Gas

Licence

Gas Distribution Licence

AUSTRALIAN GAS NETWORKS LIMITED

ABN 19 078 551 685

Issued by the Technical Regulator on 16 September 1998.
Last varied by the Essential Services Commission on 15 September 2016.

Variation history

Amendment number	Variation date	Reason
1 ESCOSA	8/3/2004	
2 ESCOSA	1/1/2005	
3 ESCOSA	6/7/2006	
4 ESCOSA	28/6/2007	
5 ESCOSA	7/11/2007	
6 ESCOSA	17/9/2010	
7 ESCOSA	28/8/2013	
8 ESCOSA	16/12/2014	
9 ESCOSA	15/09/2016	

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 **Act** to carry on the operation of the **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 **Act**; or

(b) it is suspended or cancelled by the **Commission** under section 38 of the **Gas Act**.

4 Compliance with applicable regulatory instruments

4.1 The **licensee** must comply with all **applicable regulatory instruments**, including any technical or safety requirements under the **Act** and the Natural Gas (South Australia) Act 2008.

4.2 The **licensee** must:

(a) monitor and report to the **Commission** on its levels of compliance with **local regulatory instruments** in accordance with the requirements of any applicable guideline issued by the **Commission**; and

(b) notify the **Commission** if it commits a material breach of any **local regulatory instrument** within 3 days of becoming aware of that breach.

4.3 The **licensee** must notify the **Commission** if it commits a material breach of any **national regulatory instrument** in accordance with the requirements of any applicable guideline issued by the **Commission**.

5 Compliance with good gas industry practice

5.1 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 **Act**.

6 Audits

6.1 The **licensee** must undertake periodic audits of the operations authorised by this licence and of its compliance with its obligations under this licence and any applicable **industry codes** in accordance with the requirements of any applicable **guideline** issued by the **Commission** for this purpose.

6.2 The **Commission** may require the costs of conducting audits under this clause 6 to be met by the **licensee.**

7 Information to the Commission

7.1 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.

7.2 The **licensee** must notify the **Commission** of any changes to its officers or major shareholders (if applicable) within 20 **business days** of that change.

7.3 The **licensee** must promptly notify the **Commission** of any significant reduction in its financial capacity which has potential to impact upon the **licensee's** ability to carry on the operations authorised by this licence.

7.4 Upon request, the **licensee** must provide the **Commission** with an accurate description and specification of the **distribution system** and its components and must promptly update that definition to reflect material changes to the **distribution system** or **gas infrastructure**.

8 Safety, reliability, maintenance and technical management plan

8.1 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, including, an Unaccounted for Gas Plan comprised of (without limitation) a:

(i) Leakage Management Plan;

(ii) Asset Management Plan; and

(iii) Mains Replacement Plan;

(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 8.1(a) and as updated from time to time in accordance with clause 8.1(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**, and

(f) provide to the **Technical Regulator** any other reporting information associated with the safety, reliability, maintenance and technical management plan as requested by the **Technical Regulator**.

9 Customer concessions and community service obligations

9.1 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**.

10 Confidentiality

10.1 The **licensee** must, unless otherwise required or permitted by law, this licence or an **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**.

10.2 The **licensee** must not disclose confidential information to an intelligence or law enforcement agency unless requested to do so by an intelligence or law enforcement agency on the basis that:

(a) disclosure is necessary under the terms of a warrant issued under Division 2 of the Australian Security Intelligence Organisation Act 1979 or under the terms of any other court order; or

(b) disclosure is reasonably necessary for the enforcement of the criminal law or of a law imposing a pecuniary penalty or for the protection of the public revenue; or

(c) disclosure is necessary to safeguard the national security of Australia.

10.3 The **licensee** may accept an assertion of an intelligence or law enforcement agency, without making further enquiry, for the purposes of clause 10.2(b) and clause 10.2(c).

10.4 The **licensee** must ensure that any information received from, or provided to, any related body corporate of the **licensee** holding a retail licence is only received or provided on non-discriminatory commercial terms.

11 Variation

11.1 This licence may only be varied in accordance with section 29 of the **Gas Act**.

12 Transfer

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

This licence was issued by the **Technical Regulator** on 16 September 1998 and last varied by the **Commission** on 15 September 2016.

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

.....

Commissioner

15 September 2016.

Date

Schedule 1 - Definitions

In this licence:

Act means the Gas Act 1997;

AEMO means the Australian Energy Market Operator Limited (ACN 072 010 327)

applicable regulatory instruments means any **local regulatory instrument** or **national regulatory instrument**;

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 in South Australia;

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

customer has the meaning given to that term in the **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; and

(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 **Act**;

ESC Act means the Essential Services Commission Act 2002 (SA);

Explicit informed consent is the consent provided by a **customer** where:

(a) the customer provides express conscious agreement;

(b) the relevant retailer has fully and adequately disclosed all matters relevant to that customer, including each specific purpose for which the consent will be used;

(c) all disclosures referred to in clause (b) are truthful and have been provided in plain language appropriate to that customer;

Gas Distribution Code means the **industry code** of that name made by the **Commission** under section 28 of the **ESC Act**;

gas infrastructure means any part of the **distribution system**;

Gas Metering Code means the **industry code** of that name made by the **Commission** under section 28 of the **ESC Act**;

good gas industry practice means the exercise of that degree of skill, diligence, 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 **applicable regulatory instruments**, reliability, safety and environmental factors;

guideline means any guideline issued by the **Commission** under section 8 of the **ESC Act**;

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 Australian Gas Networks Limited (ABN 19 078 551 685);

local regulatory instrument means:

(a) any Act or statutory instrument made under an Act which imposes obligations on the **licensee** in respect of the operations authorised by this licence and which is administered by the **Commission**; and

(b) any **industry code**, **industry rule**, **guideline** or other regulatory instrument made by the **Commission**;

national regulatory instrument means any Act or statutory instrument made under an Act which imposes obligations on the **licensee** in respect of the operations authorised by this licence but which is not administered by the **Commission**;

Retail market procedures means the rules administered and published by **AEMO**;

retailer means a person holding a licence under the National Energy Retail Law for the sale and supply of gas;

small customer has the same meaning as is given to that term in the **Act**;

Technical Regulator means the person holding the office of the Technical Regulator under the **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;

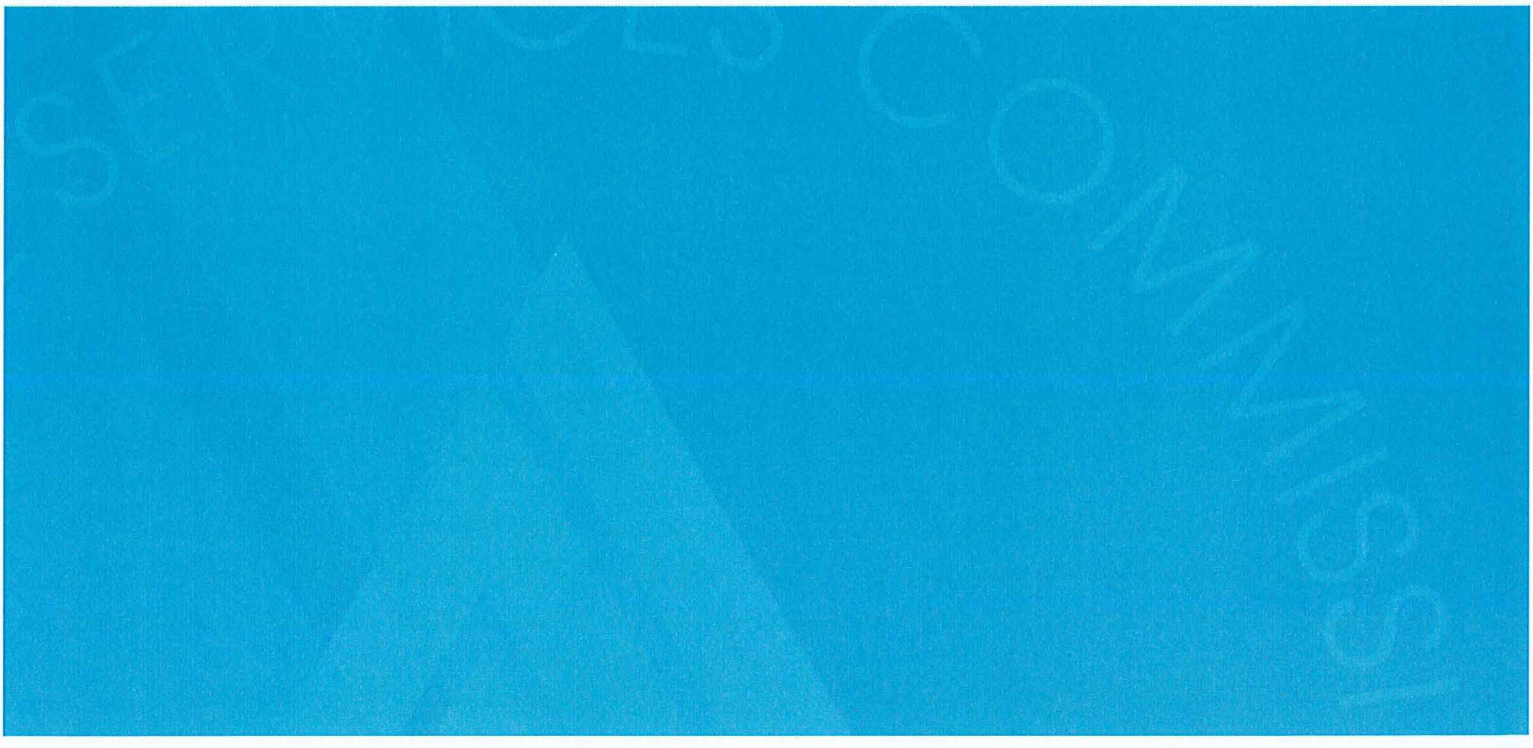
(g) a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;

(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

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

(b) Any extension to that **distribution system**; and

(c) A new **distribution system** (that does not extend from that system) approved by the **Commission**.

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