

1st Energy  
Standard Retail Contract  
Terms and Conditions

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# PART 1: STANDARD RETAIL CONTRACT TERMS AND CONDITIONS

## PREAMBLE

This contract is about the sale of energy to you as a small customer at your premises. It is a standard retail contract that starts without you having to sign a document agreeing to these terms and conditions.

In addition to this contract, the energy laws and other consumer laws also contain rules about the sale of energy and we will comply with these rules in our dealings with you. For example, the National Energy Retail Law and the National Energy Retail Rules ('the Rules') set out specific rights and obligations about energy marketing, payment methods and arrangements for customers experiencing payment difficulties.

**Note for Victorian customers:** For Victorian customers, until the National Energy Retail Law and the National Energy Retail Rules are adopted in Victoria (referred to as 'NECF implementation in Victoria'), the energy laws applicable in Victoria are the Electricity Industry Act 2000, the Gas Industry Act 2001 and the Energy Retail Code made by the Essential Services Commission. For customers in Victoria, prior to NECF implementation in Victoria all references to the National Energy Retail Law and Rules in this contract should be read as references to the Energy Retail Code unless stated otherwise.

You also have a separate contract with your distributor, called a customer connection contract. The customer connection contract deals with the supply of energy to your premises and can be found on your distributor's website.

**Note for Victorian customers:** There are no gas customer connection contracts in Victoria.

You may also have a separate Solar Feed-In Agreement and/or Green Options, each of which form a separate contract. The applicable terms and conditions are provided.

More information about this contract and other matters is on our website at [1st Energy.com.au](http://1st Energy.com.au).

## 1. THE PARTIES

This contract is between:

1st Energy Pty Ltd (ACN 604 999 706), who sells energy to you at your premises (in this contract referred to as "we", "our" or "us"); and  
You, the customer to whom this contract applies (in this contract referred to as "you" or "your").

## **2. DEFINITIONS AND INTERPRETATION**

- (a) Terms used in this contract has the same meanings as they have in the National Energy Retail Law and the Rules. However, for ease of reference, a simplified explanation of some terms is given at the end of this contract.
- (b) Where the simplified explanations given at the end of this contract differ from the definitions in the National Energy Retail Law and the Rules, the definitions in the National Energy Retail Law and the Rules prevail.

## **3. DO THESE TERMS AND CONDITIONS APPLY TO YOU?**

### **3.1 These are our terms and conditions**

This contract sets out the terms and conditions for a standard retail contract for a small customer under the National Energy Retail Law and the Rules.

### **3.2 Application of these terms and conditions**

These terms and conditions apply to you if:

- (a) you are a residential customer; or
- (b) you are a business customer who is a small customer; and
- (c) you request us to sell energy to you at your premises; and
- (d) you are not being sold energy for the premises under a market retail contract.

### **3.3 Electricity or gas**

Standard retail contracts apply to electricity and gas, but some terms may be expressed to apply only to one or the other. If we are your retailer for both electricity and gas, you have a separate contract with us for each of them.

## **4. WHAT IS THE TERM OF THIS CONTRACT?**

### **4.1 When does this contract start?**

This contract starts on the date you satisfy any pre-conditions set out in the National Energy Retail Law and the Rules, including giving us acceptable identification and your contact details for billing purposes.

### **4.2 When does this contract end?**

- (a) This contract ends:

- (i) if you give us a notice stating you wish to end the contract—subject to paragraph (b), on a date specified by us of which we will give you at least 5 but no more than 20 business days' notice; or
  - (ii) if you are no longer a small customer
    - (A) subject to paragraph (b), on a date specified by us, of which we will give you at least 5 but no more than 20 business days' notice; or
    - (B) if you have not told us of a change in the use of your energy—from the time of the change in use; or
  - (iii) if we both agree to a date to end the contract—on the date that is agreed; or
  - (iv) if you start to buy energy for the premises from us or a different retailer under a market retail contract—on the date the market retail contract starts; or
  - (v) if a different customer starts to buy energy for the premises—on the date that customer's contract starts; or
  - (vi) if the premises are disconnected and you have not met the requirements in the Rules for reconnection—10 business days from the date of disconnection.
- (b) If you do not give us safe and unhindered access to the premises to conduct a final meter reading (where relevant), this contract will not end under paragraph (a) (i) or (ii) until we have issued you a final bill and you have paid any outstanding amount for the sale of energy.
  - (c) Rights and obligations accrued before the end of this contract continue despite the end of the contract, including any obligations to pay amounts to us.

### **4.3 Vacating your premises**

- (a) If you are vacating your premises, you must provide your forwarding address to us for your final bill in addition to a notice under clause 4.2(a)(i) of this contract.
- (b) When we receive the notice, we must use our best endeavors to arrange for the reading of the meter on the date specified in your notice (or as soon as possible after that date if you do not provide access to your meter on that date) and send a final bill to you at the forwarding address stated in your notice.
- (c) You will continue to be responsible for charges for the premises until your contract ends in accordance with clause 4.2 of this contract.

## **5. SCOPE OF THIS CONTRACT**

### **5.1 What is covered by this contract?**

- (a) Under this contract we agree to sell you energy at your premises. We also agree to meet other obligations set out in this contract and to comply with the energy laws, including, where we sell you electricity, the provision, installation and maintenance of your meter.
- (b) In return, you agree:
  - (i) to be responsible for charges for energy supplied to the premises until this contract ends under clause 4.2 even if you vacate the premises earlier; and
  - (ii) to pay the amounts billed by us under this contract; and
  - (iii) to meet your obligations under this contract and the energy laws.

### **5.2 What is not covered by this contract?**

This contract does not cover the physical connection of your premises to the distribution system, including the maintenance of that connection and the supply of energy to your premises and, where we sell you gas, provision of metering equipment. This is the role of your distributor under a separate contract called a customer connection contract.

**Note for Victorian customers:** There are no gas customer connection contracts in Victoria.

## **6. YOUR GENERAL OBLIGATIONS**

### **6.1 Full information**

You must give us any information we reasonably require for the purposes of this contract. The information must be correct, and you must not mislead or deceive us in relation to any information provided to us.

### **6.2 Updating information**

You must tell us promptly if:

- (a) information you have provided to us changes, including if your billing address changes or if your use of energy changes (for example, if you start running a business at the premises); or
- (b) you are aware of any change that materially affects access to your meter or to other equipment involved in providing metering services at the premises.

## 6.3 Life support equipment

- (a) If a person living at your premises require life support equipment, you must register the premises with us or your distributor. To register, you will need to give written confirmation from a registered medical practitioner of the requirement for life support equipment at the premises.
- (b) You must tell us or your distributor if the life support equipment is no longer required at the premises.
- (c) If the premises are registered as having life support equipment, we must give you:
  - (i) general advice relating to the retailer planned interruption to the supply of electricity to the premises;
  - (ii) at least 4 business days notice in writing of any retailer planned interruption to the supply of electricity to the premises; and
  - (iii) an emergency telephone contact number.

## 6.4 Obligations if you are not an owner

If you cannot meet an obligation relating to your premises under this contract 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 other person responsible for the premises fulfils the obligation.

## 7. OUR LIABILITY

- (a) The quality and reliability of your electricity supply and the quality, pressure and continuity of your gas supply is subject to a variety of factors that are beyond our control as your retailer, including accidents, emergencies, weather conditions, vandalism, system demand, the technical limitations of the distribution system and the acts of other persons (such as your distributor), including at the direction of a relevant authority.
- (b) To the extent permitted by law, we give no condition, warranty or undertaking, and we make no representation to you, about the condition or suitability of energy, its quality, fitness for purpose or safety, other than those set out in this contract.
- (c) Unless we have acted in bad faith or negligently, the National Energy Retail Law excludes our liability for any loss or damage you suffer as a result of the total or partial failure to supply energy to your premises, which includes any loss or damage you suffer as a result of the defective supply of energy.

**Note for Victorian customers:** Prior to NECF implementation in Victoria, the reference to the NERL in clause 7(c) is a reference to, in the case of electricity, s.120 of the National Electricity Law as set out in the Schedule to the *National Electricity (South*

## **8. PRICE FOR ENERGY AND OTHER SERVICES**

### **8.1 What are our tariffs and charges?**

- (a) Our tariffs and charges for the sale of energy to you under this contract are our standing offer prices. These are published on our website and include your distributor's charges. Refer to your Energy Plan Details°
- (b) Different tariffs and charges may apply to you depending on your circumstances. The conditions for each tariff and charge are set out in our standing offer prices.

Note: We do not impose any charges for the termination of this contract.

### **8.2 Changes to tariffs and charges**

- (a) If we vary our standing offer prices, we will publish the variation in a newspaper and on our website at least 10 business days before it starts. We will also include details with your next bill if the variation affects you.
- (b) Our standing offer prices will not be varied more often than once every 6 months.

### **8.3 Variation of tariff due to change of use**

If a change in your use of energy means you are no longer eligible for the tariff you are on, we may transfer you to a new tariff under our standing offer prices:

- (a) if you notify us there has been a change of use - from the date of notification; or
- (b) if you have not notified us of the change of use - retrospectively from the date the change of use occurred.

### **8.4 Variation of tariff or type of tariff on request**

- (a) If you think you satisfy the conditions applying to another tariff or type of tariff under our standing offer prices, you can ask us to review your current circumstances to see whether that tariff or type of tariff can apply to you.
- (b) If you meet the requirements for another tariff or type of tariff and request us to do so, we must:
  - (i) transfer you to that other tariff within 10 business days;  
or

- (ii) transfer you to that other type of tariff from the date the meter is read or the type of meter is changed (if needed).

## **8.5 Changes to tariffs or type of tariff during a billing cycle**

If a tariff applying to you changes during a billing cycle, we will calculate your next bill on a proportionate basis.

## **8.6 GST**

- (a) Amounts specified in the standing offer prices from time to time and other amounts payable under this contract may be stated to be exclusive or inclusive of GST. Paragraph (b) applies unless an amount is stated to include GST. Refer to your Energy Plan Details.
- (b) Where an amount paid by you under this contract 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 on to the recipient of that taxable supply.

# **9. BILLING**

## **9.1 General**

We will send a bill to you as soon as possible after the end of each billing cycle. We will send the bill:

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

## **9.2 Calculating the bill**

Bills we send to you (‘your bills’) will be calculated on:

- (a) the amount of energy consumed at your premises during the billing cycle (using information obtained from reading your meter or otherwise in accordance with the Rules); and
- (b) the amount of fees and charges for any other services provided under this contract during the billing cycle; and
- (c) the charges payable for services provided by your distributor, including connection charges if you have asked for a new connection or connection alteration and have not made alternative arrangements with your distributor.

## **9.3 Estimating the energy usage**

- (a) We may estimate the amount of energy consumed at your premises if your meter cannot be read, if your metering

data is not obtained (for example, if access to the meter is not given or the meter breaks down or is faulty), or if you otherwise consent.

**Note for Victorian customers:** In Victoria, a retailer must obtain a customer's 'explicit informed consent' to base the customer's bill on an estimation, unless the meter cannot be read or the metering data is not obtained.

- (b) If we estimate the amount of energy consumed at your premises to calculate a bill, we must:
  - (i) clearly state on the bill that it is based on an estimation; and
  - (ii) when your meter is later read, adjust your bill for the difference between the estimate and the energy actually used.
- (c) If the later meter read shows that you have been undercharged, we will allow you to pay the undercharged amount in instalments, over the same period of time during which the meter was not read (if less than 12 months), or otherwise over 12 months.
- (d) If the meter has not been read due to your actions, and you request us to replace the estimated bill with a bill based on an actual reading of the meter, we will comply with your request but may charge you any cost we incur in doing so.

## **9.4 Your historical billing information**

Upon request, we must give you information about your billing history for the previous 2 years free of charge. However, we may charge you if we have already given you this information in the previous 12 months, or if you require information going back more than 2 years.

## **9.5 Bill smoothing**

We may, where you agree, arrange for you to pay your bills under a bill smoothing arrangement, which is based on a 12-monthly estimate of your energy consumption.

# **10. PAYING YOUR BILL**

## **10.1 What you have to pay**

You must pay to us the amount shown on each bill by the date for payment (the pay-by date) on the bill. The pay-by date will be no earlier than 13 business days from the date on which we issue your bill.

## 10.2 Issue of reminder notices

If you have not paid your bill by the pay-by date, we will send you a reminder notice that payment is required. The reminder notice will give you a further due date for payment which will be not less than 6 business days after we issue the notice.

## 10.3 Difficulties in paying

- (a) If you have difficulties paying your bill, you should contact us as soon as possible. We will provide you with information about payment options.
- (b) If you are a residential customer and have told us that you have difficulty paying your bill, we must offer you the option of paying your bill under a payment plan. However, we are not obliged to do so if you have had 2 payment plans cancelled due to non-payment in the previous 12 months or have been convicted of an offence involving the illegal use of energy in the previous 2 years.
- (c) Additional protections may be available to you under our Customer Hardship Policy and under the National Energy Retail Law and the Rules if you are a customer experiencing payment difficulties due to hardship. A copy of our Customer Hardship Policy is available on our website.

## 10.4 Late payment fees

If you have not paid a bill by the pay-by date, we may require you to pay a late payment fee, which is part of our standing offer prices published on our website.

We will not charge a late payment fee where it is not permitted under your local State or territory law. At the date of this document, the charging of late payment fees is prohibited in Victoria.

# 11. METERS

- (a) You must allow us and our authorised representative safe and unhindered access to your premises for the purposes of (where relevant):
  - (i) reading, testing, maintaining, inspecting or altering any metering installation at the premises; and
  - (ii) calculating or measuring energy supplied or taken at the premises; and
  - (iii) checking the accuracy of metered consumption at the premises; and
  - (iv) replacing meters.
- (b) We will use our best endeavours to ensure that a meter reading is carried out as frequently as is needed to prepare your bills, consistently with the metering rules and in any event at least once every 12 months.

- (c) If we propose to replace your electricity meter we must give you a notice with the right to elect not to have your meter replaced unless:
  - (i) your meter is faulty or sample testing indicates it may become faulty; or
  - (ii) you have requested or agreed to the replacement of your meter.

## **11A. INTERRUPTION TO YOUR ELECTRICITY SUPPLY**

### **11A.1 Retailer may arrange retailer planned interruptions (maintenance repair etc)**

- (a) We may arrange retailer planned interruptions to the supply of electricity to your premises where permitted under the energy laws for the purpose of the installation, maintenance, repair or replacement of your electricity meter;
- (b) If your electricity supply will be affected by a retailer planned interruption arranged by us, we will give you at least 4 business days notice by mail, letterbox drop, press advertisement or other appropriate means.

### **11A.2 Your right to information about planned interruptions**

- (a) If you request us to do so, we will use our best endeavours to explain a retailer planned interruption to the supply of electricity to the premises which was arranged by us.
- (b) If you request an explanation be in writing we must, within 10 business days of receiving the request, give you either:
  - (i) the written explanation; or
  - (ii) an estimate of the time it will take to provide a more detailed explanation if a longer period is reasonably needed.
- (c) For interruptions made by your distributor, we may refer you to your distributor to provide information.

## **12. UNDERCHARGING AND OVERCHARGING**

### **12.1 Undercharging**

- (a) If we have undercharged you, we may recover the undercharged amount from you. If we recover an undercharged amount from you:
  - (i) we will not charge interest on the undercharged amount; and

- (ii) we will offer you time to pay the undercharged amount in instalments over the same period of time during which you were undercharged (if less than 12 months), or otherwise over 12 months.
- (c) The maximum amount we can recover from you is limited to the amount that has been undercharged in the 9 months immediately before we notify you, unless the undercharge is your fault, or results from your unlawful act or omission.

## 12.2 Overcharging

- (a) Where you have been overcharged by less than \$50, and you have already paid the overcharged amount, we must credit that amount to your next bill.
- (b) Where you have been overcharged by \$50 or more, we must inform you within 10 business days of our becoming aware of the overcharge and, if you have already paid that amount, we must credit that amount to your next bill. However, if you request otherwise, we will comply with that request.
- (c) If you have stopped buying energy from us, we will use our best endeavours to pay the overcharged amount to you within 10 business days.
- (d) If you have been overcharged as a result of your own fault or unlawful act or omission, we may limit the amount we credit or pay you to the amount you were overcharged in the last 12 months.

## 12.3 Reviewing your bill

- (a) If you disagree with the amount you have been charged, you can ask us to review your bill in accordance with our standard complaints and dispute resolution procedures.
- (b) If you ask us to, we must arrange for a check of the meter reading or metering data or for a test of the meter in reviewing the bill. You will be liable for the cost of the check or test and we may request payment in advance. However, if the meter or metering data proves to be faulty or incorrect, we must reimburse you for the amount paid.

**Note for Victorian customers:** Customers in Victoria are not required to pay for a meter check or test in advance.

- (c) If your bill is being reviewed, you are still required to pay any other bills from us that are due for payment and the lesser of: (i) the portion of the bill that you do not dispute; or (ii) an amount equal to the average of your bills in the last 12 months.

## **13. SECURITY DEPOSITS**

### **13.1 Security deposit**

We may require that you provide a security deposit. The circumstances in which we can require a security deposit and the maximum amount of the security deposit are governed by the Rules.

### **13.2 Interest on security deposits**

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 Rules.

### **13.3 Use of a security deposit**

- (a) We may use your security deposit, and any interest earned on the security deposit, to offset any amount you owe under this contract:
  - (i) if you fail to pay a bill and as a result we arrange for the disconnection of your premises; or
  - (ii) in relation to a final bill (i.e. a bill we issue when you vacate the premises or when you stop purchasing energy from us at your premises or when you request that your premises be disconnected).
- (b) If we use your security deposit or any accrued interest to offset amounts owed to us, we will advise you within 10 business days.

### **13.4 Return of security deposit**

- (a) We must return your security deposit and any accrued interest in the following circumstances:
  - (i) you complete 1 years' payment (in the case of residential customers) or 2 years' payment (in the case of business customers) by the pay-by dates on our initial bills; or
  - (ii) subject to clause 14.3 of this contract, you stop purchasing energy at the relevant premises under this contract.
- (b) If you do not give us any reasonable instructions, we will credit the amount of the security deposit, together with any accrued interest, to your next bill.

## **14. DISCONNECTION OF SUPPLY**

### **14.1 When can we arrange for disconnection?**

Subject to us satisfying the requirements in the Rules, we may arrange for the disconnection of your premises if:

- (a) you do not pay your bill by the pay-by date and, if you are a residential customer, you:
  - (i) fail to comply with the terms of an agreed payment plan; or
  - (ii) do not agree to an offer to pay the bill by instalments, or having agreed, you fail to comply with the instalment arrangement;
- (b) you do not provide a security deposit we are entitled to require from you; or
- (c) you do not give access to your premises to read a meter (where relevant) for 3 consecutive meter reads; or
- (d) there has been illegal or fraudulent use of energy at your premises in breach of clause 16 of this contract; or
- (e) we are otherwise entitled or required to do so under the Rules or by law.

## 14.2 Notice and warning of disconnection

Before disconnecting your premises, we must comply with relevant warning notice requirements and other provisions in the Rules, and in relation to safe and unhindered access only, we must use our best endeavours to contact you to arrange an appointment with you for access to your premises in addition to any warning notice. However, we are not required to provide a warning notice prior to disconnection in certain circumstances (for example, where there has been illegal or fraudulent use of energy at your premises or where there is an emergency or health and safety issue).

## 14.3 When we must not arrange disconnection

- (a) Subject to paragraph (b), your premises may not be disconnected during the following times ('the protected period'):
  - (i) on a business day before 8.00am or after 3.00pm (or 2.00pm if you're a residential customer whose premises are in Victoria); or
  - (ii) on a Friday or the day before a public holiday; or
  - (iii) on a weekend or a public holiday; or
  - (iv) on the days between 20 December and 31 December (both inclusive) in any year;
  - (v) if you are being disconnected under clause 14.1(a), during an extreme weather event.

**Note:** Paragraph (v) does not apply in certain jurisdictions, including Victoria, New South Wales, Tasmania and the Australian Capital Territory.

- (b) Your premises may be disconnected within the protected period:

- (i) for reasons of health and safety; or
- (ii) in an emergency; or
- (iii) as directed by a relevant authority; or
- (iv) if you are in breach of clause 6.5 of your customer connection contract which deals with interference with energy equipment; or

**Note for Victorian customers:** Victorian customers may be disconnected if it is permitted under their connection contract or under the applicable *energy law*

- (v) if you request us to arrange disconnection within the protected period; or
- (vi) if your premises contain a commercial business that only operates within the protected period and where access to the premises is necessary to effect disconnection; or
- (vii) where the premises are not occupied.

## 15. RECONNECTION AFTER DISCONNECTION

- (a) We must arrange for the reconnection of your premises if, within 10 business days of your premises being disconnected:
  - (i) you ask us to arrange for reconnection of your premises; and
  - (ii) you rectify the matter that led to the disconnection; and
  - (iii) you pay any reconnection charge (if requested).
- (b) We may terminate this contract 10 business days following disconnection if you do not meet the requirements in paragraph (a).

## 16. WRONGFUL AND ILLEGAL USE OF ENERGY

### 16.1 Use of energy

You must not, and must take reasonable steps to ensure others do not:

- (a) illegally use energy supplied to your premises; or
- (b) interfere or allow interference with any energy equipment that is at your premises except as may be permitted by law; or
- (c) use the energy supplied to your premises or any energy equipment in a manner that:
  - (i) unreasonably interferes with the connection or supply of energy to another customer; or

- (ii) causes damage or interference to any third party; or
- (d) allow energy purchased from us to be used otherwise than in accordance with this contract and the Rules; or
- (e) tamper with, or permit tampering with, any meters or associated equipment.

## **17. NOTICES AND BILLS**

- (a) Notices and bills under this contract must be sent in writing, unless this contract or the National Energy Retail Law and the Rules say otherwise.
- (c) A notice or bill sent under this contract is taken to have been received by you or by us (as relevant):
  - (i) on the date, it is handed to the party, left at the party's premises (in your case) or one of our offices (in our case) or successfully faxed to the party (which occurs when the sender receives a transmission report to that effect); or
  - (ii) on the date 2 business days after it is posted; or
  - (iii) on the date of transmission (unless the sender receives notice that delivery did not occur or has been delayed) if sent electronically and the use of electronic communication has been agreed between us.
- (c) Our contact details for you to contact us or send us a notice are as set out in our bill to you, or as notified to you from time to time.

## **18. PRIVACY ACT NOTICE**

We will comply with all relevant privacy legislation in relation to your personal information. You can find our privacy policy on our website and at Part 2 of this document. If you have any questions, you can contact our privacy officer.

## **19. COMPLAINTS AND DISPUTE RESOLUTION**

### **19.1 Complaints**

If you have a complaint relating to the sale of energy by us to you, or this contract generally, you may lodge a complaint with us in accordance with our standard complaints and dispute resolution procedures. Note: Our standard complaints and dispute resolution procedures are published on our website.

## 19.2 Our obligations in handling complaints

If you make a complaint, we must respond to your complaint within the required timeframes set out in our standard complaints and dispute resolution procedures and inform you:

- (a) of the outcome of your complaint and the reasons for our decision; and
- (b) that if you are not satisfied with our response, you have a right to refer the complaint to Ombudsman your state:

### **VICTORIA**

#### **Energy and Water Ombudsman of Victoria**

GPO Box 469D, Melbourne, VIC 3001

Freecall (except mobile phones): 1800 500 509

Telephone Interpreter Service: 131 450

TTY (for hearing impaired customers): 1800 500 529

### **SOUTH AUSTRALIA**

#### **Energy Industry Ombudsman of South Australia**

GPO Box 2947, Adelaide, South Australia, 5001

Freecall (from Australia): 1800 665 565

Freefax: 1800 665 165

Overseas call: 61 8 8216 1888

### **NSW**

#### **Energy and Water Ombudsman of New South Wales**

Freecall: 1800 246 545

Freefax: 1800 812291

Mail: PO Box K1343, Haymarket 1240

Online: [www.ewon.com.au](http://www.ewon.com.au)

Email: [omb@ewon.com.au](mailto:omb@ewon.com.au)

### **ACT**

#### **Civil and Administrative Tribunal (Energy and Water)**

telephone: (02) 620 777 40

Mail: GPO Box 578 CIVIC SQUARE ACT 2608

Email: [acatenergycomplaints@act.gov.au](mailto:acatenergycomplaints@act.gov.au)

Online: <http://www.acat.act.gov.au/>

### **QUEENSLAND**

#### **Energy Ombudsman of Queensland**

Freecall: 1800 662 837

Mail: PO Box 3640 South Brisbane QLD 4101

Online: [www.eoq.com.au](http://www.eoq.com.au)

## **20. FORCE MAJEURE**

### **20.1 Effect of force majeure event**

If either party to this contract cannot meet an obligation under this contract because of an event outside the control of that party ('a force majeure event'):

- (a) the obligation, other than an obligation to pay money, is suspended to the extent it is affected by the force majeure event for as long as the force majeure event continues; and
- (b) the affected party must use its best endeavours to give the other party prompt notice of that fact including full particulars of the event, an estimate of its likely duration, the extent to which the affected party's obligations are affected and the steps being taken to remove, overcome or minimise those effects.

### **20.2 Deemed prompt notice**

If the effects of a force majeure event are widespread, we will be deemed to have given you prompt notice if we make the necessary information available by way of a 24 hour telephone service within 30 minutes of being advised of the event or otherwise as soon as practicable.

### **20.3 Obligation to overcome or minimise effect of force majeure event**

A party that claims a force majeure event must use its best endeavours to remove, overcome or minimise the effects of that event as soon as practicable.

### **20.4 Settlement of industrial disputes**

Nothing in this clause requires a party to settle an industrial dispute that constitutes a force majeure event in any manner other than the manner preferred by that party.

## **21. APPLICABLE LAW**

This Contract is governed by the laws in force in the State or Territory in which your premises are located.

If your premises are located in:

- (a) NSW, NSW law is applicable;
- (b) Victoria, Victorian law is applicable;

- (c) South Australia, South Australian Law is applicable
- (d) Queensland, Queensland law is applicable;
- (e) ACT, ACT law is applicable;
- (f) Tasmania, Tasmanian law is applicable.”

## 22. RETAILER OF LAST RESORT EVENT

If we are no longer entitled by law to sell energy to you due to a Retailer of Last Resort (RoLR) event occurring in relation to us, we are required under the National Energy Retail Law and the Rules to provide relevant information (including your name, billing address and metering identifier) to the entity appointed as the relevant designated retailer for the RoLR event and this contract will come to an end.

## 23. GENERAL

### 23.1 Our obligations

Some obligations placed on us under this contract may be carried out by another person. If an obligation is placed on us to do something under this contract, then:

- (a) we are taken to have complied with the obligation if another person does it on our behalf; and
- (b) if the obligation is not complied with, we are still liable to you for the failure to comply with this contract.

### 23.2 Amending this contract

- (a) This contract may only be amended in accordance with the procedures set out in the National Energy Retail Law.

**Note for Victorian customers:** For Victorian customers the procedures are set out in section 35 of the Electricity Industry Act and section 42 Gas Industry Act.

- (b) We must publish any amendments to this contract on our website.

## SIMPLIFIED EXPLANATION OF TERMS

**billing cycle** means the regular recurrent period for which you receive a bill from us;

**business day** means a day other than a Saturday, a Sunday or a public holiday;

**customer** means a person who buys or wants to buy energy from a retailer;

**customer connection contract** means a contract between you and your distributor for the provision of customer connection services;

**Note for Victorian customers:** There are no gas customer connection contracts in Victoria.

**designated retailer means** the financially responsible retailer for the premises (where you have an existing connection) or the local area retailer (where you do not have an existing connection) for your premises;

**disconnection means** an action to prevent the flow of energy to the premises, but does not include an interruption;

**distributor** means the person who operates the system that connects your premises to the distribution network;

**Note for Victorian customers:** In Victoria, **Electricity Industry Act** means the Electricity Industry Act 2000.

**emergency means** an emergency due to the actual or imminent occurrence of an event that in any way endangers or threatens to endanger the safety or health of any person, or normal operation of the distribution system or transmission system, or that destroys or damages, or threatens to destroy or damage, any property;

**energy** means electricity or gas;

**energy laws** mean national and State and Territory laws and rules relating to energy and the legal instruments made under those laws and rules;

**Note for Victorian customers:** In Victoria **Energy Retail Code** means the Energy Retail Code Version 11 dated 13 October 2014 produced by the Essential Services Commission Victoria and as amended from time to time.

**force majeure event** means an event outside the control of a party;

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

**Note for Victorian customers:** In Victoria, **Gas Industry Act** means the **Gas Industry Act 2001**.

**National Energy Retail Law** means the Law of that name that is applied by each participating State and Territory;

**relevant authority** means any person or body who has the power under law to direct us, including the Australian Energy Market Operator and State or Federal Police;

**residential customer** means a person who purchases energy principally for personal, household or domestic use at their premises;

**retailer** means a person that is authorised to sell energy to customers;

**retailer planned interruption** means an interruption that:

- (a) is for the purposes of the installation, maintenance, repair or replacement of your electricity meter; and
- (b) does not involve the distributor effecting the interruption; and
- (c) is not an interruption which has been planned by your distributor.

**RoLR event** means an event that triggers the operation of the Retailer of Last Resort scheme under the National Energy Retail Law;

**Rules** means the National Energy Retail Rules made under the National Energy Retail Law;

**security deposit** means an amount of money paid to us as security against non-payment of a bill in accordance with the Rules;

**small customer** means: (a) a residential customer; or (b) a business customer who consumes energy at or below a level determined under the National Energy Retail Law;

**Note for Victorian customers:** In Victoria, a small customer is a 'domestic or small business customer' as defined in the Electricity Industry Act or the Gas Industry Act.

**standing offer prices** means tariffs and charges that we charge you for or in connection with the sale and supply of energy. These are published on our website.

## SMART METERS – FOR CUSTOMERS WITH SMART METERS ONLY

24. Notwithstanding anything in section 8.2(a) of the Standing Terms and Part 2(b) (Green Option terms and conditions) of this contract, we will give you notice of any variation to the amount and/or structure of our retail tariffs which affect you. The notice will be given as soon as practicable and in any event at least 20 business days prior to the variation. This notice is in addition to the publication requirements set out in section 7 of this Annexure.
25. Notwithstanding anything in section 9.3 of the Standing Terms, if we are not able to reasonably or reliably base a bill on actual metering data collected from your smart meter, we may provide you with a bill that is either:
- (a) prepared using estimated and/or substituted metering data in accordance with the *Regulatory Requirements*; or
  - (b) if estimated and/or substituted metering data is not available, prepared based on:
    - (i) your historical billing or metering data; or
    - (ii) where we do not have that data, based on the average consumption at the relevant tariff calculated over the period covered by the estimated bill.

## **PART 2: PRIVACY POLICY**

### **Protection of your privacy**

This privacy policy applies to all of the activities of the 1st Energy group of companies operating in Australia, including the handling of credit-related personal information.

We are committed to respecting your privacy and protecting your personal information in accordance with the Privacy Act 1988 (Cth). This privacy policy explains how we deal with your personal information and how to contact us if you have queries about our management of your personal information. This privacy policy does not cover personal information collected or held by 1st Energy about its employees.

### **What kinds of personal information do we collect?**

'Personal information' is information or an opinion, in any form (whether true or not), about an identified individual or an individual who is reasonably identifiable.

The kinds of personal information we collect and hold about you will depend on the circumstances of collection, including whether we collect the information from you as a customer, supplier, stakeholder, job applicant or in some other capacity.

For example, if you are a customer or a potential customer, we may collect your name, address, telephone number, date of birth, other forms of identification and information about your financial circumstances, credit worthiness, credit history and the conduct of your account (including metering data). We may also collect sensitive information about you (see Do we hold sensitive information about you?).

If you deal with us in some other capacity (for example, as a community representative or other stakeholder), we may collect your name, contact details and any other information you choose to provide to us.

If we're unable to collect your personal information, we may not be able to provide you with our products or services or do business with you or the organisation with which you are connected.

If you provide us with personal information about another person, please make sure that you tell them about this privacy policy.

### **How do we collect your information?**

We may collect personal information in a variety of ways, including from you directly (including when you interact with us in writing, electronically or via telephone), when you visit our website (including when you submit a quote or contact form), when you participate in our events or promotions, when we supply products or services to you and from public sources of information and marketing and similar lists which are legally acquired by us.

We may also obtain information from your distributor or the energy market operator relating to energy usage or previous energy usage at your premises, as well as from our sales agents and other third-party parties such as builders who advise us of the details of new energy users at a premise. At all times, the collection of this information is obtained by lawful means in a manner that respects your privacy.

## **How do we use your information?**

Your privacy is respected, and we do not sell, rent or trade your personal information.

We use personal information for a variety of purposes to effectively conduct our business, including to:

- supply our customers with products and services, including energy use management tools, and to administer and manage the supply of products and services (including billing and collecting debts)
- provide our customers and prospective customers with information about us and our products and services, including how use of our products or services can be improved
- gain an understanding of our customers' energy needs in order to provide better products and services and maintain our high levels of customer service
- ensure safety at our sites
- conduct research and development
- conduct appropriate checks for credit-worthiness and for fraud
- comply with our legal and regulatory obligations
- manage our relationships with our suppliers and stakeholders
- to consider job applicants for current and future employment.

We may also use your information for other purposes required or authorised by or under law (including purposes for which you have provided your consent).

To help us carry out these activities, from time to time we disclose personal information to other persons including:

- our contractors, suppliers and agents who assist us to provide products and services and to administer and manage our business
- companies who manage the distribution of energy

- credit providers and agencies
- government and regulatory authorities (as required or authorised by law)
- our professional advisors (such as auditors and lawyers)
- organisations that assist us to conduct research or analyse data

We will take reasonable steps to ensure that these third parties are bound by privacy obligations in relation to your personal information. Some of our contractors and suppliers to whom your personal information may be disclosed may be located overseas.

## **How do we store your information?**

We may store your information in hardcopy and/or in electronic form on computer servers that are located in Australia. We take steps to protect the personal information we hold from misuse, interference and loss, and from unauthorised access, modification or disclosure.

## **Do we provide you with information about products and services?**

If you are a customer or a potential customer, we may use your personal information to provide you with information on products, services and offers (from us or our related companies) that we believe may be relevant to you or that you would be interested in, even after you cease acquiring products or services from us, and you consent to us doing so for an indefinite period of time unless and until you opt out of receiving this information (see How can you opt out of receiving information about products and services?).

You consent to us sending you the information by direct mail, email, telephone and SMS/MMS, unless and until you tell us not to contact you in these ways.

## **How can you opt out of receiving information about products and services?**

You can opt out of receiving marketing communications in any of the following ways:

- by sending an email to support@1st Energy.com.au\*
- by calling our customer service team  
(Monday - Friday, 8.30am-6.00pm AEST)

- in writing addressed to :

The Privacy Officer  
1st Energy Pty Ltd  
Level 23  
HWT Building  
Melbourne 3000

\* Please note this email address should only be used for sending marketing opt out requests. All other enquiries should be sent using the relevant online form or by contacting us via telephone.

In some circumstances, we may need to contact you to obtain additional information, to verify your identity or to clarify your request.

Please let us know whether you wish to opt out of all marketing communications or marketing communications by specific contact channel(s). You may opt out of receiving marketing communications by:

- Direct Mail
- Email
- Telephone
- SMS/MMS
- All Channels

Please provide your contact details for each of the channels you wish to stop getting marketing communications through. Note: these details are used to ensure you are not included in direct marketing lists, so please make sure your information is complete and accurate.

If you are a customer, please provide your customer or account numbers so that your request can be confirmed against your customer details.

## **How do we make sure the information we hold about you is current?**

We take reasonable steps to ensure that the personal information we collect, use and disclose is accurate, up to date, complete and relevant.

## **Do we hold sensitive information about you?**

We will only collect sensitive information about you with your consent (unless we are otherwise allowed or required by law to collect that information). Sensitive information includes information about your health, your race or ethnic origin and religious beliefs.

You may wish to provide to us with sensitive information about you from time to time, for example where you have energy requirements due to special medical needs or where you wish to apply for a government concession available in relation to special medical needs.

If you or someone living at your premises requires life support

equipment, you should tell us (and provide confirmation from a medical practitioner) so that we may register your premises as having life support equipment, in which case certain restrictions on disconnecting your premises will apply. We may be required by law to disclose this information to certain entities, for example to your distributor.

## **Do we record your phone calls to us?**

Yes, there are two instances where your phone calls may be monitored. The first is for training, service quality control and compliance purposes, where we may record and monitor telephone calls between you and us.

The second concerns calls to traders in our energy trading business. These calls may be recorded and archived.

## **How can you correct your information?**

Please let us know if the personal information we have about you is inaccurate, incomplete or out of date and we will take reasonable steps to correct it, including any information relating to credit.

## **How can you get access to your information?**

You may request details of the personal information, including information related to credit, we hold about you and we will generally provide you with access subject to some exceptions permitted by law. For example, if providing this access may disclose information about another person, or may disclose commercially sensitive information, we may need to refuse to grant you access.

Charges may apply to cover the cost of us accessing and providing you with this information. If we cannot provide you access, we will provide a statement of our reasons.

## **How do we manage privacy issues about credit?**

When you enter into a contract with us, we'll collect and hold your name, address, date of birth and drivers' licence number. We may disclose this information to Veda Advantage and/or Dun & Bradstreet which are Credit Reporting Bureaus (CRBs) if we decide to do a credit check. You may contact the relevant CRB to obtain its policy on how it manages your credit-related personal information using the contact details below:

## **Veda Advantage Information Services and Solutions Limited**

Phone: 1300 850 211

Mail: Attention: Public Access Division Veda Advantage  
PO Box 964  
North Sydney NSW 2059  
E-mail: [Membership.query@veda.com.au](mailto:Membership.query@veda.com.au)  
Web: [www.mycreditfile.com.au](http://www.mycreditfile.com.au)

## **Dun and Bradstreet (Australia) Pty Ltd**

Phone: 1300 734 806

Mail: Attention: Public Access Centre Dun & Bradstreet Australia  
PO Box 7405  
St Kilda Rd VIC 3004  
E-mail: [PACAustral@dnb.com.au](mailto:PACAustral@dnb.com.au)  
Web: [www.checkyourcredit.com.au](http://www.checkyourcredit.com.au)

If you believe on reasonable grounds that you have been or are likely to be a victim of fraud, you can request CRB not to use or disclose credit reporting information about you. In addition, you can request the CRB not to use your credit reporting information for the purposes of pre-screening of direct marketing by a credit provider.

The CRB may include information that we provide to it in reports that they provide to other credit providers to assist them to assess your credit worthiness. If we do a credit check on you with CRB, the CRB will generate a credit score for you and make this available to us. We'll use this information to help us assess your credit worthiness, and we will keep a record of whether you passed or failed the credit check (based on our credit criteria) but we will not keep the credit score generated for you by the CRB.

If you become our customer the identification information we collected from you, that you passed the credit check and any information about your credit defaults with us will be held in our customer database.

Some of our contractors to whom this information may be disclosed may be located overseas, including in India, New Zealand, the Philippines, Fiji and the US.

If you don't become our customer, your identification will be held in our quotes database until such time as it is destroyed.

If, after reasonable follow up, you do not pay any outstanding amounts owed by you to us we may supply to the CRB with this information along with relevant personal information. This may include:

- identification information about you
- the fact that you have applied for credit and we are a credit provider to you

- advice about payments more than 60 days Overdue which are 'in collection' that we are permitted to report to the CRB
- that, in our opinion, you have committed a serious credit infringement
- that credit provided to you has been paid or otherwise discharged

Notification to the CRB that any of your outstanding payments are no longer overdue will only be made following payment of the outstanding amount including any accrued interest.

You're entitled to access and seek the correction of the credit-related personal information that we hold. If you have a complaint about the handling of your credit-related personal information you can contact our Privacy Officer.

## **What if you disagree with our decision?**

Where we make a decision about you or affecting you, you may ask us to explain the basis on which that decision was made, and you may ask to see the personal information (if any) on which our decision is based (see *How can you get access to your information?*).

## **1st Energy website**

### **Cookies**

Like many companies, we use 'cookie' technology on our website. 'Cookies' are small text files a website can use to recognise repeat users, store registration data, facilitate the user's ongoing access to and use of the website, allow a website to track usage behaviour and compile aggregate data that will allow content improvements.

Cookies are not programs that come onto your system and damage files. In some cases, cookies may collect and store personal information about you and, if that is the case, we will extend the same privacy protections to that information as we do to other personal information we collect about you.

You can disable cookies or be warned when cookies are being used by adjusting your internet browser settings. However, disabling cookies may mean that you are not able to access parts of our website or to take advantage of the improved user experience that cookies can help provide.

### **Visiting our website**

When you visit our website, in addition to any personal information you submit (e.g. for a quote or in a contact form), a record of your visit will be recorded. This record may include the following types of information:

- your server address
- your top level domain name (e.g. .gov, .au)
- the date and time of the visit
- pages accessed and documents downloaded
- the address of any website that linked you directly to our site
- when you email us we will record your email address

## **Third party websites**

Our website may contain links to third party websites. We are not responsible for the content and the privacy practices of third party websites and do not endorse or authorise their content.

You should familiarise yourself with each website's privacy policy and make your own decision about providing personal information when visiting those sites.

## **Can the ways in which we use your information and the conditions of use be changed?**

Periodically we will update this privacy policy to reflect changes to privacy legislation, technological changes, company policy and customer feedback. You should refer to our website from time to time to view the current version of this privacy policy.

## **What if you have a complaint?**

Please contact the Privacy Officer using the details below if you have any concerns or complaints about the way we have collected or handled your personal information (including in relation to credit). We will investigate your complaint and respond to you in writing within 30 days. For complaints specifically related to credit, we will also provide you in writing, within 7 days, an acknowledgement that your complaint has been received, setting out how it will be dealt with by us. If you are not satisfied with our response, you can contact us to discuss your concerns or lodge a complaint with the Australian Information Commissioner ([www.oaic.gov.au](http://www.oaic.gov.au)).

## How to contact us

You can contact us at the address below to:

- arrange access to personal information about you
- request a hardcopy of this privacy policy
- enquire generally about privacy matters (including in relation to credit)
- discuss any issues relating to our privacy policy (including in relation to credit)

The Privacy Officer  
1st Energy Pty Ltd  
Level 3, 459 Little Collins Street  
Melbourne, VIC 3000

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1st Energy Pty Ltd  
ABN 71 604 999 706  
Level 4, 459 Little  
Collins Street  
Melbourne, VIC 3000

[1st Energy.com.au](http://1st Energy.com.au)