



Economic Regulation Authority

# Decision on gas distribution and gas trading licence application and standard form contract

Supagas Pty Limited

4 November 2024

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We acknowledge their continuing connection to culture and community, their traditions and stories. We commit to listening, continuously improving our performance and building a brighter future together.

## Economic Regulation Authority

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# 1. Introduction

Supagas Pty Limited (Supagas) recently agreed to acquire Wesfarmers Kleenheat Gas Pty Ltd's (Kleenheat) liquified petroleum gas (LPG) distribution systems in the Coastal, Great Southern and Goldfields-Esperance gas supply areas. Supagas subsequently [applied](#) to the Economic Regulation Authority (ERA) for a gas trading licence and for the transfer of gas distribution licence GDL9 from Kleenheat. The application included Supagas' proposed standard form contract.

In accordance with section 26(1)(g) of the *Economic Regulation Authority Act 2003*, this document sets out the ERA's decision on the licence application and proposed standard form contract and the matters it considered in making its decision.

## 1.1 Decision

Pursuant to section 11WF of the *Energy Coordination Act 1994* (Gas Act), the ERA approves the standard form contract for the sale of gas to small use customers submitted by Supagas.<sup>1</sup>

Pursuant to sections 11K and 11S of the Gas Act, the ERA has granted gas trading licence GTL18 to Supagas and approved the transfer of gas distribution licence GDL9 from Kleenheat to Supagas.

Subject to its terms and conditions, the distribution licence authorises Supagas to operate and transport gas through four gas distribution systems in licence area plan ERA-GAS-009(B):<sup>2</sup>

- Albany (Oyster Harbour system)
- Leinster
- Riverslea system in Margaret River
- Rapids Landing system in Margaret River

The existing expiry date of 9 July 2042 for GDL9 will not change upon the licence transfer. The licence was [renewed](#) on 10 July 2021 for a period of 21 years (the maximum period allowed by section 11O of the Gas Act).

Subject to its terms and conditions, the trading licence authorises Supagas to sell gas to small use customers on the Albany and Margaret River distribution systems for 10 years (the maximum period allowed by section 11O of the Gas Act).<sup>3</sup>

As required by section 11T of the Gas Act, the ERA will publish a notice of the grant of GTL18 and transfer of GDL9 in the Government Gazette as soon as practicable.

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<sup>1</sup> A small use customer is a customer that consumes less than 1 terajoule of gas per year.

<sup>2</sup> The licence area plan for GDL9 has been updated to remove the Wheatbelt supply area as none of the assets that will be acquired by Supagas are located in that area.

<sup>3</sup> The Leinster system is not subject to the trading licence as a trading licence is only required where the distribution system is being used to sell gas to small use customers.

## 2. Background

The gas distribution systems in Albany, Margaret River and Leinster are currently operated by Kleenheat under GDL9. Kleenheat sells gas to customers on the Albany and Margaret River systems under its gas trading licence GTL10. The transfer of GDL9 and grant of GTL18 to Supagas will allow customers on the Albany, Margaret River and Leinster distribution systems to continue to be supplied with gas following the sale of Kleenheat's business.<sup>4</sup>

### 2.1 Licence

Section 11G(1) of the Gas Act requires a person to hold a gas distribution licence to construct, alter or operate a gas distribution system or transport gas through a distribution system. Section 11G(2) requires a person to hold a gas trading licence to sell gas that is transported through a distribution system, to small use customers.

### 2.2 Standard form contract

Supagas submitted a draft standard form contract with its application for a trading licence. Section 11WE of the Gas Act provides that the ERA must not grant a trading licence unless the ERA has approved the standard form contract.

Under section 11WF of the Act, the ERA must not approve a standard form contract if it considers that the contract will not meet the requirements of the *Energy Coordination (Customer Contracts) Regulations 2004*, will be inconsistent with the Gas Act or any other written law, or will be inconsistent with any term, condition or provision of the licence.

The ERA has considered Supagas' proposed gas standard form contract and is satisfied that it meets the requirements of section 11WF of the Act.

### 2.3 Gas ombudsman scheme

The grant of a licence is conditional on an applicant agreeing to become a member of the [Energy and Water Ombudsman Western Australia](#) (Ombudsman).<sup>5</sup> The Ombudsman can assist with resolving complaints from customers of gas companies that are members of the ombudsman scheme. The Ombudsman cannot process a membership application until the licence is granted.

The ERA is satisfied that Supagas will become a member of the ombudsman scheme due to the commitment provided by Supagas in its licence application, required by section 11ZQF of the Gas Act.

### 2.4 Public consultation

On 30 August 2024, the ERA [sought public comment](#) on the licence application. The period for submissions closed on 20 September 2024. No submissions were received.

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<sup>4</sup> Kleenheat will retain GTL10 as it sells gas to customers other than those on the Albany and Margaret River distribution systems.

<sup>5</sup> Section 11ZQG of the Gas Act.

## 2.5 Financial and technical assessment

The ERA must grant or approve the transfer of a licence if it is satisfied that the applicant has, or will acquire the financial and technical resources to undertake the activities authorised by the licence, in accordance with section 11S of the Gas Act.

The ERA engaged financial and technical consultants to examine the ability of Supagas to undertake the authorised activities. The financial and technical consultants concluded that Supagas complies with the financial and technical requirements of section 11S(1) of the Gas Act.

Based on the information provided in its licence application and the assessments by the consultants, the ERA is satisfied that Supagas has, and is likely to retain, the financial and technical resources to undertake the activities authorised by the licences.

## 2.6 Assessment of public interest

The ERA has considered the matters set out in section 11H(3) of the Gas Act, the matters set out in section 26(1) of the ERA Act, the information provided in Supagas' application on its ability to undertake the activities to be authorised by the licences, and the reports of the financial and technical consultants

The ERA is satisfied that granting a gas trading licence and approving the transfer of gas distribution licence GDL9 to Supagas would not be contrary to the public interest because:

- The interests of the customers connected to the LPG distribution systems under GDL9 are best served by the systems remaining licensed so that they may continue to receive gas from a licenced entity and enjoy the protections available to customers under the licensing framework.
- No comments or objections to the licence application were made during the public consultation period.

The remainder of this section sets out factors the ERA considered when making its decision.

### 2.6.1 *Energy Coordination Act 1994*

The ERA must not grant or approve the transfer of a licence unless it is satisfied that it would not be contrary to the public interest to do so (section 11K of the Gas Act). In determining whether the grant or transfer would not be contrary to the public interest, the ERA may take into account the matters referred to in section 11H(3) of the Gas Act:

- a. Environmental considerations
- b. Social welfare and equity considerations, including community service obligations
- c. Economic and regional development, including employment and investment growth
- d. The interests of gas customers generally or of a class of gas customers
- e. The interests of any licensee, or applicant for a licence, in respect of the supply area or part of a supply area to which the order, if made, would apply

- f. The importance of competition in gas industry markets
- fa. The policy objectives of government in relation to the supply of gas
- g. Any other matter that he or she considers relevant.

### **2.6.2 Economic Regulation Authority Act 2003**

When making its decision, the ERA must have regard to the matters set out in section 26(1) of the *Economic Regulation Authority Act*:

- a. The need to promote regulatory outcomes that are in the public interest.
- b. The long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets.
- c. The need to encourage investment in relevant markets.
- d. The legitimate business interests of investors and service providers in relevant markets.
- e. The need to promote competitive and fair market conduct.
- f. The need to prevent abuse of monopoly or market power.
- g. The need to promote transparent decision-making processes that involve public consultation.