



Our ref: GIR/0389  
Enquiries: Michael O'Kane  
Telephone: 9420 5663

4 May 2011

Mr Paul Reid  
Assistant Director Monitoring  
Economic Regulation Authority  
Level 6, 197 St Georges Terrace  
Perth WA 6000

Email to: [publicsubmissions@era.wa.com.au](mailto:publicsubmissions@era.wa.com.au)

Dear Mr Reid

**DRAFT COMPLIANCE ENFORCEMENT POLICY DATED MARCH 2011 –  
ELECTRICITY, GAS AND WATER LICENCES – INVITATION FOR SUBMISSIONS**

Thank you for the opportunity to submit our views on the above Compliance Policy.

The Office of Energy is pleased to provide the enclosed submission.

Please note that we have restricted our response to electricity and gas licences.

Please contact Michael O'Kane, Graduate Officer on 9420 5663 or email [Michael.O'Kane@energy.wa.gov.au](mailto:Michael.O'Kane@energy.wa.gov.au) if you require any further clarification on the submission.

Yours sincerely

**DR PAUL BIGGS  
A/DIRECTOR OF GOVERNANCE**

**ATTACHMENT: OFFICE OF ENERGY'S SUBMISSION ON THE DRAFT COMPLIANCE POLICY DATED MARCH 2011 - ELECTRICITY, GAS AND WATER LICENSES**

**Amendments to the existing compliance policy (dated August 2008)**

- We note that the draft Compliance Enforcement Policy (the Compliance Policy) appears to amend an existing compliance policy of the Economic Regulation Authority (the Authority) titled "Electricity, Gas and Water Industry Licensing Compliance Policy", dated August 2008.
- The Compliance Policy does not state whether it is intended to supersede the August 2008 policy or not. We suggest that the Authority provide clarification.
- The Compliance Policy also does not provide a breakdown of the amendments to the August 2008 policy. In order to assist stakeholders to submit their views on the Compliance Policy, we submit that in the future the Authority could:
  - Show the amendments in track-changes; and/or
  - Provide a table in the Compliance Policy which summarises the amendments.

**Setting the time between licence audits and reviews**

- Having regard to the Authority's statutory power to set the time between independent audits, it may be beneficial to licensees if the Authority outlined the factors it takes into account when deciding to reduce or extend an audit period.

**Cancelling licences**

- We note that the August 2008 policy sets out the Authority's policy in respect of recommending to the Governor that a licence be cancelled. However, this information has been removed and is not in the Compliance Policy.
- This is useful information and it is not clear why it has been removed. We suggest that the Authority reconsider the removal of this information.

**Amending licences**

- The Compliance Policy does not address whether the Authority's power to amend licences under section 22(1) of the *Electricity Industry Act 2004* (the EI Act) and section 11W(1) of the *Energy Coordination Act 1994* (the EC Act) might be exercised in response to a contravention.
- Whilst these sections on amending a licence do not fall under the parts of the EI Act and EC Act that deal with enforcement, the Authority does have the power to amend a licence on its own initiative.
- We suggest that the Authority clarify whether there are circumstances where it would exercise the power to amend a licence in response to a contravention of that licence.

**Submissions in response to a notice of contravention**

- A licensee has a right under section 33 of the EI Act and section 11ZC of the EC Act to make a submission in response to a notice of contravention.
- It would be helpful for the Compliance Policy to outline the Authority's policy for dealing with submissions (if it has one), including the relevant timeframes that the Authority applies to the consideration of submissions.