GAS RETAIL LICENCE

SANTOS DIRECT PTY LTD
ABN 62 108 846 288

Issued on
29 September 2004
1. DEFINITIONS AND INTERPRETATION

1.1 In this licence, words and phrases appearing like this 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 the conditions set out in 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 the following classes of customers:

(a) domestic or small business customers; or

(b) customers (together with related bodies corporate of that customer) whose aggregate supply of gas taken from supply points or ancillary supply points has been, or is likely to be, less than 100,000 gigajoules in any calendar year.

3. TERM

3.1 This licence first had effect on 29 September 2004 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.

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 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 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.

4.2 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.

4.3 The Licensee must comply with Gas Retail Code and, as and from 1 January 2005, the Energy Retail Code.

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, include as a separate item 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.

5.2 Any question as to the fairness and reasonableness of an allocation of an amount referred to in clause 5.1 is to 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 is to 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, if the guideline itself requires the Licensee to comply or the Commission has informed the Licensee that compliance is required by way of a communication given to the Licensee by the Commission;

(e) any guideline identified as one with which the Licensee must comply in section 64(a) of the Act;

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

(g) 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

(h) if after consultation with retailers and representatives of customers there is no identified code to which paragraph (g) refers, a code or guideline dealing with retailers’ marketing conduct issued by the Commission after further consultation with the Licensee and representatives of customers and identified in a communication given by the Commission to the Licensee.

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. REGULATORY AUDITS

9.1 Upon request by the Commission, the Licensee must appoint an independent auditor to conduct audits of:

(a) its compliance with obligations under this licence, including obligations to comply with codes and guidelines; and
(b) the reliability and quality of information reported by the Licensee to the Commission, and the consistency of that information with the Commission’s specifications.

9.2 The Licensee must comply, and must require the Licensee’s auditor to comply, with relevant aspects of any guideline dealing with audits under this clause 9, including any minimum requirements relating to the appointment of the auditor, the terms and conditions of the appointment of the auditor, the scope of the audit, the conduct of the audit and the reporting of the results of the audit.

10. 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.

11. SEPARATE ACCOUNTS

The Licensee must ensure that separate accounts are prepared for its retail business.

12. 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.

13. PAYMENT OF LICENCE FEES

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

13.2 Insofar as a fee or charge determined by the Minister under section 30 of the Act in respect of this licence is an annual fee or charge, it must be paid in either four equal instalments on the last days of September, December, March and June in each financial year or paid in one payment on or before the last day of September in each financial year and in the manner notified to the Licensee by the Commission.

13.3 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.

14. ADMINISTRATOR

14.1 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.
14.2 The Licensee is responsible for the acts and defaults of the administrator.

15. COMPLIANCE WITH LAWS

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

16. VARIATION

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

17. TRANSFER OF LICENCE

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

18. COMMUNICATIONS

18.1 A communication must be in writing.

18.2 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 29 September 2004

JOHN C. TAMBLYN
Chairman
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* and includes other *retailers*.

*distribution licence* means a licence to provide services by means of a *distribution pipeline* granted under the *Act*.

*distribution pipeline* has the meaning given to that term by the *Act*.

*distributor* means a person who holds, or is exempt from holding, a *distribution licence*.

*domestic or small business customer* in relation to the *Licensee* and a supply of gas from a *supply point*, has the same meaning as in any relevant *order*.

*Energy Retail Code* means the code of that name setting out terms and conditions relevant to contracts for the supply or sale of gas published by the *Commission* 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 Retail Code** means the code of that name setting out terms and conditions relevant to contracts for the supply or sale of gas determined by the **Commission** under the **Act**.

**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 Santos Direct Pty Ltd ABN 62 108 846 288.

**Minister** means the person who is the Minister for the purposes of the relevant section of the **Act**.

**MSO Rules** has the meaning given to that term by the **Act**.

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

**order** means an Order in Council made or in force under the **Act** or the **Essential Services Commission Act** 2001.

**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.

**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 to sell gas by retail granted under the **Act**.

**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**.

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

**transmission company** means a 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.

**VENCorp** means Victorian Energy Networks Corporation continued under Part 8 of the **Act**.

**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, footnotes and schedule 2 are each 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) 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:

(1) which dates from a given day or the day of an act or event is to be calculated exclusive of that day; or

(2) 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*. 
SCHEDULE 2
VARIATIONS TO THE LICENCE

This licence which was originally issued on 29 September 2004 has been varied by the following: