



Gas

Licence



Gas Distribution Licence

Enwave Tonsley Pty Ltd

ACN 623 288 175

Issued by the Essential Services Commission on 15 May 2019

Variation history

Amendment number	Variation date	Reason

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, subject to the terms and conditions set out in this licence.

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 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 officers 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 **Error! Reference source not found.** 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 **Error! Reference source not found.**

9.4 The Commission may require the costs of using an independent expert approved by the Commission to conduct audits under this clause **Error! Reference source not found.** 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.

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 LPG 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 a safety, reliability, maintenance and technical management plan dealing with matters prescribed by regulation and submit the plan to the Commission for approval;
 - (b) annually review and, if necessary, update the plan to ensure its efficient operation, and submit the updated plan to the Commission for approval;
 - (c) comply with the plan prepared in accordance with clause 15.1(a) and as updated from time to time in accordance with clause 15.1(b);
 - (d) not amend the plan without the approval of the Commission; and
 - (e) undertake annual audits of its compliance with its obligations under the plan and report the results to the Technical Regulator, in a manner approved 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 LPG; and
 - (c) account for the total amount of LPG 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 This licence may only be varied in accordance with section 29 of the **Gas Act**.

19 Transfer

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

This licence was issued by the Commission on 15 May 2019.

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ESSENTIAL SERVICES)
COMMISSION of South)
Australia was hereunto)
affixed by authority of the)
ESSENTIAL SERVICES)
COMMISSION and in the)
presence of:)



Brett Howie

Commissioner

15 May 2019

Date

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;

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 Enwave Tonsley Pty Ltd (ACN 623 288 175)

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

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 - Licensed 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).

Annual return

1. A licensee must submit an annual return to the Commission by 31 August each year in respect of the operations authorised by its licence during the preceding financial year.
2. Each annual return must contain at least the following information:
 - (a) the names of the officers of the licensee;
 - (b) the names of the major shareholders of the licensee;
 - (c) in respect of distribution operations, for each distribution system:
 - (i) the length of the reticulated distribution system;
 - (ii) number and capacity of other distribution assets;
 - (iii) total number of reticulated distribution system interruptions;
 - (iv) total number of delivery points;
 - (v) total number of gas quality complaints received;
 - (d) in respect of the licensee's compliance with its regulatory obligations, a statement describing in detail:
 - (vi) any instances of non-compliance with those regulatory obligations; and
 - (vii) measures taken by the licensee to rectify reported non-compliance.

Enquiries, complaints and dispute resolution

- 3 A licensee must develop and implement procedures for the management and resolution of customer enquiries and disputes, in accordance with AS ISO 10002-2006 (as amended from time to time), which deal with at least the following matters:
 - (a) the connection of and supply to a supply address;
 - (b) the quality and reliability of gas provided;
 - (c) payment options available;
 - (d) what to do in the case of difficulties in paying bills;
 - (e) how to make enquiries or lodge complaints, including response times and methods;
 - (f) the existence and operation of an Ombudsman Scheme (where relevant); and
 - (g) the existence and operation of any relevant Government concession, grant or rebate schemes.
4. A licensee's procedures under clause 6.9 may be reviewed by the Commission from time to time.

Standard terms and conditions

5. This clause only applies when the Commission has notified the licensee in writing of its application to that licensee.
6. The licensee must, upon the Commission's request, develop and submit for the Commission's approval a set of standard terms and conditions on which it will sell and supply gas to small customers.
7. Upon receipt of the Commission's approval of the standard terms and conditions under clause 6.11, the licensee must publish those terms and conditions in accordance with the requirements of section 34 of the Gas Act.
8. The licensee must advise the Commission before it makes a significant amendment to the standard terms and conditions and must publish the amended terms and conditions in accordance with the requirements of section 34 of the Gas Act.
9. The Commission may, by notice in writing to the licensee, require the licensee to amend its standard terms and conditions in accordance with the requirements of section 34 of the Gas Act.
10. The licensee must, on request by a small customer or a potential small customer, provide that small customer with a copy of the standard terms and conditions, free of charge.
11. If a small customer has already received a copy of the standard terms and conditions and requests another copy within a 12-month period, the licensee may impose a reasonable charge for providing that copy.

Quality of supply

12. The licensee must, in operating the distribution system:
 - (a) maintain the delivery pressure of gas from the distribution system to ensure that:
 - (i) the operating pressure of the gas at the outlet of each meter set for recording a small customer's consumption of gas is:
 - (A) 2.75kPa but less than 3.00kPa; or
 - (B) subject to any written requirement of the small customer or agreement between the Technical Regulator and the licensee for gas to be supplied at more than 3.00kPa; and
 - (ii) the pressure of the gas at each such meter set is within the meter set manufacturer's designated pressure operating range;
 - (b) if applicable, deliver gas received from a retailer at a receipt point through its distribution system to delivery points nominated by the retailer on terms and conditions that are fair and reasonable;
 - (c) except where the licensee is prevented from doing so by a force majeure event, ensure that gas delivered through its distribution system to a small customer at a delivery point meets the prescribed standards of quality (including odourisation);
 - (d) if applicable, on request by a retailer, provide details as to the licensee's requirements in relation to:
 - (i) the protection of the licensee's pipes and equipment; and
 - (ii) non-interference by the customer with the licensee's distribution system within 10 business days of the request.

Maintenance of supply

13. The licensee must use best endeavours to maintain the capability of its distribution system.
14. Unless approved by the Commission, the licensee must not remove or disable any part of its distribution system that supplies gas to one or more small customers on the grounds that the financial return to the licensee from supplying those small customers is insufficient.
15. A licensee may curtail or interrupt the delivery of gas to a delivery point to the extent, and for such period of time, as the licensee considers is reasonably necessary:
 - (a) if work under a planned maintenance or extension or expansion program is undertaken; and
 - (b) if applicable, under contractual interruption arrangements agreed between:
 - (i) the licensee and retailer; or
 - (ii) a retailer and small customer, and advised to the licensee by the retailer.
16. If a licensee curtails or interrupts the delivery of gas pursuant to clause 6.21, it must provide affected small customers with at least 5 business days' notice of the planned curtailment or interruption.

Connection policy

17. The licensee must, if requested by the Commission, develop a Connection Policy specifying the licensee's policy in respect of extending its distribution network at the request of a potential small customer.
18. The Connection Policy must include:
 - (a) the terms and conditions on which the licensee will extend the distribution network;
 - (b) the terms and conditions on which the licensee will provide a new meter;
 - (c) the terms and conditions on which the licensee will provide metering information services;
 - (d) information about the cost to small customers of connecting to, and using the distribution network;
 - (e) information about the method of calculation and collection of capital contributions (if capital contributions are to be collected);
 - (f) details of technical or other obligations of the small customer in respect of the connection.
19. The licensee must submit the Connection Policy, and any amendment to the Connection Policy, to the Commission for approval.

Connections

20. The licensee must use best endeavours to connect a new supply address to the licensee's distribution network:
 - (a) on a date agreed with the small customer; or
 - (b) where no date has been agreed with the customer, within 10 business days of the licensee's requirements for connection being satisfied.
21. The licensee must use its best endeavours to connect a supply address which was previously connected to the licensee's distribution network:

- (a) on a date agreed with the small customer; or
 - (b) if no date has been agreed with the small customer, where possible on the business day after the licensee's requirements for connection are satisfied and, in any event, within 2 business days.
- 22. Before agreeing to connect a person's supply address and to sell and/or supply gas to a person at that supply address, the licensee may require the person to:
 - (a) make an application to the licensee (in person, by telephone or in writing) on a business day; and
 - (b) if requested by the licensee:
 - (i) provide acceptable identification;
 - (ii) pay any relevant fees and charges applicable;
 - (iii) provide contact details for billing purposes;
 - (iv) ensure that there is safe and convenient access to the meter and the gas installation in order to connect the supply address; and
 - (v) pay any outstanding debt, or make arrangements for the payment of any outstanding debt, in relation to the connection, sale or supply of gas to the person by the licensee (other than a debt the subject of a bona fide dispute, or for which repayment arrangements have been made).

Metering information exchange

- 23. Where the licensee undertakes metering, the licensee must, if relevant:
 - (a) supply to a retailer such information obtained from those meters that is reasonably required by the retailer for the purposes of its operations, and must do so in the format reasonably required by the retailer and consistent with good gas industry practice; and
 - (b) permit the retailer to inspect and witness test (at the retailer's expense) such meters where this is reasonably required by the retailer for the purpose of its operations.

Metering plans and accuracy

- 24. Upon a request by the Commission, the licensee must, if the licensee undertakes metering or engages a person for that purpose, develop and maintain a Metering Plan setting out the licensee's procedures in respect of:
 - (a) installation and ownership of meters (and any ancillary equipment);
 - (b) minimum accuracy standards for meters and the maintenance of that accuracy (including audits of meter types);
 - (c) collection of metering data;
 - (d) field and maintenance testing of meters;
 - (e) resolution of metering disputes; and
 - (f) metering data obligations.
- 25. In respect of clause 6.30(b), the minimum standards of accuracy for meters must be within a margin of accuracy of plus or minus 2 percent of the net volume of gas delivered to that delivery point.

26. The Commission may:

- (a) approve the Metering Plan; or
- (b) require the licensee to improve the Metering Plan (in which case the licensee must do so and resubmit it for the Commission's approval in an agreed timeframe).

27. The licensee and any person engaged by the licensee to undertake metering must comply with the Metering Plan after the Commission has approved it.

28. Unless otherwise agreed by the Commission, the licensee must by 31 August each year:

- (a) review the Metering Plan to determine whether it is operating effectively and whether the licensee, and any person engaged by the licensee to undertake metering, is complying with the Plan; and
- (b) if necessary, amend the Metering Plan (but the licensee must not amend the Plan without the approval of the Commission).

Disconnections for emergencies and safety

29. Notwithstanding any other clause in this licence, the licensee may disconnect, interrupt or cause the disconnection or interruption of supply to a small customer's supply address in the case of an emergency.

Disconnections by the licensee

30. The licensee must disconnect a small customer from the distribution system:

- (a) at the direction of a retailer; or
- (b) where the licensee is directed to do so by the Technical Regulator or any other body exercising a similar function under an Act.

31. The licensee may disconnect a small customer from the distribution system pursuant to clause 6.35.

32. Where the small customer has been disconnected by the licensee, other than under clause 6.36(a), the licensee must advise the retailer.

Reconnection after disconnection

33. Where the licensee has disconnected a small customer's supply address in accordance with this code and the retailer has subsequently notified the licensee to reconnect the supply address, the licensee must use its best endeavours to reconnect the small customer within the time agreed with the retailer.



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