AASB 2010-7	<p><i>Amendments to Australian Accounting Standards arising from AASB 9 (December 2010) [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 120, 121, 127, 128, 131, 132, 136, 137, 139, 1023 & 1038 and Interpretations 2, 5, 10, 12, 19 & 127]</i></p> <p>This amending Standard makes consequential adjustments to other Standards as a result of issuing <i>AASB 9 Financial Instruments</i> in December 2010. DTF has not yet determined the application or the potential impact of the Standard for agencies.</p>	1 Jan 2013

AASB 1054	<p><i>Australian Additional Disclosures</i></p> <p>This Standard, in conjunction with AASB 2011-1 <i>Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project</i>, removes disclosure requirements from other Standards and incorporates them in a single Standard to achieve convergence between Australian and New Zealand Accounting Standards.</p>	1 July 2011
AASB 2011-1	<p><i>Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project [AASB 1, 5, 101, 107, 108, 121, 128, 132 & 134 and Interpretations 2, 112 & 113]</i></p> <p>This Amending Standard, in conjunction with AASB 1054 <i>Australian Additional Disclosures</i>, removes disclosure requirements from other Standards and incorporates them in a single Standard to achieve convergence between Australian and New Zealand Accounting Standards.</p>	1 July 2011

	2011 \$	2010 \$
Note 6. Employee benefits expense		
Salary	28,078	28,078
Superannuation - complying superannuation fund ^(a)	2,527	2,556
	30,605	30,634

^(a) Reflects the superannuation paid to the Arbitrator in terms of his contract conditions.

Note 7. Supplies and services

Professional services	15,662	2,127
Communications	1,683	241
Legal costs	96,332	30,714
Travel	4,814	-
Electricity Review Board Fees	153,570	56,969
Other	2,632	711
	274,693	90,762

Note 8. Other expenses

Audit Fee ^(a)	5,700	5,600
	5,700	5,600

^(a) See also note 24 'Remuneration of auditor'.

Note 9. User charges and fees

User charges	41,541	27,091
	41,541	27,091

	2011 \$	2010 \$
Note 10. Interest revenue		
Interest revenue	7,077	7,785
	<u>7,077</u>	<u>7,785</u>

Note 11. Income from State Government

Resources received free of charge ^(a)

Determined on the basis of the following estimates provided by agencies:

- Economic Regulation Authority	6,759	-
	<u>6,759</u>	<u>-</u>
	<u>6,759</u>	<u>-</u>

^(a) Assets or services received free of charge or for nominal cost are recognised as revenue at fair value of the assets and/or services that can be reliably measured and which would have been purchased if they were not donated. Contributions of assets or services in the nature of contributions by owners are recognised direct to equity.

Note 12. Cash and cash equivalents

Current

Cash at Bank	207,592	203,137
	<u>207,592</u>	<u>203,137</u>

Note 13. Receivables

Current

Accrued revenue	10,383	6,133
GST receivable	15,665	962
Total current	<u>26,048</u>	<u>7,095</u>

There were no allowances made in the current year for the impairment of receivables (2009/10: nil).

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

	2011 \$	2010 \$
Note 14. Other Assets		
<u>Current</u>		
Prepayments	45	-
Total current	45	-

Note 15. Payables

<u>Current</u>		
Accrued salaries	586	470
Accrued expenses	80,317	1,359
Total current	80,903	1,829

Note 16. Amounts due to the Treasurer

<u>Current</u>		
Amount due to the Treasurer	700,000	500,000
	700,000	500,000

	2011 \$	2010 \$
Note 17. 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 \$700,000.		
Accumulated surplus/(deficit)		
Balance at start of year	(291,597)	(199,477)
Result for the period	(255,621)	(92,120)
Balance at end of year	(547,218)	(291,597)
Total Equity at end of period	(547,218)	(291,597)

Note 18. 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	207,592	203,137
	207,592	203,137

	2011 \$	2010 \$
Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities		
Net cost of services	(262,380)	(92,120)
<u>Non-cash items:</u>		
Resources received free of charge	6,759	-
<u>(Increase)/decrease in assets:</u>		
Current receivables ^(a)	(4,250)	(1,476)
Other current assets	(45)	-
<u>Increase/(decrease) in liabilities:</u>		
Current payables ^(a)	79,074	(4,687)
Net GST receipts/(payments) ^(b)	(8,211)	-
Change in GST in receivables/payables ^(c)	(6,492)	-
Net cash provided by/(used in) operating activities	(195,545)	(98,283)

(a) 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.

(b) This is the net GST paid/received, i.e cash transactions.

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

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 19. Contingent liabilities and contingent assets

Contingent liabilities

The Arbitrator had no contingent liabilities as at 30 June 2011.

Contingent assets

The Arbitrator had no contingent assets as at 30 June 2011.

Note 20. 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 21. Explanatory Statement

This statement provides details of any significant variations between estimates and actual results for 2011 and between the actual results for 2010 and 2011. Significant variations are considered to be those greater than 10% and \$10,000.

Significant variances between estimated and actual result for 2011

	2011 Estimate \$	2011 Actual \$	Variation \$
Supplies and services - Review Board	-	262,692	262,692

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 results for 2010 and 2011

	2011 \$	2010 \$	Variance \$
<u>Income</u>			
User charges and fees	41,541	27,091	14,450
<u>Expenses</u>			
Supplies and services - Energy Disputes Arbitrator	11,995	1,643	(10,352)
Supplies and services - Review Board	262,692	89,115	(173,577)

User charges and fees

Recovery of costs from the electricity industry did not start until January 2010. 2010-11 includes a full year of recovery for both gas and electricity.

Supplies and services

The majority of the increase in supplies and services in 2010-11 for the Energy Disputes Arbitrator is due to the recognition of resources received free of charge.

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 22. 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 the 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 22(c) 'Financial instruments disclosure' and note 13 '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.

(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:

	2011	2010
	\$	\$
<u>Financial Assets</u>		
Cash and cash equivalents	207,592	203,137
Receivables ^(a)	10,383	6,133
<u>Financial Liabilities</u>		
Financial liabilities measured at amortised cost	780,903	501,829

^(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 ^(a)

	Weighted Average Effective Interest Rate %	Interest rate exposure			Past due but not impaired					Impaired financial assets \$
		Carrying Amount \$	Fixed Interest Rate \$	Variable Interest Rate \$	Non- Interest bearing \$	Up to 3 months \$	3-12 months \$	1-2 years \$	2-5 Years \$	
Financial Assets										
2011										
Cash and cash equivalents	5.00%	207,592	-	207,592	-	-	-	-	-	-
Receivables ^(a)		10,383	-	-	10,383	-	-	-	-	-
		217,975	-	207,592	10,383	-	-	-	-	-
2010										
Cash and cash equivalents	4.13%	203,137	-	203,137	-	-	-	-	-	-
Receivables ^(a)		6,133	-	-	6,133	-	-	-	-	-
		209,270	-	203,137	6,133	-	-	-	-	-

^(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 table includes interest and principal cash flows. An adjustment has been made where material.

Interest rate exposure and maturity analysis of financial liabilities ^(a)

	Interest rate exposure						Maturity dates					
	Weighted Average Effective Interest Rate %	Carrying Amount \$	Fixed Interest Rate \$	Variable Interest Rate \$	Non- Interest bearing \$	Adjustment for discounting \$	Total Nominal Amount \$	Up to 3 months \$	3-12 months \$	1-2 years \$	2-5 Years \$	More than 5 years \$
Financial Liabilities												
2011												
Payables		80,903	-	-	80,903	-	-	80,903	-	-	-	-
Amounts due to the Treasurer		700,000	-	-	700,000	-	-	-	700,000	-	-	-
		780,903	-	-	780,903	-	-	80,903	700,000	-	-	-
2010												
Payables		1,829	-	-	1,829	-	-	1,829	-	-	-	-
Amounts due to the Treasurer		500,000	-	-	500,000	-	-	-	500,000	-	-	-
		501,829	-	-	501,829	-	-	1,829	500,000	-	-	-

^(a) The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities at the end of the reporting period.

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 \$	-100 basis points		+100 basis points	
		Surplus \$	Equity \$	Surplus \$	Equity \$
2011					
<u>Financial Assets</u>					
Cash and cash equivalent	207,592	<u>(2,076)</u>	<u>(2,076)</u>	<u>2,076</u>	<u>2,076</u>
Total Increase/(Decrease)		<u>(2,076)</u>	<u>(2,076)</u>	<u>2,076</u>	<u>2,076</u>
2010					
<u>Financial Assets</u>					
Cash and cash equivalent	203,137	<u>(2,031)</u>	<u>(2,031)</u>	<u>2,031</u>	<u>2,031</u>
Total Increase/(Decrease)		<u>(2,031)</u>	<u>(2,031)</u>	<u>2,031</u>	<u>2,031</u>

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.

2011	2010
\$	\$

Note 23. 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
	<u>30,487</u>	<u>30,487</u>

The total remuneration of members of the accountable authority

The total remuneration includes the superannuation expense incurred by the Arbitrator in respect of members of the accountable authority.

Note 24. 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 key performance indicators	<u>5,200</u>	<u>5,700</u>
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Note 25. Schedule of income and expenses by service

The Arbitrator has only one (1) service, which is 'To provide administrative support to the Electricity 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 key 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 2011.



Pam Herbener
CHIEF FINANCE OFFICER
9 August 2011



Laurie James LLB Hons.
ENERGY DISPUTES ARBITRATOR
10 August 2011

Detailed Key Performance Indicators

Formulating the Arbitrator's Performance Indicators

The Office of the Arbitrator was established by the *Energy Arbitration and Review Act 1998* and funded through provisions in the *National Gas Access (WA) (Local Provisions) Regulations 2009* and the *Electricity Industry (Arbitrator and Board Funding) Regulations 2009*.

The *Energy Arbitration and Review Act 1998* also provides for appropriations by Parliament. The office is supported by the Economic Regulation Authority.

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

- resolution of disputes; and
- provision of administrative services to the 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.

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 the enabling legislation, including the

Electricity Industry Act 2004 (section 122) and the National Gas Access (WA) Act 2009.

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 Review Board. The effectiveness of this program can be established through a survey of the respective Review 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.

2010/11 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 Review Board in its review of decisions is measured by determining the percentage of Review 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 two applications for review lodged during the year and the Attorney General appointed one presiding member and two panel members to form one Review Board to conduct both reviews. Both of these applications are progressing.

Although the Arbitrator's role does not directly contribute to the desired outcome of the provision of efficient, safe and equitable

utility services in Western Australia, the services he provides to bodies such as the Review Board are consistent with this outcome.

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

In order to assess the three Review Board Members satisfaction with the services provided by the Arbitrator, enquiries were made in three main areas: venues and facilities; timeliness of services; and overall satisfaction with the administrative services received. The survey also asked the members if there were any additional services needed in the future. All three Review Board Members responded to the three main questions and no Review Board Member indicated there was a need for any additional services in the future.

The survey results of the three members involved in the two applications lodged during the year indicate that they were very satisfied.

Table 7 Effectiveness survey outcomes

Desired outcome	Measure	Target	2010/11	2009/10
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 Review Board for the review of decisions	Percentage of Review Board members satisfied or very satisfied with the services provided by the Arbitrator in support of review processes	75%	100%	100%

Key Efficiency Indicators

Resolution of Disputes

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

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 Review 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 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 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.

2010/11 Performance – Efficiency

The three efficiency indicators for the Arbitrator are:

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

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

1. Average cost per dispute

As there were no disputes active or initiated during the 2010/11 financial year, the average cost per dispute is zero. 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.

Two new applications were considered by the Review Board in 2010/11. These applications were lodged under the section 39(1) of the *Gas Pipelines Access (Western Australia) Act 1998* (which provision continues to apply by reason of section 28(4) of Schedule 3 of the *National Gas Access (WA) Act 2009*). Application 1/2010 was lodged by BHP Billiton Nickel West Pty Ltd, Application 2/2010 was lodged by Southern Cross Pipelines Australia Pty Limited, Southern Cross Pipelines (NPL) Australia Pty Ltd, Alinta DEWAP Pty Ltd and Goldfields Gas Transmission Pty Ltd. Both applications requested a review of the Economic Regulation Authority's final decision on the revised access arrangement for the Goldfields Gas Pipeline. The Board is aiming for matters relating to Application 1 and 2 of 2010 to be finalised by the end of August.

The average cost of reviews was \$131,349 in 2010/11 compared with \$44,560 in 2009/10, \$17,054 in 2008/09, \$22,639 in 2007/08, \$84,347 in 2006/07, \$29,086 in 2005/06 and \$142,252 in 2004/05. The variation in costs between years is related to the amount of work undertaken by the Registrar and Members of the Review Board in each year. It is also noted that the disputes dealt with by the Review Board in each year have varied over the period since 2004/05. In total, there have been no disputes and two applications lodged over this reporting period.

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

3. Average cost per standard unit of infrastructure

The average cost per standard unit of regulated infrastructure oversighted in the 2010/11 financial year is the cost necessary to ensure that procedures are in place to address matters that fall within the jurisdiction of the Arbitrator. This cost was \$3,105 in 2010/11 compared with \$2,469 in 2009/10, \$3,917 in 2008/09, \$3,502 in 2007/08, \$3,292 in 2006/07, \$4,204 in 2005/06 and \$4,421 in 2004/05. The increase in the average cost per standard unit of regulated infrastructure reflects an increase in accrued costs due to recognising resources received free of charge this financial year. The average cost per standard unit of regulated infrastructure also varied during 2010/11 due to the asset value of gas pipeline infrastructure oversighted by the Arbitrator being reset following the review of the access arrangement for the Goldfields Gas Pipeline and the Mid-West South-West Gas Distribution System. This resulted in the actual number of standard units of regulated infrastructure oversighted for 2010/11 being 15.55 against a target of 15.34.

The cost of \$3,105 in 2010/11 remains below the target of \$3,259. The target of \$3,259 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 (15.34 units).

Table 8 Efficiency survey outcomes

Service	Performance Indicator	Target	2010/11	2009/10
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	\$131,349	\$44,560
Maintaining a state of readiness	Average cost per standard unit of regulated infrastructure	\$3,259	\$3,105	\$2,469

Equivalent Standard Units of Infrastructure

During 2010/11, the Arbitrator oversighted 15.55 equivalent standard units (\$500 million) of regulated infrastructure against a target of 15.34. During 2010/11 the asset value of gas pipeline infrastructure oversighted by the Arbitrator was reset following the review of the access arrangement for the Goldfields Gas Pipeline and the Mid-West South-West Gas Distribution System.

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

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

It should be noted, however, that the Arbitrator overlooks generation facilities covered by the Wholesale Electricity

Market. If the value of these generation facilities were taken into account then the number of units in 2010/11 would far exceed 15.55 units. As the generation facilities oversighted by the Arbitrator are owned by both private and public electricity market participants, no readily available value exists that may be ascribed to this infrastructure. Indeed, to ascribe a value to such infrastructure would not be justified, as this would involve significant cost and serve no other purpose. Accordingly, no value has been ascribed to generation facilities, which are therefore not reflected in the 15.55 equivalent standard units of regulated infrastructure.

Other financial disclosures

Pricing policies of services provided

Expenditure other than that directly associated with the hearing of disputes and reviews by the Review Board or the Arbitrator is funded from regulated industries.

Gas Industry

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 *National Gas Access (WA) (Local Provisions) Regulations 2009*. 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 regulations.

Electricity Industry

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 Industry (Arbitrator and Board) Funding Regulations 2009*. 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 regulations.

Annual Reporting

Included in the funding regulations is a requirement that the Arbitrator's annual report provides 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 2011 is listed in the table below.

Table 9 Standing Charges paid

Service provider	Standing charges (\$)
WA Gas Networks Pty Limited (Alinta)	\$4,984
Goldfields Gas Transmission	\$3,740
Southern Cross Pipelines Pty Limited	\$502
DBNGP (WA) Transmission Pty Limited	\$9,227
Western Power	\$18,454
Total	\$36,907

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 2010/11, no costs were recovered.

The Arbitrator is also able to recover certain costs and expenses of the Review Board for hearings and determinations of the Review 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. As the applications for review lodged during 2010/11 are still underway, the Review Board has not

considered determining its costs and expenses to parties of the appeals.

Capital works

There were no major capital works undertaken during 2010/11.

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. At the beginning of 2010/11, the Arbitrator had a \$500,000 Treasurer's Advance to fund the activities of the Review Board. An additional advance of \$200,000 was provided in June 2011.

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 2010/11.

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 2010/11 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*.

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 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 2010/11.

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. Expenditure of \$920 relates to the costs of undertaking the survey in 2009/10. While a survey was undertaken for 2010/11 the work was not completed by the end of the financial year.

Compliance with the *State Records Act 2000*

The records of the Arbitrator are maintained by the Economic Regulation Authority (**ERA**) as part of an agreement for the provision of corporate services from the ERA.

Compliance with the *State Records Act 2000* is carried out by the ERA as part of that agreement. Further information on this compliance is reported in the ERA's annual report 2010/11, which is available on the ERA's website at www.erawa.com.au.

The Arbitrator undertakes evaluations of its recordkeeping systems in concurrence with the ERA.

During 2010, the ERA upgraded its electronic document records management system TRIM to version 6.2.5. The records of the Arbitrator were previously managed within the same TRIM database as the ERA with restricted security to prevent unauthorized access. A new TRIM database was created to enable the Arbitrator's records to be managed independently from the ERA's records. The existing business classification scheme used for the Arbitrator's records, based on the business processes and activities of the Energy Review Board and the Arbitrator, have been utilised in the creation of this new database.

The records of the existing Electricity Review Board are managed by the Registrar. When the Review Board finalises its review, the records will be prepared for storage by a records expert independent of the ERA. All records of previous Review Boards are held offsite to ensure there is no conflict of interest with staff from the ERA having access to the Review Board's records. The ERA is notified of the transfer and location of

these records to offsite storage but aside from that have no further access or knowledge of the contents contained therein.

During the financial year, an internal audit was conducted to review the ERA's record keeping practices. The results of this audit identified that the ERA complies with its record keeping obligations under the *State Records Act 2000*.

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 ERA are dealt with under the ERAs Code of Conduct. Anyone having a serious concern about any member of the ERA in their observance of the Code of Conduct while providing services to the Arbitrator should contact the Chief Executive Officer of the ERA or lodge a complaint via the ERA'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 ERA's website at www.erawa.com.au.

Appendix 1: 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*