



**Structure of licence fees for the electricity, gas and
water and sewerage sectors**

Consultation Paper

December 2019

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Office of the Tasmanian Economic Regulator

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1 Invitation for submissions

The Tasmanian Electricity Code (TEC) requires the Tasmanian Economic Regulator (the Regulator) to develop, review and publish a structure of licence fees to apply for a period the Regulator considers appropriate. The TEC sets out principles to be applied in setting a licence fee structure for electricity licensees. The Regulator has also applied these principles in determining a structure of licence fees for gas and water and sewerage licensees. The current *Structure of Licence Fees for the Electricity, Gas and Water and Sewerage Sectors* (Structure of Licence Fees) expires on 30 June 2020.

This Consultation Paper is issued in accordance with the *Consultation Policy and Procedures of the Regulator (Version 6, November 2016)* and the TEC. It provides an overview of the process, and matters that the Regulator takes into account, in determining licence fees (or their equivalent). The Consultation Paper has been prepared to assist licensees, interested persons and stakeholders in making submissions regarding the licence fees that will apply from 1 July 2020 to 30 June 2025.

It is the Regulator's policy to publish all submissions on the Office of the Tasmanian Economic Regulator's (OTTER) website unless the author of the submission requests confidentiality in relation to the submission (or any part of the submission). Those parts of a submission that are requested to be confidential should be submitted as an attachment to that part suitable for publication.

The Regulator will not publish submissions which contain material that the Regulator believes is, or could be, derogatory or defamatory.

Submissions must be received by no later than 31 January 2020.

To facilitate publication on OTTER's website, submissions by email are preferred. Submissions and enquires may be made to:

office@economicregulator.tas.gov.au

or to

Chris Lock, Director
Office of the Tasmanian Economic Regulator
GPO Box 770
HOBART TAS 7000

A copy of this Consultation Paper is also available on the Regulator's website: www.economicregulator.tas.gov.au.

The TEC requires that a Structure of Licence Fees must be published at least three months prior to the implementation date of those fees. Following the consideration of relevant matters contained in submissions, the final Structure of Licence Fees will be published by 31 March 2020.

2 Overview

OTTER supports the Regulator in undertaking its functions under the *Electricity Supply Industry Act 1995* (the ESI Act); the *Water and Sewerage Industry Act 2008* (WSI Act); the *Gas Act 2000* and *Gas Pipelines Act 2000* (Gas Acts); and the *Energy Co-ordination and Planning Act 1995* (ECP Act).

The Regulator's objectives and functions under the ESI Act, WSI Act, Gas Acts and the ECP Act are met through the conduct of a number of activities and projects. These are reflected in the Regulator's operating plan and annual report. The annual reports are available on the OTTER website.

These Acts (except the ECP Act) provide for the Regulator to recover its reasonable costs in the administration of those Acts through licence fees, or other means.

In the case of the electricity supply industry, the TEC requires the Regulator to publish a report that sets out the fee structure that has been determined, the methods used in determining the fee structure and an assessment of the extent to which it complies with the principles set out in Chapter 2 of the TEC. The TEC principles to be applied in setting a licence fee structure are outlined below.

- The structure of licence fees should be simple.
- Licence fees should recover the budgeted revenue requirements for the Regulator.
- The components of the licence fees charged to each licensee should be reflective of the extent to which the Regulator's budgeted revenue requirements involve that licensee.
- Licence fees should not unreasonably discriminate against licensees.

The Regulator has applied these principles in determining the draft Structure of Licence Fees (see Attachment 1) for the electricity, gas and water and sewerage sectors, to apply for the period 1 July 2020 to 30 June 2025.

The draft Structure of Licence Fees sets out the proposed methodology that would apply in the determination of licence fees (or their equivalent) in all areas of the Regulator's industry-funded activities (electricity, gas and water and sewerage). Provided that there are no significant deviations in the Regulator's anticipated responsibilities and functions over the next five years, any variations in the Regulator's overall budget will be primarily reflective of changes in staff salaries. Licence fees will, however, change to reflect increased or decreased regulatory effort applied to the licensee(s) concerned, and the level of activity in the relevant sector.

In undertaking the process, the Regulator must consider other fee structures that it thinks appropriate for comparison purposes¹.

The draft Structure of Licence Fees varies from the current approved structure (applicable until 30 June 2020) in that it:

- applies for a five-year period, from 1 July 2020 to 30 June 2025. Previous structures have applied for a three-year period.
- proposes to reduce the fixed licence fee for all electricity generators from \$5 000 to \$1 000. The amount of \$1 000 is considered to be more cost reflective of the regulatory effort applied to smaller generators, where the main effort relates to the preparation of the annual licence fee invoice, and a fair share of OTTER's overheads.
- introduces a variable fee for electricity generators below the 30 MW threshold, which will allocate the Regulator's budgeted revenue requirement and the cost of increased regulatory effort to the extent that effort involves each particular licensee.
- introduces a fixed licence fee of \$1 000 for gas licensees (with the exception of small retailers and distributors of LPG gas, which will continue to pay a nominal amount).
- provides licensees with the option to pay the annual licence fee invoice in quarterly instalments.
- includes an additional adjustment in clause 2.7 (point 4). This adjustment states that the Regulator may take into account the previous year's actual expenditure with respect to a licensee when determining the fee to be imposed on that same licensee for the forthcoming year.

See section 3 of this Consultation Paper for further discussion of the proposed changes. The draft Structure of Licence Fees is included at Attachment 1. The approved Structure of Licence Fees will be issued as a separate document.

¹ Clause 2.4.1 (c) of the TEC. Appendix B outlines the Regulator's consideration of other fee structures.

3 Key changes

3.1 Current structure of licence fees

The Regulator allocates its costs to licensees on the basis of estimates of 'regulatory effort' directly applied to the gas, water and sewerage and electricity sectors.

The allocation of staff costs is effected through the maintenance of timesheets. Costs which are deemed to be 'common', such as administrative overheads, are allocated in proportion to the time that staff expend on a sector.

Licensees are informed of the estimated licence fees for the forthcoming year in late February or early March. The final licence fees for the forthcoming year are prepared and distributed to licensees after 1 July. This invoice comprises two amounts:

- the Regulator's budgeted revenue requirement for the forthcoming year, allocated on the basis of the anticipated regulatory effort that will be applied to each licensee and sector for that forthcoming year; and
- an adjustment if the Regulator's actual costs for the previous financial year have exceeded or fallen short of the budgeted revenue requirement for that year.

1. Electricity supply industry

Direct staff costs relating to electricity generators, and a share of indirect overheads are allocated as two components:

- a fixed fee of \$5 000 to represent a contribution to the ongoing costs of regulating of the Tasmanian electricity supply industry; and
- a variable fee for generators with installed capacity of greater than or equal to 30MW. This fee is based on the most recently available financial year data of megawatt hours generated for those generators.

TasNetworks Pty Ltd (TasNetworks) meets the Regulator's budgeted expenditure for the electricity distribution sector. The electricity transmission licensees (TasNetworks and Basslink Pty Ltd) pay a variable licence fee based on the regulatory effort applied to each licensee. Regulatory activities in relation to the Hydro-Electric Corporation's (Hydro Tasmania) retail, generation and distribution activities on the Bass Strait Islands are met by Hydro Tasmania. The Regulator does not propose these arrangements change.

Costs incurred by the Regulator in undertaking price investigations under the *Electricity Supply Industry (Pricing and Related Matters) Regulations 2013* are recovered separately from those businesses that are the subject of the investigation. These relatively infrequent and resource-intensive activities are therefore excluded from licence fee calculations. With the exception of Aurora Energy Pty Ltd (Aurora), costs incurred in administering a price determination after the conclusion of an investigation are recovered through licence fees. Aurora is not licensed by the Regulator and therefore does not pay licence fees. It is instead invoiced quarterly for the cost of regulatory effort applied by the Regulator. The Regulator does not propose to change how price investigation costs are recovered.

2. Gas industry

The wording of the Gas Acts requires that all gas entities licensed under the *Gas Act 2000* and *Gas Pipelines Act 2000* pay an annual licence fee that is a reasonable contribution towards the costs of the administration of the Gas Acts, taking into account the nature and scale of the operations. As such, all gas licensees currently pay a fee based on the regulatory effort applied to any gas sector (distribution, transmission and retail) and a share of indirect overheads. The licence fee is adjusted based on the nature and scale of a licensee's operations.

The licence fee is increased to recover the costs of the Director, Gas Safety (DGS), with those funds then remitted to the DGS. The DGS will recover its own costs from licensees from the financial year after the new Gas Industry Act is enacted (anticipated to be mid-2020).

3. Water and sewerage sector

Unlike the electricity and gas industries, the Regulator does not set in advance the licence fees in the water and sewerage sector. The draft Structure of Licence Fees reflects how the Regulator currently determines its portion of these annual licence fees.

As with the electricity supply industry, costs incurred by the Regulator in undertaking price investigations under the *Water and Sewerage Industry (Pricing and Related Matters) Regulations 2011* are recovered separately from licence fees from the entity concerned. However, costs incurred in administering a water and sewerage price determination after the conclusion of an investigation are recovered through licence fees. The Regulator does not propose to change these arrangements.

3.2 Proposed Changes

1. Period of application

Previous licence fee structures have applied for three years. To reduce administrative burden, the Regulator proposes the Structure of Licence Fees apply for five years from 1 July 2020 to 30 June 2025. The Regulator may review the structure earlier should there be substantial changes to relevant legislation, other material changes that would warrant such a review, or at the request of a licensee with a legitimate reason or concern.

2. Electricity generation licence fees

The Regulator proposes to reduce the fixed fee from \$5 000 to \$1 000 for all generators, regardless of capacity. In preparing the draft Structure of Licence Fees, the regulatory effort OTTER undertakes yearly for generators below 30 MW was reviewed, with the main effort being the preparation of licence fee invoices. It is considered that a fixed fee of \$1 000 is more reflective of the fixed cost of regulatory effort for these generators, including a fair allocation of overhead costs. The recent entry of more electricity generators into the sector also creates a case for reducing the fixed fee amount.

It is also proposed that, as is the case with larger generators, generators below 30MW pay a variable fee which will allocate the Regulator's budgeted revenue requirement and the cost of increased regulatory effort to the extent that effort involves that particular licensee.

The Regulator does not intend to continue using the share of megawatt hours generated as the primary method of cost allocation for costs in excess of the fixed fee amount for both the budgeted revenue requirement and the actual costs determined at the end of the financial year. Instead, the Regulator proposes to identify costs that are directly attributable to a generator, such as licence amendments or renewals, independent appraisals and meetings with generator staff. The timesheets maintained by OTTER staff would be amended to enable these costs to be recorded to, and ultimately recovered from, individual generators.

It is expected the improved recording of actual costs attributable to an electricity generator will provide a more simple and transparent method of cost allocation, and more accurately reflect the regulatory effort attributable to individual licensees. It is also expected that this will provide a more reliable estimate of the percentage of the Regulator's budgeted revenue requirement for the forthcoming year that should be attributed to each generator.

It is proposed any remaining costs relating to the electricity generation sector that cannot be directly attributed to a licensee be allocated at the end of the year using the following formula:

$\frac{\text{total annual costs recorded to an electricity generation licensee}}{\text{total annual costs recorded to all electricity generation licensees}} \times \text{total unallocated generator costs}$

3. Gas licence fees

Currently there is no fixed fee for gas licensees. As proposed for electricity generators, the Regulator considers an annual fixed fee of \$1 000 is also appropriate for gas licensees to reflect the fixed cost of preparing licence fee invoices, and a fair allocation of overhead costs.

Time directly attributable to regulatory effort on individual gas licensees, such as compliance plan independent appraisals, reviewing annual return information, and licence updates and renewals, will be recorded directly against the relevant licensee(s) in the timesheets maintained by OTTER staff. The associated cost of that effort will then be recovered from the licensee to which that effort relates as part of the variable licence fee invoiced in the following year.

Costs that are unable to be directly attributed to a particular licensee, such as the cost to update OTTER forms, policy documents and website in preparation for the enactment of the new Gas Industry Act, would be allocated using the same formula outlined above for electricity generation licensees.

It is proposed that costs associated with updating the gas codes will be recovered from licensees based on the extent a code relates to the operations of each licensee. For example, amendments to the Gas Retail Code will be recovered from gas retailers based on a percentage of market share.

4. Option to pay in quarterly instalments

Licence fees will continue to be set annually. The Regulator proposes to give licensees the option of paying the annual licence fee by instalments in August, November, February and April. The August instalment (invoiced in July) would be adjusted for the under or over expenditure for the previous year.

5. Clause 2.7

An adjustment has been added at clause 2.7, dot point 4 which states that the Regulator will take into account the previous year's actual expenditure with respect to a licensee when determining the amount of the Regulator's budget revenue requirement allocated to that licensee for the forthcoming year, which is the basis for setting the fee. If there is a material difference between the two amounts, dot point 4 gives the Regulator the discretion to amend the budgeted revenue requirement for the forthcoming year if there is not expected to be a significant difference in the level of regulatory effort applied to that licensee. This would result in the new fee being closer to the previous year's fee.

4 Context

1. Electricity supply industry

The ESI Act provides for the issue of a licence subject to a number of conditions including ‘... *the electricity entity must pay periodic and other fees and charges fixed by or in accordance with the licence*’.² Through the TEC, the Regulator has established technical standards and administrative arrangements that apply to licensed entities within the Tasmanian electricity supply industry. The TEC provides for the payment of licence fees by licensed electricity entities in Tasmania to meet the budgeted revenue requirements of the Regulator.

2. Water and sewerage industry

Section 39 of the WSI Act sets out the legislative obligations in relation to the setting and payment of annual licence fees. Unlike the electricity and gas supply industries, the Regulator does not determine the licence fees in the water and sewerage sector.

Section 39 (1) states:

(1) The Regulator must require a regulated entity to pay to the Minister such amount, by way of an annual licence fee, as the Minister may from time to time determine in respect of the following:

- (a) a licence;
- (b) an interim licence granted under section 89.

and 39(4):

(4) The amount so determined by the Minister is to be an amount that the Minister considers to be a reasonable contribution towards the cost of administering this Act, including any of the following:

- (a) the costs to be incurred by the Regulator in performing functions and exercising powers, under this Act;
- (b) the costs to be incurred by the Ombudsman in investigating complaints under section 76;
- (c) the costs which will arise from the regulation, by prescribed persons, of activities specified in the licence –

during the year to which the fee relates, in relation to a regulated entity.

² section 22(g).

3. Gas industry

Gas Act 2000

Section 27 is relevant in the setting of annual licence fees for gas supply industry participants. Section 27(1) states:

A person is not entitled to the issue or renewal of a licence unless the person first pays to the Regulator the relevant annual licence fee, or the first instalment of the relevant annual licence fee, as the case may require.

And section 27(2)(b):

The holder of a licence issued for a term of 2 years or more must in each year (other than a year in which the licence is due to expire) pay to the Regulator, before the date prescribed for that purpose, the relevant annual licence fee, or the first instalment of the relevant annual licence fee, as the case may require.

And section 27(3):

(3) Subject to subsection (4), the annual licence fee for the distribution and retailing of gas is to be a fee fixed by the Regulator of an amount that the Regulator considers appropriate as a reasonable contribution towards the costs of administration of this Act having regard to the nature and scale of the operations that are authorised by the licence.

Gas Pipelines Act 2000

Section 14(1) states that an annual licence fee is chargeable:

A licensee must pay to the Regulator annually and in advance a fee determined by the Regulator that represents the reasonable cost of the administration of this Act with respect to the relevant pipeline licence.

Note that the costs of administration of the Gas Acts can include the costs of both the Regulator and the Director of Gas Safety.

5 Consideration of Other Fee Structures

The TEC requires the Regulator, in developing a structure of licence fees for the electricity supply industry, to “*consider other fee structures in existence, which it thinks appropriate for comparison purposes*”.³ The Regulator has also considered other fee structures in the gas and water and sewerage sectors where appropriate for comparison purposes.

Direct comparison of the quantum of licence fees in each jurisdiction is not necessarily useful. The budgeted revenue requirements for each regulator will depend on the range of regulatory activities to be met by the funding and the size of the regulated industries. The number of licensees in a jurisdiction over which a regulator’s costs can be spread can also differ significantly. The budgeted revenue requirements of some other jurisdictions also include other costs driven by requirements specific to the jurisdiction. Further, the transfer of functions to the national bodies (Australian Energy Regulator, Australian Energy Market Operator and the Australian Energy Market Commission) may also impact on state and territory regulators’ revenue requirements.

The Regulator has considered the licence fee methodologies of other jurisdictional energy regulators. Research in this regard has found that budgeted revenue requirements are largely met by the industries which are regulated, with licence fees reflective of the time spent on regulatory activities.

³ Clause 2.4.1(c) of the TEC.

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Attachment 1:

**DRAFT STRUCTURE OF LICENCE FEES
FOR THE ELECTRICITY, GAS AND WATER
AND SEWERAGE SECTORS**

Applicable 1 July 2020 to 30 June 2025

1 Principles

In determining the fee structure in the electricity supply industry, the Regulator is bound by the Tasmanian Electricity Code (TEC). Clause 2.4.1(d) of the TEC requires the Regulator, in its structure of licence fees, to include an assessment of the extent to which the structure complies with the four principles set out in clause 2.4.1(b) that are set out below.

1. The structure of licence fees should be simple

The structure largely relies on Office of the Tasmanian Economic Regulator (OTTER) staff recording in timesheets the 'regulatory effort' applied to each licensee and sector (gas, electricity and water and sewerage). Overheads are allocated each quarter in proportion to the regulatory effort applied to a licensee or sector.

2. Licence fees should cover the budgeted revenue requirements for the Regulator

Collectively, licence fees cover the budgeted revenue requirements of the Regulator through the application of fixed and variable licence fees. The Regulator will prepare a budget before the beginning of each financial year which will identify the Regulator's estimated revenue requirements, and will take into account any revenue requirement shortfall or surplus from the previous year, as can reasonably be determined at the time of preparing the budget. The structure provides for adjustments to be made in respect of those sectors or licensees that were the drivers of the revenue requirement shortfall or surplus from the previous year.

3. Licence fees charged to each licensee should be cost reflective

The components of the licence fees charged to each licensee should be reflective of the extent to which the Regulator's budgeted revenue requirements involve that licensee.

4. Licence fees should not unreasonably discriminate against licensees

The Regulator levies licence fees based on the regulatory effort applicable to a sector and licensees concerned. This ensures that licensees are not unreasonably discriminated against.

The Regulator has applied these four principles in the draft Structure of Licence Fees that will apply to the electricity, gas and water and sewerage sectors for the period 1 July 2020 to 30 June 2025.

2 STRUCTURE OF LICENCE FEES

2.1 Period of application of this fee structure

This Structure of Licence Fees will apply for five years, from 1 July 2020 to 30 June 2025.

The Regulator may review the structure earlier should there be substantial changes to relevant legislation, other material changes that would warrant such a review, or at the request of a licensee with a legitimate reason or concern.

A new Gas Industry Act is currently being prepared, and it is expected to be enacted in mid-2020. The new Act will repeal the *Gas Act 2000 and Gas Pipelines Act 2000*. The requirements in the current version of the Gas Industry Act largely replicate the requirements in the current Gas Acts, in that the fee determined by the Regulator for gas licensees will continue to represent the reasonable cost of administering the Act in relation to a licensee. Key differences with the new Act are that the Regulator will no longer:

- recover costs on behalf of the Director of Gas Safety; and
- licence pipeline facility owners, as the new Act does not include any services relating to pipeline facilities as an activity.

The requirements of the new Act have been taken into account when preparing the draft Structure of Licence Fees. It is not anticipated that the structure will require revision once the new Act comes into effect.

2.2 Allocation of costs between industry sectors

The Regulator will allocate its costs to each licensee and industry sector on the basis of 'regulatory effort' directly applied to a licensee or sector. The allocation of staff costs is effected through the maintenance of timesheets. Costs which are deemed to be 'common', such as administrative overheads, will be allocated in proportion to the time that staff expend on a licensee or sector. For example, if 35 per cent of staff time is allocated to the Hydro-Electric Corporation, then 35 per cent of the overheads are applied to that licensee.

2.3 Electricity supply industry

The Regulator's budgeted revenue requirement associated with the regulation of the electricity supply industry will be further allocated to generators, the transmission network service providers, retailers (where relevant) and the distributor.

2.3.1 Generators

The annual licence fee for generators will comprise a fixed component of \$1 000 and a variable component based on regulatory effort applicable to each generator to cover 'regulatory effort' applied by the Regulator, including a share of the Regulator's overheads. The variable component will be subject to adjustment as set out in section 2.7.

A generator may apply to the Regulator for a licence fee reduction if there are other relevant factors that should be taken into account. For example, a licence fee may be reduced or waived where generation facilities are used by a company to support its own industrial purposes and, on rare occasions, exports to the grid.

2.3.2 Other licensees

The Regulator has determined the costs of regulating the electricity distribution, transmission and retail sectors be recovered from licensees as follows:

- for distribution, TasNetworks Pty Ltd (TasNetworks) will meet the Regulator's budgeted expenditure on the distribution sector, subject to any adjustment as set out in section 2.7.
- transmission licensees TasNetworks and Basslink Pty Ltd will pay a variable licence fee equivalent to regulatory effort applied to each licensee, subject to any adjustment as set out in section 2.7.
- Hydro Tasmania, for its generation, distribution and retail operations on the Bass Strait Islands (i.e. King Island and Flinders Island), will pay a licence fee equivalent to the Regulator's costs associated with Bass Strait Islands regulatory activities, subject to any adjustment as set out in section 2.7.
- for retail, Aurora Energy Pty Ltd is not licensed by the Regulator and therefore does not pay an annual licence fee⁴. It is instead invoiced quarterly for the cost of retail electricity services provided by the Regulator.

⁴ The introduction of the National Energy Customer Framework (NECF) in Tasmania from 1 July 2012 resulted in jurisdictional electricity licensing for retailing on Mainland Tasmania being replaced by a national authorisation scheme. Accordingly, and from that time, electricity retailers operating in mainland Tasmania are no longer issued a retail licence by the Regulator.

2.4 Water and sewerage industry

As per section 2.2, the Regulator will allocate its budgeted revenue requirement to regulate the water and sewerage sector on the basis of regulatory effort applied to that sector, plus a proportion of the Regulator's overheads.

The Regulator's budgeted revenue requirement forms only one input into the setting of the licence fees that are payable by the Tasmanian Water and Sewerage Corporation Pty Ltd (TasWater), currently the only licensed water and sewerage entity. Therefore, the Regulator's budgeted revenue requirement will be notified to the Department of Primary Industries, Parks, Water and Environment prior to the commencement of the financial year. The Minister for Primary Industries and Water will then determine the licence fees payable by TasWater.

If another entity is licensed under the WSI Act during the period, the budgeted revenue requirement for the water and sewerage sector would be allocated among the licensees in accordance with section 2.2.

The Regulator's budgeted revenue requirement in this sector may be adjusted in accordance with section 2.7.

2.5 Gas Industry

2.5.1 Annual licence fees

The Regulator's budgeted revenue requirement associated with regulation of the gas supply industry, and administration of the gas legislation, will be allocated in accordance with section 2.2.

The annual licence fee for gas licensees will comprise a fixed component of \$1 000 and a variable component which will reflect the 'regulatory effort' applied to that particular licensee and, in some cases, that licensee's allocation of the regulatory costs of the gas supply industry, or a subsection of that industry. This is consistent with the licence fee methodology applied in the electricity sector and is in line with the principle of licence fees being cost reflective.

With respect to LPG licence fees, the Regulator has determined that small LPG gas distributors and small LPG gas retailers pay a nominal annual licence fee of \$50.

The licence fees, except the nominal annual fixed fee amounts of \$50, may be adjusted in accordance with section 2.7.

In the unlikely event that a new, small natural gas distribution network is established, the Regulator will determine an appropriate fee.

Under the gas legislation, the Regulator may issue one or more licences to a licensee. One annual fee is charged per licence type (gas retail, distribution or transmission licence).

The proposed licence fees only relate to the Regulator's costs of administration of the gas legislation. If required under legislation, the licence fee will be increased as necessary to recover the costs of the Director of Gas Safety, with those funds then remitted to the Director of Gas Safety.

Whilst the licence fee for gas entities may include a component to recover the costs of the Director of Gas Safety, the licence fee estimate provided by the Regulator to gas licensees in March (see section 2.8) will only reflect the Regulator's own costs.

2.6 Part year fees for new entrants

Licence fees for new entrants into the electricity supply, gas, or water and sewerage industries that apply for part of a year will be determined by the Regulator on a case-by-case basis.

2.7 Adjustments

An adjustment to licence fees may be made where:

1. the Regulator's actual costs have exceeded or fallen short of those budgeted in the current year; and/or
2. the apportionment of fees to specific sectors of those industries differs materially, in the Regulator's opinion, from the actual allocation of resources during the current year (such an adjustment would be warranted where the Regulator's resources are directed to significant activities which were not anticipated at the time that the licence fees were determined); and/or
3. for the gas sector, where applicable, the Director of Gas Safety is able to recover its costs of administering the gas legislation; and/or
4. the Regulator's initial fee estimate for a licensee, using the budgeted revenue requirement for the forthcoming year, determined in July, differs from the actual expenditure allocated to that licensee in the previous financial year. An adjustment may be made if there is a difference between the two amounts, and there is not expected to be a significant difference in the level of regulatory effort applied to that licensee in the forthcoming year.

2.8 Preparation and notification of licence fees payable

Licence holders will be notified by the Regulator as soon as is practical in March of a licence fee estimate for the forthcoming financial year. The final licence fees for the forthcoming year, the calculation of which will include the actual expenditures of the Regulator for the previous financial year, will then be prepared and distributed to licenced entities in July. Licensees are given the option to pay the final licence fee invoice in instalments.

2.9 Exemptions from the payment of licence fees

2.9.1 Electricity supply industry.

The *Electricity Supply Industry Regulations 2018* exempt certain generators from the requirement to be licensed. There is no requirement for licence fees to be paid by exempt generators. Regulation 5(1) provides the following:

- (1) A licence authorising the generation of electricity is not required if –
 - (a) the electricity is generated by a generator with a capacity of 5 megawatts or less; or
 - (b) the electricity is –
 - (i) generated by a generator that is not normally connected to a power system or has a primary function other than the generation of electricity for sale; and
 - (ii) not sold.

The regulation of these generators is principally through their connection agreements with TasNetworks. As such, their operation is unlikely to require any regulatory involvement by the Regulator.

2.9.2 Water and sewerage industry

Under the *Water and Sewerage Industry Act 2008* (WSI Act) there is provision for the Minister to exempt persons from any provision of that Act. The Minister, by way of the *Water and Sewerage Industry Exemption Order 2011*, has exempted all but TasWater from the requirement to be licensed and currently only TasWater is required to pay licence fees. If this situation changes, the Regulator may impose licence fees on additional entities that are required to be licensed under the WSI Act.

2.9.3 Gas industry

The provisions in the gas legislation require that all licensed gas entities pay an annual licence fee that is a reasonable contribution towards the costs of the administration of the legislation. Under the legislation the Governor may, by Order, exempt from the requirement to be licensed:

- a person or class of persons; or
- specified gas infrastructure.