

SUPPLEMENTARY GAZETTE



THE SOUTH AUSTRALIAN
GOVERNMENT GAZETTE

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ADELAIDE, FRIDAY, 6 JULY 2007

ELECTRICITY ACT 1996

Declaration of Standard Terms of Retail Sale of Electricity

IN accordance with section 36 of the Electricity Act 1996, SAROLR as Retailer of Last Resort declares the following standard terms for the retail sale of electricity to customers of the Retailer of Last Resort.

These terms become effective on 6 July 2007.

A copy of these terms is available without charge upon request at 1 Anzac Highway, Keswick, S.A.

IMPORTANT INFORMATION

1. A Retailer of Last Resort Event is an extraordinary event in the National Electricity Market.
2. This contract applies to you because:
 - (a) your retailer's retail licence has been suspended or cancelled; or
 - (b) your retailer's authority or right to acquire electricity from the market for wholesale trading in electricity has been suspended or terminated; or
 - (c) your retailer has ceased to sell electricity in South Australia,

and a Retailer of Last Resort Event has therefore occurred.

3. Due to the Retailer of Last Resort Event we are obliged to act as your Retailer of Last Resort for a period of time (no more than three months) in accordance with this contract. This gives you opportunity to arrange a contract with a new retailer.

4. This contract sets out the terms and conditions on which we, as your Retailer of Last Resort, will sell electricity to you as a customer at your current supply address.

5. You should note that our charges under these terms and conditions may be more than those charged by your previous retailer and the billing and payment cycles may be shorter than those imposed by your previous retailer.

6. All charges under this contract will be in accordance with any Guideline for Retailer of Last Resort Charges issued by the Commission.

7. This contract does not deal with how electricity is supplied to your supply address. You have a separate connection and supply contract dealing with the connection of your supply address to the network, and the supply of electricity to your supply address.

8. These standard terms and conditions apply to you in accordance with section 36 of the South Australian Electricity Act 1996 (the 'Act'). These standard terms and conditions will come into force on the date on which a Retailer of Last Resort Event occurs and, when in force, the terms will, by law, be binding on us and you. The document does not have to be signed to be binding.

9. The terms of your contract with your previous retailer no longer apply to you for the sale of electricity after the Retailer of Last Resort Event.

1. THE PARTIES

1.1 This contract is between:

SAROLR ABN 13 332 330 749, of 1 Anzac Highway, Keswick, S.A. 5035, a partnership of:

CKI Utilities Holdings Pty Ltd	ABN 54 091 142 380
HEI Utilities Holdings Pty Ltd	ABN 50 091 142 362
CKI/HEI Utilities Distribution Pty Ltd	ABN 19 091 143 038

each incorporated in Australia:

CKI Utilities Development Limited	ABN 65 090 718 880
HEI Utilities Development Limited	ABN 82 090 718 951

each incorporated in The Bahamas;

and each of our heirs, successors and assigns as provided for under this contract (referred to in this contract as we, our or us); and

You, the customer to whom this contract applies (referred to in this contract as you or your).

2. DEFINITIONS

Certain terms used in the contract are defined in Schedule 1.

3. DOES THIS DOCUMENT APPLY TO YOU?

3.1 This document will only apply to you if:

(a) you are a customer; and

(b) the Commission has notified us that there has been a Retailer of Last Resort Event in respect of your retailer.

4. TERM OF THIS CONTRACT

4.1 This contract will start in relation to your supply address on the date of the Commission's notice to us (or such later date referred to in the notice) advising there has been a Retailer of Last Resort Event in respect of your retailer providing that you continue to use electricity at your supply address after the occurrence of the Retailer of Last Resort Event.

4.2 Subject to Clause 4.3, this contract will end on the earlier of:

(a) three months after the date referred to in Clause 4.1; or

(b) 30 June 2010; or

(c) the date you advise us that the sale of electricity under this contract is no longer required; or

(d) the date of termination of this contract under Clause 22.

4.3 Unless we agree otherwise, for Clause 4.2 (c) the contract will end only on that date provided we have received five business days' prior notice.

4.4 The ending of this contract does not affect any rights or obligations which have accrued under this contract prior to that time.

4.5 This clause survives the termination or expiry of this contract.

5. SCOPE OF THIS CONTRACT

- 5.1 This contract applies only to the sale of electricity to you at your supply address. We agree to sell to you electricity supplied to your supply address (by your network provider) and perform the other obligations set out in this contract.
- 5.2 In return, you are required to pay the amount billed by us under Clause 14 of this contract, and perform your obligations under this contract.
- 5.3 You have a separate connection and supply contract with your network provider. Your network provider is responsible for:
- (a) the connection of your supply address to the electricity network;
 - (b) the maintenance of that connection;
 - (c) the supply of electricity to your supply address; and
 - (d) the quality and other characteristics of electricity,
- and these matters are not covered by this contract.
- 5.4 As your Retailer of Last Resort, we cannot regulate the quality or reliability of electricity supplied to your supply address. Your distributor is responsible for regulating the quality or reliability of electricity supplied to your supply address.
- 5.5 You should also be aware that electricity suffers fluctuations and interruptions from time to time for a number of reasons, including:
- (a) the location of the supply address;
 - (b) whether your supply address is served by underground or overhead mains;
 - (c) the weather conditions;
 - (d) animals, vegetation, the actions of vandals and other people;
 - (e) the existence of emergency or dangerous conditions;
 - (f) damage to an electricity network;
 - (g) the design and technical limitations of the electricity network; and
 - (h) the demand for electricity at any point in time.
- 5.6 You should understand that unexpected fluctuations or interruptions may cause damage to your equipment or cause it to malfunction. We recommend that you give careful consideration to taking out insurance or installing devices to protect your equipment and property when these fluctuations or interruptions do occur.

6. OUR LIABILITY AND INDEMNITY

- 6.1 The Trade Practices Act 1974 (Commonwealth) and other laws imply certain conditions, warranties and rights into contracts that cannot be excluded or limited.
- 6.2 Unless one of these laws requires it, we give no condition, warranty or undertaking, and we make no representation under this contract to you about the condition or suitability of electricity, its quality, fitness or safety.
- 6.3 Any liability we have to you under these laws that cannot be excluded but that can be limited is (at our option) limited to:
- (a) providing equivalent goods or services provided under this contract to your supply address; or
 - (b) paying you the cost of replacing the goods or services provided under this contract to your supply address, or acquiring equivalent goods or services.
- 6.4 Otherwise our liability to you in contract, tort (including negligence) or otherwise is limited in the manner set out this clause.
- 6.5 So far as the law allows, we are not liable in our capacity as a Retailer of Last Resort for any loss or damage you suffer (whether due to negligence or otherwise), because of the electricity we sell to you under this contract.
- 6.6 In particular, we are not liable in our capacity as a Retailer of Last Resort for any loss or damage you may suffer because:
- (a) there is a failure of electricity supply, or there is a defect in the electricity supplied (however caused); or

(b) some characteristic of the electricity (for example, voltage or frequency) makes it unsuitable for some purpose.

6.7 You must indemnify us for all damages, loss, liability or costs we suffer or incur as a result of your breach of this contract. It is not necessary for us to incur expense or make payment before enforcing a right of indemnity conferred by this contract.

6.8 This clause applies in addition to, and will not vary or exclude the operation of, any exclusion from or limitation on liability we may be entitled to claim the benefit of under any legislation, regulations or codes.

6.9 This Clause 6 applies in addition to, and does not vary or exclude, the operation of section 120 of the National Electricity Law.

6.10 This clause survives the termination of this contract.

7. **FORCE MAJEURE**

7.1 The failure by either party to observe or perform wholly or in part any obligation (other than an obligation to pay money) under this contract is deemed not to be a breach of this contract if the failure was caused by or arose as a consequence of a *force majeure* event.

8. **PRICE FOR ELECTRICITY AND OTHER SERVICES**

8.1 Our charges for selling electricity to you as the Retailer of Last Resort will be in accordance with the requirements of any Guideline for Retailer of Last Resort Charges issued by the Commission.

8.2 We will not be able to sell electricity to you at the price of your retailer and there may be a significant increase to your price as a result.

9. **GST**

9.1 Certain amounts in this contract are (or will be) stated to be inclusive of GST.

9.2 Apart from these amounts, there may be other amounts paid by you or by us under this contract that are payments for 'taxable supplies' as defined by GST Law.

9.3 To the extent permitted by law, it is agreed these other payments will be increased so that the GST payable on the taxable supply is passed on to the recipient of the taxable supply.

9.4 Where any GST payable is not referable to an actual payment then it must be paid within five business days of the tax invoice being issued by the other party making the taxable supply.

10. **BILLING**

10.1 The billing cycle applicable under this contract may be shorter than the billing cycle which applied under your previous contract with your retailer.

10.2 We will arrange for one bill to be sent to you for each billing cycle covering Retailer of Last Resort charges due to us, any charges payable to NEMMCO and charges due to your network provider under your connection and supply contract. We will arrange for payment to NEMMCO and the network provider.

11. **CALCULATING THE BILL**

11.1 We will calculate at the end of each billing cycle:

(a) the bill for electricity sold during that billing cycle (using information obtained from reading your meter or using a Commission approved estimating system); and

(b) the amount for any other services supplied under this contract during the billing cycle.

11.2 The bill may also include amounts due to NEMMCO, and the network provider under your connection and supply contract.

11.3 Where we are unable to read your meter, we will adjust for any under-recovery or over-recovery as part of the next bill where we are able to read your meter.

12. **HOW BILLS ARE ISSUED**

12.1 We must send a bill:

(a) to you at the address or email address of which we have been advised; or

(b) to a person authorised in writing by you to act on your behalf at the address specified by you.

13. CONTENTS OF A BILL

13.1 The bill will be in a form and include such information as identified in Schedule 2.

14. PAYING YOUR BILL

14.1 The payment cycle applicable under this contract may be shorter than the payment cycle which applied under your previous contract with your retailer.

14.2 You must pay to us the amount shown on each bill by the date shown on the bill as the date for payment which will be five business days after the receipt of the invoice.

14.3 You can pay the bill using any of the payment methods identified in Schedule 2. If a payment you make is dishonoured (e.g. where a cheque is not honoured), and we incur a cost as a result, you must reimburse us that cost.

14.4 If you do not pay your bill on time, we may require you to pay our reasonable costs of recovering that amount from you. You may also be required to pay interest on the outstanding amount calculated on a daily basis from the date on which payment is due, until and including the date on which payment is received. The interest rate applied will be as specified in any Guideline for Retailer of Last Resort Charges issued by the Commission.

14.5 This clause does not affect our right to arrange for your supply address to be disconnected under Clause 19 of this contract.

15. METER

15.1 You must allow safe and convenient access to your supply address for the purposes of reading the meter.

16. UNDERCHARGING

16.1 We may, at any time, recover from you any amount you have been undercharged including undercharging as a result of NEMMCO revising its charges applicable to a billing cycle.

17. OVERCHARGING

17.1 Where you have been overcharged, we must tell you and the amount will be credited to your next bill.

18. REVIEWING YOUR BILL

18.1 If you disagree with the amount you have been charged, you can ask us to review your bill.

18.2 If your bill is being reviewed, you are still required to pay the portion of the bill which you do not dispute.

18.3 You must also pay any future bills.

18.4 If the disputed amount is subsequently deemed to be correct, you must also pay interest on the disputed amount to the extent specified in any Guideline for Retailer of Last Resort Charges issued by the Commission.

19. DISCONNECTION OF SUPPLY

19.1 We can arrange for the disconnection of your supply address if:

- (a) you do not pay your bill by the last day for payment;
- (b) you use electricity illegally or breach Clause 23 of this contract;
- (c) we are otherwise entitled or required to do so by law.

19.2 You should be aware that there are other circumstances in which your network provider can arrange for disconnection under your connection and supply contract, such as in cases of emergency or for safety reasons. These are detailed in your connection and supply contract.

20. RECONNECTION AFTER DISCONNECTION

20.1 If you request us to arrange reconnection of your supply address and you pay to us all of our and the network provider's reconnection charges in advance, we will arrange for the reconnection of your supply address. Following such reconnection, we will continue to sell electricity to you under the terms of this contract. We may refuse to arrange reconnection if we are allowed to do so (such as where the circumstances leading to your disconnection have not been fixed).

21. VACATING A SUPPLY ADDRESS

21.1 You must give us at least five business days' notice of your intention to vacate your supply address, together with a forwarding address for your final bill. When we receive the notice, we must read the meter on the date specified in your notice (or as soon as possible after that date if you do not give us access to your meter on that date) and send a final bill to you at the forwarding address stated in your notice. If you do not give us the required notice, or if you do not give us access to your meter, you will be responsible for all electricity purchased at the supply address until:

- (a) we become aware that you have vacated your supply address and we read your meter; or
- (b) you give us the required notice; or
- (c) someone else enters into a contract with a retailer and commences to purchase electricity at the supply address.

22. TERMINATION

22.1 You may terminate this contract at any time on giving us at least five business days' notice.

22.2 We may terminate this contract:

- (a) immediately if you breach Clause 23 or if you breach any other obligation under this contract (including failing to pay amounts due) and you fail to rectify or pay compensation for that breach within 10 business days after receiving a notice from us to do so; or
- (b) immediately if you become insolvent (as defined in the Corporations Law); or
- (c) following the appointment of a person under legislation to manage any part of your affairs or assets; or
- (d) your network provider disconnects you for breach of your connection and supply contract; or
- (e) you have been disconnected and are no longer entitled to be reconnected under the terms of this contract.

22.3 This contract will terminate when a new retail contract applies for the sale of electricity at your supply address.

23. USE OF ELECTRICITY AND ILLEGAL USE

23.1 You must not:

- (a) allow electricity purchased from us to be used other than at the supply address and in accordance with this contract;
- (b) use at the supply address electricity purchased for use at another address;
- (c) sell electricity to any other person except in accordance with a licence issued by the Commission or with an exemption granted under the Electricity Act;
- (d) tamper with, or permit tampering with, the meter or associated equipment;
- (e) allow electricity supplied to the supply address to bypass the meter.

23.2 Where you have breached Clause 23.1 of this contract, we may:

- (a) estimate the amount of the electricity so obtained and bill you for that amount;
- (b) recover that amount from you, as well as costs and interest; and
- (c) request your network provider to disconnect your supply address immediately.

24. INFORMATION WE NEED

24.1 You must provide us with all information we reasonably require for the purposes of this contract. All information must be correct.

24.2 You must tell us if information you have provided to us changes (for example, if your address changes).

24.3 You authorise us to obtain all information required from your previous Retailer, NEMMCO or from your network provider, necessary for us to perform our function as Retailer of Last Resort.

25. WE CAN AMEND THIS CONTRACT

- 25.1 We can amend our contract with you at any time in accordance with section 36 of the Electricity Act, provided the amendments satisfy the requirements of the Commission, any special conditions to this contract and our licence.
- 25.2 We cannot amend this contract if it has been novated under Clause 26.

26. NOVATION

- 26.1 By using electricity at your supply address under this contract, you agree that we may novate this contract to another person, in which case that person will take our place in respect of this contract.
- 26.2 If we novate this contract to another person, we will provide you with a notice setting out the name of, and contact details for, that person within three business days of that novation occurring.
- 26.3 If we want to novate this contract to another person who is licensed to retail electricity under the Electricity Act and that person is or is to become financially responsible in the wholesale market for your connection point, we agree that a novation may not occur unless that other person:
- (a) publishes or has published under section 36 of the Electricity Act standard terms and conditions which will apply to you as a new customer of that person;
 - (b) specifies or has specified in those standard terms and conditions that they will apply to you immediately upon the novation becoming effective;
 - (c) specifies or has specified in those standard terms and conditions that no early termination charges will apply to you if you terminate that contract.

27. NOTICES

- 27.1 Unless this contract says otherwise (for example, where phone calls are allowed), all notices must be sent in writing. We can send to you notices at the address at which you buy electricity from us or the most recent address that we have for you.
- 27.2 If a notice is sent by post, we can assume that you have received the notice on the second business day after it was sent.
- 27.3 If a notice is sent by fax or email, then it is taken to be received at the time shown in the transmission report or delivery confirmation as the time that the whole fax or email was sent.
- 27.4 Unless specifically excluded under this contract:
- (a) when we are required to send a notice to a customer; and
 - (b) a significant number of customers are to receive the same notice,
- then the obligation to send a notice in writing will be satisfied where we publish that notice in a newspaper circulating generally in this State.

28. PRIVACY AND CONFIDENTIALITY

- 28.1 Subject to Clause 21.2 of this contract we must keep your information about you confidential.
- 28.2 We may disclose information about you:
- (a) if required or permitted by law to do so;
 - (b) if required or permitted by this contract to do so;
 - (c) if we are required or permitted by our licence to do so, such as to a law enforcement agency;
 - (d) where you give us written consent; or
 - (e) to your network provider or a metering provider to the extent that information is for the purposes of arranging connection, disconnection, reconnection, testing of a meter and billing.

29. QUERIES AND COMPLAINTS

- 29.1 If you have a query or a complaint relating to the sale of electricity by us to you, or this contract generally, you may contact us as follows (as updated and notified to you from time to time):

Queries and complaints: please telephone 131 261.

30. APPLICABLE LAW

- 30.1 The laws of South Australia govern this contract.

SCHEDULE 1

1. **Definitions**

In this contract:

‘billing cycle’ means the regular recurrent period for which you receives a bill from us;

‘best endeavours’ means to act in good faith and use all reasonable efforts, skill and resources;

‘business day’ means a day on which banks are open for general banking business in Adelaide, other than a Saturday, or a Sunday;

‘Commission’ means the Essential Services Commission established under the Essential Services Commission Act 2002, who regulates the South Australian electricity supply industry;

‘connection and supply contract’ means the contract you have with your distributor to connect and supply electricity to your supply address;

‘connection point’ means the agreed point of supply between your electrical installation and the distribution network;

‘customer’ means a customer as defined in the Electricity Act who buys or proposes to buy electricity from a retailer;

‘date of receipt’ means, in relation to the receipt by you of a notice (including a disconnection warning) given by us:

- (a) in the case where we hand the notice to you, the date we do so;
- (b) in the case where we send a notice by facsimile or by email before 5 p.m. on a business day, on that business day, otherwise on the next business day;
- (c) in the case where we leave the notice at your supply address, the date we do so;
- (d) in the case where we give the notice by post or, registered mail, a date two business days after the date we sent the notice;

‘distributor’ means a holder of a licence to operate a distribution network under Part 3 of the Act;

‘Electricity Act’ means the Electricity Act 1996;

‘*force majeure* event’ means an event outside the control of you or us;

‘metering data’ has the meaning given that term in the National Electricity Rules;

‘NEMMCO’ means the National Electricity Market Management Company Limited ACN 072 010 327, the company which operates and administers the wholesale electricity market in accordance with the National Electricity Rules;

‘network provider’ means the person licensed under the Electricity Act to operate the Electricity Distribution Network to which your supply address is connected;

‘NMI’ means a National Metering Identifier assigned to a metering installation at an electricity customer’s supply address;

‘retailer’ means a person licensed under the Electricity Act to retail electricity;

‘Retailer of Last Resort’ means us acting as your retailer as a result of a Retailer of Last Resort Event;

‘Retailer of Last Resort Event’ means an event where your retailer’s retail licence has been suspended or cancelled or your retailer’s authority or right to acquire electricity from the market for wholesale trading in electricity has been suspended or terminated or the retailer has ceased to sell electricity in South Australia;

‘supply’ means the delivery of electricity;

‘supply address’ means:

- (a) the address for which you purchase electricity from us where there is only one connection point at that address; or
- (b) where there is more than one connection point at that address, each connection point through which you purchase electricity from us;

‘your retailer’ means the retailer from which you purchased electricity immediately prior to the Retailer of Last Resort Event.

2. Interpretation

2.1 In this contract, unless the context otherwise requires:

- (a) Headings and footnotes are for convenience or information only and do not affect the interpretation of this contract or of any term or condition set out in this contract.
- (b) Words importing the singular include the plural and *vice versa*.
- (c) An expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency and *vice versa*.
- (d) A reference to a clause or appendix is to a clause or appendix of this contract.
- (e) A reference to any statute includes all statutes varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, ordinances, by-laws and determinations issued under that statute.
- (f) A reference to a document or a provision of a document includes an amendment or supplement to, or replacement of or novation of, that document or that provision of that document.
- (g) A reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns.
- (h) Other parts of speech and grammatical forms of a word or phrase defined in this contract have a corresponding meaning.

SCHEDULE 2

1. Particulars on each bill

1.1 We must include at least the following particulars on each bill:

- (a) the date of the last meter reading (or reading of metering data, as the case may be) or estimate and the number of days since the previous reading or estimate;
- (b) the meter readings, metering data or estimates for the bill;
- (c) consumption, or estimated consumption, in units used (e.g. kWhs);
- (d) the relevant charges and fees (including unit rate and tariff);
- (e) any amounts over-recovered or under-recovered as a result of an incorrect estimation of the large customer's previous bill;
- (f) the meter number or identifier;
- (g) the actual or estimated amount due to NEMMCO and the network provider;
- (h) the pay by date;
- (i) a list of the available payment methods;
- (j) the telephone number for billing and payment enquiries options (for the cost of a local call from anywhere in South Australia);
- (k) a 24 hour contact telephone number for faults and emergencies;
- (l) the customer's supply address and any relevant address;
- (m) the customer's name and account number;
- (n) the amount of arrears or credit;
- (o) the amount of interest approved by the Commission for late payment;
- (p) the amount of any charge and details of the goods or service provided.

1.2 Payment Options:

- (a) Cheque payment by Mail to SAROLR, G.P.O. Box 77, Adelaide, S.A. 5001. Please make cheques payable to SAROLR.
- (b) We may notify you regarding other payment options in any bill we send to you.