



# Victoria Government Gazette

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## Electricity Industry Act 2000 and Gas Industry Act 2001

### AUSTRALIAN POWER & GAS STANDING OFFER TERMS & CONDITIONS

Australian Power & Gas Pty Ltd ABN 26 118 609 813

Standing Offer Terms and Conditions applicable from 1 January 2009 under section 35 and section 39 of the **Electricity Industry Act 2000** and under section 42 and 46 of the **Gas Industry Act 2001** to residential customers

#### 1. KEY THINGS YOU NEED TO KNOW ABOUT YOUR ENERGY CONTRACT

##### 1.1 What is an Energy Contract and who does it apply to?

Your Energy Contract is either a deemed contract under section 39 of the **Electricity Industry Act 2000** and section 46 of the **Gas Industry Act 2001**, or a contract under section 35 of the **Electricity Industry Act 2000** and section 42 of the **Gas Industry Act 2001**, between you and us for the retail sale of energy to your premises.

Copies of your Energy Contract can be obtained at [www.australianpowerandgas.com.au](http://www.australianpowerandgas.com.au) or by calling 133 298.

We agree to sell to you and supply to your premises energy (electricity, natural gas or both) and perform other obligations set out in your Energy Contract. In return you agree to pay the amount billed by us, and perform your other obligations set out in your Energy Contract.

##### 1.2 What is the term of your Energy Contract?

Your Energy Contract starts on the date you enter into your Energy Contract and will continue until the Expiry Date unless it is terminated in accordance with these Terms and Conditions.

If your Energy Contract is a deemed contract, you are deemed to have entered into your Energy Contract with us when you:

- a) commenced to take supply of energy at your premises for which we financially responsible without having entered into a supply and sale agreement with us; or
- b) continued to take supply of energy at your premises after the termination or expiry of your supply and sale agreement with us.

##### 1.3 When does your energy supply start?

If we are on the Commencement Date the energy retailer responsible for your premises, your energy supply will commence on the Commencement Date. If we are not on the Commencement Date the energy retailer responsible for your energy supply for your premises, we will notify you in writing of a date after the Commencement Date that we will commence the actual supply of energy to your premises. The supply of electricity and the supply of natural gas may start on different days, specified by us.

##### 1.4 Efficient energy consumption

If you request it, we will provide to you free of charge information about efficient energy consumption and tips on how to reduce your Energy Account. We will also provide such other information as you may reasonably request about your account with us or which we are obliged by the Energy Laws to provide.

##### 1.5 Obligation to supply suspended

If and for so long as your premises are disconnected from an Energy Distribution System for any reason then our obligation to supply that energy to you is suspended.

**SPECIAL**

**1.6 Owner of the premises**

If you are not the owner of the premises to which we supply energy under your Energy Contract then any obligation for you to provide us or our representative with safe, convenient and unhindered access to the premises and meter includes an obligation to procure the permission from the owner of the premises to enable us to access your premises and meter if that is necessary.

**2. BILLING AND PAYMENT****2.1 What will we charge you?**

We will bill you for your estimated or measured (subject to the terms below) consumption of electricity or natural gas or both during a billing period, including, without limitation, any fees and charges detailed in the Standing Tariff Schedule relating to connection services, disconnection, metering services or contract cancellation.

Unless you are subject to a shortened collection period, you have 12 Business Days from the date we send an account to pay the total amount owing including GST.

If we give you reminder notices for three consecutive Energy Accounts or two consecutive disconnection warnings, and we have complied with any obligations to assist you with payment difficulties under the Energy Retail Code, we may put you on a shortened collection period for the payment of the money that you owe us. The time of the shortened collection period will be determined by us. Once you are on a shortened collection period:

- a) you will not receive a reminder notice from us; and
- b) you will only be removed from the shortened collection period if you pay three consecutive Energy Accounts by the pay by date.

The Standing Tariff Schedule, which forms part of your Energy Contract, will set out the different rates payable by you. We will determine the rates applicable to your Energy Contract and in the event that incorrect rates are applied, you agree that we are entitled to correct the rates that are applicable to your Energy Contract. We will advise you of any correction to your rates in writing as soon as practicable and in any event, no later than your next Energy Account.

The rates under your Energy Contract may be changed by us in accordance with the Energy Laws.

We will apply your payments to our charges for the sale of electricity and the sale of gas as directed by you, or if you do not give a direction then in proportion to the relative value of the electricity and gas charges.

You can find a statement of your rights with respect to your Energy Accounts and billing by us on [www.australianpowerandgas.com.au](http://www.australianpowerandgas.com.au) or by calling us on 133 298. The Energy Retail Code can also be obtained on our web site.

**2.2 Additional charges**

From time to time government or Energy Distributors or other industry participants may impose on us new or increased charges or taxes relating to the supply of energy to you.

Consistent with the law, we may pass the liability for these charges or taxes onto you by providing you notice of any changes as soon as possible and, in any event, no later than your next Energy Account. All such charges or taxes will be included in your Energy Account and be payable to us.

**2.3 About your Energy Account**

We will issue your Energy Account at least once every three months. We will send the Energy Account to you at your nominated address or email address.

The Regulations (in particular the Energy Retail Code) set out various matters that must be included in an Energy Account.

We may engage third party contractors as our agents for the purposes of preparing, sending and otherwise processing your Energy Accounts and payments of your Energy Account. We may share your account information, including usage data, with such third parties provided that they comply with our Privacy Policy and clause 9 of these Terms and Conditions. We shall remain responsible for compliance with the **Privacy Act 1988** (Cth) in relation to your personal information even if we supply such information to third party agents.

You acknowledge that an Energy Account sent to you on our behalf by any third party agent shall be payable by you to us as if sent by us.

#### **2.4 Paying your Energy Account**

You can pay your Energy Account using any of the payment methods listed on your Energy Account. You may also enter into an arrangement with us to pay your Energy Account by direct debit. If you do not pay your Energy Account on time we may in accordance with the Regulations require you to pay our costs for recovering the billed amount from you (including GST). We may include an amount representing those costs on a subsequent Energy Account. Any merchant service fees payable by us in connection with your payment method are recoverable from you by us.

If you request it, we will accept payments in advance which will be applied to your Energy Accounts as directed by you, but in respect of which you will not earn interest. We become absolutely and beneficially entitled to such advance payments upon receipt. We will apply such advance payments against such amounts as are payable by you from time to time under your Energy Contract for energy usage.

#### **2.5 Payment difficulties**

If you are a domestic customer and you're having difficulties paying your Energy Account by the due date, you must contact us soon as possible on 133 298. If you contact us and an alternative payment arrangement cannot be agreed by you and us, or if we believe that you are having repeated difficulties in paying your Energy Account, we will:

- make an assessment of your capacity to pay based on the information we have on you, information that you provide to us, or advice that we receive from an independent financial counsellor. We will provide you documentation of the assessment on your request;
- provide you with information about instalment plans for payment and other payment options;
- offer you an instalment payment plan in accordance the Energy Laws;
- provide you with information about any Government funded relief schemes for which you may be eligible.; and
- other information required under the Energy Laws, including the availability of an independent financial counselor and information on energy efficiency.

If you are a business customer, we will consider any reasonable request from you for an instalment plan for pay payment and other payment options, although we may impose a fee if we enter into an instalment plan (or other payment arrangement) with you.

#### **2.6 What if you disagree with your account?**

You can ask us to review your Energy Account. The review will be undertaken in accordance with the appropriate regulatory requirements (which can be found online at [www.australianpowerandgas.com.au](http://www.australianpowerandgas.com.au)).

During the time that we are reviewing your energy account, we may still require you to pay the lesser of:

- that portion of your Energy Account that is not in dispute; or
- an amount equal to the average amount of your Energy Accounts in the 12 months prior to the Energy Account in dispute.

You will also be required to pay any future Energy Accounts you receive after the Energy Account in dispute.

You may also request that we check your meter or meter readings. If you make such a request, you will need to pay to us the fees for checking your meter or meter readings.

If following a review of your Energy Account we are satisfied that your account is correct, you will be required to pay the amount of the Energy Account still outstanding. If you are overcharged, we will refund you in accordance with the Regulations, including refunding any fees paid (for example, for testing your meter). You will still be required to pay any portion of your Energy Account that is still outstanding. If we undercharge you, we may recover the undercharged amount in a special Energy Account or your next Energy Account in accordance with the Regulations (in particular the Energy Retail Code).

If you wish to make a complaint regarding our billing processes, please follow our complaint handling procedures set out in clause 8 of these Terms and Conditions.

## **2.7 Meter Readings and Estimation**

Each Energy Account you receive will, where possible, be based on an actual meter reading. If meter data is not available we can estimate the energy you have consumed during the period covered by an Energy Account, in compliance with the Regulations and as stated on your Energy Offer. When reliable meter data is obtained for that period we will adjust your Energy Account for the difference between the estimate and the actual amount of energy used in accordance with the Regulations. We will use our best endeavours to have your meter read at least once in each 12 month period.

You must allow safe, convenient and unhindered access to your meter by meter readers and authorised officers at all reasonable times. Where you do not provide access and we cannot read your meter, then we may estimate your energy usage and charge you an additional charge if you later request that your meter be read for the purposes of replacing that estimate with measured data.

Any such charge will be an amount permitted by the Regulations.

## **2.8 Is a security deposit required?**

We may require you to pay us a security deposit, or 'refundable advance' under the Regulations.

If you are a domestic customer, the Energy Laws provide that we may require you to pay us a security deposit (or a 'refundable advance' under the Regulations) if you:

- still owe us money from another premises;
- have used energy unlawfully;
- you refuse to give acceptable identification; or
- have a poor credit history in our reasonable opinion.

If you are a business customer, the Energy Laws provide that we may require you to pay us a security deposit if we reasonably believe that you do not have a satisfactory energy account payment record or a satisfactory credit history.

Your security deposit will be deposited by us into our bank account and it will accrue interest at a rate that is not less than the Published Rate, and which is capitalised every 90 days.

The amount of the security deposit will not exceed the maximum amount permitted under the Energy Laws (which in any event will not be more than 37.5% of the amount billed to you in the previous four quarters). We will not use any part of your security deposit (or any interest earned on it) to recover amounts due to us from you for charges for things other than energy supply or connection services arranged by us.

On cancellation of your Energy Contract we will return to you the balance of the security deposit (including interest accrued on the security deposit from day to day) after all amounts owing to us from you for charges relating to energy supply or connection services have been paid.

We will only use your security deposit, and must repay it to you, in accordance with the Energy Laws.

We may use the security deposit and accrued interest to offset any amount overdue for payment by you which has resulted in disconnection of your premises and where you have no right of reconnection, or where you have vacated your premises, requested disconnection or transferred to another retailer.

We will repay to you the balance of your security deposit and accrued interest in accordance with your reasonable instructions within 10 Business Days of you either completing one year's payment of accounts by the initial due dates for payment of each respective Energy Account, or ceasing to take supply at your premises. If you do not give us such instructions then we will credit amounts owing to you under this clause on your next Energy Account.

If we use your security deposit then we will give you a written account of its use and repay any balance within 10 Business Days.

### **3. CUSTOMER SERVICE STANDARDS**

#### **3.1 Compliance with requirements**

The guaranteed customer service standards set out in this clause 3 of these Terms and Conditions comply with the requirements imposed under the **Electricity Industry Act 2000** and the **Gas Industry Act 2001**.

#### **3.2 Telephone numbers for faults and emergencies**

We will include on your Energy Account the details of a contact phone number that operates 24 hours a day, seven days a week which you can call for no more than the price of a local telephone call so as to get (or give us) information about faults, difficulties and emergencies relating to your energy supply.

#### **3.3 Customer service enquiries**

You can call us during our business hours on 133 298 for all enquires relating to your account and customer connection services provided to you by us, for no more than the price of a local telephone call.

#### **3.4 Discontinuation of supply**

The circumstances in which we can discontinue your energy supply (including requesting that your premises be disconnected by an Energy Distributor from an Energy Distribution System) and the procedure we will follow before doing this are set out in clause 4 of these Terms and Conditions.

#### **3.5 Our minimum standards of service**

We are committed to providing quality and reliable retail energy services. Our minimum standards of service are published on our web site [www.australianpowerandgas.com.au](http://www.australianpowerandgas.com.au) from time to time or which can be obtained by calling us on 133 298.

### **4. DISCONNECTING ENERGY SUPPLY AT OUR REQUEST**

#### **4.1 Why would we arrange to disconnect your energy supply?**

We may disconnect your energy supply if you do not pay your Energy Account by the due date (but excluding a failure to pay an instalment under your first instalment plan with us) and we have followed the process set out below:

- if you have not paid your Energy Account we will send you a reminder notice not less than 14 Business Days after the date that we issued your Energy Account (but we will not send you a notice if you are on a shortened collection period);
- if your Energy Account remains unpaid we will send you a disconnection warning not less than 22 Business Days from the date that we issued your Energy Account (or not less than 16 Business Days if you are on a shortened collection period);

- if you are a domestic customer and your Energy Contract is for both gas and electricity, the disconnection warning will state that we may disconnect your gas no sooner than seven Business Days and your electricity no sooner than 22 Business Days after receipt of the disconnection warning. If your Energy Contract is for gas or electricity only the disconnection warning will state that we may disconnect your energy no sooner than seven days after the date of receipt of the disconnection warning;
- the disconnection warning from us will contain the information required by the Energy Laws, including a telephone number for payment assistance advice. We will provide that payment assistance advice if you call us;
- if you are a domestic customer and your Energy Contract is for both gas and electricity, we will also give you a further disconnection warning no less than six Business Days before your electricity is to be disconnected; and
- if you are on a shortened collection cycle we will attempt to telephone you in person to warn you of the imminent disconnection.

If your Energy Account remains unpaid after we follow the above process, we may disconnect your energy supply if you do not provide us reasonable assurance to us that you are willing to pay our your Energy Account, or you do give us that assurance but then do not pay by the applicable due date or if you do not agree to a new payment arrangement within five Business Days after the receipt of the disconnection warning, or if you do not make payments under the new payment arrangement.

If you are a domestic customer and you fail to pay an Energy Account because you lack sufficient income we will attempt to contact you in person or by telephone to discuss the options set out in clause 2.5 of these Terms and Conditions. We will not disconnect your energy supply until we have attempted to contact you and unless you have not accepted an instalment plan within five Business Days if we offer one to you.

There are a number of other circumstances in which we will become entitled to commence the process for disconnecting your energy supply. These are as follows:

- if you fail to provide a security deposit if required by us under your Energy Contract and we give you a disconnection warning as required by the Energy Laws;
- if you refuse or fail to give an authorised person access to your premises and your meter in accordance with any right to access provided for in the Energy Laws or your Energy Contract and we have complied with the requirements of the Energy Laws in this respect;
- if you have obstructed the authorised person in relation to any act, matter or thing done or to be done in carrying out any function under your Energy Contract;
- if you have failed to provide acceptable identification and we have given a disconnection warning as required by the Energy Laws;
- if a receiver, administrator, bankruptcy trustee or liquidator is appointed over any of your assets;
- if you fail to comply with the terms of your Energy Contract in any material way;
- for health, safety, maintenance or regulatory reasons; or
- in case of emergencies.

#### **4.2 Circumstances where we will not disconnect your energy supply**

We will not arrange for disconnection of your energy supply:

- unless we have complied with the requirements of your Energy Contract and the Energy Laws;
- if you have requested that EWOV or another external dispute resolution body resolve a complaint made by you that directly relates to the non-payment of your account and that complaint remains unresolved;

- on a Friday, Saturday, Sunday, a public holiday or a day before a public holiday;
- on any other day, after 2 pm if you are a domestic customer and after 3 pm if you are a business customer;
- if you are a domestic customer, while an application is pending from you for assistance under any government funded rebate or relief scheme;
- for gas, if your address is registered as a medical exemption supply address; or
- for electricity, if a life support machine is registered at your address and we have been made aware of the life support machine, except where you request us to arrange for disconnection of supply.

Where we are entitled to disconnect supply of energy to you and have otherwise complied with this clause then we are entitled to request that an Energy Distributor to disconnect your premises from an Energy Distribution System.

#### **4.3 After disconnection**

If your energy supply has been disconnected from the Energy Distribution System at our request under this clause then following disconnection we will give you a further notice that states:

- that your premises have been disconnected;
- the energy type or types (electricity, natural gas, or both) for which the disconnection applies;
- the grounds on which your premises were disconnected from the Energy Distribution System;
- a telephone number to contact for the purpose of enabling you to discuss the matter with a person acting on our behalf;
- the arrangements that you must make if you wish to reconnect the premises to the Energy Distribution System, including any costs payable by you for doing so; and
- the dispute resolution procedures that are available to you in relation to disputes between the Energy Distribution Network System service provider and you.

#### **4.4 Process for reconnection of your energy supply**

Provided any breach of your Energy Contract by you has been rectified or the grounds giving rise to your disconnection have been removed by you within 10 Business Days of disconnection and you are under the Energy Laws entitled to be reconnected, then we will arrange for the recommencement of your energy supply if you request it. We will promptly notify the relevant Energy Distributor of any request by you to reconnect your energy supply.

We will commence supply to you within the following periods:

- a) if your request is made before 3 pm on a Business Day, then on the day of your request;
- b) if your request is made after 3 pm on a Business Day, then on the next Business Day after your request;
- c) if your request is made after 3 pm on a Business Day but before 9 pm and you pay an afterhours connection charge to us, then on the day of your request.

The relevant Energy Distributor's standard reconnection fee will apply if your request is made between 9 am and 3 pm. However if your request is made outside these hours an after-hours reconnection fee will be required. This will not be payable if you allow us to reconnect your energy supply the following day.

If your premises were disconnected due to an emergency then we will arrange for the reconnection your premises as soon as it is safe to do so and otherwise in accordance with the law.

#### 4.5 Other rights

Nothing in your Energy Contract affects any right or obligation of the Energy Distributor or us under any law or a contract for connection services with you to refuse to supply, or to disconnect or interrupt energy supply to your premises.

#### 5. DISCONNECTION OF SUPPLY AT YOUR REQUEST

If you plan to vacate or have vacated your premises then the Energy Laws require you to give us notice ('Vacating Notice') of the date on which you plan to or did vacate, along with a forwarding address for your final account. You can give notices under clause 10.3 of these Terms and Conditions.

The period of time for which you continue to be liable to us for energy consumed at your premises even after you vacate is determined by the Energy Laws as follows:

- a) if you were evicted or forced to leave, your obligation to pay for energy consumed continues until you give us the Vacating Notice; or
- b) in any other situation, you will continue to be liable to pay for any energy consumed in the three Business Days after:
  - i. the date you vacate the premises after giving us a Vacating Notice; or
  - ii. the date you give us the Vacating Notice if that is given after you have vacated your premises,

whichever occurs last.

You will be treated as having vacated your premises only if and when you do not have, and no person claiming through you has, physical possession of the premises or part of the premises or a legal or beneficial right to physical possession of the premises, or part of the premises.

Your obligation to pay as set out above will also end:

- a) if another customer enters into an energy contract with us for your premises, then from when that customer becomes obliged to pay;
- b) if and when another retailer becomes responsible for your premises as defined in the Regulations; or
- c) if and when your premises are disconnected.

If you have an energy contract with us for another premises then we can include in an account for the other premises any amount payable by you under your Energy Contract for the premises you have vacated.

#### 6. TERMINATION OF YOUR ENERGY CONTRACT

##### 6.1 Termination

Your Energy Contract will terminate if:

- (a) you are transferred to another retail supplier (including under the 'last resort supply arrangements' under the Regulations) effective from the date of transfer;
- (b) you have entered into a new energy supply and sale contract with us; or
- (c) your Energy Contract otherwise terminates in accordance with the Regulations.

We may also, by written notice to you, terminate your Energy Contract if we arrange for disconnection of supply of energy under clause 4 of these Terms and Conditions, or if your premises are disconnected from an Energy Distribution System for whatever reason and you are not entitled to be reconnected. Discontinuation of supply and disconnection of your premises from an Energy Distribution System does not automatically terminate your Energy Contract.



**6.2 Effect of termination**

Termination does not affect any right arising before termination that you have against us or that we have against you.

If your Energy Contract is for both natural gas and electricity and your Energy Contract is terminated under clause 6 of these Terms and Conditions in respect of natural gas only, your Energy Contract in respect of electricity will continue until the termination of your Energy Contract.

**7. TRANSFER BECAUSE OF LAST RESORT ARRANGEMENTS**

Despite anything else to the contrary in your Energy Contract, you may transfer or be transferred to another retail supplier of energy if 'last resort supply arrangements' are implemented with respect to you and we are not entitled to be paid any compensation or other payment by you in respect of such a transfer. Your liability to us in respect of energy supplied or other services provided to you prior to such transfer is not removed, reduced or otherwise affected by any such transfer.

**8. WHAT TO DO IF YOU'RE NOT HAPPY WITH OUR SERVICE**

If you're not satisfied with our service please call us on 133 298 and we will try to fix the problem in the first instance.

If you are still not satisfied you may raise a formal complaint and request us to follow the procedures outlined in our leaflet available by calling 133 298 or at [www.australianpowerandgas.com.au](http://www.australianpowerandgas.com.au)

If again you are not satisfied with this process you may refer the matter to EWOV on 1800 500 509 or follow the procedure set out at [www.ewov.com.au](http://www.ewov.com.au). We are obliged to comply with any final and binding determination under that procedure.

**9. IS MY PERSONAL INFORMATION KEPT PRIVATE AND CONFIDENTIAL?**

We take your privacy and confidentiality extremely seriously. We will at all times comply with the standards of collection and disclosure of and access to personal information under the **Privacy Act 1988** (Cth). We will also comply with our published Privacy Policy.

You have a right to have your personal information kept confidential: unless you have consented, we will not give out information about you. Where allowed by privacy and other applicable laws we will use your personal information in order to sell, deliver and market energy to you.

Your Energy Contract constitutes a contract for consumer credit. We may give information about you to a credit reporting agency for the purpose of obtaining a consumer credit report about you and/or allowing the credit reporting agency to create or maintain a credit information file containing information about you. This information may be given by us before, during or after the provision of credit to you and limited to:

- a) your name, address and drivers licence number;
- b) the fact that you have applied for credit under your Energy Contract;
- c) the fact that we are a current credit provider to you;
- d) the existence of loan repayments which are overdue by more than 60 days and for which debt collection action has started;
- e) advice that your loan repayments are no longer overdue in respect of any default that has been listed;
- f) that in our opinion you have committed a serious credit infringement (that is, acted fraudulently or shown an intention not to comply with your credit obligations); and
- g) cheques drawn by you for \$100 or more which have been dishonoured more than once.

It is your right not to provide personal information to us. If you do not provide us with personal information that we need or reasonably request from you in order to supply energy to you under your Energy Contract then we are not obliged to supply energy to you under your Energy Contract.

For a full version of our Privacy Policy please call 133 298 or download it from [www.australianpowerandgas.com.au](http://www.australianpowerandgas.com.au)

## **10. OTHER THINGS YOU SHOULD KNOW ABOUT YOUR ENERGY CONTRACT**

### **10.1 Interruption to supply**

If the supply of natural gas to your premises is curtailed, disrupted, or interrupted, we or the Energy Distributor may give you notice requiring you to curtail or to cease use of gas at your premises. If we or the Energy Distributor gives you notice you must comply with that notice.

### **10.2 Liability**

We do not physically deliver energy to your premises. Your Energy Distributor is responsible for the delivery of energy and to the extent permitted by law we are not responsible for any act, omission, default or negligence of any third party including the Energy Distributor.

Accordingly, to the extent permitted by law we are not liable for any curtailment, disruption or interruption of energy supply or the quality of the energy supplied.

If we are to any extent liable under your Energy Contract, in tort or under statute in respect of the quality or reliability of energy, then to the extent permitted by law our liability is limited to the re-supply of energy and we are not otherwise liable for any direct or special loss for breach of contract or for any tort, including negligence arising from the physical delivery of energy.

Without limiting the previous paragraph, you agree to:

- (a) release us from any and all liability to you, including where that liability arises from a claim brought by you against an Energy Distributor or other supplier of energy, in respect of losses, costs and damages suffered by you as a result of a failure to supply energy to you, including without limitation a failure resulting from the negligence of an Energy Distributor or other supplier of energy or any of its employees or agents; and
- (b) indemnify us in respect of any liability that we have to any Energy Distributor or other supplier of energy for liabilities, losses, costs and damages suffered or incurred by that Energy Distributor or other supplier of energy as a result of a claim brought by you against them in respect of a failure to supply energy, including without limitation a failure resulting from the negligence of an Energy Distributor or other supplier of energy or any of its employees or agents.

If you are a business customer, you must take reasonable precautions to minimise the risk of loss or damage to your equipment, premises or business which may result from poor quality or reliability of energy supply.

You acknowledge that nothing in your Energy Contract varies or excludes the operation of section 117 of the **Electricity Industry Act 2000**, section 78 of the National Electricity Law, sections 232 or 233 of the **Gas Industry Act 2001** or section 33 of the **Gas Safety Act 1997**.

### **10.3 Notices**

Unless otherwise stated expressly, notices by us may be given by short message service (SMS), telephone, fax, email or post to the number, email or postal address as set out in the Energy Offer. If your contact details are going to change, you must give us advance notice of the change.

Any notice you are required to give us must be in writing which may be given by fax to 1300 799 141, email to enquiries@australianpowerandgas.com.au or post to Australian Power & Gas, GPO Box 217, Melbourne, Vic. 3001 or such other details as we may advise you in writing.

Notices:

- sent by SMS or telephone are effective immediately;
- sent by email are treated as received when the sender receives confirmation that the email has been received by the recipient;
- sent by fax are treated as received when the sender's fax machine prints a transmission report confirming the fax was sent;
- sent by post are treated as received two Business Days after posting.

An Energy Account sent by us is not a notice for the purposes of your Energy Contract but a notice may be included with an Energy Account.

#### **10.4 Assignment**

You may not assign your Energy Contract to any person unless you have received our explicit written consent which we may withhold in our absolute discretion.

Provided we comply with the requirements of the Energy Laws, and any conditions imposed by the Commission or under the Energy Laws or our Licences, we may, without your consent and upon providing you with written notice, assign the benefit of your Energy Contract to any Related Body Corporate who is licensed to retain energy under the Energy Laws or to whom our Licences under the Energy Laws are transferred, or assign the benefit of your Energy Contract by way of security to any provider of finance.

#### **10.5 Variations to your Energy Contract**

Your Energy Contract (including the tariffs payable under it) may be varied by us in accordance with the law.

#### **10.6 Compliance with Energy Laws**

Your Energy Contract complies with the applicable provisions of the Energy Laws, and all instruments and market operations rules made under that legislation.

#### **10.7 GST**

Where an amount charged under your Energy Contract for a supply by us to you is expressed to be GST-exclusive then an additional amount will be payable by you equal to the GST on that amount.

#### **10.8 Force Majeure**

Your obligations to pay us for energy consumed under your Energy Contract are suspended to the extent they are affected by a Force Majeure Event for so long as the Force Majeure Event continues. We will use our best endeavours to provide you notice of the full particulars of the Force Majeure Event (which may include the establishment of a 24 hour hot line).

#### **10.9 Governing Law and jurisdiction**

Your Energy Contract is governed by and is to be construed in accordance with the laws applicable in Victoria. Each party irrevocably and unconditionally submits to the nonexclusive jurisdiction of the courts of Victoria and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

#### **11. GLOSSARY OF TERMS USED IN YOUR ENERGY CONTRACT**

Terms defined in the Energy Laws and used in your Energy Contract have the same meaning in your Energy Contract. Where a term is defined in the Energy Laws both in relation to electricity and in relation to natural gas then that term will have the corresponding meanings in your Energy Contract when used in relation to electricity or natural gas as the case requires.

- Business Day** means a day that is not a Saturday, Sunday or a public holiday in Melbourne.
- Commencement Date** means the date that you become a deemed customer under the Regulations.
- Commission** means the Essential Services Commission of Victoria.
- Energy Account** means the bill we provide to you in accordance with clause 2.3 of these Terms and Conditions for energy you have used.
- Energy Distribution System** means the Energy Distributor's distribution system.
- Energy Distributor** means a person who holds a distribution licence under the **Electricity Industry Act 2000** or the **Gas Industry Act 2001** as the case may be.
- Energy Laws** means the **Electricity Industry Act 2000**, and the **Gas Industry Act 2001** and the instruments passed under such legislation including the Regulations.
- EWOV** means the Energy and Water Ombudsman (Victoria).
- Expiry Date** means the date your Energy Contract is terminated in accordance with clause 6.1 of these Terms and Conditions.
- Force Majeure Event** means an event outside the control of you or us.
- Licences** means the electricity retail licence and gas retail authorisation held by us from time to time pursuant to the Energy Laws.
- National Electricity Law** means the National Electricity (Victoria) Law as defined in the **National Electricity (Victoria) Act 2005** (Vic).
- Published Rate for any day** means the rate for that day described as the 90 Day Bank Bill Swap Reference Rate:– Average Bid (Source: ANZ) published in the Australian Financial Review from time to time (expressed as a yield percent per annum) or, if there is no such rate at any relevant time, any substitute replacement reference rate published in the Australian Financial Review from time to time provided that when a day is not a Business Day, the rate for that day will be the rate published in the Australian Financial Review on the next following Business Day.
- Regulations** mean the Energy Retail Code, Retail Gas Market Code, the Licences and the rules and guidelines published by the Commission from time to time.
- Related Body Corporate** has the meaning given to it in the **Corporations Act 2001** (Cth).
- Standing Tariff Schedule** means the Standing Tariff Schedule applicable to your premises and forming part of your Energy Contract, as available at [www.australianpowerandgas.com.au](http://www.australianpowerandgas.com.au), as amended from time to time.
- Vacating Notice** has the meaning given to that term in clause 5 of these Terms and Conditions.
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