

ACT FEED-IN TARIFF CONTRACT

This document sets out the terms on which we will purchase energy from you, for energy generated and exported into the electricity network by your renewable energy generator

BACKGROUND

ActewAGL Retail is a licensed retail supplier of electricity in the ACT.

Under the *Electricity Feed-in (Renewable Energy Premium) Act 2008* (ACT) certain Occupiers of Premises who have connected a National Electricity Law compliant renewable energy Generator to the ACT Electricity Network with a capacity of no more than 30kW, may apply to their Electricity Supplier to receive payment for electricity generated and fed into the Electricity Network by that Generator.

This contract is a negotiated customer contract (within the meaning given in the *Utilities Act 2000* (ACT)) and it sets out the terms upon which we will purchase and then pay you for the electricity you generate and feed into the Electricity Network.

This contract does not deal with supply of electricity to your Premises or connection of your renewable energy Generator to the Electricity Network. You must apply to ActewAGL Distribution (the electricity distributor for the ACT Electricity Network) to have your renewable energy Generator connected to the Electricity Network.

Capitalised terms used in this contract have the meaning given to them in the Definitions section.

There are references to a number of codes throughout this contract. Codes issued by the Independent Competition and Regulatory Commission are available on the ICRC website at www.icrc.act.gov.au. You may contact the ICRC on 6205 0799 for further information.

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1. Utility service

The service we supply under this contract is the service of buying electricity generated by your Generator and exported to the Electricity Network, and paying you the Payment. This service is a Utility Service for the purposes of the Utilities Act.

2. Am I eligible for the payment?

To be eligible to receive the Payment from us each of the following must apply:

- (a) you must be the Occupier of the Premises where the Generator is installed;
- (b) we must be the Electricity Supplier for the Premises where the Generator is installed;
- (c) the Generator must be connected to the Electricity Network and we must have received confirmation from the Distributor of that connection;
- (d) all electricity generated by the Generator must be exported to the Electricity Network;
- (e) the Generator must have a capacity of no more than 30kW; and
- (f) you must satisfy all other requirements of the Feed-in Act as amended from time to time.

If any of the circumstances at (a)-(f) cease you will no longer be eligible for the Payment from us.

3. Term

3.1 Start of contract

Subject to you meeting the eligibility criteria in clause 1, this contract starts upon receipt by us of your signed application for the Payment.

3.2 End of contract

This contract ends on the first to occur of the following:

- (a) the date which is twenty (20) years from the date we started calculating the Payment for the First Occupier;
- (b) you ceasing to be the Occupier of the Premises where the Generator is installed;
- (c) us ceasing to be the Electricity Supplier for the Premises where the Generator is installed;
- (d) subject to section 11(2) of the Feed-in Act, the Generator ceasing to be connected to the Electricity Network;
- (e) withdrawal of the Feed-in Scheme for any reason;
- (f) repeal of the Feed-in Act;
- (g) if permitted or required by law; or
- (h) Termination of this contract in accordance with its provisions.

If this contract ends we will stop paying you the Payment. If any of the circumstances at (a) to (h) apply on the date we receive your application you will not be entitled to receive and we will not be required to pay the Payment to you.

3.3 Acknowledgement

If you are not the First Occupier you acknowledge and agree that you are not entitled to the Payment for the full twenty (20) year period. There may have been other occupiers of the Premises subsequent to the First Occupier and prior to your occupation of the Premises. As such, the period

for which you may be entitled to receive the Payment will be reduced by the number of years that have elapsed since the date the First Occupier's Payment commenced.

3.4 What happens after 20 years?

If you wish to continue to operate your Generator after the 20 year period, you may be eligible to apply for a new contract with us to enable the Generator to remain connected to the Electricity Network. The new contract may contain different terms, conditions and pricing than that contained in or referred to in this contract. In the absence of a new contract your entitlement to payment for electricity generated by the Generator will cease when this contract ends.

4. Supply contract not affected

This contract does not deal with supply of electricity to your Premises and does not affect or otherwise diminish the respective rights and obligations of each party set out in the contract under which we supply electricity to your Premises.

5. Payment, calculation of energy exported, etc

5.1 Start date for calculating payment

We will start calculating your Payment from whichever of the following occurred most closely in time prior to receipt by us of your application:

- (a) a Premium Rate Determination Date;
- (b) your last Meter read; or
- (c) the date your Meter was installed.

We will notify you of the start date for your Payment.

5.2 Formula for calculating Payment

The Payment for each Account Period will be calculated in accordance with the following formula:

$$\text{Energy exported} \times \text{Applicable Premium Rate} \times \text{Percentage Applicable} = \text{Payment}$$

(expressed in cents)

For the purposes of this clause:

Energy exported means the quantity of electricity exported to the Electricity Network by the Generator in the relevant Account Period, as recorded by the Meter (in kilowatt hours);

Applicable Premium Rate means the Premium Rate as applicable to your Generator on the basis of section 11 of the Feed-in Act (expressed in cents per kilowatt hour); and

Percentage Applicable means the percentage applicable under section 8(1)(a) or 8(1)(b), as relevant, of the Feed-in Act (expressed as a decimal percentage).

5.3 When and how will the payment be made?

We will credit the Payment for an Account Period against your Electricity Account for that same Account Period.

We may agree with you to pay the Payment by a different method (eg direct credit to a nominated bank account). If we agree, the different method will take effect from your next full Account Period. The Payment will be made at the same time we issue your Electricity Account.

If a Payment due to you is more than the amount you owe to us for the relevant Account Period the balance will remain as a credit on your Electricity Account (but will not carry interest), unless you request us to pay the balance to you.

5.4 Measuring energy exported, Meter testing, etc

The amount of energy exported by your Generator to the Electricity Network will be measured by the Meter.

Except for those clauses of our electricity supply contract applicable to estimating consumption:

- (a) measurement, recording and notification to us of energy exported by your Generator to the Electricity Network will be conducted in a similar manner to that of electricity supplied to the Premises in accordance with our electricity supply contract with you; and
- (b) all rights and obligations in your electricity supply contract applicable to measuring consumption, checking readings, testing meters, dealing with faulty meters and incorrect readings, and protecting metering information, will apply similarly to measuring the export of energy from your Generator to the Electricity Network.

5.5 Electricity account to contain information about energy exported

We will provide you with details in your Electricity Account each Account Period of the amount and value of the energy exported by your Generator to the Electricity Network in that period and the Payment due to you for that energy.

6. Title to energy

Title to energy exported to the Electricity Network from your Generator will pass to us at the point the energy enters the Electricity Network.

7. GST

The Payment, and any other consideration or amount payable under this contract, including any non-monetary consideration (**Consideration**) is exclusive of GST unless stated otherwise. GST will be paid in addition to the Payment, at the same time and in the same manner as the Payment. GST on the Payment will be shown as a separate item on your Electricity Account.

8. What are your obligations?

- (a) You must deal honestly with us.
- (b) You must comply with:
 - (i) applicable Electricity Law;
 - (ii) any obligations in the codes published under the Utilities Act that are expressed to apply to customers; and
 - (iii) any reasonable directions we give you under the law, the codes or consistent with Good Electricity Industry Practice.

(c) You must inform us promptly if there is a change in:

- (i) your contact details;
- (ii) access to the Meter; or
- (iii) your Equipment.

(d) You must not tamper with the Meter, or permit anyone else to do so.

9. What are your rights?

9.1 Ask for identification

You are entitled to ask our employees, contractors or agents attending your Premises for identification before they ask you questions or carry out work. They carry photographic ActewAGL identity cards.

9.2 You may request information

You may request us to provide you with information regarding:

- (a) load profiles and power factors in relation to your Generator (if applicable);
- (b) meter readings for the Meter at your Premises;
- (c) your Electricity Account.

We will provide this information to the extent it is reasonably available to us.

You must pay our reasonable costs of providing any information that you have asked for unless that information relates to account or metering information within the last 12 months that is available from our records and which will be provided free of charge.

10. What standard of service can you expect?

We will meet the customer service standards described in the Consumer Protection Code (to the extent those standards are applicable) in our dealings with you. The Feed-in Code specifies which provisions of the Consumer Protection Code are applicable.

11. Limitation of liability

11.1 Interruption, reduction or disconnection

As explained in your electricity supply contract, your electricity supply (and the connection between your Premises and the Electricity Network) is subject to a variety of factors including accidents, weather, the acts of third parties and the need to work on the electricity generation, transmission and distribution systems. Accordingly, we are unable to guarantee that the connection to your Premises will remain uninterrupted.

In addition, the Distributor may limit, interrupt or disconnect your Generator from the Electricity Network from time to time (including in accordance with your electricity connection contract).

Subject to clause 11.2, you are not entitled to any Payment or other compensation from us for any period during which you are unable to export electricity to the Electricity Network because your connection is interrupted, limited or disconnected.

11.2 Our liability

11.2.1 Terms implied by statute

- (a) Consumer protection legislation implies terms into contracts for the supply of certain goods and services which cannot be excluded (“Implied Terms”) but permits a supplier to limit its liability in respect of those terms in certain circumstances.
- (b) Our liability for breach of an Implied Term applying to this contract is limited at our option to one of the following remedies:
 - (i) if any goods are supplied by us:
 - A. the replacement of the goods or the supply of equivalent goods; or
 - B. the repair of the goods; or
 - C. the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - D. the payment of the cost of having the goods repaired; or
 - (ii) in the case of the services supplied by us:
 - A. the supplying of the services again; or
 - B. the payment of the cost of having the services supplied again.
- (c) Our liability will not be limited in this way if you establish that such a limitation is not fair or reasonable in the circumstances.

11.2.2 Exclusion of other implied terms

- (a) The only terms, conditions or warranties which apply to the supply of our services under this contract are:
 - (i) any Implied Terms, but subject to the preceding provisions of this clause; and
 - (ii) the express terms of this contract.
- (b) All other terms, conditions or warranties implied by law (including statute), custom or usage are excluded to the fullest extent permitted by law.
- (c) Subject to the limitations described in this clause, we are liable for any loss, liability or expense which you may suffer or incur as a direct result of any negligence or breach of this contract by us.

11.2.3 Limitations on our liability

We are not liable to the extent your Equipment caused or contributed to the problem.

11.2.4 Other limitations

- (a) We are not liable for any loss, liability or expense which you may suffer or incur other than as provided in 11.2.2(c).
- (b) Without limiting 11.2.4(a), we are not liable for any loss of profits, business, or anticipated savings or for any indirect or consequential loss arising out of or in connection with this

contract, whether in contract, tort (including negligence) or otherwise, other than as provided in 11.2.1.

- (c) Other limitations on our liability may apply under the Electricity Law including but not limited to the Consumer Protection Code.

11.2.5 General

- (a) The limitations in 11.2.3 and 11.2.4 are subject to the earlier provisions of this clause regarding Implied Terms.
- (b) Any liability a party has to the other for breach of this contract is reduced to the extent the other party caused or contributed to the breach.

12. Use of your personal information

12.1 Your right to privacy

We respect your privacy and are committed to complying with the *Privacy Act 1988*, the National Privacy Principles in that Act and any other applicable law regarding privacy.

For any enquiries concerning privacy or the personal information we hold about you, please contact us on 13 14 93.

12.2 Use of contact details

You consent to us using information about you, your supply address, your electricity usage, your metering data agent and any related or similar information:

- (a) for internal purposes and reporting to our shareholders, parent company or their shareholders,
- (b) to comply with our obligations under this contract;
- (c) for purposes related to the Feed-in Scheme or to the distribution or retail of electricity;
- (d) to make available to a third party for any of the purposes indicated below:
 - (i) if you are not readily identifiable, to help us identify you;
 - (ii) to assist recovery against you if you breach this contract;
 - (iii) if required or permitted by law;
 - (iv) under coverage of a confidentiality agreement;
 - (v) to help us provide services to you, conduct surveys, or make offers to you; or
 - (vi) to anyone else with your permission.
- (e) for market research and analysis, and for marketing purposes, including offering you products or special offers, which we consider may be of interest to you.

If you do not wish your details to be used for information or promotional purposes, please contact us on 13 14 93.

12.3 Use of other personal information

We may use any personal information we hold about you, including your contact details, to:

- (a) assess your ongoing creditworthiness or the status of any account you have with us;
- (b) collect overdue payments.

12.4 Disclosure of information

We may disclose information about you (including your contact details and creditworthiness information) or your metering information, in the circumstances permitted by the Consumer Protection Code or as otherwise permitted or required by law or under this contract.

13. Dispute Resolution

13.1 What will happen if you have a dispute with us about this contract?

If you have a dispute with us we will try to resolve it with you.

- (a) If we cannot resolve that dispute informally with you then you may ask us to formally review the issue which has caused the dispute.
- (b) You must do so in writing stating fully the basis of your complaint against us no later than 28 days after the dispute has arisen. We will then formally review your complaint and advise you of our decision in relation to it within 28 days of you giving notice to us under this clause.
- (c) If, having advised you of our decision, you are still unhappy you may be entitled to refer your complaint to the ACT Civil and Administrative Tribunal or take other action.
- (d) You must continue to perform your obligations under this contract despite any ongoing dispute.

This does not prevent a party exercising its rights under this contract or applying to a court for urgent or other interlocutory relief.

14. Miscellaneous

14.1 Tax

Other than GST on the Payment and any Tax imposed directly on us, you are responsible for payment of any Tax arising in relation to this contract.

14.2 No representations or warranties

You acknowledge that in entering into this contract you have not relied on any separate promises from us that have not been included in this contract.

14.3 Entire agreement

This contract constitutes the entire agreement between us about its subject matter.

14.4 Assignment

You may not assign your rights or obligations under this contract without our consent.

14.5 Notices

Notices sent to you from us will be sent in accordance with the requirements of the Consumer Protection Code.

14.6 Termination

This contract will terminate if our utility licence is suspended or ceases to apply, and we are not otherwise authorised to supply electricity or participate in the Feed-in Scheme.

14.7 How may this contract be varied or a right under it waived?

The failure of a party to require performance of any provision of this contract does not affect their right to enforce the provision at a later time.

We may by notice to you vary this contract to reflect changes in the Electricity Law or to remedy an inconsistency between this contract and existing Electricity Law. Otherwise this contract may be varied only in writing signed by both parties.

A right under this contract may be waived only in writing by the person giving the waiver.

If you seek an amendment to this contract, notwithstanding whether or not the proposed amendment is agreed to by us, you will pay our legal, administrative and other costs associated with any consideration or negotiation of the matter.

14.8 Governing law

This contract is governed by the laws of the Australian Capital Territory.

Definitions

Account Period means the period for which an account is issued to you under your electricity supply contract.

ActewAGL Retail means a partnership of ACTEW Retail Ltd ABN 23 074 371 207 and AGL ACT Retail Investments Pty Ltd ABN 53 093 631 586.

Connection Point means the boundary between the Distributor's Electricity Network and your Equipment as defined in the Electricity Network Boundary Code.

Distributor means ActewAGL Distribution ABN 76 670 568 688 a partnership of ACTEW Distribution Ltd ABN 83 073 025 224 and Jemena Networks (ACT) Pty Ltd ABN 24 008 552 663 the owner of the ACT Electricity Network.

Electricity Account means the account issued to you under your electricity supply contract.

Electricity Law means the *Utilities Act 2000 (ACT)*, the Feed-in Act, the National Electricity Law and National Electricity Rules, the Wiring Rules, the Service and Installation Rules, any applicable market, industry or technical code or rules, utilities licence, and any other applicable statute, regulation, ordinance, code or other law, whether territory, state or federal, including any lawfully binding determination, decree, edict, declaration, ruling, order or other similar pronouncement validly issued by any government or authority.

Electricity Network has the same meaning as in the Utilities Act.

Electricity Supplier means the retail supplier of electricity to the Premises where the Generator is installed.

Equipment means the Generator and any electricity lines and associated equipment at the Premises on your side of the Connection Point.

Feed-in Act means the *Electricity Feed-in (Renewable Energy Premium) Act 2008 (ACT)*.

Feed-in Scheme means the scheme that is established under the Feed-in Act, for the feed-in of generated electricity from a renewable energy Generator to the Electricity Network.

First Occupier means the Occupier who made the first application for a Payment in respect of the Generator installed at your Premises.

Generator means an "NEL compliant renewable energy generator" as defined in sections 5C and 5D of the Feed-in Act and includes all Equipment associated with it to make the Generator operate.

Good Electricity Industry Practice means the same as in the National Electricity Rules.

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

ICRC means the Independent Competition and Regulatory Commission or its successor.

Liability includes loss, damage, consequential loss or damage, claim, cost (including legal fees on a solicitor own client basis), charge, demand, expense.

Meter means the instrument installed at your Premises that measures the quantity of electricity passing through it and includes associated equipment attached to the instrument to control or regulate the flow of electricity. The Meter measures both:

- (a) electricity taken from the Electricity Network; and
- (b) electricity generated by your Generator and exported to the Electricity Network.

NEL means National Electricity Law.

National Electricity Market means any market for the wholesale supply of electricity that includes New South Wales, Victoria and the ACT.

National Electricity Rules means the rules governing the National Electricity Market.

Occupier has the meaning given to it in the Feed-in Act.

Payment means the amount payable to the Occupier for electricity fed into the Electricity Network from your Generator, calculated in accordance with clause 5 and payable as set out in this Contract.

Premises has the same meaning as in the Utilities Act.

Premium Rate means the rate determined from time to time under section 10 of the Feed-in Act, payable by Electricity Suppliers for energy exported to the Electricity Network (expressed in cents per kilowatt hour).

Premium Rate Determination Date means 1 March 2009, 1 July 2010 or 1 July each year thereafter.

Service and Installation Rules means the rules published from time to time by the Distributor for electricity service and installation.

Tax means a tax, cost, levy, charge, impost, fee, deduction, withholding or duty of any nature (including without limitation where arising in relation to offsetting carbon or greenhouse gas emissions; reducing or limiting the concentrations or rate of release of greenhouse gases or the production or release of materials likely to contribute to the creation of such gases; acquisition or trading of greenhouse gas emission or sequestration units, credits or permits (howsoever described)) which is imposed or collected by a Commonwealth, state or territory government, government agency, semi-governmental, administrative, fiscal or judicial body, corporation, department, commission, authority, tribunal, agency or entity.

Utilities Act means the *Utilities Act 2000* (ACT).

we, our, and us means ActewAGL Retail unless the context indicates otherwise.

Wiring Rules means the rules published from time to time by Standards Australia in respect of electrical installations - building, structures and premises (known as the SAA Wiring Rules).

you and your means the Occupier unless the context indicates otherwise.

Interpretation

In this contract:

- (a) the singular includes the plural and vice versa;
- (b) a reference to an agreement, code or another instrument includes any consolidation, amendment, variation or replacement of them;
- (c) a reference to a statute, ordinance, code or other law, including anything which comprises the electricity law, includes regulations and other instruments under it and includes all consolidations, amendments, re-enactments or replacements;
- (d) a reference to a code named in this contract is a reference to the code of that name under the Utilities Act;
- (e) if an event must occur on a stipulated day which is not a business day, then the stipulated day will be taken to be the next business day;
- (f) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (g) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (h) “including”, “includes”, “such as” and “in particular” do not limit the generality of the words which precede them or to which they refer; and
- (i) headings are included for convenience and do not affect the interpretation of this contract.

Enquiries and complaints

Enquiries or complaints should be directed to our enquiries line on 13 14 93 or submitted in writing to GPO Box 366, Canberra 2601. We are committed to resolving any enquiries or complaints as soon as reasonably possible.