GAS RETAIL LICENCE
(RESTRICTED)

BHP PETROLEUM (BASS STRAIT) PTY LTD
ACN 004 228 004

As varied on
1 October 2002

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1. DEFINITIONS AND INTERPRETATION

1.1 In this licence, words and phrases appearing in italics have the meaning given to them in part 1 of schedule 1.

1.2 This licence must be interpreted in accordance with the rules set out in part 2 of schedule 1.

2. GRANT OF LICENCE

2.1 Subject to:

(a) clause 2.2 and other conditions set out in this licence; and

(b) any prohibition on the Licensee from selling gas to persons or classes of persons specified by any order in force under section 35 of the Act and deemed by that section to be included in a condition of this licence,

the Licensee is licensed to sell gas by retail.

2.2 This licence does not authorise the sale of gas from a supply point to a person unless:

(a) the person has purchased not less than 500,000 GJ of gas from that supply point, or an ancillary supply point, during the 12 months immediately preceding 1 September 1998 or the commencement of the supply, whichever is the later;

(b) the supply point is new and the Commission is satisfied on reasonable grounds that the person will purchase not less than 500,000 GJ of gas from that supply point within a period of 12 months during the period of 3 years next following the commencement of the supply; or

(c) the person is a person to whom a determination of the Commission under section 37(1)(c) of the Act applies.

3. TERM

3.1 This licence first had effect on 2 August 2000 and has been varied on the dates set out in schedule 2.

3.2 The Commission may revoke this licence in accordance with clauses 3.3 or 3.4.

3.3 The Commission may at any time agree with the Licensee that this licence should be revoked, in which case the term of this licence ends on the day agreed. If the Licensee has ceased to sell gas by retail and has satisfied the Commission that no former customer of the Licensee would suffer any prejudice by a revocation of this licence, the Commission must agree to a request by the Licensee that this licence be revoked.
3.4 The Commission may at any time give notice of revocation in accordance with clauses 3.5 and 3.6 to the Licensee if:

(a) the Licensee does not comply with an enforcement order or an undertaking; and

(b) the Commission is satisfied that revocation of this licence is necessary having regard to the policy objectives,

in which case, subject to clause 3.7, the term of this licence ends on the expiration of the period of the notice.

3.5 If the enforcement order or undertaking relates to a breach of this licence which in the Commission’s opinion is causing serious and immediate detriment to customers, the Commission must give at least 5 business days notice of revocation to the Licensee under clause 3.4.

3.6 If clause 3.5 does not apply, the Commission must give at least 20 business days notice of revocation to the Licensee under clause 3.4.

3.7 The term of this licence does not end at the expiration of the period of a notice of revocation given under clause 3.4 if, before the expiration, the Licensee complies with the enforcement order or the undertaking (as the case may be).

4. RELIABILITY OF SUPPLY

4.1 The Licensee must comply with any standard relating to the reliability of supply of gas which is determined under section 33 of the Act. If any standard is so determined, the Licensee must, whenever required by the Commission, demonstrate its actual and prospective compliance with such standard.

4.2 Except in relation to a sale of gas where the customer rather than the Licensee is responsible for arranging supply, the Licensee must notify the relevant distributor or transmission company (and VENCorp as required) of the Licensee’s contractual arrangements with the Licensee’s customers relating to interruption or curtailment of supply within 21 business days of entering into such arrangements.

4.3 If the Licensee is notified by a distributor or transmission company of any interruption or curtailment of delivery of gas at a distribution or transmission delivery point, the Licensee must use reasonable endeavours to ensure that its customers comply with any reasonable requirement set out in the notice.

5. STATEMENT OF CHARGES

5.1 A statement issued by the Licensee to a customer requiring payment for gas sold to that customer must, if and when the Commission considers it reasonable having regard to the cost to the Licensee:

(a) include as a separate item in each statement requiring payment for gas sold to that customer the total of amounts charged by a distributor (if any) and
the total amounts charged by a transmission company in respect of that customer based on the amounts directly attributable to that customer or, to the extent that amounts are attributable jointly to that customer and another customer, based on a fair and reasonable allocation of the amounts; and

(b) comply with any applicable guidelines.

5.2 Any questions as to the fairness and reasonableness of an allocation of an amount referred to in clause 5.1 shall be decided by the Commission on the basis of the Commission’s opinion of the fairness and reasonableness of the allocation.

6. CONFIDENTIALITY

The Licensee must comply with any guideline concerning the use or disclosure of personal information about a customer.

7. CO-OPERATION WITH VENCORP

7.1 As soon as practicable after any request made by VENCorp, the Licensee must supply such information to VENCorp as VENCorp may reasonably require to perform its functions and exercise its powers under the Act.

7.2 A question as to the reasonableness of a requirement by VENCorp for information as contemplated by clause 7.1 shall be decided by the Commission on the basis of the Commission's opinion of the reasonableness of the requirement.

8. COMPLIANCE WITH ORDERS, CODES AND GUIDELINES

8.1 As well as complying with this licence, the Licensee must comply with all applicable provisions of:

(a) any order;

(b) any retail rules;

(c) the Gas Distribution System Code;

(d) any guideline identified as one with which the Licensee must comply in section 64(a) of the Act, in this licence or in a code referred to in this clause 8.1;

(e) any scheme or schemes approved by the Commission under sections 62 and 63 of the Act;

(f) a code dealing with retailers’ marketing conduct which has been developed by retailers, to the extent required by the Commission (after consultation with the Licensee) in a communication identifying the code; and

(g) if after consultation with retailers and representatives of customers there is no identified code to which paragraph (d) refers, a code or guideline
8.2 The Licensee must monitor its compliance with this licence and any order, code or guideline it is required to comply with under clause 8.1.

8.3 If the Licensee becomes aware of a material breach of this licence or any order, code or guideline by the Licensee, the Licensee must notify the Commission of the material breach as soon as practicable.

9. DISPUTE RESOLUTION

If requested by the Commission the Licensee must develop, submit to the Commission for its approval and implement a scheme for the investigation and resolution of disputes between it and:

(a) a customer about the Licensee’s services, billing and charging; and

(b) aggrieved persons about the manner in which the Licensee conducts its retail business generally.

10. SEPARATE ACCOUNTS

The Licensee must ensure that separate accounts are prepared for its retail business in accordance with any guideline published for this purpose.

11. PROVISION OF INFORMATION TO THE COMMISSION

The Licensee must provide to the Commission, in the manner and form decided by the Commission, such information as the Commission may from time to time require.

12. PAYMENT OF LICENCE FEES

12.1 The Licensee must pay as directed by the Commission a licence fee determined in accordance with section 30 of the Act.

12.2 The Licensee must pay as directed by the Commission such other fees and charges in respect of this licence as are determined by the Minister in accordance with section 30 of the Act.

13. ADMINISTRATOR

13.1 If an administrator is appointed to the Licensee’s business under section 41 of the Act, the administrator must exercise its functions and powers in such a manner as may be specified by the Commission in the instrument of appointment.

13.2 The Licensee must indemnify the administrator as if the administrator were an officer of the Licensee, to the maximum extent permitted in respect of an officer under the Corporations Act 2001 (Cth).
14. COMPLIANCE WITH LAWS

The Licensee must comply with all applicable laws (including the Act and gas safety obligations).

15. VARIATION

This licence may be varied in accordance with section 38 of the Act.

16. TRANSFER OF LICENCE

This licence may be transferred in accordance with section 40 of the Act.

17. COMMUNICATIONS

17.1 A communication must be in writing.

17.2 A communication is to be regarded as having been given by the sender and received by the addressee:

(a) when delivered in person to the addressee;

(b) 3 business days after the date of posting, if the communication is posted within Australia;

(c) 7 business days after the date of posting, if the communication is posted outside Australia;

(d) when, according to the sender's transmission report, received by facsimile transmission by the addressee; or

(e) when it is an electronic communication, in accordance with the Electronic Transactions (Victoria) Act 2000.

THE COMMON SEAL of
THE ESSENTIAL SERVICES COMMISSION
was affixed pursuant to
the authority of the Commission
on 1 October 2002

JOHN C. TAMBLYN
Chairman
SCHEDULE 1
DEFINITIONS AND INTERPRETATION

1. DEFINITIONS

In this licence:


administrator means an administrator appointed by the Commission under section 41 of the Act in respect of the Licensee's retail business.

ancillary supply point has the meaning given to that term by the Gas Industry (Residual Provisions) Act 1994.

business day means a day other than a Saturday or Sunday or a public holiday appointed under the Public Holidays Act 1993.


communication means a notice, agreement, consent, direction, representation, advice, statement or other communication required or given pursuant to or in connection with this licence.

customer, unless the context otherwise permits or requires, means a person who buys or may want to buy gas from a retailer but excludes other retailers.

distribution system means in relation to a distributor a system of gas distribution pipelines (generally at pressure levels of 1050 kPa or below) which that distributor uses to supply gas to customers.

distributor means a person who holds, or is exempt from holding, a distribution licence under the Act.

enforcement order means a provisional or final order made and served by the Commission under section 53 of the Essential Services Commission Act 2001.

Gas Distribution System Code means the code of that name certified by the Commission.

gas safety obligations means any obligation of the Licensee arising under or in relation to the Gas Safety Act 1997 or regulations made under that Act.

guideline means a guideline published by the Commission.

Licensee means BHP Petroleum (Bass Strait) Pty Ltd, ACN 004 228 004.
Minister means the person who is the Minister for the purposes of the relevant section of the Act.

order means an order in council made or in force under the Act.

personal information means information or opinion which constitutes “personal information” under the Privacy Act 1988 (Cth) or would constitute personal information if the term “individual” as used in that Act extended to any type of customer, including a body corporate.

policy objectives means the objectives specified in section 18 of the Act and section 8 of the Essential Services Commission Act 2001.

retail business means the business that a retailer carries on under its retail licence or exemption granted under the Act.

retail licence means a licence granted under the Act to sell gas by retail.

retail rules means the relevant retail gas market rules (as defined in Division 2 of Part 4 of the Act) applicable to supply points in respect of which the Licensee sells gas.

retailer means a person who holds, or is exempt from holding, a retail licence under the Act.

supply, in relation to gas, means the delivery of gas.

supply point has the meaning given to that term by the Gas Industry (Residual Provisions) Act 1994.

transmission company means gas transmission company within the meaning of the Act.

undertaking means an undertaking given by the Licensee under section 53(5)(a) of the Essential Services Commission Act 2001.


writing includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.
2. **INTERPRETATION**

In this licence, unless the context otherwise requires:

(a) headings and footnotes 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 condition, clause, schedule or part is to a condition, clause, schedule or part of this licence;

(f) a reference to terms of an offer or agreement is to all terms, conditions and provisions of the offer or agreement;

(g) a reference to any statute including the *Act* and regulation, proclamation, order in council, ordinance or by-law 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;

(h) 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;

(i) a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;

(j) when italicised, other parts of speech and grammatical forms of a word or phrase defined in this licence have a corresponding meaning;

(k) a period of time:
   (i) which dates from a given day or the day of an act or event is to be calculated exclusive of that day; or
   (ii) which commences on a given day or the day of an act or event is to be calculated inclusive of that day; and

(l) an event which is required under this licence to occur on or by a stipulated day which is not a *business day* may occur on or by the next *business day*. 
This licence which was originally issued on 2 August 2000 has been varied by the following:

The *Commission* 1 October 2002