

# ONGOING MARKET RETAIL CONTRACT TERMS FOR SMALL CUSTOMERS IN ACT AND NSW.

Effective from 31 August 2018

**ActewAGL**

*for you*

# PREAMBLE

These *market retail contract* terms together with the *Basic Plan Information Document* and any other subsequent *offer* form the *contract* which is about the sale of energy to you as a *small customer* at your premises. It is a *market retail contract*.

We will arrange a *metering service provider* to provide metering and related services.

In addition to this contract, the *regulatory requirements* and other consumer laws also contain rules about the sale of energy and we will comply with these rules in our dealings with you. For example, the *National Energy Retail Law* and *Rules* set out specific rights and obligations about energy marketing, payment methods and arrangements for customers experiencing payment difficulties.

You also have a separate contract with your *distributor* called a *customer connection contract*. The *customer connection contract* deals with the supply of energy to your premises and can be found on your *distributor's* website.

More information about this *contract* and other matters is on our website [actewagl.com.au](http://actewagl.com.au)

## 1. THE PARTIES

This *contract* is between:

ActewAGL Retail ABN 46 221 314 841, a partnership of AGL ACT Retail Investments Pty Ltd ABN 53 093 631 586, and Icon Retail Investments Limited ABN 23 074 371 207, who sells energy to you at the premises (in this *contract* referred to as "we", "our" or "us"); and

You, the customer to whom this *contract* applies (in this *contract* referred to as "you" or "your").

## 2. DEFINITIONS

- (a) Where applicable, terms in italics in this *contract* are defined in clause 31 (Definitions); and
- (b) Where the terms defined in clause 31 differ from the definitions in the *National Energy Retail Law* and *Rules*, the definitions in the *National Energy Retail Law* and *Rules* prevail.

## 3. INTERPRETATION

### 3.1 General

In this *contract*, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph or schedule is to a clause or paragraph of, or schedule to, this *contract*, and a reference to this *contract* includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (f) a reference to a party is to a party to this *contract*, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (g) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
- (i) headings are for ease of reference only and do not affect interpretation.

### 3.2 Inconsistency with the Rules

Where the application of a term or condition of this *contract* is inconsistent with the applicable minimum requirements for *market retail contracts* set out in the *Rules*:

- (a) the term or condition has no effect to the extent of the inconsistency; and
- (b) the minimum requirements under the *Rules* apply to the extent of the inconsistency (unless the terms and conditions of this *contract* provide for a higher level of service to you).

### 3.3 Regulatory requirements

- (a) Other than the *Rules*, if a *regulatory requirement* requires a matter to be included in this *contract* and it is not expressly included in this *contract*, the *regulatory requirement* is incorporated as if it were a term of this *contract*.
- (b) Where requirements contained in the *National Energy Retail Law* and *Rules* apply to this *contract*, these requirements are taken to form part of this *contract*.

### 3.4 Inconsistency with regulatory requirements

- (a) Subject to paragraph (b), if there is an inconsistency between a *regulatory requirement* (other than the *Rules*), the *market retail contract* terms, the *Schedule of Charges*, or the *Basic Plan Information Document*, the order of precedence will be the same as the order in which they are listed below:
  - (i) the *Schedule of Charges*;
  - (ii) the *Basic Plan Information Document*;
  - (iii) the *market retail contract* terms; and
  - (iv) the *regulatory requirements*.
- (b) If a *regulatory requirement* (other than the *Rules*) provides that the requirement must prevail in the event of an inconsistency, that requirement will prevail to the extent of the inconsistency.

## 4. ELIGIBILITY FOR THIS CONTRACT

- (a) This *market retail contract* only applies if:
  - (i) you are a *small customer* at your premises in accordance with the *regulatory requirements*;
  - (ii) the premises is directly connected to a *distribution system* and is not part of an *exempt seller arrangement*, unless the premises is a child point in an *embedded network* and you have chosen to enter into this *contract*;
  - (iii) the premises has its own *metering installation* with a unique *NMI*;
  - (iv) the premises is not located in an *excluded area*;
  - (v) you have satisfied any credit checks required by us prior to entry into this

*contract*, subject to us complying with the relevant obligations under the *regulatory requirements*;

- (vi) the premises satisfies any eligibility criteria set out in the *offer*, which may include whether you have a renewable generation system or a *smart meter* or a *smart meter without communications*.

- (b) We may, acting reasonably, end or vary this *contract* to reflect your circumstances or the circumstances of the premises by giving you written notice if:

- (i) the conditions listed in clause 4 (a) are not satisfied or we become aware of a change in your ability to satisfy those conditions on a continuing basis; or
- (ii) the information available to us on which the *offer* was based, including about the distribution area, network tariff or *meter*, were incorrect or is no longer correct.

## 5. WHAT IS THE TERM OF THIS CONTRACT?

### 5.1 When does this contract start?

This *contract* commences from the date you accept the *contract*.

### 5.2 Cooling-off period

- (a) Even though you have accepted the *contract*, you have the right to withdraw from this *contract* during the *cooling-off period* by informing us either orally or in writing.
- (b) The *cooling-off period* is a period of 10 business days. This *cooling-off period* commences on the day you receive the *Single Written Disclosure Statement* and ends 10 business days after that date.
- (c) If you end this *contract* during the *cooling-off period*, this *contract* will be of no effect and you will continue to be supplied with natural gas and electricity under any current arrangements with us or with other *retailers*.

### 5.3 When does this contract end?

- (a) The *contract* is ongoing and only ends:
  - (i) on a date agreed between us and you;
  - (ii) when the provision of *customer retail services* to the premises commences

- under a *customer retail contract* with a different customer; or
- (iii) when the provision of *customer retail services* to the premises commences under a different *customer retail contract* between you and us or another *retailer*;
- (iv) at the end of the period of 10 business days commencing on the day your premises is de-energised, if there is no contractual right to re-energise; or
- (v) subject to notice requirements, on another date or event specified in this *contract*, whichever occurs first.

- (b) Either party may terminate this *contract* by giving the other 20 business days' notice.

#### 5.4 Consequences of the contract ending

- (a) Where we supply you with both electricity and natural gas, termination of this *contract* in respect of one energy source (that is electricity or natural gas) will result in a termination in respect of the other energy source. Termination in respect of the other energy source will not take effect until:

- (i) we have given you written notice stating:

- (A) that if you wish to continue to be supplied with that energy source, you must arrange supply under a *customer retail contract* with us or another *retailer*;
- (B) your right to a *standing offer* from us;
- (C) the circumstances in which we may arrange for de-energisation of supply and the date on or after which supply may be de-energised (which must be after giving you a reasonable time (and at least 20 business days from the date of the notice) to enter into a new *customer retail contract*);

- (ii) either:

- (A) supply has commenced under another customer retail arrangement;
- (B) the premises has been de-energised, at which time this *contract* will terminate in its entirety whether or not you are entitled to elect to take supply from us under that contract. If you wish to continue to

be supplied with that energy source, you must arrange supply under a *customer retail contract* with us or another *retailer*.

- (b) You are responsible for paying for all natural gas and electricity consumed at the premises at the *market offer prices* set out in the *Basic Plan Information Document* and *Schedule of Charges* until this *contract* is terminated. Termination will not affect your obligation to pay any amount due at the date of termination, or any accrued rights or remedies that we or you may have under the *contract*.

#### 5.5 When does supply commence?

- (a) Subject to this clause, the *supply commencement date* will be as specified in the *Basic Plan Information Document*. There may be separate *supply commencement dates* in relation to natural gas and electricity.

- (b) If no *supply commencement date* is specified in the *Basic Plan Information Document*, then the *supply commencement date* will be as soon as practicable after the following conditions are satisfied:

- (i) all necessary transfers have been completed to allow us to supply you with electricity and/or natural gas as a *small customer* in accordance with all *regulatory requirements*;
- (ii) you are connected to the electricity and natural gas *distribution systems* in accordance with all applicable *regulatory requirements* and there are appropriate *meters* available;
- (iii) all relevant pipe work, cables and appliances at the premises are certified as complying with all necessary *regulatory requirements*; and

- (iv) if requested by us, you have provided to our satisfaction:

- (A) acceptable identification, billing details and information concerning the appliances installed at the premises and the anticipated usage of the appliances;
- (B) where you are not the owner of the property, the consent of, or contact

- numbers for, the property owner or agent;
- (C) payment of, or arrangements to pay, all amounts owing by you to us under other arrangements, other than a debt which is the subject of an unresolved dispute.
- (c) We may charge you an establishment fee as listed in the *Basic Plan Information Document* and the *Schedule of Charges* if you do not currently acquire natural gas or electricity from us at the premises.

### 5.6 Term of supply

- (a) We will supply and sell you natural gas and electricity in accordance with this *contract* from each relevant *supply commencement date* until the termination of the *contract* in accordance with its terms.
- (b) If this *contract* is terminated and you do not enter into another *customer retail contract* with us or another *retailer*, you will be taken under the *National Energy Retail Law and Rules* to be on a *deemed customer retail arrangement*.
- (c) Subject to the *regulatory requirements*, if you terminate this *contract* in accordance with clause 5.3(b) and before the expiry of the initial *energy plan period* specified in the *Basic Plan Information Document*, we may charge you an *exit fee* that is a reasonable estimate of the costs to us resulting from your early termination of this *contract*, including the reasonable costs incurred by us for the installation of any *customer equipment* at your premises.

## 6. SCOPE OF THIS CONTRACT

### 6.1 What is covered by this contract?

- (a) Under this *contract* we agree to:
- (i) supply you with energy at your premises and other goods and services as specified in your *Basic Plan Information Document*. We also agree to meet other obligations set out in this *contract* and to comply with the *regulatory requirements*; and
- (ii) if applicable, arrange a *metering service provider* to provide metering and related services.

- (b) In return, you agree:
- (i) to be responsible for tariffs and charges for energy supplied to the premises and any other charges for goods and services payable under this *contract* until this *contract* ends under clause 5.3 even if you vacate the premises earlier;
- (ii) to pay the amounts billed by us under this *contract*;
- (iii) if applicable, to pay the charges payable for services provided by our *metering service provider*, including repairs, alterations and upgrades to the meter board and/or metering installation that are required before your existing meter can be replaced; and
- (iv) to meet your obligations under this *contract* and the *regulatory requirements*.

### 6.2 Multiple premises

- (a) If you are a *business customer* in relation to at least two premises, and you are or would be a *small customer* in relation to at least one of those premises, then where the *Basic Plan Information Document* specifies or we otherwise agree with you, this *contract* will apply to multiple premises and:
- (i) each reference to a premises in this *contract* is a reference to each of the premises to which this *contract* applies; and
- (ii) if the *contract* is terminated in respect of one or more premises, the *contract* will continue in relation to each other premises.
- (b) If you provide your *explicit informed consent* to this *contract* applying to multiple premises in the *Basic Plan Information Document* or by other agreement, you also agree that this consent extends to the aggregation of the actual or estimated annual consumption for the relevant premises for the purposes of the *Rules*.
- (c) If the aggregation of the consumption under paragraph (b) exceeds the *upper consumption threshold*, we may terminate this *contract* by giving you 20 business days' notice. We may offer you a *contract* for energy that applies to *large customers*.

### 6.3 What is not covered by this contract?

This *contract* does not cover the physical connection of your premises to the *distribution system*, including the maintenance of that connection and the supply of energy to your premises and, where we sell you gas, provision of metering equipment. This is the role of your *distributor* under a separate contract called a *customer connection contract*.

## 7. YOUR GENERAL OBLIGATIONS

### 7.1 Full information

- (a) You must give us any information we reasonably require for the purposes of this *contract*. The information must be correct, and you must not mislead or deceive us in relation to any information provided to us.
- (b) You must ensure that we have a current emergency contact number for you at all times.

### 7.2 Updating information

You must tell us promptly if:

- (a) information you have provided to us changes, including if your billing address changes or if your use of energy changes (for example, if you start running a business at the premises); or
- (b) you are aware of any change that materially affects access to your *meter* or to other equipment involved in providing metering services at the premises.

### 7.3 Life support equipment

- (a) If a person living or intending to live at your premises requires *life support equipment*, you must:
  - (i) register the premises with us or your *distributor*; and
  - (ii) provide *medical confirmation* for the premises.
- (b) Subject to satisfying the requirements in the Rules, your premises may cease to be registered as having *life support equipment* if *medical confirmation* is not provided to us or your *distributor*.
- (c) You must tell us or your *distributor* if the *life support equipment* is no longer required at the premises.

- (d) If you tell us that a person living or intending to live at your premises requires *life support equipment*, we must give you:
  - (i) at least 50 business days to provide *medical confirmation* for the premises;
  - (ii) general advice that there may be a *distributor planned interruption*, *retailer planned interruption* or *unplanned interruption* to the supply of energy to the premises;
  - (iii) at least 4 business days' notice in writing of any *retailer planned interruption* to the supply of electricity to the premises;
  - (iv) information to assist you to prepare a plan of action in case of an *unplanned interruption*; and
  - (v) emergency telephone contact numbers.

### 7.4 Serious gas and electrical accidents

- (a) If your premises are located in the Australian Capital Territory, if there is a serious gas accident or serious electrical accident at your premises, you must notify us immediately.
- (b) For the purpose of paragraph (a):
  - (i) serious gas accident has the meaning given in the *Gas Safety Act 2000 (ACT)* and these are accidents involving death of a person, an injury that requires medical attention, damage to property exceeding \$5000 or fire;
  - (ii) serious electrical accident has the meaning given in the *Electricity Safety Act 1971 (ACT)* namely an accident in which electricity causes or contributes to the death or injury of a person, damage to property, or a fire.
- (c) If you are unsure whether there has been a serious gas accident or serious electrical accident, please contact us.

### 7.5 High natural gas consumption

- (a) If your estimated maximum natural gas consumption exceeds 6m<sup>3</sup>/hour, we are required to lodge a formal request with your *distributor* and comply with the procedures in the *distributor's* access arrangement before you can be supplied. Most households do not exceed this amount.

- (b) You must provide any information we reasonably request to comply with those procedures.
- (c) If you wish to increase your maximum natural gas consumption to more than 6m<sup>3</sup>/hour, you must:
  - (i) notify us; and
  - (ii) provide any information we reasonably request to comply with the procedures in the relevant *distributor's* access arrangement.

We will apply to your *distributor* for an increase on your behalf.

#### 7.6 Obligations if you are not an owner

If you cannot meet an obligation relating to your premises under this *contract* because you are not the owner, you will not be in breach of the obligation if you take all reasonable steps to ensure that the owner, or other person responsible for the premises fulfils the obligation.

### 8. SUPPLY OF CUSTOMER EQUIPMENT

If your *Basic Plan Information Document* includes the sale of *customer equipment* by us:

- (a) you will own the *customer equipment* from the time that it is delivered to you, and will be solely responsible for the *customer equipment* (subject to the terms and conditions of this *contract*) from that time;
- (b) you must pay all applicable instalments payable in relation to the *customer equipment*, as specified in the *Basic Plan Information Document* (equipment instalments);
- (c) if this *contract* is terminated in accordance with its terms, you must pay any remaining outstanding *customer equipment* instalments owing under your *contract* for the remainder of the *initial period* (in addition to any exit fees specified in your *Basic Plan Information Document*); and
- (d) no interest or other fees will be applied by us in relation to the supply of the *customer equipment*.

You acknowledge that the *National Credit Code* does not apply in relation to the equipment instalments.

### 9. NEW CONNECTIONS AND METER REPLACEMENTS

- (a) If requested by you or required under the *regulatory requirements*, we may request a *metering service provider* to:
  - (i) install a *smart meter* and arrange for your premises to be connected to the *distribution system*; or
  - (ii) replace an existing *meter* at your premises.
- (b) The arrangements under clause 9(a)(i) will commence only after we have received all necessary information to make the arrangement, and we may charge you the connection charge and the cost of repairs, alterations and upgrades to the meter board and/or metering installation that are required before your existing *meter* can be replaced.
- (c) A *smart meter* will be installed under clause 9(a) unless there is no existing telecommunications network which enables remote access to the *meter* at your premises, in which case, a *smart meter without communications* will be installed.
- (d) If a *smart meter without communications* is installed under clause 9(c), all required *meter readings* will attract a *manual meter reading fee*.

### 10. OUR LIABILITY

#### 10.1 General liability and under the National Energy Retail Law and Rules

- (a) The quality and reliability of your electricity supply and the quality, pressure and continuity of your natural gas supply is subject to a variety of factors that are beyond our control as your *retailer*, including accidents, emergencies, weather conditions, vandalism, system demand, the technical limitations of the *distribution system* and the acts of other persons (such as your *distributor*), including at the direction of a relevant authority.
- (b) To the extent permitted by law, we give no condition, warranty or undertaking, and we make no representation to you, about the condition or suitability of energy, its quality, fitness for purpose or safety, other than those set out in this *contract*.

- (c) Unless we have acted in bad faith or negligently, the *National Energy Retail Law and Rules* exclude our liability for any loss or damage you suffer as a result of the total or partial failure to supply energy to your premises, which includes any loss or damage you suffer as a result of the defective supply of energy.

## 10.2 Australian Consumer Law guarantees

- (a) The *Australian Consumer Law* requires us to automatically provide certain guarantees in relation to goods and services which cannot be excluded by contract. If any goods or services supplied under this *contract* are supplied to you as a 'consumer' within the meaning of that term in the Australian Consumer Law or relevant jurisdictional legislation, you will have the benefit of certain non-excludable rights and remedies in respect of the goods or services (**Consumer Guarantees**), including guarantees that services are provided with due care and skill, and that goods are of acceptable quality.
- (b) Nothing in this *contract* excludes, restricts or modifies the operation of the *Consumer Guarantees* where to do so would contravene the *Australian Consumer Law* or cause any part of this clause to be void.
- (c) However, if the goods and/or services are goods or services not ordinarily acquired for personal, domestic or household use or consumption, and the price of the goods or services is \$AUD40,000 or less, ActewAGL limits its liability for breach of any *Consumer Guarantee* to (at ActewAGL's option):
  - (i) in the case of goods, repairing or replacing the goods or paying the cost of having the goods repaired or replaced; and
  - (ii) in the case of services, supplying the services again, or the cost of having the services supplied again.
- (d) Except for the *Consumer Guarantees* and any requirements under the *National Energy Retail Law and Rules* and the warranties and conditions set out in this *contract*, ActewAGL excludes all warranties, terms and conditions implied by statute, at law, in fact or otherwise.

- (e) However where a failure to comply with a *Consumer Guarantee* can be remedied, and is not a *major failure*, we may comply with a requirement to remedy that failure as set out in paragraph (b).
- (f) You must indemnify us against any injury, loss or damage suffered by a third party in connection with your use of natural gas and electricity and claimed against us to the extent that the injury, loss or damage is caused by or contributed to by your negligence or your breach of this *contract*.

## 11. GREENPOWER PRODUCTS

- (a) In accordance with *regulatory requirements*, we may offer you a *GreenPower Product*.
- (b) Our supply of a *GreenPower Product* will be governed by the terms and conditions of this *contract*.
- (c) The charges for a *GreenPower Product* will be in addition to the charges payable for electricity under this *contract*.
- (d) You may at any time, by notice in writing, elect to take a different *GreenPower Product*, or cease to take a *GreenPower Product*. Unless stated in an offer, no fees or charges are payable if you exercise your rights under this clause. Any rights or benefits arising in relation to the purchase of a *GreenPower Product* under this *contract* will remain with us, and you will not be entitled to any of those rights or benefits as a result of you purchasing a *GreenPower Product* under this *contract*.

## 12. NOTIFICATION OF CONTRACT VARIATIONS

We may vary the terms of this *contract*, including our *market offer* prices. We will give you notice of the variation in accordance with clause 13.5.

## 13. PRICE FOR ENERGY AND OTHER SERVICES

### 13.1 What are our tariffs and charges?

- (a) Our tariffs and charges for the sale of energy and other goods and services to you under this *contract* are our *market offer*



prices. These prices are set out in the *Basic Plan Information Document* and *Schedule of Charges* and include your *distributor's* charges. They are also available on our website.

- (b) Different tariffs and charges may apply to you depending on your circumstances. The conditions for each tariff and charge are set out in the *Basic Plan Information Document*.

### 13.2 Variation of market offer prices

We may vary our *market offer prices* to reflect any increase in our cost of purchasing, selling or supplying natural gas or electricity (including costs arising from increased price risk and our costs of minimising or meeting that price risk) due to:

- (a) a change in the cost that we are compelled to pay for bulk energy purchases that are referable to the supply of natural gas and/or electricity to small customers either as a separate class or as part of a larger grouping of our customers;
- (b) any increase in the distribution charges and/or metering charges applicable to the supply of natural gas and/or electricity to your premises;
- (c) the introduction of, change in or reasonable estimate of any taxes (including GST), costs, fees, imposts, duties, levies, charges or financial burdens ("costs") payable by us directly or indirectly in relation to:
  - (i) the generation, production, transmission, transportation, distribution, purchase, sale, supply or retailing of electricity or natural gas;
  - (ii) other goods and services provided under this *contract*;
  - (iii) any new or increased obligation, where such costs in any way arise from or are related to:
    - (A) reducing or limiting the concentrations or rate of release of greenhouse gases including carbon, or the production or release of materials likely to contribute to the creation of such substances;

- (B) encouraging the provision of renewable energy, including, without limitation, the costs of acquiring renewable energy certificates;
- (C) the acquisition or trading of greenhouse gas or carbon emission or sequestration units, credits or permits (howsoever described);
- (D) offsetting greenhouse gas or carbon emissions,

- (iv) through imposing upon us or any electricity or natural gas generator, producer, transmission authority, transporter (including pipeline operators), wholesaler, *distributor*, *retailer* or any other party involved directly or indirectly in us obtaining, distributing or selling electricity or natural gas any incentives, imposts, fees, costs, taxes, charges, duties, levies or financial burdens (impost), whether such impost exists at the time of entry into this *contract*, including any subsequent modification or change and whether the impost in whatever form arises or is imposed by *regulatory requirements* or by or in relation to a third party contract.

### 13.3 Variation of applicable tariff category

- (a) The continued application of the category of tariff that formed the basis of the *market offer* and charges payable under your *energy plan* depends on:
  - (i) you continuing to satisfy conditions applying to that category of tariff;
  - (ii) the continued availability of the corresponding distribution tariff from your *distributor* in relation to your premises; and
  - (iii) the continued availability of the required or selected *meter* type.
- (b) You must inform us if there is a change in:
  - (i) the nature of your energy usage at your premises;
  - (ii) the *meter* installed at your premises; or
  - (iii) any other circumstance which impacts on your ability to continue to satisfy conditions applying to your current category of tariff.

- (c) If we become aware of any change in:
  - (i) your ability to satisfy conditions applying to your current category of tariff (whether or not you inform us of such a change); or
  - (ii) the distribution tariff the *distributor* applies in relation to your premises, we may transfer you to a different category of tariff from the time of that change, which may result in a variation to your charges from that time. Where this results in you having been undercharged or overcharged on a bill, clause 18.1 (Undercharging) or 18.2 (Overcharging) will apply.
  - (iii) We will notify you of any variation to your charges under this clause 13.3 in accordance with clause 13.5 and you may elect to terminate this energy plan in accordance with clause 5.3(b).

#### 13.4 Availability of alternative tariffs.

Depending on the *meter* configuration and availability at your premises and the availability of alternative tariffs offered by your *distributor*, we may offer different tariffs for the consumption of energy at your premises, including feed-in tariffs for electricity you generate at your premises or consumption tariffs with a different rate for controlled load storage heating, off-peak hot water or any eligible off-peak appliances.

#### 13.5 Notice to you of variation of our market offer prices

- (a) If we vary our *market offer prices* including your rates, fees, feed-in tariff or charges under this clause 13, we will provide you with written notice of the variation as soon as practicable, which may be after the variation takes effect but will be no later than your next bill.
- (b) We may provide notice to you for the purposes of clause 13.5(a) by publishing the notice in the newspaper or on our website or including a notice with a link to our website with your next bill after the variation.

#### 13.6 Variable rate energy plans

- (a) Unless your *energy plan* rates are fixed rates, we may vary your rates or introduce a new

rate by giving you notice in accordance with clause 13.5. This may occur after we arrange a *smart meter* to be installed at your premises.

#### 13.7 Variation to market offer prices due to incorrect information or meter change

- (a) If we determine that the *market offer* made to you was based on incorrect information and:
  - (i) as a result, any of our market offer prices set out in the *Basic Plan Information Document* and *Schedule of Charges* are incorrect; and
  - (ii) we do not terminate this *contract* under clause 4 (Eligibility for this Market Contract) we will provide you with notice of the correct *market offer prices* that apply to your *energy plan* under this *contract* in accordance with *regulatory requirements*.
- (b) If we vary our *market offer prices* under this clause 13.7 you may terminate this *contract* under clause 5.3(b) without paying any otherwise applicable *exit fee*.

#### 13.8 Variation to market offer prices due to increase in pass through costs

- (a) To the extent permitted by *regulatory requirements*, we are entitled at our discretion to pass through to you any increases in:
  - (i) taxes;
  - (ii) charges imposed by government or energy market regulatory bodies;
  - (iii) metering charges;
  - (iv) charges to reasonably reflect any change in the applicable loss factors provided by AEMO in relation to electricity that is lost through the transmission and *distribution systems* on the way to the premises, where those increases relate to the supply of natural gas and/or electricity by us to you and at a rate that apportions to you an appropriate allocation of the cost increase.
- (b) Our *market offer prices* may be varied in accordance with any pricing decision, approval or determination by a regulatory body to the extent the decision, approval or determination relates to our *market offer prices*.

### 13.9 Variation of market offer prices due to Consumer Price Index increases

- (a) In the case of changes in the Consumer Price Index, we may adjust our *market offer prices* to reflect any variation in the Consumer Price Index during the previous year.
- (b) Any such variation will be calculated by multiplying the existing charge by the Consumer Price Index for the 12 months at the end of the latest available quarter and dividing it by the Consumer Price Index for the preceding 12 months, with pro rata adjustment to contracts in force for less than the full year.

### 13.10 Exercise of discretion in relation to price variations

- (a) Where we have the right to vary the *market offer prices*, we may in our discretion elect not to do so based on:
  - (i) our evaluation of our ability to absorb the cost increase and still maintain a reasonable return on supply under this *contract*;
  - (ii) whether the current or new *market offer prices* or variations are consistent with the *market offer prices* and variations applicable to similar customers of us and other retailers in similar circumstances; or
  - (iii) both these factors or any other relevant factors.
- (b) The exercise of our discretion not to vary the *market offer prices* is not a waiver of our right to do so, and we may decide to vary the prices according to this *contract* at any time while the events that gave rise to the right persist.

### 13.11 Energy plans

- (a) This *contract* may include an *energy plan* or a number of *energy plans* throughout the *contract* term. Only one *energy plan* will apply at any one time during the *contract*. However, this *contract* will remain in force whether or not an *energy plan* is in place.
- (b) If this *contract* ends or is terminated, any *energy plan* that is in place will also end or will be terminated at the same time.
- (c) We will notify you that a current *energy plan* will end no earlier than 40 business

days and no later than 20 business days before the end of the *contract*, at which time we may offer you a new *energy plan*.

### 13.12 GST

Amounts specified in the *market offer prices* from time to time and other amounts payable under this *contract* are inclusive of GST.

## 14. METERS

- (a) You must allow us and our *authorised representatives* safe and unhindered access to your premises for the purposes of (where relevant):
  - (i) reading, testing, maintaining, inspecting or altering any *metering installation* at the premises; and
  - (ii) calculating or measuring energy supplied or taken at the premises; and
  - (iii) checking the accuracy of metered consumption at the premises; and
  - (iv) replacing *meters*.
- (b) We will use our best endeavours to ensure that a *meter reading* is carried out as frequently as is needed to prepare your bills, consistently with the metering rules and in any event at least once every 12 months.
- (c) If we or our *authorised representatives* seek access to the premises under paragraph (a), we will:
  - (i) comply with all relevant requirements under the *energy laws*; and
  - (ii) show identification if requested.
- (d) If we propose to replace your electricity *meter* we must give you a notice with the right to elect not to have your *meter* replaced unless:
  - (i) your *meter* is faulty or sample testing indicates it may become faulty; or
  - (ii) you have requested or agreed to the replacement of your *meter*.

## 15. INTERRUPTION TO ELECTRICITY SUPPLY

### 15.1 We may arrange retailer planned interruptions (maintenance, repairs, etc)

- (a) We may arrange *retailer planned interruptions* to the supply of electricity to your premises where permitted under

the *energy laws* for the purpose of the installation, maintenance, repair or replacement of your electricity *meter*; and

- (b) If your electricity supply will be affected by a *retailer planned interruption* arranged by us, we will give you at least 4 business days' notice by mail, letterbox drop, press advertisement or other appropriate means.

### 15.2 Your right to information about planned interruptions

- (a) If you request us to do so, we will use our best endeavours to explain a *retailer planned interruption* to the supply of electricity to the premises which was arranged by us.
- (b) If you request an explanation be in writing we must, within 10 business days of receiving the request, give you either:
  - (i) the written explanation; or
  - (ii) an estimate of the time it will take to provide a more detailed explanation if a longer period is reasonably needed.
- (c) For interruptions made by your *distributor*, we may refer you to your *distributor* to provide information.

## 16. BILLING

### 16.1 General

We will send a bill to you as soon as possible after the end of each billing cycle, and in any case at least every 120 days.

We will send the bill:

- (a) to you at a postal or email address nominated by you; or
- (b) to a person authorised in writing by you to act on your behalf at an address specified by you.

### 16.2 Calculating the bill

Bills we send you ("your bills") will be calculated on:

- (a) the amount of energy consumed at your premises during the billing cycle (using information obtained from reading your *meter* or otherwise in accordance with the *Rules*); and
- (b) the amount of fees and charges for any other services provided under this *contract* during the billing cycle; and

- (c) the charges payable for services provided by your *distributor*, including connection charges if you have asked for a new connection or connection alteration and have not made alternative arrangements with your *distributor*.

### 16.3 Content of bill

- (a) The content of your bill will comply with the requirements of the *Rules*.
- (b) You will receive separate bills for natural gas and electricity. Each bill will separately identify charges for natural gas and electricity.
- (c) If we provide goods or services in addition to the supply of natural gas and electricity, those items will be billed separately or as separate items on the bill. We will apply payments for those goods or services as you direct or, if you do not direct how to apply payment, we will apply payment to charges related to the supply of electricity first, then to charges related to the supply of natural gas and then to the additional goods or services.

### 16.4 Your historical billing information

Upon request, we must give you information about your billing history for the previous two (2) years free of charge.

However, we may charge you if we have already given you this information in the previous 12 months, or if you require information going back more than two (2) years.

### 16.5 Bill adjustment

If your bill covers a period other than your usual billing cycle, or a period during which your tariff changes, we must charge in proportion to the relevant periods and clearly show relevant details on your bill.

### 16.6 Estimating the energy usage

- (a) We may estimate the amount of energy consumed at your premises if your *meter* cannot be read, if your *metering data* is not obtained (for example, if access to the *meter* is not given or the *meter* breaks down or is faulty) or if you otherwise consent.
- (b) If we estimate the amount of energy consumed at your premises to calculate a bill, we must:

- (i) clearly state on the bill that it is based on an estimation;
  - (ii) when your *meter* is later read, adjust your bill for the difference between the estimate and the energy actually used.
- (c) If the later meter read shows that you have been undercharged, we will allow you to pay the undercharged amount in instalments, over the same period of time during which the *meter* was not read (if less than 12 months), or otherwise over 12 months.
- (d) If the *meter* has not been read due to your actions, and you request us to replace the estimated bill with a bill based on an actual reading of the *meter*, we will comply with your request but may charge you any cost we incur in doing so.

## 17. PAYING YOUR BILL

### 17.1 What you have to pay

You must pay to us the amount shown on each bill by the date for payment (*pay-by date*) on the bill. The *pay-by date* will be no earlier than 12 business days from the date on which we issue your bill, unless otherwise agreed.

### 17.2 Payment methods

- (a) You can pay a bill:
- (i) in person at our office or through one of our agents;
  - (ii) by post;
  - (iii) by direct debit from a cheque, savings or credit card account;
  - (iv) by telephone from your credit card account;
  - (v) by automatic direct debit under payment arrangements agreed to by you and us in accordance with the requirements under the *Rules*;
  - (vi) by electronic payment over the internet from your credit card account;
  - (vii) by using Centrepay (available to all customers who meet the Centrelink requirements for using the service); or
  - (viii) by any other method we agree from time to time.

- (b) A payment is made when we actually receive it or, if you pay by cheque, when the cheque is honoured.
- (c) You may make payments in relation to your bill in advance.

### 17.3 Direct debit

If we offer you the option of payment directly from your bank account, we will do so on terms consistent with the Code of Banking Practice, the Electronic Funds Transfer Code of Conduct and the *Rules*. We will not alter the amount (which may include the full bill or an agreed instalment) and the frequency of the direct debits without your *explicit informed consent*.

### 17.4 Issue of reminder notices

If you have not paid your bill by the *pay-by date*, we will send you a reminder notice that payment is required. The reminder notice will give you a further due date for payment which will be not less than 6 business days after we issue the notice.

### 17.5 Difficulties in paying

- (a) If you have difficulties paying your bill, you should contact us as soon as possible. We will provide you with information about payment options.
- (b) If you are a residential customer and have told us that you have difficulty paying your bill, we must offer you the option of paying your bill under a payment plan. However, we are not obliged to do so if you have had 2 payment plans cancelled due to non-payment in the previous 12 months or have been convicted of an offence involving the illegal use of energy in the previous two (2) years.
- (c) Additional protections may be available to you under our Customer Hardship Policy and under the *National Energy Retail Law and Rules* if you are a customer experiencing payment difficulties due to hardship. A copy of our Customer Hardship Policy is available on our website.

### 17.6 Late payment fees

- (a) Subject to sub-clause (b) and (c) below, if you have not paid a bill by the *pay-by-date*, we may, subject to *regulatory requirements*, require you to pay a late payment fee,

which is part of our *market offer prices* contained in the *Basic Plan Information Document* and *Schedule of Charges*.

- (b) We will not charge a late payment fee in the following circumstances:
- (i) if we have agreed to extend the time for payment of the relevant bill, and that extended period has not expired;
  - (ii) the relevant bill, or another bill issued under this *contract*, is the subject of a matter being considered by the energy ombudsman; or
  - (iii) the relevant bill is subject to an arrangement to pay by instalments under a payment plan, and you have complied with the agreed payment plan.
- (c) In addition to the circumstances outlined in clause 17.6(b) above, if your premises are located in NSW, we will not charge a late payment fee if we are aware that:
- (i) you receive the NSW Government's Low Income Household Rebate or Medical Energy Rebate and this *contract* relates to the supply of electricity supply only, or both electricity and gas supply;
  - (ii) any part of the bill is paid by a voucher issued under the NSW Government's Energy Accounts Payment Assistance Scheme; or
  - (iii) you have sought assistance to pay the bill from a participating community welfare organisation that issues vouchers under the NSW Government's Energy Accounts Payment Assistance Scheme.

### 17.7 Shortened collection cycles

- (a) We may offer you a shortened collection cycle as a financial accommodation.
- (b) We may also place you on a shortened collection cycle without your consent in circumstances permitted by the *Rules*.

### 17.8 Debt collection procedures

- (a) Where we are permitted under the *National Energy Retail Law and Rules*, if you do not pay any bill by the *pay-by date* and non-payment gives rise to a right to disconnect the premises, we will:
- (i) comply with all requirements relating to disconnection for non-payment;

- (ii) if these requirements do not resolve the issue, disconnect the premises; and
- (iii) if payment is not provided within five business days, refer the debt to a mercantile agent or debt collection agency.

- (b) If the non-payment does not give rise to a right to disconnect the premises, to the extent permitted by the *National Energy Retail Law and Rules*, we will follow the same procedure but without disconnecting the premises and may take legal action to recover the debt.

## 18. UNDERCHARGING AND OVERCHARGING

### 18.1 Undercharging

- (a) If we have undercharged you, we may recover the undercharged amount from you. If we recover an undercharged amount from you:
- (i) we will not charge interest on the undercharged amount; and
  - (ii) we will offer you time to pay the undercharged amount in instalments over the same period of time during which you were undercharged (if less than 12 months), or otherwise over 12 months.

The maximum amount we can recover from you is limited to that amount that has been undercharged in the nine (9) months immediately before we notify you, unless the undercharge is your fault or results from your unlawful act or omission.

### 18.2 Overcharging

- (a) Where you have been overcharged by less than \$50, and you have already paid the overcharged amount, we must credit that amount to your next bill.
- (b) Where you have been overcharged by \$50 or more, we must inform you within 10 business days of our becoming aware of the overcharge and if, you have already paid that amount, we must credit that amount to your next bill. However, if you request otherwise, we will comply with that request.
- (c) If you have stopped buying energy from us, we will use our best endeavours to pay the overcharged amount to you within 19 business days.

- (d) If you have been overcharged as a result of your own fault or unlawful act or omission, we may limit the amount we credit or pay you to the amount were overcharged in the last 12 months.

### 18.3 Reviewing your bill

- (a) If you disagree with the amount you have been charged, you can ask us to review your bill in accordance with our standard complaints and dispute resolution procedures.
- (b) If you ask us to, we must arrange for a check of the *meter reading or metering data* or for a test of the *meter* in reviewing the bill. You will be liable for the cost of the check or test and we may request payment in advance. However, if the *meter or metering data* proves to be faulty or incorrect, we must reimburse you for the amount paid.
- (c) If your bill is being reviewed, you are still required to pay any other bills from us that are due for payment and the lesser of:
  - (i) the portion of the bill that you do not dispute; or
  - (ii) an amount equal to the average of your bills in the last 12 months.
- (d) We will review your bill within 20 days of you requesting us to do so, and either determine that it is:
  - (i) correct, in which case we may require you to pay the amount of the bill that is still outstanding;
  - (ii) incorrect, in which case we:
    - (A) must adjust the bill in accordance with the *Rules*, as the case requires;
    - (B) may require you to pay the amount (if any) of the bill that is still outstanding; and
    - (C) must refund (or set off against the amount in subparagraph (B)) any amount paid in advance.
- (e) If you are not satisfied with our decision in the review and our action or proposed course of action, you may lodge a dispute with the energy ombudsman after the completion of our review of your bill.

## 19. SECURITY DEPOSITS

### 19.1 Security deposit

We may require that you provide a security deposit. The circumstances in which we can require a security deposit and the maximum amount of the security deposit are governed by the *Rules*.

### 19.2 Consideration of credit history

- (a) For the purpose of deciding whether to require you to provide a security deposit, we will need to obtain a credit check of your credit history. By entering into this *contract*, you agree that you have provided us with your permission to obtain this credit check.
- (b) In addition to the credit check of your credit history, we may also request that you provide us other information relating to your credit history.
- (c) When deciding whether to require you to provide a security deposit, we will take into consideration:
  - (i) any credit history obtained as a result of the credit check; and
  - (ii) any credit history provided by you;
  - (iii) any other available information that relates to your credit history; and
  - (iv) that is reasonably required for us to assess the ability of you to meet your financial obligations under the *contract*.

### 19.3 Interest on security deposits

Where you have paid a security deposit, we must pay you interest on the security deposit at rate and on terms required by the *Rules*.

### 19.4 Use of security deposit

We may use your security deposit, and any interest earned on the security deposit, to offset any amount you owe under this *contract*:

- (a) if you fail to pay a bill and as a result we arrange for the disconnection of your premises;
- (b) in relation to a final bill (i.e. a bill we issue when you vacate premises or when you stop purchasing energy from us at your premises or when you request that your premises be disconnected); or
- (c) if you fail to pay any other amount due under the *contract*.

### 19.5 Return of security deposit

- (a) We must return your security deposit and any accrued interest in the following circumstances:
  - (i) you complete one (1) year's payment (in the case of residential customers) or two (2) years' payment (in the case of business customers) by the *pay-by dates* on our initial bills; or
  - (ii) subject to clause 19.3 of this *contract*, you stop purchasing energy at the relevant premises under this *contract*.
- (b) If you do not give us any reasonable instructions, we will credit the amount of the security deposit, together with any accrued interest, to your next bill.

## 20. DISCONNECTION OF SUPPLY

### 20.1 When can we arrange for disconnection?

Subject to us satisfying the requirements in the *Rules*, we may arrange for the disconnection of your premises if:

- (a) you do not pay a bill by the *pay-by date* and, if you are a residential customer, you:
  - (i) fail to comply with the terms of an agreed payment plan; or
  - (ii) do not agree to an offer to pay the bill by instalments, or having agreed, you fail to comply with the instalment arrangement;
- (b) you do not provide a security deposit we are entitled to require from you; or
- (c) due to your acts or omissions we, the *distributor* or the *metering service provider* cannot safely access the *meter* at the premises where access is required, including to read, test, check, inspect, maintain, repair, alter, replace or remove the *meter*; or
- (d) you obstruct an authorised person in relation to any act, matter or thing done or to be done in carrying out any function under this *energy plan*;
- (e) you fail to give us safe and unhindered access to the premises as required by clause 14(a) or any requirements under the *energy laws*; or

- (f) there has been illegal or fraudulent use of energy at your premises in breach of clause 22 of this *contract*; or
- (g) you ask us to; or
- (h) your *distributor* makes a valid request to us; or
- (i) we are otherwise entitled or required to do so under the *Rules* or by law.

### 20.2 Notice and warning of disconnection

Before disconnecting your premises, we must comply with relevant warning notice requirements and other provisions in the *Rules*, and in relation to safe and unhindered access only, we must use our best endeavours to contact you to arrange an appointment with you for access to your premises in addition to any warning notice. However, we are not required to provide a warning notice prior to disconnection in certain circumstances (for example, where there has been illegal or fraudulent use of energy at your premises or where there is an emergency or health and safety issue).

### 20.3 When we must not arrange disconnection

- (a) Subject to paragraph (b), your premises may not be disconnected during the following times ("the protected period"):
  - (i) on a business day before 8.00am or after 3.00pm; or
  - (ii) on a Friday or the day before a public holiday; or
  - (iii) on a weekend or a public holiday; or
  - (iv) on the days between 20 December and 31 December (both inclusive) in any year.
- (b) Your premises may be disconnected within the protected period:
  - (i) for reasons of health and safety; or
  - (ii) in an emergency; or
  - (iii) as directed by a relevant authority; or
  - (iv) if you are in breach of clause 7 of your *customer connection contract* which deals with interference with energy equipment; or
  - (v) if you request us to arrange disconnection within the protected period; or



- (vi) if your premises contain a commercial business that only operates within the protected period and where access to the premises is necessary to effect disconnection; or
- (vii) where the premises are not occupied.

#### 20.4 Disconnection under dual fuel contract

- (a) If we sell both electricity and natural gas to you under this *contract* or we sell electricity or natural gas to you under this *contract* but we bill you for both electricity and natural gas under a single bill, the *contract* is a dual fuel *contract* for the purposes of the *Rules*.
- (b) Where we have the right to disconnect both electricity and natural gas at your premises under clause 20.1, your natural gas supply will always be disconnected prior to the disconnection of your electricity supply. Your electricity supply will be disconnected no earlier than 15 business days after the date your natural gas supply is disconnected.

#### 20.5 Disconnection on request

- (a) You may request us to disconnect your premises. This request must be made either in writing or by telephone. You must give us at least 3 business days' notice in the case of natural gas and 72 hours' notice in the case of electricity including where you intend to vacate or have vacated the premises.
- (b) A request made under clause 20.5(a) must include:
  - (i) the date on which you intend for your premises to be disconnected; and
  - (ii) if you are vacating the your premises, a forward address to which a final bill may be sent.
- (c) We must use reasonable endeavours to arrange for:
  - (i) disconnection in accordance with your request;
  - (ii) a *meter reading*; and
  - (iii) if applicable, the preparation and issue of a final bill for the premises.

#### 21. RECONNECTION AFTER DISCONNECTION

- (a) We must arrange for the reconnection of your premises if, within 10 business days of

your premises being disconnected:

- (i) you ask us to arrange for reconnection of your premises; and
- (ii) you rectify the matter that led to the disconnection; and
- (iii) you pay any reconnection charge (if requested).

- (b) We may terminate this *contract* 10 business days following disconnection if you do not meet the requirements in paragraph (a).

#### 22. WRONGFUL AND ILLEGAL USE OF ENERGY

You must not, and must take reasonable steps to ensure others do not:

- (a) illegally use energy supplied to your premises; or
- (b) interfere or allow interference with any energy equipment that is at your premises except as may be permitted by law; or
- (c) use the energy supplied to your premises or any energy equipment in a manner that:
  - (i) unreasonably interferes with the connection or supply of energy to another customer; or
  - (ii) causes damage or interference to any third party; or
- (d) allow energy purchased from us to be used otherwise than in accordance with this *contract* and the *Rules*; or
- (e) tamper with, or permit tampering with, any *meters* or associated equipment.

#### 23. NOTICES AND BILLS

- (a) Notices and bills under this *contract* must be sent in writing, unless this *contract* or the *National Energy Retail Law* and *Rules* say otherwise.
- (b) A notice or bill sent under this *contract* is taken to have been received by you or by us (as relevant):
  - (i) on the date it is handed to the party, left at the party's premises (in your case) or one of our offices (in our case) or successfully faxed to the party (which occurs when the sender receives a transmission report to that effect); or

- (ii) on the date two (2) business days after it is posted; or
- (iii) on the date of transmission (unless the sender receives notice that delivery did not occur or has been delayed) if sent electronically and the use of electronic communication has been agreed between us.
- (c) Our contact details for you to contact us or send us a notice are as set out in our bill to you, or as notified to you from time to time.
- (E) if required or permitted by law;
- (F) under coverage of a confidentiality agreement to help us serve you, conduct surveys or make offers to you; or
- (G) to anyone else with your permission.
- (e) If you do not wish your details to be used for information or promotional purposes, please call 13 14 93.
- (f) We may disclose information about you or your metering information in the circumstances permitted or required by law.

## 24. PRIVACY ACT NOTICE

- (a) We will comply with all relevant privacy legislation in relation to your personal information. You can find a summary of our privacy policy on our website. If you have any questions, you can contact our privacy officer.
- (b) You agree that we may cross-reference your personal information across any electricity, natural gas and water and sewerage services that we provide to you to check the accuracy of your contact details.
- (c) For any enquiries concerning privacy or the personal information we hold about you, please contact our privacy officer on 13 14 93.
- (d) You consent to us using information about you, your supply address, your natural gas and electricity usage, your *metering data* and any related or similar information:
  - (i) for internal purposes and reporting to our shareholders, parent company or their shareholders;
  - (ii) to comply with our obligations under this *contract*;
  - (iii) to give to a third party:
    - (A) if you are not readily identifiable;
    - (B) to help assess your credit worthiness or to assist recovery against you if you breach this *contract*;
    - (C) to help plan delivery of electricity through the transmission and *distribution systems*;
    - (D) to help plan delivery of natural gas through the pipeline system and *distribution systems*;

## 25. METERING DATA

- (a) *Metering service providers* must receive and securely maintain data collected from *meters* under the *regulatory requirements*. As your *retailer*, you authorise us to access your *metering data* and to obtain *metering data* relating to your current and previous energy accounts from third parties as your *authorised representative*.
- (b) You can request access to your *metering data* from us yourself or through your *authorised representative* by submitting a request at <https://www.actewagl.com.au/help-and-advice/understanding-your-account/customer-usage.aspx>. We may ask you or your *authorised representative* to provide verification information including acceptable identification and proof of consent.
- (c) We will endeavour to provide you or your *authorised representative* access to your *metering data* within 10 business days of us receiving the complete verification information required, unless your *authorised representative* makes a request on behalf of multiple customers, in which case a reasonable timeframe for provision of *metering data* will be agreed on request.
- (d) We may provide the information requested in clause 25(b) subject to a reasonable charge where:
  - (i) more than 4 applications are made in any 12 month period;
  - (ii) information is requested in a different manner or form from that specified in the *regulatory requirements*; or

- (iii) your *authorised representative* requests the information on behalf of more than one customer.

## 26. COMPLAINTS AND DISPUTE RESOLUTION

### 26.1 Complaints

If you have a complaint in relation to the sale of energy by us to you, or this *contract* generally, you may lodge a complaint with us in accordance with our standard complaints and dispute resolution procedure.

Note: Our standard complaints and dispute resolution procedures are published on our website.

### 26.2 Our obligations in handling complaints

If you make a complaint, we must respond to your complaint within the required timeframes set out in our standard complaints and dispute resolution procedures and inform you:

- (a) of the outcome of your complaint and the reasons for our decision; and
- (b) that if you are not satisfied with our response, you have a right to refer the complaint to:
  - (i) if your premises are located in New South Wales, the Energy and Water Ombudsman NSW (EWON); and
  - (ii) if your premises are located in the Australian Capital Territory, the ACT Civil and Administrative Tribunal (ACAT).

## 27. FORCE MAJEURE

### 27.1 Effect of force majeure event

If either party to this *contract* cannot meet an obligation under this *contract* because of an event or circumstance outside the control of that party ("*force majeure event*"):

- (a) the obligation, other than an obligation to pay money, is suspended to the extent it is affected by the *force majeure event* for as long as the *force majeure event* continues; and
- (b) the affected party must use its best endeavours to give the other party prompt notice of that fact including full particulars of the event, an estimate of its likely duration, the extent to which the affected

party's obligations are affected and the steps being taken to remove, overcome or minimise those effects.

### 27.2 Deemed prompt notice

If the effects of a *force majeure event* are widespread, we will be deemed to have given you prompt notice if we make the necessary information available by way of a 24 hour telephone service within 30 minutes of being advised of the event or otherwise as soon as practicable.

### 27.3 Obligation to overcome or minimise effect of force majeure event

A party that claims a *force majeure event* must use its best endeavours to remove, overcome or minimise the effects of that event as soon as practicable.

### 27.4 Settlement of industrial disputes

Nothing in this clause requires a party to settle an industrial dispute that constitutes a *force majeure event* in any manner other than the manner preferred by that party.

### 27.5 Impact and liability

- (a) We will not be liable to you for our failure to fulfil this *contract* where that failure is the result of a *force majeure event*.
- (b) If a *force majeure event* prevents us from fulfilling our obligation to sell natural gas and/ or electricity to you for 12 continuous days or longer, or permits us to change additional amounts for a period for 14 continuous days or longer, we may elect to terminate this *contract*.

## 28. APPLICABLE LAW

The following laws govern this contract:

- (a) if your premises are located in New South Wales, the laws of NSW; and
- (b) if your premises are located in the Australian Capital Territory, the laws of the ACT.

## 29. RETAILER OF LAST RESORT

If we are no longer entitled by law to sell energy to you due to a Retailer of Last Resort (RoLR) event occurring in relation to us:

- (a) we are required under the *National Energy Retail Law* and *Rules* to provide relevant information (including your

name, billing address and metering identifier) to the entity appointed as the relevant designated retailer for the RoLR event; and

(b) this *contract* will come to an end.

## 30. GENERAL

### 30.1 Our obligations

Some obligations placed on us under this *contract* may be carried out by another person. If an obligation is placed on us to do something under this *contract*, then:

- (a) we are taken to have complied with the obligation if another person does it on our behalf;
- (b) if the obligation is not complied with, we are still liable to you for the failure to comply with this *contract*.

### 30.2 Waiver

A right under this *contract* may be waived only in writing by the person giving the waiver.

### 30.3 No representations or warranties

You acknowledge that in entering into this *contract* you have not relied on any separate promises from us that have not been included in this *contract*.

### 30.4 Entire agreement

This *contract* constitutes the entire agreement between us about the subject matter.

### 30.5 Assignment

You may not assign your rights or obligations under this *contract* without our consent.

## 31. DEFINITIONS

**Australian Consumer Law** means the Australian Consumer Law in Schedule 2 to the *Competition and Consumer Act 2010*.

**authorised representative** means a person authorised by us to perform the services on our behalf or a person authorised by you to request and receive *metering data* on your behalf.

**Basic Plan Information Document** means the document setting out our offer to you to provide *customer retail services* including the *market offer* prices for those services which if accepted by you forms part of this *contract*.

**BPID** means *Basic Plan Information Document*.

**cooling-off period** has the meaning given in clause 5.2.

**Consumer Guarantees** has the meaning given to that term in clause 10.2.

**contract** means these *market retail contract terms* together with any applicable *market offer*, the *Basic Plan Information Document* and the *Schedule of Charges*.

**customer connection contract** means a contract between a distributor and a customer regulated under the *National Energy Retail Law and Rules*.

**customer equipment** means any of the following equipment that is sold, installed or provided by us to you:

- (a) a solar photovoltaic system;
- (b) a battery storage system;
- (c) an energy monitoring device;
- (d) a smart meter;
- (e) an energy efficiency appliance; or
- (f) any associated equipment.

**customer retail contract** means a *contract* between a small customer and a retailer which is regulated under the *National Energy Retail Law and Rules*.

**customer retail service** means the sale of energy by a *retailer* to a customer at premises.

**deemed customer retail arrangement** means a retail arrangement that comes into existence between a *retailer* and a customer in accordance with the *National Energy Retail Law and Rules* in the absence of a *customer retail contract*.

**distribution system** means a distribution network, together with the connection assets associated with the distribution network, which is connected to another transmission or distribution system.

**distributor** means the person who operates a *distribution system* that connects your premises to the distribution network.

**distributor planned interruption** means an *interruption* for:

- (a) the planned maintenance, repair or augmentation of the transmission system; or
- (b) the planned maintenance, repair or augmentation of the *distribution system*,

including planned or routine maintenance of a meter (excluding a *retailer planned interruption*): or

- (c) the installation of a new connection or a connection alteration.

**embedded network** means a *distribution system*, connected at a parent connection point to either a *distribution system* or transmission system that forms part of the national grid, and which is owned, controlled or operated by a person who is not a network service provider.

**energy laws** means national and State and Territory laws and rules relating to energy and the legal instruments made under those laws and rules.

**energy plan** means any benefits, rewards and discounts you may receive when we supply *customer retail services* to you under this *market retail contract*, in accordance with the terms and conditions of a relevant *offer* and for a specific *energy plan period*.

**energy plan commencement date** means the date from which an *energy plan* is effective, which is either:

- (a) for the initial *energy plan* under this *market retail contract*, the *supply commencement date* or when all *customer retail services* included in the *contract* have been accepted in our systems; or
- (b) the day after the *energy plan end date* of an immediately preceding *energy plan* under this *market retail contract*.

**energy plan end date** means the date on which an *energy plan period* ends, as calculated in accordance with a relevant *offer*.

**energy plan period** means from the *energy plan commencement date* until the *energy plan end date* as specified in the relevant *offer*, which may also be referred to as a "benefit period" or a "term" of an *energy plan*.

**excluded area** means an area in which its postcode is not on the list of postcodes on our *Schedule of Charges* for supplying electricity in NSW.

**exempt seller arrangement** means an arrangement whereby a person who engages in the activity of owning, controlling or

operating an *embedded network* under an exemption granted or deemed to be granted by the Australian Energy Regulator (AER) under section 13 of the National Electricity Law.

**exit fee** means the fee payable by you if you terminate this *contract* in accordance with clause 5.3(b) and before the expiry of the initial *energy plan period* specified in the *Basic Plan Information Document*.

**explicit informed consent** is a particular type of consent that we must obtain from you in accordance with the *National Energy Retail Law* and *Rules* to ensure that your consent to a transaction is validly given. The specific requirements in relation to what constitutes explicit informed consent are contained in the *National Energy Retail Law* and *Rules*.

**force majeure event** has the meaning given to that term in clause 27.1.

**GreenPower Product** means a product accredited under the rules and guidelines of the National GreenPower Accreditation program (as amended from time to time) as having 10 per cent or more accredited GreenPower. The GreenPower Program is a joint initiative of the Australian Capital Territory, New South Wales, South Australian, Queensland, Victorian and Western Australian Governments.

**hardship customer** means residential customer who is identified as a customer experiencing financial payment difficulties due to hardship in accordance with our Customer Hardship Policy.

**interruption** means a temporary unavailability or temporary curtailment of the supply of electricity from a *distribution system* to a customer, but does not include disconnection;

**large customer** means a business customer who consumes energy at business premises at or above the *upper consumption threshold*.

**life support equipment** has the same meaning as in the *Rules*.

**major failure** has the same meaning as in the *Australian Consumer Law*.

**manual meter reading** means a site visit by a *metering service provider* is required to read the *meter* to collect *metering data*.

**market offer** means an *offer* by a retailer to a *small customer* to provide *customer retail services* under a *market retail contract*;

**market offer prices** means the prices set out in the *Basic Plan Information Document* and *Schedule of Charges*.

**market retail contract** means a *customer retail contract* negotiated and entered into between a retailer and a *small customer* for *customer retail services* and any other services.

**medical confirmation** means certification from a registered medical practitioner of the requirement for *life support equipment* at your premises

**meter** means an instrument that measures the quantity of energy passing through it and includes associated equipment attached to the instrument, including any recording and display equipment and communications interface, to control or regulate the flow of energy.

**metering data** means the metering data (as that term is defined under the National Electricity Rules) that is required to be provided in accordance with the metering data provision procedures published by the Australian Energy Market Operator.

**metering installation** means the assembly of components including the instrument transformer, if any, measurement element(s) and processes, if any, recording and display equipment, communications interface, if any, that are controlled for the purpose of metrology and which lie between the metering point(s) and the point at or near the metering point(s) where the energy data is made available for collection.

**meter reading** means a physical inspection of a meter, or remote receipt of processed data from a digital meter, which indicates at a point in time the quantity of energy that has passed through the meter.

**metering service provider** means any person (or company) including the Metering Coordinator, Metering Provider, Metering Data Provider as defined in the National Electricity Rules or distributor who provides metering and related services on our or the distributor's behalf in relation to:

- (a) *meters*, including to read, install, inspect, test, repair, maintain, exchange, alter, replace or remove meters;
- (b) *metering data* processing and transfer; and
- (c) the sale and supply of energy under this *market retail contract*.

**National Energy Retail Law** means the *National Energy Retail Law* as in force under the *National Energy Retail Law (Adoption) Act 2012 (NSW)* and the *National Energy Retail Law (ACT) Act 2012*.

**NMI** means a National Metering Identifier that is used to identify a *metering installation*.

**offer** means the offer we make to you as set out in an *Basic Plan Information Document* or in a subsequent offer, as the context requires.

**pay-by date** has the meaning given to that term in clause 17.1.

**regulatory requirements** means a requirement under the National Electricity Rules, any Commonwealth, State or local government legislation including Acts of Parliament, regulations, by-laws or other subordinate legislation, judicial, administrative or regulatory decrees or orders, or any mandatory approvals and guidelines, including industry standards or administrative interpretations of them, as may be in force and as amended from time to time and includes any of the above which has as one of its purposes the reduction and/or limitation of greenhouse gases, trading in greenhouse gas emission units, credits, permits or offsets, addressing the effects of climate change, encouraging the generation or production of renewable energy, reducing the consumption of energy or minimising the environmental impact of energy industries generally.

**retailer** means a person who is authorised to sell energy under the *National Energy Retail Law and Rules*.

**retailer planned interruption** means an interruption that:

- (a) is for the purposes of the installation, maintenance, repair or replacement of your *electricity meter*; and
- (b) does not involve the *distributor* effecting the interruption; and

(c) is not an interruption which has been planned by your *distributor*.

**Rules** means the National Energy Retail Rules made under the *National Energy Retail Law*.

**Schedule of Charges** means the Schedule published on ActewAGL's website at actewagl.com.au as amended from time to time.

**Single Written Disclosure Statement** means a statement that we will provide to you after the formation of the *contract* which contains information required by the *Rules*.

**small customer** means a customer who is a residential customer or a business customer who consumes energy at business premises below the *upper consumption threshold*.

**smart meter** means an electricity digital *meter* which meets the Type 4 minimum services

specification in the *regulatory requirements*; **smart meter without communications** means a Type 4A *meter* which is a digital *meter* with the telecommunications network connection function deactivated.

**supply commencement date** means the date specified in the *Basic Plan Information Document* or as otherwise determined under clause 5.5.

**standing offer** means an offer which made by a designated retailer for your premises to provide *customer retail services* at standing offer prices.

**upper consumption threshold** means 100MWh per year for electricity and 1 terajoule per year for natural gas.

# actewagl.com.au

## Customer enquiries

13 14 93

## Emergencies and faults

13 10 93 – Electricity

13 19 09 – Natural gas

24 hours

## Postal address

ActewAGL

GPO Box 366

Canberra ACT 2601

## Language assistance

如果您需要幫助，請打電話給下面的號碼。

¿Necesita un intérprete? Llame al número indicado abajo.

هل تحتاج إلى مترجم؟ اتصل بالرقم أدناه.

Trebate li pomoć tumača? Nazovite naše navedeni broj.

Nếu quý vị cần sự giúp đỡ, vui lòng gọi số bên dưới.

Se vi serve un interprete, telefonate al seguente numero.

Αν χρειάζεστε διερμηνέα, τηλεφωνείτε στον αριθμό παρακάτω.

13 14 50