



Victoria Government Gazette

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Electricity Industry Act 2000 **ONLINE POWER AND GAS** Customer Terms and Conditions

INTRODUCTION

This Agreement is about the sale of electricity to you as a small customer at your premises. This Agreement is made of these terms and conditions, your Energy Plan Details and any other terms and conditions provided (if applicable) (collectively referred to as the Agreement).

In addition to your Agreement, the Electricity Laws and the Consumer Laws also contain rules about the sale of electricity and we will comply with these rules in our dealings with you. For example, the Electricity Laws sets out specific rights and obligations about electricity marketing, payment methods and arrangements for customers experiencing payment difficulties.

More information about this Agreement and other matters is on our website, www.onlinepowerandgas.com.au

1. DEFINITIONS AND INTERPRETATIONS

- 1.1 Terms used in this Agreement have the same meanings as they have in the Electricity Laws. However for ease of reference, a simplified explanation of some terms is given at the end of this Agreement.
- 1.2 Where the simplified explanations given at the end of this Agreement differ from the definitions in the Electricity Laws, the definitions in the Electricity Laws prevail.

2. THE AGREEMENT

- 2.1 We agree to sell electricity to you and you agree to purchase electricity from us and accept the supply of electricity at the Supply Address or Supply Addresses for the Minimum Supply Period.
- 2.2 You may request that one or more further Supply Addresses be added to the Agreement and we agree to add any such additional Supply Addresses to the Agreement.
- 2.3 The Rates applicable to the additional Supply Addresses may be different from the Rates applying to the original Supply Address or Supply Addresses, however, we will use our best endeavours to match the new Rates with the original Rates.

3. WHEN DOES THIS AGREEMENT START?

This Agreement starts on the date you satisfy any pre-conditions set out in the Code, including giving us acceptable identification and your contact details for billing purposes. This will usually be the same day you accept our offer to supply electricity to you.

4. CANCELLATION DURING COOLING-OFF PERIOD

- 4.1 You may cancel the Agreement by giving us written notice during the Cooling off Period. Your notice must clearly indicate your intention to cancel the Agreement. If you cancel the Agreement within the Cooling off Period, you will not have to pay us anything.
- 4.2 You will be taken to have given notice of cancellation by the end of the Cooling Off period if by then you have posted the notice to us.

5. CANCELLATION AFTER COOLING OFF PERIOD

- 5.1 Where you wish to cancel the Agreement after the Cooling off Period, and you are remaining at the Supply Address, you must provide us with at least 28 business days' notice.
- 5.2 Where you wish to cancel the Agreement after the Cooling off Period, and you are leaving the Supply Address, you must give us at least 3 business days' notice.

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5.3 If you cancel the Agreement after the Cooling off Period and before the end of the Minimum Supply Period, we may charge you an Early Termination Charge.

5.4 Upon written request, we will provide you with a copy of our record of your cancellation at no charge.

6. WHEN DOES THIS AGREEMENT END?

6.1 This Agreement ends:

6.1.1 If you give us notice that you are vacating the premises, subject to clause 6.2, on the date which is 3 business days (or 10 business days for customers in certain rural areas) after we receive your notice;

6.1.2 If you are no longer a domestic customer, subject to clause 6.2 – on the date which is 5 business days after we give you notice of the change (as specified in our notice);

6.1.3 If we both agree to a date to end the agreement, on the date that is agreed; if you start to buy electricity for the premises from a different retailer under a new customer retail contract – on the date that the new customer retail contract starts;

6.1.4 If a different customer starts to buy electricity for the premises – on the date that customer's contract starts; or

6.1.5 If the premises are disconnected and you have not met the requirements in the Code for reconnection – 10 business days from the date of disconnection.

6.2 If you do not give us safe and unhindered access to the premises to conduct a final meter reading (where relevant), this Agreement will not end under clause 6.1.1 or 6.1.2 until we have issued you a final bill and you have paid any outstanding amount for the sale of electricity.

6.3 Rights and obligations accrued before the end of this Agreement continue despite the end of the Agreement, including any obligations to pay amounts to us. We may issue bills to you after this Agreement is terminated for energy supply and other services provided to you up until the end of this Agreement.

6.4 For any of the circumstances referred to in clause 6.1, a final meter reading is needed at your existing premises. You may choose to wait for the next scheduled meter reading or, if you wish for this to happen sooner, you can ask us to arrange a special meter reading (for an additional fee, unless we determine otherwise). If you are transferring your premises to another retailer and the other retailer arranges for a special meter reading, we won't proceed or charge you the fee.

7. TERMINATION AND EXTENSION OF THE AGREEMENT

7.1 At the end of the Minimum Supply Period, unless you enter into a new Agreement with us, the Agreement will be extended on the same Terms and Conditions and for the same Minimum Supply Period as the previous Minimum Supply Period. The Rates will be the same as the Rates then payable unless they are varied by written notice from us.

7.2 If you terminate the Agreement during the new Minimum Supply Period, you will not be charged an Early Termination Charge.

7.3 We will continue to be the retailer for the Supply Address until the Supply Address is either disconnected or transferred to another electricity retailer.

7.4 If you wish to terminate this Agreement, after the Minimum Supply Period, you must either transfer the Supply Address to another retailer or have the Supply Address disconnected. You will remain liable to us for all electricity supplied to the Supply Address until you do so.

8. SUPPLY OF ELECTRICITY

8.1 You acknowledge that the Distributor is responsible for the supply of electricity to the Supply Address. You acknowledge that the supply of electricity may be subject to variations in voltage and frequency and may contain voltage surges, which may cause damage to your appliances or premises. We are unable to guarantee the quality and security of the supply of electricity.

- 8.2 The Distributor may disconnect, interrupt or reduce the supply of electricity to the Supply Address. To the extent permitted by law, you agree to release us from any liability for such disconnection, interruption or reduction in the supply of electricity or any variation in the voltage and frequency of the supply.

9. METERING

You must allow us or our metering agent safe, convenient and unhindered access to the Supply Address and meter for the purpose of reading the meter and for connection, maintenance, repair, disconnection and reconnection.

10. LAST RESORT SUPPLY ARRANGEMENTS

- 10.1 If a Last Resort Event occurs in relation to us, we must immediately cancel any direct debit arrangement and notify you and your financial institution of the cancellation.
- 10.2 If a Last Resort Event occurs in relation to us, the Agreement will be automatically terminated and you will not be liable for any payment or Early Termination Charge.

11. CREDIT CHECKS

- 11.1 We may within our discretion carry out a credit check on you to establish and determine your credit rating or creditworthiness. In order to carry out a credit check we may disclose your personal information to a credit reporting agency for the purposes of obtaining credit reports about you. In accordance with relevant laws, we may notify an overdue payment to a credit reporting agency.
- 11.2 If a credit check finds that your creditworthiness is not satisfactory, we may choose to end this Agreement immediately by notifying you within the Cooling Off Period.
- 11.3 Alternatively, we may within 14 days after the Cooling Off period give you notice amending the terms of this Agreement by changing the Rates.

12. SECURITY DEPOSIT

- 12.1 In certain circumstances we may ask you to provide a security deposit, you must pay the security deposit when we ask you do so. The circumstances we can ask you for security deposit are governed by the Electricity Laws and the National Energy Retail Rules.
- 12.2 Where you have paid a security deposit, we must pay you interest on the security deposit at a rate and on terms required by the Electricity Laws and the National Energy Retail Rules.
- 12.3 We may use your security deposit and any interest earned to offset any amount you owe under this Agreement.

13. INVOICING

- 13.1 Unless otherwise agreed, we will send your invoices to the email address nominated by you in your Energy Plan Details.
- 13.2 We will invoice you at least every 3 months, unless some other billing period is specified in the Energy Plan Details.
- 13.3 Where you elect to receive paper invoices, we may charge an administration fee to cover the cost of sending them.
- 13.4 Your Rates for the supply of electricity are set out in the Energy Plan Details and will be based on your measured or estimated consumption of electricity during a billing period.
- 13.5 We may estimate the amount of electricity consumed at your premises if your meter cannot be read, if your metering data is not obtained (for example access to the meter is not given or the meter breaks down or is faulty) or, if you otherwise consent.
- 13.6 If we estimate the amount of electricity consumed at your premises to calculate a bill we must clearly state on the invoice that it is based on an estimate and when the bill is later read, adjust your invoice for the difference between the estimate and the electricity actually used.

13.7 If the estimation reveals that you have been undercharged, we will allow you to pay the undercharged amounts in instalments, over the same period of time which the meter was not read (if less than 12 months) or otherwise over 12 months.

13.8 If the meter has not been read due to your actions and you request us to replace the estimated invoice with an invoice based on an actual reading, we will comply with your request but may charge you a fee for a special meter reading.

14. PAYMENT TERMS

14.1 You must pay each invoice in full by the pay by date specified on the invoice, using one of the payment methods provided in our invoices. The pay by date in your invoice will not be less than 12 business days from the date of dispatch of the invoice.

14.2 Where you do not pay an invoice in full, we will apportion your payment between all Supply Addresses covered by the Agreement in proportion to their consumption of electricity during the relevant billing period.

14.3 Where we agree to accept payment by credit card, the merchant service fees charged by your Bank or credit card company may be passed on to you.

14.4 If any payment of an invoice is dishonoured or reversed, resulting in us incurring a fee, we may recover the fee from you.

14.5 If you have difficulties in paying your invoice, you should contact us as soon as possible. We may provide you with information about payment options.

14.6 If you are a residential customer and have told us that you have difficulty paying your invoice, we must offer you the option of paying your invoice under a payment plan. However, we are not obliged to do so if you have had two payment plans cancelled due to non-payment within the previous 12 months and you do not provide reasonable assurances to us that you are willing to meet the payment obligations under a further payment plan or you have been convicted of an offence involving fraud or theft in relation to your dealings with us.

14.7 Additional protections may be available under our Hardship Policy. A copy is available on our website.

15. GST

15.1 Amounts specified in our invoices to you, Energy Plan Details and other amounts payable under this Agreement may be stated as inclusive or exclusive of GST.

15.2 applies unless the amount is stated to include GST.

15.3 Where an amount paid by you under this Agreement is payment for a 'taxable supply' as defined for GST purposes, to the extent permitted by law, that payment will be increased so that the cost of the GST payable on the taxable supply is passed onto the recipient of that taxable supply.

16. WHEN RATES MAY BE VARIED

16.1 With prior notice, we may vary your Rates for any of the following reasons:

16.1.1 To reflect the cost to us (whether direct or indirect) of any changes to regulated charges or tariffs, regulatory compliance requirements, metering charges, meter data charges, service charges, loss factors or charges resulting from the operation of the national electricity market;

16.1.2 To reflect changes in Distribution Network Charges, including the introduction of any "time of use" Distribution Network Charges or tariffs;

16.1.3 To reflect any change in the wholesale electricity hedge arrangements that we have in place, that directly or indirectly increases the cost to us of purchasing the electricity we sell to you, or the cost of hedging its wholesale price;

16.1.4 To reflect any changes in the cost to us of any Environmental Requirement and in any costs arising out of any other regulatory requirements or changes in any other regulatory requirements; and

16.1.5 To reflect any increase in our costs as a result of a new tax being imposed or the basis for imposing or calculating any existing tax altering.

- 16.2 If the Minimum Supply Period is longer than one year, and the Energy Plan Details do not provide for different rates in subsequent years, then on each anniversary of the Agreement the energy component of the Rates may be increased to reflect the increase in the Consumer Price Index published by the Australian Bureau of Statistics in respect of the preceding year. If we are going to vary your Rates, we will provide you with written notice of the variation. The notice will specify the date when the changes will take effect and will provide details of the new Rates.

17. DISCONNECTION

- 17.1 We can only disconnect the Supply Address for the reasons set out in the Code and strictly in accordance with the provisions of the Code.

18. ASSIGNMENT OR TRANSFER OF THE AGREEMENT

- 18.1 You may only transfer this Agreement to another person with our written consent. You may also request that the Agreement be transferred to another Supply Address and we will do our best to accommodate that request.
- 18.2 We may assign, novate or transfer our rights and obligations under this Agreement to another retailer at any time by notice to you if:
- 18.2.1 That assignment, novation or transfer forms part of the transfer of all or substantially all of our retail sales business to another retailer of energy; or
- 18.2.2 You agree to that assignment, transfer or novation.

19. YOUR OBLIGATIONS

- 19.1 You must provide us any information we reasonably require for the purposes of this Agreement. You warrant that all information that you provide to us is true and correct and you must not mislead or deceive us in relation to any information that you provide to us.
- 19.2 You must promptly tell us if information you have provided to us changes, including your billing address or if your consumption of electricity materially changes.
- 19.3 If a person living at your premises requires life support equipment, you must register the premises with us or the Distributor. To register, you must provide written confirmation from a registered medical practitioner of the requirement for life support at the premises.
- 19.4 You must tell us or the Distributor if the life support equipment is no longer needed at the premises.
- 19.5 If you cannot meet an obligation relating to your premises under this Agreement 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 the responsible person for the premises fulfils the obligations.

20. OUR LIABILITY

- 20.1 The quality and reliability of the supply of electricity and the quality, pressure and continuity is subject to a variety of factors that are beyond our control. These may include, weather conditions, vandalism, demands on the system, the acts of your Distributor and any direction given by a relevant authority.
- 20.2 To the extent permitted by law, we provide no guarantee, indemnity, warranty or undertaking and make no representation to you about the condition, supply or suitability of the supply of electricity, other than those that are set out in the Agreement.
- 20.3 Unless we have acted negligently or in the bad faith, our liability to you for breach of any conditions or warranties under the Agreement or rights implied by the Consumer Laws or any other equivalent law is limited to the maximum extent permitted by those laws. In particular, to the extent permitted, our liability for a breach of any condition, warranty, representation or right which is implied into this Agreement under the Consumer Laws is limited, at our option, to providing you with equivalent goods or services, replacement goods or services, or payment of the cost of acquiring equivalent goods or re-supplying the service or the payment of the cost of having the services supplied again.

- 20.4 You agree to indemnify and keep us indemnified from and against any loss or damage suffered arising from any breach by you of the Agreement, including as a result of your negligence, for the maximum amount which we are entitled to be compensated under the common law (including in equity) or statute.

21. APPLICABLE LAWS

- 21.1 This Agreement is governed by the laws of the State of Victoria. You submit to the nonexclusive jurisdiction of the courts of the State of Victoria.
- 21.2 Where this Agreement does not deal with any matter contained in the Code, that matter is deemed to be incorporated into this Agreement.
- 21.3 The Agreement and these terms and conditions do not amount to a waiver by us of, or an agreement to vary or exclude the limitation of our liability provided by the Electricity Laws.

22. ACCREDITED GREENPOWER PRODUCT

If you have chosen one of our accredited GreenPower products in the Energy Plan Details, we will supply you with the proportion of GreenPower accredited electricity nominated in the Energy Plan Details, for the duration of this Agreement, while we remain a GreenPower Provider under the National GreenPower Accreditation Program.

23. PRIVACY

- 23.1 We will comply with all relevant privacy legislation in relation to your personal information. You can find a summary of our policy on our website.
- 23.2 We collect your personal information and confidential information (including meter data) where it is required under the Electricity Laws and because we cannot provide electricity to you without it. We may also collect sensitive information (for example, if you have life support equipment).
- 23.3 You consent to us exchanging your information with our related bodies corporate, agents and contractors and where relevant to the Distributor and other energy retailers, where required to provide you with those products and services and also for any other purpose you consent to or as otherwise authorised by law. We may also disclose your personal information to a credit reporting agency in certain circumstances.

24. FORCE MAJEURE EVENT

If a Force Majeure Event occurs to you or us, our obligations and your obligations under the Agreement (other than an obligation to pay money for any electricity supplied by us to you) are suspended to the extent to which they are affected by the Force Majeure Event for so long as the Force Majeure Event continues.

25. GENERAL PROVISIONS

- 25.1 The Agreement represents the entire agreement between you and us and supersedes all prior arrangements or understandings between you and us.
- 25.2 If any term or clause of the Agreement is or becomes invalid or unenforceable, then the other terms remain valid and unaffected and will continue for the duration of the Agreement.
- 25.3 If we do not exercise or enforce any right or power under the Agreement, that failure will not amount to a waiver of that right or power. Any delay in doing so will also not amount to a waiver of that right or power.
- 25.4 Unless otherwise agreed, all communications and notices from us will be sent to you at your nominated email address, including invoices, welcome packs, reminder notices and disconnection notices.
- 25.5 If any amendments to the Agreement are, in our reasonable opinion, reasonably required due to a change in Electricity Laws or other applicable laws, regulations or codes, then we may make such amendments, which will commence from the date we notify you of the amendments.

DEFINITIONS USED IN THESE TERMS AND CONDITIONS

Agreement means your agreement with us which is made up of these terms and conditions and your Energy Plan Details.

Code means the Energy Retail Code of Victoria.

Consumer Laws means the Australian Consumer Law contained in Schedule 2 of the **Competition and Consumer Act 2010** (Cth).

Cooling Off Period means the period of 10 business days from and including the date on which you agree to enter into the Agreement with us.

Distributor means your local electricity network operator.

Distribution Network Charges means the charges and fees charged by the Distributor relating to the physical supply of electricity at the Supply Address.

Early Termination Charge means a charge for early termination of an Agreement (if any) and specified in the Agreement.

Electricity Laws means all applicable legislation, codes, regulations, orders, rules, guidelines and tariffs that directly or indirectly relate to the sale and supply of electricity to the Supply Address, including, the National Energy Retail Law, the National Energy Retail Law Rules, the Code and any other applicable instrument that can be enforced by law or by a regulatory authority.

Energy Plan Details means a document setting out the details of your supply of electricity including, without limitation, your product and service details, benefits, tariffs and contract term.

Environmental Requirement means any renewable energy scheme or target, emissions target, energy efficiency scheme, greenhouse gas abatement program, carbon trading scheme, carbon price or carbon tax introduced before or after the commencement of the Agreement, including any change in any such requirement or change in the application or calculation of any such requirement. For the avoidance of doubt, 'Environmental Requirement' includes the purchase of renewable energy certificates under the **Renewable Energy (Electricity) Act 2000** (Cth) and the impact on us (direct or indirect) of the **Clean Energy Legislation (Carbon Tax Repeal) Act 2014** (Cth).

Force Majeure Event means an event outside our reasonable control or your reasonable control.

GST has the meaning given to it in the **A New Tax System (Goods and Services Tax) Act 1999** (Cth).

Last Resort Event means an event which triggers the operation of the 'retailer of last resort' scheme approved by the Victorian Essential Services Commission.

Minimum Supply Period means the minimum period of supply specified in the Energy Plan Details.

Rates means the tariffs, charges, fees and other amounts payable by you under this Agreement.

Supply Address or **Supply Addresses** means the site or sites specified in the Energy Plan Details where you accept the supply of electricity under the Agreement.

'us', 'we', or 'our' means Online Power and Gas Pty Ltd.

'you' or 'your' means a customer to whom the Agreement applies.

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