



**Economic Regulation Authority**

# Gas Distribution Licence

Wesfarmers Kleenheat Gas Pty Ltd

GDL9, Version 12, 25 November 2021

D240234

**Licence history**

Version no.	Version date	Details
1	17 August 2007	Substitution of licence (previously GDL4 & GDL5).
2	26 February 2008	Extension of licence area – Great Southern and Wheatbelt gas supply areas.
3	1 July 2009	Compendium of gas customer licence obligations.
4	6 August 2010	Insertion of amended compendium of gas customer licence obligations.
5	18 November 2010	Insertion of corrected compendium of gas customer licence obligations.
6	1 January 2013	Substitution of licence.
7	1 August 2014	Amendment by substitution – Gas Licence Review 2014
8	1 January 2015	Insertion of amended compendium of gas customer licence obligations.
9	1 January 2017	Insertion of amended compendium of gas customer licence obligations.
10	1 January 2020	Insertion of amended compendium of gas customer licence obligations.
11	10 July 2021	Licence renewed for 21 years.
12	25 November 2021	Amendment by substitution – Gas Licence Review 2020.

***ENERGY COORDINATION ACT 1994 (WA)***

Licensee Name: Wesfarmers Kleenheat Gas Pty Ltd  
ABN 40 008 679 543

Licence Area: The area set out in the plan referred to in clause 2.5.

Licence Number: GDL9

Commencement Date: 10 July 2021

Version Number: 12

Expiry Date: 9 July 2042

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## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

1.1.1 In this licence, the following definitions apply unless the context otherwise requires:

**Act** means the *Energy Coordination Act 1994 (WA)*.

**applicable legislation** includes:

- (a) the *Act*; and
- (b) the *Regulations* and the *gas marketing code of conduct*.

**approved scheme** means a scheme approved under Part 2D of the *Act*.

**asset management system** means the measures that are to be taken by the *licensee* for the proper maintenance, operation and expansion or reduction of the *distribution system*.

**asset management system review** means a review of the effectiveness of the *asset management system*.

**audit and review guidelines** means the guidelines prepared by the *ERA* setting out the *ERA's* requirements for the conduct of *performance audits* and *asset management system reviews*, as published by the *ERA* on its website and as amended from time to time.

**business day** means a day which is not a Saturday, Sunday or a Public Holiday in Western Australia.

**commencement date** means the date the *licence* was first granted or renewed by the *ERA*, whichever is the later being the date specified in clause 2.2.

**compendium of gas customer licence obligations** means the *Compendium of Gas Customer Licence Obligations* which provides additional *licence terms and conditions* about the conduct of retailers and distributors who supply *gas* to *customers* (as amended from time to time).<sup>1</sup>

**customer** means a person whose consumption of *gas* is less than 1 terajoule per year.

**distribution system** means:

- (a) a system of pipelines, mains, and *gas* service pipes, designed to operate at a pressure of less than 1.9 megapascals, for the transportation of *gas* to *customers*; or
- (b) any other part of the *gas distribution system* (as defined in section 90 of the *Gas Corporation Act 1994* repealed by section 93 of the *Gas Corporation (Business Disposal) Act 1999*) at the time when a distribution licence is first issued for all or any part of that system (regardless of the pressure at which it is designed to operate),

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<sup>1</sup> The compendium of gas customer licence obligations is available on the [ERA website](#).

and any associated apparatus, facilities, structures, plant, or equipment.

**electronic means** means:

- (a) the internet;
- (b) email, being:
  - (i) in relation to the *ERA*, the *ERA's* email address as notified to the *licensee*; and
  - (ii) in relation to the *licensee*, the email address specified in the *licence* application or other such email address as notified in writing to the *ERA*; or
  - (iii) any other similar means,

but does not include facsimile or telephone.

**ERA** means the Economic Regulation Authority.

**expiry date** means the date specified in clause 2.3.

**gas** means any gas or mixture of gases, whether naturally occurring or manufactured, intended for use:

- (a) as a fuel; or
- (b) in any chemical process.

**individual performance standards** mean any standards prescribed by the *ERA* for an individual *licensee* pursuant to clause 4.6 of the *licence*.

**licence** means:

- (a) this document (excluding the title page and the third page of this document);
- (b) the *Schedules* of this document; and
- (c) any *individual performance standards* approved by the *ERA* pursuant to clause 4.6.

**licence area** is the area stated in clause 2.5.

**licensee means** Wesfarmers Kleenheat Gas Pty Ltd, ABN 40 008 679 543.

**notice** means a written notice, agreement, consent, direction, representation, advice, statement or other communication required or given pursuant to, or in connection with, this *licence*.

**performance audit** means an audit of the effectiveness of measures taken by the *licensee* to meet the *performance criteria* in this *licence*.

**performance criteria** means:

- (a) the *terms and conditions* of the licence; and
- (b) any other relevant matter in connection with the *applicable legislation* that the ERA determines should form part of the *performance audit*.

**publish** in relation to a report or information means either:

- (a) posting the report or information on the *licensee's* website; or
- (b) sending the report or information to the ERA to be published on the ERA's website.

**Regulations** means any regulations in force from time to time made pursuant to the Act and includes:

- (a) the *Energy Coordination (Customer Contracts) Regulations 2004*;
- (b) the *Energy Coordination (Last Resort Supply) Regulations 2005*;
- (c) the *Economic Regulation Authority (Licensing Funding) Regulations 2014*;
- (d) the *Energy Coordination (Ombudsman Scheme) Regulations 2004*; and
- (e) the *Energy Coordination (Gas Tariffs) Regulations 2000*.

**related body corporate** has the meaning in section 50 of the *Corporations Act 2001 (Cwlth)*.

**reviewable decision** means a decision by the ERA pursuant to:

- (a) clause 3.8.1; and
- (b) clause 4.6.2,

of this licence.

**Schedule** means a schedule to this licence.

**terms and conditions** means the terms and conditions in this licence including any terms and conditions contained in the *Schedules* and the *compendium of gas customer licence obligations*.

## 1.2 Interpretation

- 1.2.1 A reference in this licence to any *applicable legislation* includes, unless the context otherwise requires, any statutory modification, amendment, replacement or re-enactment of that *applicable legislation*.



## **2. LICENCE AUTHORISATION**

### **2.1 Activities authorised under this licence**

2.1.1 The *licensee* is granted a *licence* for the *licence area(s)* to:

- (a) construct a *distribution system* and to transport *gas* through the *distribution system*; or
- (b) transport *gas* through an *existing distribution system* and if required for that purpose to make alterations to the *distribution system*,

and operate and maintain the *distribution system*, in accordance with the *terms and conditions* of this *licence*. The *licensee* must comply with the *terms and conditions* of this *licence* including the additional terms and conditions contained in the *compendium of gas customer licence obligations* and those terms and conditions contained in the *Schedules*.

### **2.2 Commencement date**

2.2.1 The *commencement date* of this *licence* is 10 July 2021.

### **2.3 Expiry date**

2.3.1 The *expiry date* of this *licence* is 9 July 2042.

### **2.4 Term [Section 110 of the Act]**

2.4.1 This *licence* commences on the *commencement date* and continues until the earlier of:

- (a) the cancellation of the *licence* pursuant to clause 3.5 of this *licence*;
- (b) the surrender of the *licence* pursuant to clause 3.6 of this *licence*; or
- (c) the *expiry date*.

### **2.5 Licence area**

2.5.1 The *licence area* is:

Coastal, Goldfields-Esperance, Great Southern and Wheatbelt gas supply areas as shown in plan ERA-GAS-009(A).

2.5.2 The *licence area* plan is provided in *Schedule 2*.

## **3. LICENCE ADMINISTRATION**

### **3.1 Amendment of licence on application of the licensee [Section 11VA of the Act]**

3.1.1 The *licensee* may apply to the *ERA* to amend the *licence* in accordance with the *Act*.

### **3.2 Amendment of licence by the ERA [Section 11W of the Act]**

3.2.1 The *ERA* may amend the *licence* on its own initiative in accordance with the *Act* and the procedure specified in clause 3.2.2.

3.2.2 Before amending the *licence* under clause 3.2.1, the *ERA* must:

- (a) provide the *licensee* with *notice* of the proposed amendments under consideration by the *ERA*;
- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
- (c) take into consideration those submissions.

3.2.3 This clause also applies to the substitution of the existing *licence*.

### **3.3 Transfer of licence [Section 11R of the Act]**

3.3.1 This *licence* may be transferred only in accordance with the *Act*.

### **3.4 Renewal of licence [Section 11P of the Act]**

3.4.1 This *licence* may be renewed only in accordance with the *Act*.

### **3.5 Cancellation of licence [Section 11ZE of the Act]**

3.5.1 This *licence* may be cancelled only in accordance with the *Act*.

### **3.6 Surrender of licence [Schedule 1A of the Act]**

3.6.1 The *licensee* may initiate a surrender of the *licence* by *notice* to the *ERA* nominating a date the surrender will take effect from. The surrender date cannot be less than 10 *business days* from the date the *ERA* receives the *notice*.

3.6.2 The *ERA* will publish a notice of the surrender in the Western Australian Government Gazette as soon as practicable after the date the licence has been surrendered.

3.6.3 The *licensee* will not be entitled to a refund of any fees by the *ERA*.

### **3.7 Notices**

3.7.1 Unless otherwise specified, all *notices* must be in writing.

3.7.2 A *notice* will be regarded as having been sent and received:

- (a) when delivered in person to the addressee; or
- (b) three *business days* after the date of posting if the *notice* is posted in Western Australia; or

- (c) five *business days* after the date of posting if the *notice* is posted outside Western Australia; or
- (d) if sent by *electronic means* when, according to the sender's electronic record, the *notice* has been successfully sent to the addressee.

### **3.8 Publishing information**

3.8.1 The *ERA* may direct the *licensee* to *publish*, within a specified timeframe, any information it considers relevant in connection with the *licensee* or the performance by the *licensee* of its obligations under this *licence*.

3.8.2 Subject to clause 3.8.3, the *licensee* must *publish* the information referred to in clause 3.8.1.

3.8.3 If the *licensee* considers that the information is confidential it must:

- (a) immediately notify the *ERA*; and
- (b) seek a review of the *ERA*'s decision in accordance with clause 3.9.

3.8.4 Once it has reviewed the decision, the *ERA* will direct the *licensee* in accordance with the review to:

- (a) *publish* the information;
- (b) *publish* the information with the confidential information removed or modified; or
- (c) not *publish* the information.

### **3.9 Review of the ERA's decisions**

3.9.1 The *licensee* may seek a review of a *reviewable decision* by the *ERA* pursuant to this *licence* in accordance with the following procedure:

- (a) the *licensee* shall make a submission on the subject of the *reviewable decision* within 10 *business days* (or other period as approved by the *ERA*) of the decision; and
- (b) the *ERA* will consider the submission and provide the *licensee* with a written response within 20 *business days*.

## **4. GENERAL LICENCE OBLIGATIONS**

### **4.1 Compliance with applicable legislation and licence conditions**

4.1.1 Subject to any modifications or exemptions granted pursuant to the *Act*, the *licensee* must comply with any *applicable legislation*.

4.1.2 Subject to the provisions of any *applicable legislation*, the *ERA* may direct the *licensee* in writing to do any measure necessary to:

- (a) correct the breach of any *applicable legislation*; or
- (b) prevent the breach of any *applicable legislation* occurring again,

and specify a time limit by which such action must be taken.

4.1.3 The *licensee* must comply with the *terms and conditions* of this *licence*.

## 4.2 Fees

4.2.1 The *licensee* must pay the applicable fees and charges in accordance with the *Regulations*.

## 4.3 Accounting records

4.3.1 The *licensee* and any *related body corporate* must maintain accounting records that comply with standards issued by the Australian Accounting Standards Board or equivalent International Accounting Standards.

## 4.4 Reporting a change in circumstances

4.4.1 The *licensee* must report to the *ERA*:

(a) if the *licensee* is under external administration as defined by the *Corporations Act 2001 (Cwlth)* within two *business days* of such external administration occurring; or

(b) if:

(i) the *licensee* experiences a change in its corporate, financial or technical circumstances upon which this licence was granted; and

(ii) the change may materially affect the *licensee's* ability to perform its obligations under this *licence*,

within 10 *business days* of the change occurring; or

(c) if:

(i) the *licensee's* name;

(ii) the *licensee's* ABN; or

(iii) the *licensee's* address;

changes, within 10 *business days* of the change occurring.

## 4.5 Provision of information

4.5.1 The *licensee* must provide to the *ERA* any information that the *ERA* may require in connection with its functions under the *Act* in the time, manner and form specified by the *ERA*.

## 4.6 Individual performance standards

4.6.1 Performance standards are contained in *applicable legislation*.

4.6.2 The *ERA* may prescribe *individual performance standards* in relation to the *licensee* of its obligations under this *licence* or the *applicable legislation*.

4.6.3 Before approving any *individual performance standards* under this clause, the *ERA* will:

- (a) provide the *licensee* with a copy of the *proposed individual performance standards*;
- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed *individual performance standards*; and
- (c) take into consideration those submissions.

4.6.4 Once approved by the *ERA*, the *performance standards* are included as additional *terms and conditions* to this *licence*.

#### **4.7 Continuous operation**

4.7.1 Subject to section 11M of the *Act* and clause 4.7.2, the *licensee* must continuously operate the *distribution system* except to the extent necessary for compliance with the *Gas Standards (Gas Supply and System Safety) Regulations 2000*.

4.7.2 Clause 4.7.1 only applies to those parts of the *distribution system* required for the *licensee* to meet its obligations from time to time to supply *gas*.

#### **4.8 Proposed cessation or decrease in activities**

4.8.1 Notwithstanding clause 3.6, the *licensee* must give the *ERA* *notice* in writing where it proposes a permanent cessation to, or substantial decrease in the extent of, the *licensee's* activities the subject of this *licence*.

4.8.2 A *notice* under clause 4.8.1 must be given:

- (a) six months prior to the proposed cessation or decrease; or
- (b) if the time limit stipulated in paragraph (a) is not practicable, as soon as practicable.

### **5. AUDIT AND ASSET MANAGEMENT OBLIGATIONS**

#### **5.1 Asset management system [Section 11Y of the Act]**

5.1.1 The *licensee* must provide for an *asset management system* in respect of the *licensee's* *distribution system*.

5.1.2 The *licensee* must notify the *ERA* of the details of the *asset management system* within five *business days* from the later of:

- (a) the *commencement date*; or
- (b) the completion of construction of the *distribution system*.

5.1.3 The *licensee* must notify the *ERA* of any substantial change to the *asset management system* within 10 *business days* of such change.

5.1.4 The *licensee* must, unless otherwise notified in writing by the *ERA*, provide the *ERA* with a report as to the effectiveness of the *asset management system* within 24 months after the *commencement date* and every 24 months thereafter.

- 5.1.5 The *licensee* must comply, and must require the *licensee's* expert to comply, with the *ERA's audit and review guidelines* dealing with the *asset management system review*, including any minimum requirements relating to the appointment of the expert, the scope of the review, the conduct of the review and the reporting of the results of the review.
- 5.1.6 The review of the *asset management system* must be conducted by an independent expert approved by the *ERA*. If the *licensee* fails to nominate an independent expert within one month of the date that the review of the *asset management system* was due, or the independent expert nominated by the *licensee* is rejected on two successive occasions by the *ERA*, the *ERA* may choose an independent expert to conduct the review of the *asset management system*.

## 5.2 Performance audit [Section 11ZA of the Act]

- 5.2.1 The *licensee* must, unless otherwise notified in writing by the *ERA*, provide the *ERA* with a *performance audit* within 24 months after the *commencement date*, and every 24 months thereafter.
- 5.2.2 The *licensee* must comply, and must require the *licensee's* auditor to comply, with the *ERA's audit and review guidelines* dealing with the *performance audit*, including any minimum requirements relating to the appointment of the auditor, the scope of the audit, the conduct of the audit and the reporting of the results of the audit.
- 5.2.3 The *performance audit* must be conducted by an independent auditor approved by the *ERA*. If the *licensee* fails to nominate an auditor within one month of the date that the *performance audit* was due, or the auditor nominated by the *licensee* is rejected on two successive occasions by the *ERA*, the *ERA* may choose an independent auditor to conduct the *performance audit*.

## 6. CUSTOMERS

### 6.1 Approved scheme [Section 11ZQH of the Act]

- 6.1.1 The *licensee*:
- (a) must be a member of an *approved scheme*; and
  - (b) is bound by, and must be compliant with, any decision or direction of the gas industry ombudsman under the *approved scheme*.

### 6.2 Compendium of Gas Customer Licence Obligations

- 6.2.1 The *licensee* must comply with the additional *licence terms and conditions* contained in the *compendium of gas customer licence obligations*, a copy of which will be provided to the *licensee* by *electronic means* upon the grant of the *licence*.<sup>2</sup>
- 6.2.2 The *ERA*, in its sole discretion, may amend the *compendium of gas customer licence obligations* from time to time.

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<sup>2</sup> [The compendium of gas customer licence obligations is also available on the ERA website.](#)

- 6.2.3 The *ERA* reviews the *compendium of gas customer licence obligations* approximately every two years.
- 6.2.4 Each time the *compendium of gas customer licence obligations* is amended, the *ERA* will send access to the amended version to the *licensee* by *electronic means*

# Schedule 1 – Additional Licence Clauses

## 1. Definitions

**distribution outlet point** means the flange or joint on the *customer's gas* installation immediately downstream of the master meter at which the *customer* is entitled to take delivery of *gas* from the *distribution system*.

**residential premises** means premises at which the supply of *gas* satisfies the requirements for “residential purposes” under regulation 4(2) of the *Energy Coordination (Gas Tariffs) Regulations 2000*.

**standard residential delivery facility** means:

- (a) up to 20 metres of service pipe between the *distribution outlet point* and the *gas main*;
- (b) a *gas meter*; and
- (c) one or more pressure regulators,

each of adequate capacity to supply *residential premises* and each of a standard which would be applied by a prudent operator complying with accepted good industry practice.

**trader** means the holder of a trading licence seeking to sell *gas* to a *customer*.

## 2. Exchange of information between licensee and the holder of a trading licence

- 2.1 Subject to clause 2.2, the *licensee* must provide reasonable information relating to the capacity of its *distribution system* at a specified location as requested by the holder of a trading licence in respect of the *distribution system* to enable the holder of the trading licence to perform the activities authorised under its licence.
- 2.2 The *Licensee* may refuse to provide information under clause 2.1, if its disclosure prejudices the commercial interests of the *licensee*.
- 2.3 Where the *licensee* refuses under subclause 2.2 to provide information, the *ERA* may direct the *licensee* to provide the information in a categorised or aggregated form to the extent necessary to ensure the disclosure of the information is, in the opinion of the *ERA*, not unduly harmful to the commercial interests of the *licensee*.

## 3. Offer to connect

- 3.1 This clause applied in respect of *residential premises* located within the *licence area* if the *licensee* is requested by a *trader* to connect the premises to the *distribution system*.
- 3.2 Subject to clause 3.3, the *licensee* must offer to connect the premises to the *distribution system*.



- 3.3 The *licensee's* offer to connect the premises under clause 3.2 is subject to the following:
- (a) The offer to connect applies:
    - (i) only in respect of connections which require 20 metres or less of service pipe; and
    - (ii) only where the *gas* main is so located that it is practicable in accordance with good industry practice to connect the relevant premises to the main, and accordingly, the *licensee* may decline to undertake a connection that requires:
      - (iii) more than 20 metres of service pipe; or
      - (iv) any extension to a main, unless the *customer* bears the cost.
  - (b) The connection is, unless otherwise agreed between the *licensee* and the *trader*, to comprise a *standard residential delivery facility*.
  - (c) The offer to connect is limited to connections to the medium pressure/low pressure part of the *distribution system*.
  - (d) If, in the course of establishing a connection under this clause 3, the *licensee* opens or breaks up any sealed or paved surface, or damages or disturbs any lawn, landscaping or other improvement at the premises, then the *licensee* must if necessary fill in any ground to restore it to approximately its previous level, but (unless the *licensee* agrees otherwise with any person) the *licensee* is not otherwise obliged reinstate or make good, or pay compensation in respect of any damage to any such surface, lawn, landscaping or other improvement.
  - (e) The *licensee* is not obliged to offer to connect a premises if that premises is already connected to a *distribution system*.
  - (f) Before establishing the connection, the *licensee* may require the *trader* to procure the agreement of the owner of any land through which the service pipe is to pass and on which the delivery facilities will be installed, that the connection may be established.
  - (g) Before establishing the connection, the *licensee* may require the *trader* to enter into (or to procure its *gas* supplier to enter into) a *gas* transportation contract with the *licensee*.
  - (h) Before establishing the connection, the *licensee* may require the person who is to enter into the *gas* transportation contract referred to in clause 3.3(g) to meet the *licensee's* reasonable minimum prudential requirements and credit standards.
- 3.4 Nothing in this clause 3 limits the *licensee's* ability to recover any connection cost through tariffs for access to the *distribution system* or requires such recovery.

## **Schedule 2 – Licence Area**

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