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Mr Lyndon Rowe
Chairman
Economic Regulation Authority
Level 6 Governor Stirling Tower
197 St Georges Terrace
PERTH WA 6000

Dear Mr Rowe

Application under section 7.19 of the Gas Code for a further extension of time to the Revision Submission Date

We refer to the access arrangement for the Mid-West and South-West Gas Distribution System (**GDS**). WA Gas Networks Pty Ltd (**WA Gas Networks**) is the service provider for the GDS under the National Third Party Access Code for Natural Gas Pipeline Systems (**Gas Code**). The access arrangement for the GDS specifies 31 March 2009 as the Revision Submission Date with that date being extended to 30 September 2009 by the Economic Regulation Authority (**ERA**) on 12 February 2009 following WA Gas Networks' written request to extend dated 2 February 2009.

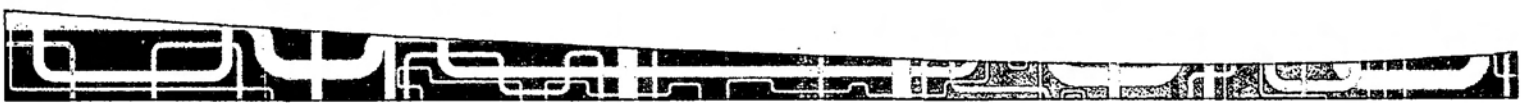
For the reasons outlined in the attachment to this letter (which are largely those reasons relied upon for the extension from 31 March 2009 to 30 September 2009) WA Gas Networks requests that the ERA exercise its discretion under section 7.19 of the Gas Code and grant a further extension of time to the Revision Submission Date of 30 September 2009.

Given the uncertainty as to when all of the relevant sections of the *National Gas Access (WA) Act 2009* will be operative WA Gas Networks requests that the ERA grant a further extension of time to 31 January 2010.

If you would like to discuss this issue further please contact either myself or Deborah Evans, Manager Regulatory Affairs for WestNet Energy, on 6213 7151 (office) or 0414 946 112.

Yours faithfully:

John Cleland
Chief Executive Officer
WestNet Infrastructure Group Ltd
On behalf of WA Gas Networks Pty Ltd



SUBMISSION SUPPORTING REQUEST TO FURTHER EXTEND REVISIONS SUBMISSION DATE

1. INTRODUCTION

WA Gas Networks Pty Ltd (**WA Gas Networks**) is the service provider in relation to the Mid-West and South-West Gas Distribution Systems (**GDS**) under the National Third Party Access Code for Natural Gas Pipeline Systems (**Gas Code**).

WA Gas Networks submitted an access arrangement in relation to the GDS which was approved by the Independent Gas Pipelines Access Regulator under the Gas Code on 18 July 2000. The Economic Regulation Authority (**ERA**) approved revisions to the GDS access arrangement under the Gas Code on 10 August 2005.

Section 2.28 of the Gas Code requires a service provider to submit proposed revisions to its access arrangement to the ERA by the Revision Submission Date specified in the access arrangement. Clause 67 of Part A of the access arrangement specifies the Revision Submission Date as 31 March 2009. The Revision Submission Date was extended to 30 September 2009 by the ERA on 12 February 2009 following WA Gas Networks' written request to extend dated 2 February 2009.

For the reasons set out in this submission WA Gas Networks requests a further extension of time to the Revision Submission Date from 30 September 2009 to 31 January 2010.

2. REASONS FOR SEEKING THE EXTENSION

2.1 Reliance on the previous extension

The National Gas Law and National Gas Rules (replacing the Gas Pipelines Access Law and Gas Code) have been introduced in all jurisdictions in Australia except Western Australia. In Western Australia the *National Gas Access (WA) Act 2009* (**National Gas Act**) received Royal Assent on 1 September 2009, the National Gas Act being the relevant legislation for the purposes of introducing the National Gas Law and National Gas Rules.

While Royal Assent has been given to the National Gas Act only sections 1 and 2 of the Act are in operation with the remainder to become effective on and from a date to be fixed by proclamation (or proclamations if different days are fixed for different provisions). WA Gas Networks understands that there is currently no date fixed by which the remainder of the National Gas Act is to be effective, and such a date will not be before 30 September 2009.

One of the grounds for extending the Revision Submission Date from 31 March 2009 to 30 September 2009 in the submission dated 2 February 2009 was WA Gas Networks' preference to submit its proposed revisions to the access arrangement under the National Gas Law and National Gas Rules. At the time the extension was requested it was probable that the 6 month extension would be enough time for the Western Australian Parliament (**Parliament**) to introduce the National Gas Act and for the regulations contemplated by the Act to be prepared and made law. Unfortunately, the National Gas Act took much longer to pass through Parliament than could have been anticipated at the time the extension was requested, and the

regulations have not as yet been prepared (see below).

In reliance on the National Gas Act and the regulations being introduced WA Gas Networks has incurred significant time and costs in evaluating the National Gas Law and National Gas Rules and amending its proposed revisions to the Access Arrangement for the GDS to comply with those requirements.

If a further extension to the Revision Submission Date is not granted WA Gas Networks will suffer a material detriment in that:

1. within the time left before 30 September 2009 WA Gas Networks would not be able to prepare its proposed revisions to the access arrangement in the form required by the Gas Code; and
2. it may not be possible for WA Gas Networks to recover the costs incurred in contemplation of lodging in a form that complies with the National Gas Law and National Gas Rules.

2.2 Regulations not yet available

In late October 2008, the Office of Energy outlined regulations it proposes to draft under the National Gas Act.

The Office of Energy indicated that it intends to continue, through the regulations, the State Government's policy of requiring the ERA to set distribution reference tariffs in a way that takes into account the structure and level of the capped retail tariffs in Western Australia. This practice is currently authorised by section 38 of the *Gas Pipelines Access (Western Australia) Act 1998* (WA).

The modelling for, and calculation of, revised reference tariffs for the GDS (required as part of the revisions to the Access Arrangement), will have to take into account the effect of the regulations to be made under the National Gas Act.

WA Gas Networks understands that the Office of Energy intends to carry out a process of consultation on the regulations. This process may lead to further changes in the regulations.

Furthermore, in the absence of the regulations, it is difficult to evaluate the interaction of the regulations and the National Gas Law and National Gas Rules in particular in respect of National Gas Rule 94(5). WA Gas Networks is concerned, that both the structure and the levels of reference tariffs may be difficult to reconcile with new distribution reference tariff requirements of the National Gas Rules. Nevertheless, tariff design and tariff calculation must achieve this reconciliation to avoid the prospect of a challenge to the access arrangement revisions at a later stage of the regulatory process. WA Gas Networks notes that the likelihood of a challenge is increased under the National Gas Law, which significantly extends, relative to what was the case under the Gas Pipelines Access Law, the set of affected parties who can seek a merits review of a regulatory decision. Once the regulations have come into effect, and the Government's intentions with respect to retail tariffs are known, sufficient time must be allowed for this reconciliation.

Revision of the reference tariffs cannot, in these circumstances, properly commence until after the regulations are law and WA Gas Networks has had an opportunity to consider the affect of those regulations on the reference tariffs.