



Gas

Licence



## Gas Distribution Licence

CPE Tonsley Pty Ltd

ACN 623 288 175

This licence was issued by the **Commission** on 15 May 2019 and last varied on the date specified below.



Kim Weimer  
Acting Chief Executive Officer and Commission authorised signatory

10 August 2023

Date

## Variation history

Amendment number	Variation date	Reason
ESCOSA01	July 2020	Varied to correct administrative errors.
ESCOSA02	September 2020	Varied to reflect change of name.
ESCOSA03	April 2022	Licence varied to reflect changes following the implementation of SSNI to remove operational and annual return reporting requirements, together with minor administrative variations to update outdated references and formatting.
ESCOSE04	August 2023	Licence varied to: <ul style="list-style-type: none"><li>• remove annexure as this now covered by the Small-Scale Gas Networks Code</li><li>• include mandatory licence conditions, and</li><li>• update outdated references and formatting.</li></ul>

# 1 Definitions and interpretation

- 1.1 Words appearing in bold like **this** are defined in Schedule 1.
- 1.2 This licence must be interpreted in accordance with the rules set out in Schedule 2.

# 2 Grant of licence

- 2.1 The **licensee** is licensed under Part 3 of the **Gas Act** to carry on the operation of the **gas distribution system**, as specified in Schedule 3.

# 3 Term

- 3.1 This licence continues until:
  - (a) it is surrendered by the **licensee** under section 31 of the **Gas Act**, or
  - (b) it is suspended or cancelled by the **Commission** under section 38 of the **Gas Act**.

# 4 Compliance with laws and industry codes

- 4.1 The **licensee** must comply with any applicable **industry code** or **industry rule** made by the **Commission** from time to time which is specified by the **Commission** as being applicable to the **licensee**.
- 4.2 The **licensee** must comply with all applicable laws including, but not limited to, any technical or safety requirements or standards in regulations under the **Gas Act**.
- 4.3 The **licensee** must comply with the National Gas Procedures (South Australia) under the National Gas Law that apply in, or in relation to, South Australia, as in force from time to time
- 4.4 The **licensee** must notify the **Commission** if it commits a material breach of the **Gas Act** or an applicable **industry code** within 3 days of becoming aware of that breach.

# 5 Information to the Commission

- 5.1 The **licensee** must, from time to time as required by the **Commission** and in a manner and form determined by the **Commission**, provide to the **Commission**:
  - (a) details of the **licensee's** financial, technical and other capacity to continue its operations authorised by this **licence**, and
  - (b) such other information as the **Commission** may require.
- 5.2 The **licensee** must notify the **Commission** of any changes to its **office holders** or **major shareholders** (if applicable) within 30 **business days** of that change.
- 5.3 The **licensee** must, if required by the **Commission**, monitor and report on indicators of service performance determined by the **Commission**.

## 6 Business to business information exchange

- 6.1 The **licensee** must ensure that appropriate information exchange protocols are in place between the **licensee** and any **retailer** with whom the **licensee** is required to exchange information.

## 7 Communication between customers and other entities

- 7.1 The **licensee** must:
- (a) on request by a **customer**, provide the **customer** with contact details for the **retailer**, and
  - (b) give the **retailer** reasonable assistance in communicating with a **customer**.

## 8 Accounts and separate business

- 8.1 The **licensee** must, if directed by notice in writing by the **Commission**, maintain accounting records and prepare accounts according to principles specified in that notice.

## 9 Operational and compliance audits

- 9.1 The **licensee** must undertake periodic audits of:
- (a) The operations authorised by this licence;
  - (b) the **licensee's** compliance with its obligations under this licence;
  - (c) any applicable **industry code**; and
  - (d) any other matter relevant to the operations authorised by this licence as specified by the **Commission**;

at the request of, and in accordance with the requirements specified by, the **Commission**.

- 9.2 The results of audits conducted under this clause 9 must be reported to the **Commission** in a manner approved by the **Commission**.
- 9.3 The **Commission** may require the licensee to use an independent expert approved by the **Commission** to conduct audits under this clause 9.
- 9.4 The **Commission** may require the costs of using an independent expert approved by the **Commission** to conduct audits under this clause 9 to be met by the licensee.

## 10 Ombudsman and disputes

- 10.1 The **licensee** must, if directed by the **Commission** in writing, participate in an **Ombudsman Scheme**.
- 10.2 The **licensee** must also implement and comply with procedures for the management and resolution of **customer** disputes which, as a minimum, ensure that the basic procedures of AS 100022-2022 "Guidelines for compliant management in organisations" (or any Australian Standard which supersedes or replaces this standard) are followed.

## 11 Customer concessions and community service obligations

- 11.1 The **licensee** must comply with the requirements of any scheme approved and funded by the Minister for the provision by the State of **customer** concessions or the performance of community service obligations by the **licensee**.

## 12 Customer consultation

- 12.1 The **licensee** must, if directed by the **Commission** in writing, establish customer consultation processes as specified in that direction.

## 13 Pre-payment metering

- 13.1 The **licensee** must not implement a pre-payment metering system in respect of its **small customers** unless the **licensee** has obtained the **Commission's** prior written approval for the adoption of that pre-payment metering system.

## 14 Disconnection

- 14.1 The **licensee** must not disconnect or discontinue, or take any action which may lead to the disconnection or discontinuance of supply of **gas** to a **customer**, except in accordance with the provisions of an **industry code** that applies to the **licensee**.

## 15 Safety, reliability, maintenance and technical management plan

- 15.1 The **licensee** must:
- (a) prepare, maintain and periodically revise a safety, reliability, maintenance and technical management plan dealing with matters prescribed by **regulation**;
  - (b) obtain the approval of the **Technical Regulator**:
    - (i) to the plan (prior to commencement of the operation of the distribution system to which the plan relates); and
    - (ii) to any revision of the plan.
  - (c) comply with the plan as approved from time to time in accordance with clause 15.1(b), and
  - (d) undertake audits of its compliance with the plan from time to time and report the results of those audits to the **Technical Regulator**, in the form required by the **Technical Regulator**.

## 16 Confidentiality

- 16.1 The **licensee** must, unless otherwise required or permitted by law, this licence or applicable **industry code**:
- (a) comply with any rules determined by the **Commission** from time to time relating to the use of information acquired by the **licensee** in the course of operating the business authorised by this licence, and
  - (b) ensure that information concerning a **customer** is not disclosed without the **explicit informed consent** of the customer.
- 16.2 The **licensee** must ensure that any information received from, or provided to, any related body corporate of the **licensee** is only received or provided on non-discriminatory commercial terms.

## 17 Compliance with good gas industry practice

- 17.1 The **licensee** must use its **best endeavours** to conduct the operations authorised by this licence in accordance with **good gas industry practice** including, but not limited to, conducting the operations so as to:
- (a) prevent death or injury to, persons or damage to property
  - (b) minimise leakage of **gas**, and
  - (c) account for the total amount of **gas** lost from the **distribution system** as a result of leakage or an activity referred to in section 82(1) of the **Gas Act**.

## 18 Variation

- 18.1 In accordance with section 29 of the **Gas Act**, the **Commission** may vary the terms or conditions of this licence by written notice to the **licensee** as the **Commission** considers appropriate.
- 18.2 The **Commission** may only vary this licence:
- (a) after giving the **licensee** reasonable notice of the proposed variation and allowing the **licensee** a reasonable opportunity to make representations about the proposed variation, or
  - (b) an application by the **licensee** or with the **licensee's** agreement.

## 19 Transfer

- 19.1 This licence may only be transferred in accordance with section 30 of the **Gas Act**.

## Schedule 1 - Definitions

In this licence:

**Gas Act** means the *Gas Act 1997*.

**best endeavours** means to act in good faith and use all reasonable efforts, skill and resources.

**business day** means a day other than a Saturday, Sunday or public holiday.

**Commission** means the Essential Services Commission established under the **ESC Act**.

**customer** has the meaning given to that term in the **Gas Act**, namely a person who has a supply of **gas** available from a system for consumption by that person, and includes:

- (a) the occupier for the time being of a place to which **gas** is supplied by a **distribution system**,
- (b) where the context requires, a person seeking a supply of **gas** from a **distribution system**, and
- (c) a person of a class declared by regulation to be **customers**.

**distribution system** has the meaning given to that term in the **Gas Act**.

**ESC Act** means the *Essential Services Commission Act 2002*.

**explicit informed consent** has the same meaning as is given to that term in the National Energy Retail Law (South Australia) Act 2011.

**gas** means a fuel consisting of hydrocarbons or predominantly of hydrocarbons that is in a gaseous or vapour form when it is at the pressure and temperature of its normal pipeline transportation and utilisation conditions, but does not include anything declared by regulation not to be gas.

**good gas industry practice** means the exercise of that degree of diligence, skill, prudence and foresight that reasonably would be expected from a significant proportion of operators of **gas distribution systems** forming part of the Australian **gas** supply industry under conditions comparable to those applicable to the **distribution system** operated by the licensee consistent with the **Gas Act**, **industry codes** or **industry rules**, reliability, safety and environmental factors.

**industry code** includes any **industry code** made by the **Commission** under section 28 of the **ESC Act**.

**industry rule** includes any **industry rule** made by the **Commission** under section 28 of the **ESC Act**.

**licensee** means CPE Tonsley Pty Ltd (ACN 623 288 175).

**office holder** means a director and/or secretary, or a person who makes or participates in making decisions that affect a substantial part of the business of the **licensee**, who has the capacity to significantly affect the corporation's financial standing and/or a person whose instructions the **licensee's** directors must act in accordance with (excluding advice given in a professional capacity or as part of a business relationship with the directors or the **licensee**)

**Ombudsman Scheme** means an ombudsman scheme, the terms and conditions of which are approved by the **Commission**.

**major shareholder** means a person (including a corporation) who owns shares that provide more than ten percent (10%) of the total combined voting power of all classes of shares of the **licensee**

**Technical Regulator** means the person holding the office of the Technical Regulator under the **Gas Act**.

## Schedule 2 - Interpretation

In this licence, unless the context otherwise requires:

- (a) headings are for convenience only and do not affect the interpretation of this licence;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency;
- (e) a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;
- (f) a reference to any statute, regulation, proclamation, order in council, ordinance or bylaw includes all statutes, regulations, proclamations, orders in council, ordinances or by-laws varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, orders in council, ordinances, by-laws and determinations issued under that statute;
- (g) a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;
- (h) an event which is required under this code to occur on or by a stipulated day which is not a **business day** may occur on or by the next **business day**.



## Schedule 3 - Licenced operations

The distribution system used by the licensee to carry on business of transporting natural gas in the Tonsley Innovation District at the commencement of this licence (in as far as that system constitutes a distribution system for the purposes of the Act).



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