



GAS ACT 2000

NOTICE OF VARIATION No. 2

of the

RETAIL LICENCE

granted on

21 AUGUST 2003

to

POWERCO ENERGY SERVICES PTY LTD

(ACN 098 080 221)

transferred to

OPTION ONE PTY LTD

(ACN 110 370 726)

12 SEPTEMBER 2005

Background

Powerco Energy Services Pty Ltd [Powerco Energy Services] presently holds a licence to retail gas in Tasmania and has been trading under the business name Option One.

By letter dated 30 December 2004, Option One Pty Ltd [Option One] advised that in order to comply with ring fencing requirements, it has been incorporated as a company in its own right, separate from Powerco Energy Services. Option One submitted a copy of the ASIC Certificate of Registration of a Company and details of the directors of the company.

Consultation was undertaken in respect of the transfer via the Regulator's website and by way of advertisement in all three Tasmanian newspapers. No submissions were received.

A transfer of a licence under the *Gas Act 2000* (s.35) requires either a written commitment to comply with the existing safety case for the relevant gas facility or the submission of a new safety case to the Director of Gas Safety [DGS] for approval. By letter dated 20 January 2005, the Regulator requested Option One to provide an undertaking to comply with the existing safety case or to submit a new safety case.

Option One is currently working with DGS to submit a new safety case. It is considered that the licence can be transferred with a new condition to the licence that the safety case be submitted in such a time, manner and form as advised by the DGS.

DGS, Option One and Powerco Limited have agreed to this new condition.

The Regulator also requested that Option One satisfy s.24 of the *Gas Act 2000* that it is a suitable person to hold a licence. This included whether Powerco Limited would continue to provide the relevant support for Option One to meet its licence obligations.

Powerco Energy Services by letter dated 9 February 2005 stated that it supported the transfer of the licence to Option One.

Powerco Limited, the ultimate parent company, by letter dated 9 February 2005 stated that it had the necessary resources to ensure that Option One would meet its obligations under the licence and all applicable acts and codes.

The Regulator sought to amend the licence further to incorporate the proposed safety case clause, including consequential additions to the list of definitions.

In addition, the Regulator sought to correct typographical errors in clauses 1, 8 and 11 of the licence.

Option One has agreed to the proposed changes set out in this Notice of Amendment No. 2.

Conclusion

The Director of Gas is satisfied that the proposed variations are not inconsistent with the objects of the *Gas Act 2000* and will, or will be likely to, promote:

- the development of the gas supply industry;
- efficiency in that industry; and
- the interests of consumers of gas.

Decision

In exercise of the power conferred by section 34(1) of the *Gas Act 2000*, the decision of the Director of Gas is to vary the licence in accordance with the application.

The licence for the retail of gas granted to Powerco Energy Services Pty Ltd on 21 August 2003, and amended on 21 April 2004, is varied by:

A.) deleting the words “in italics” and inserting the words “italicised in bold type” after “appearing” in clause 1.1.

B.) deleting clause 3.1 and inserting the new clause 3.1 as follows:

3.1 In support of the *Licensee’s* application for this licence, ***Powerco Limited***, which is the ultimate holding company of the *Licensee*, made the following representations (and the ***Director of Gas*** has accepted these assurances and relied upon them in determining that the *Licensee* is a suitable person to be granted this licence):

C.) making bold and italicising the words “***Powerco Limited***” in clause 3.1.1

D.) inserting the word “***Limited***” after “***Powerco***” in clause 3.1.2

E.) deleting clause 3.2

F.) italicising the word “***Director of Gas***” and “***Powerco Limited***” in new clause 3.2

G.) inserting the word “***Gas***” before “***Act***” in clause 8.1

H.) inserting the word “***Gas***” before “***Act***” in clause 8.3

I.) making bold and italicising the word “***writing***” in clause 11.1

J.) replacing the definition of “***business day***” in Schedule 1 – Definitions and Interpretation with the following definition:

“***business day***” means any day except a Saturday, Sunday, statutory holiday as defined in the *Statutory Holidays Act 2000* or public holiday;

K.) inserting the word “or” after the word “advice” and deleting “or other communication” in the definition “***communication***” in Schedule 1 – Definitions and Interpretation.

L.) inserting the following definition in Schedule 1 – Definitions and Interpretation:

“***Director of Gas Safety***” means the Director of Gas Safety under the ***Gas Act***,

M.) deleting "Powerco Energy Services Pty Ltd (ACN 098 080 221) and inserting "Option One Pty Ltd (ACN 110 370 726) after the word "**Licensee**" in Schedule 1 – Definitions and Interpretation.

N.) inserting the following words in Schedule 1 – Definitions and Interpretation:

"**Powerco Limited**" means the holding company of the **Licensee**;

"**regulated activities**" means an activity authorised by this licence;

"**safety case**" means a safety case as required under the **Gas Act** by the **Director of Gas Safety**;

"**writing**" means any mode of representing or reproducing words, figures, drawings and symbols in a visible form;

O.) inserting the new clause to Schedule 2 – Other Licence Conditions:

4. Safety Case

4.1 The **Licensee** must provide a **safety case** to the **Director of Gas Safety** in a time, manner and form advised by the **Director of Gas Safety**."

.....

Andrew John Reeves

Director of Gas

12 September 2005