

South Australia

## Gas Variation Regulations 2013

under the *Gas Act 1997*

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### Part 1—Preliminary

#### 1—Short title

These regulations may be cited as the *Gas Variation Regulations 2013*.

#### 2—Commencement

These regulations will come into operation on 1 February 2013.

#### 3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

## Part 2—Variation of *Gas Regulations 2012*

### 4—Substitution of regulation 6—Functions and powers of Commission

Regulation 6—delete the regulation and substitute:

#### 6—Functions and powers of Commission

- (1) Pursuant to section 6A of the Act, the Commission has (in addition to the Commission's functions and powers under the Act and the *Essential Services Commission Act 2002*) the following functions:
  - (a) to determine, in accordance with a process specified by the Minister by notice in the Gazette, and at the expense of 1 or more of the entities, any matter in dispute between 2 or more gas entities that falls within a range of matters specified by the Minister by notice in the Gazette;
  - (b) on or before 31 August in each year, to submit to the Minister and publish on its website a report prepared for the purposes of monitoring prices for the sale of gas available to a small customer under the *National Energy Retail Law (South Australia)* during the immediately preceding financial year containing the information required by the Minister under subregulation (2).
- (2) The Minister may require the following information for the year to which the report relates to be included in a report prepared under subregulation (1)(b):
  - (a) comparisons of standing offer prices of NERL retailers generally available to classes of small customers in South Australia;
  - (b) estimates relating to the annual cost to a small customer of gas supplied to the customer (based on a reasonable estimate of the average annual level of consumption of gas by a small customer in South Australia) under each standard retail contract of NERL retailers generally available to classes of small customers in South Australia;
  - (c) details relating to the difference in annual cost to a small customer of gas supplied to the customer (based on a reasonable estimate of the average annual level of consumption of gas by a small customer in South Australia) under market offer prices of NERL retailers generally available to classes of small customers in South Australia compared to the cost to that customer under standing offer prices of NERL retailers generally available to classes of small customers in South Australia;
  - (d) such other information as the Minister requires in writing to be included.

- (3) The Minister may require the information referred to in subregulation (2) to be presented in such manner and form as the Minister considers appropriate, including in the form of variations or trends over time.
- (4) In this regulation—  
*market offer prices, standard retail contract* and *standing offer prices* have the same respective meanings as in the *National Energy Retail Law*.

## **5—Substitution of regulation 13**

Regulation 13—delete the regulation and substitute:

### **13—Prescribed information in small customer accounts for purposes of section 26A(2)(da) of Act**

For the purposes of section 26A(2)(da) of the Act, the following provisions apply:

- (a) the gas entity must include in each account for gas charges sent to a small customer for gas supply through a particular metered delivery point the following information:
  - (i) the customer's average daily consumption level, expressed in megajoules, of gas supplied through the delivery point for the period to which the account relates;
  - (ii) the customer's average daily consumption level, expressed in megajoules, of gas supplied through the delivery point for each period during the preceding 12 months in respect of which the customer was sent by the entity an account for gas supply through the delivery point;
  - (iii) the average daily cost to the customer of gas supplied to the customer through the delivery point during the period to which the account relates;
- (b) the gas entity must also include in each account for gas charges sent to a small customer the following statement:

For more information about energy efficiency, visit [www.escosa.sa.gov.au](http://www.escosa.sa.gov.au) or call ..... [telephone number as specified by the Commission by written notice to the entity].

## **6—Variation of regulation 16—Application**

- (1) Regulation 16(1)—delete "gas entity that holds a licence authorising the retailing of gas within the State" and substitute:

regulated entity authorised to sell gas by retail (whether or not the entity is required to hold a licence under the Act)

- (2) Regulation 16—after subregulation (1) insert:
- (1a) A regulated entity within the ambit of subregulation (1) is identified as a ***relevant gas retailer*** for the purposes of section 91A of the Act.
- (3) Regulation 16(2)—delete "gas entity" and substitute:
- regulated entity

### **7—Variation of regulation 17—Interpretation**

- (1) Regulation 17(1), definition of ***energy credit***, (a)—delete "GLEAT" and substitute:
- GEAT
- (2) Regulation 17(1), definition of ***GGRT***—delete "licence"
- (3) Regulation 17(1), definition of ***GLEAT***—delete the definition and substitute:
- GEAT*** means a gas energy audit target calculated in accordance with subregulation (3);
- (4) Regulation 17(1), definition of ***relevant electricity retailer***—delete "the holder of a licence under the *Electricity Act 1996* authorising the retailing of electricity" and substitute:
- a regulated entity within the meaning of the *Electricity Act 1996* authorised to sell electricity by retail (whether or not the entity is required to hold a licence under that Act)
- (5) Regulation 17(1), definition of ***relevant gas retailer***—delete "gas entity" and substitute:
- regulated entity
- (6) Regulation 17(3)—delete ***GLEAT*** wherever occurring and substitute in each case:
- GEAT***

### **8—Variation of regulation 22—Notification and adjustment of targets**

- Regulation 22(1)(a)—delete ***GLEAT*** and substitute:
- GEAT***

### **9—Variation of regulation 23—Energy audits**

- Regulation 23—delete ***GLEAT*** wherever occurring and substitute in each case:
- GEAT***

### **10—Variation of regulation 27—Retailers may enter into arrangements**

- Regulation 27(3)—delete ***GLEAT*** and substitute:
- GEAT***

## 11—Insertion of Part 8A

After Part 8 insert:

### **Part 8A—Regulation of NERL retailers**

#### **36A—NERL retailers to comply with code provisions and other requirements**

- (1) For the purposes of section 61AD(1) of the Act, a NERL retailer must comply with—
  - (a) a code made by the Commission under the *Essential Services Commission Act 2002* relating to gas metering; and
  - (b) if the scheme under Part 4 of these regulations applies to the retailer, a code made by the Commission under the *Essential Services Commission Act 2002* relating to residential energy efficiency.

**Note—**

Regulation 16 provides for the application of a scheme relating to energy efficiency to NERL retailers.

- (2) For the purposes of section 61AD(1) of the Act, a NERL retailer must comply with the following requirements:
  - (a) a NERL retailer must prepare, maintain, publish on its website and periodically revise a safety awareness plan in accordance with the following requirements:
    - (i) the plan must deal with matters prescribed by subregulation (3);
    - (ii) the retailer must obtain the approval of the Technical Regulator to the plan and any revision;
    - (iii) the retailer must comply with the plan as approved from time to time;
    - (iv) the retailer must audit from time to time its compliance with the plan and report the results of those audits to the Technical Regulator;
    - (v) the retailer must, on or before 31 August in each year, lodge with the Technical Regulator a report relating to the previous financial year containing the following information:
      - (A) the results of any audit of the retailer's compliance with its safety awareness plan;

- (B) details of the measures taken to implement the plan, such as information about the publication and distribution of brochures, and the number of times the plan and related material has been viewed by customers on any website operated by the retailer;
    - (C) whether the retailer has been able to comply with all aspects of the safety awareness plan and whether the retailer considers the plan to have been operating effectively;
  - (b) a NERL retailer must, subject to the limitation set out in paragraph (c), use its best endeavours to supply gas in accordance with the standards of quality under regulation 38 and any relevant Act or other instrument that relates to the quality of gas supply;
  - (c) the obligation in paragraph (b) is limited to the extent that the distribution system or the quality of gas supply is adversely affected by the actions or equipment of a small customer;
  - (d) a NERL retailer must use its best endeavours to supply gas in a manner that does not interfere with the safe operation of a distribution system;
  - (e) a NERL retailer must use its best endeavours to provide a reliable supply of gas to a small customer in accordance with any relevant Act or other instrument that relates to the reliability of gas supply;
  - (f) a NERL retailer must, if it carries out the work of installation, maintenance, operation, reading or replacement of a meter—
    - (i) supply to an entity holding a licence authorising the operation of a distribution system information obtained from those meters as is reasonably required by the entity for the purposes of its operations in such format as is reasonably required by the entity and in a manner consistent with recognised practices in the gas industry; and
    - (ii) allow the entity, at the expense of the entity, to inspect and test the meter as is reasonably required by the entity for the purpose of its operations.
- (3) The following are matters that must be dealt with by a safety awareness plan:
  - (a) the establishment and maintenance of systems for—

- (i) communicating information to customers regarding the safety of gas infrastructure, installations and appliances; and
  - (ii) measuring the use of such information systems by customers;
- (b) the provision of material with information and adequate warnings about the properties of gas relevant to safety;
- (c) the establishment and maintenance of systems for—
  - (i) warning the public about the need for due care with respect to gas infrastructure, installations and appliances; and
  - (ii) informing customers about the correct action to be taken with respect to defects or malfunctions of gas infrastructure, installations and appliances (including but not limited to gas leaks or suspected gas leaks), and the means by which customers can report those defects or malfunctions; and
  - (iii) informing customers of approval schemes for gas appliances and the manner in which a customer can determine whether a gas appliance has been approved; and
  - (iv) informing customers of the fact that persons who undertake gas fitting work are required to be licensed or registered under the *Plumbers, Gas Fitters and Electricians Act 1995* and of the manner in which customers can determine whether a person is appropriately licensed or registered; and
  - (v) ensuring that a point of contact for customers regarding gas supply difficulties and gas shortages is provided.

(4) In this regulation—

***relevant Act or other instrument*** means—

- (a) an Act (including any instrument made under an Act); or
- (b) a standard, code, guideline or other instrument issued by the AER, the Commission or the Technical Regulator,

that applies to a person engaged in the retailing of gas.

### **36B—Sale of gas to small customers—market contract without early termination fee to be offered**

- (1) For the purposes of section 61AD(1)(g) of the Act, a NERL retailer must be willing to offer a market retail contract to small customers under which the NERL retailer agrees not to directly or indirectly charge a small customer who is a party to the contract a fee for early termination of the contract no matter what the reason for termination may be.
- (2) In connection with the operation of subregulation (1)—
  - (a) a NERL retailer must clearly identify in naming the contract that it offers for the purposes of subregulation (1) that no fee applies for early termination of the contract; and
  - (b) a NERL retailer must provide information about the contract that it offers for the purposes of subregulation (1) to its existing small customers, and to small customers more generally (and, in so doing, must comply with any requirements specified by the Commission).
- (3) In this section—

*market retail contract* has the same meaning as in the *National Energy Retail Law*.

### **36C—Participation in ombudsman scheme**

For the purposes of section 61AE(1) of the Act, the prescribed level is 10 Tj.

### **36D—Annual administration fee**

- (1) For the purposes of section 61AH(2) of the Act, the annual administration fee is to be calculated in accordance with the following formula:

$$X = \frac{(GA + ESC + AEMC + Q)}{Y}$$

where—

*X* is the annual administration fee for a NERL retailer;

*GA* is the costs determined by the Minister of the administration of the Act;

*ESC* is the costs determined by the Minister of the administration by the Commission of the *Essential Services Commission Act 2002* attributable to the retailing of gas to small customers;

*AEMC* is the costs referred to in subregulation (2);



*Q* is the amount determined by the Minister to adjust the annual administration fee based on events that occurred during the period to which the previous annual administration fee related (such as a new entrant to the market for the retailing of gas) or such other matter relating to that previous period that the Minister thinks fit;

*Y* is the number of NERL retailers that retail gas to small customers at the commencement of the period to which the annual administration fee relates.

- (2) For the purposes of section 61AH(7)(c) of the Act, the costs determined by the Minister of the administration in relation to the retailing of gas in South Australia of Part 9 of the *National Energy Retail Law (South Australia)* by the Australian Energy Market Commission established by the *Australian Energy Market Commission Establishment Act 2004* are prescribed.
- (3) If a NERL retailer commences retailing gas to small customers as a NERL retailer during a period to which an annual administration fee relates, the annual administration fee for the NERL retailer is to be adjusted by multiplying—
  - (a) the annual administration fee that would have been payable by the NERL retailer had it been retailing gas as a NERL retailer during the whole of the relevant period; and
  - (b) the proportion that the number of whole months between the commencement of retailing and the end of the relevant period bears to 12 months.
- (4) If a relevant entity within the meaning of section 33 of the *National Energy Retail Law (South Australia) Act 2011* had, before 1 February 2013, paid (as a gas entity under the *Gas Act 1997*) to the Commission a licence fee under section 20 of the Act in respect of the whole or any part of the period commencing on 1 February 2013 and ending on 1 February 2014, the Commission must determine an amount in relation to the licence fee that is to be offset against the annual administration fee that applies to the entity, or credited or refunded to the entity (as determined by the Commission).

## **12—Variation of regulation 55—Sale of gas where supply affected by gas rationing direction under section 37 of Act**

- (1) Regulation 55(2)—delete "gas" and substitute:  
regulated
- (2) Regulation 55(3)—delete "gas" and substitute:  
regulated
- (3) Regulation 55(5), definition of *affected retailer*—delete "gas entity" and substitute:  
regulated entity

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the advice and consent of the Executive Council  
on 31 January 2013

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