

Australian Capital Territory

## **Utilities (Variation of Terms) Approval 2004 (No 1)**

**Notifiable Instrument NI2004-334**

made under the

***Utilities Act 2000, s 93 (Variation of Terms)***

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The ICRC approves the attached variation of the terms of ActewAGL Retail's standard customer contract for gas connection and supply.

This approval commences on the day after notification.

Paul Baxter  
Senior Commissioner  
for Independent Competition and Regulatory Commission  
30 August 2004

## ATTACHMENT

|   |      | Current Version   |      | Proposed Changes  |
|---|------|---|------|---|
| <b>Gas connection and supply contract</b>                             | B    | This contract applies to any <i>contestable customers</i> we agree to supply or connect, until a negotiated contract is signed.   | B    | This contract applies to any <i>contestable customers</i> we agree to supply or arrange to be connected, until a negotiated contract is signed.   |
| <b>What obligations do you have?</b><br><i>Application for supply</i> | 3.1  | <p>(c) demonstrate that you have a legal right of occupancy of the premises;</p> <p>(d) provide any of the other things referred to in clause 4 of the Consumer Protection Code<sup>1</sup> or clause 4.1 of the Gas General Metering Code<sup>2</sup>, on request;</p>   | 3.1  | <p>(c) demonstrate that you have a legal right of occupancy of the premises;</p> <p>(d) provide any of the other things referred to in clause 16 of the Consumer Protection Code<sup>3</sup> or clause 4.1 of the Gas General Metering Code<sup>4</sup>, on request;</p>  |
|   | 3.10 | The boundary between your equipment and our <i>gas network</i> is described in the Gas Network Boundary Code, or as otherwise agreed with you in writing. We are responsible for everything on our side of the boundary (including the meter), and you are responsible for everything on your side of the boundary after the meter. | 3.10 | The boundary between your equipment and the <i>gas network</i> is described in the Gas Network Boundary Code, or as otherwise agreed with you in writing. We are responsible for everything on our side of the boundary (including the meter), and you are responsible for everything on your side of the boundary after the meter. |

<sup>1</sup> See clause(16)(2) Consumer Protection Code for details.

<sup>2</sup> See clause 4.1 Gas General Metering Code for details.

<sup>3</sup> See clause(16)(2) Consumer Protection Code for details.

<sup>4</sup> See clause 4.1 Gas General Metering Code for details.

*Protection of our network* 3.11

- You must:
- (a) use reasonable endeavours to protect our *equipment* installed on your premises from unauthorised interference; and
  - (b) notify us of any interference, defect or damage within 5 *business days* of becoming aware of it.

You must:

- (a) use reasonable endeavours to protect our and *ActewAGL Distribution's equipment* installed on your premises from unauthorised interference; and
- (b) notify us of any interference, defect or damage within 5 *business days* of becoming aware of it.

- 3.12 You must pay the reasonable costs of repair or replacement of our *equipment* installed on your premises, on request, if the defect or damage was:

- (a) caused by you; or
- (b) caused by another person in circumstances where you failed to take reasonable care to prevent that.

You must pay the reasonable costs of repair or replacement of our and *ActewAGL Distribution's equipment* installed on your premises, on request, if the defect or damage was:

- (a) caused by you; or
- (b) caused by another person in circumstances where you failed to take reasonable care to prevent that.

- 3.13 You must not, without reasonable excuse:

- (a) throw or otherwise project an object at our *gas network*; or
- (b) drive a vehicle or operate equipment over an underground part of the network if that is likely to damage the network or endanger its safe or efficient operation.

You must not, without reasonable excuse:

- (a) throw or otherwise project an object at the *gas network*; or
- (b) drive a vehicle or operate equipment over an underground part of the network if that is likely to damage the network or endanger its safe or efficient operation.

*Easements*

3.19 You must not build over our infrastructure, or over any *easements*, or permit anyone else to do so, without our prior written consent.

3.19 You must not build over any gas infrastructure, or over any *easements*, or permit anyone else to do so, without our prior written consent.

3.25 You must comply with:

- (a) applicable *gas law*;
- (b) any obligations in the codes published under the *Utilities Act 2000* that are expressed to apply to customers;
- (c) our *Service and Installation Rules*; and
- (d) any reasonable directions we give you under the law, the codes or those rules.

3.25 You must comply with:

- (a) applicable *gas law*;
- (b) any obligations in the codes published under the *Utilities Act 2000* that are expressed to apply to customers;
- (c) *ActewAGL Distribution's Minimum Standards for Network Operation* and any *ActewAGL Service and Installation Rules*; and
- (d) any reasonable directions we give you under the law, the codes or those rules.

4.2 Before your premises can be connected to the *gas network*, you need to:

- (a) provide us with any of the information or things referred to in 3.1, on request;
- (b) install an *internal gas network* that complies with applicable *gas law* and our *Service and Installation Rules*, and any other reasonable requirements notified by us; and
- (c) pay any applicable charges.

4.2 Before your premises can be connected to the *gas network*, you need to:

- (a) provide us with any of the information or things referred to in 3.1, on request;
- (b) install an *internal gas network* that complies with applicable *gas law* and the *Service and Installation Rules*, and any other reasonable requirements notified by us; and
- (c) pay any applicable charges.

4.3 If you are a tenant or occupier, you must provide us with written

4.3 If you are a tenant or occupier, you must provide us with written

|   |      |  |      |   |
|---|------|--|------|---|
|   |      | authorisation from the owner before we may undertake connection work at the premises.  |      | authorisation from the owner before we arrange for connection work to be undertaken at the premises.  |
| <b>Correction of interruptions to your supply</b> | 5.4  | If there is an interruption to your gas supply, we will endeavour to correct it as soon as possible.   | 5.4  | If there is an interruption to your gas supply, we will endeavour to correct it or arrange for it to be corrected as soon as possible.  |
| <b>Planned interruptions</b>                      | 5.5  | We may interrupt your gas supply: <ul style="list-style-type: none"> <li>(a) in the circumstances permitted by the Consumer Protection Code;<sup>5</sup> or</li> <li>(b) as permitted or required by applicable <i>gas law</i>.</li> </ul>       | 5.5  | Your gas supply may be interrupted: <ul style="list-style-type: none"> <li>(a) in the circumstances permitted by the Consumer Protection Code;<sup>6</sup> or</li> <li>(b) as permitted or required by applicable <i>gas law</i> or the <i>Service and Installation Rules</i>.</li> </ul> |
| <b>Unplanned interruptions</b>                    | 5.7  | In the case of an unplanned interruption to your supply, you may call our enquiries line on 13 18 86 for information on, among other things, the nature of the interruption and the estimated time of restoration of supply.                     | 5.7  | In the case of an unplanned interruption to your supply, you may call our enquiries line on 13 18 86 or the faults and emergencies line on 13 19 09 for information on, among other things, the nature of the interruption and the estimated time of restoration of supply.               |
|   | 6.12 | If you have not given us at least that much notice, we may require you to pay all charges until whichever of the following occurs first: <ul style="list-style-type: none"> <li>(a) the date stated by us in a written notice to you;</li> </ul> | 6.12 | If you have not given us at least that much notice, we may require you to pay all charges until whichever of the following occurs first: <ul style="list-style-type: none"> <li>(a) the date stated by us in a written notice to you;</li> </ul>  |

<sup>5</sup> See clause 14.1 Consumer Protection Code for details.

<sup>6</sup> See clause 14.1 Consumer Protection Code for details.

|   |     |  |  |
|---|-----|--|--|
|   |     | (b) the date of the final meter reading; or  | (b) the date of the final meter reading; or  |
|   |     | (c) the date we disconnect, suspend or transfer the service.   | (c) the date your service is disconnected, suspended or transferred.   |
| <i>Extension and equipment costs</i>  | 7.2 | We may require you to pay the cost of any work undertaken to: <ul style="list-style-type: none"> <li>(a) in the case of new connections – extend the <i>gas network</i>, or increase the capacity of the network, to connect your premises; or</li> <li>(b) in the case of existing connections - vary the capacity of the <i>gas network</i>, or the connection to your premises, due to a change in your demand for gas supply, or a request by you; or</li> <li>(c) remove infrastructure at your request.</li> </ul> | 7.2 We may charge you for any work undertaken to: <ul style="list-style-type: none"> <li>(a) in the case of new connections – extend the <i>gas network</i>, or increase the capacity of the network, to connect your premises; or</li> <li>(b) in the case of existing connections - vary the capacity of the <i>gas network</i>, or the connection to your premises, due to a change in your demand for gas supply, or a request by you; or</li> <li>(c) remove infrastructure at your request.</li> </ul> |
| <b>Measuring your gas consumption</b><br><i>Meter reading and inspections</i> | 9.1 | We will arrange for our gas meters at your premises to be read each account period, unless we estimate your consumption for a period as permitted by 9.6 to 9.8.   | 9.1 We will arrange for the gas meters at your premises to be read each account period, unless we estimate your consumption for a period as permitted by 9.6 to 9.8  |
| <i>Check readings</i>   | 9.2 | In addition, we will check the accuracy of a recent meter reading, on request. You are entitled to one free check reading for each account period. The fee for additional check readings will be included in your account, as shown in the   | In addition, we will arrange a check of the accuracy of a recent meter reading, on request. You are entitled to one free check reading for each account period. The fee for additional check readings will be included in your account, as shown in the <i>Schedule of Charges</i> .   |

### *Schedule of Charges.*

|  |             |  |             |  |
|--|-------------|--|-------------|--|
| <i>Estimating your gas consumption</i> | 9.6         | We may estimate the quantity of gas supplied to your premises in the circumstances described in the Gas General Metering Code. <sup>7</sup> Alternatively, if a gas meter fails to operate, we may determine your consumption using any of the methods permitted in the <i>Access Arrangement</i> . <sup>8</sup> | 9.6         | We may estimate the quantity of gas supplied to your premises, or your demand for gas, in the circumstances described in the Gas General Metering Code. <sup>9</sup> Alternatively, if a gas meter fails to operate, we may determine your consumption using any of the methods permitted in the <i>Access Arrangement</i> . <sup>10</sup> |
| <i>We may initiate test</i>            | 9.11        | We may arrange for any of our meters on your premises to be tested at our cost. The testing may be carried out on or off site.   | 9.11        | We may arrange for any of the meters on your premises to be tested at our cost. The testing may be carried out on or off site.   |
| <i>Maintenance of meters</i>           | 9.13        | We will use reasonable endeavours to have our gas meters at your premises maintained in working order.   | 9.13        | We will use reasonable endeavours to have the gas meters at your premises maintained in working order.   |
|  | <b>10.4</b> | If you do not wish your details to be used for information or promotional purposes, please contact our customer service line on 13 18 86. We will reimburse the cost of a local call on your next account.   | <b>10.4</b> | If you do not wish your details to be used for information or promotional purposes, please contact our customer service line on 13 18 86. We will, without charge, mark your details so that their use is restricted to matters central to this contract such as sending you accounts or notice of interruption to supply.                 |
| <b>Our access to your premises</b>     | 11.1        | You must allow our employees, contractors and agents to enter  | 11.1        | You must allow our employees, contractors and agents to enter your premises:   |

<sup>7</sup> See clause 13.2 Gas General Metering Code for details.

<sup>8</sup> See clause 9 of schedule 2A Access Arrangement for details.

<sup>9</sup> See clause 13.2 Gas General Metering Code for details.

<sup>10</sup> See clause 9 of schedule 2A Access Arrangement for details.

<sup>11</sup> See for example section 117 Utilities Act.

your premises:

- (a) to carry out connection work; or
- (b) to read or test meters; or
- (c) to inspect, maintain, repair or replace our property; or
- (d) where otherwise permitted by law.<sup>11</sup>

- (a) to carry out connection work or disconnection in accordance with this contract; or
- (b) to read or test meters; or
- (c) to inspect, maintain, repair or replace our property; or
- (d) where otherwise permitted by law.<sup>12</sup>

**Disconnection by us**

*All customers*

12.1

We may arrange for your premises to be disconnected:

- (a) if you do not have a legal right of occupancy of the premises; or
- (b) if you fail to pay an account by the due date and, for *residential premises*, we have complied with all the requirements of clause 12.4 of the consumer protection code; or
- (c) if you fail to comply with any of your other obligations under this contract; or
- (d) as permitted or required by applicable *gas law*.<sup>13</sup>

12.1

We may arrange for your premises to be disconnected:

- (a) if you do not have a legal right of occupancy of the premises; or
- (b) if you fail to pay an account by the due date and, for *residential premises*, we have complied with all the requirements of clause 17.4 of the Consumer Protection Code; or
- (c) if you fail to comply with any of your other obligations under this contract; or
- (d) as permitted or required by applicable *gas law*;<sup>14</sup> or
- (e) the internal gas network at your property does not comply with the *Service and Installation Rules*.

Inserted new clause 12.3

(all other clause 12 numbers remain but clause 12.3 becomes 12.4 etc etc)

12.3

In addition to the Supplier's rights under clause 12.1, the Distributor may also disconnect the premises in the circumstances described in the Consumer Protection Code, or as otherwise permitted by *gas law* or the *Service and Installation Rules*."

<sup>12</sup> See for example section 117 Utilities Act.

<sup>13</sup> See clause 17 Consumer Protection Code for details.

<sup>14</sup> See clause 17 Consumer Protection Code for details.

**Our liability**  
*Terms implied  
by statute*

13.1 Consumer protection legislation implies terms into contracts for the supply of certain goods and services (“Implied Terms”) but permits a supplier to limit its liability in respect of those terms in certain circumstances.

13.1 Consumer protection legislation implies terms into contracts for the supply of certain goods and services which cannot be excluded (“Implied Terms”) but permits a supplier to limit its liability in respect of those terms in certain circumstances

13.2 (b) in the case of services supplied by us:  
(i) the supplying of the services again; or  
(ii) the payment of the cost of having the services supplied again.

13.2 (b) in the case of services supplied by us or arranged to be supplied by us:  
(i) the supplying of the services again; or  
(ii) the payment of the cost of having the services supplied again.

13.11 Without limiting 13.10, we are not liable for any loss of profits, business, anticipated savings or for any other indirect or consequential loss arising out of or in connection with this contract, whether in contract, tort (including negligence) or otherwise.

13.11 Without limiting 13.10, we are not liable for any loss of profits, business, or anticipated savings or for any indirect or consequential loss arising out of or in connection with this contract, whether in contract, tort (including negligence) or otherwise

*Inconsistency*

15.2 The parties must comply with the obligations imposed on them by *gas law*, except where those obligations are inconsistent with this contract. In that case this contract will prevail to the extent permitted by law.

15.2 The parties must comply with the obligations imposed on them by *gas law* or the *Service and Installation Rules*, except where those obligations are inconsistent with this contract. In that case this contract will prevail to the extent permitted by law

## Amendments to Schedule

| TERM                         | MEANING  | Amendments                    |  |
|------------------------------|--|-------------------------------|--|
| <i>ActewAGL</i>              | The retail arm of the ActewAGL joint venture which is a partnership between ACTEW Retail Limited and AGL ACT Retail Investments Pty Limited, trading as ActewAGL Retail.   | <i>ActewAGL (we, us, our)</i> | The retail arm of the ActewAGL joint venture which is a partnership between ACTEW Retail Limited and AGL ACT Retail Investments Pty Limited, trading as ActewAGL Retail  |
| <i>ActewAGL Distribution</i> | The distribution arm of the ActewAGL joint venture, which is a partnership between ACTEW Distribution Limited and AGL Gas Company (ACT) Limited, trading as ActewAGL Distribution. ActewAGL Distribution owns the <i>gas network</i> . |                               | The distribution arm of the ActewAGL joint venture, which is a partnership between ACTEW Distribution Limited and AGL Gas Company (ACT) Pty Limited, trading as ActewAGL Distribution. ActewAGL Distribution owns the <i>gas network</i> . |
| <i>connection point</i>      | the boundary between the <i>gas network</i> and <i>your consumer piping system</i> , as defined in the Network Boundary Code (which is the outlet of the meter assembly), or as otherwise agreed with you in writing.                  |                               | the boundary between the <i>gas network</i> and <i>your internal gas network</i> , as defined in the Network Boundary Code (which is the outlet of the meter assembly), or as otherwise agreed with you in writing.                        |
| <i>easement</i>              | means anything registered on the title to your premises as an <i>ActewAGL</i> easement, or shown as such on the deposited plan at the Registrar-General's Office.  |                               | means anything registered on the title to your premises as an <i>ActewAGL</i> or <i>ActewAGL Distribution</i> easement.  |
| <i>gas appliance</i>         | means a gas burning appliance that is manufactured, adapted  |                               | means a gas burning appliance that is manufactured, adapted or designed for connection to an   |

|                                       |  |  |   |
|---------------------------------------|--|--|---|
|                                       | or designed for connection to a <i>consumer piping system</i> .  |  | <i>internal gas network</i> .   |
| <i>gas law</i>                        | the <i>Utilities Act 2000</i> , the <i>Gas Safety Act 2000</i> , the Natural Gas Customer Service Code, any other applicable market, industry or technical code, the <i>Access Arrangement</i> , our <i>gas supplier's licence</i> and any other statute, regulation, ordinance, code or other law, whether territory, state or federal, including any lawfully binding determination, decree, edict, declaration, ruling, order or other similar pronouncement validly made by any <i>government or authority</i> . |  | the <i>Utilities Act 2000</i> , the <i>Gas Safety Act 2000</i> , the Natural Gas Customer Service Code, Gas Retail Market Business Rules to Support Retail Competition in Gas (NSW and ACT), any other applicable market, industry or technical code, the <i>Access Arrangement</i> , our <i>gas supplier's licence</i> and any other statute, regulation, ordinance, code or other law, whether territory, state or federal, including any lawfully binding determination, decree, edict, declaration, ruling, order or other similar pronouncement validly made by any <i>government or authority</i> . |
| <i>Service and Installation Rules</i> | the rules published from time to time by us for gas service and installation.  |  | the rules published from time to time by us or <i>ActewAGL Distribution</i> for gas service and installation.   |

In this contract:

the singular includes the plural and vice versa;

a reference to an agreement, code or another instrument includes any consolidation, amendment, variation or replacement of them;

a reference to a statute, ordinance, code or other law, including anything which comprises the *gas law*, includes regulations and other instruments under it and includes all consolidations, amendments, re-enactments or replacements;

a reference to a code named in this contract is a reference to the code of that name under the *Utilities Act 2000*;

the word **person** includes a firm, body corporate, body politic, unincorporated association or an authority;

a reference to a person includes the person's permitted successors, substitutes (including, without limitation, persons taking by novation) and assigns;

if an event must occur on a stipulated day which is not a *business day*, then the stipulated day will be taken to be the next *business day*;

if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;

a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;

law includes *gas law*;

**including, includes, such as** and **in particular** do not limit the generality of the words which precede them or to which they refer; and

headings are included for convenience and do not affect the interpretation of this contract.